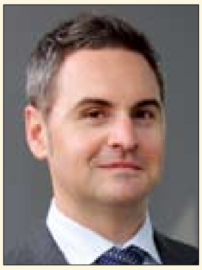
OFFSHORE

Increasing liquidity through dual listing and market migration



By Michael Padarin,
Counsel, Global Investment Funds and Corporate Group

Calendar year 2011 was yet another busy year for Hong Kong IPOs, and in particular Cayman Islands companies seeking listing in Hong Kong. By way of illustration, in 2010, out of the 113 newly listed companies, 62 percent (or 70 companies) were domiciled in the Cayman Islands, while in 2011, 65 percent or 66 of the 101 newly listed companies were from the Cayman Islands. Walkers recently acted on a prominent listing by introduction of a Cayman Islands company on the Hong Kong stock exchange. A listing by introduction is a listing of existing securities where no public offering of the shares will be made, and is common where the shares of the company are already listed on another exchange. In this case, the company was already listed on NASDAQ and was seeking a dual listing.

There are a number of reasons to seek a dual listing in Hong Kong, including access to a more diverse investor base including cash-rich Chinese investors, increased exposure to the Asian capital markets, and increasing the visibility and awareness of a company's brand in Asia.

In this particular example, the shares of the company were relatively closely held and the company sought to increase the liquidity and active trading of the shares post-listing through a number of means. These included providing a simple method for holders of the company's NASDAQ listed American Depositary Shares to convert their American Depositary Shares to Hong Kong listed shares in the company (which involved migrating the shares underlying American Depositary Shares of the company traded on NASDAQ from the Cayman Islands to the Hong Kong register of members) and migrating shares held by the controlling shareholders from the Cayman Islands to the Hong Kong register of members to facilitate the listing and lending of such shares on the Hong Kong exchange on a temporary basis.

> There are a number of reasons to seek a dual listing in Hong Kong, including access to a more diverse investor base including cash-rich Chinese investors ...

As Cayman Islands legal counsel to the issuer, Walkers was closely involved in relation to advising the company on the migration of its shares from the Cayman Islands to the Hong Kong register of members, and securing the necessary approvals and documentation. The migration was processed through 'removing' the shares from the Cayman register and depositing them onto the Hong Kong register without any transfer of legal or beneficial ownership (and then reversing the process for the return of borrowed shares).

The ease of the migration of the shares of the company was aided to a large extent by the flexibility of the Cayman Islands Companies Law, which does not place restrictions on the location of maintaining registers of members and expressly provide for the keeping of branch registers of members.

There were a number of notable lessons emerging from this transaction which may be useful for in-house counsel on future deals. Importantly, this transaction and the 2011 listing statistics reinforce that the Cayman Islands continues to be the jurisdiction of choice as the listing vehicle for Hong Kong listings, both for the Main Board and the Growth Enterprise Market. Companies which are already listed and are seeking alternative sources of capital are likely to benefit from a dual listing, especially in Hong Kong which provides broad exposure to Asian capital markets and investors. Legal and other service providers in the Hong Kong market, and the Hong Kong exchange itself, are becoming more familiar with dual listings and the process to effect a dual listing need not be a painful one.

Given the volatility on global exchanges, and the relative buoyancy of the Hong Kong IPO market, we expect further examples of new listings and China-based companies migrating to Hong Kong in 2012.

Walkers
Suite 1501-1507, Alexandra House, 18 Chater Road
Central, Hong Kong
T: (852) 2596 3343 | F: (852) 2284 4560
Email: **michael.padarin@walkersglobal.com**
Website: **www.walkersglobal.com**