

HKEX GUIDANCE LETTER

HKEX-GL62-13 (July 2013) (Updated in January and March 2014, and January 2015) – effective for applications submitted on or after 1 October 2013

(Withdrawn in May 2016, superseded by HKEX-GL86-16)

Subject	Disclosure of Directors, Supervisors and Senior Management section in listing documents
Listing Rules and Regulations	Main Board Rules 2.13, 3.08, 3.09, 11.07 and Paragraph 41 of Part A of Appendix 1 GEM Rules 5.01, 5.02, 14.08(7), 17.56 and Paragraph 41 of Part A of Appendix 1 Paragraph 6 of the Third Schedule of the Companies Ordinance¹
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Important note: *This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You may consult the Listing Division on a confidential basis for an interpretation of the Listing Rules or this letter.*

1. Purpose

- 1.1 This letter provides guidance on the disclosure in the “Directors, Supervisors and Senior Management” section in listing documents.
- 1.2 The Exchange expects applicants to follow this letter when preparing their listing applications. A listing document that does not follow this may be considered not substantially complete as required under the Listing Rules.

2. Relevant Requirements

Listing Rules

- 2.1 Main Board Rule 2.13 (GEM Rule 17.56) requires that the information contained in a listing document must be accurate and complete in all material respects and not be misleading or deceptive. In addition, Main Board Rule 11.07 (GEM Rule 14.08(7)) sets out the general duty of disclosure for the content of a listing document.
- 2.2 Main Board Rule 3.08 (GEM Rule 5.01) states that the Exchange expects the directors to fulfill fiduciary duties and to have duties of skill, care and diligence to a standard at least commensurate with the standard under Hong Kong law (***Added in January 2014***).
- 2.3 Main Board Rule 3.09 (GEM Rule 5.02) provides that every director of a listed issuer must satisfy the Exchange that he has the character, experience and integrity and is

¹ Retitled as the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) with effect from March 2014.

able to demonstrate a standard of competence commensurate with his position as a director of a listed issuer (*Added in January 2014*).

- 2.4 Paragraph 41(1) of Part A of Appendix 1 to Main Board Rules and GEM Rules require the full name, residential or business address of every director and senior manager or proposed director and senior manager to be included in the listing documents. In addition, brief biographical details in respect of the directors, proposed directors, senior managers and proposed senior managers of the applicant shall be provided, including name, age, positions held with the applicant and other members of the applicant's group, length of service with the applicant and the group, relevant management expertise and experience including current and past directorships in other listed public companies in the last three years, and such other information of which shareholders should be aware, pertaining to the ability or integrity of such persons.
- 2.5 Paragraphs 41(3) to (4) of Part A of Appendix 1 to Main Board Rules and Paragraph 41(1) of Part A of Appendix 1 to GEM Rules require that where any of the directors or senior managers are related, or where any director or proposed director is a director or employee of a company which has an interest or short position in the shares and underlying shares of the applicant, that fact shall be stated in a listing document.

Companies Ordinance¹ (Updated in March 2014)

- 2.6 Paragraph 6 of the Third Schedule of the Companies Ordinance¹ requires the names, descriptions and addresses of the directors or proposed directors to be disclosed in a listing document.

A Guide on Directors' Duties (Added in January 2014 and updated in March 2014)

- 2.7 Companies Registry published "A Guide on Directors' Duties" (the "**Guide**") providing guidance on the directors' duties of a listed company, which is available on the Companies Registry's website:

http://www.cr.gov.hk/en/companies_ordinance/docs/Guide_DirDuties-e.pdf

- 2.8 The Exchange expects the directors of a listing applicant fulfill the requirements under the Guide. Directors of listing applicant who do not follow this guidance may be considered as a breach of the Listing Rules.
- 2.9 In general the responsibilities and liabilities of directors derive from various sources, including the constitution of the company, case law and statute. If a person does not comply with his/ her duties as a director he may be liable to civil or criminal proceedings and may be disqualified from acting as a director.

3. Guidance

Summarised information of Directors, Supervisors and Senior Management

- 3.1 The front page of the "Directors, Supervisors and Senior Management" section of a listing document should include a table, including the full name, age, date of joining the applicant, present position in the applicant, date of appointment as director or senior manager and brief description of the roles and responsibilities of each director², supervisor

² All executive directors and non-executive directors must be appointed when an applicant submits its listing

(if applicable) and senior management, and relationship among them (if applicable).

Biographies of Directors, Supervisors and Senior Management

3.2 The biography of each director, supervisor and senior management should include:

- (i) his/ her academic background (e.g. names and locations of universities or colleges which are accredited by competent accreditation bodies³, level of education, major of studies, and whether the courses attended were long distance learning courses or online courses) and professional qualifications, including when (month and year) obtained and the granting authorities (***Updated in January 2014***);
- (ii) his/ her previous working experience relevant to his/ her present position in the applicant (preferably in tabular format if information is excessive), including how he/ she gained access to and possessed relevant industry knowledge and experience in relation to the applicant's businesses, the names and principal business activities of companies which he/ she was previously engaged in before joining the applicant, his/ her roles and responsibilities and period of services in the previous jobs; and
- (iii) his/ her current and past directorships in any listed companies in the last three years (or an appropriate negative statement).

Other disclosure

3.3 The following should also be disclosed in the "Directors, Supervisors and Senior Management" section:-

- (i) the role and composition of audit committee, remuneration committee, nomination committee, and other committees (if applicable) and identify the chairperson of each committee;
- (ii) the directors, supervisors and senior management's remuneration, incentive plan for senior management and key employees; and
- (iii) any deviation from the Code Provisions of Appendix 14 to Main Board Rules (Appendix 15 to GEM Rules) (e.g. why the same individual acts as chairman and chief executive officer, succession plan, etc.).

3.4 Any references to directors of the listing applicant which were not directors or senior management of the applicant or any of its subsidiaries during the track record period are not required to be included in the table of directors' remuneration in the accountants' report (***Updated in January 2014 and January 2015***).

application. All independent non-executive directors must be identified when an applicant submits its listing application, but their actual appointments may take place closer to the time the listing document is issued.

³ Otherwise, the sponsor should advise the applicant to remove references to the academic accreditation bodies from the listing documents or to disclose the fact that the academic accreditation bodies are not authorised to do so.