Hoping to provide a systematic means of financing innovative companies in China, the China Securities Regulatory Commission (CSRC) and the Shenzhen Stock Exchange have enacted two sets of rules to support a new Nasdaq-style exchange known as the Growth Enterprise Board. The long-anticipated (and much-delayed) board, sometimes known as the Growth Enterprise Market, began taking applications for initial public offerings from companies on July 26. Trading is scheduled to begin in the fall.

The CSRC issued the *Provisional Measures for the Administration of Initial Public Offering of Shares and Listings Thereof on the Growth Enterprise Board* (the Provisional IPO Measures) on March 31, 2009. The board was initially scheduled to open on May 1, the date the Provisional IPO Measures took effect.

The Shenzhen exchange, which primarily lists shares of large, state-owned enterprises, issued the *Listing Rules of the Growth Enterprise Board of the Shenzhen Stock Exchange* (the Listing Rules) on June 5, 2009.

The Chinese government hopes the Growth Enterprise Board will fill a gap in China's financial system by enabling young companies to raise capital, much as Nasdaq has in the U.S. since its inception in 1971. While there has been talk of a growth-oriented secondary market in China for more than a decade, Chinese regulators have been committed to lawmaking for its launch since 2008. Not coincidentally, the government hopes the Growth Enterprise Board will help ease the effects of the global economic crisis in China by supporting companies that are likely to grow and create new jobs in fields other than manufacturing.
Provisional IPO Measures

The Provisional IPO Measures establish the basic legal framework for companies wishing to issue stock on the Growth Enterprise Board.

A company must meet a number of basic requirements:

- It must already have ownership by shares (rather than, for example, being a limited liability company).
- It must have been in business for at least three years.
- It must have posted profits for the past two years, with total net earnings of at least 10 million; or it posted a net profit in the most recent year of at least RMB 5 million against revenues of at least RMB 50 million, with an annual growth rate over the preceding two years of at least 30 percent.
- It must have net assets of at least RMB 20 million.
- After the IPO is complete, the company must have a total registered capital in shares of at least RMB 30 million.

In addition, companies listed on the Growth Enterprise Board must be independent, and must engage in a single main business, with the money being raised in the IPO being dedicated to that main business.

The CSRC is responsible for approving applications by companies to issue shares for listing on the Growth Enterprise Board.

Listing Qualifications

Supplementing and complementing the Provisional IPO Measures, the Listing Rules govern stock and its derivatives on the Growth Enterprise Board, as well as information disclosure by issuers, listed companies and related parties. As such, the Listing Rules strengthen the regulatory framework for the board and enhance transparency, particularly in light of the relatively small size and shorter operational history of enterprises that will be listed on the Growth Enterprise Board. The Listing Rules cover listing qualifications, listing procedures, corporate governance, disclosure, suspensions of listings and delisting.

Pursuant to the Listing Rules, in order to be eligible to list an initial public offering of stock on the Growth Enterprise Board, an issuer must meet the following requirements:

- Stock in the company has already been issued.
- Total capital, after the offering, must be RMB 30 million or more.
- Publicly issued shares must account for 25 percent or more of the company's total shares, unless the issuer's total capital exceeds RMB 400 million; if the total capital exceeds RMB 400 million, publicly issued shares must account for 10 percent or more of total shares.
- There must be 200 or more shareholders.
- The company must have no record of material non-compliance with laws in the most recent three years, and no false records of financial statements.
- Other requirements imposed by the Shenzhen Stock Exchange.
Disclosure Requirements

While investments on the Growth Enterprise Board will almost of necessity pose greater risk than investments in more stable companies, the Shenzhen Stock Exchange has imposed a number of rules intended to help protect investors. In order to avoid excessive speculation, the Listing Rules impose special disclosure requirements on issuers, beyond the basic requirements of filing periodic and ad hoc reports. According to these special disclosure requirements, an issuer must pay ongoing attention to relevant reports or rumors about the company in public media after publication of its prospectus, and seek to uncover the truth regarding such reports in a timely manner; if the issuer discovers false records, misleading statements, or undisclosed material items that should have been disclosed and that may have a comparatively large impact on the stock price, the issuer must announce a risk alert to clarify the risk-related matters and remind investors of the main risk of investing in the listed company.

Delisting Rules

It is also noteworthy that the Growth Enterprise Board establishes a broad scheme for the delisting of companies. In contrast to the existing main board, the Growth Enterprise Board establishes three new scenarios in which a company may face delisting:

- When an accounting firm issues an adverse opinion or a disclaimer opinion on the financial statements of the listed company, making it difficult for investors to make investment decisions due to the lack of authentic and effective financial information on such listed company.
- When the net assets of the listed company are recorded as negative in its financial statements, which usually means the listed company is insolvent, under extreme financial distress, and at risk of suspension, closure or liquidation.
- Cumulative stock trading volume of the listed company is less than 1 million shares during 120 consecutive trading days.

If any of the above three situations occurs, the Shenzhen Stock Exchange will issue a caution of delisting risk to the listed company. If the listed company cannot remedy the problem within a prescribed time period, the exchange will initiate delisting procedures.

Conclusion

Even with these two sets of rules having been released by stock market regulators, and with follow-up rules related to the Growth Enterprise Board expected in the near future, because of the lack of regulatory experience and a professional enforcement force, the enforcement of Growth Enterprise Board rules may still involve uncertainty. We will monitor how regulation and enforcement proceed in practice.