

## HONG KONG DUAL LISTINGS

- Dual Listing of Canadian Companies on HKSE

## Dual Listing of Canadian Companies on HKSE

### “IT’S ALL THE SAME BUT DIFFERENT”

- All security regulators have the same general concern / mandate
  - > Ensure markets operate efficiently
  - > Protect investors
- How they do it varies

## Dual Listing of Canadian Companies on HKSE

### THE REGULATORS

- In Canada, listed companies are regulated by
  - > The TSX / TSX-V
  - > Provincial securities commissions
- In Hong Kong,
  - > HKSE
  - > Securities and Futures Commission

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## Dual Listing of Canadian Companies on HKSE

### • THE MARKETS

- In Canada,
  - > TSX
    - Senior issuers
  - > TSX-V
    - Junior issuers
- In Hong Kong,
  - > Main Board
    - for established companies
  - > Growth Enterprise Market (GEM)
    - Stepping stone for main board

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## Dual Listing of Canadian Companies on HKSE

### Overview

1. Listing Requirements
2. Listing by Public Offering v. Introduction
3. Primary v. Secondary Listings
4. Issues / Considerations

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## Dual Listing of Canadian Companies on HKSE

### HKSE General Listing Requirements (Main Board)

- Stricter listing requirements than TSX / TSX-V
- Financial Requirements – 3 alternative tests
  - Profit test
    - HK\$50 million (3 years)  
( \$20 million most recent / aggregate of \$30 million prior 2)
    - Market cap HK\$200 million
  - Market Cap / Revenue test
    - Market cap HK\$4 billion
    - Revenue HK\$500 million
  - Market Cap / Revenue / Cashflow test
    - Market cap HK\$2 billion
    - Revenue HK\$500 million
    - Positive cashflow  $\geq$  HK\$100 ( for each of past 3 years)

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### HKSE General Listing Requirements (Main Board) Continued...

- Track Record: 3 Year Financial Performance
- Management Continuity: 3 Years
- Ownership Continuity: 1 Year
- Eliminates all but mature resource companies from listing

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## Dual Listing of Canadian Companies on HKSE

### HKSE General Listing Requirements (GEM)

- Financial Requirements
  - > Market cap HK\$100 million
  - > Cashflow from operations HK\$20 million for 2 preceding years
- Management Continuity 2 years
- Ownership Continuity 1 year
- Secondary Listing Not Permitted – Dual only

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## Dual Listing of Canadian Companies on HKSE

### New HKSE Listing Rules for Resource Companies

- HKSE plans broaden listed issuer base initiated in 2010
- Open to relaxing trading record / operating history and management requirement for
  - > Mineral companies
  - > Project companies
- Expect conservative application of new listing rules

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## Dual Listing of Canadian Companies on HKSE

### New HKSE Listing Rules for Resource Companies

- Minimum requirements:
  - > At least “indicated resources” or “contingent resources”
- Minimum requirements:
  - > 125% working capital for 12 months (watch out for restrictions on pre-IPO Financing!)

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## Dual Listing of Canadian Companies on HKSE

### New HKSE Listing Rules for Resource Companies

- Minimum requirements:
  - > Board of directors and management with 5 years industry experience
  - > Clear Pathway to Production

## Dual Listing of Canadian Companies on HKSE

### Clear Pathway to Production

- Path to production supported by at least a scoping study (ie: Preliminary evaluation of economic viability of mineral resources)
- Indicative dates and costs for achievement of commercial production
- HKSE can be expected to focus on plan to achieve production
- Major investment banks may want to see “bankable feasibility study” at a minimum

## Dual Listing of Canadian Companies on HKSE

- **Two ways to achieve listing**
  - > Initial Public Offering
  - > Introduction

## Dual Listing of Canadian Companies on HKSE

### Listing by Initial Public Offering

- Process lead by HK investment bank as sponsor and underwriter
- Typical listing route – South Gobi

## Dual Listing of Canadian Companies on HKSE

### Listing by Initial Public Offering

- Advantages
  - > Funds raised to pay listing costs
  - > Asian investor base established

## Dual Listing of Canadian Companies on HKSE

### Listing by Initial Public Offering

- Size
  - > Larger investment banks: HK\$200 million +
  - > Asian investor base established

## Dual Listing of Canadian Companies on HKSE

### Listing by Introduction

- Simple dual listing of common shares
- Sponsor required by HKSE
- HKSE must be satisfied that market for shares will develop

## Dual Listing of Canadian Companies on HKSE

### Listing by Introduction

- Disadvantages
  - > No funds raised to fund costs of listing
  - > No Asian investor base created
- No precedents for Canadian resource companies yet

## Dual Listing of Canadian Companies on HKSE

### Development of Market - Connections to Asia

- Tangible connection to Asia required in practice
- Lack of tangible connection will reduce attractiveness to both investment banks and secondary market investors

## Dual Listing of Canadian Companies on HKSE

### Connections to Asia

- Tangible connection may result from:
  - > Properties in Asia (as with South Gobi)
  - > Asian market for a company's products
  - > Asian investor base (eg: Chinese SOE)
- Second stage of "two-step" investment for Chinese investors, where first step is investment in TSX company

## Dual Listing of Canadian Companies on HKSE

### Primary versus Secondary Listing

- Listing can be either primary or secondary
- Secondary denotes that HKSE is a secondary market for a company's securities
- Distinction based on who has primary regulatory authority / oversight

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## Dual Listing of Canadian Companies on HKSE

### Primary versus Secondary Listing

- More waivers from Hong Kong regulation available for secondary listings (**including waivers of application of take-over code**)

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## Dual Listing of Canadian Companies on HKSE

### Primary versus Secondary Listing

- Secondary listing less onerous than primary, BUT increased trading on HKSE can result in flip to primary

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## Dual Listing of Canadian Companies on HKSE

### Jurisdictional Issues Generally

- Issuers regulated by:
  - > Two stock exchanges
  - > Two securities law administrators (Securities and Futures Commission in Hong Kong) and Canadian Provincial Securities Commissions
  - > Corporate laws of home jurisdiction

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## Dual Listing of Canadian Companies on HKSE

### Jurisdictional Issues Generally

- Issuers will face overlapping and conflicting regulating requirements
- No jurisdictional agreements between Canada and Hong Kong regarding jurisdiction, as is the case with the Multilateral Jurisdictional Disclosure System between Canada and the U.S.

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## Dual Listing of Canadian Companies on HKSE

### Canadian Prospectus Rules

- Canadian prospectus rules need to be reviewed in connection with HK IPO
- For issuers with connection to British Columbia or Alberta, there is no prospectus exemption for HK IPO

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## Dual Listing of Canadian Companies on HKSE

### Canadian Prospectus Rules

- Exemption Order required from BCSC for B.C. issuers
- Exemption Order required from ASC for AB issuers

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## Dual Listing of Canadian Companies on HKSE

### Jurisdictional Issues Generally

- British Columbia has accepted Hong Kong prospectus review
- Alberta hasn't yet

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## Dual Listing of Canadian Companies on HKSE

### Areas of Divergence

- Appointment of directors by individual votes
- Loans to directors
- Payments to directors for loss of office
- Giving financial assistance
- Sealing of share certificates
- Quorum requirements for directors meetings where directors in a conflict of interest
- Notice period for director nominees
- Delivery of financial report
- Quorum for class votes of shareholders
- Notice to shareholders
- Redemption of redeemable shares
- Two-way proxies
- Untraceable shareholders
- Votes by abstaining shareholders

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## Dual Listing of Canadian Companies on HKSE

### Jurisdiction of Incorporation

- HKSE will evaluate each issuer's jurisdiction of incorporation
- Shareholders must be afforded equivalent shareholder protection to Hong Kong
- Sets out matters of shareholder protection / corporate governance about which HKSE requires comfort that standards under Canadian law at least as high as under Hong Kong law

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## Dual Listing of Canadian Companies on HKSE

### Jurisdiction of Incorporation

- South Gobi has established British Columbia as an acceptable jurisdiction
- Ontario also accepted, but CBCA not yet accepted
- Alberta should be accepted soon

## Dual Listing of Canadian Companies on HKSE

### The Profit Forecast

- Customary requirement for HK IPO
- Required in HK in order that research analysts can prepare reports in connection with HK IPO

## Dual Listing of Canadian Companies on HKSE

### The Profit Forecast

- Creates potential issues for Canadian issuers governed by Canadian securities laws regarding forward looking information (Part 4A of NI 51-102)

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## Dual Listing of Canadian Companies on HKSE

### The Profit Forecast

- Management will want to try to limit forecast period

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## Dual Listing of Canadian Companies on HKSE

### Other Disclosure Issuers

- Canadian issuers will continually be challenged on disclosure issues
- Continual process to ensure all information equally disclosed in TSX and HKSE markets

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## Dual Listing of Canadian Companies on HKSE

### Other Disclosure Issuers

- Meetings between Company and investment analysts in connection with HK IPO a key concern
- Avoid any preferential disclosure of material information

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## Dual Listing of Canadian Companies on HKSE

### TSX

- All TSX rules still apply
- TSX pricing rules need to be considered in pricing of HK IPO
- TSX has demonstrated flexibility in accommodating HK IPO

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