

Executive summary over
the "New Filing Rules" for
U.S.-listed domestic
companies (foreign
private issuers)

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On 17 February 2023, the China Securities Regulatory Commission (CSRC) released new rules for the filing-based administration of overseas securities offerings and listings by Chinese domestic companies ("New Filing Rules"). New Filing Rules consists of six documents for the filing-based administration of overseas securities offering and listing by domestic companies, including Trial Administrative Measures of Overseas Securities Offering and Listing by Domestic Companies and five supporting guidelines (the "Trial Measures"). The New Filing Rules come into effect on March 31, 2023, and the CSRC starts to accept filing applications from March 31, 2023.

New Filing Rules have been circulated for a year, streamlining the protocols for Chinese companies getting listed on the U.S. stock exchange. Starting 2024, we are seeing an increased number of domestic companies considering going public in the U.S., potentially marking a new breakthrough for Chinese firms joining in the U.S. capital market.

1. Implementation of the "New Filing Rules"

According to the CSRC, as of 22 April 2024, a total of 247 domestic companies had applied to file for listing or full circulation of their overseas initial public offerings (IPOs) since the implementation of the New Filing Rules. Of these, 57 domestic companies listed in the U.S. had completed the filing process (see Figure 1), and 76 domestic companies listed in Hong Kong had done the same (see Figure 1). The review and examination of filings from the second half of 2023 onward have seen a notable acceleration in the process and speed of adoption.

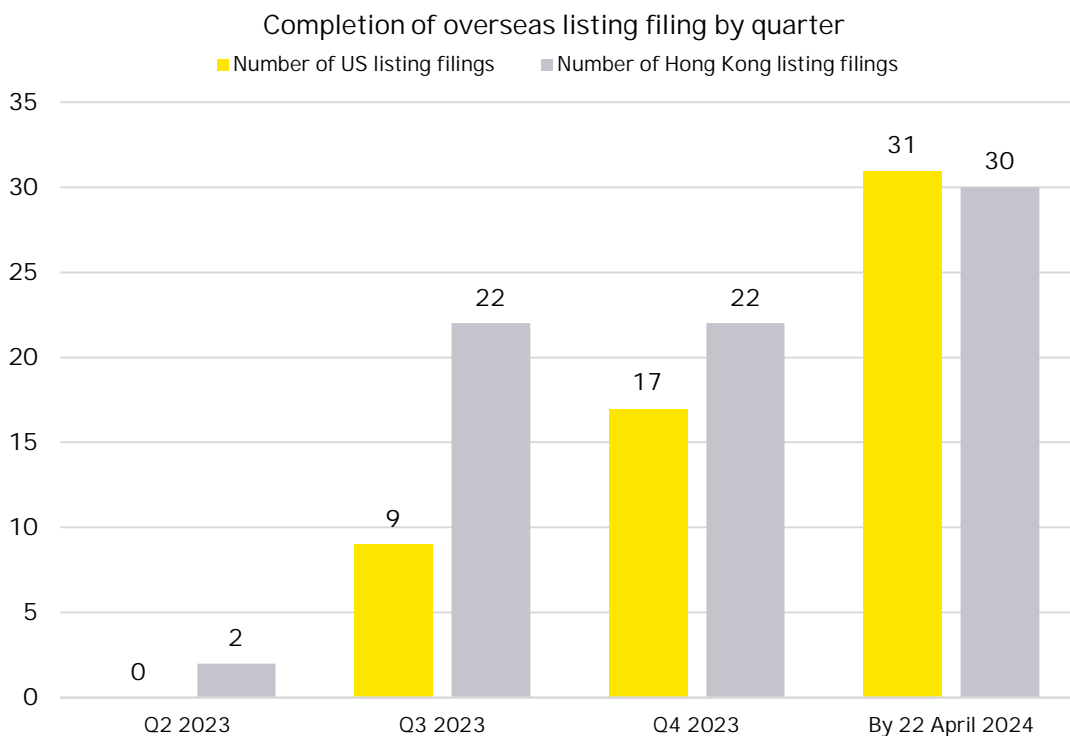
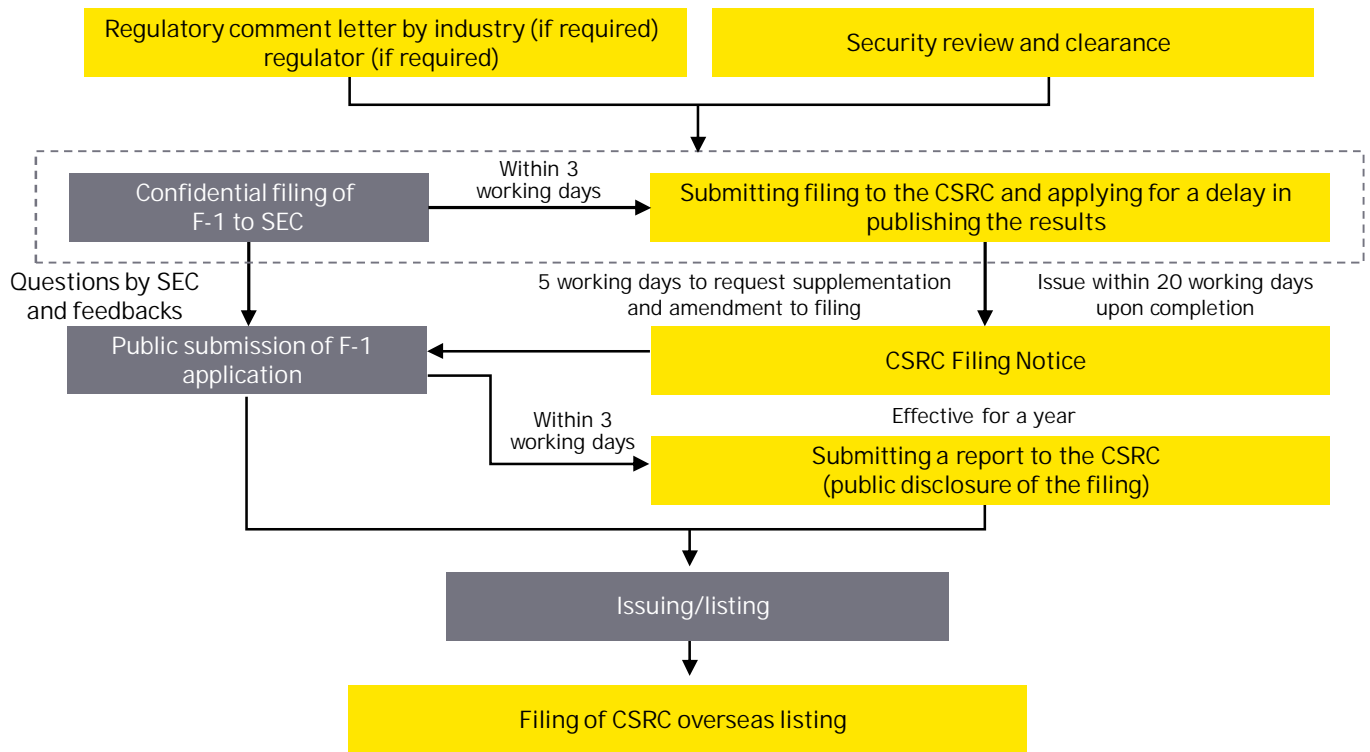


Figure 1

2. Filing process and timeline for listing in the U.S.

According to the information published by the CSRC, the average length of time for filing companies getting listed in the U.S. is 128 days. Considering that confidential filing is allowed for U.S.-listed IPOs, companies may defer its public announcement on filing status according to the New Filing Rules. The U.S. IPO filing process and timeline is shown in Figure 2.



Domestic supervision

Overseas supervision

Figure 2

Note: Analysis of *Trial Administrative Measures of Overseas Securities Offering and Listing by Domestic Companies* and five supporting guidelines

3. Filing requirements for listing in the U.S.

After the implementation of the Trial Measures, domestic companies are required to submit a series of filings to the CSRC for indirect overseas IPOs or listings (see Figure 3):

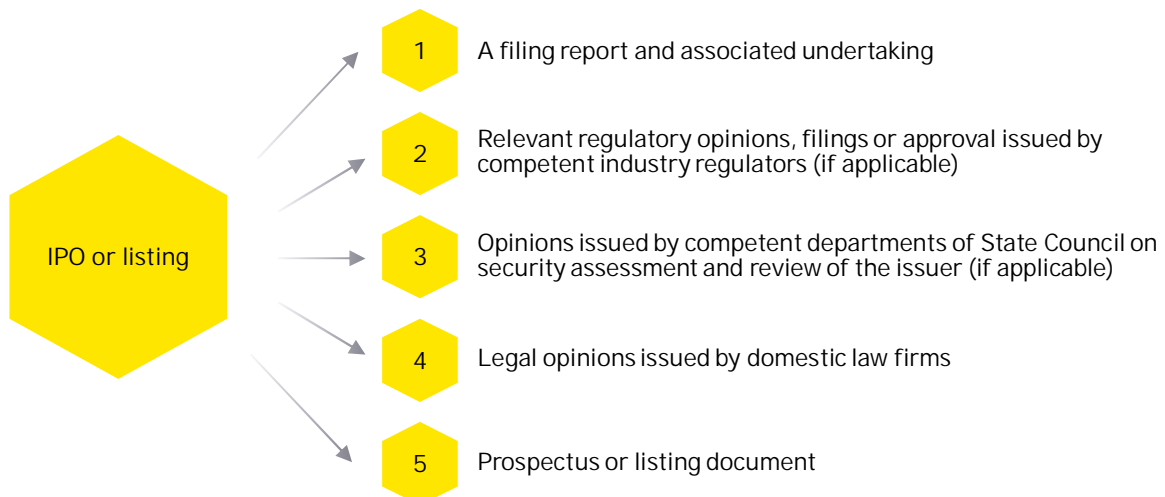


Figure 3

Note: Analysis of *Guidelines of Regulatory Rules Application-Overseas Offering and Listing No. 2: Guidelines on the Content and Format of Filing Materials*

4. CSRC key focuses of filing for listing in the U.S.

We summarized the "key focus areas" from the supplemental material requirements published by the CSRC:

Ownership structure

- ▶ Ownership changes and compliance with the establishment of the relevant ownership structure
- ▶ Structure and source of funds of the applicant's beneficial owner or major shareholders

Variable interest entity (VIE) structure

- ▶ Specific trading arrangements between related entities under the VIE agreement control structure
- ▶ Compliance of the establishment of VIE agreement control structure and the actual development of business that restricted or prohibited for foreign investment
- ▶ Flow of funds, profit sharing arrangements, etc.

Shareholders

- ▶ Information on shareholders holding more than 5% of shares or voting rights and shareholder penetration
- ▶ Affiliations with other shareholders holding more than 5% of shares or voting rights
- ▶ Is there Entrusted Shareholder Agreement
- ▶ New shareholder purchase price in the last year

Financial key points

- ▶ Reasons and rationalization of high concentration of suppliers and customers
- ▶ Related parties transactions
- ▶ Major considerations, spin-off principles and overall arrangements for the spin-off and listing of assets or businesses
- ▶ Significant debt servicing risks, significant guarantees, litigation, arbitration and other contingencies
- ▶ Are there any matters that have a material adverse effect on the continuing operation of the business

Data security

- ▶ Are there any relevant data security risks
- ▶ The situation and scale of personal information collected, used, analyzed and stored
- ▶ Are the arrangements or measures adopted for the protection of personal information and data security comply with national laws and regulations on personal information protection

Business compliance

- ▶ Whether it has obtained appropriate licenses or qualifications in its business field
- ▶ Whether there is commercial bribery and violation of laws and regulations on antitrust and unfair competition

Equity incentives

- ▶ Contents of the incentive plan, including the principle of establishing the exercise price, the incentive targets, whether to set up reserved interests, and the status of foreign exchange and other domestic regulatory procedures
- ▶ Background, price, rationality and basis of equity incentives for outsiders, and whether there is any transfer of benefits
- ▶ Whether the actual controller, directors, supervisors and parties related to them provide financial support for employees to subscribe for shares

About authors

Nancy Jian is a Partner in the U.S. Capital Markets Group of EY Greater China Region, with over 15 years of capital markets and multi-disciplinary accounting and consulting experience in the Chinese mainland, Hong Kong and the U.S. Her services include IPOs in U.S. market, post-listing periodic filings and accounting and disclosure issues for complex transactions. She has served in areas such as high technology, internet, media, retail and biotechnology. Nancy has extensive experience in the U.S. Generally Accepted Accounting Principles (U.S. GAAP) and U.S. Securities and Exchange Commission (SEC) regulations, providing clients with high-quality services in an efficient and timely manner. Nancy has a master's degree in accounting from Boston College and is a U.S. Certified Public Accountant (CPA).



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