

# HKEx Guidance on listed issuers using contractual arrangements for their businesses



May 2025



## Overview

In certain jurisdictions, particularly Mainland China, foreign investment in regulated sectors such as telecommunications, healthcare, and education is subject to significant restrictions. To operate within these constraints, listed issuers often employ contractual arrangements to maintain effective control over restricted businesses without the need of having direct ownership over them.

## Key Guidance for Issuers Using Contractual Arrangements

Under contractual arrangements, the issuer and its subsidiaries rely on structured contracts to exercise control over the domestic incorporated operating companies (OPCOs). However, the absence of direct ownership introduces legal and operational risks.

In light of these issues, the Hong Kong Stock Exchange (HKEx) issued its [updated Guidance Letter HKEX-GL77-14](#) to provide clarity and regulatory expectations for issuers adopting such structures.

### Key Requirements:

- **Legal Compliance:** Contractual arrangements must be "narrowly tailored" - used strictly to the extent necessary to address foreign ownership restrictions, with the issuer holding the maximum permitted interest in OPCO.
- **Legal Opinion:** Issuers must obtain a legal opinion confirming that contractual arrangements comply with applicable laws and are valid to avoid being deemed as "concealing illegal intentions."
- **Regulatory Approvals:** Where foreign ownership requires regulatory approvals, issuers must fulfil these requirements or demonstrate diligent compliance efforts.
- **Contractual Terms:** Contracts must include a power of attorney allowing the issuer's directors to exercise shareholder rights, dispute resolution mechanisms (including arbitration and court jurisdiction), and cover OPCO assets to protect the issuer's interests. Contracts shall also include clear dispute resolution mechanisms, including arbitration clauses.

- **Accounting and Controls:** Issuers are required to confirm with auditors their right to consolidate OPCO results and implement strong internal controls over these entities.
- **Exit Strategy:** Issuers should terminate contractual arrangements promptly when the law allows the business to be operated without them.
- **Disclosure in Announcements and Circulars:** Issuers must adhere to disclosure requirements in announcements, circulars and annual reports as detailed in the guidance letter.

With the HKEx's newly updated guidance letter, issuers are advised to proactively review their structures to align with these standards. If you need any assistance, please don't hesitate to contact Ivy Wong or our team at [M.B. KEMP LLP](mailto:CONTACT.HK@KEMPLLP.COM).