

**CONSULTATION CONCLUSIONS**  
ON PROPOSED CHANGES TO ALIGN THE  
DEFINITIONS OF CONNECTED PERSON AND  
ASSOCIATE IN THE LISTING RULES

**March 2014**



Hong Kong Exchanges and Clearing Limited  
香港交易及結算所有限公司

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## EXECUTIVE SUMMARY

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1. This paper presents the results of the consultation on proposed changes to align the definitions of connected person and associates in the Rules.
2. We received 47 submissions from issuers, professional and industry associations, practitioners, individuals and other entities.
3. Under the current Rules, Chapter 1 contains the general definitions of “connected person” and “associate” which are different from those used in Chapter 14A for the purpose of the connected transaction requirements.
4. A large majority of respondents agreed with the proposal to rename the definitions of “connected person” and “associate” in Chapter 1 to distinguish them from those used in Chapter 14A. Having considered the responses, we decided to rename the definitions in Chapter 1 as “core connected person” and “close associate”.
5. The proposals to align the definitions of connected person and associate in other parts of the Rules with those used in Chapter 14A also received support from a majority of respondents. However, some respondents were concerned that the proposals may have the effect of broadening the requirements in some of the Rules and significantly increase issuers’ compliance burden.
6. The proposals are not intended to extend the requirements in other parts of the Rules, but to align them with the definitions in Chapter 1 or 14A as applicable. We have reviewed the proposals and decided to apply the Chapter 14A definition of connected person or associate in the following areas:
  - the reverse takeover Rules in Chapter 14 to include significant acquisitions from the incoming controlling shareholder’s extended family members and companies controlled by them;
  - significant corporate actions (e.g. withdrawal of listing or refreshment of general mandate), spin-off proposals and director’s service contracts that require shareholders’ approval<sup>1</sup> where the controlling shareholder or directors and their associates may not vote. In other words, the connected persons’ extended family members and companies controlled by them cannot vote in general meeting to approve these matters;
  - the grant of share options to connected persons under Chapter 17. In other words, the connected persons’ extended family members and companies controlled by them cannot vote in general meeting to approve the grant of share options to connected persons;
  - in the case of a new listing application, the sponsor must confirm whether it is a connected person (as defined in Chapter 14A) of the new applicant;

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<sup>1</sup> In the case of directors’ remuneration, a director and his associates should not involve in deciding his remuneration at the remuneration committee meeting.

- in the case of a connected transaction, the IFA must confirm whether it is, or holds more than 5% interest in, an associate (as defined in Chapter 14A) of the counterparty of the transaction; and
  - to use the Chapter 14A definitions of connected person and associate in the Rules that are corollary to Chapter 14A.
7. The Rule amendments form Appendices I and II. They will take effect from 1 July 2014.

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## CHAPTER 1 INTRODUCTION

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8. On 26 April 2013, The Stock Exchange of Hong Kong Limited (**Exchange**), a wholly owned subsidiary of Hong Kong Exchanges and Clearing Limited (**HKEx**) published its Consultation Paper on Proposed Changes to Align the Definitions of Connected Person and Associate in the Listing Rules. The paper sought comments on the proposals to:

- rename the definitions of “connected person” and “associate” in Chapter 1 of the Rules to distinguish them from those used in Chapter 14A; and
- align the definitions of connected person and associate used in various parts of the Rules with those in Chapter 14A where their purposes are also to protect independent/minority shareholders when issuers propose transactions or corporate actions, or in other circumstances where there is, or may be, a conflict of interest.

9. The consultation period ended on 26 June 2013. We received submissions from 47 respondents:

<b>Category</b>	<b>No. of respondents</b>	<b>%</b>
Issuers	27	57%
Professional and industry associations	7	15%
Market practitioners	8	17%
Individuals and other entities	5	11%
<b>Total</b>	<b>47</b>	<b>100%</b>

10. All submissions are available on the HKEx website at <http://www.hkex.com.hk/eng/newsconsul/mktconsul/responses/cp2013042r.htm>, and a list of the respondents is provided in Appendix III.

11. A majority of respondents supported our proposals. Chapter 2 of this paper summarizes the comments on the proposals and our responses.

12. The Rule amendments are available on the HKEx website at: [http://www.hkex.com.hk/eng/rulesreg/listrules/mbrulesup/mb\\_ruleupdate.htm](http://www.hkex.com.hk/eng/rulesreg/listrules/mbrulesup/mb_ruleupdate.htm) and at [http://www.hkex.com.hk/eng/rulesreg/listrules/gemrulesup/gemrule\\_update.htm](http://www.hkex.com.hk/eng/rulesreg/listrules/gemrulesup/gemrule_update.htm). They have been made by the Board of the Exchange and approved by the Securities and Futures Commission (**SFC**), and will become effective on 1 July 2014.

13. We would like to thank all those who shared their views with us during the consultation process.

14. This paper should be read in conjunction with the consultation paper, which is posted on the HKEx website. Listing Rule references in this paper are to the Main Board Rules. Our responses also apply to the corresponding GEM Rules.

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## **CHAPTER 2 MARKET FEEDBACK AND CONCLUSIONS**

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### **(A) To Rename the Definitions in Chapter 1**

15. We proposed to rename the definitions of “connected person” and “associate” in Chapter 1 as “restricted connected person” and “close associate” to distinguish them from those governed by Chapter 14A as they are used for different purposes.

#### **Comments received**

16. A large majority of respondents (89%) supported the proposal.
17. Some respondents disagreed as they considered it unnecessary to rename the definitions in Chapter 1.
18. Some respondents were of the view that the terms “restricted connected person” and “close associate” may connote other meanings not intended by the Exchange. For example, the term “restricted” connected person may connote a restriction on a connected person. Alternatives suggested by the respondents include:
- For restricted connected person: - core connected person, related person, closely connected person, concerned party or concerned person.
  - For close associate: - related person associate, core associate or affiliate.

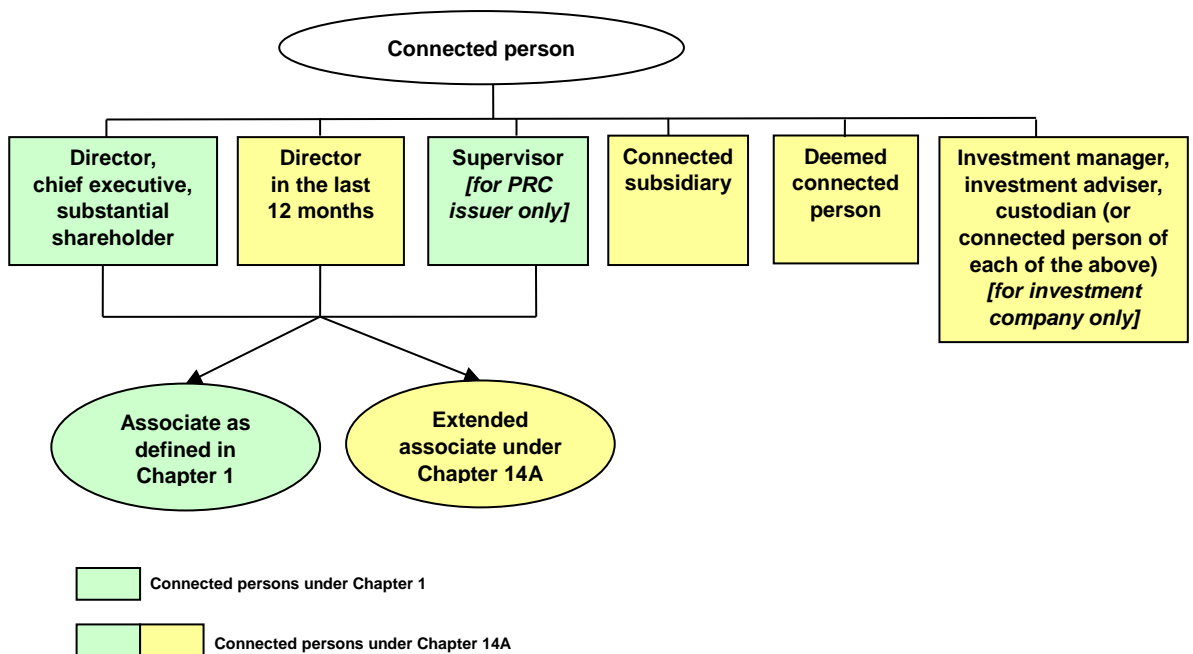
#### **Our responses**

19. In view of majority support, we will implement the proposal. We also take note of the respondents’ comments on the proposed terms and will rename the definition of “restricted connected person” as “core connected person”. We will adopt the proposed definition of “close associate” as proposed in the Consultation Paper.

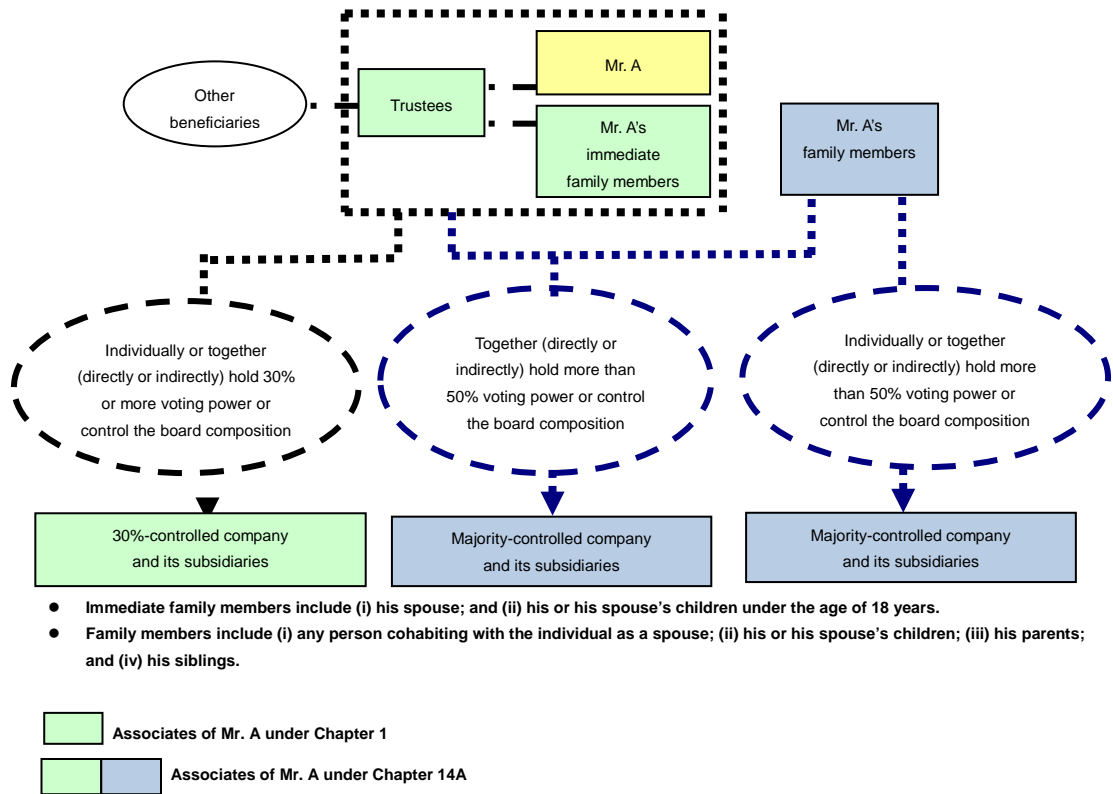
**(B) To Align the Meanings of Connected Person and Associate in Chapter 14A with other Parts of the Rules**

20. Currently Chapter 1 of the Rules contains the general definitions of “connected person” and “associate” which are used throughout the Rules. Chapter 14A also uses these definitions but extends their meanings to a wider scope of persons for the purposes of the connected transaction requirements in that chapter.
21. The major difference between the Chapters 1 and 14A definitions is that the Chapter 14A definitions include the following persons not included in the Chapter 1 definitions:
- for connected persons: - any former directors of the issuer or its subsidiaries in the last 12 months and their associates; and
  - for associates: - extended family members of a connected person who is an individual. These include any person cohabiting with him as a spouse; his or his spouse’s children of age of 18 years or above; his parents; his siblings; and companies controlled by them.
22. The following diagrams compare the definitions of connected person and associate in Chapters 1 and 14A:

(1) Connected persons



(2) Associates<sup>2</sup> of an individual (e.g. Mr. A)



## Proposals

23. In the consultation paper, we proposed to align the definitions of “connected person” and “associate” used in certain parts of the Rules with those in Chapter 14A.

## Comments received

24. Our proposals received support from a majority of respondents (70% or above).
25. Some respondents indicated that while they supported in principle the proposed alignment of definitions of connected person and associate in different parts of the Rules, some proposals may have unintended effect of extending the scope of the Rule requirements and imposing additional obligation on issuers.
26. A respondent considered that it is necessary to clarify how the deemed connected person Rules in Chapter 14A will apply in other parts of the Rules that will adopt the definition of “connected person” in Chapter 14A.

<sup>2</sup> In the case of a company, the definition of associate in Chapter 1 and Chapter 14A is the same.



27. There are other dissenting views on the proposals:
- Some respondents considered that the proposals would cause unnecessary broadening of the Rules.
  - Concerns were expressed that the proposals would create practical problems and significant compliance burden on issuers as the scope of associates under Chapter 14A is much wider than that in Chapter 1. For example, the extended family members of a director or substantial shareholder owe no duty to the issuer, its directors or the regulators for disclosing their interests, and it would be difficult for the issuer to require them to disclose information in many instances and verify the information provided by them. Further, it would be impractical to require the issuer to identify all extended associates (e.g. extended family members) of a shareholder who is interested in the transaction, and require them to abstain from voting at general meetings.
  - Some respondents considered that the proposals would deprive the rights of the director or shareholder to vote on transactions where he does not have any direct interests.
  - There were comments that in practice, many if not all issuers are likely to have difficulties in providing a complete list of connected persons that includes the extended connected persons and associates under Chapter 14A. Extending the Chapter 14A definitions to other parts of the Rules would place additional compliance burden on issuers and may possibly increase the incidents of non-compliance.
  - A number of respondents also disagreed with the extension of the scope of connected persons under the share repurchase Rules. It would be impractical and unduly burdensome for an issuer to ascertain whether any of the extended connected persons (e.g. the former directors of the issuer and its subsidiaries, and their associates) has a present intention to sell the issuer's shares for disclosure in the circular for a repurchase mandate.

## **Our response**

28. While a majority of respondents supported the proposals generally, there were concerns that the proposals would have the effect of broadening the requirements in certain Rules and create practical problems and significant compliance burden on issuers. That is not our intention as the proposals are intended to ensure consistency in other parts of the Rules with the requirements in Chapter 14A. We have reviewed the Rules and decided to adopt some of the proposals taking into account the respondents' concerns. Section (1) below summarizes the proposals adopted and sections (2) and (3) discuss proposals that are partly adopted or not adopted.
29. We have also clarified in the revised Rules that a person may be deemed as a connected person only for the purpose of Chapter 14A.

## (1) Proposals adopted without modifications

30. Table 1 below summarizes the Rules which we proposed to apply the definitions of connected person and associate in Chapter 14A, market feedback and reasons for adopting the proposals:

**Table 1**

	Rule requirements	Market feedback	Reasons for adopting the proposals
<i>Transactions</i>			
1	R14.06(6)(b), R14.23B(2)	Acquisition of assets from the issuer's incoming controlling shareholder or his/its <b>associate</b> under the reverse takeover Rule	Agreed: 40 (87%)  Disagreed: 6 (13%)
	R14.92	Restriction of disposal of existing business by an issuer within 24 months after a change in control unless the assets acquired from the person(s) gaining such control or his/their <b>associates</b> and any other assets acquired after the change in control can meet Rule 8.05	Agreed: 40 (87%)  Disagreed: 6 (13%)
2	R14.58(3), R14.63(3)	Issuer to disclose in the announcement and circular of a transaction that the counterparty and the ultimate beneficial owner of the counterparty are third parties independent of the issuer and its <b>connected persons</b>	Agreed: 41 (89%)  Disagreed: 5 (11%)  <ul style="list-style-type: none"> <li>• The issuer needs to ascertain whether the counterparty of a notifiable transaction and his/its beneficial owner are connected persons as defined in Chapter 14A to ensure the transaction is not subject to the connected transaction requirements.</li> <li>• The proposal is corollary to Chapter 14A.</li> </ul>
3	R5.03, PN12- Para 15	<ul style="list-style-type: none"> <li>• Requirements for valuation of property interests acquired from a <b>connected person</b></li> <li>• Disclosure in the valuation report if the valuer has relied on information provided by a <b>connected person</b> in a connected transaction</li> </ul>	Agreed: 42 (91%)  Disagreed: 4 (9%)  <ul style="list-style-type: none"> <li>• These acquisitions are connected transactions.</li> <li>• The proposal is corollary to Chapter 14A.</li> </ul>
4	R21.08(12)	A listing document of a new applicant investment company to contain a statement as to whether the directors of the investment company, the management company, any investment adviser or any distribution company, or any <b>associate</b> of any of those persons, is or will become entitled to receive any part of any brokerage charged to the investment company, or any re-allowance of other types on purchases charged to the investment company.	Agreed: 42 (91%)  Disagreed: 4 (9%)  <ul style="list-style-type: none"> <li>• The brokerage or re-allowance payable to the investment company's directors and their associates are connected transactions.</li> <li>• The proposal is corollary to Chapter 14A.</li> <li>• For the management company, investment adviser or distribution company, the definition of associate has the same meaning in Chapters 1 and 14A.</li> </ul>

	Rule requirements		Market feedback	Reasons for adopting the proposals
<i>Issues of securities</i>				
5	R7.21(2), R7.26A(2)	Shareholder approval requirements for a rights issue or open offer underwritten by a director, chief executive or substantial shareholder of the issuer (or an <b>associate</b> of any of them) if there is no arrangement for excess applications	Agreed: 40 (87%)  Disagreed: 6 (13%)	<ul style="list-style-type: none"> <li>• Currently, a connected person (as defined in Chapter 14A) underwriting the issuer's rights issue or open offer is a connected transaction subject to shareholder approval. It is exempt from the connected transaction requirements if Rule 7.21(2) / 7.26A(2) has been complied with.</li> <li>• The scope of associate under Rules 7.21(2) and 7.26A(2) should align with that used in Chapter 14A.</li> <li>• The proposal is corollary to Chapter 14A.</li> </ul>
6	N1 to R13.36(2)(b), R19A.38	Any issue of securities by an issuer to a <b>connected person</b> under a general mandate is permitted only if it complies with Chapter 14A	Agreed: 42 (91%)  Disagreed: 4 (9%)	<ul style="list-style-type: none"> <li>• These transactions are connected transactions.</li> <li>• The proposal is corollary to Chapter 14A.</li> </ul>
7	PN4 - Para 4(c)	For a proposal to issue new warrants to existing warrant holders or to change the exercise period or exercise price of existing warrants, the Exchange has the right to require that any <b>connected person</b> of the issuer who holds more than 10% of the outstanding existing warrants to abstain from voting	Agreed: 42 (91%)  Disagreed: 4 (9%)	<ul style="list-style-type: none"> <li>• These transactions are connected transactions. Under Chapter 14A, the connected person is required to abstain from voting.</li> <li>• The proposal is corollary to Chapter 14A.</li> </ul>
<i>Voting at general meeting</i>				
8	R6.12, R6.13, R7.19, R7.24, R13.36(4), R14.90, R14.91, Note to R13.39	<p>Any controlling shareholder (or where there is no controlling shareholder, directors and chief executive of the issuer) and its/their <b>associates</b> must abstain from voting to approve</p> <ul style="list-style-type: none"> <li>• voluntary withdrawal of listing</li> <li>• large scale rights issue or open offer</li> <li>• refreshment of general mandate</li> <li>• transaction that would result in a fundamental change in the issuer's principal business activities within 12 months after listing</li> </ul> <p>The parties that are required to abstain from voting may vote against the resolution at the general meeting provided that their intention to do so has been disclosed.</p>	Agreed: 36 (78%)  Disagreed: 10 (22%)	<ul style="list-style-type: none"> <li>• Controlling shareholder (or where there is no controlling shareholder, directors and chief executive of the issuer) are normally the decision makers of the transactions.</li> <li>• The subject transaction has a significant impact on issuers and shareholders.</li> <li>• Applying the Chapter 14A definition of associate in these Rules allow independent shareholders to have a say on these transactions.</li> </ul>

	<b>Rule requirements</b>		<b>Market feedback</b>	<b>Reasons for adopting the proposals</b>
9	R13.68	A director and his <b>associates</b> must abstain from voting on his service contract for a duration of more than 3 years	Agreed: 41 (89%) Disagreed: 5 (11%)	<ul style="list-style-type: none"> <li>• Since the director is in the position to exercise undue influence, his extended associates should also abstain from voting on his service contract.</li> <li>• Applying the Chapter 14A definition of associate in these Rules allow independent shareholders to have a say on these transactions.</li> </ul>
10	PN15 – Para 3(e)(2)	If a controlling shareholder has a material interest in a spin-off proposal, it and its <b>associates</b> must abstain from voting	Agreed: 40 (87%) Disagreed: 6 (13%)	<ul style="list-style-type: none"> <li>• Since the controlling shareholder is in the position to exercise undue influence, his extended associates should also abstain from voting on the spin-off proposal in which he has a material interest.</li> <li>• Applying the Chapter 14A definition of associate in these Rules allow independent shareholders to have a say on these transactions.</li> </ul>
<b>Remuneration committee meeting</b>				
11	App14 – Para B.1.2(h)	Under the Corporate Governance Code, the remuneration committee’s terms of reference should include provision to ensure that no director or any of his <b>associates</b> is involved in deciding his own remuneration.	Agreed: 42 (91%) Disagreed: 4 (9%)	<ul style="list-style-type: none"> <li>• Since the director is in the position to exercise undue influence, his extended associates should also be restricted from deciding his remuneration.</li> </ul>
<b>Depositary</b>				
12	R19B.03	A depositary shall not be: (a) an “ <b>associate</b> ”; (b) a “controlling shareholder”; (c) a “substantial shareholder”; or (d) excluded from being treated as a member of the public under Rule 8.24, merely by reason of the fact that it is holding shares of an issuer as depositary for the benefit of depositary receipt holders	Agreed: 42 (91%) Disagreed: 4 (9%)	<ul style="list-style-type: none"> <li>• This is an existing exemption for depositary that applies throughout the Rules.</li> <li>• The proposal is to clarify that the depositary shall not be regarded as an associate as defined in Chapter 1 or Chapter 14A.</li> </ul>

## (2) Proposals that are partly adopted

### (a) Rules relating to share option schemes

31. Chapter 17 governs share option schemes of an issuer or its subsidiaries. It requires that:
- shareholders approve any grant of share option to a substantial shareholder or independent non-executive director (**INED**) or any of their **associates** that exceeds the limits specified in the Rules (or any change in the terms of options granted to such person), and *all* **connected persons** of the issuer must abstain from voting at the general meeting; and
  - shareholders approve any grant of share options to a participant that exceeds the limits set out in the Rule, and the participant and his **associates** must abstain from voting at the general meeting.
32. Chapter 14A exempts the grant of share options to connected persons under share option schemes from the connected transaction requirements if they comply with Chapter 17. We consider the scope of associates under the Chapter 17 in relation to the grant of options to connected persons should align with that used in Chapter 14A. We will apply the Chapter 14A definition of associate in these Rules to ensure consistency with the requirements under Chapter 14A.
33. That said, where the participant is not a connected person, we agree with some respondents' comments that it would be unduly burdensome or impractical to require the issuer to identify all the extended family members of the participant and the companies controlled by them, and require them to abstain from voting on the grant of share options to such participant.
34. We also note that Rule 17.04 require all connected persons of the issuer to abstain from voting to approve any grant of options to a substantial shareholder or INED or any of their associates that exceeds the limits specified in the Rule. As this voting restriction is more stringent than those generally apply to connected transactions under Chapter 14A, it would be onerous to impose further voting restrictions on the extended connected persons.
35. We will not adopt the proposal to extend the scope of connected persons and associates for the voting requirements described in paragraphs 33 and 34, but have revised the Rule to specify that where the grantee is a connected person, he and his associates (as defined in Chapter 14A) need to abstain from voting.

36. Table 2 below summarizes the Rules which we proposed to apply the Chapter 14A definitions of connected person and associate, market feedback and our conclusions:

**Table 2**

	<b>Rule requirements</b>	<b>Market feedback</b>	<b>Conclusions</b>
<i>Granting share options to connected persons</i>			
13	R17.04(1), N1 to R17.04(3)(d)	<ul style="list-style-type: none"> <li>Requirement for independent non-executive directors to approve a grant of share options to any director, chief executive or substantial shareholder of an issuer or any of their <b>associates</b></li> <li>Shareholder approval requirement for granting share options to a substantial shareholder or independent non-executive directors, or any of their <b>associates</b> which exceeds the limits set out in the Rule; or any change in the terms of options granted to any such person.</li> </ul>	Agreed: 41 (89%) Disagreed: 5 (11%) Adopt • See paragraph 32.
14	R17.06A, R17.07	Requirements to disclose information relating to share options granted to a director, chief executive or substantial shareholder of the issuer or any of their <b>associates</b>	Agreed: 42 (91%) Disagreed: 4 (9%) Adopt See paragraph 32.
15	R17.04(1)	All <b>connected persons</b> of the issuer must abstain from voting in favour at the general meeting to approve any grant of options to a substantial shareholder or independent non-executive directors or any of their associates that exceeds the limits specified in the Rules or any change in the terms of options granted to such person.	Agreed: 41 (89%) Disagreed: 5 (11%) Not adopt, but we will clarify in the Rule that the grantee and his associates (as defined in Chapter 14A) must abstain from voting. • See paragraphs 34 and 35.
<i>Granting share options to participants</i>			
16	R17.03(4)	If the grant of share options to a participant exceeds the limits set out in the Rule, the participant and his <b>associates</b> must abstain from voting	Agreed: 41 (89%) Disagreed: 5 (11%) Not adopt, but we will clarify in the Rule that an associate will have the meaning as defined in Chapter 14A if the participant is a connected person under Chapter 14A. • See paragraphs 33 and 35.

**(b) Rules relating to independence of sponsors and related matters**

37. In the case of a new listing application, Rule 3A.07 sets out the criteria for assessing a sponsor’s independence from the new applicant, including:
- Rule 3A.07(3) - whether any member of the sponsor group or any of its directors is a **connected person** of the new applicant; and
  - Rule 3A.07(6) - whether the aggregate amount of the financial assistance provided by the sponsor group to the new applicant group, the new applicant’s controlling shareholder and any **associate** of the controlling shareholder exceeds the threshold specified in the Rule.
38. We consider that the sponsor should not be the new applicant’s connected person (as defined in Chapter 14A) as its duties include reviewing the new applicant’s connected transactions, including any transactions with the extended connected persons. We will adopt the proposal to require the sponsor to confirm that it is not a connected person (as defined in Chapter 14A). However, we will not apply the Chapter 14A definition in Rule 3A.07(3) to require all members of the sponsor group and its directors to confirm any relationship with the extended connected persons as it would be onerous and impracticable for the sponsor group to comply with the extended requirement.
39. On the other hand, Rule 3A.07(6) is intended to assess whether a significant portion of the operations of the new applicant and its controlling shareholder is funded by the banking facilities provided by the sponsor group. We agree with the opposing respondents’ views that the proposal to apply the Chapter 14A definition of associate would extend the scope of the Rule too wide to cover the operations of any extended family members of the controlling shareholder and companies controlled by them. We will not proceed with the proposal to change the scope of associate in this Rule.
40. Table 3 below summarizes the Rules which we proposed to apply the Chapter 14A definitions of connected person and associate, market feedback and our conclusions:

**Table 3**

	<b>Rule requirements</b>		<b>Market feedback</b>	<b>Conclusions</b>
17	R3A.07(3)	Any member of the sponsor group or director ... is an <b>associate</b> <sup>3</sup> or <b>connected person</b> of the new applicant	Agreed: 42 (91%)  Disagreed: 4 (9%)	Partly adopt <ul style="list-style-type: none"> <li>• We will adopt the proposal to require that the sponsor is not a connected person (as defined in Chapter 14A) of the new applicant.</li> <li>• We will not adopt the proposal to extend the Rule in respect of other members of the sponsor group or its directors.</li> <li>• See paragraph 38.</li> </ul>

<sup>3</sup> As the new applicant is a company, the definition of associate in Chapter 1 and Chapter 14A is the same.

	Rule requirements		Market feedback	Conclusions
18	R3A.07(6)	Aggregate amount of financial assistance provided by the sponsor group to: (i) the new applicant and its subsidiaries; and (ii) any controlling shareholder of the new applicant and its/his <b>associates</b>		Not adopt • See paragraph 39.
19	PN21 – Para 14(g)	A sponsor’s due diligence inquiries in relation to the expert sections of the listing document: Where the standard of independence is not set by a relevant professional body, the sponsor to obtain the expert’s confirmation that, among other things, the expert does not have a material interest in the securities or assets of the new applicant, its <b>connected persons</b> , or any <b>associate</b> <sup>3</sup> of the new applicant beyond that allowed by Rule 3A.07	Agreed: 42 (91%)  Disagreed: 4 (9%)	Not adopt • This is corollary to Rule 3A.07.
20	R3A.05	A new applicant and its directors must assist the sponsor to perform its role and must ensure that its substantial shareholders and <b>associates</b> also assist the sponsor	Agreed: 41 (89%)  Disagreed: 5 (11%)	Adopt • The proposal will extend the requirement to cover the substantial shareholder’s extended family members and companies controlled by them if their assistance is necessary for the sponsor to perform its role.

**(c) Rules relating to independence of IFAs**

41. Rule 13.84 sets out the criteria for assessing an IFA's independence from the issuer, including:
- Rule 13.84(2) - whether any member of the IFA group or any of its director is (i) an **associate**<sup>4</sup> or **connected person** of the issuer; or (ii) an **associate** or **connected person** of the counterparty of the transaction;
  - Rule 13.84(1) - whether IFA group or any of its director together hold more than 5% of the issued share capital of (i) the issuer, or an **associate**<sup>4</sup> or **connected person** of the issuer; or (ii) the counterparty of the transaction, or an **associate** or **connected person** of the counterparty;
  - Rule 13.84(3)(a) - whether the aggregate amount of the financial assistance provided by the IFA group to the issuer group, the issuer’s controlling shareholder and any **associate** of the controlling shareholder exceeds the threshold specified in the Rule;

<sup>4</sup> As the issuer is a company, the definition of associate in Chapter 1 and Chapter 14A is the same.



- Rule 13.84(3)(c) - whether the aggregate amount of the financial assistance provided by the IFA group to the following parties (or vice versa) exceeds the threshold specified in the Rule:
    - (i) the counterparty of the transaction and its holding company and fellow subsidiaries; and
    - (ii) any controlling shareholder of the counterparty and its/his **associates**;
  - Rule 13.84(4) - whether any member of the IFA group has, in the last 2 years, served as a financial adviser to (i) the issuer group or a **connected person** of the issuer; or (ii) the counterparty of the transaction or a **connected person** of the counterparty.
42. The current Rule provides an extensive list of factors for assessing an IFA's independence with reference to its relationship with the issuer, its connected persons, the counterparty of the transaction and entities related to the counterparty. We note the respondents' concerns about the practical difficulty for the issuer to identify all extended connected persons and associates of each of the issuer, the counterparty and their controlling shareholders, for the IFA to assess its independence.
43. Where the IFA is engaged to opine on a particular connected transaction, we consider it necessary for the IFA to be independent of the connected person who enters into the transaction with the issuer, and its associates (as defined in Chapter 14A). We will adopt the proposal to require the IFA to confirm whether it is, or holds more than 5% interest in, any associate (as defined in Chapter 14A) of the counterparty of the connected transaction. However, we will not apply the Chapter 14A definition in Rules 13.84(1) and (2) to require all members of the IFA group and its directors to confirm any relationship with, or interest in, the extended associates of the counterparty as it would be onerous and impracticable for the IFA group to comply with the extended requirements.
44. We will not proceed with the proposal in other parts of this Rule because:
- The proposal to apply the Chapter 14A definition of connected person, if adopted, would extend the requirements for the IFA to assess its relationship with:
    - (i) the former directors of the issuer (or the counterparty) and its subsidiaries, and their controlled companies; and
    - (ii) the extended family members of any director, chief executive or substantial shareholder of the issuer (or the counterparty) or its subsidiaries, and their controlled companies.
 It would be unduly burdensome for the IFA and the issuer to comply with the extended Rule where these extended connected persons are not involved in the subject transaction.
  - The proposal to apply the Chapter 14A definition of associate would extend the scope of Rule 13.84(3) too wide to cover any financing arrangements between the IFA group and the controlling shareholder's extended family members and companies controlled by them, even though these persons or entities are not parties to the transactions.

45. Table 4 below summarizes the Rules which we proposed to apply the Chapter 14A definitions of connected person and associate, market feedback and our conclusions:

**Table 4**

	<b>Rule requirements</b>		<b>Market feedback</b>	<b>Conclusions</b>
<b><i>Independence of IFA - Relationship with the issuer's connected persons</i></b>				
21	R13.84(2)	Any member of the IFA group or director is an <b>associate</b> <sup>3</sup> or <b>connected person</b> of the issuer	Agreed: 37 (80%)	Not adopt • See paragraph 44.
22	R13.84(1)	IFA group and any director of the IFA together holds more than 5% of the issued share capital of the issuer, or an <b>associate</b> <sup>3</sup> or <b>connected person</b> of the issuer	Disagreed: 9 (20%)	
23	R13.84(3)(a)	Aggregate amount of financial assistance provided by the IFA group to: (i) the issuer and its subsidiaries; and (ii) any controlling shareholder of the issuer and its/his <b>associates</b>		
24	R13.84(5)	Any member of the IFA group has, in the last 2 years, served as a financial adviser to the issuer group, or a <b>connected person</b> of the issuer		
25	R13.80	IFA's work to include interviewing any third party expert who provides an opinion or valuation relevant to the transaction, including any current or prior relationships with the issuer, other parties to the transaction and <b>connected persons</b> of the issuer	Agreed: 40 (87%)  Disagreed: 6 (13%)	Not adopt • See paragraph 44.
<b><i>Independence of IFA - Relationship with the counterparty of the transaction and the counterparty's connected persons</i></b>				
26	R13.84(2)	Any member of the IFA group or director is an <b>associate</b> or <b>connected person</b> of another party to the transaction	Agreed: 36 (78%)  Disagreed: 10 (22%)	Partly adopt the proposal to align the definition of associate of the counterparty in the case of a connected transaction • We will adopt the proposal to require that the IFA is not, and does not hold more than 5% interest in, any associate (as defined in Chapter 14A) of the counterparty. • We will not adopt the proposal to extend the Rules in respect of other members of the IFA group or its directors. • See paragraph 43.  Not adopt the proposal to align the definition of connected person of the counterparty • See paragraph 44.
27	R13.84(1)	IFA group and any director of the IFA together holds more than 5% of the issued share capital of another party to the transaction, or an <b>associate</b> or <b>connected person</b> of another party to the transaction		

	Rule requirements		Market feedback	Conclusions
28	R13.84(3)(c)	Aggregate amount of financial assistance provided by (or to) the IFA group to (or from) the following parties: (i) another party to the transaction and its holding company and fellow subsidiaries; and (ii) any controlling shareholder of another party to the transaction and its/his <b>associates</b>	Agreed: 36 (78%)  Disagreed: 10 (22%)	Not adopt • See paragraph 44.
29	R13.84(5)	Any member of the IFA group has, in the last 2 years, served as a financial adviser to another party to the transaction, or a <b>connected person</b> of another party to the transaction		
30	R13.80	IFA's work to include interviewing any third party expert who provides an opinion or valuation relevant to the transaction, including any current or prior relationships with other parties to the transaction and <b>connected persons</b> of another party to the transaction	Agreed: 39 (85%)  Disagreed: 7 (15%)	Not adopt • See paragraph 44.

### (3) Proposals not adopted

#### (a) Rules relating to independence of INEDs

46. Rule 3.13 sets out a list of factors for assessing the independence of an INED from the issuer, including his relationship with, and any past or present financial or other interest in, the connected persons of the issuer.

47. We note the respondents' concern about the additional compliance burdens on issuers and INEDs that may arise from the proposal to extend the scope of connected persons and associates in the Rule generally. We have decided not to adopt the proposal because:

- The existing Rule 3.13(6) requires an INED to confirm whether he is, or was in the last 2 year, connected with any director, chief executive or substantial shareholder of the issuer. The Rule already provides that any extended family member is considered to be connected with such connected person at the issuer level.
- The proposal, if adopted, would mainly extend the other requirements in Rule 3.13 to cover the INED's relationship with persons connected at the subsidiary level, i.e.
  - (i) former directors of the subsidiaries and their associates; and
  - (ii) the extended family members of any directors, chief executives or substantial shareholders of the subsidiaries.

This would significantly increase the compliance burdens on issuers and their INEDs without much additional benefits as the risk of abuse by connected persons at the subsidiary level is usually low.

48. Table 5 below summarizes the Rules which we proposed to apply the Chapter 14A definitions of connected person and associate, market feedback and our conclusions:

**Table 5**

	<b>Rule requirements</b>		<b>Market feedback</b>	<b>Conclusions</b>
31	R3.13(2)	Receipt of any securities of the issuer as a gift, or by means of financial assistance, from a <b>connected person</b> or the issuer itself	Agreed: 38 (83%)  Disagreed: 8 (17%)	Not adopt • See paragraph 47.
	R3.13(3)	Provision of professional services to (i) the issuer, its holding company or any of their subsidiaries or <b>connected persons</b> ; (ii) any person who was a controlling shareholder (or where there was no controlling shareholder, any person who was the chief executive or a director (other than an INED)) of the issuer in the past one year, or any of their <b>associates</b>		
	R3.13(4)	Having a material interest in any principal business of, or is involved in any material business dealings with the issuer, its holding company or their respective subsidiaries or with any <b>connected persons</b> of the issuer	Agreed: 38 (83%)  Disagreed: 8 (17%)	
	R3.13(7)	Being an executive or director (other than an INED) of the issuer, of its holding company or of any of their respective subsidiaries or of any <b>connected persons</b> of the issuer		
	R3.13(8)	Financially dependent on the issuer, its holding company or any of their respective subsidiaries or <b>connected persons</b> of the issuer		
	R3.13	An INED to submit a written confirmation which must state (i) his independence as regards to each of the factors out in Rule 3.13; (ii) his past or present financial or other interest in the business of the issuer group or any connection with any <b>connected person</b> of the issuer, if any; (iii) that there are no other factors that may affect his independence		

**(b) Voting at general meeting**

***Requirements for persons with a material interest in transactions to abstain from voting***

49. There are Rules that require a person and his associates to abstain from voting at general meeting to approve a transaction or matter if the person has a material interest in it.
50. We have decided not to apply the Chapter 14A definition of associate in these Rules because:
- We note the opposing respondents' views that it would be unduly burdensome or impractical for the issuer to identify all the extended family members of a person who has a material interest in the subject matter and the companies controlled by them, and require these persons to abstain from voting.
  - If the subject matter is a connected transaction, Chapter 14A already requires the connected person who has a material interest in it and his associates (as defined in Chapter 14A) to abstain from voting at general meeting.
  - The proposal, if adopted, would tighten the other Rules that govern the voting on matters involving conflicts of interests. It would extend the scope of the Rules to require the person's extended family members and their controlled companies to abstain from voting at general meeting even though the subject matters are not connected transactions.
51. Table 6 below summarizes the Rules which we proposed to apply the Chapter 14A definitions of connected person and associate, market feedback and our conclusions:

**Table 6**

	<b>Rule requirements</b>		<b>Market feedback</b>	<b>Conclusions</b>
32	R2.16	Factors to determine whether a shareholder has a material interest include: <ul style="list-style-type: none"> <li>• Whether the shareholder is a party to the transaction or an <b>associate</b> of such party</li> <li>• Whether the transaction confers upon the shareholder or his <b>associate</b> a benefit not available to other shareholders of the issuer</li> </ul>	Agreed: 36 (78%)  Disagreed: 10 (22%)	Not adopt, but we will clarify in the Rule that an associate will have the meaning as defined in Chapter 14A in the case of a connected transaction under Chapter 14A.
33	N2 to R14.33, R14.46, R14.49, R14.55, R14.63(2)(d)	If a person has a material interest in a notifiable transaction, he and his <b>associates</b> must abstain from voting	Agreed: 36 (78%)  Disagreed: 10 (22%)	Not adopt <ul style="list-style-type: none"> <li>• See paragraph 50.</li> </ul>

	Rule requirements		Market feedback	Conclusions
34	R21.04(3)(d)	(For investment companies only) Any custodian, management company, any of their <b>connected persons</b> , and every director of any investment company and management company, is prohibited from voting their own shares at, or being part of a quorum for, any meeting to the extent that they have or any of their <b>associates</b> has, a material interest in the business to be conducted	Agreed: 40 (89%)  Disagreed: 5 (11%)	Not adopt • See paragraph 50.

**(c) Voting at board meeting**

52. There are Rules that require a director to abstain from voting on any board resolution approving matters in which he or any of his associates has a material interest.

53. We have decided not to apply the Chapter 14A definition of associate because:

- The proposal, if adopted, would require a director to abstain from voting if his extended family members or their controlled companies have a material interest in the subject matter. This would broaden the voting restrictions on directors generally in circumstances where there is or may be a conflict of interest.
- Instead of extending the scope of associates in these Rules generally, it would be more appropriate to clarify that a director of the issuer must not vote on any board resolution approving a connected transaction in which he or any of his associates (as defined in Chapter 14A) has a material interest.

54. Table 7 below summarizes the Rules which we proposed to apply the Chapter 14A definition of associate, market feedback and our conclusions:

**Table 7**

	Rule requirements		Market feedback	Conclusions
35	R13.44	A director of the issuer must not vote on any board resolution approving matters in which he or any of his <b>associates</b> has a material interest	Agreed: 37 (80%)  Disagreed: 9 (20%)	Not adopt, we will clarify that a director of the issuer must not vote on any board resolution approving a connected transaction in which he or any of his associates (as defined in Chapter 14A) has a material interest. • See paragraph 53.

	Rule requirements		Market feedback	Conclusions
36	App3 – Para 4(1), N1 to App3	An issuer’s articles of association to comply with the requirement that a director shall not vote on any board resolution approving any matter in which he or any of his <b>associates</b> has a material interest nor shall he be counted in the quorum present at the meeting	Agreed: 37 (80%)  Disagreed: 9 (20%)	Not adopt • See paragraph 53.
37	App14 – Para A.1.7	A physical board meeting is required if a substantial shareholder or a director has a conflict of interest in the matter to be considered by the board which the board has determined to be material. Independent non-executive directors who, and whose <b>associates</b> , have no material interest in the transaction should be present at the board meeting	Agreed: 37 (80%)  Disagreed: 9 (20%)	

**(d) Repurchases of securities**

55. Under the current Chapter 14A, repurchases of shares by an issuer from a connected person (as defined in Chapter 14A) is a connected transaction. There is an exemption for on-market repurchases of shares from a connected person (as defined in Chapter 14A), but it does not apply if the connected person knowingly sells the shares to the issuer.
56. Rule 10.06 governs on-market repurchases of shares by issuers, including the disclosure in the circular for seeking a repurchase mandate and certain dealing restrictions.
57. We note some respondents’ concerns that it would be unduly burdensome to require an issuer to ascertain whether any extended connected person (e.g. any former director of the issuer or any its subsidiaries, and any of his associates and extended associates) has an intention to sell his/its shares to the issuer for disclosure in the circular. Further, the proposal would broaden the dealing restrictions to cover on-market repurchases of shares from the extended connected persons, which are more restrictive than the connected transaction requirements under Chapter 14A.
58. In light of the above, we have decided not to change the scope of connected persons and associates under Rule 10.06. Issuers still need to comply with Chapter 14A for any on-market repurchases of shares from connected persons (as defined in Chapter 14A) if the connected person knowingly sells his/its shares to the issuer.

59. Table 8 below summarizes the Rules that we proposed to apply the Chapter 14A definitions of connected person and associate, market feedback and our conclusions:

**Table 8**

	<b>Rule requirements</b>		<b>Market feedback</b>	<b>Conclusions</b>
38	R10.06(1)	<ul style="list-style-type: none"> <li>• Circular for a repurchase mandate to disclose (i) any directors and their <b>associates</b> and (ii) any <b>connected persons</b> of the issuer, who have a present intention to sell the issuer's shares if the repurchase mandate is approved by shareholders</li> </ul>	Agreed: 34 (76%)  Disagreed: 11 (24%)	Not adopt <ul style="list-style-type: none"> <li>• See paragraphs 57 and 58.</li> </ul>
39	R10.06(2)	<ul style="list-style-type: none"> <li>• Dealing restriction – An issuer shall not knowingly purchase its shares from a <b>connected person</b> and a <b>connected person</b> shall not knowingly sell shares to the issuer, on the Exchange</li> </ul>		

**(e) Other proposals not adopted**

60. We proposed to apply the Chapter 14A definitions of connected person and associate in other Rules that (i) require an issuer to disclose the interests of its directors and their associates in the issuer or its major suppliers and customers; (ii) restrict an investment company to take control of its underlying investments in conjunction with any connected person; or (iii) restrict a control over an investment company at the time of new listing.
61. We have decided not to adopt the proposals to these Rules because:
- Rule 7.16 relates to disclosure of directors' interests in an issuer in listing documents. The Chapter 1 definition of associate is in closer alignment with the scope of persons regarded as closely associated with the director for the purpose of Part XV of the SFO.
  - For the disclosure of interests in the issuer's major customers or suppliers, we acknowledge that the issuer and its directors may have practical difficulty in ascertaining all interests (if any) held by the directors' extended associates in the customers or suppliers. The proposal would impose additional obligation on issuers that are more stringent than the requirements under Chapter 14A.
  - Rule 21.04(3)(a) is to ensure that assets are held by an investment company for investment purposes only. The proposal would broaden the investment restrictions to cover investments by extended connected persons (e.g. investment manager or custodian), which are more restrictive than the connected transaction requirements under Chapter 14A.



- To determine whether a person or persons has/have control over the investment company, we normally refer to the Takeovers Code. We agree that it is unnecessary for Rule 21.04(4) to adopt the extended definition of associate under Chapter 14A.

62. Table 9 below summarizes the Rules that we proposed to apply the Chapter 14A definitions of connected person and associate, market feedback and our conclusions:

**Table 9**

	<b>Rule requirements</b>		<b>Market feedback</b>	<b>Conclusions</b>
<b><i>Disclosure in issuers' documents</i></b>				
40	R7.16	For a listing by introduction, the issuer's application must include the holdings of the directors and their <b>associates</b>	Agreed: 40 (89%)  Disagreed: 5 (11%)	Not adopt • See paragraph 61.
41	App1A – Para 28(1)(b)(v), App1E – Para 28(1)(b)(v)	A new applicant's listing document must contain a statement of the interests of any of the directors; their <b>associates</b> ; or any 5% shareholder in the group's major suppliers or customers	Agreed: 36 (78%)  Disagreed: 10 (22%)	Not adopt • See paragraph 61.
	App1B – Para 26(1)(b)(v), App1F – Para 22(1)(b)(v), App16 – Para 31(5)	An issuer's listing document/annual report must contain a statement of the interests of any directors and their <b>associates</b> in the group's major suppliers or customers	Agreed: 36 (78%)  Disagreed: 10 (22%)	
<b><i>Requirements relating to investment companies</i></b>				
42	R21.04(4)	At the time of new listing of an investment company, no person shall control 30% or more of the votes exercisable at any general meeting of the company. The interests of all the <b>associates</b> of a shareholder and any persons acting in concert with the shareholder will be aggregated	Agreed: 40 (87%)  Disagreed: 5 (13%)	Not adopt • See paragraph 61.
43	R21.04(3)(a)	An investment company will not on its own or in conjunction with any <b>connected person</b> take control of underlying investments	Agreed: 41 (91%)  Disagreed: 4 (9%)	Not adopt • See paragraph 61.

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# APPENDIX I AMENDMENTS TO THE MAIN BOARD RULES

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## Chapter 1

### GENERAL

#### INTERPRETATION

...

1.01 Throughout ~~this book~~ these Rules, the following terms, ~~save~~ except where the context otherwise requires, have the following meanings:

...

“associate” has the meaning in rule 14A.06(2)

...

“close associate”

(a) in relation to an individual means:—

(i) his spouse;

(ii) any child or step-child, natural or adopted, under the age of 18 years of ~~such the~~ individual or of his spouse (together with (a)(i) above, the “family interests”);

(iii) the trustees, acting in their capacity as ~~such~~ trustees, of any trust of which he or any of his family interests is a beneficiary or, in the case of a discretionary trust, is (to his knowledge) a discretionary object; and

(iv) [Repealed 3 June 2010]

(v) any company in the equity capital of which he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or ~~such other~~ any amount as ~~may from time to time be~~ specified in the Takeovers Code as ~~being~~ the level for triggering a mandatory general offer) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this other company ~~which is its subsidiary~~; and

- (b) in relation to a company means:—
- (i) ~~any other company which is its subsidiary or holding company or is a fellow subsidiary of any such its holding company;~~
  - (ii) the trustees, acting in their capacity as ~~such~~ trustees, of any trust of which the company is a beneficiary or, in the case of a discretionary trust, is (to the company’s knowledge) a discretionary object; and
  - (iii) [Repealed 3 June 2010]
  - (iv) any other company in the equity capital of which the company, ~~such other companies referred to in (b)(i) above~~ its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or ~~such other any amount as may from time to time be~~ specified in the Takeovers Code as ~~being~~ the level for triggering a mandatory general offer) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this other company ~~which is its subsidiary;~~
- (c) ~~Insofar as a depository is acting in its capacity as a depository for depository receipts, it shall is not be treated as an~~ close associate of holders of the depository receipts for the purposes of (a) and (b) ~~merely by reason of the fact that~~ because it is holding the shares of the issuer for the benefit of the holders of the depository receipts.

*Notes (1) ~~This definition is modified in the context of connected transactions by virtue of rules 14A.11, 14A.12 and 14A.12A.~~*

*(2) ~~In the case of~~ For a PRC issuer, its directors, supervisors, chief executive and substantial shareholders, the definition ~~is amended to~~ has the same meaning as in rule 19A.04.*

...

**“connected person”**

has the meaning in rule 14A.06(7)

*Note: The definition includes a person deemed to be connected by the Exchange under rule 14A.07(6) only for the purpose of Chapter 14A.*

...

**“core connected person”**

- (a) ~~in relation to~~for a company other than a PRC issuer, ~~and other than or any subsidiaries~~ of a PRC issuer, means a director, chief executive or substantial shareholder of ~~such~~the company or any of its subsidiaries or ~~an~~a close associate of any of them; and
- (b) ~~in relation to~~for a PRC issuer means a director, supervisor, chief executive or substantial shareholder of the PRC issuer or any of its subsidiaries or ~~an~~close associate of any of them

*Note — This definition is modified in the case of Chapter 14A only by the provisions of rules 14A.11, 14A.12 and 14A.12A.*

...

**“family interests”**

the same meaning as in (a)(ii) of the definition of “close associate”

**“IFA group”**

- (a) the independent financial adviser;
- (b) ~~any~~its holding company ~~of the independent financial adviser~~;
- (c) any subsidiary of ~~any~~its holding company ~~of the independent financial adviser~~;
- (d) any controlling shareholder of:
  - (i) the independent financial adviser; or
  - (ii) ~~any~~its holding company ~~of the independent financial adviser~~,which controlling shareholder is not, itself, a holding company of the independent financial adviser; and
- (e) any close associate of any controlling shareholder referred to in paragraph (d) ~~above~~

...

## Chapter 2

### GENERAL

#### INTRODUCTION

...

##### Material interest in a transaction

...

2.16 For the purpose of determining whether a shareholder has a material interest, relevant factors include:

- (1) whether the shareholder is a party to the transaction or arrangement or ~~an~~ close associate ~~(as defined in rule 1.01)~~ of such a party; and

- (2) whether the transaction or arrangement confers upon the shareholder or his close associate a benefit (whether economic or otherwise) not available to the other shareholders of the issuer.

There is no benchmark for materiality of an interest nor may it necessarily be defined in monetary or financial terms. The materiality of an interest is to be determined on a case by case basis, having regard to all the particular circumstances of the transaction concerned.

*Note: The references to “close associate” shall be changed to “associate” where the transaction or arrangement is a connected transaction under Chapter 14A.*

...

## Chapter 3

### GENERAL

#### AUTHORISED REPRESENTATIVES, DIRECTORS, BOARD COMMITTEES AND COMPANY SECRETARY

##### Directors

...

3.13 In assessing the independence of a non-executive director, the Exchange will take into account the following factors, none of which is necessarily conclusive. Independence is more likely to be questioned if the director:—

- (1) ...
- (2) has received an interest in any securities of the listed issuer as a gift, or by means of other financial assistance, from a core connected person or the listed issuer itself. However, subject to Note 1 to rule 3.13(1), the director will still be considered independent if he receives shares or interests in securities from the listed issuer or its subsidiaries (but not from core connected persons) as part of his director's fee or pursuant to share option schemes established in accordance with Chapter 17;
- (3) is a director, partner or principal of a professional adviser which currently provides or has within one year immediately prior to the date of his proposed appointment provided services, or is an employee of such professional adviser who is or has been involved in providing such services during the same period, to:
  - (a) the listed issuer, its holding company or any of their respective subsidiaries or core connected persons; or
  - (b) any person who was a controlling shareholder or, where there was no controlling shareholder, any person who was the chief executive or a director (other than an independent non-executive director), of the listed issuer within one year immediately prior to the date of the proposed appointment, or any of their close associates;
- (4) has a material interest in any principal business activity of or is involved in any material business dealings with the listed issuer, its holding company or their respective subsidiaries or with any core connected persons of the listed issuer;
- (5) ...
- (6) ...

- (7) is, or has at any time during the two years immediately prior to the date of his proposed appointment been, an executive or director (other than an independent non-executive director) of the listed issuer, of its holding company or of any of their respective subsidiaries or of any core connected persons of the listed issuer; and

*Note: ...*

- (8) is financially dependent on the listed issuer, its holding company or any of their respective subsidiaries or core connected persons of the listed issuer.

An independent non-executive director shall submit to the Exchange a written confirmation which must state:

- (a) his independence as regards each of the factors referred to in rule 3.13(1) to (8);
- (b) his past or present financial or other interest in the business of the issuer or its subsidiaries or any connection with any core connected person (as such term is defined in the Exchange Listing Rules) of the issuer, if any; and
- (c) that there are no other factors that may affect his independence at the same time as the submission of his declaration and undertaking in Form B or H of Appendix 5.

...

*Note:...*

## Chapter 3A

### GENERAL

#### SPONSORS AND COMPLIANCE ADVISERS

##### Definitions and Interpretations

3A.01 In this Chapter:

- (1) ...

...

- (9) “sponsor group” means:

- (a) a sponsor;
- (b) ~~any its holding company of the sponsor;~~
- (c) any subsidiary of ~~any its holding company of the sponsor;~~
- (d) any controlling shareholder of:
- (i) the sponsor; or
- (ii) ~~any its holding company of the sponsor,~~

~~which controlling shareholder is not, itself, a holding company of the sponsor; and~~

- (e) any close associate of any controlling shareholder referred to in paragraph (d) above; and

...

...

3A.07 At least one sponsor of a new applicant must be independent of ~~the new applicant~~. The sponsor is required to demonstrate to the Exchange its independence or lack of independence and declare in accordance with the terms set out in Appendix 17.

A sponsor is not independent if any of the following circumstances exist at any time from the date of submission ~~to the Exchange~~ of a listing application on Form A1 ~~in accordance with rule 9.03~~ up to the date of listing:

- (1) the sponsor group and any director or close associate of a director of the sponsor collectively holds or will hold, directly or indirectly, more than 5% of the issued share capital of the new applicant, except where that holding arises as a result of an underwriting obligation;
- (2) the fair value of the direct or indirect current or prospective shareholding of the sponsor group in the new applicant exceeds or will exceed 15% of the net equity shown in the latest consolidated financial statements of the sponsor's ultimate holding company or, where there is no ultimate holding company, the sponsor;
- (3) any member of the sponsor group or any director or close associate of a director of the sponsor is ~~a~~ close associate or core connected person of the new applicant;

(3A) the sponsor is a connected person of the new applicant;

- (4) 15% or more of the proceeds raised from the initial public offering of the new applicant are to be applied directly or indirectly to settle debts due to the sponsor group, except where those debts are on account of fees payable to the sponsor group under its engagement ~~by the new applicant~~ for sponsorship services;
- (5) the aggregate of:
  - (a) amounts due to the sponsor group from the new applicant and its subsidiaries; and
  - (b) all guarantees given by the sponsor group on behalf of the new applicant and its subsidiaries,

exceeds 30% of the total assets of the new applicant;

- (6) the aggregate of:
  - (a) amounts due to the sponsor group from:
    - (i) the new applicant;
    - (ii) ~~the new applicant's~~ subsidiaries;
    - (iii) ~~any~~ its controlling shareholder ~~of the new applicant~~; and
    - (iv) any close associates of ~~any~~ its controlling shareholder ~~of the new applicant~~; and

- (b) all guarantees given by the sponsor group on behalf of:
  - (i) the new applicant;
  - (ii) ~~the new applicant's~~ subsidiaries;
  - (iii) ~~any~~ its controlling shareholder ~~of the new applicant~~; and
  - (iv) any close associates of ~~any~~ its controlling shareholder ~~of the new applicant~~;

exceeds 10% of the total assets shown in the latest consolidated financial statements of the sponsor's ultimate holding company or, where there is no ultimate holding company, the sponsor;

- (7) the fair value of the direct or indirect shareholding of:
  - (a) a director of the sponsor;
  - (b) a director of ~~any~~ its holding company ~~of the sponsor~~;
  - (c) ~~an~~ close associate of a director of the sponsor; or
  - (d) ~~an~~ close associate of a director of ~~any~~ its holding company ~~of the sponsor~~

in the new applicant exceeds HKD 5 million;
- (8) an employee or director of the sponsor who is directly engaged in providing the ~~subject~~ sponsorship services to the new applicant, or ~~an~~ his close associate ~~of this employee or director~~, holds or will hold shares in the new applicant or has or will have a beneficial interest in shares in ~~the new applicant~~;
- (9) any of the following has a current business relationship with the new applicant or a director, subsidiary, holding company or substantial shareholder of the new applicant, which would be reasonably considered to affect the sponsor's independence in performing its duties as set out in this Chapter, or might reasonably give rise to a perception that the sponsor's independence would be so affected, except where that relationship arises under the sponsor's engagement ~~by the new applicant for the purpose of providing to provide~~ sponsorship services:
  - (a) any member of the sponsor group;
  - (b) an employee of the sponsor who is directly engaged in providing the ~~subject~~ sponsorship services to the new applicant;
  - (c) ~~an~~ close associate of an employee of the sponsor who is directly engaged in providing the ~~subject~~ sponsorship services to the new applicant;
  - (d) a director of any member of the sponsor group; or
  - (e) ~~an~~ close associate of a director of any member of the sponsor group;

...

...



## Chapter 7

### EQUITY SECURITIES

#### METHODS OF LISTING

...

##### Introduction

...

- 7.16 An issuer should apply to the Exchange as early as possible to obtain confirmation that an introduction will be an appropriate method of listing. The application must state the names and holdings of the ten largest beneficial holders of the securities (if known) and the total number of holders. A copy of the share register may be required by the Exchange. In addition, particulars of the holdings of the directors and their close associates must be included. If such approval to the method of listing is given, it does not necessarily mean that listing for the securities will ultimately be granted.

...

## Chapter 8

### EQUITY SECURITIES

#### QUALIFICATIONS FOR LISTING

...

- 8.08 There must be an open market in the securities for which listing is sought. This will normally mean that:—

(1) (a) ...

(b) ...

*Notes:* (1) ...

- (2) *Where the percentage has fallen below the minimum, the Exchange may refrain from suspension if the Exchange is satisfied that there remains an open market in the securities and either:*

(a) *the shortfall in the prescribed percentage arose purely from an increased or newly acquired holding of the listed securities by a person who is, or after such acquisition becomes, a core connected person only because he is a substantial shareholder of the issuer and/or any of its subsidiaries. Such substantial shareholder must not be a controlling shareholder or single largest shareholder of the issuer. He must also be independent of the issuer, directors and any other substantial shareholders of the issuer and must not be a director of the issuer. If the substantial shareholder has any representative on the board of directors of the issuer, he must demonstrate that ~~such~~ the representation is on a non-executive basis. In general, the Exchange would expect this to apply to holdings of the listed securities by institutional investors with a wide spread of investments other than in the listed securities concerned. Holdings of the listed securities by venture capital funds which have been involved in the management of the issuer before and/or after listing would not qualify. ~~It is the responsibility of~~ The issuer ~~to~~ must provide sufficient information to the Exchange to demonstrate the independence of such substantial shareholder and to inform the Exchange of any change in circumstances which would affect his independence as soon as it becomes aware of such change; or*

(b) ...

...

8.10 (1) Where a new applicant has a controlling shareholder with an interest in a business apart from the applicant's business which competes or is likely to compete, either directly or indirectly, with the applicant's business (the "excluded business"):

(a) the applicant's listing document must prominently disclose the following:

(i) ...;

...

(v) ...;

Note: See also paragraph 27A of Appendices IA and IE.

...

...

8.24 The Exchange will not regard any core connected person of the issuer as a member of "the public" or shares held by ~~a connected person~~ him as being "in public hands". In addition the Exchange will not recognise as a member of "the public":—

(1) any person whose acquisition of securities has been financed directly or indirectly by a core connected person;

(2) any person who is accustomed to take instructions from a core connected person in relation to the acquisition, disposal, voting or other disposition of securities of the issuer registered in his name or otherwise held by him.

...

## Chapter 9

### EQUITY SECURITIES

#### APPLICATION PROCEDURES AND REQUIREMENTS

...

9.09 There must be no dealing in the securities for which listing is sought by any core connected person of the issuer (except as permitted by rule 7.11):

- (a) in the case of listing application by listed issuers, from the time of submission of the formal application for listing until listing is granted; and
- (b) in the case of a new applicant, from 4 clear business days before the expected hearing date until listing is granted.

The directors of the issuer for whose securities listing is being sought shall forthwith notify the Exchange of any such dealing or suspected dealing of which they become aware. If any of the directors or their close associates are found to have engaged in such dealing, the application may be rejected.

...

## Chapter 10

### EQUITY SECURITIES

#### RESTRICTIONS ON PURCHASE AND SUBSCRIPTION

...

10.03 Directors of the issuer and their close associates may only subscribe for or purchase any securities for which listing is sought which are being marketed by or on behalf of a new applicant, whether in their own names or through nominees if the following conditions are met:—

- (1) that no securities are offered to them on a preferential basis and no preferential treatment is given to them in the allocation of the securities; and
- (2) that the minimum prescribed percentage of public shareholders required by rule 8.08(1) is achieved.

...

10.06 (1) (a) ...

(b) the issuer must send to its shareholders an Explanatory Statement (at the same time as the notice of the relevant shareholders' meeting) containing all the information reasonably necessary to enable those shareholders to make an informed decision on whether to vote for or against the ordinary resolution to approve the purchase by the issuer of shares including the information set out below:—

(i) ...

...

(v) a statement of the name of any directors, and to the best of the knowledge of the directors having made all reasonable enquiries, any close associates of the directors, who have a present intention, in the event that the proposal is approved by shareholders, to sell shares to the issuer, or an appropriate negative statement;

...

(ix) a statement as to whether or not any core connected persons of the issuer have notified the issuer that they have a present intention to sell shares to the issuer or have undertaken not to sell any of the shares held by them to the issuer, in the event that the issuer is authorised to make purchases of shares;

...

(2) Dealing Restrictions

(a) ...

...

(c) an issuer shall not knowingly purchase its shares from a core connected person and a core connected person shall not knowingly sell shares to the issuer, on the Exchange;

...

...

## Chapter 13

### EQUITY SECURITIES

#### CONTINUING OBLIGATIONS

...

##### Minimum prescribed public holdings and other listings

13.32 (1) ...

...

(4) Where the percentage has fallen below the minimum, the Exchange may refrain from suspension if ~~the Exchange~~ it is satisfied that there remains an open market in the securities and either:

- (a) the shortfall in the prescribed percentage arose purely from an increased or newly acquired holding of the listed securities by a person who is, or after such acquisition becomes, a core connected person only because he is a substantial shareholder of the issuer and/or any of its subsidiaries. Such substantial shareholder must not be a controlling shareholder or single largest shareholder of the issuer. He must also be independent of the issuer, directors and any other substantial shareholders of the issuer and must not be a director of the issuer. If the substantial shareholder has any representative on the board of directors of the issuer, he must demonstrate that such representation is on a non-executive basis. In general, the Exchange would expect this to apply to holdings of the listed securities by institutional investors with a wide spread of investments other than in the listed securities concerned. Holdings of the listed securities by venture capital funds which have been involved in the management of the issuer before and/or after listing would not qualify. It is the responsibility of the issuer to provide sufficient information to the Exchange to demonstrate the independence of such substantial shareholder and to inform the Exchange of any change in circumstances which would affect his independence as soon as it becomes aware of such change; or
- (b) ...

...

...

#### **Voting of directors at board meetings**

13.44 Subject to the exceptions set out in paragraphs (1), (2), (4) and (5) of Note 1 to Appendix 3, a director of the issuer shall not vote on any board resolution approving any contract or arrangement or any other proposal in which he or any of his close associates has a material interest nor shall he be counted in the quorum present at the meeting.

*Note: The references to “close associate” shall be changed to “associate” where the transaction or arrangement is a connected transaction under Chapter 14A.*

...

#### **Independent financial advisers**

13.80 An independent financial adviser appointed under rule 13.39(6)(b) or rule 19.05(6)(a)(iii) must take all reasonable steps to satisfy itself that:

- (1) ...

...

*Notes: 1. For the purposes of this rule, the Exchange expects that the reasonable steps an independent financial adviser will typically perform will include the following:*

- (a) ...

...

- (d) *without limiting the generality of paragraph (c) above, in relation to any third party expert providing an opinion or valuation relevant to the transaction:*

- (i) *interviewing the expert including as to its expertise and any current or prior relationships with the issuer, other parties to the transaction, and core connected persons of either the issuer or another party to the transaction;*

...

...

13.84 An independent financial adviser must be independent from any issuer for whom it acts. An independent financial adviser is not independent if any of the following circumstances exist as at the time of making the declaration required by rule 13.85(1):

- (1) the IFA group and any director or close associate of a director of the independent financial adviser holds, directly or indirectly, in aggregate more than 5% of the issued share capital of the issuer, another party to the transaction, or ~~an~~ close associate or core connected person of the issuer or another party to the transaction;
- (1A) in the case of a connected transaction, the independent financial adviser holds more than 5% of the issued share capital of an associate of another party to the transaction;
- (2) any member of the IFA group or any director or close associate of a director of the independent financial adviser is ~~an~~ close associate or core connected person of the issuer or another party to the transaction;
- (2A) in the case of a connected transaction, the independent financial adviser is an associate of another party to the transaction;
- (3) any of the following exceeds 10% of the total assets shown in the latest consolidated financial statements of the independent financial adviser's ultimate holding company or, where there is no ultimate holding company, the independent financial adviser:
  - (a) the aggregate of:
    - (i) amounts due to the IFA group from:
      - (A) the issuer;
      - (B) ~~the issuer's~~ its subsidiaries;
      - (C) ~~any its~~ controlling shareholder ~~of the issuer~~; and
      - (D) any close associates of ~~any its~~ controlling shareholder ~~of the issuer~~; and
    - (ii) all guarantees given by the IFA group on behalf of:
      - (A) the issuer;
      - (B) ~~the issuer's~~ its subsidiaries;
      - (C) ~~any its~~ controlling shareholder ~~of the issuer~~; and
      - (D) any close associates of ~~any its~~ controlling shareholder ~~of the issuer~~;

- (b) the aggregate of:
    - (i) amounts due from the IFA group to:
      - (A) the issuer;
      - (B) ~~the issuer's~~ its subsidiaries; and
      - (C) ~~any~~ its controlling shareholder ~~of the issuer~~; and
    - (ii) all guarantees given on behalf of the IFA group by:
      - (A) the issuer;
      - (B) ~~the issuer's~~ its subsidiaries; and
      - (C) ~~any~~ its controlling shareholder ~~of the issuer~~;
  - (c) the aggregate of:
    - (i) amounts due from the IFA group to any of the following (referred to in this rule as "the Other Parties"):
      - (A) another party to the transaction;
      - (B) any holding company of another party to the transaction;
      - (C) any subsidiary of any holding company of another party to the transaction;
      - (D) any controlling shareholder of:
        - (1) another party to the transaction; or
        - (2) any holding company of another party to the transaction; ~~which controlling shareholder is not, itself, a holding company of another party to the transaction~~; and
      - (E) any close associate of any controlling shareholder referred to in paragraph (D) above; and
    - (ii) all guarantees given by any of the Other Parties on behalf of the IFA group; and
  - (d) the aggregate of:
    - (i) amounts due to the IFA group from any of the Other Parties; and
    - (ii) all guarantees given by the IFA group on behalf of any of the Other Parties;
- (4) any of the following has a current business relationship with the issuer or another party to the transaction, or a director, subsidiary, holding company or substantial shareholder of the issuer or another party to the transaction, which would be reasonably considered to affect the independent financial adviser's independence in performing its duties as set out in the Exchange Listing Rules, or might reasonably give rise to a perception that the independent financial adviser's independence would be so affected, ~~save and~~ except where that relationship arises ~~pursuant to~~ under the independent financial adviser's appointment ~~for the purpose of providing to provide the~~ subject advice:

- (a) any member of the IFA group;
  - (b) an employee of the independent financial adviser who is directly engaged in providing the ~~subject~~ advice to the issuer;
  - (c) ~~an~~ close associate of an employee of the independent financial adviser who is directly engaged in providing the ~~subject~~ advice to the issuer;
  - (d) a director of any member of the IFA group; or
  - (e) ~~an~~ close associate of a director of any member of the IFA group;
- (5) within 2 years prior to making the declaration pursuant to rule 13.85(1):
- (a) a member of the IFA group has served as a financial adviser to:
    - (i) the issuer or its subsidiaries;
    - (ii) another party to the transaction or its subsidiaries; or
    - (iii) a core connected person of the issuer or another party to the transaction;  
or
  - (b) without limiting paragraph (a), an employee or a director of the independent financial adviser who is directly engaged in providing the subject advice to the issuer:
    - (i) was employed by or was a director of another firm that served as a financial adviser to any of the entities referred to at paragraphs (a)(i) to (a) (iii) above; and
    - (ii) in that capacity, was directly engaged in the provision of financial advice to the issuer or another party to the transaction;

...

## Chapter 14

### EQUITY SECURITIES

#### NOTIFIABLE TRANSACTIONS

...

14.33 The table below summarises the notification, publication and shareholders' approval requirements which will generally apply to each category of notifiable transaction. However, listed issuers should refer to the relevant rules for the specific requirements.

...

*Notes: 1*

*2 Any shareholder and his close associates must abstain from voting if such shareholder has a material interest in the transaction.*

...

...



14.46 The Exchange will require any shareholder and his close associates to abstain from voting at the relevant general meeting on the relevant resolution(s) if such shareholder has a material interest in the transaction and will not accept written approval for the transaction.

...

14.49 A very substantial disposal and a very substantial acquisition must be made conditional on approval by shareholders in general meeting. No written shareholders' approval will be accepted in lieu of holding a general meeting. The Exchange will require any shareholder and his close associates to abstain from voting at the relevant general meeting on the relevant resolution(s) if such shareholder has a material interest in the transaction.

...

14.55 A reverse takeover must be made conditional on approval by shareholders in general meeting. No written shareholders' approval will be accepted in lieu of holding a general meeting. The Exchange will require any shareholder and his close associates to abstain from voting at the relevant general meeting on the relevant resolution(s) if such shareholder has a material interest in the transaction. Furthermore, where there is a change in control of the listed issuer as referred to in rule 14.06(6) and any person or group of persons will cease to be a controlling shareholder (the "outgoing controlling shareholder") by virtue of a disposal of his shares to the person or group of persons gaining control (the "incoming controlling shareholder"), any of the incoming controlling shareholder's close associates or an independent third party, the outgoing controlling shareholder and his close associates may not vote in favour of any resolution approving an injection of assets by the incoming controlling shareholder or his close associates at the time of the change in control.

*Note: The prohibition against the outgoing controlling shareholder and his close associates voting in favour of a resolution approving an injection of assets does not apply where the decrease in the outgoing controlling shareholder's shareholding is solely the result of a dilution through the issue of new shares to the incoming controlling shareholder rather than any disposal of shares by the outgoing controlling shareholder.*

...

14.63 A circular for a major transaction, very substantial disposal or very substantial acquisition and a listing document for a reverse takeover sent by a listed issuer to holders of its listed securities must:—

- (1) ...
- (2) if voting or shareholders' approval is required:
  - (a) ...
  - ...
  - (d) contain a statement that any shareholder with a material interest in a proposed transaction and his close associates will abstain from voting on resolution(s) approving that transaction; and

...

...

14.66 A circular relating to a major transaction must contain: -

- (1) ...
- ...
- (8) information as to the competing interests (if any) of each of the directors and any proposed director of the issuer and his/her close associates (as if each of them were treated as a controlling shareholder under rule 8.10);

...

...

## Chapter 15A

### STRUCTURED PRODUCTS

#### Preliminary

15A.24A An issuer shall not (either directly or indirectly) offer commission rebates or other incentive schemes in respect of structured products that it has issued. A member of an issuer’s group that is a securities dealer may offer commission rebates or other incentives to its customers provided that:–

(i) ...

...

(iv) ...

*Note: The Exchange will require issuers to provide periodic declarations of compliance with this requirement by the issuer and its close associates. Any failure by an issuer to comply with this requirement may render that issuer no longer suitable to issue structured products on the Exchange.*

...

## Chapter 17

### EQUITY SECURITIES

#### SHARE OPTION SCHEMES

...

17.03 The scheme document must include the following provisions and/or provisions as to the following (as the case may be):

(1) ...

...

(4) the maximum entitlement of each participant under the scheme;

*Note: Unless approved by shareholders in the manner set out in this note to rule 17.03(4), ... . Where any further grant of options to a participant would result in the securities issued and to be issued upon exercise of all options granted and to be granted to such person (including exercised, cancelled and outstanding options) in the 12-month period up to and including the date of such further grant representing in aggregate over 1% of the relevant class of securities in issue, such further grant must be separately approved by shareholders of the listed issuer in general meeting with such participant and his close associates (or his associates if the participant is a connected person) abstaining from voting. ... .*

*“Associate” for this purpose shall have the meaning ascribed to it in rule 1.01 of Chapter 1 in relation to any director, chief executive or substantial shareholder (being an individual).*

...

...

17.04 (1) In addition to the shareholders' approval set out in note (1) to rule 17.03(3) and the note to rule 17.03(4), each grant of options to a director, chief executive or substantial shareholder of a listed issuer, or any of their respective associates, under a scheme of the listed issuer or any of its subsidiaries must comply with the requirements of this rule 17.04(1). Each grant of options to any of these persons must be approved by independent non-executive directors of the listed issuer (excluding independent non-executive director who is the grantee of the options). Where any grant of options to a substantial shareholder or an independent non-executive director of the listed issuer, or any of their respective associates, would result in the securities issued and to be issued upon exercise of all options already granted and to be granted (including options exercised, cancelled and outstanding) to such person in the 12-month period up to and including the date of such grant:

- (a) representing in aggregate over 0.1% of the relevant class of securities in issue; and
- (b) (where the securities are listed on the Exchange), having an aggregate value, based on the closing price of the securities at the date of each grant, in excess of HK\$5 million,

such further grant of options must be approved by shareholders of the listed issuer. The listed issuer must send a circular to the shareholders. The grantee, his associates and all AH-core connected persons of the listed issuer must abstain from voting in favour at such general meeting.

...

...

## Chapter 19A

### EQUITY SECURITIES

#### ISSUERS INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA

...

##### Definitions and Interpretation

19A.04 The following terms, save where the context otherwise requires, have the following meanings:-

**"close associate"**

for a PRC issuer:—

- (a) in relation to an individual means:—
  - (i) his spouse;
  - (ii) any child or step-child, natural or adopted, under the age of 18 years of ~~such the~~ individual or of his spouse (together with (a)(i) above, the "family interests");
  - (iii) the trustees, acting in their capacity as such trustees, of any trust of which he or any of his family interests is a beneficiary or, in the case of a discretionary trust, is (to his knowledge) a discretionary object;
  - (iv) [Repealed 3 June 2010]

- (v) any company (including an equity joint venture established under PRC law) in the equity capital of which he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or ~~such other any amount as may from time to time be~~ specified in applicable PRC law as ~~being~~ the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this~~other~~ company ~~which is its subsidiary~~; and
  - (vi) any company with which or individual with whom he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested in a cooperative or contractual joint venture (whether or not constituting a separate legal person) under PRC law where he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together directly or indirectly have 30% (or ~~such other any amount as may from time to time be~~ specified in applicable PRC law as ~~being~~ the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more interest either in the capital and/or assets contributions to such joint venture or in the contractual share of profits or other income from such joint venture; and
- (b) in relation to a company means:—
- (i) ~~any other company which is its subsidiary or holding company or is a fellow subsidiary of any such its~~ holding company;
  - (ii) the trustees, acting in their capacity as ~~such~~ trustees, of any trust of which the company is a beneficiary or, in the case of a discretionary trust, is (to the company's knowledge) a discretionary object;

- (iii) [Repealed 3 June 2010]
- (iv) any other company (including an equity joint venture established under PRC law) in the equity capital of which the company, ~~such other companies referred to in (b)(i) above~~ its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or ~~such other any amount as may from time to time be~~ specified in applicable PRC law as ~~being~~ the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this other company~~which is its subsidiary~~; and
- (v) any other company with which or any individual with whom the company, ~~such other companies referred to in (b)(i) above~~ its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested in a cooperative or contractual joint venture (whether or not constituting a separate legal person) under PRC law where it, ~~such other companies referred to in (b)(i) above~~ its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together directly or indirectly have 30% (or ~~such other any amount as may from time to time be~~ specified in applicable PRC law as ~~being~~ the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more interest either in the capital and/or assets contributions to such joint venture or in the contractual share of profits or other income from such joint venture.

~~Note 1 This definition is modified in the context of connected transactions by virtue of rules 14A.11, 14A.12 and 14A.12A.~~

~~Note 2 Under rule 19A.19 the Exchange may from time to time determine that certain persons or entities should be treated as connected person of a PRC issuer for the purposes of the connected transaction provisions of Chapter 14A.~~

## Chapter 19B

### EQUITY SECURITIES

#### DEPOSITARY RECEIPTS

...

19B.03 For the purpose of the Exchange Listing Rules, a depositary shall not be:

- (a) an “associate” or “close associate”;
- (b) a “controlling shareholder”;
- (c) a “substantial shareholder”; or
- (d) excluded from being treated as a member of the public under rule 8.24,

merely by reason of the fact that it is holding shares of an issuer as depositary for the benefit of depositary receipt holders.

...

## Chapter 21

### INVESTMENT VEHICLES

#### INVESTMENT COMPANIES

...

21.04 The qualifications for listing contained in Chapter 8 shall apply, save for rules 8.05, 8.06, 8.07, 8.08(1) 8.09, 8.10 and 8.21 and save as otherwise agreed with the Exchange. However, the Exchange may be prepared to waive the guideline regarding the minimum number of shareholders which is set out in rule 8.08(2) in appropriate circumstances (for example, where the securities of the investment company are not marketed to the public in Hong Kong). The following additional conditions will apply in respect of an application made under this Chapter:—

- (1) ...
- ...
- (3) the investment company and its management must normally be bound, either in its articles of association or trust deed or equivalent constitutive document or in such other manner as is acceptable to the Exchange, to ensure compliance at all times while it remains listed under this Chapter with the following requirements:—
  - (a) that the investment company will not either on its own or in conjunction with any core connected person take legal, or effective, management control of underlying investments and that in any event the investment company will not own or control more than 30% (or such other percentage as may from time to time be specified in the Takeovers Code as being the level for triggering a mandatory general offer) of the voting rights in any one company or body;

...

(d) that any custodian, management company, any of their core connected persons and every director of any investment company and management company is prohibited from voting their own shares at, or being part of a quorum for, any meeting to the extent that they have or any of their close associates has, a material interest in the business to be conducted; and

...

(4) it will normally be a condition of the listing that, in the case of a newly formed investment company, at the conclusion of the initial offering of shares or units or, in the case of an existing investment vehicle, at the time of listing, no person shall control 30 per cent. (or such other amount as may from time to time be specified in the Takeovers Code as being the level for triggering a mandatory general offer) or more of the votes exercisable at any general meeting of the investment company. For these purposes, the interests of all the close associates of a shareholder and any persons acting in concert (within the meaning of the Takeovers Code) with a shareholder will be aggregated;

...

...

21.13 The Listing Agreement for an investment company will state that the provisions of Chapter 14 will not apply to investment companies save for rule 14.06(3), 14.06(4), 14.34 to 14.37, 14.38A, 14.40 to 14.46, 14.48 to 14.53 (for very substantial disposals), 14.58, 14.60 to 14.63, 14.66 to 14.68, 14.70 to 17.77, 14.85 and 14.86. ~~For the purposes of rule 14A.13, any investment manager, investment adviser or custodian (or any connected person thereof) shall be regarded as a connected person of the issuer.~~

...

## The Stock Exchange of Hong Kong Limited

### Practice Note 4

to the Rules Governing the Listing of Securities  
(the “Exchange Listing Rules”)

Issued pursuant to rule 1.06 of the Exchange Listing Rules

#### ISSUE OF NEW WARRANTS TO EXISTING WARRANTHOLDERS

...

##### 4. The Exchange’s New Requirements

Where an issuer proposes to issue new warrants to existing warrant holders or to alter the exercise period or the exercise price of existing warrants, the Exchange will not approve the issue of the new warrants or the proposed alteration in the terms of existing warrants, unless the following requirements additional to rule 15.02(2) are met:—

- a) ...  
...
- d) the relevant circulars to shareholders and warrant holders must both contain details of any dealings by the issuer, and, where relevant, the manager of the issue of new warrants, or any of their respective close associates and any dealings by any core connected persons of the issuer (so far as is known to the issuer or any director of the issuer after making reasonable enquiries) in the existing warrants and the underlying securities to which the warrants relate, during the period commencing three months prior to the announcement of the warrant proposal and ending on the date of the relevant circular. If such disclosure reveals that any such persons have been actually dealing in either the warrants or the underlying securities the Exchange reserves the right not to approve the issue of the new warrants or the proposed alteration in the terms of the existing warrants;
- ...

...

## The Stock Exchange of Hong Kong Limited

### Practice Note 21

to the Rules Governing the Listing of Securities  
(the “Exchange Listing Rules”)

Issued pursuant to rule 1.06 of the Exchange Listing Rules

### DUE DILIGENCE BY SPONSORS IN RESPECT OF INITIAL LISTING APPLICATIONS

...

14. Typical due diligence inquiries in relation to the expert sections of the listing document include:

- a) ...  
...
- g) where the standard of independence is not set by a relevant professional body, obtaining written confirmation from the expert that it is independent from the new applicant and its directors and controlling shareholder(s), and being satisfied that there is no cause to inquire further about the truth of this confirmation. This would include confirming that the expert does not have a direct or indirect material interest in the securities or assets of the new applicant, its core connected persons, or any close associate of the new applicant beyond that allowed by rule 3A.07.
- ...



# Appendix 1

## Contents of Listing Documents

### Part A

#### Equity Securities

##### **In the case where listing is sought for equity securities of an issuer no part of whose share capital is already listed**

...

- 27A. Details of any controlling shareholder of the issuer, including the name or names of any such controlling shareholder, the amount of its or their interest in the share capital of the issuer and a statement explaining how the issuer is satisfied that it is capable of carrying on its business independently of the controlling shareholder (including any close associate thereof) after listing, and particulars of the matters that it relied on in making such statement.

...

28. (1) (a) ...
- (b) additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—
- (i) ...
- ...
- (v) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors owns more than 5% of the issuers' share capital) in the suppliers or customers disclosed under (i) to (iv) above or if there are no such interests a statement to that effect;

...

...

# Appendix 1

## Contents of Listing Documents

### Part B

#### Equity Securities

##### **In the case where listing is sought for equity securities of an issuer some part of whose share capital is already listed**

...

26. (1) (a) ...

(b) additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—

(i) ...

...

(v) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors owns more than 5% of the issuers' share capital) in the suppliers or customers disclosed under (i) to (iv) above or if there are no such interests a statement to that effect;

...

...

# Appendix 1

## Contents of Listing Documents

### Part E

#### Depositary receipts

##### **In the case where listing is sought for depositary receipts of an issuer no part of whose share capital is already listed**

...

27A. Details of any controlling shareholder of the issuer, including the name or names of any such controlling shareholder, the amount of its or their interest in the share capital of the issuer and a statement explaining how the issuer is satisfied that it is capable of carrying on its business independently of the controlling shareholder (including any close associate thereof) after listing, and particulars of the matters that it relied on in making such statement.

...

28. (1) (a) ...
- (b) additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—
- (i) ...
- ...
- (v) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors owns more than 5% of the issuers' share capital) in the suppliers or customers disclosed under (i) to (iv) above or if there are no such interests a statement to that effect;
- ...
- ...

## Appendix 1

### Contents of Listing Documents

#### Part F

#### Depository receipts

#### **In the case where listing is sought for depository receipts of an issuer where depository receipt representing some part of its share capital are already listed**

- ...
22. (1) (a) ...
- (b) additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—
- (i) ...
- ...
- (v) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors owns more than 5% of the issuers' share capital) in the suppliers or customers disclosed under (i) to (iv) above or if there are no such interests a statement to that effect;
- ...
- ...

# Appendix 3

## Articles of Association

### As regards Directors

4. (1) That, subject to such exceptions specified in the articles of association as the Exchange may approve, a director shall not vote on any board resolution approving any contract or arrangement or any other proposal in which he or any of his close associates has a material interest nor shall he be counted in the quorum present at the meeting.  
(Note 1)

...

### NOTES

*Note 1 Articles of Association will be acceptable to the Exchange if they provide exceptions from the requirements of paragraph 4(1) of this Appendix in respect of the following matters:—*

- (1) *the giving of any security or indemnity either:—*
- (a) *to the director or his close associate(s) in respect of money lent or obligations incurred or undertaken by him or any of them at the request of or for the benefit of the issuer or any of its subsidiaries; or*
  - (b) *to a third party in respect of a debt or obligation of the issuer or any of its subsidiaries for which the director or his close associate(s) has himself/themselves assumed responsibility in whole or in part and whether alone or jointly under a guarantee or indemnity or by the giving of security;*
- (2) *any proposal concerning an offer of shares or debentures or other securities of or by the issuer or any other company which the issuer may promote or be interested in for subscription or purchase where the director or his close associate(s) is/are or is/are to be interested as a participant in the underwriting or sub-underwriting of the offer;*
- (3) *any proposal concerning any other company in which the director or his close associate(s) is/are interested only, whether directly or indirectly, as an officer or executive or shareholder or in which the director or his close associate(s) is/are beneficially interested in shares of that company, provided that the director and any of his close associates are not in aggregate beneficially interested in 5% or more of the issued shares of any class of such company (or of any third company through which his interest or that of his close associates is derived) or of the voting rights;*
- (4) *any proposal or arrangement concerning the benefit of employees of the issuer or its subsidiaries including:—*
- (a) *the adoption, modification or operation of any employees' share scheme or any share incentive or share option scheme under which the director or his close associate(s) may benefit; or*
  - (b) *the adoption, modification or operation of a pension fund or retirement, death or disability benefits scheme which relates both to directors, his close associates and employees of the issuer or any of its subsidiaries and does not provide in respect of any director, or his close associate(s), as such any privilege or advantage not generally accorded to the class of persons to which such scheme or fund relates; and*

- (5) *any contract or arrangement in which the director or his close associate(s) is/are interested in the same manner as other holders of shares or debentures or other securities of the issuer by virtue only of his/their interest in shares or debentures or other securities of the issuer.*

...

## **Appendix 5**

### **Marketing Statement**

#### **Form D**

...

I hereby certify that to the best of my knowledge and belief, none of the securities placed by me have been placed with the directors of the issuer or their close associates or any existing shareholder of the issuer or any nominee of any of the foregoing.

...

## **Appendix 6**

### **Placing Guidelines – for – Equity Securities**

#### **New Applicants**

1. ...

...

5. No allocations will be permitted to:-

(1) ...

(2) directors or existing shareholders of the applicant or their close associates, whether in their own names or through nominees unless the conditions set out in rules 10.03 and 10.04 are fulfilled; or

...

...

## Appendix 10

### Model Code for Securities Transactions by Directors of Listed issuers

...

#### Rules

...

4. Where a director is a sole trustee, the provisions of this code will apply to all dealings of the trust as if he were dealing on his own account (unless the director is a bare trustee and neither he nor any of his close associates is a beneficiary of the trust, in which case the provisions of this code will not apply).
5. Where a director deals in the securities of a listed issuer in his capacity as a co-trustee and he has not participated in or influenced the decision to deal in the securities and is not, and none of his close associates is, a beneficiary of the trust, dealings by the trust will not be regarded as his dealings.

...

## Appendix 13

### Part B

#### THE CAYMAN ISLANDS

...

#### Section 1

##### ADDITIONAL REQUIREMENTS FOR THE MEMORANDUM AND ARTICLES OF ASSOCIATION OF ISSUERS INCORPORATED OR OTHERWISE ESTABLISHED IN THE CAYMAN ISLANDS

...

5. **As to directors**
  - (1) ...
  - (2) The articles of association shall restrict the making of loans to directors and their close associates and shall import provisions at least equivalent to the provisions of Hong Kong law prevailing at the time of the adoption of the articles of association.

...

## Appendix 14

### CORPORATE GOVERNANCE CODE AND CORPORATE GOVERNANCE REPORT

...  
A. **DIRECTORS**

A.1 **The Board**

**Principle**

...

**Code Provisions**

...

- A.1.7 If a substantial shareholder or a director has a conflict of interest in a matter to be considered by the board which the board has determined to be material, the matter should be dealt with by a physical board meeting rather than a written resolution. Independent non-executive directors who, and whose close associates, have no material interest in the transaction should be present at that board meeting.

*Note:* ...

...

...

## Appendix 16

### DISCLOSURE OF FINANCIAL INFORMATION

...

31. A listed issuer shall include information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—

(1) ...

...

- (5) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors owns more than 5% of the listed issuer's share capital) in the suppliers or customers disclosed under (1) to (4) above or if there are no such interests a statement to that effect;

...

...

## **Chapter 1**

### **GENERAL**

#### **INTERPRETATION**

1.01 Throughout ~~this book~~ these Rules, the following terms, ~~save~~ except where the context otherwise requires, have the following meanings:

...

**“associate”** has the meaning in rule 20.06(2)

...

**“close associate”** (a) in relation to an individual means:—

- (i) his spouse;
- (ii) any child or step-child, natural or adopted, under the age of 18 years of ~~such~~ the individual or of his spouse (together with (a)(i) above, the “family interests”);
- (iii) the trustees, acting in their capacity as ~~such~~ trustees, of any trust of which he or any of his family interests is a beneficiary or, in the case of a discretionary trust, is (to his knowledge) a discretionary object; and
- (iv) [Repealed 3 June 2010]
- (v) any company in the equity capital of which he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or ~~such other~~ any amount ~~as may from time to time be~~ specified in the Takeovers Code as ~~being~~ the level for triggering a mandatory general offer) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this ~~other~~ company ~~which is its subsidiary~~; and

(b) in relation to a company means:—

- (i) ~~any other company which is its subsidiary or holding company or is a fellow subsidiary of any such~~ its holding company;



- (ii) the trustees, acting in their capacity as ~~such~~ trustees, of any trust of which the company is a beneficiary or, in the case of a discretionary trust, is (to the company's knowledge) a discretionary object; and
- (iii) [Repealed 3 June 2010]
- (iv) any other company in the equity capital of which the company, ~~such other companies referred to in (b)(i) above~~ its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or ~~such other~~ any amount as may from time to time be specified in the Takeovers Code as ~~being~~ the level for triggering a mandatory general offer) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this other company ~~which is its subsidiary~~.

Notes: *This definition is:—*

1 *modified in the context of:—*

*(a) ~~connected transactions, by virtue of rules 20.11, 20.12 and 20.12A; and~~*

*(b) ~~PRC issuers, by virtue of rule 25.04; and~~*

2 *extended so as to apply to Sponsors, by virtue of rule 6A.31, underwriters, by virtue of rules 16.13, 16.15 and 29.22, and significant shareholders, Sponsors and underwriters by virtue of rule 10.12;*

...

**“connected person”** has the meaning in rule 20.06(7)

*Note: The definition includes a person deemed to be connected by the Exchange under rule 20.07(6) only for the purpose of Chapter 20.*

**“core connected person” or  
“person connected”**

- (a) ~~in relation to~~for a company other than a PRC issuer, ~~and other than or~~ any subsidiary of a PRC issuer, means a director, chief executive or substantial shareholder of ~~such~~the company or any of its subsidiaries or ~~an~~ close associate of any of them; and
- (b) ~~in relation to~~for a PRC issuer means a director, supervisor, chief executive or substantial shareholder of the PRC issuer or any of its subsidiaries or ~~an~~ close associate of any of them

*Note: This definition is modified for the purposes of Chapter 20 by virtue of the provisions of rules 20.11, 20.12 and 20.12A.*

...

**“family interests”**

the same meaning as in (a)(ii) of the definition of “close associate”

...

**“IFA group”**

- (a) the independent financial adviser;
- (b) ~~any~~ its holding company ~~of the independent financial adviser;~~
- (c) any subsidiary of ~~any~~ its holding company ~~of the independent financial adviser;~~
- (d) any controlling shareholder of:
- (i) the independent financial adviser; or
- (ii) ~~any~~ its holding company ~~of the independent financial adviser,~~
- ~~which controlling shareholder is not, itself, a holding company of the independent financial adviser; and~~
- (e) any close associate of any controlling shareholder referred to in paragraph (d) ~~above~~

...

## Chapter 2

### GENERAL

#### INTRODUCTION

...

##### Material interest in a transaction

...

2.27 For the purpose of determining whether a shareholder has a material interest, relevant factors include:

- (1) whether the shareholder is a party to the transaction or arrangement or a close associate (~~as defined in rule 1.01~~) of such a party; and
- (2) whether the transaction or arrangement confers upon the shareholder or his close associate a benefit (whether economic or otherwise) not available to the other shareholders of the issuer.

There is no benchmark for materiality of an interest nor may it necessarily be defined in monetary or financial terms. The materiality of an interest is to be determined on a case by case basis, having regard to all the particular circumstances of the transaction concerned.

Note: The references to “close associate” shall be changed to “associate” where the transaction or arrangement is a connected transaction under Chapter 20.

...

## Chapter 5

### GENERAL

#### DIRECTORS, COMPANY SECRETARY, BOARD COMMITTEES, AUTHORISED REPRESENTATIVES AND CORPORATE GOVERNANCE MATTERS

##### Directors

...

5.09 In assessing the independence of a non-executive director, the Exchange will take into account the following factors, none of which is necessarily conclusive. Independence is more likely to be questioned if the director:—

- (1) ...
- (2) has received an interest in any securities of the issuer as a gift, or by means of other financial assistance, from a core connected person or the issuer itself. However, subject to Note 1 to rule 5.09(1), the director will still be considered independent if he receives shares or interests in securities from the issuer or its subsidiaries (but not from core connected persons) as part of his director’s fee or pursuant to share option schemes established in accordance with Chapter 23;
- (3) is a director, partner or principal of a professional adviser which currently provides or has within one year immediately prior to the date of his proposed appointment provided services, or is an employee of such professional adviser who is or has been involved in providing such services during the same period, to:

- (a) the listed issuer, its holding company or any of their respective subsidiaries or core connected persons; or
  - (b) any person who was a controlling shareholder or, where there was no controlling shareholder, any person who was the chief executive or a director (other than an independent non-executive director), of the listed issuer within one year immediately prior to the date of the proposed appointment, or any of their close associates;
- (4) has a material interest in any principal business activity of or is involved in any material business dealings with the issuer, its holding company or their respective subsidiaries or with any core connected persons of the issuer;
  - (5) ...
  - (6) ...
  - (7) is, or has at any time during the 2 years immediately prior to the date of his proposed appointment been, an executive or a director (other than an independent non-executive director) of the issuer, of its holding company or of any of their respective subsidiaries or of any core connected persons of the issuer;

*Note: An “executive” includes any person who has any management function in the company and any person who acts as a company secretary of the company.*

- (8) is financially dependent on the issuer, its holding company or any of their respective subsidiaries or core connected persons of the issuer.

An independent non-executive director shall submit to the Exchange a written confirmation which must state:

- (a) his independence as regards each of the factors referred to in rule 5.09(1) to (8);
- (b) his past or present financial or other interest in the business of the issuer or its subsidiaries or any connection with any core connected person (as such term is defined in the GEM Listing Rules) of the issuer, if any; and
- (c) that there are no other factors that may affect his independence at the same time as the submission of his declaration, undertaking and acknowledgement in the relevant form set out in Appendix 6.

...

*Note: ...*

...

### **Securities transactions by directors**

...

5.57 Where a director is a sole trustee, the required standard of dealings will apply to all dealings of the trust as if he were dealing on his own account (unless the director is a bare trustee and neither he nor any of his close associates is a beneficiary of the trust, in which case the required standard of dealings will not apply).

5.58 When a director deals in the securities of an issuer in his capacity as a co-trustee and he has not participated in or influenced the decision to deal in the securities and is not, and none of his close associates is, a beneficiary of the trust, dealings by the trust will not be regarded as his dealings.

...

# Chapter 6A

## SPONSORS AND COMPLIANCE ADVISERS

### Definitions and interpretation

6A.01 In this Chapter:

(1) ...  
...

(9) “Sponsor group” means:

(a) a Sponsor;

(b) ~~any~~its holding company of the Sponsor;

(c) any subsidiary of ~~any~~its holding company of the Sponsor;

(d) any controlling shareholder of:

(i) the Sponsor; or

(ii) ~~any~~its holding company of the Sponsor,

~~which controlling shareholder is not, itself, a holding company of the Sponsor;~~  
and

(e) any close associate of any controlling shareholder referred to in paragraph (d) above; and

(10) ...

...

6A.07 At least one Sponsor of a new applicant must be independent of ~~the new applicant~~it. The Sponsor is required to demonstrate to the Exchange its independence or lack of independence and declare in accordance with the terms set out in Appendix 7K.

A Sponsor is not independent if any of the following circumstances exist at any time from the date of submission ~~to the Exchange~~ of an application for listing on Form 5A ~~in accordance with rule 12.13~~-up to the date of listing:-

(1) the Sponsor group and any director or close associate of a director of the Sponsor collectively holds or will hold, directly or indirectly, more than 5% of the issued share capital of the new applicant, except where that holding arises as a result of an underwriting obligation;

(2) the fair value of the direct or indirect current or prospective shareholding of the Sponsor group in the new applicant exceeds or will exceed 15% of the net equity shown in the latest consolidated financial statements of the Sponsor’s ultimate holding company or, where there is no ultimate holding company, the Sponsor;

(3) any member of the Sponsor group or any director or close associate of a director of the Sponsor is ~~a~~ close associate or core connected person of the new applicant;

(3A) the Sponsor is a connected person of the new applicant;

- (4) 15% or more of the proceeds raised from the initial public offering of the new applicant are to be applied directly or indirectly to settle debts due to the Sponsor group, except where those debts are on account of fees payable to the Sponsor group under its engagement ~~by the new applicant~~ for sponsorship services;
- (5) the aggregate of:
- (a) amounts due to the Sponsor group from the new applicant and its subsidiaries; and
  - (b) all guarantees given by the Sponsor group on behalf of the new applicant and its subsidiaries,
- exceeds 30% of the total assets of the new applicant;
- (6) the aggregate of:
- (a) amounts due to the Sponsor group from:
    - (i) the new applicant;
    - (ii) ~~the new applicant's~~ subsidiaries;
    - (iii) ~~any~~ controlling shareholder ~~of the new applicant~~; and
    - (iv) any close associates of ~~any~~ controlling shareholder ~~of the new applicant~~; and
  - (b) all guarantees given by the Sponsor group on behalf of:
    - (i) the new applicant;
    - (ii) ~~the new applicant's~~ subsidiaries;
    - (iii) ~~any~~ controlling shareholder ~~of the new applicant~~; and
    - (iv) any close associates of ~~any~~ controlling shareholder ~~of the new applicant~~,
- exceeds 10% of the total assets shown in the latest consolidated financial statements of the Sponsor's ultimate holding company or, where there is no ultimate holding company, the Sponsor;
- (7) the fair value of the direct or indirect shareholding of:
- (a) a director of the Sponsor;
  - (b) a director of ~~any~~ holding company ~~of the Sponsor~~;
  - (c) ~~an~~ close associate of a director of the Sponsor; or
  - (d) ~~an~~ close associate of a director of ~~any~~ holding company ~~of the Sponsor~~
- in the new applicant exceeds HKD 5 million;
- (8) an employee or director of the Sponsor who is directly engaged in providing the ~~subject~~ sponsorship services to the new applicant, or ~~an~~ his close associate ~~of this employee or director~~, holds or will hold shares in the new applicant or has or will have a beneficial interest in shares in ~~the new applicant~~;

(9) any of the following has a current business relationship with the new applicant or a director, subsidiary, holding company or substantial shareholder of the new applicant, which would be reasonably considered to affect the Sponsor's independence in performing its duties as set out in this Chapter, or might reasonably give rise to a perception that the Sponsor's independence would be so affected, except where that relationship arises under the Sponsor's engagement ~~by the new applicant for the purpose of providing to provide~~ sponsorship services:

- (a) any member of the Sponsor group;
- (b) an employee of the Sponsor who is directly engaged in providing the ~~subject~~ sponsorship services to the new applicant;
- (c) ~~an~~ close associate of an employee of the Sponsor who is directly engaged in providing the ~~subject~~ sponsorship services to the new applicant;
- (d) a director of any member of the Sponsor group; or
- (e) ~~an~~ close associate of a director of any member of the Sponsor group;

...

#### Miscellaneous

...

6A.31 In relation to any application for listing by a listed issuer involving the proposed issue of a listing document of the type referred to in rule 6A.36 within the minimum period referred to in rule 6A.19 or any period fixed for the purposes of rule 6A.20, the Compliance Adviser (or any Sponsor that is appointed under rule 6A.37 to advise the issuer) must complete and submit to the Exchange, at the time of submitting the application for listing (passing a copy to the new applicant or listed issuer) a declaration in the prescribed form set out in Appendix 7H, giving details of all interests it, its directors and employees and its close associates have in relation to the issuer and that listing or transaction.

*Notes: 1 For these purposes, the Compliance Adviser (or other adviser appointed under rule 6A.37) must provide details of all information which ought reasonably to be disclosed concerning the interests which it, its directors and employees and its close associates have in relation to the new applicant or listed issuer and the successful outcome of the listing or transaction in question, having taken all reasonable steps to ascertain such interests of its directors and employees and its close associates.*

2 *Without limiting the general nature of Note 1, the Compliance Adviser (or other adviser appointed under rule 6A.37) would be expected to disclose full and accurate details of:-*

- (a) *the interests which it or its close associates have or may, as a result of the listing or transaction, have in the securities of the issuer or any other company in the issuer's group (including options or rights to subscribe for such securities);*
- (b) *the interests which any director or employee involved in providing advice to the issuer has or may, as a result of the listing or transaction, have in the securities of the issuer or any company in the issuer's group (including options or rights to subscribe such securities but, for the avoidance of doubt, excluding interests in securities that may be subscribed by any such director or employee under an offer by way of public subscription made by the issuer); and*

- (c) any material benefit expected to accrue to the Compliance Adviser (or other adviser appointed under rule 6A.37) or its close associates as a result of the successful outcome of the listing or transaction, including, by way of example, the repayment of material outstanding indebtedness and payment of any underwriting commissions or success fees.

~~3 — For the purposes of Note 2 above, “associate” shall have the same meaning as set out in rule 1.01, save that it shall be construed as applying to the Compliance Adviser (or other adviser appointed under rule 6A.37).~~

6A.32 The listing document in respect of any new applicant must comply with rule 6A.10(2), as applicable. All other listing documents and circulars relating to transactions on which the Compliance Adviser (or another adviser appointed under rule 6A.37) subsequently provides advice to the issuer (excluding any Explanatory Statement issued under rule 13.08) must disclose full and accurate details of the interests as advised by the Compliance Adviser and, if applicable, the interests as advised under rule 6A.31 by the Compliance Adviser appointed under rule 6A.37. In addition, each listed issuer’s annual report and accounts, half-year report and quarterly reports must include full and accurate details of such interests, as updated and notified by the Compliance Adviser to the issuer at the time of preparing such reports.

*Notes: 1 Each of the documents referred to in this rule is required to set out the interests of the Compliance Adviser (and its directors, employees and close associates) under a specific heading and both the heading and information must be given suitable prominence within the document.*

*2 The Compliance Adviser must take responsibility for the accuracy of the information relating to the interests of the Compliance Adviser (and its directors, employees and close associates), as set out in each of the documents referred to in this rule.*

## Chapter 9

### GENERAL

#### TRADING HALT, SUSPENSION AND RESUMPTION OF DEALINGS, CANCELLATION CANCELLATION AND WITHDRAWAL OF LISTING

...

##### Trading halt or suspension

9.04

*Notes: 1 The Exchange will not hesitate to direct a trading halt or suspend dealings where it considers that improper use is being made of inside information, whether by core connected persons ~~connected with~~ of the issuer or otherwise. It may require a detailed explanation from an issuer as to who may have had access to unpublished information, and why security had not been properly maintained. If it considers the result of its enquiries justify, it may publish its findings. It places great importance on the responsibility of the directors of an issuer to ensure not only proper security with regard to inside information, but also that relevant information is disclosed in a proper and equitable manner, in the interests of the market as a whole, and not to the benefit of a selected group or individual.*

...

...



# Chapter 10

## EQUITY SECURITIES

### METHODS OF LISTING

...

#### Placing

...

10.12 A placing by or on behalf of a new applicant or by or on behalf of a listed issuer of securities of a class new to listing must be supported by a listing document which must comply with the relevant requirements of Chapter 14 and such a placing must comply with the following specific requirements:—

(1) ...

...

(4) The announcement of the results of the placing required pursuant to rule 16.16 must include a brief generic description of the placees. If securities have been placed with different groups of placees, then the announcement must contain a description of each group and the number of shares placed with each group, provided that certain types of placee (as specified in Note 1 to this rule) must be identified on an individually-named basis, with the number of shares placed with each named placee also being disclosed. In the case of an initial public offering effected by way of a placing or which included a placing tranche, the announcement must also include information on:—

- (a) ...
- (b) ...
- (c) ...

*Notes: 1 The purpose of this rule is to enable shareholders and investors to understand the broad composition of the ownership of the placed shares immediately prior to trading in those shares. The groups of placees which the issuer must identify in the announcement, to the extent applicable, include:—*

- (a) ...
- (b) *directors and their close associates (on an individually-named basis);*
- (c) *substantial shareholders and their close associates (on an individually-named basis);*
- (d) *in relation only to an initial public offering effected by way of a placing or which included a placing tranche, significant shareholders and their close associates (on an individually-named basis);*
- (e) *employees;*
- (f) *the Sponsor and its close associates;*
- (g) *the lead broker and/or any distributor and any connected clients of either (as defined in Note 2 below);*
- (h) *customers or clients of the issuer;*
- (i) *suppliers to the issuer; and*
- (j) *the underwriters (if any) and their close associates, if different from (f) or (g) above.*

The announcement should, if applicable, give particulars of any duplication between the descriptions of placees and must indicate the number and proportion of shares placed to the public.

2 ...

~~3 For the purposes of this rule, “associate” (in the context of any significant shareholder, the Sponsor or underwriters (if any)) shall have the same meaning as set out in rule 1.01, save that it shall be construed as also applying to a significant shareholder, Sponsor and an underwriter.~~

...

...

## Introduction

...

10.20 An issuer should apply to the Exchange as early as possible to obtain confirmation that an introduction will be an appropriate method of listing. The application must state the names and holdings of the ten largest beneficial holders of the securities (if known) and the total number of holders. A copy of the share register may be required by the Exchange. In addition, particulars of the holdings of the directors and their close associates must be included. If such approval to the method of listing is given, it does not necessarily mean that listing for the securities will ultimately be granted.

...

# Chapter 11

## EQUITY SECURITIES

### QUALIFICATIONS FOR LISTING

#### Preliminary

11.04 Full and accurate disclosure of any business or interest of each director, controlling shareholder and, in relation only to the initial listing document, substantial shareholder and the respective close associates of each that competes or may compete with the business of the group and any other conflicts of interest which any such person has or may have with the group must be disclosed in each listing document and circular required pursuant to the GEM Listing Rules (excluding any Explanatory Statement issued pursuant to rule 13.08) and in the annual report and accounts, half-year report and quarterly reports of the listed issuer.

*Notes: 1 [Repealed 3 June 2010]*

*2 Each of the documents referred to in this rule is required to set out the interests of directors and, in relation only to the initial listing document, substantial shareholders (including the interests of their respective close associates) under a specific heading and both the heading and information must be given suitable prominence within the document.*

*3 Of the interests required to be disclosed pursuant to this rule, a director or substantial shareholder must include any directorship or ownership of an entity engaged in a business which competes or is likely to compete with the business of the group. The disclosure should include the name of each such entity, the nature of its business and details of the directorship and/or ownership of the issuer’s directors and substantial shareholders and their respective close associates in such entity.*

*4 See also paragraph 27A of Appendix 1A.*

...

## Conditions relevant to the securities for which listing is sought

11.23 There must be an open market in the securities for which listing is sought. This will normally mean that:—

(1) ...

(11) ...

Notes: 1 ...

2 *The Exchange will not regard at any time,*

(a) *in relation to an issuer other than a PRC issuer, and other than any subsidiaries of a PRC issuer, a director, chief executive or substantial shareholder of such issuer or any of its subsidiaries or a ~~an~~ close associate of any of them; or*

(b) *in relation to a PRC issuer, a promoter, director, supervisor, chief executive or substantial shareholder of the PRC issuer or any of its subsidiaries or a ~~an~~ close associate of any of them*

*as a member of “the public” or shares held by any such person as being “in public hands”.*

...

6 *Where the percentage has fallen below the minimum, the Exchange may refrain from suspension if the Exchange is satisfied that there remains an open market in the securities and either:*

(a) *the shortfall in the prescribed percentage arose purely from an increased or newly acquired holding of the listed securities by a person who is, or after such acquisition becomes, a core connected person only because he is a substantial shareholder of the issuer and/or any of its subsidiaries. Such substantial shareholder must not be a controlling shareholder or single largest shareholder of the issuer. He must also be independent of the issuer, directors and any other substantial shareholders of the issuer and must not be a director of the issuer. If the substantial shareholder has any representative on the board of directors of the issuer, he must demonstrate that such representation is on a nonexecutive basis. In general, the Exchange would expect this to apply to holdings of the listed securities by institutional investors with a wide spread of investments other than in the listed securities concerned. Holdings of the listed securities by private equity or venture capital funds which have been involved in the management of the issuer before and/ or after listing would not qualify. It is the responsibility of the issuer to provide sufficient information to the Exchange to demonstrate the independence of such substantial shareholder and to inform the Exchange of any change in circumstances which would affect his independence as soon as it becomes aware of such change; or*

(b) ...

...

...

## Chapter 12

### EQUITY SECURITIES

#### APPLICATION PROCEDURES AND REQUIREMENTS

...

##### Applications

##### *General*

...

- 12.11 From the time of submission of the application for listing until listing is granted, there must be no dealing in the securities for which listing is sought by any core connected person of the issuer, except as permitted by rule 10.16. The directors of the issuer shall forthwith notify the Exchange of any such dealing or suspected dealing of which they become aware. If any of the directors or their close associates are found to have engaged in such dealing, the application may be rejected.

## Chapter 13

### EQUITY SECURITIES

#### RESTRICTIONS ON PURCHASE, DISPOSAL AND SUBSCRIPTION

##### Restrictions on preferential treatment

...

- 13.02 With regard to any securities proposed to be placed by a new applicant:—
- (1) no preferential terms or treatment as to price or otherwise may be afforded to any placee (but not to others), save that with adequate disclosure in the listing document, preferential treatment may be given to placees in respect of the allocation of securities. For the purposes of this rule, the disclosure to be made in the listing document issued in connection with the placing must include details of existing shareholders or directors and their respective close associates (each identified on an individually-named basis) to whom it is proposed to place shares, indicating, in each case, the number and/or proportion of shares to be so placed. The Exchange reserves the right to reject any such proposed arrangements.
  - (2) ...

...

**Restrictions and notification requirements on issuers purchasing  
their own shares on a stock exchange**

...

*Procedures to be complied with*

13.08 The issuer must send to its shareholders an Explanatory Statement (at the same time as the notice of the relevant shareholders' meeting) containing all the information reasonably necessary to enable those shareholders to make an informed decision on whether to vote for or against the ordinary resolution to approve the purchase by the issuer of shares including the information set out below:—

(1) ...

...

(5) a statement of the name of any directors, and to the best of the knowledge of the directors having made all reasonable enquiries, any close associates of the directors, who have a present intention, in the event that the proposal is approved by shareholders, to sell shares to the issuer, or an appropriate negative statement;

...

(9) a statement as to whether or not any core connected persons of the issuer have notified the issuer that they have a present intention to sell shares to the issuer or have undertaken not to sell any of the shares held by them to the issuer, in the event that the issuer is authorised to make purchases of shares;

...

(11) ...

*Notes: 1 The Explanatory Statement need not contain the statement set out in rule 2.20 concerning the characteristics of GEM nor information on the interests (if any) of the Compliance Adviser (as referred to in rule 6A.31) and all directors, controlling shareholders and their respective close associates (as referred to in rule 11.04).*

2 ...

...

*Dealing restrictions*

13.11 The following dealing restrictions must be adhered to:—

(1) ...

(2) an issuer shall not knowingly purchase shares from a core connected person and a core connected person shall not knowingly sell his shares to the issuer, on GEM;

...

...

# Chapter 16

## EQUITY SECURITIES

### PUBLICATION REQUIREMENTS

...

#### Results of offers, rights issues and placings

16.13 In the case of an offer for subscription, offer for sale or open offer, an announcement of the results of the offer, the basis of allotment of the securities (including the extent to which securities have been allotted to the underwriters (if any) and their close associates) and, where relevant, the basis of any acceptance of excess applications must be published on the GEM website as soon as possible, but in any event not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following the date on which the allotment letters or other relevant documents of title are posted.

*Notes: 1 The announcement should include information regarding the spread of applications and basis of allocation.*

~~2 For the purposes of rules 16.13 and 16.15, "associate" shall have the same meaning as set out in the definition of associate in rule 1.01, save that it shall be construed as applying to underwriters.~~

~~3~~ 2 *In case of a new class of securities to be listed, the announcement should include the minimum prescribed percentage applicable to that class of securities pursuant to rule 11.23 if such information has not been previously disclosed.*

...

16.15 In the case of a rights issue, an announcement of the results of the issue (including the extent to which securities have been allotted to the underwriters (if any) and their close associates) and of the basis of any acceptance of excess applications must be published on the GEM website as soon as possible, but in any event not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following the date on which the allotment letters or other relevant documents of title are posted.

...

# Chapter 17

## EQUITY SECURITIES

### CONTINUING OBLIGATIONS

...

#### General matters relevant to the issuer's business

...

*No further issues of securities within 6 months of listing*

17.29 No further shares or securities convertible into equity securities of a listed issuer (whether or not of a class already listed) may be issued or form the subject of any agreement to such an issue within 6 months from the date on which securities of the listed issuer first commence dealing on GEM (whether or not such issue of shares or securities will be completed within 6 months from the commencement of dealing), except for:

(1) ...

...

(5) any issue of shares or securities convertible into equity securities of a listed issuer (whether or not of a class already listed) which satisfies the following requirements:

(a) ...

(b) ...

(c) the issue and any transaction related to it is made subject to the approval of shareholders with the following persons abstaining from voting: -

(i) any core connected person and its close associates; and

(ii) ...

(d) ...

*Note: The circular must include:*

(i) ...

...

(x) *details of the persons who would receive the new shares or securities and their connection, if any, with any core connected persons of the listed issuer; and*

...

...

...

#### Meetings

...

*Voting of directors at board meeting*

17.48A Subject to the exceptions set out in paragraphs (1), (2), (4) and (5) of Note 5 to Appendix 3, a director of an issuer shall not vote on any board resolution approving any contract or arrangement or any other proposal in which he or any of his close associates has a material interest nor shall he be counted in the quorum present at the meeting.

*Note: The references to "close associate" shall be changed to "associate" where the transaction or arrangement is a connected transaction under Chapter 20.*

...

## Miscellaneous obligations

...

### *Independent financial advisers*

17.92 An independent financial adviser appointed under rule 17.47(6)(b) or rule 24.05(6)(a)(ii) must take all reasonable steps to satisfy itself that:

(1) ...

...

*Notes:* 1. *For the purposes of this rule, the Exchange expects that the reasonable steps an independent financial adviser will typically perform will include the following:*

(a) ...

...

(d) *without limiting the generality of paragraph (c) above, in relation to any third party expert providing an opinion or valuation relevant to the transaction:*

(i) *interviewing the expert including as to its expertise and any current or prior relationships with the issuer, other parties to the transaction, and core connected persons of either the issuer or another party to the transaction;*

...

...

17.96 An independent financial adviser must be independent from any issuer for whom it acts. An independent financial adviser is not independent if any of the following circumstances exist as at the time of making the declaration required by rule 17.97(1):

(1) the IFA group and any director or close associate of a director of the independent financial adviser holds, directly or indirectly, in aggregate more than 5% of the issued share capital of the issuer, another party to the transaction, or ~~an~~ close associate or core connected person of the issuer or another party to the transaction;

(1A) in the case of a connected transaction, the independent financial adviser holds more than 5% of the issued share capital of an associate of another party to the transaction;

(2) any member of the IFA group or any director or close associate of a director of the independent financial adviser is ~~an~~ close associate or core connected person of the issuer or another party to the transaction;

(2A) in the case of a connected transaction, the independent financial adviser is an associate of another party to the transaction;

(3) any of the following exceeds 10% of the total assets shown in the latest consolidated financial statements of the independent financial adviser's ultimate holding company or, where there is no ultimate holding company, the independent financial adviser:

(a) the aggregate of:

(i) amounts due to the IFA group from:

(A) the issuer;

(B) ~~the issuer's~~ its subsidiaries;

(C) ~~any~~ its controlling shareholder ~~of the issuer~~; and



- (D) any close associates of ~~any its~~ controlling shareholder ~~of the issuer~~; and
- (ii) all guarantees given by the IFA group on behalf of:
  - (A) the issuer;
  - (B) ~~the issuer's~~its subsidiaries;
  - (C) ~~any its~~ controlling shareholder ~~of the issuer~~; and
  - (D) any close associates of ~~any its~~ controlling shareholder ~~of the issuer~~;
- (b) the aggregate of:
  - (i) amounts due from the IFA group to:
    - (A) the issuer;
    - (B) ~~the issuer's~~its subsidiaries; and
    - (C) ~~any its~~ controlling shareholder ~~of the issuer~~; and
  - (ii) all guarantees given on behalf of the IFA group by:
    - (A) the issuer;
    - (B) ~~the issuer's~~its subsidiaries; and
    - (C) ~~any its~~ controlling shareholder ~~of the issuer~~;
- (c) the aggregate of:
  - (i) amounts due from the IFA group to any of the following (referred to in this rule as "the Other Parties"):
    - (A) another party to the transaction;
    - (B) any holding company of another party to the transaction;
    - (C) any subsidiary of any holding company of another party to the transaction;
    - (D) any controlling shareholder of:
      - (1) another party to the transaction; or
      - (2) any holding company of another party to the transaction;

~~which controlling shareholder is not, itself, a holding company of another party to the transaction~~; and
    - (E) any close associate of any controlling shareholder referred to in paragraph (D) above; and

- (ii) all guarantees given by any of the Other Parties on behalf of the IFA group; and
- (d) the aggregate of:
  - (i) amounts due to the IFA group from any of the Other Parties; and
  - (ii) all guarantees given by the IFA group on behalf of any of the Other Parties;
- (4) any of the following has a current business relationship with the issuer or another party to the transaction, or a director, subsidiary, holding company or substantial shareholder of the issuer or another party to the transaction, which would be reasonably considered to affect the independent financial adviser's independence in performing its duties as set out in the GEM Listing Rules, or might reasonably give rise to a perception that the independent financial adviser's independence would be so affected, ~~save and~~ except where that relationship arises ~~pursuant to~~ under the independent financial adviser's appointment ~~for the purpose of providing to provide~~ the ~~subject~~ advice:
  - (a) any member of the IFA group;
  - (b) an employee of the independent financial adviser who is directly engaged in providing the ~~subject~~ advice to the issuer;
  - (c) ~~a~~ close associate of an employee of the independent financial adviser who is directly engaged in providing the ~~subject~~ advice to the issuer;
  - (d) a director of any member of the IFA group; or
  - (e) ~~a~~ close associate of a director of any member of the IFA group;
- (5) within 2 years prior to making the declaration pursuant to rule 17.97(1):
  - (a) a member of the IFA group has served as a financial adviser to:
    - (i) the issuer or its subsidiaries;
    - (ii) another party to the transaction or its subsidiaries; or
    - (iii) a core connected person of the issuer or another party to the transaction; or
  - (b) without limiting paragraph (a), an employee or a director of the independent financial adviser who is directly engaged in providing the subject advice to the issuer:
    - (i) was employed by or was a director of another firm that served as a financial adviser to any of the entities referred to at paragraphs (a)(i) to (a)(iii) above; and
    - (ii) in that capacity, was directly engaged in the provision of financial advice to the issuer or another party to the transaction;

...

# Chapter 18

## EQUITY SECURITIES

### FINANCIAL INFORMATION

...

*Information in the annual report which is outside the scope of the auditor's report*

...

18.40 Additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—

(1) ...

...

(5) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors own more than 5% of the listed issuer's share capital) in the suppliers or customers disclosed under (1) to (4) above or if there are no such interests a statement to that effect;

...

...

18.45 Information as to the interests (if any) of the Compliance Adviser and its directors, employees and close associates, as notified to the issuer pursuant to rule 6A.32 and all directors and controlling shareholders of the issuer and their respective close associates as referred to in rule 11.04.

...

*Content of half-year reports*

...

18.63 Information as to the interests (if any) of the Compliance Adviser and its directors, employees and close associates, as notified to the issuer pursuant to rule 6A.32 and all directors and controlling shareholders of the issuer and their respective close associates as referred to in rule 11.04.

...

*Content of quarterly reports*

...

18.75 Information as to the interests (if any) of the Compliance Adviser and its directors, employees and close associates, as notified to the issuer pursuant to rule 6A.32 and all directors and controlling shareholders of the issuer and their respective close associates as referred to in rule 11.04.

...

# Chapter 19

## EQUITY SECURITIES

### NOTIFIABLE TRANSACTIONS

...

19.33 The table below summarises the notification, publication and shareholders' approval requirements which will generally apply to each category of notifiable transaction. However, listed issuers should refer to the relevant rules for the specific requirements.

...

*Notes: 1 ...*

*2 Any shareholder and his close associates must abstain from voting if such shareholder has a material interest in the transaction.*

...

...

19.46 The Exchange will require any shareholder and his close associates to abstain from voting at the relevant general meeting on the relevant resolution(s) if such shareholder has a material interest in the transaction and will not accept written approval for the transaction.

...

19.49 A very substantial disposal and a very substantial acquisition must be made conditional on approval by shareholders in general meeting. No written shareholders' approval will be accepted in lieu of holding a general meeting. The Exchange will require any shareholder and his close associates to abstain from voting at the relevant general meeting on the relevant resolution(s) if such shareholder has a material interest in the transaction.

...

19.55 A reverse takeover must be made conditional on approval by shareholders in general meeting. No written shareholders' approval will be accepted in lieu of holding a general meeting. The Exchange will require any shareholder and his close associates to abstain from voting at the relevant general meeting on the relevant resolution(s) if such shareholder has a material interest in the transaction. Furthermore, where there is a change in control of the listed issuer as referred to in rule 19.06(6) and any person or group of persons will cease to be a controlling shareholder (the "outgoing controlling shareholder") by virtue of a disposal of his shares to the person or group of persons gaining control (the "incoming controlling shareholder"), any of the incoming controlling shareholder's close associates or an independent third party, the outgoing controlling shareholder and his close associates may not vote in favour of any resolution approving an injection of assets by the incoming controlling shareholder or his close associates at the time of the change in control.

*Note: The prohibition against the outgoing controlling shareholder and his close associates voting in favour of a resolution approving an injection of assets does not apply where the decrease in the outgoing controlling shareholder's shareholding is solely the result of a dilution through the issue of new shares to the incoming controlling shareholder rather than any disposal of shares by the outgoing controlling shareholder.*

...

19.63 A circular for a major transaction, very substantial disposal or very substantial acquisition and a listing document for a reverse takeover sent by a listed issuer to holders of its listed securities must:—

(1) ...

- (2) if voting or shareholders' approval is required:
  - (a) ...
  - ...
  - (d) contain a statement that any shareholder with a material interest in a proposed transaction and his close associates will abstain from voting on resolution(s) approving that transaction; and

...

19.66 A circular relating to a major transaction must contain the following:—

- (1) ...
- ...
- (9) information as to the competing interests (if any) of the Compliance Adviser and each of the directors, employees and close associates (as referred to in rule 6A.32) and each of the directors and any proposed director of the issuer and his/her respective close associates (as if each of them were treated as a controlling shareholder under rule 11.04);

...

## Chapter 21

### EQUITY SECURITIES

#### OPTIONS, WARRANTS AND SIMILAR RIGHTS

...

21.07 Without prejudice to the generality of rule 21.06, where an issuer proposes to issue new warrants to existing warrant holders and/or alter the exercise period or the exercise price of existing warrants (save for any alterations that take effect automatically under the terms of such existing warrants) (defined for the purposes of this rule as the “warrant proposal”), the Exchange will not approve the warrant proposal unless the following requirements, in addition to those set out in rule 21.02(2) are met:—

- (1) ...
- ...
- (5) the relevant circulars to shareholders and warrant holders must both contain the information set out in rule 21.03 concerning the warrants forming the subject matter of the warrant proposal and details of any dealings by the issuer, and, where relevant, the manager of the issue of the new warrants, or any of their respective close associates and any dealings by any core connected persons of the issuer (so far as is known to the issuer or any director of the issuer after making reasonable enquiries) in the existing warrants and the underlying securities to which the warrants relate, during the period commencing 3 months prior to the announcement of the warrant proposal and ending on the date of the relevant circular. If such disclosure reveals that any such persons have been actually dealing in either the warrants or the underlying securities, the Exchange reserves the right not to approve the issue of the new warrants or the proposed alteration to the terms of the existing warrants;

...

# Chapter 23

## EQUITY SECURITIES

### SHARE OPTION SCHEMES

#### Terms of the scheme

23.03 The scheme document must include the following provisions and/or provisions as to the following (as the case may be):—

- (1) ...
- ...
- (4) the maximum entitlement of each participant under the scheme;

*Note: Unless approved by shareholders in the manner set out in this Note to rule 23.03(4),... . Where any further grant of options to a participant would result in the securities issued and to be issued upon exercise of all options granted and to be granted to such person (including exercised, cancelled and outstanding options) in the 12-month period up to and including the date of such further grant representing in aggregate over 1 per cent of the relevant class of securities in issue, such further grant must be separately approved by shareholders of the listed issuer in general meeting with such participant and his close associates (or his associates if the participant is a connected person) abstaining from voting... .*

*~~“Associate” for this purpose shall have the meaning ascribed to it in rule 1.01 in relation to any director, chief executive or substantial shareholder (being an individual).~~*

...

#### **Granting options to a director, chief executive or substantial shareholder of a listed issuer, or any of their respective associates**

23.04 (1) In addition to the shareholders’ approval set out in Note 1 to rule 23.03(3) and the Note to rule 23.03(4), each grant of options to a director, chief executive or substantial shareholder of a listed issuer, or any of their respective associates, under a scheme of the listed issuer or any of its subsidiaries must comply with the requirements of this rule 23.04(1). Each grant of options to any of these persons must be approved by the independent nonexecutive directors of the listed issuer (excluding independent non-executive director who is the grantee of the options). Where any grant of options to a substantial shareholder or an independent non-executive director of the listed issuer, or any of their respective associates, would result in the securities issued and to be issued upon exercise of all options already granted and to be granted (including options exercised, cancelled and outstanding) to such person in the 12-month period up to and including the date of such grant:

- (a) representing in aggregate over 0.1% of the relevant class of securities in issue; and
- (b) (where the securities are listed on the Exchange), having an aggregate value, based on the closing price of the securities at the date of each grant, in excess of HK\$5 million,

such further grant of options must be approved by shareholders of the listed issuer. The listed issuer must send a circular to the shareholders. The grantee, his associates and all ~~All~~-core connected persons of the listed issuer must abstain from voting in favour at such general meeting.

...

...

## Chapter 25

### EQUITY SECURITIES

#### ISSUERS INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA

...

##### Definitions

25.04 In this Chapter

- (1) the term "close associate" means:—
- (a) in relation to an individual means:—
    - (i) his spouse;
    - (ii) any child or step-child, natural or adopted, under the age of 18 years of ~~such~~the individual or of his spouse (together with (a)(i) above, the "family interests");
    - (iii) the trustees, acting in their capacity as such trustees, of any trust of which he or any of his family interests is a beneficiary or, in the case of a discretionary trust, is (to his knowledge) a discretionary object;
    - (iv) [Repealed 3 June 2010]
    - (v) any company (including an equity joint venture established under PRC law) in the equity capital of which he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or ~~such other~~any amount ~~as may from time to time be~~ specified in applicable PRC law as ~~being~~ the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this other company ~~which is its subsidiary~~; and
    - (vi) any company with which or individual with whom he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested in a cooperative or contractual joint venture (whether or not constituting a separate legal person) under PRC law where he, his family interests, and/or any of the trustees referred to in (a)(iii) above, acting in their capacity as such trustees, taken together directly or indirectly have 30% (or ~~such other~~any amount ~~as may from time to time be~~ specified in applicable PRC law as ~~being~~ the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more interest either in the capital and/or assets contributions to such joint venture or in the contractual share of profits or other income from such joint venture; and
  - (b) in relation to a company means:—

- (i) ~~any other company which is~~ its subsidiary or holding company or ~~is~~ a fellow subsidiary of ~~any such~~ its holding company;
- (ii) the trustees, acting in their capacity as ~~such~~ trustees, of any trust of which the company is a beneficiary or, in the case of a discretionary trust, is (to the company's knowledge) a discretionary object;
- (iii) [Repealed 3 June 2010]
- (iv) any other company (including an equity joint venture established under PRC law) in the equity capital of which the company, ~~such other companies referred to in (b)(i) above~~ its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or ~~such other~~ any amount ~~as may from time to time be~~ specified in applicable PRC law as being the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any subsidiary of this other company ~~which is its subsidiary~~; and
- (v) any other company with which or any individual with whom the company, ~~such other companies referred to in (b)(i) above~~ its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together are directly or indirectly interested in a cooperative or contractual joint venture (whether or not constituting a separate legal person) under PRC law where it, ~~such other companies referred to in (b)(i) above~~ its subsidiary or holding company, a fellow subsidiary of its holding company, and/or any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, taken together directly or indirectly have 30% (or ~~such other~~ any amount ~~as may from time to time be~~ specified in applicable PRC law as ~~being~~ the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more interest either in the capital and/or assets contributions to such joint venture or in the contractual share of profits or other income from such joint venture,

*Notes: 1 — This definition is modified in the context of connected transactions by virtue of rules 20.11, 20.12 and 20.12A.*

*2 — Under rule 25.14, the Exchange may from time to time determine that certain persons or entities should be treated as connected persons of a PRC issuer for purposes of the connected transaction provisions of Chapter 20.*

...



- 25.10 Under rule 11.04, the Exchange requires a new applicant to make disclosure where it has a director, or controlling shareholder and, in relation only to the initial listing document, substantial shareholder (including the respective close associates of each) with a business or interest which competes or may compete with the business of the group. In this connection, in the case of a new applicant which is a PRC issuer, “controlling shareholder” means any shareholder or other person or group of persons together entitled to exercise, or control the exercise of 30% (or such other amount as may from time to time be specified in applicable PRC law as being the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more of the voting power at general meetings of the new applicant or who is in a position to control the composition of the majority of the board of directors of the new applicant. For the purposes of this rule, the Exchange will normally not consider a PRC Governmental Body (as defined in rule 25.04) as a controlling shareholder of a PRC issuer.

...

## Chapter 29

### DEBT SECURITIES

#### LISTING DOCUMENTS

...

- 29.22 In the case of an offer for subscription or an offer for sale, an announcement of the results of the offer, the basis of allotment of the debt securities (including the extent to which securities have been taken up by the underwriters (if any) and their close associates) and the amount actually issued if not underwritten must be published on the GEM website, in accordance with the requirements of Chapter 16, as soon as possible but, in any event, not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following the date on which the allotment letters or other documents of title are posted.

*Note: — For the purposes of this rule, “associate” shall have the same meaning as set out in the definition of associate in rule 1.01, save that it shall be construed as applying to underwriters.*

...

## The Stock Exchange of Hong Kong Limited

### Practice Note 2

to the Rules Governing the Listing of Securities  
on the Growth Enterprise Market of  
The Stock Exchange of Hong Kong Limited  
(the “GEM Listing Rules”)  
Issued pursuant to rule 1.07 of the GEM Listing Rules

#### DUE DILIGENCE BY SPONSORS IN RESPECT OF INITIAL LISTING APPLICATIONS

...

14. Typical due diligence inquiries in relation to the expert sections of the listing document include:

(a)

...

- (g) where the standard of independence is not set by a relevant professional body, obtaining written confirmation from the expert that it is independent from the new applicant and its directors and controlling shareholder(s), and being satisfied that there is no cause to inquire further about the truth of this confirmation. This would include confirming that the expert does not have a direct or indirect material interest in the securities or assets of the new applicant, its core connected persons, or any close associate of the new applicant beyond that allowed by rule 6A.07.

...

## Appendix 1

### CONTENTS OF LISTING DOCUMENTS

#### Part A

#### Equity Securities

#### **In the case where listing is sought for equity securities of an issuer no part of whose share capital is already listed**

- 27A. Details of any controlling shareholder of the issuer, including the name or names of any such controlling shareholder, the amount of its or their interest in the share capital of the issuer and a statement explaining how the issuer is satisfied that it is capable of carrying on its business independently of the controlling shareholder (including any close associate thereof) after listing, and particulars of the matters that it relied on in making such statement.

- 28A. (1) (a) ...
- (b) additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—

- (i) ...  
...

- (v) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors owns more than 5 per cent of the issuers' share capital) in the suppliers or customers disclosed under (i) to (iv) above or if there are no such interests a statement to that effect;

...

...

54. Information:
- (1) as required by rule 6A.10(2) regarding interests of the Sponsor and its directors, employees and close associates; and
- (2) as to the interests of all directors, controlling shareholders and substantial shareholders of the issuer and their respective close associates (as referred to in rule 11.04). (Note 9)

...

# Appendix 1

## CONTENTS OF LISTING DOCUMENTS

### Part B

#### Equity Securities

##### **In the case where listing is sought for equity securities of an issuer some part of whose share capital is already listed**

...

26. (1) (a) ...
- (b) additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—
- (i) ...
- ...
- (v) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors owns more than 5 per cent of the issuers' share capital) in the suppliers or customers disclosed under (i) to (iv) above or if there are no such interests a statement to that effect;

...

...

43. Information as to the interests (if any) of the Sponsor or Compliance Adviser, as applicable, and its directors, employees and close associates (as referred to in rule 6A.32) and of all directors, and controlling shareholders of the issuer and their respective close associates (as referred to in rule 11.04).  
(Note 8)

...

# Appendix 1

## CONTENTS OF LISTING DOCUMENTS

### Part C

#### Debt Securities

##### In the case where listing is sought for debt securities

...

54. Information as to the interests (if any) of the Sponsor (if required) and its directors, employees and close associates (as referred to in rule 6A.32) and of all directors and controlling shareholders and, in relation only to the initial listing document, substantial shareholders of the issuer and their respective close associates (as referred to in 11.04).

...

# Appendix 3

## ARTICLES OF ASSOCIATION

### As regards Directors

4. (1) That, subject to such exceptions specified in the articles of association as the Exchange may approve, a director shall not vote on any board resolution approving any contract or arrangement or any other proposal in which he or any of his close associates has a material interest nor shall he be counted in the quorum present at the meeting.  
(Note 5)

...

### NOTES

1. ...

...

5. *Articles of Association will be acceptable to the Exchange if they provide exceptions from the requirements of paragraph 4(1) of this Appendix in respect of the following matters:—*

(1) *the giving of any security or indemnity either:—*

(a) *to the director or his close associate(s) in respect of money lent or obligations incurred or undertaken by him or any of them at the request of or for the benefit of the issuer or any of its subsidiaries; or*

(b) *to a third party in respect of a debt or obligation of the issuer or any of its subsidiaries for which the director or his close associate(s) has himself / themselves assumed responsibility in whole or in part and whether alone or jointly under a guarantee or indemnity or by the giving of security;*

(2) *any proposal concerning an offer of shares or debentures or other securities of or by the issuer or any other company which the issuer may promote or be interested in for subscription or purchase where the director or his close associate(s) is/are or is/are to be interested as a participant in the underwriting or sub-underwriting of the offer;*

- (3) *any proposal concerning any other company in which the director or his close associate(s) is/are interested only, whether directly or indirectly, as an officer or executive or shareholder or in which the director or his close associate(s) is/are beneficially interested in shares of that company, provided that the director and any of his close associates are not in aggregate beneficially interested in 5% or more of the issued shares of any class of such company (or of any third company through which his interest or that of any of his close associates is derived) or of the voting rights;*
- (4) *any proposal or arrangement concerning the benefit of employees of the issuer or its subsidiaries including:—*
- (a) *the adoption, modification or operation of any employees' share scheme or any share incentive or share option scheme under which the director or his close associate(s) may benefit; or*
- (b) *the adoption, modification or operation of a pension fund or retirement, death or disability benefits scheme which relates both to directors, his close associates and employees of the issuer or any of its subsidiaries and does not provide in respect of any director, or his close associate(s), as such any privilege or advantage not generally accorded to the class of persons to which such scheme or fund relates; and*
- (5) *any contract or arrangement in which the director or his close associate(s) is/are interested in the same manner as other holders of shares or debentures or other securities of the issuer by virtue only of his/their interest in shares or debentures or other securities of the issuer.*

...

## **Appendix 5**

### **FORMS RELATING TO LISTING**

#### **FORM D**

#### **Marketing statement (concerning a placing of equity securities)**

A separate marketing statement in this form must be completed by the lead broker, any distributor(s) and every Exchange Participant with whom or through whom the securities are placed in the following circumstances:—

(1) ...

(2) ...

...

To: The Listing Division,  
The Stock Exchange of Hong Kong Limited

#### **A. GENERAL**

...

## C. ANALYSIS OF DISTRIBUTION

10.

	Number of holders	Amount or number of securities	% of placing
By the undersigned to: <i>(Note 5)</i> (1)...	.....	.....	.....
(2) Directors/substantial shareholders and significant shareholders * of the issuer and their respective <u>close associates</u> (*significant shareholders in respect only of an initial public offer)	.....	.....	.....
...			

## Appendix 7

### SPONSOR'S FORMS

#### FORM H

#### Compliance Adviser's Declaration of Interests

**This declaration must be lodged, duly completed, at the time a new applicant or a listed issuer submits its listing application.**

To: The Listing Division  
The Stock Exchange of Hong Kong Limited

Dear Sirs,

Re: .....  
(state name of issuer) (the "Issuer")

We,....., the Compliance Adviser of the above-named Issuer hereby confirm that:

- (1) neither ourselves nor our close associates have or may, as a result of the listing or transaction, have any interest in any class of securities of the Issuer, or any other company in the Issuer's group (including options or rights to subscribe such securities); (Note 2)
- (2) ...
- (3) neither ourselves nor our close associates expect to have accrued any material benefit as a result of the successful outcome of the listing or transaction, including by way of example, the repayment of material outstanding indebtedness and payment of any underwriting commissions or success fees; and

...

#### NOTES:

(1) ...

~~(2) For the purposes of paragraphs 1 and 3, "associate" shall have the same meaning as set out in rule 1.01 of the GEM Listing Rules, save that it shall be construed as applying to the Compliance Adviser.~~

~~(3) ...~~

...

## Appendix 11

### ADDITIONAL REQUIREMENTS IN RESPECT OF CERTAIN JURISDICTIONS

#### PART B

#### THE CAYMAN ISLANDS

...

#### 5. As to directors

(1) ...

(2) The articles of association shall restrict the making of loans to directors and their close associates and shall import provisions at least equivalent to the provisions of Hong Kong law prevailing at the time of the adoption of the articles of association.

...

## Appendix 15

### CORPORATE GOVERNANCE CODE AND CORPORATE GOVERNANCE REPORT

...

#### A. DIRECTORS

##### A.1 The Board

##### Principle

...

##### Code Provisions

...

A.1.7 If a substantial shareholder or a director has a conflict of interest in a matter to be considered by the board which the board has determined to be material, the matter should be dealt with by a physical board meeting rather than a written resolution. Independent non-executive directors who, and whose close associates, have no material interest in the transaction should be present at that board meeting.

*Note:* ...

...

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## **APPENDIX III LIST OF RESPONDENTS**

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### Listed issuers

1. AIA Group Limited
2. Air China Limited
3. Cathay Pacific Airways Limited
4. Cheung Kong (Holdings) Limited
5. CLP Holdings Limited
6. Great Eagle Holdings Limited
7. Henderson Land Development Company Limited
8. HKT Trust & HKT Limited
9. Hong Kong Aircraft Engineering Company Limited
10. Hong Kong Ferry (Holdings) Company Limited
11. Hutchison Whampoa Limited
12. PCCW Limited
13. Swire Pacific Limited
14. Swire Properties Limited
15. to 27. 13 Main Board issuers (*name not disclosed at the respondents' request*)

### Professional and industry associations

28. ACCA
29. The Chamber of Hong Kong Listed Companies
30. The Hong Kong Association of Banks
31. The Hong Kong Institute of Certified Public Accountants
32. The Hong Kong Institute of Chartered Secretaries
33. The Hong Kong Institute of Directors
34. The Law Society of Hong Kong

### Market practitioners

35. Baker & McKenzie LLP
36. Davis Polk & Wardwell
37. Mayer Brown JSM
38. Morrison & Foerster
39. Shinewing Risk Services Limited
40. Slaughter and May
41. to 42. 2 market practitioners (*name not disclosed at the respondents' request*)

### Individuals and other entity

43. Companies Registry
44. Suen Chi Wai
45. Yan Ling Xi
46. to 47. 2 individuals (*name not disclosed at the respondents' request*)



