Table of Contents

About Wolters Kluwer Law & Business iii
About the Author v
Foreword vii
Preface ix
Dedication xi
Acknowledgments xiii
General Note xv
Abbreviations xvii

Chapter 1 H Shares and its Development 1

¶1-010 Development of H Share Listing 1
¶1-020 What are H Shares? 2
¶1-030 H Share Statistics 3
¶1-040 Development of the HK Stock Markets 3
- ¶1-041 Historical Background 3
- ¶1-042 Securities Markets 3
- ¶1-043 Stock Settlement 5
- ¶1-044 Organisational Structure 6
- ¶1-045 Market Functions 8
- ¶1-046 Equity Share Structures 8
- ¶1-047 Regulatory Agencies 8

¶1-050 Why is Hong Kong a Better Listing Venue? 12
- ¶1-051 Effective Rules and Regulations 12
- ¶1-052 Strong Legal System and Effective Supervision 13
- ¶1-053 Gateway to the PRC 14
- ¶1-054 Effective Fund-raising 15
- ¶1-055 Sophisticated Accounting Systems 15
- ¶1-056 Advanced Clearing and Settlement Infrastructure and Other Financial Infrastructures 16
- ¶1-057 Free Market 18
- ¶1-058 Hong Kong as an Investment Window to the World 19
- ¶1-059 Significant Human Resources in Hong Kong 20

¶1-060 Alternative Methods for PRC Companies to be Listed on the Hong Kong Stock Exchange 21
¶1-061 Red Chip Companies 21
¶1-062 What is VIE? 26
¶1-063 How to Set Up a VIE Restructuring? 26
¶1-064 Effectiveness of the VIE Restructuring 28
¶1-065 Listing Decision LD 43-3 and VIE Restructuring 28
¶1-066 Regulatory Hurdles for VIE Restructuring 31
¶1-067 Other Regulations that May Affect VIE Restructuring 32
¶1-068 Other Regulations Targeting Particular Industry 34
¶1-069 Potential Risks 35
¶1-070 Other Possible Structures 36
¶1-080 B Shares' Conversion to H Shares by Introduction 38
¶1-081 Main Board Requirements for Introduction 38
¶1-082 Reasons for Allowing B Shares' Conversion to H Shares 39
¶1-083 Certain Waivers Required for the Conversion 40
¶1-084 Examples of B Shares' Conversion to H Shares 41
¶1-090 Three H-share-related Facts in the PRC 42
¶1-091 History of Stock Markets in China 42
¶1-092 Alphabet Shares (PRC Equity Share Structure) 43
¶1-093 Development of the State Owned Enterprises (SOEs) 50

Chapter 2 Laws and Regulations relating to H Shares 55
¶2-010 Three-Tier Model of Regulation 57
¶2-011 Company Law 57
¶2-012 Securities Law 57
¶2-013 Listing Rules (Main Board Rules and GEM Rules) 57
¶2-014 Rules and Regulations Governing H share Listing 58
¶2-020 Primary and Secondary Listings 66
¶2-021 Pre-listing Preparation and Consideration 66
¶2-022 Reorganisation and its Considerations 69
¶2-023 PRC Government Approvals 71
¶2-024 Main Board Listing Requirements of HKSE 76
¶2-025 Conclusion 99

Chapter 3 H Shares and Connected Transactions: Chapter 14A/19A of the Main Board Rules & Chapter 20 of the GEM Rules 105
¶3-010 Connected Transactions 105
¶3-011 Definition of "Connected Transaction" 106
¶3-012 Connected Transactions and H Share Companies 106
¶3-013 Who are the Connected Persons? (Main Board Rules 1.01 & 14A.11) 107
¶3-014 Transactions with Parties who Are Not Connected Persons May Become Connected Transactions 118
¶3-015 Types of Connected Transactions 122
¶3-016 Compliance Requirements for Connected Transactions 123
¶3-017 Categories of Connected Transactions Requirements (Main Board Rule 14A.16 & 14A.17) 127
¶3-018 Exemptions from Connected Transaction Compliance Requirements 128
¶3-019 Checklists (Main Board Rule 14A.09) 130

Chapter 4 GEM for H-share Companies 131
¶4-010 GEM as the Second Board 131
¶4-020 Differences between GEM and the Main Board 133
¶4-021 Entry Requirements 137
¶4-022 Continuity and Presence 138
¶4-023 Appointment of Professionals 138
¶4-024 Company Personnel 141
¶4-025 Various Committees to be Set Up for Listing 142
¶4-026 Financial Information 142
¶4-027 Moratorium (GEM Rules 13.16A & 13.19) 143
¶4-028 Property Titles and Valuation (GEM Rules 11.16 to 11.19) 144
¶4-029 Non-competition (GEM Rules 11.03 and 11.04) 145
¶4-030 Special Companies: Project and Mineral Companies 145
¶4-031 Other Equities (GEM Rule 11.23(3)(a)) 146
¶4-032 The Listing Process 146
¶4-033 Post-Listing Requirements 147

¶4-034 Dispute Resolution 147
¶4-040 GEM as a Stepping Stone for the Main Board (Main Board Rule 2A.05 & Chapter 9A) 147
¶4-041 Processing of Transfer Application 148
¶4-042 Requirement for One Year Listing on GEM and No Material Rule Breaches 148
¶4-043 Requirement regarding Appointment of a Compliance Advisor 148
¶4-044 Independence and Competition 148
¶4-045 Transfer of Options and Warrants 149
¶4-046 Independent Financial Advisor and Sponsor Are Not Required 149
¶4-047 Main Board Rule Exemptions for GEM Transfers 149
¶4-048 Waiver and Approval Already Obtained 149
¶4-049 Transfer of Infrastructure, Mineral, and Investment Companies 149
¶4-050 Refund of GEM Annual Listing Fee and 50% Discount of Initial Listing upon Transfer 150

Chapter 5 H-share IPO Process 151
¶5-010 Different Methods of Listing 151
¶5-011 Offer for Subscription and Offer for Sale 151
¶5-012 Placing 151
¶5-013 Introduction 151
¶5-020 Common IPO Structures in Hong Kong 151
¶5-021 Combination: Placing and Public Offer 151
¶5-022 Combination: Global Offering 152
¶5-030 H-share IPO Process 152
¶5-031 Appointment 152
¶5-032 Kick-off Meeting (six to nine months from listing) 152
¶5-033 IPO Preparation (three to four months before the submission of Form A1) 153

Chapter 6 H-share IPO Team/Working Parties 187
¶6-010 Part A 187
¶6-011 Sponsor(s) ("Sponsor") 187

¶6-012 Directors ("Company") 195
¶6-013 Pre-IPO Shareholders ("Company") 198
¶6-014 Underwriters 198
¶6-015 Counsels 199
¶6-016 Auditor and Reporting Accountants ("Accountants")... 204
¶6-017 Property Valuers ("Valuers") 208
¶6-018 Competent Person (for Mineral Companies Only) ("Competent Person") 210
¶6-019 Placing Agents 210
¶6-020 Research Analysts 211
¶6-021 Investor Relations Firm ("PR Company") 211
¶6-022 Receiving Banks ("Receiving Bankers") 212
¶6-023 Share Registrar and Transfer Office ("Registrar") 212
¶6-024 Financial Printer ("Printer"/"Translation Company")... 212
¶6-025 Compliance Adviser ("Compliance Adviser") 212
¶6-030 Part B – Division of Labour within the IPO Team 214
¶6-031 Public Documents 214
¶6-032 Documents Supporting Prospectus 214
¶6-033 Underwriting and Placing Documents 215
¶6-034 Reorganisation Documents and Approvals 216
¶6-035 Company Documents 216
¶6-036 Press Conference/Announcement 217
¶6-037 Exchange Related Documents 217
¶6-038 Legal Opinions 218
¶6-039 General 219

Chapter 7 H-share Prospectus 221
¶7-010 Prospectus Governing Rules and Liabilities 221
¶7-011 Companies Ordinance ("CO") Prospectus Regime 221
¶7-012 Securities and Futures Ordinance ("SFO") 224
¶7-013 Listing Rules 227
¶7-014 Other Legislation Prospectus Liabilities 227
¶7-020 Contents of the Prospectus 228
¶7-021 Cover 228
¶7-022 Expected Timetable 230

¶7-023 Contents Page 231
¶7-024 Main Body of the Prospectus 232
¶7-030 Review of Prospectus 293

Chapter 8 H-share IPO Documentation 295
¶8-010 Sponsors' Documents 295
¶8-011 Sponsors' Agreement 295
¶8-012 Due Diligence 297
¶8-013 Compliance Undertaking (Main Board Rule 3A.04, Appendix 17) 308
¶8-014 Independence Statement (Main Board Rule 3A.08, Appendix 18) 309
¶8-015 Sponsor's Declaration (Main Board Rule 3A.13, Appendix 19) 310
¶8-020 Company Lawyer 313
¶8-021 Reorganisation Proposal 313
¶8-022 Director's Service Contract 314
¶8-023 Share Option Scheme 316
¶8-024 Articles of Association (Main Board Rule 19A.01) 320
¶8-025 Shareholders' Resolutions 323
¶8-026 Board Minutes 323
¶8-027 Waiver Application Letters 327
¶8-028 Responsibility Statement 328
¶8-029 Power of Attorney 330
¶8-030 Statement of Interests 331
¶8-031 Lock Up Agreement 338
¶8-032 Letter Explaining Form B to the Directors 339
¶8-040 Underwriter's Lawyer 341
¶8-041 Underwriting Agreement 341
¶8-042 Hong Kong Underwriting Agreement 342
¶8-043 Agreement among Hong Kong Underwriters 346
¶8-044 International Underwriting Agreement 346
¶8-045 Agreement Among International Underwriters 347
¶8-046 Inter-syndicate Agreement 347
¶8-047 Price Determination Agreement 347

¶8-048 Verification Notes 348
¶8-049 All Counsel – Legal Opinions 348
¶8-050 Bring-down Confirmations and Closing Certificates 359
¶8-060 Accountant's Documents 359
¶8-061 Arrangement Letters 359
¶8-062 Comfort Letter 390
¶8-063 Bring Down Letter 398
¶8-064 Consent Letter 400
¶8-070 Banks – Receiving Banks Agreement 401
¶8-080 Registrar – Registrar Agreement 402

Chapter 9 Other H Share-related IPO Terminology 407
¶9-010 Corporate Governance 407
¶9-011 Category 1 407
¶9-012 Category 2 407
¶9-013 Category 3 408
¶9-020 Placing Guidelines 408
¶9-021 "General Public" Requirement 409
¶9-022 Prohibited Placees 410
¶9-023 Waiver from the Stock Exchange for Placing to Connected Clients 410
¶9-030 Stabilisation 411
¶9-031 Application of Stabilisation Rules 411
¶9-032 Over-allotment or "Green Shoe" Options 411
¶9-033 Stabilisation and Disclosure of Interests Obligations (Part XV of SFO) 412
¶9-040 Claw Back Mechanism 413
¶9-050 US Offering: Rule 144A and Regulation S 414
¶9-051 Rule 144A 415
¶9-052 Regulation S 415
¶9-053 Offshore Press 416
¶9-060 Continuing Obligations 416
¶9-061 Interim and Annual Accounts 416
¶9-062 Price-sensitive Information (PSI) 417
¶9-063 Transactions requiring disclosure and prior approval 419

¶9-064 Market Misconduct 423
¶9-070 Summary List of IPO Terminology in this Chapter 423

Index **425**