

Chapter 23

DEBT SECURITIES

QUALIFICATIONS FOR LISTING

Preliminary

23.01 This Chapter does not apply to debt issues to professional investors only. It sets out the basic conditions which have to be met as a pre-requisite to the listing of debt securities, except those issued by States and Supranationals. They apply to every method of listing and to both new applicants and listed issuers, except where otherwise stated. The conditions which have to be met by States and Supranationals are set out in Chapters 31 and 32 respectively. Modified requirements for State corporations and banks are set out in Chapters 33 and 34 respectively.

23.02 Issuers are reminded:—

- (1) that these requirements are not exhaustive and that the Exchange may impose additional conditions in a particular case; and
- (2) that the Exchange retains an absolute discretion to accept or reject applications for listing and that compliance with the relevant conditions may not of itself ensure an applicant's suitability for listing.

Prospective issuers, and in particular new applicants, are therefore encouraged to contact the Exchange to seek informal and confidential guidance as to the eligibility of a proposed issue for listing at the earliest possible opportunity.

Basic Conditions

23.03 The issuer and the guarantor, in the case of a guaranteed issue, must each be duly incorporated or otherwise established under the laws of the place where it is incorporated or otherwise established and must be in conformity with those laws and its memorandum and articles of association or equivalent documents. They must each be duly authorised to commence their respective business.

23.04 An issuer which is a Hong Kong company must not be a private company within the meaning of section 11 of the Companies Ordinance.

- 23.05 If the shares of the issuer or the guarantor, in the case of a guaranteed issue, are not listed then both the issuer and the guarantor, in the case of a guaranteed issue, and their respective businesses must, in the opinion of the Exchange, be suitable for listing.
- 23.06 A new applicant or the guarantor, in the case of a guaranteed issue, must have produced audited accounts in accordance with its national law covering the three financial years preceding the application for listing. In very exceptional cases the Exchange may accept a shorter period of two years.
- 23.07 In the case of a new applicant, the latest financial period reported on by the reporting accountants (see Chapter 4) must not have ended more than nine months before the date of the listing document.
- 23.08 If the shares of the issuer or the guarantor, in the case of a guaranteed issue, are not listed then the issuer or the guarantor, in the case of a guaranteed issue, must have total shareholders' funds of at least HK\$100,000,000, and the nominal amount of each class of debt securities for which listing is sought must be at least HK\$50,000,000, or such other amount as the Exchange may from time to time prescribe. Further issues of debt securities which are or are to be uniform in all respects with debt securities of a class already listed are not subject to these limits. In exceptional cases, a lower minimum nominal amount may be acceptable where the Exchange is satisfied as to marketability. In the case of options, warrants or similar rights to subscribe or purchase debt securities, the same limits will apply as would apply to the underlying debt securities to be subscribed or purchased.
- 23.09 The debt securities for which listing is sought must be freely transferable.
- 23.10 The debt securities for which listing is sought must be issued in conformity with the law of the place where the issuer is incorporated or otherwise established and in conformity with the issuer's memorandum and articles of association or equivalent documents and all authorisations needed for their creation and issue under such law or documents must have been duly given. The same applies, mutatis mutandis, to the giving of any related guarantee by a guarantor.
- 23.11 Debt securities to which options, warrants or similar rights to subscribe or purchase equity securities or debt securities are attached must also comply with the requirements applicable to such options, warrants or similar rights (see Chapter 15 or Chapter 27, as appropriate).
- 23.12 The issuer must maintain a paying agent at an address in Hong Kong until the date on which no debt security is outstanding unless the issuer performs that function himself.

Stabilisation

- 23.13 Any activities or transactions carried out prior to the commencement of dealings with a view to stabilising or maintaining the market price of the debt securities at levels other than those which might otherwise prevail must only be effected in accordance with all applicable statutory provisions or regulations. If any such activities or transactions are not effected in accordance with such provisions or regulations the application for listing will be rejected by the Exchange.