

HKEX LISTING DECISION

Cite as HKEX-LD32-3 (November 2002) (Withdrawn in January 2024)

[This listing decision is withdrawn.]

Summary	
Name of Party	Company A – a listed company
Subject	Single language corporate communications - on-going arrangement - whether announcement needed to be re-published
Listing Rules	Rule 2.07B
Decision	Re-publication not necessary, but individual dialogue or attempted individual dialogue necessary before single language corporate communication could be sent to particular shareholder

Summary of Facts

Company A proposed that, in future, all corporate communications required under the Listing Rules to be sent to its shareholders would, wherever possible, be sent in English or Chinese only.

Company A proposed to send letters to its shareholders to ascertain their language preferences and to publish details of the arrangement in a paid announcement in the newspapers. However, it was concerned that persons who were to become shareholders subsequent to the publication of the announcement would not be aware of the arrangement. It therefore asked the Exchange whether it would be necessary to re-publish the announcement from time to time.

Analysis

Rule 2.07B provides, in part, as follows:

" (1) Any requirement in these Exchange Listing Rules for a listed issuer to send, mail, dispatch, issue, publish or otherwise make available any corporate communication in both English and Chinese may, where the listed issuer has made adequate arrangements to ascertain whether or not a holder of its securities wishes to receive the English language version only or the Chinese language version only and to the extent permitted under applicable laws and regulations and the listed issuer's own constitutional documents, be satisfied by the listed issuer sending the English language version only or the Chinese language version only (in accordance with the holder's stated wish) to the holder concerned. Any arrangement by the listed issuer to ascertain a holder's wish

must afford the holder the choice of receiving the English language version only, the Chinese language version only or both the English language version and the Chinese language version.

- (2) A listed issuer which, availing itself of this rule 2.07B, sends the English language version only or the Chinese language version only of a corporate communication to holders of its securities must afford holders the right at any time by reasonable notice in writing served on the listed issuer to change their choice as to whether they wish to receive the English language version only, the Chinese language version only or both the English language version and the Chinese language version. The listed issuer must set out in each such corporate communication the steps for notifying the listed issuer of any such change together with a statement expressly informing holders that they may at any time choose to receive the English language version only, the Chinese language version only or both the English language version and the Chinese language version notwithstanding any wish to the contrary previously conveyed to the listed issuer."

The Rule concludes with a Note giving an example of a one-off arrangement (e.g. the annual report for one particular financial year only) which "the Exchange will normally regard as adequate".

The fundamental principles governing the sending of single language corporate communications to shareholders are contained in Rule 2.07B proper (as set out above), not the Note. It is to these principles that a listed issuer will need to refer in every case, particularly where it does not wish to follow, or cannot follow (as in the case of an on-going arrangement), the example given in the Note.

Company A's concern for persons who were to become shareholders subsequent to the publication of the announcement was rightly founded and the answer was to be found in Rule 2.07B(1). The issuer must have made "adequate arrangements to ascertain whether or not a holder of its securities wishes to receive the English language version only or the Chinese language version only". This is an express reference to a holder at the individual level meaning that, in the case of Company A's proposed on-going arrangement, it must have entered into an individual dialogue, or at least attempted to enter into an individual dialogue, with any given shareholder before any single language corporate communication can be sent to that particular shareholder.

Decision

Company A would not need to re-publish its announcement. However, it could not attribute any particular language preference to any given shareholder without having first made adequate arrangements to ascertain the language preference of that particular shareholder. To this end, it must have entered into an individual dialogue, or at least attempted to enter into an individual dialogue, with any given shareholder before any single language corporate communication could be sent to that particular shareholder.