

**Joint Consultation Conclusions on the Proposal to
allow a Companies Ordinance (CO) Offeror to issue
a CO Paper Application Form for Shares in or
Debentures of a Company to be listed on the SEHK,
and a Collective Investment Scheme (CIS) Offeror to
supply a CIS Paper Application Form for Interests in
an SFC-authorized CIS to be listed on the SEHK,
with a Listing Document Displayed on Certain
Websites**

November 2010



Table of Contents

Executive Summary	1
Background	1
Summary of the Proposal	2
The Guidelines for Electronic Public Offerings and Mixed Media Offer	5
Joint Responses to the Comments Received	6
Amendments to the Exchange Listing Rules	24
Amendments to the Class Exemption Notice	24
Conclusions	24
Appendix A – Exchange Listing Rules amendments	27
Appendix B – Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2010	39
Appendix C – Summary of Amendments to the Class Exemption Notice	45
Appendix D – List of respondents	51

Executive Summary

1. We, the Securities and Futures Commission (“**SFC**”) and The Stock Exchange of Hong Kong Ltd. (“**SEHK**”), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Ltd (“**HKEx**”), consulted the market on our proposal to allow listing applicants to issue paper application forms together with electronic listing documents¹ for shares and debentures or interests in an SFC-authorized collective investment scheme that will be listed on the SEHK, provided certain conditions are fulfilled.
2. They must:
 - (a) make available an electronic copy of the listing document on the HKEx website and the company’s own website;
 - (b) announce that they intend to make a mixed media offer before the offer opens and explain what this means for investors; and
 - (c) make appropriate disclosure in the prospectus and application forms of the mixed media offer and clearly explain how and where investors can obtain a copy of the paper and electronic prospectus.
3. This proposal is one of our green initiatives to reduce the amount of printed offering documents. We received wide support for the proposal with certain suggestions on the finer details of the proposal.
4. The responses to the Joint Consultation Paper were received just before the recent financial crisis unfolded. One of the initial worldwide reactions to the crisis was to question the traditional notion of the quality of information and the manner in which such information was provided to investors for making an informed investment decision. Given this background and the fact that since 2008 listing applicants have posted their near final draft prospectus on the HKEx website², we chose not to publish a conclusions paper until we had time to reflect more fully on the financial crisis to see whether our proposal was still appropriate for Hong Kong.
5. Whilst we have not seen the end of the changes to the regulatory regimes prompted by the financial crisis, we do not think that any of the lessons learned suggest that our proposal, which had been well supported, should not be implemented for listed public offerings in Hong Kong. We have also confirmed with the respondents that they still support the proposal.
6. We propose to implement the proposal with certain amendments to the conditions to the class exemption as further discussed below.

Background

7. On 1 April 2008, we issued a joint consultation paper (“**Joint Consultation Paper**”) inviting comments on a proposal to allow public distribution of paper application forms

¹ The words “listing document” refer to (i) a prospectus issued under the Companies Ordinance in relation to a public offer of shares or debentures, and (ii) an offering document issued in relation to a public offer of interests in an SFC-authorized collective investment scheme.

² Joint SFC-SEHK Policy Statement dated 5 November 2007; a copy of which is available on the HKEx website at <http://www.hkex.com.hk/news/hkexnews/071105news.htm> and the SFC website at <http://www.sfc.hk/sfcPressRelease/EN/sfcOpenDocServlet?docno=07PR184>.

for shares and debentures or interests in an SFC-authorized collective investment scheme without the need to be accompanied by the associated paper listing document provided certain conditions are satisfied, including, a condition that the listing document is posted on the company's and the HKEx websites ("**Proposal**").

8. The consultation period ended on 30 May 2008. The SFC and the SEHK received a total of 13 written submissions from professional associations, market practitioners, law firms, an environmental organisation and members of the public. In this paper, we address the responses received and indicate how we will take forward the issues raised.
9. In addition to the written responses, we have also discussed certain aspects of the Joint Consultation Paper with industry representatives. Our responses are based on both the submissions we received on the Joint Consultation Paper as well as other comments provided by members of the industry.
10. As the respondents were supportive of the Proposal, the SFC and the SEHK now intend to implement the regulatory changes needed to take this forward. We have amended some of the proposed conditions in response to comments received. The revised Exchange Listing Rules (marked up to show changes to the rules) are attached at Appendix A and the revised Class Exemption Notice is attached at Appendix B.
11. The Class Exemption Notice will, subject to negative vetting by the Legislative Council, come into effect on 1 February 2011. The Exchange Listing Rules amendments have been approved by the respective Boards of the SEHK and the SFC subject to the Class Exemption Notice coming into effect following negative vetting.
12. Whilst this paper should be read in conjunction with the Joint Consultation Paper, we have sought to prepare this Joint Conclusions Paper as a standalone document to reduce the need to refer to the Joint Consultation Paper. Where possible, we have used the defined terms in the Joint Consultation Paper. The Joint Consultation Paper, the responses to the Joint Consultation Paper and this Joint Conclusions Paper are available on the SFC website at www.sfc.hk/sfc/html/EN/speeches/consult/consult.html and www.sfc.hk/sfc/doc/EN/speeches/public/consult/conclusions_mmo_eng.pdf and on the HKEx website at www.hkex.com.hk³.

Summary of the Proposal

13. In the Joint Consultation Paper we proposed to allow public distribution of paper application forms for shares and debentures or interests in an SFC-authorized collective investment scheme that will be listed on the SEHK without the need to be accompanied by the associated paper listing documents provided certain conditions are satisfied.
14. This accompanying requirement is set out in Sections 38(3) and 342(3) of the Companies Ordinance (the "**CO**"), which prohibits the issue of an application form unless it is issued together with a prospectus. This has been commonly interpreted to mean that companies conducting a public offering of shares and debentures (the "**CO Offeror**") cannot distribute a printed application form unless it is accompanied with a printed prospectus (the "**CO Accompaniment Requirement**"). Chapter 6.4 of the Code on Unit Trusts and Mutual Funds (the "**Unit Trusts Code**") and Paragraph B32 of Appendix B to the Code on Real Estate Investment Trusts (the "**REITs Code**") have similar requirements for SFC-authorized collective investment schemes ("**CIS**") seeking

³ Go to *News & Consultations / Market Consultations* on the HKEx website.

to list interests in CISs on the SEHK (the “**CIS Offeror**”) (the “**CIS Accompaniment Requirement**”).

15. This Proposal is one of our environmental friendly initiatives to reduce the requirement for printed materials within the confines of the existing regulatory framework. The SFC’s survey in early 2007 into the take up rates of paper prospectuses and paper application forms by local retail investors relating to initial public offerings in Hong Kong suggested that retail investors, on average, only took one paper prospectus for every 10 paper application forms distributed. The survey also indicated that at least one-third of paper prospectuses that were made available to the public were not taken up in general.
16. The Proposal requires issuing a class exemption to exempt a CO Offeror conducting a public offer of shares in or debentures of a company to be listed on the SEHK, from compliance with the CO Accompaniment Requirement subject to certain conditions, including a condition that an electronic copy of the prospectus is displayed on and capable of being downloaded from the company’s and the HKEx websites. We also proposed to grant CIS Offerors a similar waiver.
17. The proposed exemption and waiver will allow:
 - (a) a CO Offeror to issue paper application forms (“**CO Paper Application Forms**”) with electronic copies of the relevant prospectus (the “**e-Prospectus**”) in relation to a public offer of shares or debentures of a company that will be listed on the SEHK; and
 - (b) a CIS Offeror to issue paper application forms (“**CIS Paper Application Forms**”) with electronic copies of the relevant offering document in a public offer of interests in the CIS that will be listed on the SEHK.
18. The Proposal was well supported by the respondents who also made useful comments on the finer details. We have fine-tuned and clarified the proposed conditions to the class exemption to make them clearer.

The class exemption conditions

19. We proposed in the Joint Consultation Paper that the class exemption for CO Offeror would contain the following conditions. The CO Offeror must:
 - (a) publish an announcement about the proposed Mixed Media Offer⁴ (the “**Announcement**”) during the five business days period prior to the commencement of the offer period (the “**Relevant Period**”). The Announcement should:
 - (i) contain information about the proposed public offer of the company’s⁵ shares or debentures to be listed on the SEHK;
 - (ii) state that CO Offeror will rely on the class exemption to allow it to issue CO Paper Application Forms together with the e-Prospectus;

⁴ The Joint Consultation Paper defined “Mixed Media Offer” to refer to a public offer of shares in or debentures of a company or interests in an SFC-authorized CIS in which the listing document is displayed on certain websites.

⁵ The “company” refers to the company whose shares or debentures will be listed on the SEHK; this may not be the CO Offeror in every case.

- (iii) advise where the e-Prospectus will be accessible on the company's and the HKEx websites and that it will be accessible and downloadable throughout the period during which the shares in or debentures of the company are offered pursuant to the prospectus (the "**Offer Period**");
 - (iv) state that printed copies of the prospectus ("**Paper Prospectus**")⁶ will be made available for collection at specified locations, free of charge upon request; and
 - (v) contain particulars of these specified locations.
- (b) make available copies of the Paper Prospectus for collection at specified locations, free of charge, upon request by any member of the public throughout the Offer Period;
 - (c) display the e-Prospectus on the company's and the HKEx websites throughout the Offer Period;
 - (d) make the e-Prospectus readily accessible and capable of being downloaded by the public free of charge from the company's and the HKEx websites;
 - (e) ensure that the typeface, format and contents of the e-Prospectus are identical to those of the Paper Prospectus except to the extent that any differences are permitted or required by the SEHK;
 - (f) confirm with the SEHK on compliance with (e) above;
 - (g) ensure that the e-Prospectus contains in a prominent place on the face of it, a statement in a clear and legible form:
 - (i) that its contents are identical to those of the Paper Prospectus except to the extent that any differences are permitted or required by the SEHK;
 - (ii) that copies of the Paper Prospectus are made available for collection at specified locations, free of charge, upon request by any member of the public throughout the Offer Period; and
 - (iii) of the particulars of the specified locations; and
 - (h) ensure that the CO Paper Application Form states in a prominent place:
 - (i) that the e-Prospectus is displayed on the company's and the HKEx websites;
 - (ii) the addresses of the company's and the HKEx websites;
 - (iii) that copies of the Paper Prospectus are made available for collection at specified locations, free of charge, upon request by any member of the public throughout the Offer Period;
 - (iv) the particulars of the specified locations; and

⁶ The Joint Consultation Paper defined "Paper Prospectus" to be the paper prospectus that (i) complies with all applicable Exchange Listing Rules; (ii) complies with Part II or XII of the CO, as the case may be, and (iii) has been registered at the Companies Registry.

- (v) that prospective investors should read the prospectus prior to submitting an application.

20. For CIS Offerors who intend to adopt a Mixed Media Offer, the SFC will impose similar conditions as those in the Class Exemption Notice for CO Offerors who intend to adopt a Mixed Media Offer (with necessary changes) in its letter of authorisation.

The Guidelines for Electronic Public Offerings and Mixed Media Offer

21. The SFC issued Guidelines for Electronic Public Offerings (“**ePO Guidelines**”) in April 2003 to enable electronic public offerings as another method to conduct public offerings of securities in addition to the traditional paper-based approach.

22. The fundamental principles relevant to the CO, the Unit Trusts Code and the REITs Code that:

- (a) investors should be given an opportunity to access the listing document before being given access to the application form; and
- (b) investors should apply for shares in or debentures of a company, or interests in a CIS on the basis of the listing document;

apply equally to both the ePO Guidelines and a Mixed Media Offer.

23. Both the Mixed Media Offer and ePO Guidelines aim to facilitate wider use and acceptance of electronic listing documents. The Mixed Media Offer proposal aims to facilitate distribution of the electronic listing documents whilst applications continue to be accepted in paper form. The ePO Guidelines aim to facilitate electronic submission of applications during a public offer but do not deal with whether the prospectus is otherwise required to be distributed in printed or electronic form.

24. CO Offerors and CIS Offerors (collectively the “**Offerors**”)⁷ may at the same time adopt a Mixed Media Offer by following the requisite conditions in the Class Exemption Notice (or in the case of CIS Offerors, in the relevant letters of authorisation issued by the SFC) and an electronic public offer by following the ePO Guidelines.

⁷ Discussion in this paper regarding conditions to the Class Exemption Notice that the CO Offeror must comply with should apply equally to CIS Offeror unless specifically stated otherwise.

Joint Responses to the Comments Received

Part B: The class exemption (see paragraphs 27- 31 of the Joint Consultation Paper)

Statutory ground for exemption

Question 1

We asked – Do you agree with the Proposal? If not, please explain your reasons for disagreement.

25. We proposed to allow public distribution of paper application forms for shares and debentures or interests in a CIS that will be listed on the SEHK without the need for them to be accompanied by the associated listing document provided certain conditions are satisfied, including, a condition that the listing document is posted on the company's and the HKEx websites.

Public comments

26. We received overwhelming support for the Proposal subject to comments on the proposed conditions discussed in more details below.

Joint response

27. In light of the favourable response to the Proposal, we conclude that the Proposal be adopted, with the amendments as discussed below⁸.

Proposed conditions to granting the class exemption

- (a) **Adequate disclosure prior to the commencement of the Offer Period (see paragraph 30a and paragraphs 33 to 37 of the Joint Consultation Paper)**

Question 2

We asked – Do you agree:-

- (a) **That adequate disclosure can be regarded as having been made if an announcement the contents of which are as set out in paragraph 35 [of the Joint Consultation Paper] is published by a CO Offeror ?; and**
- (b) **With the timetable on and the frequency and method of making such disclosures?**

28. We asked whether we should require a CO Offeror to publish an Announcement during the Relevant Period as a condition to the Class Exemption Notice. A CO Offeror can satisfy this condition if it publishes, via the electronic publication system of HKEx

⁸ A summary of the amendments to the Class Exemption Notice is set out in Appendix C.

(“HKEx-EPS”) in accordance with the Exchange Listing Rules, the Announcement on at least one business day during the Relevant Period.

Public comments

29. The respondents broadly accepted that this condition provides adequate disclosure to the market if an Announcement is published on any business day during the Relevant Period.
30. There were comments that:
- (a) this condition should be a transitional measure only;
 - (b) the Announcement should be published on the HKEx website closer to the actual posting time of the listing document;
 - (c) the regulatory authorities should not require the CO Offeror to produce additional legal opinions regarding the issue of the Announcement; and
 - (d) the Announcement should contain the disclaimers commonly included in an IPO announcement to clarify that the announcement is not a prospectus and that the offer may or may not proceed pending price determination.

Joint response

31. We believe this condition will better prepare the public for the proposed Mixed Media Offer and should not cause any undue burden to market practitioners. We therefore propose to adopt this.
32. Although a CO Offeror may publish the Announcement on any business day during the Relevant Period, we expect it is more likely to publish the Announcement during the latter part of the Relevant Period when it is certain that the offer will proceed. We do not propose to impose any additional requirement on the timing for the publication of the Announcement.
33. If a CO Offeror issues an Announcement in accordance with the Nineteenth Schedule to the CO, no regulatory authorisation will be required. Also, no legal opinion will be required to demonstrate compliance with the CO. No pre-vetting of the Announcement is required under the Exchange Listing Rules⁹. CIS Offerors may publish a similar announcement in accordance with the applicable Codes and Guidelines issued by the SFC.

⁹ See paragraph 105 of this Paper.

(b) Availability of copies of the Paper Prospectuses free of charge (see paragraphs 38 – 42 of the Joint Consultation Paper)

Question 3A

We asked – Do you agree that copies of the Paper Prospectus should be made available for collection throughout the Offer Period, free of charge, upon request by any member of the public? If not, please provide suggestions on how to assure that those prospective investors who do not have access to the Internet and those who face technological limitations can obtain copies of the Paper Prospectus before submitting an application.

34. We proposed that copies of the Paper Prospectus be made available for collection at specified locations, free of charge throughout the Offer Period, upon request by any member of the public.

Public comments

35. While most respondents supported the condition that copies of the Paper Prospectus should be made available for collection, they were concerned that Offerors and their sponsors¹⁰ may have difficulties gauging the possible demand for copies of the Paper Prospectus for the first few Mixed Media Offers.
36. We were also asked to consider allowing prospectuses in CD-ROM format as an alternative to Paper Prospectuses.

Joint response

37. It is the responsibility of an Offeror, after taking appropriate advice from its sponsors, to assess possible demand for Paper Prospectuses, including locations at which they are most frequently and likely to be collected.
38. As a matter of best practice Offerors and their sponsors can consider putting in place arrangements to enable potential investors to register in advance their demand for copies of the listing document, for example, by operating a telephone hotline service, and stating the details of such arrangements in the Announcement. However, they must not refuse to provide copies of the listing document to any potential investors who did not pre-register.
39. We do not intend to allow the use of prospectuses in CD-ROM format to replace Paper Prospectuses because this will prejudice the interests of those potential investors who do not have access to computers or otherwise have technological limitations in their computers or other similar electronic devices. Offerors are free to make available during Offer Periods prospectuses in CD-ROM format in addition to Paper Prospectuses¹¹.
40. We will proceed with this condition without change.

¹⁰ The word "sponsors" include listing agents in the case of a public offer for interests in CIS that will be listed on the SEHK.

¹¹ This is consistent with rules 12.11, 20.19A and 25.19A of the Main Board Listing Rules and rules 16.04C and 29.21A of the GEM Listing Rules.

Question 3B

We asked – Do you agree with the locations at which copies of the Paper Prospectuses should be made available?

41. We proposed that Paper Prospectuses be made available at the following specified locations:

In the case of a public offer of shares in a company:

- (a) where some of such company's equity securities are already listed on the SEHK:
 - (i) the depository counter of Hong Kong Securities Clearing Company Limited ("**HKSCC**");
 - (ii) the designated branches of the receiving banks specified in the prospectus, if any; and
 - (iii) the place of business of the company's approved share registrar in Hong Kong;
- (b) where none of such company's equity securities are listed on the SEHK:
 - (i) the depository counter of HKSCC;
 - (ii) the designated branches of the receiving banks specified in the prospectus, if any; and
 - (iii) the principal place of business of the sponsors acting in respect of the application for listing of the shares; or

In the case of a public offer of debentures in a company:

- (c) the depository counter of HKSCC;
- (d) the designated branches of the placing banks specified in the prospectus; and
- (e) the principal place of business of the co-ordinator for the offer specified in the prospectus.

Public comments

42. Responses to this question were mixed. Some respondents offered alternative arrangements. Others suggested that the SEHK should designate or approve where copies of the Paper Prospectus should be made available. A couple of respondents suggested that the rules and regulations should stipulate the minimum number of distribution points where Paper Prospectuses should be made available. Another respondent queried if there should be a requirement for Paper Prospectuses to be made available at all locations where CO Paper Application Forms are distributed.

Joint response

43. The current rules and regulations, including the Exchange Listing Rules and the CFA Code of Conduct, do not prescribe the minimum number of distribution points (or the location of such distribution points) at which application forms and prospectuses should be made available. We do not intend to prescribe in either the Class Exemption Notice or the Exchange Listing Rules the minimum number of distribution points at which Paper Prospectuses should be made available.
44. As the SEHK is not in a position to assess public demand for copies of listing documents in individual IPOs, we consider it inappropriate for the SEHK to designate or approve specified locations at which Paper Prospectuses are made available.
45. Further, we are of the view that, consistent with existing practice, it is the responsibility of Offerors' sponsors to comply with the Exchange Listing Rules and the CFA Code of Conduct by ensuring that there are sufficient copies of listing documents available to the public to satisfy public demand. As such, the SEHK does not consider it appropriate to change the existing practice in this regard.
46. We wish to emphasise that:
- (a) specified locations should, to the extent practicable, be evenly distributed within Hong Kong;
 - (b) CO Offerors are required under rules 12.07 and 25.19 of the Main Board Listing Rules and rules 16.12 and 29.21 of the GEM Listing Rules to make sure that there are sufficient copies of listing documents available to the public to satisfy public demand for a reasonable period; and
 - (c) sponsors have a responsibility under paragraphs 5.3 and 5.4 of the CFA Code of Conduct to, amongst others, assess the likely interest in the offer by the public, and ensure that there are sufficient prospectuses for distribution and that offers are conducted in a "fair, timely and orderly" manner.
47. We disagree with the suggestion that Paper Prospectuses should be made available at every location where CO Paper Application Forms are distributed because this would defeat the purpose of this proposal if we were to require paper listing documents to be made available at all locations where paper application forms are distributed.
48. To alleviate concerns of non-availability of copies of Paper Prospectuses at every location where paper application forms are distributed, we intend to require at least 3 copies of the Paper Prospectus to be made available for inspection at every locations where CO Paper Application Forms are distributed. This requirement will be imposed as an additional condition to granting the class exemption¹² for Offerors. Except for this amendment, we will proceed with this condition.

¹² See section 9A(3)(c) of the revised Class Exemption Notice.

- (c) **Electronic display (see paragraphs 43 – 45 of the Joint Consultation Paper)**
- (d) **e-Prospectus readily accessible and capable of being downloaded (see paragraph 46 of the Joint Consultation Paper)**

Question 4

We asked – Do you agree that ready accessibility to, and the ability to download by the public free of charge, the e-Prospectus on and from the company’s website and the HKEx website, together with availability of copies of the Paper Prospectus for collection at specified locations, also free of charge, upon request by any member of the public as discussed in paragraphs 38 – 42 [of the Joint Consultation Paper], are sufficient for access purposes by prospective investors?

- 49. We proposed that a CO Offeror who wishes to make a Mixed Media Offer must, throughout the Offer Period, make available for ready access and downloading by the public free of charge the e-Prospectus on and from the company’s website in addition to the HKEx website.
- 50. The contents of the electronic listing document must be accessible to all users free of charge on the company’s and the HKEx websites. Prospective investors must be able to access, download and print documents easily and quickly. Printed copies of the listing documents and the application forms must be available for collection at the specified locations, free of charge, upon request by any member of the public.

Public comments

- 51. Respondents who commented on this question generally supported this proposal.
- 52. One respondent suggested that Offerors should be allowed to have their electronic listing document posted on websites hosted on a third party domain, so long as the website is assigned a dedicated location on the Worldwide Web. The website can be managed by a designated service provider who acts as an agent for the Offeror. The company’s website can also display a hyperlink to the electronic listing document posted on the agent’s website.
- 53. One professional association sought clarification on how to meet the “*display and capable of being downloaded*” criteria.
- 54. Two other respondents were concerned that without appropriate safeguards, the availability of electronic listing documents on companies’ websites may violate selling restrictions of other countries. To address this risk, one respondent proposed requiring HKEx and companies to either include in each of their websites an additional webpage containing acceptance statements from viewers confirming that they are Hong Kong residents before access is granted or use filters to block access to electronic listing documents from overseas jurisdictions.
- 55. It was also suggested that the summary section of listing documents should be made available at specified locations such that the public can choose to collect either the full version of the listing document or the summary.

Joint response

56. We are of the view that the website which provides access to the electronic listing document can be hosted on a domain owned or maintained by any person authorised by the Offeror so long as the website is assigned a dedicated location on the Worldwide Web¹³.
57. To better explain the “display and capable of being downloaded” criteria, and the requirement to provide access free of charge, we will modify the class exemption conditions to include the following details:
- (a) the e-Prospectus posted on the company’s and the HKEx websites must be:
 - (i) “readily accessible”, that is, the document must be capable of being viewed, downloaded, retained and printed in its “*entirety*”¹⁴ free of charge, whether as a single file or multiple files by the public;
 - (ii) reasonably tamper-resistant¹⁵; and
 - (iii) not password protected¹⁶;
 - (b) access to the e-Prospectus on the company’s website must:
 - (i) include a prior notice that the offer is made solely on the basis of the information provided in the prospectus¹⁷;
 - (ii) be provided directly from its homepage or from a subsequent webpage (which is directly accessible from the homepage), and any webpage (other than the homepage) providing access to the e-Prospectus must not contain any promotional information about the offeror and the offer¹⁸.
58. We will amend the Exchange Listing Rules to be consistent with the revised Class Exemption Notice as discussed in the above paragraph. The SFC will impose similar conditions in its authorisation letter to CIS Offerors who utilise a Mixed Media Offer.
59. We expect that Offerors wishing to make available their electronic listing documents to the public will take appropriate steps to ensure that there is ease of access to the electronic listing document¹⁹. Investors should be provided with access to free software to download, extract compressed files (if necessary), view and print electronic listing document.
60. The concern over the availability of electronic listing documents to overseas investors and the risk of violations of selling restrictions in other jurisdictions is not a matter specific to Mixed Media Offers. Electronic listing documents have been available on the

¹³ See item 34 of FAQ Series 3 (Update No. 10-30 September 2009) Electronic Disclosure at http://www.hkex.com.hk/eng/rulesreg/listrules/listrulesfaq/Documents/FAQ3.doc#_Toc225313926.

¹⁴ See section 9A(10) of the revised Class Exemption Notice.

¹⁵ See section 9A(3)(d) of the revised Class Exemption Notice.

¹⁶ See section 9A(3)(10) of the revised Class Exemption Notice.

¹⁷ See section 9A(3)(h) of the revised Class Exemption Notice.

¹⁸ See sections 9A(3)(f) and (g) of the revised Class Exemption Notice.

¹⁹ See item 36 of FAQ Series 3 (Update No. 10-30 September 2009) Electronic Disclosure at http://www.hkex.com.hk/eng/rulesreg/listrules/listrulesfaq/Documents/FAQ3.doc#_Toc225313926.

HKEx website since 2002 and companies have been able to avoid infringing foreign regulations by including appropriate disclaimer statements. We do not consider that the adoption of Mixed Media Offers would increase this risk, if any, which currently exists in this regard. Accordingly, we do not intend to require an additional webpage on the HKEx website or the company's website containing an acceptance statement from viewers before they can access e-Prospectuses. We will also not require filters to block access to the electronic listing documents from overseas readers.

61. We do not consider it appropriate to require summary prospectuses as one of the conditions under the class exemption at this stage. The issue of summary prospectus is outside the scope of the proposals in the Joint Consultation Paper, and warrants separate and in depth policy consideration.
62. We have reservations about the practicality of requiring summary prospectus because:
- (a) a CO Offeror may also publish an abridged version of a prospectus under section 38B(2)(d) of the CO if it is published in accordance with such form and manner of publication as may have been authorised. Yet, so far, very few companies, if any, have sought to publish such abridged prospectus;
 - (b) the summary and the full versions of the prospectus must be separately authorised by the SEHK which requires extra time and effort. CO Offerors must ensure that the summary prospectus provides a fair summary of the material information in the prospectus in the context of the offer; and
 - (c) the preparation of both summary and full versions of prospectuses is likely to result in an increase in printing, distribution and legal costs.
- (e) **Same typeface, format and contents between the Paper Prospectus and the e-Prospectus (see paragraph 47 of the Joint Consultation Paper)**
- (f) **Confirmation with the SEHK (see paragraph 48 of the Joint Consultation Paper)**

Question 5

We asked – Do you anticipate any problems with the requirement to provide a written confirmation to the SEHK, prior to the commencement of the Offer Period, that the typeface, format and contents of the e-Prospectus are identical to those of the Paper Prospectus except to the extent that any differences are permitted or required by the SEHK? If so, please explain what these may be.

63. We proposed that the e-Prospectus should be identical to the Paper Prospectus except to the extent any differences are permitted or required by the SEHK. The e-Prospectus should use the same typeface, have the same format and contain the same information (and not more) in the same sequence as the Paper Prospectus. We asked if the CO Offeror should be required to confirm to the SEHK that the e-Prospectus is identical to the Paper Prospectus.

Public comments

64. We received contrary views on the question of whether to require a written confirmation to the SEHK.
65. Half of the respondents did not anticipate any problem. The other half argued that this requirement imposes additional burden on Offerors without any genuine benefit and might be technically difficult to achieve. They argued that the existing prospectus liability, together with the required information and warning statements on the face of an e-Prospectus (please see discussion on condition (g) on statements and information to be contained on the face of the e-Prospectus in paragraphs 68-73 below) provide sufficient deterrence. It would be superfluous to require CO Offerors to provide any prior written confirmation to the SEHK.

Joint response

66. We have decided to dispense with the written confirmation requirement. Rule 2.07C(2) of the Main Board Listing Rules and rule 16.18(3)(a) of the GEM Listing Rules already require the layout and contents of each page on the electronic copy of the document to be the same as the layout and contents of the corresponding page of the document as published by the issuer.
67. The Class Exemption Notice originally required the typeface, format and contents of the e-Prospectus to be identical to those of the Paper Prospectus *except to the extent that any differences are permitted or required by the SEHK*. On review, we have decided to delete the qualifier in this condition. The Listing Rules²⁰ require the layout and contents of any electronic document posted on the HKEx website to be the same as those in the physical version. SEHK has not experienced issuers having difficulty to comply with this requirement.

(g) Statements and information to be contained on the face of the e-Prospectus (see paragraphs 49 – 51 of the Joint Consultation Paper)

Question 6

We asked – Do you agree that an e-Prospectus should contain in a prominent place on the face of it the statements and information discussed in paragraph 50 [of the Joint Consultation Paper]?

Should any other statement and/or information be included on the face of the e-Prospectus to ensure genuine access?

68. We proposed that each e-Prospectus must contain, in a prominent place on the face of it and in a clear and legible form, the following information:-
- (a) a statement that its contents are identical to those of the Paper Prospectus except to the extent that any differences are permitted or required by the SEHK;

²⁰ Main Board Rule 2.07C(2) and GEM Rule 16.18(1).

- (b) a statement that throughout the Offer Period, copies of the Paper Prospectus are made available for collection at specified locations, free of charge, upon request by any member of the public; and
- (c) particulars of the specified locations.

Public comments

- 69. Respondents broadly agreed that these statements should be prominently set out on the face of e-Prospectuses.
- 70. However, one respondent queried if it would be more appropriate for these statements to be contained in webpages leading to e-Prospectuses, and not on the face thereof. He also argued that if these statements were to form part of an e-Prospectus, there would be a risk that the e-Prospectus could be technically regarded to be a different prospectus from the Paper Prospectus which would require separate authorisation from the SEHK and registration with the Companies Registry.

Joint response

- 71. We are of the view that there is a risk that investors may not see the statements if they are not contained within the e-Prospectus. In addition, the impact of these statements may be lost if they are set out on another page.
- 72. We will amend the Class Exemption Notice to clarify that the required statements must be included in the Paper Prospectus and the e-Prospectus, and that the contents of the Paper Prospectus and the e-Prospectus must be identical²¹. Although we did not specifically require that the Paper Prospectus should also contain the required statements, this should be self-evident from the requirement that the e-Prospectus and the Paper Prospectus are identical.
- 73. The prospectus should also contain a statement that at least three copies of the Paper Prospectus will be available for inspection at every location where the CO Paper Application Forms are distributed²².

(h) Statements and information to be contained in the CO Paper Application Form (see paragraphs 52 – 54 of the Joint Consultation Paper)

- 74. We proposed in the Joint Consultation Paper that the CO Paper Application Form should prominently display certain statements (see paragraph 19(h)). No consultation question was posed for this condition. We will amend the Class Exemption Notice to require the CO Paper Application Form to also contain information about:
 - (a) the need for at least three copies of Paper Prospectus to be available for inspection at every distribution point²³; and
 - (b) the place on the relevant websites where the e-Prospectus can be accessed and how to access it²⁴.

²¹ See sections 9A(3)(i) and (j) of the revised Class Exemption Notice.

²² See section 9A(3)(j)(iv) of the revised Class Exemption Notice.

²³ See section 9A(3)(k)(v) of the revised Class Exemption Notice.

²⁴ See section 9A(3)(k)(ii) of the revised Class Exemption Notice.

Question 7

We asked – Do you anticipate any systemic and/or logistical problems with the requirement to publish revised CO Paper Application Forms in the event an addendum or a replacement prospectus is issued? If so, please explain what these may be.

Public comments

75. Most respondents did not see the benefits of requiring the publication and distribution of revised CO Paper Application Forms in the event an addendum or a replacement listing document is issued. They identified many practical issues including:
- (a) significant logistical problems. For instance, certain completed CO Paper Application Forms might have been submitted to receiving banks prior to the publication of the addendum or replacement prospectus. The respondents asked how these completed applications should be treated following the publication of an addendum or replacement prospectus;
 - (b) difficulties communicating to prospective investors on the need to use revised CO Paper Application Forms;
 - (c) confusion as to which version of the CO Paper Application Form to complete; and
 - (d) the additional time and costs incurred in preparing and distributing revised CO Paper Application Forms which may adversely affect the IPO timetable.
76. Further, there is no legal or regulatory requirement to publish revised application forms if an addendum or replacement prospectus is issued.
77. There were also views that the original CO Paper Application Form could deal with the eventuality of an addendum or replacement prospectus being issued and that it was not necessary to mandate the publication and distribution of revised CO Paper Application Forms.

Joint response

78. We note that this question has generated significant concerns amongst market participants. We will dispense with this requirement and leave it to Offerors and their sponsors to decide how to deal with the application forms in the event an addendum or replacement listing document is published.

Part C – The Unit Trusts Code and the REITs Code (see paragraphs 55 and 56 of the Joint Consultation Paper)

Question 8

We asked – Do you agree with the Proposal being implemented in the manner described in paragraphs 55 and 56 [of the Joint Consultation Paper] in respect of a CIS Offeror making a public offer of interests in an SFC-authorized listed CIS using the Mixed Media Approach? If not, please explain what your views are and suggest alternative manner(s) in which the Proposal may be implemented for such purposes.

79. We proposed to waive the CIS Accompaniment Requirement in the Unit Trusts Code and the REITs Code to allow a CIS Offeror to distribute printed copies of the application forms for interests in its CIS that will be listed on the SEHK with an electronic copy of the offering document subject to similar conditions as imposed under the Class Exemption Notice.

Public comments

80. We received unanimous support to implement the Proposal in respect of public offers of interests in CISs by CIS Offerors. One respondent took the Proposal further and also queried if it can be extended to apply to listed investment companies under Chapter 21 of the Main Board Listing Rules ("**Chapter 21**").

Joint response

81. We wish to clarify that Mixed Media Offers apply to investment companies under Chapter 21 as much as they do to companies established or registered under the CO. It is unlikely for non-corporate entities to conduct IPOs under Chapter 21. Therefore, extending the Mixed Media Approach to all entities seeking a listing under Chapter 21 may be academic only and of minimal use. We do not consider it necessary to further amend the Exchange Listing Rules in this respect.
82. We will proceed to implement the Proposal to allow a CIS Offeror to make a Mixed Media Offer for interests in a CIS that will be listed on the SEHK subject to similar conditions as imposed under the Class Exemption Notice.

Part D – Amending the Exchange Listing Rules (see paragraphs 57 – 67 of the Joint Consultation Paper)

Question 9

We asked – Do you agree that each of the aforementioned Exchange Listing Rules should be amended in the manner described above? Should any other Exchange Listing Rules be amended in light of the Proposal?

Public comments

83. The majority of those who commented on this question agreed that the Exchange Listing Rules will need to be amended upon implementation of the Proposal.

Joint response

84. We will proceed to amend the Exchange Listing Rules as set out in Appendix A, with the modifications as discussed in this paper.
85. To facilitate the publication of Announcements required under the Class Exemption Notice, the SEHK will introduce a new headline category, “Mixed Media Offer”, under the heading of “New Listing (Listed Issuers / New Applicants)” in the Main Board and GEM Listing Rules respectively. This new headline category will come into effect on the effective date of the Class Exemption Notice.
86. To facilitate the timely publication of suspension and resumption announcements of a Mixed Media Offer contemplated under the Class Exemption Notice, we will amend the Listing Rules (see Main Board Rule 2.07C(4)(a) and GEM Rule 16.18(3)(a)) to allow more flexible e-submission windows (during SEHK’s trading hours) for those announcements.

Part E – Inaccessibility of electronic listing documents for downloading (see paragraphs 68 – 74 of the Joint Consultation Paper)

Question 10A

We asked – What are your views on the requirements to:-

- (a) suspend a Mixed Media Offer in the event the public cannot download the electronic listing document from both (i) the HKEx website and (ii) the company's website or the CIS Offeror's website, as the case may be; and**
- (b) promptly notify prospective investors of a CO Offeror's or CIS Offeror's suspension of a Mixed Media Offer?**

87. In paragraphs 68 and 69 of the Joint Consultation Paper, we explained that where an Offeror makes a Mixed Media Offer and there occurs a prolonged, contemporaneous inaccessibility of the electronic listing document for at least 4 hours from both the company's and the HKEx websites, the Offeror should immediately suspend its Mixed Media Offer. The Mixed Media Offer should not resume until the electronic listing document becomes accessible again on either the company's website or the HKEx website.

Public comments

88. We received a number of substantive comments on this question, including:

- (a) mixed views on when suspension and resumption of a Mixed Media Offer should occur. Whilst some argued that a Mixed Media Offer should be suspended if the electronic listing document cannot be downloaded from either the company's website or the HKEx website, others submitted that suspension should only be required if the listing document cannot be downloaded from both websites;
- (b) a suggestion to suspend the Mixed Media Offer if there is prolonged inaccessibility to the e-Prospectus for both viewing and downloading (rather than just for downloading);
- (c) comments that it would not be necessary to suspend a Mixed Media Offer if certain specifications were set for Internet service providers with a view to minimising the risk of failed downloading;
- (d) suggestions for the SFC and/or the SEHK to approve contingency plans prior to commencement of a Mixed Media Offer; and
- (e) potential logistical difficulties to revert to the traditional method of distributing printed application forms with copies of the printed listing documents within a short period of time following suspension of a Mixed Media Offer. One respondent went further to propose detailed alternative arrangements for distribution of the listing documents in such circumstances;

Joint response

89. In view of extensive market comments, we will amend the Class Exemption Notice to include the conditions for suspension and resumption of a Mixed Media Offer as follows:
- (a) a Mixed Media Offer need not be suspended if the e-Prospectus is available on either the HKEx's website²⁵ or the company's website. However, the Mixed Media Offer must be suspended if the e-Prospectus is not available for four consecutive hours or more. (This 4-hour rule is further discussed in paragraphs 96-101 below);
 - (b) CO Offerors are required to promptly publish an announcement informing potential investors of the suspension and resumption of a Mixed Media Offer²⁶;
 - (c) in the event the Mixed Media Offer is suspended, the public offer may proceed provided that CO Paper Application Forms are issued together with Paper Prospectuses;
 - (d) the Mixed Media Offer may only resume when the CO Offeror can re-comply with the conditions in the class exemption notice (except that the Offeror need not re-issue the Announcement and that the e-Prospectus needs only be accessible on either the HKEx website or the company's website); and
 - (e) to resume the Mixed Media Offer, the CO Offeror must publish a resumption announcement²⁷.
90. It is inappropriate for us to specify minimum website or system requirements, or approve contingency plans for suspension of a Mixed Media Offer. We believe it is the responsibility of the Offerors, and not the regulators, to ensure that they have effective website and/or server monitoring systems. Neither the SFC nor the SEHK currently approves contingency plans. We do not see any reason for changing the status quo.
91. Offerors and their sponsors are responsible for ensuring, and are expected to organise their affairs (including devising appropriate contingency plans to deal with disorder or failure) such that following suspension of a Mixed Media Offer and pending its resumption (if any):
- (a) the remaining part of the offer process is conducted in a fair, timely and orderly manner using the existing practices of issuing listing documents and application forms both in paper form and, if applicable, both in electronic form;
 - (b) there are sufficient paper listing documents to satisfy public demand; and
 - (c) printed application forms are issued with copies of the printed listing documents.

²⁵For purposes of clarity, the SEHK has arranged for publication of issuers' announcements on a third party website known as "Bulletin Board" in the event that the HKEx website is down. The Bulletin Board will not display the full text of the documents listed on its webpages. Visitors to the Bulletin Board will be expected to use the hyperlinks provided under the "Hyperlinks to Listed Companies" section to go to the relevant documents on the issuers' websites. Publication of an e-Prospectus or electronic listing document on the Bulletin Board would not satisfy the condition that these documents be viewable and downloadable from either the HKEx website or the company's website.

²⁶ See sections 9A(7) and (8) of the revised Class Exemption Notice.

²⁷ See section 9A(8)(b) of the revised Class Exemption Notice

92. It follows that we have reservations about any alternative arrangements for disseminating listing document information as proposed by some respondents. Those arrangements are likely to be inconsistent with the CO Accompaniment Requirement and CIS Accompaniment Requirement which Offerors must comply with upon suspension of a Mixed Media Offer.
93. While we note the potential logistical difficulties in reverting to the traditional method of disseminating paper application forms and listing documents within a short period of time following suspension of a Mixed Media Offer, we believe that chances of a prolonged system failure on both the HKEx website and the company's website requiring suspension of a Mixed Media Offer to be extremely remote.
94. Whilst we consider that it is only necessary to suspend a Mixed Media Offer in the event of a prolonged system failure to make the e-Prospectus available on both the HKEx and company's websites, the Offerors and their sponsors should use all reasonable endeavours to ensure that the e-Prospectus would be available on the company's website throughout the Offer Period.
95. Sponsors have an obligation to put in place "sufficient arrangements and resources to ensure that the public offer and all matters ancillary thereto are conducted in a fair, timely and orderly manner"²⁸. Under this obligation, sponsors should:
- (a) assess in advance whether the company's website has sufficient capacity to handle the likely demand from the public for access to the e-Prospectus and has appropriate backup facilities;
 - (b) during the Offer Period, monitor the company's website to ensure that the e-Prospectus is available to the public and take appropriate steps to rectify any failure; and
 - (c) in the event that the e-Prospectus is not available on the company's website, monitor the availability of the e-Prospectus on the HKEx website, and where the e-Prospectus is not available on both the company's website and the HKEx website for four consecutive hours, take appropriate steps to suspend the Mixed Media Offer.

²⁸ Paragraph 5.3(c) of the Corporate Finance Adviser Code of Conduct

Question 10B

We asked – Do you agree that continuous inaccessibility of an electronic listing document for downloading from the aforementioned websites for at least 4 consecutive hours constitutes a prolonged failure warranting suspension of a Mixed Media Offer?

If not, please specify a period of time which should have lapsed when an electronic listing document cannot be downloaded from such websites before a Mixed Media Offer should be required to be suspended and your reasons therefor.

96. We proposed that continuous inaccessibility to an electronic listing document for downloading from a website for at least 4 hours would constitute a “prolonged failure” for purposes of determining if it is necessary to suspend a Mixed Media Offer.

Public comments

97. The majority of the respondents agreed that continuous inaccessibility of an electronic listing document from a website for at least 4 consecutive hours constitutes a prolonged failure in respect of that website for purposes of a Mixed Media Offer (the “**4-hour rule**”).
98. Two respondents asserted that system failure during certain times (e.g. on the morning of the last day of an Offer Period) could be potentially more damaging to investors than it would be if it occurred at other times (e.g. night time). One of them also asked for guidance on testing for continuous inaccessibility of websites and queried whether the SFC and/or the SEHK should be empowered to determine if a prolonged failure or continuous inaccessibility has occurred warranting suspension of a Mixed Media Offer.

Joint response

99. Given that the Offer Period of an IPO typically lasts 3.5 business days, we believe 4 hours (i.e. approximately half a business day) is proportionate and appropriate for determining what is “prolonged inaccessibility”.
100. To reduce risks of suspension of a Mixed Media Offer due to prolonged service interruption caused by HKEx’s routine maintenance, we will exclude from the “4-hour rule” routine maintenance windows currently adopted by HKEx in relation to the display of “Latest Listed Companies Information” and the “Search” functions available on the HKEx website. Such windows are currently scheduled for all of:
- (a) Saturdays;
 - (b) Sundays;
 - (c) public holidays; and

- (d) 00:00 to 06:00 a.m., Mondays to Fridays unless such day is also a public holiday in which case the whole day will be excluded²⁹.

101. We do not intend to provide in the Class Exemption Notice that the SEHK and/or the SFC should be empowered to determine whether a prolonged inaccessibility has occurred. In the event a Mixed Media Offer is suspended for whatever reason, we encourage Offerors to consult the SEHK and/or the SFC on how best to conduct the remaining offer process. Offerors, their sponsors or listing agents should take a prudent approach on compliance given the risk of legal challenges. They should have in place effective contingency plans to deal with the short duration of Offer Periods.

Part F – Publicity and disclosure materials referring investors to an electronic listing document (see *paragraph 75 – 83 of the Joint Consultation Paper*)

Question 11

We asked – Do you agree with our approach on how the Guidelines should be interpreted following implementation of the Proposal? If not, please explain what your views are.

102. We stated that we will interpret the Guidelines³⁰ to be consistent with the class exemption designed for a Mixed Media Offer. The SFC also clarified it will continue to allow links from any electronic offer awareness or summary disclosure material (once the prospectus is registered with the Companies Registry) to the HKEx website provided there are detailed navigational instructions to access the e-Prospectus.

Public comments

103. Respondents who commented on this question broadly accepted that, following implementation of the Proposal, the Guidelines could be interpreted in a manner consistent with the class exemption. A couple of respondents requested the SEHK to provide more formal guidance on this issue.

Joint response

104. The SFC is of the view that an announcement which contains the items required by the Class Exemption Notice falls within the meaning of an “offer awareness material” under the Guidelines and does not constitute a prospectus or an extract from or abridged version of a prospectus within sections 2 and 38B, respectively of the CO nor a prohibited advertisement within section 103(1) of the SFO.
105. The amended rules 12.11A(1) and 25.19B(1) of the Main Board Listing Rules and rules 16.04D(1) and 29.21B(1) of the GEM Listing Rules provide that announcements published under the Class Exemption Notice do not require clearance from the SEHK. The SEHK does not consider these announcements as publicity materials³¹.

²⁹ See section 9A(6) of the revised Class Exemption Notice.

³⁰ SFC Guidelines on the use of offer awareness and summary disclosure materials in offerings of shares and debentures under the CO issued in March 2003.

³¹ See rules 9.08 and 24.08 of the Main Board Listing Rules and rules 12.10 and 28.08 of the GEM Listing Rules

Part G - Role of sponsors in a public offer (see paragraphs 84 – 86 of the Joint Consultation Paper)

Question 12

We asked – Do you consider it appropriate to give sponsors the flexibility to determine the manner in which they fulfil their responsibilities under the CFA Code of Conduct in light of the Proposal?

Public comments

106. There was general consensus amongst respondents that sponsors should be given the flexibility to determine the manner in which they fulfil their responsibilities under the CFA Code of Conduct in light of the Proposal. One professional association went on to suggest that it would be helpful if the SFC could consider issuing non-mandatory guidelines or practice notes on the matter.

Joint response

107. We believe the wording of the CFA Code of Conduct is sufficiently broad. Expressly providing for the kind of additional measures a sponsor should implement for purposes of Mixed Media Offers would be overly prescriptive. A principle-based approach better reflects the SFC's regulatory philosophy and allows sponsors to determine how they can best fulfil their responsibilities under the CFA Code of Conduct taking into account the nature of the shares or debentures being offered, the nature of the Offeror and the potential investors for the shares and debentures offered.

Amendments to the Exchange Listing Rules

108. The amendments to the Listing Rules are attached in Appendix A. The amendments have been marked up to show the changes made.

Amendments to the Class Exemption Notice

109. The revised Class Exemption Notice is attached in Appendix B.

Conclusions

110. We will take forward the Proposal with the amendments as discussed in this paper.
111. A summary of the conditions under the originally proposed and revised class exemption from the CO Accompaniment Requirement is attached in Appendix C. Except for necessary modifications, a waiver from the CIS Accompaniment Requirement will be subject to similar conditions as imposed under the Class Exemption Notice.
112. Investor education will be an essential cornerstone to the success of Mixed Media Offers. Through a wide array of channels including the SFC's InvestEd website (www.InvestEd.hk), we will seek to increase the public's awareness of Mixed Media Offers and explain, from investors' perspective, how they differ from the traditional

paper-based approach. We will also continue to reinforce the importance of accessing, reading and understanding all offering documents, whether in paper or electronic form, before making investment decisions.

113. Lastly, we take this opportunity to thank all parties who have assisted or made contributions during the consultation process. A list of respondents to the Joint Consultation Paper is set out in Appendix D.

Exchange Listing Rules amendments

Draft Main Board Rule Amendments

Chapter 2

GENERAL

INTRODUCTION

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Use of Electronic Means

...

2.07C(4)(a) Electronic copies of announcements or notices must not be submitted to the Exchange between 9:00 a.m. and 12:30 p.m. or between 2:00 p.m. and 4:15 p.m. on a normal business day, or between 9:00 a.m. and 12:30 p.m. on the eves of Christmas, New Year and the Lunar New Year when there is no afternoon session, for publication on the Exchange's website, other than:

(i) ...;

(iv) ...; ~~and~~

(v) ...upon; and

(vi) announcements relating to suspension and resumption of a Mixed Media Offer applicable to public offers of equity securities, CIS and debt securities (see rules 12.11A, 20.19A and 25.19B).

...

Chapter 12

EQUITY SECURITIES

PUBLICATION REQUIREMENTS

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On Issue

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12.04 Where a formal notice is published in the newspaper, whether pursuant to rule 2.07C or otherwise, it must be not less than 12 centimetres by 16 centimetres (4 inches by 6 inches approximately) in size and must state at least the following:-

(1) ...

(3) the address(es) at which copies of the listing document (if any) are available to the public;

Note: Where the issuer intends to rely on the Class Exemption Notice to make a Mixed Media Offer referred to in rule 12.11A(1), rule 12.11A(2) replaces this sub-rule.

...

Publication of printed listing document and on CD ROM and/or new applicant's own website

12.11 ~~All listing~~ Listing documents published by a new applicant must ~~be~~ include copies available in printed form. ~~However, a~~ A new applicant may, to the extent permitted ~~under applicable by laws and regulations and the applicant's~~ its own constitutional documents, make additional copies available to the public ~~in electronic format on CD ROM (together with the relevant application form in electronic format form on the same CD ROM) provided always that, where the new applicant has made additional copies available in electronic format on CD ROM,~~ the new applicant must ensure that:

- (a) the CD ROM includes:
 - (i) a confirmation that the contents of the listing document and relevant application form in ~~electronic format form~~ and in printed form are identical ~~with the contents of the listing document and relevant application form in printed form;~~ and
 - (ii) a confirmation that the listing document and relevant application form are also available in printed form and the addresses of the locations where they are available; and
- (b) any supplemental listing documents or subsequent amendments to the listing document are also made available in both printed form and ~~electronic format on CD ROM~~ and the new applicant must also comply with ~~the requirements of (a) above~~ with all references to "listing document" and "application form" being construed as references to the supplemental listing document and relevant application form or subsequent amendment to the listing document and relevant application form.

Publication of electronic form prospectus and printed application form

12.11A(1) Where an issuer intends to rely on section 9A of the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice (Cap.32L) ("Class Exemption Notice") and issue a printed application form for its equity securities with an electronic form prospectus displayed on certain websites ("Mixed Media Offer"), it must satisfy all the conditions in the Class Exemption Notice. Where the issuer publishes any announcement under the Class Exemption Notice, the announcement must be published in accordance with rule 2.07C. There is no need to clear the announcement with the Exchange.

(2) Where the issuer intends to offer equity securities to the public relying on the Class Exemption Notice, the information required by rule 12.04(3) shall be replaced by the following information:

- (a) that the issuer intends to rely on the Class Exemption Notice and issue a printed application form for its equity securities without it being accompanied by a printed form prospectus relating to the offer;
- (b) that throughout the offer period, prospective investors may access and download the electronic form prospectus relating to the offer from either the issuer's website or the Exchange's website;
- (c) the address of each of the issuer's website and the Exchange's website, the place on the website where the electronic form prospectus may be accessed and how that prospectus may be accessed;
- (d) that throughout the offer period, copies of the printed form prospectus will be available for collection at specified locations, free of charge, upon request by any member of the public;
- (e) the particulars of the specified locations; and

Note: "Specified locations" means:

- (1) In the case of a listed issuer, the depository counter of HKSCC, the designated branches of the receiving banks specified in the prospectus, if any, and the place of business of the issuer's approved share registrar in Hong Kong.
 - (2) In the case of a new applicant, the depository counter of HKSCC, the designated branches of the receiving banks specified in the prospectus, if any, and the principal place of business of the sponsors acting in respect of the application for listing of the equity securities.
- (f) that throughout the offer period, at least 3 copies of the printed form prospectus will be available for inspection at every location where the printed application forms are distributed.

...

Chapter 20

INVESTMENT VEHICLES

AUTHORISED COLLECTIVE INVESTMENT SCHEMES

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Listing Documents

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- 20.19A All listing documents issued by an applicant must be in printed form or such other form as may be approved by the Commission. ~~However, a~~An applicant may, to the extent permitted ~~under applicable by laws and regulations and the applicant's~~ its own constitutional documents, make additional copies available to the public ~~in electronic format on CD ROM (together with the relevant application form in electronic format~~ form on the same CD ROM) provided ~~always that, where the applicant has made additional copies available in electronic format on CD ROM,~~ the applicant must ensure that:
- (a) the CD ROM includes:
 - (i) a confirmation that the contents of the listing document and relevant application form in electronic ~~format~~ form and in printed ~~form~~ are identical with the contents of the listing document and relevant application form in printed form; and
 - (ii) a confirmation that the listing document and relevant application form are also available in printed form and the addresses of the locations where they are available; and
 - (b) any supplemental listing documents or subsequent amendments to the listing document are also made available in both printed form and ~~electronic format on CD ROM~~ and the applicant must also comply with ~~the requirements of (a) above~~ with all references to “listing document” and “application form” being construed as references to the supplemental listing document and relevant application form or subsequent amendment to the listing document and relevant application form.

...

Chapter 25

DEBT SECURITIES

(OTHER THAN SELECTIVELY MARKETED SECURITIES)

LISTING DOCUMENTS

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Publication

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25.17 In every other case a formal notice stating the following information must be published in accordance with rule 2.07C not less than two clear business days before dealings commence and, where it is also published in the newspapers, whether pursuant to rule 2.07C or otherwise, such formal notice must be not less than 12 centimetres by 16 centimetres (4 inches by 6 inches approximately) in size:-

- (1) ...
- (4) the address(es) at which copies of the listing document (if any) are available to the public;

Note: Where the issuer intends to rely on the Class Exemption Notice to make a Mixed Media Offer referred to in rule 25.19B(1), rule 25.19B(2) replaces this sub-rule.

...

Publication of printed listing document and on CD ROM and/or new applicant's own website

25.19A ~~All listing~~ Listing documents published by a new applicant must ~~be include copies available~~ in printed form. However, ~~a~~ a new applicant may, to the extent permitted under ~~by applicable laws and regulations and the new applicant's~~ its own constitutional documents, make additional copies available to the public ~~in electronic format on CD ROM (together with the relevant application form (if any) in electronic format form on the same CD ROM) provided always that, where the new applicant has made additional copies available in electronic format on CD ROM,~~ the new applicant must ensure that:

- (a) the CD ROM includes:
- (i) a confirmation that the contents of the listing document and relevant application form (if any) in electronic ~~format form and in printed form~~ are identical ~~with the contents of the listing document and relevant application form (if any) in printed form;~~ and
- (ii) a confirmation that the listing document and relevant application form (if any) are also available in printed form and the addresses of the locations where they are available; and

- (b) any supplemental listing documents or subsequent amendments to the listing document are also made available in both printed form and ~~electronic format~~ on CD ROM and the new applicant must also comply with ~~the requirements of (a)~~ above with all references to “listing document” and “application form” being construed as references to the supplemental listing document and relevant application form or subsequent amendment to the listing document and relevant application form (if any).

Publication of electronic form prospectus and printed application form

25.19B(1) Where an issuer intends to rely on section 9A of the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice (Cap.32L) (“Class Exemption Notice”) and issue a printed application form for its debt securities with an electronic form prospectus displayed on certain websites (“Mixed Media Offer”), it must satisfy all the conditions in the Class Exemption Notice. Where the issuer publishes any announcement under the Class Exemption Notice, the announcement must be published in accordance with rule 2.07C. There is no need to clear the announcement with the Exchange.

(2) Where the issuer intends to offer debt securities to the public relying on the Class Exemption Notice, the information required by rule 25.17(4) shall be replaced by the following information:

- (a) that the issuer intends to rely on the Class Exemption Notice and issue a printed application form for its debt securities without it being accompanied by a printed form prospectus relating to the offer;
- (b) that throughout the offer period, prospective investors may access and download the electronic form prospectus relating to the offer from either the issuer’s website or the Exchange’s website;
- (c) the address of each of the issuer’s website and the Exchange’s website, the place on the website where the electronic form prospectus may be accessed and how that prospectus may be accessed;
- (d) that throughout the offer period, copies of the printed form prospectus will be available for collection at specified locations, free of charge, upon request by any member of the public;
- (e) the particulars of the specified locations; and

Note: “Specified locations” means the depository counter of HKSCC, the designated branches of the placing banks specified in the prospectus and the principal place of business of the co-ordinator for the offer specified in the prospectus.

- (f) that throughout the offer period, at least 3 copies of the printed form prospectus will be available for inspection at every location where the printed application forms are distributed.

...

Appendix 24

Headline Categories

Schedule 1

Headline Categories for Announcements and Notices

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New Listings (Listed Issuers/New Applicants)

Allotment Results

Formal Notice

Listing of Securities by way of Introduction

Striking Price on Offer for Subscription or for Sale by Tender

Supplemental Information regarding IPO

Transfer of listing from GEM to Main Board

Mixed Media Offer

Draft GEM Rule Amendments

Chapter 16

EQUITY SECURITIES

PUBLICATION REQUIREMENTS

...

Methods of publication and dissemination

...

16.04C ~~All listing~~Listing documents published by a new applicant must ~~be include copies available~~ in printed form. ~~However, a~~A new applicant may, to the extent permitted ~~under applicable by laws and regulations and the applicant's~~its own constitutional documents, make additional copies available to the public ~~in electronic format~~ on CD ROM (together with the relevant application form in ~~electronic format~~form on the same CD ROM).

Where the new applicant has made additional copies available in electronic ~~format~~form on CD ROM, the new applicant must ensure that:

- (a) the CD ROM includes:
 - (i) a confirmation that the contents of the listing document and relevant application form in electronic ~~format~~form and in printed form are identical ~~with the contents of the listing document and relevant application form in printed form~~; and
 - (ii) a confirmation that the listing document and relevant application form are also available in printed form and the addresses of the locations where they are available; and
- (b) any supplemental listing documents or subsequent amendments to the listing document are also made available in both printed form and ~~electronic format~~ on CD ROM and the new applicant must also comply with ~~the requirements of~~ (a) above with all references to "listing document" and "application form" being construed as references to the supplemental listing document and relevant application form or subsequent amendment to the listing document and relevant application form.

Publication of electronic form prospectus and printed application form

16.04D(1) Where an issuer intends to rely on section 9A of the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice (Cap.32L) ("Class Exemption Notice") and issue a printed application form for its equity securities with an electronic form prospectus displayed on certain websites ("Mixed Media Offer"), it must satisfy all the conditions in the Class Exemption Notice. Where the issuer publishes any announcement under the Class Exemption Notice, the announcement must be published in accordance with rules 16.17 and 16.18. There is no need to clear the announcement with the Exchange.

(2) Where the issuer intends to offer equity securities to the public relying on the Class Exemption Notice, the information required by rule 16.09(3) shall be replaced by the following information:

- (a) that the issuer intends to rely on the Class Exemption Notice and issue a printed application form for its equity securities without it being accompanied by a printed form prospectus relating to the offer;
- (b) that throughout the offer period, prospective investors may access and download the electronic form prospectus relating to the offer from either the issuer's website or the GEM website;
- (c) the address of each of the issuer's website and the GEM website, the place on the website where the electronic form prospectus may be accessed and how that prospectus may be accessed;
- (d) that throughout the offer period, copies of the printed form prospectus will be available for collection at specified locations, free of charge, upon request by any member of the public;
- (e) the particulars of the specified locations; and

Note: "Specified locations" means:

- (1) In the case of a listed issuer, the depository counter of HKSCC, the designated branches of the receiving banks specified in the prospectus, if any, and the place of business of the issuer's approved share registrar in Hong Kong.
- (2) In the case of a new applicant, the depository counter of HKSCC, the designated branches of the receiving banks specified in the prospectus, if any, and the principal place of business of the sponsors acting in respect of the application for listing of the equity securities.
- (f) that throughout the offer period, at least 3 copies of the printed form prospectus will be available for inspection at every location where the printed application forms are distributed.

...

Formal notice on issue

...

16.09 A formal notice required for publication on the GEM website in accordance with rules 16.07 or 16.08 must state at least the following:-

- (1) ...
- (3) the address(es) at which copies of the listing document, if any, are available to the public;

Note: Where the issuer intends to rely on the Class Exemption Notice to make a Mixed Media Offer referred to in rule 16.04D, rule 16.04D(2) replaces this sub-rule.

...

Publication on the GEM website

...

16.18 (3)(a) Electronic copies of announcements or notices must not be submitted to the Exchange between 9:00 a.m. and 12:30 p.m. or between 2:00 p.m. and 4:15 p.m. on a normal business day, or between 9:00 a.m. and 12:30 p.m. on the eves of Christmas, New Year and the Lunar New Year when there is no afternoon session, for publication on the GEM website, other than:

(i) ...;

(iv) ...;~~and~~

(v) ...~~upon;~~ and

(vi) announcements relating to suspension and resumption of a Mixed Media Offer applicable to public offers of equity securities and debt securities (see rules 16.04D and 29.21B).

...

Chapter 29

DEBT SECURITIES

(OTHER THAN SELECTIVELY MARKETED SECURITIES)

LISTING DOCUMENTS

...

Publication

...

29.19 In every other case, a formal notice stating the following information must be published on the GEM website in accordance with Chapter 16 not less than 2 clear business days before dealings commence:-

(1) ...

(4) the address(es) at which copies of the listing document (if any) are available to the public;

Note: Where the issuer intends to rely on the Class Exemption Notice to make a Mixed Media Offer referred to in rule 29.21B(1), rule 29.21B(2) replaces this sub-rule.

...

29.21A ~~All listing~~Listing documents published by a new applicant must ~~be include~~ include copies available in printed form. ~~However, a A~~ new applicant may, to the extent permitted ~~under applicable by laws and regulations and the applicant's its~~ own constitutional documents, make additional copies available to the public ~~in electronic format~~ on CD ROM (together with the relevant application form (if any) in ~~electronic format~~ format on the same CD ROM).

Where the new applicant has made additional copies available in electronic ~~format~~ format on CD ROM, the new applicant must ensure that:

- (a) the CD ROM includes:
 - (i) a confirmation that the contents of the listing document and relevant application form (if any) in electronic ~~format~~ format ~~and in printed form~~ are identical ~~with the contents of the listing document and relevant application form (if any) in printed form~~; and
 - (ii) a confirmation that the listing document and relevant application form (if any) are also available in printed form and the addresses of the locations where they are available; and
- (b) any supplemental listing documents or subsequent amendments to the listing document are also made available in both printed form and ~~electronic format~~ on CD ROM and the new applicant must also comply with ~~the requirements of (a) above~~ with all references to "listing document" and "application form" being construed as references to the supplemental listing document and relevant application form or subsequent amendment to the listing document and relevant application form (if any).

Publication of electronic form prospectus and printed application form

29.21B (1) Where an issuer intends to rely on section 9A of the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice (Cap.32L) ("Class Exemption Notice") and issue a printed application form for its debt securities with an electronic form prospectus displayed on certain websites ("Mixed Media Offer"), it must satisfy all the conditions in the Class Exemption Notice. Where the issuer publishes any announcement under the Class Exemption Notice, the announcement must be published in accordance with rules 16.17 and 16.18. There is no need to clear the announcement with the Exchange.

(2) Where the issuer intends to offer debt securities to the public relying on the Class Exemption Notice, the information required by rule 29.19(4) shall be replaced by the following information:

- (a) that the issuer intends to rely on the Class Exemption Notice and issue a printed application form for its debt securities without it being accompanied by a printed form prospectus relating to the offer;
- (b) that throughout the offer period, prospective investors may access and download the electronic form prospectus relating to the offer from either the issuer's website or the GEM website;

(c) the address of each of the issuer's website and the GEM website, the place on the website where the electronic form prospectus may be accessed and how that prospectus may be accessed;

(d) that throughout the offer period, copies of the printed form prospectus will be available for collection at specified locations, free of charge, upon request by any member of the public;

(e) the particulars of the specified locations; and

Note: "Specified locations" means the depository counter of HKSCC, the designated branches of the placing banks specified in the prospectus and the principal place of business of the co-ordinator for the offer specified in the prospectus.

(f) that throughout the offer period, at least 3 copies of the printed form prospectus will be available for inspection at every location where the printed application forms are distributed.

...

Appendix 17

Headline Categories

Schedule 1

Headline Categories for Announcements and Notices

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New Listings (Listed Issuers/New Applicants)

Allotment Results

Formal Notice

Listing of Securities by way of Introduction

Striking Price on Offer for Subscription or for Sale by Tender

Supplemental Information regarding IPO

Transfer of listing from GEM to Main Board

Mixed Media Offer

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Appendix B

Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2010

(Made by the Securities and Futures Commission under sections 38A and 342A of the Companies Ordinance (Cap. 32))

1. Commencement

This Notice comes into operation on 1 February 2011.

2. Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice amended

The Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice (Cap. 32 sub. leg. L) is amended as set out in section 3.

3. Section 9A added

After section 9—

Add

“9A. Exemptions from requirement to issue form of application for shares or debentures with prospectus

(1) Where—

- (a) it is proposed to offer any shares in or debentures of a company incorporated under the Ordinance by a prospectus issued generally;
- (b) the shares or debentures have been approved by a recognized exchange company for listing on a stock market it operates; and
- (c) a form of application for the shares or debentures in printed form is issued,

then, subject to the conditions specified in subsection (3), the offeror is exempted from compliance with the requirements of section 38(3) of the Ordinance to the extent that the offeror may issue the printed application form without it being accompanied by a printed form prospectus relating to the offer.

(2) Where—

- (a) it is proposed to offer any shares in or debentures of a company incorporated outside Hong Kong by a prospectus issued generally;
- (b) the shares or debentures have been approved by a recognized exchange company for listing on a stock market it operates; and
- (c) a form of application for the shares or debentures in printed form is issued,

then, subject to the conditions specified in subsection (3), the offeror is exempted from compliance with the requirements of section 342(3) of the Ordinance to the extent that the offeror may issue the printed application form without it being accompanied by a printed form prospectus relating to the offer.

(3) The conditions referred to in subsections (1) and (2) are—

- (a) during the period of 5 business days prior to the commencement of the offer period, adequate disclosure is made to the public that a printed

- application form will be issued without it being accompanied by a printed form prospectus relating to the offer;
- (b) throughout the offer period, copies of the printed form prospectus are available for collection at specified locations, free of charge, upon request by any member of the public;
 - (c) throughout the offer period, at least 3 copies of the printed form prospectus are available for inspection at every location where the printed application forms are distributed;
 - (d) throughout the offer period, the electronic form prospectus relating to the offer is in a form which is reasonably tamper-resistant;
 - (e) the electronic form prospectus is readily accessible by the public—
 - (i) at the commencement of the offer period, from both the company's designated website and the recognized exchange company's designated website; and
 - (ii) at any time during the offer period after its commencement, subject to subsection (5), from either the company's designated website or the recognized exchange company's designated website;
 - (f) the electronic form prospectus that is on the company's designated website is directly linked from—
 - (i) the homepage of that designated website; or
 - (ii) another webpage within that designated website that is directly linked from the homepage;
 - (g) the webpage (other than the homepage) within the company's designated website displaying—
 - (i) the link to the electronic form prospectus; or
 - (ii) the electronic form prospectus,does not contain any promotional information about the offeror or the offer;
 - (h) when the electronic form prospectus is accessed from the company's designated website, a notice is to be displayed stating that the securities are being offered solely on the basis of the information provided in the prospectus;
 - (i) the typeface, format and contents of the electronic form prospectus are identical to those of the printed form prospectus;
 - (j) each of the electronic form prospectus and the printed form prospectus contains, in a prominent place on the face of the prospectus, a statement in a clear and legible form—
 - (i) that the contents of the electronic form prospectus and the printed form prospectus are identical;
 - (ii) that throughout the offer period, copies of the printed form prospectus are available for collection at specified locations, free of charge, upon request by any member of the public;
 - (iii) of the particulars of the specified locations; and
 - (iv) that throughout the offer period, at least 3 copies of the printed form prospectus are available for inspection at every location where the printed application forms are distributed; and
 - (k) the printed application form is to state in a prominent place—

- (i) that throughout the offer period, prospective investors may access and download the electronic form prospectus from either the company's designated website or the recognized exchange company's designated website;
 - (ii) the address of each of the designated websites, the place on the website where the electronic form prospectus may be accessed and how that prospectus may be accessed;
 - (iii) that throughout the offer period, copies of the printed form prospectus are available for collection at specified locations, free of charge, upon request by any member of the public;
 - (iv) the particulars of the specified locations;
 - (v) that throughout the offer period, at least 3 copies of the printed form prospectus are available for inspection at every location where the printed application forms are distributed; and
 - (vi) that prospective investors should read the prospectus prior to submitting an application.
- (4) For the purposes of subsection (3)(a), adequate disclosure is regarded as having been made during the period of 5 business days prior to the commencement of the offer period if—
- (a) an announcement is published in accordance with the requirements of the relevant listing rules on at least one of those 5 business days; and
 - (b) the announcement contains the following information—
 - (i) that the offeror proposes to offer shares in or debentures of a company by a prospectus issued generally;
 - (ii) that the shares or debentures are the subject of an application to a recognized exchange company for listing;
 - (iii) that the offeror intends to rely on this section and issue a printed application form for the shares or debentures without it being accompanied by a printed form prospectus relating to the offer;
 - (iv) that throughout the offer period, prospective investors may access and download the electronic form prospectus relating to the offer from either the company's designated website or the recognized exchange company's designated website;
 - (v) the address of each of the designated websites, the place on the website where the electronic form prospectus may be accessed and how that prospectus may be accessed;
 - (vi) that throughout the offer period, copies of the printed form prospectus will be available for collection at specified locations, free of charge, upon request by any member of the public;
 - (vii) the particulars of the specified locations; and
 - (viii) that throughout the offer period, at least 3 copies of the printed form prospectus will be available for inspection at every location where the printed application forms are distributed.
- (5) The condition specified in subsection (3)(e)(ii) is regarded as being satisfied even if the electronic form prospectus relating to the offer is, for a period of less than 4 consecutive hours during the offer period after its commencement, not readily accessible by the public from both the company's designated website and the recognized exchange company's designated website.
- (6) For the purposes of subsection (5)—

- (a) an hour, or part of an hour, falling on a Saturday, Sunday or public holiday; or
- (b) an hour, or part of an hour, between midnight and 6:00 a.m. from Monday to Friday,

is not included in determining the time during which the electronic form prospectus is not readily accessible by the public.

- (7) If, after the offeror has published an announcement in accordance with subsection (4), the offeror knows that any of the conditions specified in subsection (3) will not be satisfied or is not satisfied in relation to the offer, the offeror—
 - (a) must, as soon as practicable, publish a suspension announcement in accordance with the rules of the recognized exchange company; and
 - (b) must not issue the printed application form during the offer period without it being accompanied by a printed form prospectus relating to the offer.
- (8) After the publication of a suspension announcement under subsection (7)(a), the offeror may, during the offer period, issue the printed application form without it being accompanied by a printed form prospectus relating to the offer if—
 - (a) each of the conditions specified in subsection (3) has been or is satisfied in relation to the offer; and
 - (b) it has published a resumption announcement in accordance with the rules of the recognized exchange company.

- (9) In this section—

business day (營業日) means a day other than—

- (a) a public holiday;
- (b) a Saturday; or
- (c) a gale warning day or a black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);

designated website (指定網站)—

- (a) in relation to a company, means a website designated by the company for the purposes of this section;
- (b) in relation to a recognized exchange company, means the website of the company designated by it;

offer period (要約期), in relation to an offer of shares in or debentures of a company by a prospectus, means the period during which the shares or debentures are offered;

offeror (要約人), in relation to an offer of shares in or debentures of a company by a prospectus, means any company that makes the offer;

printed application form (印刷本申請表格), in relation to an offer of shares in or debentures of a company by a prospectus, means the form of application for the shares or debentures in printed form;

printed form prospectus (印刷本招股章程) means the printed version of a prospectus offering shares in or debentures of a company which—

- (a) complies with the relevant listing rules of the recognized exchange company concerned;
- (b) complies with—
 - (i) if the company is incorporated under the Ordinance, Part II of the Ordinance; or

- (ii) if the company is incorporated outside Hong Kong, Part XII of the Ordinance; and
- (c) without limiting paragraph (b), has been registered under—
 - (i) if the company is incorporated under the Ordinance, section 38D of the Ordinance; or
 - (ii) if the company is incorporated outside Hong Kong, section 342C of the Ordinance;

relevant listing rules (有關上市規則) means the listing rules applicable to the stock market referred to in subsection (1)(b) or (2)(b);

relevant stock market (有關證券市場) means the stock market referred to in subsection (1)(b) or (2)(b);

specified locations (指明地點) means—

- (a) for an offer of shares in a company by a prospectus—
 - (i) if any of the shares in the company are already listed on the relevant stock market, the depository counter of Hong Kong Securities Clearing Company Limited, the designated branches of the receiving banks specified in the prospectus, if any, and the place of business of the company's approved share registrar in Hong Kong; or
 - (ii) if none of the shares in the company are listed on the relevant stock market, the depository counter of Hong Kong Securities Clearing Company Limited, the designated branches of the receiving banks specified in the prospectus, if any, and the principal place of business of the sponsors acting in respect of the application for listing of the shares; or
 - (b) for an offer of debentures of a company by a prospectus, the depository counter of Hong Kong Securities Clearing Company Limited, the designated branches of the placing banks specified in the prospectus and the principal place of business of the co-ordinator for the offer specified in the prospectus.
- (10) For the purposes of this section, an electronic form prospectus is readily accessible from a website if it is capable of being viewed, downloaded, retained and printed as a copy from the website in its entirety, whether as a single file or as multiple files, by the public without a password or paying any charges.”.

Acting Chief Executive Officer,
Securities and Futures Commission

2010

Explanatory Note

The Securities and Futures Commission may, by notice published in the Gazette under sections 38A(2) and 342A(2) of the Companies Ordinance (Cap. 32) (***the Ordinance***), exempt any class of companies from the requirements of sections 38(3) and 342(3) of the Ordinance, respectively. Section 38(3) of the Ordinance provides that it is not lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus that complies with section 38 of the Ordinance. Section 342(3) of the Ordinance provides that it is not lawful to issue any form of application for shares in or debentures of a company incorporated outside Hong Kong unless the form is issued with a prospectus that complies with Part XII of the Ordinance.

2. This Notice exempts an offeror company which issues a printed application form for shares in or debentures of a company (***relevant company***) from the requirement to issue it together with a printed form prospectus relating to the offer. The exemption is subject to certain conditions. One of the conditions is that, at the commencement of the offer period, an electronic form prospectus relating to the offer must be readily accessible by the public from the relevant website of the relevant company and the relevant website of the recognized exchange company which has approved the shares or debentures for listing. During the offer period after its commencement, the electronic form prospectus must also be readily accessible by the public from either of the above websites.

Appendix C

Summary of Amendments to the Class Exemption Notice

Proposed conditions to class exemption notice in Joint Consultation Paper	Changes made to original Proposal	See paragraphs of the Joint Conclusions Paper	Class Exemption Notice
<p>(a) Publication of an Announcement during the Relevant Period.</p> <p>The Announcement should:</p> <p>(i) contain information about the proposed IPO;</p> <p>(ii) state that CO Offeror will rely on the class exemption to allow it to issue CO Paper Application Forms together with the e-Prospectus;</p> <p>(iii) advise where the e-Prospectus will be accessible on the company's and the HKEx websites and that it will be accessible and downloadable throughout the Offer Period;</p> <p>(iv) state that copies of the Paper Prospectus will be made available for collection at specified locations, free of charge upon request; and</p>	<p>The Announcement should also include the place on these websites where the e-Prospectus may be accessed and instructions on how to access the e-Prospectus.</p> <p>The Announcement should also state that at least three copies of the Paper Prospectus will be available for inspection at all locations where the Paper Application Forms are distributed.</p>	<p>28-33</p> <p>34-40, 48</p>	<p>9A(3)(a) and 9A(4)a)</p> <p>9A(4)(b)</p> <p>9A(4)(b)(i) and (ii)</p> <p>9A(4)(b)(iii)</p> <p>9A(4)(b)(iv) and (v)</p> <p>9A(4)(b)(vi) and (viii)</p>

Proposed conditions to class exemption notice in Joint Consultation Paper	Changes made to original Proposal	See paragraphs of the Joint Conclusions Paper	Class Exemption Notice
(v) contain particulars of these specified locations.		41-48	9A(4)(b) (vii)
(b) Making available copies of the Paper Prospectus for collection at specified locations, free of charge, upon request by any member of the public throughout the Offer Period;	In addition, there should be at least three copies of the Paper Prospectus to be made available for inspection at all locations where CO Paper Application Forms are distributed throughout the Offer Period.	34-48	9A(3)(b) and (c)
(c) Displaying the e-Prospectus on the company's and the HKEx websites throughout the Offer Period;	<p>The e-Prospectus posted on the company's and the HKEx websites should be in a form that is reasonably tamper-resistant and not password protected.</p> <p>The e-Prospectus should be easily accessed from the company's homepage or from a subsequent page directly accessible from the homepage. The webpage providing access to the e-Prospectus (other than the homepage) must not contain any promotional information about the offeror and the offer.</p> <p>Notice should be given upon access to the e-Prospectus on the company's website that the offer is made solely on the basis of the information in</p>	49-60, and in particular 57	<p>9A(3)(d), (e) and 9A(10)</p> <p>9A(3)(f) and (g)</p> <p>9A(3)(h)</p>

Proposed conditions to class exemption notice in Joint Consultation Paper	Changes made to original Proposal	See paragraphs of the Joint Conclusions Paper	Class Exemption Notice
	the prospectus.		
(d) Making the e-Prospectus readily accessible and capable of being downloaded by the public free of charge from the company's and the HKEx websites;	The e-Prospectus should be viewable, downloadable, printable and capable of being saved in its entirety, whether as a single file or multiple files, by the public without a password and free of charge from the company's and the HKEx websites. There is a merging of conditions (c) and (d).	49-60, and in particular 57	9A(10)
(e) The typeface, format and contents of the e-Prospectus are identical to those of the Paper Prospectus except to the extent that any differences are permitted or required by the SEHK;	The e-Prospectus and the Paper Prospectus should be identical.	63-67	9A(3)(i)
(f) Written confirmation with the SEHK about the satisfaction of condition (e);	This condition has been dropped.	66	
(g) The e-Prospectus contains, in a prominent place on the face of it, a statement in a clear and legible form (i) that its contents are identical to those of the Paper Prospectus except to the extent that any differences are permitted or required by the SEHK; (ii) that copies of the Paper Prospectus are made available for collection at	The Paper Prospectus should also contain these statements. The prospectus should state that the contents of the Paper Prospectus and the e-Prospectus are identical. The e-Prospectus and the Paper Prospectus should also contain a statement	68-73	9A(3)(j)

Proposed conditions to class exemption notice in Joint Consultation Paper	Changes made to original Proposal	See paragraphs of the Joint Conclusions Paper	Class Exemption Notice
<p>specified locations, free of charge, upon request by any member of the public throughout the Offer Period, and</p> <p>(iii) of the particulars of the specified locations;</p>	<p>that at least three copies of the Paper Prospectus will be available for inspection at all locations where the CO Paper Application Forms are distributed.</p>		
<p>(h) The CO Paper Application Form states in a prominent place:</p> <p>(i) that the e-Prospectus is displayed on the company's and the HKEx websites;</p> <p>(ii) the addresses of the company's and the HKEx websites;</p> <p>(iii) that copies of the Paper Prospectus are made available for collection at specified locations, free of charge, upon request by any member of the public throughout the Offer Period,</p> <p>(iv) the particulars of the specified locations; and</p>	<p>The statement should make clear that the e-Prospectus is accessible and downloadable from either the company's or the HKEx's websites.</p> <p>The application form should also state the place on these websites where the e-Prospectus may be accessed and instructions on how to access the e-Prospectus.</p> <p>The application form should also state that at least three copies of the Paper Prospectus will be available for inspection at each location where the CO Paper Application Forms are distributed.</p>	74	9A(3)(k)

Proposed conditions to class exemption notice in Joint Consultation Paper	Changes made to original Proposal	See paragraphs of the Joint Conclusions Paper	Class Exemption Notice
(v) that prospective investors should read the prospectus prior to submitting an application.			
<p>Part E – Inaccessibility of electronic listing documents for downloading</p> <p>We proposed that continuous inaccessibility to an electronic listing document for downloading from a website for at least 4 hours would constitute a “prolonged failure” for purposes of determining if it is necessary to suspend a Mixed Media Offer.</p>	<p>The Class Exemption Notice will be amended to clarify that:</p> <ul style="list-style-type: none"> • Should the electronic listing documents remain inaccessible from both the company’s and the HKEx websites for a period of four hours or more (4-hour rule) during the Offer Period, the Mixed Media Offer must be suspended until accessibility to the e-Prospectus is restored on either the HKEx website or the company’s website; • If any condition in the Class Exemption Notice is not satisfied after the announcement of the Mixed Media Offer is published, the CO Offeror must issue an announcement notifying the public that the Mixed Media Offer is suspended. • The Mixed Media Offer may only resume when the CO Offeror can re-comply with conditions in the Class Exemption Notice (except that the 	87-101	<p>9A(5)</p> <p>9A(7)</p> <p>9A(8)</p>

Proposed conditions to class exemption notice in Joint Consultation Paper	Changes made to original Proposal	See paragraphs of the Joint Conclusions Paper	Class Exemption Notice
	<p>Offeror need not re-issue the Announcement and that the e-Prospectus need only be accessible on either the HKEx website or the company's website) and has issued a resumption announcement of the Mixed Media Offer.</p> <ul style="list-style-type: none"> The 4-hour rule excludes HKEx's routine maintenance windows, currently scheduled for the whole weekend, public holidays and between midnight till 6am from Mondays to Fridays. 		9A(6)

List of respondents

1. Mike Fulton
2. Hong Kong Institute of Certified Public Accountants
3. Clifford Chance
4. Allen & Overy
5. The Law Society of Hong Kong
6. Computershare Hong Kong Investor Services Limited
7. PricewaterhouseCoopers
8. Friends of the Earth (HK)
9. Norton Rose Hong Kong
10. Hiu Yan Chow
11. WR Chan
12. Ava Hau
13. Beverly Chan