

# Chapter 1

## GENERAL

### INTERPRETATION

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

- “accounts”** has the same meaning as “financial statements” and vice-versa
- “affiliated company”** a company which, in accordance with the Statements of Standard Accounting Practice issued by the Hong Kong Society of Accountants, is recorded using the equity method of accounting in an entity’s financial statements
- “approved share registrar”** a share registrar who is a member of an association of persons approved under section 12 of the Securities and Futures (Stock Market Listing) Rules
- “Articles”** the Articles of Association of the Exchange
- “asset-backed securities”** debt securities backed by financial assets which, at the time of the relevant issues, are evidenced by agreements and intended to produce funds to be applied towards interest payments due on the securities and repayment of principal on maturity, except those debt securities which are directly secured, in whole or in part, on real property or other tangible assets
- “associate”**
- (a) in relation to an individual means:—
    - (i) his spouse;
    - (ii) any child or step-child, natural or adopted, under the age of 18 years of such individual or of his spouse (together with (a)(i) above, the “family interests”);
    - (iii) the trustees, acting in their capacity as such trustees, of any trust of which he or any of his family interests is a beneficiary or, in the case of a discretionary trust, is (to his knowledge) a discretionary object and any company (“trustee-controlled company”) in the equity capital of which the trustees, acting in their capacity as such trustees, are directly or indirectly interested so as to exercise or control the exercise of 30% (or such other amount as may from time to time be specified in the Takeovers Code as being the level for triggering a mandatory general offer) or more of the voting power at general meetings, or

to control the composition of a majority of the board of directors and any other company which is its subsidiary (together, the "trustee interests");

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

(b) in relation to a company means:—

- (i) any other company which is its subsidiary or holding company or is a fellow subsidiary of any such holding company or one in the equity capital of which it and/or such other company or companies taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or such other amount as may from time to time be specified in the Takeover Codes as being the level for triggering a mandatory general offer) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors;
- (ii) the trustees, acting in their capacity as such trustees, of any trust of which the company is a beneficiary or, in the case of a discretionary trust, is (to the company's knowledge) a discretionary object and any company ("trustee-controlled company") in the equity capital of which the trustees, acting in their capacity as such trustees, are directly or indirectly interested so as to exercise or control the exercise of 30% (or such other amount as may from time to time be specified in the Takeovers Code as being the level for triggering a mandatory general offer) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any other company which is its subsidiary (together, the "trustee interests");

- (iii) a holding company of a trustee-controlled company or a subsidiary of any such holding company; and
- (iv) any other company in the equity capital of which the company, such other companies referred to in (b)(i) above, any of the trustees referred to in (b)(ii) above, acting in their capacity as such trustees, and/or any trustee interests taken together are directly or indirectly interested so as to exercise or control the exercise of 30% (or such other amount as may from time to time be specified in the Takeovers Code as being the level for triggering a mandatory general offer) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any other company which is its subsidiary or holding company or a fellow subsidiary of any such holding company.

*Notes: This definition is:—*

*1 modified in the context of:—*

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

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

*2 extended so as to apply to Sponsors, by virtue of rule 6.35, underwriters, by virtue of rules 16.13, 16.15 and 29.22, and significant shareholders, Sponsors and underwriters by virtue of rule 10.12;*

**“authorised representative”**

a person appointed as an authorised representative by a listed issuer under rule 5.24

**“bank”**

a bank licensed under the Banking Ordinance or a bank incorporated or otherwise established outside Hong Kong which is, in the opinion of the Hong Kong Monetary Authority, adequately supervised by an appropriate recognised banking supervisory authority in the place where it is incorporated or otherwise established

**“bearer securities”**

securities transferable to bearer

**“Board”**

the Directors of the Exchange elected or appointed in accordance with the Articles and, where the context so permits, any committee or sub-committee thereof

**“business day”**

any day on which the Exchange is open for the business of dealing in securities

<b>“CCASS”</b>	means the Central Clearing and Settlement System established and operated by HKSCC
<b>“chief executive”</b>	a person who either alone or together with one or more other persons is or will be responsible under the immediate authority of the board of directors for the conduct of the business of a listed issuer
<b>“Code on Share Repurchases”</b>	the Code on Share Repurchases approved by the Commission as amended from time to time
<b>“Commission”</b>	the Securities and Futures Commission established under section 3 of the Securities and Futures Commission Ordinance and continuing in existence under section 3 of the Securities and Futures Ordinance
<b>“company”</b>	a body corporate wherever incorporated or otherwise established
<b>“Company Law”</b>	the Company Law of the PRC adopted at the Fifth Session of the Standing Committee of the Eight National People’s Congress on 29 December 1993 and effective from 1 July 1994, as amended, supplemented or otherwise modified from time to time
<b>“connected person” or “person connected”</b>	<p>(a) in relation to a company other than a PRC issuer, and other than any subsidiaries of a PRC issuer, means a director, chief executive, substantial shareholder or management shareholder of such company or any of its subsidiaries or an associate of any of them; and</p> <p>(b) in relation to a PRC issuer means a promoter, director, supervisor, chief executive, substantial shareholder or management shareholder of the PRC issuer or any of its subsidiaries or an associate of any of them</p> <p style="text-align: center;"><i>Note: This definition is modified for the purposes of Chapter 20 by virtue of the provisions of rules 20.11 and 20.12.</i></p>
<b>“controlling shareholder”</b>	any person who is or group of persons who are together entitled to exercise or control the exercise of 30% (or such other amount as may from time to time be specified in the Takeovers Code as being the level for triggering a mandatory general offer) or more of the voting power at general meetings of the issuer or who is or are in a position to control the composition of a majority of the board of directors of the issuer; or in the case of a PRC issuer, the meaning ascribed to that phrase by rule 25.10
<b>“convertible debt securities”</b>	debt securities convertible into or exchangeable for equity securities or other property, and debt securities with non-detachable options, warrants or similar rights to subscribe or purchase equity securities or other property attached (which expression includes convertible bonds)

<b>“convertible equity securities”</b>	equity securities convertible into or exchangeable for shares and shares with non-detachable options, warrants or similar rights to subscribe or purchase shares attached (which expression excludes convertible bonds)
<b>“corporate communication”</b>	any document issued or to be issued by an issuer for the information or action of holders of any of its securities, including but not limited to:— <ul style="list-style-type: none"> <li>(a) the directors' report and its annual accounts together with a copy of the auditors' report thereon and, where applicable, its summary financial report;</li> <li>(b) the half-year report and, where applicable, its summary half-year report;</li> <li>(c) the quarterly report;</li> <li>(d) a notice of meeting;</li> <li>(e) a listing document;</li> <li>(f) a circular; and</li> <li>(g) a proxy form</li> </ul>
<b>“debt issuance programmes”</b>	issues of debt securities where only part of the maximum principal amount or aggregate number of securities under the issue is issued initially and a further tranche or tranches may be issued subsequently
<b>“debt securities”</b>	debenture or loan stock, debentures, bonds, notes and other securities or instruments acknowledging, evidencing or creating indebtedness, whether secured or unsecured and options, warrants or similar rights to subscribe or purchase any of the foregoing and convertible debt securities
<b>“director”</b>	includes any person who occupies the position of a director, by whatever name called
<b>“domestic shares”</b>	shares issued by a PRC issuer under PRC law, the par value of which is denominated in Renminbi, and which are subscribed for in Renminbi
<b>“effective economic interest”</b>	in relation to any entity means the direct and/or indirect attributable economic interest therein
<b>“Eligible Security”</b>	means an issue of securities which is from time to time accepted as eligible by HKSCC for deposit, clearance and settlement in CCASS, in accordance with the General Rules of CCASS, and where the context so requires shall include any particular security or securities of such an issue
<b>“equity securities”</b>	shares (including preference shares), convertible equity securities and options, warrants or similar rights to subscribe or purchase shares or convertible equity securities

<b>“Executive Director – GEM Listing Division”</b>	the person occupying the position of the Executive Director of the GEM Listing Division from time to time by whatever name such position is called
<b>“Exchange”</b>	The Stock Exchange of Hong Kong Limited
<b>“Exchange Participant”</b>	a person: (a) who, in accordance with the Rules of the Exchange, may trade on or through the Exchange; and (b) whose name is entered in a list, register or roll kept by the Exchange as a person who may trade on or through the Exchange
<b>“expert”</b>	includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him
<b>“family interests”</b>	the same meaning as in (a)(ii) of the definition of “associate”
<b>“financial year”</b>	the period in respect of which any profit and loss account of a company laid or to be laid before it in general meeting is made up, whether that period is a year or not
<b>“financial statements”</b>	has the same meaning as “accounts” and vice-versa
<b>“foreign shares”</b>	shares issued by a PRC issuer under PRC law, the par value of which is denominated in Renminbi, and which are subscribed for in a currency other than Renminbi
<b>“formal notice”</b>	a formal notice required to be published under rules 16.07, 16.08, 29.18, 29.19 or 30.37
<b>“gazetted newspapers”</b>	those newspapers which are, from time to time, specified in the list of newspapers issued and published in the Gazette for the purposes of section 71A of the Companies Ordinance by the Chief Secretary
<b>“GEM”</b>	the Growth Enterprise Market operated by the Exchange
<b>“GEM Listing Committee”</b>	the listing sub-committee of the Board with responsibility for GEM
<b>“GEM Listing Division”</b>	the Listing Division of the Exchange with responsibility for GEM
<b>“GEM Listing Rules”</b>	the rules governing the listing of securities on GEM made by the Exchange from time to time
<b>“GEM website”</b>	the internet website operated by the Exchange for the purposes of GEM
<b>“group”</b>	the issuer or guarantor and its subsidiaries, if any
<b>“H Shares”</b>	overseas listed foreign shares of a PRC issuer which are listed and traded on GEM

<b>"HKEC"</b>	Hong Kong Exchanges and Clearing Limited
<b>"HKSCC"</b>	means Hong Kong Securities Clearing Company Limited including, where the context so requires, its agents, nominees, representatives, officers and employees
<b>"holding company"</b>	the meaning attributed to it in section 2 of the Companies Ordinance, but interpreting the term "subsidiary" in accordance with the definition of "subsidiary" under this rule 1.01
<b>"Hong Kong"</b>	Hong Kong, the Special Administrative Region of the People's Republic of China
<b>"Hong Kong Financial Reporting Standards" or "HKFRS"</b>	financial reporting standards approved by the Council of the Hong Kong Society of Accountants ("HKSA"), and includes all Statements of Standard Accounting Practice ("SSAP") and interpretations of HKFRS approved by the HKSA from time to time
<b>"Hong Kong issuer"</b>	an issuer incorporated or otherwise established in Hong Kong
<b>"Hong Kong register"</b>	for an overseas issuer including a PRC issuer, the part of its register of members or branch register located and maintained in Hong Kong pursuant to its articles of association
<b><u>"IFA group"</u></b>	<p>(a) <u>the independent financial adviser;</u></p> <p>(b) <u>any holding company of the independent financial adviser;</u></p> <p>(c) <u>any subsidiary of any holding company of the independent financial adviser;</u></p> <p>(d) <u>any controlling shareholder of:</u></p> <p style="padding-left: 40px;">(i) <u>the independent financial adviser; or</u></p> <p style="padding-left: 40px;">(ii) <u>any holding company of the independent financial adviser,</u></p> <p style="padding-left: 40px;"><u>which controlling shareholder is not, itself, a holding company of the independent financial adviser; and</u></p> <p>(e) <u>any associate of any controlling shareholder referred to in paragraph (d) above</u></p>
<b>"International Financial Reporting Standards" or "IFRS"</b>	financial reporting standards and interpretations approved by the International Accounting Standards Board ("IASB"), and includes all International Accounting Standards ("IAS") and interpretations issued under the former International Accounting Standards Committee ("IASC") from time to time
<b>"issue"</b>	includes circulate, distribute and publish

<b>“issuer”</b>	any company or other legal person any of whose equity or debt securities are the subject of an application for listing on GEM or some or all of whose equity or debt securities are already listed on GEM
<b>“listed issuer”</b>	in the case of equity securities means any company or other legal person some of whose equity securities are already listed on GEM, and in the case of debt securities means a company or other legal person some of whose equity or debt securities are already listed on GEM
<b>“listing”</b>	the grant of a listing of and permission to deal in securities on GEM and “listed” shall be construed accordingly
<b>“Listing Appeals Committee”</b>	the listing appeals sub-committee of the Board
<b>“listing document”</b>	a prospectus, circular or any equivalent document (including the composite document in relation to a scheme of arrangement and/or an introduction document) issued or proposed to be issued in connection with an application for listing
<b>“Main Board”</b>	the stock market operated by the Exchange prior to the establishment of GEM (excluding the options market) and which stock market continues to be operated by the Exchange in parallel with GEM. For the avoidance of doubt, the Main Board excludes GEM.
<b>“Main Board Listing Rules”</b>	the rules governing the listing of securities on the Main Board made by the Exchange from time to time
<b>“management shareholder”</b>	means any person who is (or group of persons who together are) entitled to exercise or control the exercise of 5% or more of the voting power at general meetings of the issuer and who is (or are) able, as a practical matter, to direct or influence the management of the issuer;
	<p><i>Notes:</i></p> <p>1     <i>The Exchange will not ordinarily consider a shareholder with board representation, including but not limited to a professionally managed fund, as a management shareholder if it can be demonstrated that it does not actively participate in the management of the issuer’s business.</i></p> <p>2     <i>For the purposes of the GEM Listing Rules, a controlling shareholder will, in all cases, be deemed to be a management shareholder.</i></p>
<b>“new applicant”</b>	in the case of equity securities means an applicant for listing none of whose equity securities are already listed on GEM and in the case of debt securities means an applicant for listing none of whose equity or debt securities are already listed on GEM
<b>“notifiable transaction”</b>	any of the transactions specified in rule 19.06

<b>“overseas issuer”</b>	an issuer incorporated or otherwise established outside Hong Kong
<b>“overseas listed foreign shares”</b>	in respect of a PRC issuer means foreign shares which are listed outside the PRC
<b>“PRC”</b>	for the purposes of the GEM Listing Rules means the People’s Republic of China, other than the regions of Hong Kong, Macau and Taiwan
<b>“PRC issuer”</b>	an issuer which is duly incorporated in the PRC as a joint stock limited company
<b>“PRC law”</b>	the applicable provisions of the PRC constitution, or any statute, ordinance, regulations, rule or normative statement from time to time in force in the PRC, as the context may require
<b>“PRC property”</b>	property located in the PRC
<b>“PRC stock exchange”</b>	the Shanghai Stock Exchange or the Shenzhen Stock Exchange
<b>“professional accountant”</b>	a person registered as a professional accountant under the Professional Accountants Ordinance
<b>“promoter”</b>	in relation to any PRC issuer, any person who undertook the establishment of such issuer, subscribed for shares of such issuer and assumes liability for such issuer’s establishment, prepared the initial articles of association of such issuer and convened the inaugural meeting of the subscribers of shares of such issuer, or any person who performed a similar role under PRC law in the establishment of a PRC issuer
<b>“prospectus”</b>	the same meaning as in section 2(1) of the Companies Ordinance
<b>“public”</b>	the meaning ascribed to that phrase by rule 11.23 and “in public hands” shall be construed accordingly
<b>“published on the GEM website”</b>	published, in the form prescribed by the GEM Listing Rules, in both the English and Chinese languages on the GEM website
<b>“Regulations”</b>	the Special Regulations on the Overseas Offering and Listing of Shares by Joint Stock Limited Companies issued by the State Council of the PRC on 4 August 1994, as amended, supplemented or otherwise modified from time to time
<b>“reporting accountant”</b>	the professional accountant who is responsible for the preparation of the accountants’ report included in a listing document or circular in accordance with Chapter 7
<b>“Securities and Futures Ordinance”</b>	the Securities and Futures Ordinance (Cap. 571) as amended from time to time

<b>“selectively marketed securities”</b>	debt securities marketed to or placed with any number of registered dealers or financial institutions either with a view to their reselling such securities as principals off-market, nearly all of which, because of their nature, will normally be purchased and traded by a limited number of investors who are particularly knowledgeable in investment matters or placing such securities with a limited number of such investors and “selective marketing” shall be construed accordingly
<b>“significant shareholder”</b>	any person other than a management shareholder who, immediately prior to the date of the new applicant’s initial listing document and immediately prior to the date on which securities of the new applicant commence trading on GEM, is (or group of persons who together are) entitled to exercise or control the exercise of 5% or more of the voting power at general meetings of the new applicant  <i>Note: The Exchange reserves a power to deem any party to be a significant shareholder in circumstances where, prior to the date of issue of the new applicant’s initial listing document, that party has been entitled to exercise or control the exercise of 5% or more of the voting power at general meetings of the new applicant and, on or after the new applicant’s listing, that party again becomes entitled to exercise or control the exercise of 5% or more of the voting power at general meetings of the issuer.</i>
<b>“Sponsor”</b>	<u>any corporation or authorised financial institution appointed as a Sponsor by a new applicant under rule 6A.02</u> <del>the entity appointed by a new applicant or a listed issuer to act as its sponsor for the purposes of Chapter 6</del>
<b>“Statutory Rules”</b>	the Securities and Futures (Stock Market Listing) Rules as amended from time to time, the text of which is set out in Appendix 12
<b>“subsidiary”</b>	includes: <ul style="list-style-type: none"> <li>(a) the meaning attributed to it in section 2 of the Companies Ordinance;</li> <li>(b) any entity which is accounted for and consolidated in the audited consolidated accounts of another entity as a subsidiary pursuant to applicable Hong Kong Financial Reporting Standards or International Financial Reporting Standards; and</li> <li>(c) any entity which will, as a result of acquisition of its equity interest by another entity, be accounted for and consolidated in the next audited consolidated accounts of such other entity as a subsidiary pursuant to applicable Hong Kong Financial Reporting Standards or International Financial Reporting Standards</li> </ul>

<b>“substantial shareholder”</b>	<p>in relation to a company means a person who is entitled to exercise, or control the exercise of, 10% or more of the voting power at any general meeting of the company</p> <p><i>Note: This definition is qualified in the case of connected transactions falling within rule 20.13(1)(b)(i).</i></p>
<b>“summary financial report”</b>	a summary financial report of a company, which complies with section 141CF(1) of the Companies Ordinance
<b>“supervisor”</b>	a member elected to the supervisory committee of a PRC issuer which under PRC law performs a supervisory function in relation to such issuer’s board of directors, the manager and other officers
<b>“Takeovers Code”</b>	the Code on Takeovers and Mergers approved by the Commission as amended from time to time
<b>“tap issues”</b>	issues of debt securities where the subscription thereof may continue or further tranches thereof may be issued after listing has been granted
<b>“temporary documents of title”</b>	allotment letters, letters of allocation, split receipts, letters of acceptance, letters of rights, renounceable share certificates and any other temporary documents of title
<b>“title certificates”</b>	<p>for the purposes of PRC property must comprise:—</p> <ul style="list-style-type: none"> <li>(a) a state-owned land use rights certificate (國有土地使用證); or</li> <li>(b) a building ownership certificate (房屋所有權證); or</li> <li>(c) a real estate ownership certificate (房地產權證),</li> </ul> <p>provided that the Exchange may, at its discretion, be prepared to accept other certificates or evidence of title in respect of a PRC property as title certificates for the purposes of the GEM Listing Rules, in which regard early consultation with the Exchange is required.</p>

## Chapter 2

### GENERAL

#### INTRODUCTION

##### Characteristics of GEM

- 2.15 Having regard to the higher risk profile of GEM, the GEM Listing Rules impose additional responsibilities on the Sponsor and Compliance Adviser of an issuer by comparison to those imposed on a sponsor or Compliance Adviser to a company ~~listed or~~ proposing to list or listed on the Main Board (see Chapters 6 and 6A). Sponsors and Compliance Advisers are expected to play an important role in upholding and maintaining the standard of GEM issuers and hence the market's confidence in GEM. The GEM Listing Rules provide that the Exchange must have approved a Sponsor, in accordance with the provisions of Chapter 6, for admission to a list of Sponsors maintained by the Exchange, before it is entitled to act for any new applicant or listed issuer.
- 2.16 ~~[Repealed 1 January 2005] Every issuer of equity securities is required to appoint a Sponsor for a fixed term period covering at least the remainder of the financial year during which its listing occurs and the 2 financial years thereafter. In addition to this, rule 6.02 provides the Exchange with a discretion to direct a listed issuer to appoint a Sponsor after the expiry of this period.~~

## Chapter 3

### GENERAL

#### COMPOSITION, POWERS, FUNCTIONS AND PROCEDURES OF THE GEM LISTING COMMITTEE, THE LISTING APPEALS COMMITTEE AND THE GEM LISTING DIVISION

##### Disciplinary procedures

3.11 The sanctions in rule 3.10 may be imposed or issued against any of the following:—

- (a) a listed issuer or any of its subsidiaries;
- (b) any director of a listed issuer or any of its subsidiaries or any alternate of such director;
- (c) any member of the senior management of a listed issuer or any of its subsidiaries;
- (d) any substantial shareholder of a listed issuer;
- (e) any management shareholder or significant shareholder;
- (f) any professional adviser of a listed issuer or any of its subsidiaries;
- (g) the person fulfilling the role of the listed issuer's qualified accountant (as such role is prescribed in rule 5.15);
- (h) any authorised representative of a listed issuer;
- (i) any supervisor of a PRC issuer; and
- (j) the guarantor of an issuer in the case of a guaranteed issue of debt securities.

For the purposes of this rule “professional adviser” includes any financial adviser, lawyer, accountant, property valuer or any other person retained by an issuer to provide professional advice in relation to a matter governed by the GEM Listing Rules.

*Notes: 1 The scope of any disciplinary action taken, in particular any ban imposed on a professional adviser pursuant to rule 3.10(5), shall be limited to matters governed by or arising out of the GEM Listing Rules.*

*2 In exercising its powers of sanction the Exchange will recognise the differing roles and levels of responsibility of the persons against whom sanctions may lie in pursuance of rule 3.11. In particular, professional advisers’ obligations to use all reasonable efforts to ensure that their clients understand and are advised as to the scope of the GEM Listing Rules are subject to any relevant requirements of professional conduct, as policed and enforced by any professional body of which that adviser is a member.*

*3 The Exchange’s powers of sanction against ~~any~~ Sponsors and Compliance Advisers (and/or any director or employee of any Sponsor or Compliance Adviser) are set out in rules 6.67 and 6.68.*

- 3.15 Any person, other than an issuer, its Sponsor, [Compliance Adviser](#) and authorised representatives, who is aggrieved by a decision of the GEM Listing Division or the GEM Listing Committee may express his views, in writing, to the Chairman of the GEM Listing Committee. The GEM Listing Committee may, in its sole discretion, decide to fully review the matter, having regard to the rights of any third party which may have been created in reliance upon the earlier decision.

#### **Functions and powers of the Listing Appeals Committee**

- 3.37 The Listing Appeals Committee shall be the review body in respect of any decision of the GEM Listing Committee on any of the following matters:—
- (1) that an application for listing by a new applicant has been rejected solely on the grounds that the issuer or its business is unsuitable for listing;
  - (2) that a prospective Sponsor's application for admission to the Exchange's list of Sponsors has been rejected or that a Sponsor should be removed from such list or that a Sponsor [or Compliance Adviser](#) should be regarded as ineligible to act in any particular case;
  - (3) that a person's appointment as an issuer's compliance officer or authorised representative should be terminated;
  - (4) that an application for the lifting of a suspension of dealings in the securities of an issuer has been rejected where the suspension has been in place for more than 30 consecutive days;
  - (5) that a request by an issuer for the suspension of dealings in its securities has been rejected or where a decision has been made to direct the resumption of dealings in the issuer's securities;
  - (6) that the listing of a listed issuer be cancelled; or
  - (7) any decision pursuant to rule 3.10 (2), (3), (5), (7), (8) or (9) or rule 6.69.

# Chapter 4

## GENERAL

### REVIEW PROCEDURE

#### Review cases to be considered by the Listing Appeals Committee

4.07 The Listing Appeals Committee shall be the review hearing body in respect of any decision of the GEM Listing Committee or GEM Listing (Review) Committee on any of the following matters:—

- (1) Rejection of a new applicant - unsuitability for listing

Where the GEM Listing Committee rejects the new applicant solely on the ground that the new applicant or its business is not suitable for listing, the new applicant shall have a right to a further review of the application by the GEM Listing (Review) Committee and a further and final review of the application by the Listing Appeals Committee. The Listing Appeal Committee's decision will then be conclusive and binding on the new applicant.

- (2) Rejection of a Sponsor.

Where the GEM Listing Committee decides to reject any prospective Sponsor's application for admission to the Exchange's list of Sponsors or that any Sponsor admitted to the Exchange's list of Sponsors should be removed therefrom or that any Sponsor admitted to the Exchange's list of Sponsors should be regarded as ineligible to act in any particular case [including as a Compliance Adviser](#), that prospective Sponsor or admitted Sponsor, as the case may be, shall have the right to have that decision reviewed by the Listing Appeals Committee whose decision shall be conclusive and binding.

- (3) Rejection of a compliance officer or an authorised representative

- (a) Where the GEM Listing Division decides that a person's appointment as an issuer's compliance officer appointed under rule 5.14 or authorised representative under rule 5.19 should be terminated, that compliance officer or authorised representative, as the case may be, shall have the right to have that decision referred to the GEM Listing Committee for review.

- (b) Where the GEM Listing Committee endorses, modifies or varies the GEM Listing Division's decision, that compliance officer or authorised representative, as the case may be, shall have the right to have that decision reviewed by the Listing Appeals Committee, whose decision shall be conclusive and binding on both the listed issuer and that compliance officer or authorised representative, as the case may be.

- (4) Rejection of a lifting of suspension of dealings

- (a) Where the GEM Listing Division rejects an application by a listed issuer to lift a suspension of dealings which has been in effect for more than 30 consecutive days, the listed issuer shall have the right to have that decision referred to the GEM Listing Committee for review.

- (b) Where the GEM Listing Committee endorses, modifies or varies the GEM Listing Division's decision, that listed issuer shall have the right to have that decision reviewed by the Listing Appeals Committee, whose decision shall be conclusive and binding on that listed issuer.

- (5) Rejection of a suspension of dealings or decision to direct a resumption of dealings
  - (a) Where the GEM Listing Division rejects an application by a listed issuer for a suspension of dealings in its securities or a decision is made to direct the resumption of dealings in accordance with rule 9.12), the listed issuer shall have the right to have that decision referred to the GEM Listing Committee for review.
  - (b) Where the GEM Listing Committee endorses, modifies or varies the GEM Listing Division's decision, that listed issuer shall have the right to have the decision reviewed by the Listing Appeals Committee, whose decision shall be conclusive and binding on that listed issuer.
- (6) Cancellation of a listing
  - (a) Following a decision to cancel the listing of a listed issuer, the GEM Listing Committee will set down a detailed review procedure upon the receipt of the written request made including time limits for submitting documents on a case by case basis.
  - (b) Where the GEM Listing Committee decides to cancel the listing of a listed issuer, the listed issuer shall have the right to have that decision referred to the GEM Listing (Review) Committee again for review.
  - (c) Where the GEM Listing (Review) Committee endorses, modifies or varies the earlier decision of the GEM Listing Committee, the listed issuer shall have a right to further and final review of that decision by the Listing Appeals Committee, whose decision shall be conclusion and binding on the listed issuer.

#### **Aggrieved party**

- 4.15 Any person, other than a listed issuer, its Sponsor, compliance officer, [Compliance Adviser](#) or authorised representatives, who is aggrieved by a decision of the GEM Listing Division or the GEM Listing Committee may express his views, in writing, to the Chairman of the GEM Listing Committee. The GEM Listing Committee may, in its sole discretion, decide to fully review the matter, having regard to the rights of any third party which may have been created in reliance upon the earlier decision.

# Chapter 5

## GENERAL

### DIRECTORS, SECRETARY AND CORPORATE GOVERNANCE MATTERS

#### Authorised representatives

5.25 The responsibilities of an authorised representative are as follows:—

- (1) supplying the Exchange with details in writing of how he can be contacted including home, office and mobile telephone numbers and, where available, facsimile numbers and electronic mail addresses;
- (2) ~~for so long as the issuer continues to have a Sponsor or Compliance Adviser, assisting the Sponsor or Compliance Adviser in their roles as set out in the Listing Rules, in particular the Sponsor's role as the principal channel of communication with the Exchange concerning the affairs of the issuer;~~  
~~for so long as the issuer continues to have a Sponsor, assisting the Sponsor in its role as the principal channel of communication with the Exchange concerning the affairs of the issuer;~~

*Notes: 1 In this regard, the authorised representatives shall provide the Sponsor with the information necessary to enable the Sponsor to fulfil its duty of communicating on the issuer's behalf with the Exchange and ensure the issuer meets its obligations to the Sponsor and Compliance Adviser as set out in Chapter 6A.*

*2 In the event that the Exchange, for whatever reason, is unable to contact or liaise with the Sponsor concerning any particular matter relevant to the issuer, the authorised representatives will be expected to assume full responsibility for contacting or responding to the Exchange concerning that matter.*

- (3) from such time as the issuer is no longer required to have (or does not otherwise retain) a Sponsor, acting as the principal channel of communication between the Exchange and the listed issuer (in particular, as regards any communication required prior to commencement of trading in the morning); and
- (4) ensuring that whenever he is away, a suitable alternate is appointed (and authorised to speak on behalf of the issuer), available and known to the Exchange and supplying the Exchange with details in writing of how such alternate may be contacted including home, office and mobile telephone numbers and, where available, facsimile numbers and electronic mail addresses.

*Note: If the authorised representatives and, or their alternates are based outside Hong Kong (or are otherwise expected to be frequently outside Hong Kong), they must ensure that they can be readily contactable by the Exchange on the contact details provided to the Exchange under this rule.*

# Chapter 6

## GENERAL

### ELIGIBILITY OF SPONSORS

#### Introduction

6.01 ~~[Repealed 1 January 2005]~~A new applicant seeking a listing of equity securities on GEM must appoint a Sponsor pursuant to a contract for a fixed term period covering at least the remainder of the financial year during which the listing occurs and the 2 financial years thereafter. Subject to rule 6.02, the requirement to have a Sponsor ends on expiry of this period, although it is recommended that the issuer retains the services of a Sponsor thereafter.

*Notes: 1 The contract between the new applicant and its Sponsor must be for a fixed term equal, at least, to the minimum period referred to in this rule. It may not be terminated by the Sponsor during this period, save in exceptional circumstances:*

*2 For the avoidance of doubt, where the holding company of a new applicant seeking only a listing of debt securities on GEM has equity securities already listed on GEM, or seeks to list its equity securities on GEM at the same time as the new applicant's debt securities, the new applicant is not required to appoint a Sponsor. However:—*

*(a) in circumstances where the holding company of the new applicant is required to appoint or has appointed a Sponsor under rule 6.01 or 6.02, that Sponsor (or another party admitted to the Exchange's list of Sponsors, specifically appointed for the purpose) must advise the new applicant in connection with the issue and listing of the debt securities. In addition, where the new applicant proposes to issue a listing document of the type referred to in rule 6.58(1) during the term of appointment of the holding company's Sponsor as referred to in rule 6.01 or any period fixed for the purposes of rule 6.02, the Sponsor (or the other party so appointed) must comply with the requirements of rules 6.56 (matters in connection with the application) and 6.57 (declaration to the Exchange) in relation to such issue; or*

*(b) in circumstances where the holding company of the new applicant is not required to appoint or has not appointed a Sponsor under rule 6.01 or 6.02, the new applicant must, in any event, appoint a financial adviser to advise the new applicant. (see rules 27.04 and 30.08)*

6.02 ~~[Repealed 1 January 2005]~~After the expiry of the fixed term period referred to in rule 6.01, and in a situation where a listed issuer has not otherwise retained the services of a Sponsor, a listed issuer must appoint a Sponsor to act as its adviser (and, to carry out all or any of the responsibilities set out in rules 6.39 to 6.43 and rules 6.50 to 6.58) in any circumstances, for such period and in such manner as the Exchange may, in its discretion, direct.

6.03 ~~[Repealed 1 January 2005]~~The Sponsor's role is of particular importance to the successful operation of GEM, since it is the expectation of the Exchange that each issuer should, with the guidance and assistance of the Sponsor, comply with and discharge its responsibilities under the GEM Listing Rules without having to rely unduly on the advice of the Exchange. In this regard, the Sponsor is expected to advise the issuer on those responsibilities in a competent, professional and impartial manner, so providing reassurance to investors.

*Note: Sponsors should be mindful of the fact that applicants for listing, may, at the outset of preparing for the listing, not be familiar with the responsibilities and obligations associated with raising capital from the public or being a company listed on GEM. An integral part of the Sponsor's role is to ensure that the directors of the issuer are fully apprised of those responsibilities and obligations.*

- 6.04 To be eligible to act as the Sponsor of a new applicant or the Compliance Adviser of a listed issuer, the party in question must have been approved by the Exchange for such purposes and admitted to a list of Sponsors maintained and published by the Exchange from time to time. ~~In circumstances where a prospective Sponsor cannot satisfy the requirements of rule 6.14 (relating to the experience of the Sponsor) but satisfies all other requirements set out in rules 6.12 to 6.19, the Exchange reserves the right to admit that party to the list, subject to its acting only in the capacity of a co-Sponsor. This limitation on capacity shall be indicated on the Exchange's list of Sponsors. For the avoidance of doubt, a new applicant or listed issuer must, for the duration of the minimum period referred to in rule 6.01 or any period fixed for the purposes of rule 6.02, appoint a Sponsor to which no such limitation in capacity applies.~~

*Note: Unless the context otherwise requires, references to a Sponsor in the GEM Listing Rules shall be construed as applying equally to any co-Sponsor.*

#### **Application procedure**

- 6.10 The Exchange reserves a discretion to admit a Sponsor to the list of Sponsors, subject to any conditions, restrictions or other requirements imposed by the Exchange at the time of admission or at any time thereafter and whether of a general nature or specific to any issuer for which the Sponsor acts or proposes to act including acting in the capacity of Compliance Adviser.

#### **Warning**

- 6.11 Admission of any applicant to the list of Sponsors shall be indicative only of the fact that the Exchange is satisfied, based solely on the information provided by the applicant, that the applicant has, as at the date of admission, satisfied the eligibility criteria set out in this Chapter. Such admission is not a guarantee of the quality or performance of the Sponsor or any issuer for which the Sponsor acts including acting in the capacity of Compliance Adviser.

#### **General continuing obligations**

- 6.20 The Sponsor must comply (and undertakes pursuant to its application to become a Sponsor (Appendix 7A), once it has been admitted to the list of Sponsors, to comply) with the GEM Listing Rules applicable to Sponsors and, to the extent applicable, Compliance Advisers. Without prejudice to the generality of the foregoing, the Sponsor must, subject to rule 6.21, use all reasonable endeavours to ensure that it continues to satisfy all of the eligibility criteria set out in rules 6.12 to 6.19, any other criteria imposed under rule 6.06 and any conditions imposed under rule 6.10 or 6.30.
- 6.21 With regard to the Sponsor's on-going net tangible asset value after minority interests referred to in rule 6.15(1), the Sponsor:—
- (1) must not, in the event such value falls below HK\$10,000,000, take on new sponsorship or Compliance Adviser roles ~~for any new applicant or listed issuer (or continue, as Sponsor, to advise any new applicant)~~, until such time as its net tangible asset value after minority interests has been restored to an amount of no less than HK\$10,000,000 (or until it can produce an unconditional and irrevocable guarantee from a company within the same group as the Sponsor or an authorised institution (as defined under the Banking Ordinance) that is,

and in a form that is, acceptable to the Exchange in respect of the Sponsor's liabilities up to an aggregate amount of not less than HK\$10,000,000), provided always that nothing in this rule shall limit or restrict the Sponsor's or Compliance Adviser's on-going obligations and responsibilities with regard to ~~listed~~ issuers for which it already acts as at the time such value falls below HK\$10,000,000; and

- (2) must use all reasonable endeavours to ensure such value does not fall below HK\$5,000,000, and provided that if, for any reason, it does, the Sponsor must take immediate steps to rectify the position and will be expected to have restored its net tangible asset value after minority interests to no less than HK\$5,000,000 within 30 days of the date on which it breaches this rule.

*Notes: 1 It is recognised that the Sponsor will incur liabilities during the conduct of its corporate finance business and accordingly, the Exchange will allow a Sponsor's net tangible asset value after minority interests to fall below HK\$10,000,000, subject to its retaining, at all times, a minimum value of HK\$5,000,000.*

- 2 This rule is designed to ensure, among other things, that should any Sponsor take the decision to phase out its business of acting as a Sponsor and Compliance Adviser, it must, for the duration of the outstanding period over which it is obliged to act as the Sponsor or Compliance Adviser of any issuer and in the absence of guarantee arrangements acceptable to the Exchange, have a minimum net tangible asset value after minority interests of HK\$5,000,000.*

- 6.24 If the Sponsor becomes aware that it no longer continues to satisfy the eligibility criteria set out in rules 6.12 to 6.19 or any other criteria imposed under rule 6.06 or any conditions imposed under rule 6.10 or 6.30, it may not take on new sponsorship or Compliance Adviser roles ~~for any new applicant or listed issuer, (or continue, as Sponsor, to advise any new applicant)~~, provided always that nothing in this rule shall immediately limit or restrict the Sponsor's or Compliance Adviser's on-going obligations and responsibilities with regard to issuers for which it already acts as at the time of breach.

*Note: In these circumstances, the Sponsor or Compliance Adviser must promptly inform the Exchange, which may decide upon the extent of the Sponsor's or Compliance Adviser's on-going involvement on a case by case basis.*

- 6.25 The Sponsor must designate 2 of its executive directors to act, at all times, as the principal channel of communication with the Exchange concerning matters relevant to the Sponsor including, as relevant, in its role as a Compliance Adviser. Those individuals must supply the Exchange with details in writing of how they can be contacted, including office, mobile and home telephone numbers, facsimile number and electronic mail address.
- 6.26 The Sponsor must continue to engage a sufficient number of staff to ensure that it can, at all times, properly discharge its responsibilities as a Sponsor and, as relevant, a Compliance Adviser (taking into account the number of issuers for which it acts and its other commitments).

### **Continuing eligibility**

- 6.28 If, at any time after the Sponsor has been admitted to the Exchange's list of Sponsors, the Exchange:—
- (1) considers that the Sponsor no longer continues to satisfy the eligibility criteria set out in rules 6.12 to 6.19 (as varied by the provisions of rule 6.21 concerning the Sponsor's on-going net tangible asset value after minority interests), any other criteria imposed under rule 6.06 and any conditions imposed under rule 6.10 or 6.30; or

- (2) has reasonable grounds to suspect that the Sponsor has failed to disclose fairly and accurately any information that ought reasonably to have been disclosed, whether pursuant to rule 6.19 or 6.22 or otherwise; or
- (3) considers that the Sponsor has breached or failed to discharge its responsibilities or obligations under the GEM Listing Rules or is no longer competent to act properly as a Sponsor or Compliance Adviser; or
- (4) considers that the integrity or reputation of the Main Board or GEM may be or may have been impaired as a result of the conduct or judgement of the Sponsor,

it may, subject to rule 6.31, remove the Sponsor from the list of Sponsors, thereby rendering it ineligible to act as a Sponsor or Compliance Adviser for new applicants or listed issuers and/or take any other disciplinary action against the Sponsor.

6.29 Without prejudice to rule 6.28, the Exchange will review each Sponsor's continued inclusion on the list of Sponsors on an annual basis. However, the Exchange reserves the right to conduct the review at any time prior to the anniversary of the date on which the Sponsor was admitted to the list of Sponsors or of the date on which the Sponsor was last reviewed by the Exchange. The review will be carried out in the following manner:—

- (1) If a Sponsor wishes to continue to be included on the list of Sponsors or is otherwise obliged under its existing commitments to any listed issuer to continue to act as a Compliance Adviser~~Sponsor~~, it must submit a review form for continuing eligibility, in the prescribed form set out in Appendix 7D, together with all documents required to be submitted with that form and a non-refundable review fee in the amount specified in Appendix 9.

Notes: 1 *The form, documents and fee should be submitted to the GEM Listing Division no later than:—*

(a) *1 month prior to the anniversary of the date on which the Sponsor was admitted to the list of Sponsors;*

(b) *1 month prior to the anniversary of the date on which the Sponsor was last reviewed; or*

(c) *any period specified by the Exchange for such purpose,*

*as applicable.*

2 *Sponsors should note that the form requires them to confirm whether or not they continue to meet the eligibility criteria set out in rules 6.12 to 6.19 and any other criteria imposed under rule 6.06 and any conditions imposed under rule 6.10 or 6.30.*

3 *If the Sponsor does not continue to meet the eligibility criteria set out in rules 6.12 to 6.19 (as varied by the provisions of rule 6.21 concerning the Sponsor's on-going net tangible asset value after minority interests) or any other criteria imposed under rule 6.06 or any conditions imposed under 6.10 or 6.30, full details, including the reasons therefor, must be provided to the Exchange.*

4 *In this regard, if the net tangible asset value after minority interests of the Sponsor has fallen below HK\$10,000,000 and in circumstances where no guarantee has been provided (as referred to in rule 6.15(2)), the Exchange must be specifically advised of this matter, notwithstanding that, by virtue of rule 6.21, such value may fall to a minimum of HK\$5,000,000.*

- 5 Sponsors should note that, save as regards the requirement concerning its on-going net tangible asset value after minority interests (see rule 6.21), the Exchange will review the Sponsor each year as if it were a prospective Sponsor seeking admission to the list of Sponsors. Accordingly, the experience criteria, for each of the Sponsors and the requisite minimum number of principal supervisors and assistant supervisors, must continue to be satisfied on an on-going basis.
- 6 Among the documents required to be submitted by the Sponsor together with the form are:—
- (a) its latest audited accounts and, in circumstances where the Sponsor's last financial year end was more than 6 months before the date of submission, the audited or unaudited balance sheet of the Sponsor as at a date not more than 6 months prior to the date of submission (signed, in the case of the unaudited balance sheet, by 2 directors of the Sponsor);
  - (b) in the case of a Sponsor the liabilities of which have been guaranteed (as referred to in rule 6.15(2)), the latest audited accounts and any subsequent published financial statements of the guarantor (other than in respect of a guarantor that is an authorised institution (as defined under the Banking Ordinance)), together with confirmation that the form of guarantee, as approved by the Exchange, remains in full force and effect;
  - (c) review forms in the form set out in Appendix 7E and 7F, respectively, from each of the Sponsor's continuing principal supervisors and assistant supervisors; and
  - (d) completed declarations in the form set out in Appendix 7B and/or 7C in respect of any proposed additional principal supervisors and/or assistant supervisors as the case may be.
- 7 Any failure by a Sponsor to submit the form may result in the Exchange removing the Sponsor from the list of Sponsors and/or taking any other disciplinary action against the Sponsor.

- (2) The review of a Sponsor's continued inclusion on the list of Sponsors will be considered by the GEM Listing Committee. Sponsors may be asked to attend for interviews and/or provide further information for the purposes of the review.

*Note: The Exchange reserves the right to change the date for which the review of any Sponsor has been scheduled.*

- (3) The GEM Listing Committee, in forming its view, may take into consideration the information provided in the continuing review form and the documents submitted with that form and, having regard to rule 6.07, any other matters considered by it to be relevant.

6.30 The Exchange reserves a discretion to continue to include a Sponsor on the list of Sponsors, subject to any conditions, restrictions or other requirements imposed by the Exchange at any time and whether of a general nature or specific to any issuer for which the Sponsor acts or proposes to act either as a Sponsor or Compliance Adviser.

### **Interests of the Sponsor**

6.34 ~~[Repealed 1 January 2005]No Sponsor may act for any new applicant or continue to act for any listed issuer in circumstances where any actual or potential conflict of interest impedes or is likely to impede its ability to provide competent advice to the new applicant or listed issuer in a~~

professional and impartial manner.

Notes: 1 For the purposes of this rule:

~~The Sponsor may not (nor may any member of the group of which the Sponsor forms part) be involved in accounting matters relevant to the issuer or be the legal advisers to the issuer. The Exchange may, however, in certain circumstances permit the corporate finance and audit operations of an accounting firm to be involved as a co-sponsor (but not sole sponsor) and the reporting accountant respectively in the same listing application. The normal responsibilities of sponsors and co-sponsors in relation to new listing applications are not affected by the granting of such permission. Any permission granted by the Exchange would be subject to the following conditions and any other conditions which the Exchange may impose as appropriate:—~~

- ~~(i) the corporate finance operation of the accounting firm does not act as an under-writer;~~
- ~~(ii) the corporate finance operation of the accounting firm does not take part in marketing or promotion of the listing applicant or its securities; and~~
- ~~(iii) the Exchange is satisfied that there is adequate segregation of roles between the corporate finance and audit operations of the accounting firm.~~

~~Such permission is to be granted by the Exchange on a case-by-case basis:~~

- ~~(a) The Sponsor shall not be prohibited from acting for an issuer on account of any tending, in the ordinary course of business, by the Sponsor (or any member of the group of which the Sponsor forms part) to the issuer or its group.~~
- ~~(b) The Sponsor may own securities in the issuer, hold options or other rights to subscribe such securities and enter into any success fee or other arrangements with the issuer provided that details of the same are disclosed in accordance with rules 6.35 and 6.36.~~

- ~~2 The Exchange reserves a right to decide that any Sponsor is not eligible to act in any particular case (see rule 3.07). One circumstance in which this right might be exercised would be where the Exchange believes that an actual or potential conflict for the Sponsor impedes or is likely to impede its ability to provide advice in accordance with this rule.~~

6.35 In relation to ~~(2)~~ any application for listing by a listed issuer involving the proposed issue of a listing document of the type referred to in rule 6.58 within the minimum period referred to in rule ~~6A.196.01~~ or any period fixed for the purposes of rule ~~6A.206.02~~, the ~~Compliance Adviser~~~~Sponsor~~ (or any party admitted to the Exchange's list of Sponsors that is appointed pursuant to rule 6.60 to advise the issuer) must complete and submit to the Exchange, at the time of submitting the application for listing (passing a copy to the new applicant or listed issuer) a declaration in the prescribed form set out in Appendix 7H, giving details of all interests it, its directors and employees and its associates have in relation to the issuer and that listing or transaction.

~~(1) the initial application for listing by a new applicant, the Sponsor must; or~~

- Notes: 1 For these purposes, the ~~Sponsor~~Compliance Adviser (or other adviser appointed pursuant to rule 6.60) must provide details of all information which ought reasonably to be disclosed concerning the interests which it, its directors and employees and its associates have in relation to the new applicant or listed issuer and the successful outcome of the listing or transaction in question, having taken all reasonable steps to ascertain such interests of its directors and employees and its associates.
- 2 Without limiting the general nature of Note 1, the ~~Sponsor~~Compliance Adviser (or other adviser appointed pursuant to rule 6.60) would be expected to disclose full and accurate details of:—
- (a) the interests which it or its associates have or may, as a result of the listing or transaction, have in the securities of the issuer or any other company in the issuer's group (including options or rights to subscribe for such securities);
  - (b) the interests which any director or employee involved in providing advice to the issuer has or may, as a result of the listing or transaction, have in the securities of the issuer or any company in the issuer's group (including options or rights to subscribe such securities but, for the avoidance of doubt, excluding interests in securities that may be subscribed by any such director or employee pursuant to an offer by way of public subscription made by the issuer); and
  - (c) any material benefit expected to accrue to the ~~Sponsor~~Compliance Adviser (or other adviser appointed pursuant to rule 6.60) or its associates as a result of the successful outcome of the listing or transaction, including, by way of example, the repayment of material outstanding indebtedness and payment of any underwriting commissions or success fees.
- 3 For the purposes of Note 2 above, "associate" shall have the same meaning as set out in rule 1.01, save that it shall be construed as applying to the ~~Sponsor~~Compliance Adviser (or other adviser appointed pursuant to rule 6.60).

6.36 ~~The listing document in respect of any new applicant and all other listing documents and circulars relating to transactions on which the Sponsor subsequently provides advice to the issuer. The listing document in respect of any new applicant must comply with rule 6A.10(2), as applicable. All other listing documents and circulars relating to transactions on which the Compliance Adviser (or another adviser appointed pursuant to rule 6.60) subsequently provides advice to the issuer (excluding any Explanatory Statement issued pursuant to rule 13.08) must disclose full and accurate details of the interests as advised by the Compliance Adviser~~~~Sponsor~~ and, if applicable, the interests as advised pursuant to rule 6.35 by the ~~Compliance Adviser~~~~Sponsor~~ appointed pursuant to rule 6.60. In addition, each listed issuer's annual report and accounts, half-year report and quarterly reports must include full and accurate details of such interests, as updated and notified by the ~~Compliance Adviser~~~~Sponsor~~ to the issuer at the time of preparing such reports.

- Notes: 1 Each of the documents referred to in this rule is required to set out the interests of the ~~Compliance Adviser~~~~Sponsor~~ (and its directors, employees and associates) under a specific heading and both the heading and information must be given suitable prominence within the document.
- 2 The ~~Compliance Adviser~~~~Sponsor~~ must take responsibility for the accuracy of the information relating to the interests of the ~~Compliance Adviser~~~~Sponsor~~ (and its directors, employees and associates), as set out in each of the documents referred to in this rule.

- 6.37 In circumstances of any doubt as to the prospective impact of an actual or potential conflict of interest or as to the interests that are required to be disclosed, the Sponsor Compliance Adviser or other adviser must consult with the Exchange at the earliest practicable opportunity.

### **Responsibilities of the Sponsor**

- 6.38 ~~[Repealed 1 January 2005]Set out in rules 6.39 to 6.58 are the specific responsibilities that a Sponsor is required to perform in relation to advice given by it to issuers. Rules 6.39 to 6.43 deal with matters relevant to all issuers (including new applicants) for which it acts, rules 6.44 to 6.49 with new applicants for which it acts and rules 6.50 to 6.58 with listed issuers for which it acts. Failure to carry out these responsibilities may result in the Exchange taking one or more of the steps referred on in rules 6.67 and 6.68.~~

#### *Responsibilities concerning each issuer for which the Sponsor acts*

- 6.39 ~~[Repealed 1 January 2005]Where an issuer consults its Sponsor for guidance or advice in relation to the GEM Listing Rules, the Sponsor:—~~

- ~~(1) has a responsibility to ensure that the issuer is properly guided and advised; and~~
- ~~(2) must discharge that responsibility with due care and skill.~~

- 6.40 ~~[Repealed 1 January 2005]The Sponsor should accompany the issuer to any meetings with the Exchange that the issuer is asked to attend, unless otherwise requested by the Exchange.~~

- 6.41 ~~[Repealed 1 January 2005]The Sponsor must certify that it has read the answers which each director of the issuer is required to provide in response to the questions in Part 1 of the relevant form of Declaration, Undertaking and Acknowledgement set out in Appendix 6 and that at the date of certification it is not aware of any information that would lead a reasonable person to inquire further concerning the truthfulness, completeness or accuracy of any of the answers given. The certification shall be in the form provided in Part 3 of such form as set out in Appendix 6.~~

- 6.42 In respect of each issuer, the Sponsor and Compliance Adviser must retain its internal records for a minimum period of 6 years after the date on which such records have, from time to time, been taken, including those relating to all due diligence conducted on the issuer in preparation for its application for listing on GEM and those relating to any book-building or placing exercise; and such records must, subject to applicable laws, be made available to the Exchange on request.

- 6.43 ~~[Repealed 1 January 2005]The Sponsor must not reveal any privileged information about or relating to an issuer to anyone not authorised until the information has been the subject of a listing document, circular or formal announcement, particularly where such information may affect market activity in or the price of the issuer's securities:~~

~~Note: The Sponsor must take all reasonable steps to ensure that its staff maintain the confidentiality of such privileged information and to prevent any misuse of the information.~~

#### *Responsibilities concerning each new applicant for which the Sponsor acts*

- 6.44 ~~[Repealed 1 January 2005]In relation to an application for listing by a new applicant, the Sponsor is responsible for dealing with the Exchange on all matters raised by the Exchange.~~

- 6.45 ~~[Repealed 1 January 2005]The Sponsor must be closely involved in the preparation of the listing document and must ensure that it has been verified to a standard that enables the Sponsor to submit to the Exchange the declaration referred to in rule 6.47.~~

*Note: The proof of the listing document submitted to the Exchange together with the listing application form must have been verified in all material respects prior to submission.*

- 6.46 ~~[Repealed 1 January 2005]~~The Sponsor has a duty to ensure so far as practicable that there is no unauthorised publication or leakage of publicity material or price sensitive information about a new applicant prior to the meeting of the GEM Listing Committee to consider the application. Failure in this regard may result in postponement of such application for a minimum of 1 month or the rejection of listing of those securities, regardless of how such an event occurred.
- 6.47 The Sponsor, together with the new applicant, must complete the application for listing in the form set out in Appendix 5A.~~In addition, the Sponsor must, prior to issue of the listing document, submit to the Exchange the Sponsor's declaration in the form set out in Appendix 7G confirming that:—~~
- ~~(1) all the documents required by the GEM Listing Rules to be submitted to the Exchange prior to the issue of the listing document have been so submitted;~~
  - ~~(2) the Sponsor has satisfied itself, to the best of its knowledge and belief, having made due and careful enquiries, that:—~~
    - ~~(a) the new applicant is suitable for listing on GEM;~~
    - ~~(b) the new applicant is in compliance with all of the qualifications for listing set out in the GEM Listing Rules;~~
    - ~~(c) the listing document is in compliance with the GEM Listing Rules and that:—~~
      - ~~(i) the information contained in the listing document is accurate and complete in all material respects and not misleading;~~
      - ~~(ii) there are no other matters the omission of which would make any statement in the listing document misleading;~~
      - ~~(iii) all opinions of the directors of the new applicant expressed in the listing document have been arrived at after due and careful consideration on their part and are founded on bases and assumptions that are fair and reasonable; and~~
      - ~~(iv) the directors of the new applicant have made sufficient enquiries so as to enable them to give the confirmations set out in the "responsibility statement" contained in the listing document;~~
    - ~~(d) there are no matters other than those disclosed in the listing document or otherwise in writing to the Exchange which should have been taken into account by the Exchange in considering the application for listing of the relevant securities; and~~
  - ~~(3) the directors of the new applicant have had explained to them the nature of their responsibilities under the GEM Listing Rules and other applicable laws and provisions relating to securities and the Sponsor has satisfied itself to the best of its knowledge and belief, having made due and careful enquiries that:—~~
    - ~~(a) the directors have the requisite expertise and experience;~~
    - ~~(b) they appreciate the nature of those responsibilities and can be expected to honour their obligations under the GEM Listing Rules and other applicable laws and provisions relating to securities;~~

- (c) ~~they can be expected to prepare and publish all information necessary for an informed market to take place in the new applicant's securities; and~~
- (d) ~~they can be expected, generally, to honour their obligations, both in relation to shareholders and to the new applicant's creditors.~~

~~Note: For the purposes of this rule and rule 6.52, "applicable laws and provisions relating to securities" include the Securities and Futures Ordinance, the Companies Ordinance, the Takeovers Code and the Code on Share Repurchases.~~

6.49 At least one of the principal supervisors and one of the assistant supervisors must be actively involved in the work undertaken by the Sponsor in connection with any proposed application for listing by a new applicant. The Sponsor's declaration referred to in rule ~~6A.136.47~~ must, save in exceptional circumstances, be signed on behalf of the Sponsor by the principal supervisor and assistant supervisor who have been most actively involved in the work undertaken by the Sponsor and will be treated by the Exchange as an acknowledgement of their personal active involvement in the matter.

*Responsibilities concerning each listed issuer for which the Sponsor acts*

6.50 The Sponsor shall ensure that a principal supervisor and an assistant supervisor remain actively involved in the provision of on-going advice and guidance sought by a listed issuer for which that Sponsor acts as a Compliance Adviser.

6.51 ~~[Repealed 1 January 2005]The Sponsor shall act as the principal channel of communication with the Exchange on behalf of the listed issuer and must, so far as practicable, deal with all matters arising in relation to the listed issuer which are raised by the Exchange. In relation to each listed issuer for which the Sponsor acts, the Sponsor shall supply to the Exchange details of the principal supervisor and assistant supervisor referred to in rule 6.50 and of how they can be contacted, including office, mobile and home telephone numbers, facsimile number and electronic mail address.~~

6.52 ~~[Repealed 1 January 2005]The Sponsor shall take all reasonable steps to brief all new appointees to the board of directors of the issuer (and, in the case of a PRC issuer, all new supervisors) as to the nature of their responsibilities under the GEM Listing Rules and other applicable laws and provisions relating to securities (see the Note to rule 6.47) and the general nature of their obligations both in relation to shareholders and to the issuer's creditors.~~

6.53 ~~[Repealed 1 January 2005]The Sponsor shall take all reasonable steps to inform and remind the directors (and, in the case of a PRC issuer, the supervisors) of the issuer, on a timely basis and at suitable opportunities, as to the nature of the responsibilities and obligations referred to in rule 6.52.~~

~~Notes: 1 This might be achieved by means of presentations at board meetings of the issuer, in particular those called prior to considering any transaction to which the GEM Listing Rules will apply.~~

~~2 The directors (and, in the case of a PRC issuer, the supervisors), of the issuer must be informed on a timely basis of any amendment or supplement to the GEM Listing Rules and of any new or amended law, regulation or code in Hong Kong relevant to matters of corporate governance.~~

~~3 The Sponsor itself should brief the directors (and, in the case of a PRC issuer, the supervisors) of the issuer or take reasonable steps to ensure that such briefings are given by other appropriate professional advisers of the issuer.~~

6.54 ~~[Repealed 1 January 2005]The Sponsor shall review, regularly with the issuer, the issuer's operating performance and financial condition against the issuer's statement of business objectives and against any profit forecast, estimate or projection included in the issuer's listing document or otherwise made public by, or on behalf of, the issuer in order to assist the issuer in determining whether any announcement is necessary under rule 17.10.~~

6.55 ~~[Repealed 1 January 2005]The Sponsor shall, prior to publication, review with the issuer all announcements, listing documents and circulars required to be issued under the GEM Listing Rules and the annual report and accounts, half-year report and quarterly reports of the issuer with a view to ensuring that the directors of the issuer understand the importance of disclosing all material information to shareholders and the market.~~

6.56 In relation to an application for listing by a listed issuer involving the proposed issue of a listing document of the type referred to in rule 6.58 within the minimum period referred to in rule ~~6A.196-01~~ or any period fixed for the purposes of rule ~~6A.206-02~~, the Compliance AdviserSponsor:—

- (1) shall be responsible for dealing with the Exchange on all matters raised by the Exchange;
- (2) must be closely involved in the preparation of the listing document and must ensure that it has been verified to a standard that enables the Compliance AdviserSponsor to submit to the Exchange the declaration referred to in rule 6.57;
- (3) must assist the issuer in preparing and submitting the application form for listing, together with such other completed forms or documents as are required pursuant to the GEM Listing Rules to be submitted in connection therewith; and
- (4) must ensure that at least one of the principal supervisors and one of the assistant supervisors are actively involved in the work undertaken by the Compliance AdviserSponsor in connection with the application.

*Note: The Sponsor (or another party admitted to the Exchange's list of Sponsors, specifically appointed for the purpose) of a new applicant seeking to list equity securities and debt securities on GEM at the same time must, in relation to the proposed issue of any prospectus applicable to the debt securities, perform the matters referred to in this rule and rule 6.57.*

6.57 The Compliance AdviserSponsor must, prior to the issue of a listing document of the type referred to in rule 6.58 within the minimum period referred to in rule ~~6A.196-01~~ or any period fixed for the purposes of rule ~~6A.206-02~~, submit to the Exchange a declaration in the form set out in Appendix 7J confirming that:—

- (1) all the documents required by the GEM Listing Rules to be submitted to the Exchange prior to issue of the listing document have been so submitted; and
- (2) the Compliance AdviserSponsor has satisfied itself, to the best of its knowledge and belief, having made due and careful enquiries that the listing document is in compliance with the GEM Listing Rules and that:—
  - (a) the information contained in the listing document is accurate and complete in all material respects and not misleading;
  - (b) there are no other matters the omission of which would make any statement in the listing document misleading;

- (c) all opinions of the directors of the issuer expressed in the listing document have been arrived at after due and careful consideration on their part and are founded on bases and assumptions that are fair and reasonable; and
- (d) the directors of the issuer have made sufficient enquiries so as to enable them to give the confirmations set out in the “responsibility statement” contained in the listing document.

*Note: Such declaration must, save in exceptional circumstances, be signed on behalf of the Compliance AdviserSponsor by the principal supervisor and assistant supervisor who have been most actively involved in the work undertaken by the Compliance AdviserSponsor and will be treated by the Exchange as an acknowledgement of their personal active involvement in the matter.*

6.58 The following listing documents are relevant for the purposes of rules 6.56 and 6.57:—

- (1) any listing document which constitutes a prospectus for the purposes of the Companies Ordinance;
- (2) any listing document issued in relation to a rights issue or open offer (whether or not it constitutes a prospectus); or
- (3) any listing document issued in relation to a transaction or connected transaction (pursuant to Chapters 19 and 20 respectively).

*Note: In respect of any listing document in relation to a connected transaction, the declaration by the Compliance AdviserSponsor required pursuant to rule 6.57 will not be expected to give any form of confirmation on the opinions of the independent non-executive director(s) or the letter from the independent financial adviser.*

### **Co-sponsorships and additional Sponsors**

6.59 ~~[Repealed 1 January 2005]Where more than one Sponsor has been appointed by a new applicant, each has responsibility for ensuring that the obligations and responsibilities set out in rules 6.39 to 6.49 are fully discharged. The Exchange must be advised as to which of the Sponsors is, in the first instance, principally responsible for communicating on the new applicant’s behalf with the Exchange.~~

~~Notes: 1 Where more than one Sponsor has been appointed by a new applicant, all information submitted in support to the listing application lodged with the Exchange must be signed by all Sponsors concerned.~~

~~2 Where more than one Sponsor has been appointed by a new applicant, it is necessary for only one Sponsor to be appointed for the duration of the minimum period referred to in rule 6.01, provided always that the one Sponsor so appointed has not been admitted to the Exchange’s list to act only in the capacity of a co-Sponsor (see rule 6.04).~~

6.60 Where a listed issuer proposes to issue a listing document of the type referred to in rule 6.58 within the minimum period referred to in rule 6A.196-01 or any period fixed for the purposes of rule 6A.206-02, it is permissible for any party admitted to the Exchange’s list of Sponsors, other than the Compliance AdviserSponsor appointed by the issuer for the purposes of rule 6A.196-01 or 6A.206-02, to act as the adviser to the issuer in relation to the transaction in question. In these circumstances, the newly-appointed adviser must assume responsibility for the particular matters referred to in rules 6.56 and 6.57.

*Note: The term of appointment of any party engaged for these purposes as adviser to the listed issuer may not expire until the relevant securities of the listed issuer have been admitted to listing on GEM (or, if applicable, until the application for listing has been rejected by the Exchange).*

### **Termination of the Sponsor's role and appointing a replacement Sponsor**

- 6.61 ~~[Repealed 1 January 2005] During the minimum period referred to in rule 6.01 or any period fixed for the purposes of rule 6.02, a Sponsor appointed pursuant to those rules may only terminate its role as sponsor to the issuer in exceptional circumstances, where it is no longer able satisfactorily to perform the role, and only after first notifying the Exchange of the intended termination and the reasons therefor.~~
- 6.62 ~~[Repealed 1 January 2005] In the event that the contract between an issuer and its Sponsor is terminated by the issuer, for whatever reason, prior to the expiry of the minimum period referred to in rule 6.01 or any period fixed for the purposes of rule 6.02, the issuer and the Sponsor must immediately notify the Exchange of the termination and the reasons therefor.~~
- 6.63 If a Compliance Adviser resigns or its engagement is terminated, a listed issuer must, as soon as practicable, publish an announcement, in accordance with Chapter 16, and make arrangements to replace the Compliance Adviser pursuant to rule 6A.27. Immediately after a replacement Compliance Adviser has been appointed, the listed issuer must inform the Exchange and publish a further announcement.

~~*Note: Refer to rules 6A.26 and 6A.27 regarding circumstances in which the termination or resignation of a Compliance Adviser is permitted. In the circumstances set out in rule 6.61 or 6.62, a listed issuer must, as soon as practicable, publish an announcement, in accordance with the requirements of Chapter 16, stating the reasons for the termination, and make immediate arrangements to appoint a replacement Sponsor for at least the balance of the minimum period referred to in rule 6.01 or any period fixed for the purposes of rule 6.02 and must inform the Exchange and publish a further announcement immediately after the appointment has been made. The issuer must, in any event, appoint a replacement Sponsor within 3 months of the date on which the former Sponsor ceased to act.*~~

~~*Note: The replacement Sponsor must not have been admitted to the Exchange's list to act only in the capacity of a co-Sponsor (see rule 6.04).*~~

- 6.64 ~~[Repealed 1 January 2005] Where there is a termination or addition of a Sponsor during the vetting process of any listing document to be issued by a new applicant or a listed issuer, the Exchange will normally require the issuer to submit a new listing application detailing a revised timetable and, in the case of the new applicant only, a further non-refundable initial listing fee in the amount specified in Appendix 9. Any initial listing fee paid will, in such circumstances, be forfeited.~~
- 6.65 If the Sponsor is removed from the list of Sponsors, the Sponsor must immediately inform each of the issuers for which it acts as Sponsor or Compliance Adviser. The Exchange reserves the rights to publish an announcement concerning such removal.

*Note: Pending removal, in circumstances where a Sponsor has been informed by the Exchange of its intention to remove the Sponsor from the list of Sponsors, the Sponsor shall, unless the Exchange requires otherwise, continue to advise the existing issuers for which it acts as a Sponsor or Compliance Adviser but must have cautioned such issuers as to the relevant circumstances.*

### **Sanctions against the Sponsor**

6.67 If the Exchange considers that a Sponsor [\(including acting in the capacity of a Compliance Adviser\)](#) has breached or failed to discharge any of its responsibilities or obligations under the GEM Listing Rules, it may do one or more of the following:

- (1) issue a private reprimand;
- (2) issue a public statement which involves criticism;
- (3) issue a public censure;
- (4) remove the Sponsor from the list of Sponsors maintained by the Exchange whether or not for a stated period;
- (5) bar the Sponsor from representing a specified party in relation to a stipulated matter or matters coming before the GEM Listing Division or the GEM Listing Committee for a stated period;
- (6) report the Sponsor's conduct to the Commission or any other regulatory authority in Hong Kong or elsewhere;
- (7) request that the Commission considers withdrawing or revoking the Sponsor's registration under Part V of the Securities and Futures Ordinance;
- (8) require a breach to be rectified or other remedial action to be taken within a stipulated period;
- (9) take such other action as it considers appropriate in the circumstances; and/or
- (10) publish what action it has taken and the reasons for that action.

## **Chapter 6A**

### **SPONSORS AND COMPLIANCE ADVISERS**

#### **Definitions and interpretation**

6A.01 In this Chapter:

- (1) “Compliance Adviser” means any corporation or authorised financial institution acceptable to the Exchange, licensed or registered under applicable laws to advise on corporate finance matters and which is appointed pursuant to rule 6A.19 or rule 6A.20;
- (2) “expert” includes every accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him;
- (3) “expert section” means, in relation to the listing document, any part of the listing document purporting to be made on the authority of an expert or purporting to be a copy of or extract from a report, opinion, statement or valuation of an expert where the expert gives consent for the inclusion in the listing document of the copy or extract and the listing document includes a statement that he has given and has not withdrawn such consent;

*Note: Retaining an expert to advise or assist the new applicant or Sponsor in respect of any non-expert section of the listing document does of itself not make such section an expert section.*

- (4) “Fixed Period” means the period for which a listed issuer must retain a Compliance Adviser pursuant to rule 6A.19;
- (5) “initial application for listing”, “initial listing” and “initial public offering” include deemed new listings of equity securities pursuant to rule 19.54;
- (6) “listed issuer” for the purposes of this Chapter, has the same meaning as in rule 1.01 save that it does not include an issuer only of debt securities;
- (7) “new applicant” for the purposes of this Chapter, has the same meaning as in rule 1.01, modified for the purpose of this Chapter 6A to:
  - (a) include issuers who undergo a deemed listing of equity securities pursuant to rule 19.54; and
  - (b) exclude applicants seeking listing of debt securities;
- (8) “non-expert sections” means, in relation to the listing document, any part of the listing document that is not part of any expert section;
- (9) “Sponsor group” means:
  - (a) a Sponsor;
  - (b) any holding company of the Sponsor;

- (c) any subsidiary of any holding company of the Sponsor;
  - (d) any controlling shareholder of:
    - (i) the Sponsor; or
    - (ii) any holding company of the Sponsor,  
which controlling shareholder is not, itself, a holding company of the Sponsor; and
  - (e) any associate of any controlling shareholder referred to in paragraph (d) above; and
- (10) “ultimate holding company” means a holding company that itself does not have a holding company.

### **Appointment of a Sponsor**

6A.02 A new applicant must appoint a Sponsor to assist it with its initial application for listing. The Sponsor must be admitted to the list of Sponsors under rule 6.04.

### **Sponsor’s undertaking to the Exchange**

6A.03 Each Sponsor must give an undertaking to the Exchange in the terms set out in rule 6A.04 below and in the form in paragraph 21 of Appendix [5a]. Sponsors must give the undertaking at least 25 clear business days prior to the provisional hearing date of the application by the GEM Listing Committee. If the Sponsor is appointed after such date, then the undertaking must be given on the earlier of:

- (1) the Sponsor agreeing its terms of engagement with the new applicant; and
- (2) the Sponsor commencing work for the new applicant.

6A.04 Each Sponsor must undertake to:

- (1) comply with the GEM Listing Rules applicable to Sponsors;
- (2) use reasonable endeavours to ensure that all information provided to the Exchange during the listing application process is true in all material respects and does not omit any material information and, to the extent that the Sponsor subsequently becomes aware of information that casts doubt on the truth, accuracy or completeness of information provided to the Exchange, it will promptly inform the Exchange of such information; and
- (3) cooperate in any investigation conducted by the Listing Division and/or the GEM Listing Committee of the Exchange, including answering promptly and openly any questions addressed to the Sponsor, promptly producing the originals or copies of any relevant documents and attending before any meeting or hearing at which the Sponsor is requested to appear.

### **Obligations of a new applicant and its directors to assist the Sponsor**

6A.05 A new applicant and its directors must assist the Sponsor to perform its role and must ensure that its substantial shareholders and associates also assist the Sponsor. Such assistance should include, but not be limited to:

- (1) giving the Sponsor all information reasonably available or known to the new applicant's directors that is relevant to the Sponsor's performance of its duties as set out in this Chapter;
- (2) affording the Sponsor full access at all times to all persons, premises and documents relevant to the Sponsor's performance of its duties as set out in this Chapter. In particular, terms of engagement with experts retained to perform services related to the listing application, whether or not retained in respect of an expert section, should contain clauses entitling every Sponsor appointed by the new applicant access to:
  - (a) any such expert;
  - (b) the expert's reports, draft reports (both written and oral), and terms of engagement;
  - (c) information provided to or relied on by the expert;
  - (d) information provided by the expert to the Exchange or Commission; and
  - (e) all correspondence exchanged between the new applicant or its agents and the expert or between the expert and the Exchange or Commission;

*Note: The Exchange expects that access to documents for the purposes of this rule would include the right to take copies of the documents without charge.*

- (3) keeping the Sponsor informed of any material change to:
  - (a) any information previously given to the Sponsor pursuant to paragraph (1) above; and
  - (b) any information previously accessed by the Sponsor pursuant to paragraph (2) above; and
- (4) providing to or procuring for the Sponsor all necessary consents to the provision of the information referred to in paragraphs (1), (2) and (3) above to the Sponsor.

### **Impartiality and independence of Sponsors**

6A.06 A Sponsor must perform its duties with impartiality.

6A.07 At least one Sponsor of a new applicant must be independent from the new applicant. A Sponsor is not independent if any of the following circumstances exist as at the time of making the declaration pursuant to rule 6A.13:

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

- (2) the fair value of the direct or indirect current or prospective shareholding of the Sponsor group in the new applicant exceeds or will exceed 15% of the net equity shown in the latest consolidated financial statements of the Sponsor's ultimate holding company or, where there is no ultimate holding company, the Sponsor;
- (3) any member of the Sponsor group or any director or associate of a director of the Sponsor is an associate or connected person of the new applicant;
- (4) 15% or more of the proceeds raised from the initial public offering of the new applicant are to be applied directly or indirectly to settle debts due to the Sponsor group, save and except where those debts are on account of fees payable to the Sponsor group pursuant to its engagement by the new applicant for sponsorship services;
- (5) the aggregate of:
  - (a) amounts due to the Sponsor group from the new applicant and its subsidiaries; and
  - (b) all guarantees given by the Sponsor group on behalf of the new applicant and its subsidiaries,

exceeds 30% of the total assets of the new applicant;
- (6) the aggregate of:
  - (a) amounts due to the Sponsor group from:
    - (i) the new applicant;
    - (ii) the new applicant's subsidiaries;
    - (iii) any controlling shareholder of the new applicant; and
    - (iv) any associates of any controlling shareholder of the new applicant; and
  - (b) all guarantees given by the Sponsor group on behalf of:
    - (i) the new applicant;
    - (ii) the new applicant's subsidiaries;
    - (iii) any controlling shareholder of the new applicant; and
    - (iv) any associates of any controlling shareholder of the new applicant,

exceeds 10% of the total assets shown in the latest consolidated financial statements of the Sponsor's ultimate holding company or, where there is no ultimate holding company, the Sponsor;
- (7) the fair value of the direct or indirect shareholding of:
  - (a) a director of the Sponsor;
  - (b) a director of any holding company of the Sponsor;

- (c) an associate of a director of the Sponsor; or
- (d) an associate of a director of any holding company of the Sponsor

in the new applicant exceeds HKD 5 million;

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

Notes: 1. In addition to being a breach of the GEM Listing Rules, if it comes to the Exchange's attention that a Sponsor is not independent but is required to be (for example, where the Sponsor is the sole Sponsor appointed), the Exchange will not accept documents produced by that Sponsor in support of the subject application for listing or a request for approval or vetting of any document required under the GEM Listing Rules in relation to the subject listing application.

2. Sub-paragraphs (1) to (3) will not apply where the circumstance occurs because of an interest:

- (a) held by an investment entity on behalf of its discretionary clients;
- (b) held by a fund manager on a non-discretionary basis such as a managed account or managed fund;
- (c) held in a market-making capacity; or
- (d) held in a custodial capacity.

3. In calculating the percentage figure of shares that it holds, or will hold, for the purposes of this rule, a Sponsor group is not required to include an interest in shares that would be disregarded for the purposes of Divisions 2 to 4 of Part XV of the Securities and Futures Ordinance under section 323 of that Ordinance.
4. For the purposes of this rule, references to a “new applicant” include references to the new applicant once it is listed, that is, the newly listed issuer, as applicable.

### **Sponsor’s statement relating to independence**

6A.08 Every Sponsor appointed by a new applicant must make a statement to the Exchange addressing the matters set out in rule 6A.07. The statement must be in the form of Form [K] of Appendix [7]. Sponsors must make the statement no later than the date on which any documents in connection with the listing application are first submitted to the Exchange. If the Sponsor is appointed after such date, then the statement must be made on the earlier of:

- (1) the Sponsor agreeing its terms of engagement with the new applicant; and
- (2) the Sponsor commencing work for the new applicant.

6A.09 Where a Sponsor or the new applicant becomes aware of a change in the circumstances set out in the statement required by rule 6A.08 during the period the Sponsor is engaged by the new applicant, the Sponsor and the new applicant must notify the Exchange as soon as possible upon that change occurring.

### **Additional Sponsors**

6A.10 Where a new applicant has more than one Sponsor:

- (1) the Exchange must be advised as to which of the Sponsors is designated as the Sponsor who would be the primary channel of communication with the Exchange concerning matters involving the listing application;
- (2) the listing document must disclose whether each Sponsor satisfies the independence test at rule 6A.07 and, if not, then how the lack of independence arises; and
- (3) each of the Sponsors has responsibility for ensuring that the obligations and responsibilities set out in this Chapter are fully discharged.

Note: The Exchange would normally expect the Sponsor acting as the primary channel of information to be independent from the new applicant.

### **Sponsor’s role**

6A.11 A Sponsor must:

- (1) be closely involved in the preparation of the new applicant’s listing documents;
- (2) conduct reasonable due diligence inquiries to put itself in a position to be able to make the declaration referred to at rule 6A.13;
- (3) ensure the requirements in rules 12.07, 12.09, 12.10 and 12.12 to 12.15 are complied with;

- (4) use reasonable endeavours to address all matters raised by the Exchange in connection with the listing application including providing to the Exchange, in a timely manner, such information as the Exchange may reasonably require for the purpose of verifying whether the GEM Listing Rules are being or have been complied with by the Sponsor, the new applicant and the new applicant's directors;
- (5) accompany the new applicant to any meetings with the Exchange unless otherwise requested by the Exchange, and attend any other meetings and participate in any other discussions with the Exchange as requested by the Exchange; and
- (6) comply with the terms of the undertaking given to the Exchange by the Sponsor pursuant to rule 6A.03.

6A.12 In determining the reasonable due diligence inquiries a Sponsor must make for the purposes of rule 6A.11(2), a Sponsor must have regard to the due diligence practice note at Practice Note [2].

### **Sponsor's declaration**

6A.13 As soon as practicable after the hearing of the new applicant's listing application by the GEM Listing Committee but on or before the date of issue of the listing document, each Sponsor must submit to the Exchange a declaration in the terms of rules 6A.14 to 6A.16 and in the form of Form [G] of Appendix [7].

6A.14 Each Sponsor must confirm that all of the documents required by the GEM Listing Rules to be submitted to the Exchange on or before the date of issue of the listing document and in connection with the new applicant's listing application have been submitted.

6A.15 Having made reasonable due diligence inquiries, each Sponsor must confirm that it has reasonable grounds to believe and does believe that:

- (1) the answers provided by each director or proposed director of the new applicant in the director's declaration(s) in the form at Appendix [5B] are true and do not omit any material information;
- (2) the new applicant is in compliance with all the conditions in Chapter 11 of the GEM Listing Rules, in particular, rules 11.02, 11.04, 11.05, 11.07, 11.08, 11.10, 11.11, 11.14, 11.15, 11.18, 11.20, 11.21, 11.24, 11.25, 11.26, 11.27, 11.28, 11.30, 11.31 and 11.32 (except to the extent that compliance with those rules has been waived by the Exchange in writing);
- (3) the listing document contains sufficient particulars and information to enable a reasonable person to form as a result thereof a valid and justifiable opinion of the shares and the financial condition and profitability of the new applicant at the time of the issue of the listing document;
- (4) the information in the non-expert sections of the listing document:
  - (a) contains all information required by relevant legislation and rules;
  - (b) is true in all material respects, or, to the extent it consists of opinions or forward looking statements on the part of the directors of the new applicant or any other person, such opinions or forward looking statements have been made after due and careful consideration and on bases and assumptions that are fair and reasonable; and
  - (c) does not omit material information;

- (5) the new applicant has established procedures, systems and controls (including accounting and management systems) which are adequate having regard to the obligations of the new applicant and its directors to comply with the GEM Listing Rules and other relevant legal and regulatory requirements (in particular rules 17.10, 17.11, 18.03, 18.49 and 18.53 to 18.64 and Chapters 19 and 20) and which are sufficient to enable the new applicant's directors to make a proper assessment of the financial position and prospects of the new applicant and its subsidiaries, both before and after listing; and
- (6) the directors of the new applicant collectively have the experience, qualifications and competence to manage the new applicant's business and comply with the GEM Listing Rules, and individually have the experience, qualifications and competence to perform their individual roles, including an understanding of the nature of their obligations and those of the new applicant as an issuer under the GEM Listing Rules and other legal or regulatory requirements relevant to their role.

6A.16 In relation to each expert section in the listing document, having made reasonable due diligence inquiries, the Sponsor must confirm that it has reasonable grounds to believe and does believe (to the standard reasonably expected of a Sponsor which is not itself expert in the matters dealt with in the relevant expert section) that:

- (1) where the expert does not conduct its own verification of any material factual information on which the expert is relying for the purposes of any part of the expert section, such factual information is true in all material respects and does not omit any material information. Factual information includes:
  - (a) factual information that the expert states the expert is relying on;
  - (b) factual information the Sponsor believes the expert is relying on; and
  - (c) any supporting or supplementary information given by the expert or new applicant to the Exchange relating to an expert section;
- (2) all bases and assumptions on which the expert sections of the listing document are founded are fair, reasonable and complete;
- (3) the expert is appropriately qualified, experienced and sufficiently resourced to give the relevant opinion;
- (4) the expert's scope of work is appropriate to the opinion given and the opinion required to be given in the circumstances (where the scope of work is not set by a relevant professional body);
- (5) the expert is independent from the new applicant and its directors and controlling shareholder(s); and

*Note: The Exchange will consider an expert to be independent for the purposes of this rule if it meets criteria equivalent to that set out in rule 6A.07 (where the standard of independence is not set by a relevant professional body).*

- (6) the listing document fairly represents the views of the expert and contains a fair copy of or extract from the expert's report.

### **Termination of a Sponsor's role**

6A.17 In the case of resignation by, or termination of, the Sponsor during the processing of the initial listing application:

- (1) the new applicant must immediately notify the Exchange of the resignation or termination; and
- (2) if the departing Sponsor was the sole independent Sponsor, then the replacement Sponsor must immediately notify the Exchange of its appointment and re-submit, on behalf of the new applicant, a listing application detailing a revised timetable together with a further non-refundable initial listing fee in accordance with Chapter 12 and the declarations and undertakings required by this Chapter.

*Note: See also rule 12.08. Amongst other things, this provides that any initial listing fee already paid will, in such circumstances, be forfeited by the new applicant.*

6A.18 For the avoidance of doubt, a replacement Sponsor shall not be regarded as having satisfied any of the obligations of a Sponsor by virtue of work performed by a predecessor Sponsor.

### **Appointment of a Compliance Adviser**

6A.19 A listed issuer must appoint a Compliance Adviser for the period commencing on the date of initial listing of the listed issuer's equity securities and ending on the date on which the listed issuer complies with rule 18.03 in respect of its financial results for the second full financial year commencing after the date of its initial listing. The Compliance Adviser must be acceptable to the Exchange.

6A.20 At any time after the Fixed Period, the Exchange may direct a listed issuer to appoint a Compliance Adviser for such period and to undertake such role as may be specified by the Exchange. In the event of such an appointment the Exchange will specify the circumstances in which the listed issuer must consult the Compliance Adviser and the responsibilities the Compliance Adviser must discharge. The Compliance Adviser must discharge those responsibilities with due care and skill. For the purpose of this rule, a listed issuer may appoint a different Compliance Adviser to that it appointed pursuant to rule 6A.19.

*Note: The Exchange will normally consider directing the appointment of a Compliance Adviser when a listed issuer has been held to have breached the GEM Listing Rules, particularly when the breaches are persistent or serious or give rise to concerns about the adequacy of compliance arrangements or the directors' understanding of, and their obligations to comply with the GEM Listing Rules. It is also open to the Exchange to direct the appointment in other appropriate circumstances. It is the responsibility of the listed issuer to pay the reasonable fees of the Compliance Adviser.*

### **Compliance Adviser's undertaking to the Exchange**

6A.21 Each Compliance Adviser must give an undertaking to the Exchange in the terms set out in rule 6A.22 below and in the form in Form [M] of Appendix [7]. Compliance Advisers must give the undertaking no later than the earlier of:

- (1) immediately the Compliance Adviser agrees its terms of engagement with the listed issuer; and
- (2) the Compliance Adviser commencing work for the listed issuer.

6A.22 Each Compliance Adviser must undertake to:

- (1) comply with the GEM Listing Rules applicable to Compliance Advisers; and
- (2) cooperate in any investigation conducted by the Listing Division and/or the GEM Listing Committee of the Exchange, including answering promptly and openly any questions addressed to the Compliance Adviser, promptly producing the originals or copies of any relevant documents and attending before any meeting or hearing at which the Compliance Adviser is requested to appear.

6A.23 During the Fixed Period, a listed issuer must consult with and, if necessary, seek advice from its Compliance Adviser on a timely basis in the following circumstances:

- (1) before the publication of any regulatory announcement, circular or financial report;
- (2) where a transaction, which might be a notifiable or connected transaction, is contemplated including share issues and share repurchases;
- (3) where the listed issuer proposes to use the proceeds of the initial public offering in a manner different from that detailed in the listing document or where the business activities, developments or results of the listed issuer deviate from any forecast, estimate, or other information in the listing document; and
- (4) where the Exchange makes an inquiry of the listed issuer under rule 17.11.

6A.24 When a Compliance Adviser is consulted by a listed issuer in the circumstances set out in rule 6A.23 above it must discharge the following responsibilities with due care and skill:

- (1) ensure the listed issuer is properly guided and advised as to compliance with the GEM Listing Rules and all other applicable laws, rules, codes and guidelines;
- (2) accompany the listed issuer to any meetings with the Exchange, unless otherwise requested by the Exchange;
- (3) no less frequently than at the time of reviewing the financial reporting of the listed issuer under rule 6A.23(1) above and upon the listed issuer notifying the Compliance Adviser of a proposed change in the use of proceeds of the initial public offering under rule 6A.23(3) above, discuss with the listed issuer:
  - (a) the listed issuer's operating performance and financial condition by reference to the listed issuer's business objectives and use of issue proceeds as stated in its listing document;
  - (b) compliance with the terms and conditions of any waivers granted from the GEM Listing Rules;
  - (c) whether any profit forecast or estimate in the listing document will be or has been met by the listed issuer and advise the listed issuer to notify the Exchange and inform the public in a timely and appropriate manner; and

- (d) compliance with any undertakings provided by the listed issuer and its directors at the time of listing, and, in the event of non-compliance, discuss the issue with the listed issuer's board of directors and make recommendations to the board regarding appropriate remedial steps;
- (4) if required by the Exchange, deal with the Exchange in respect of any or all matters listed in rule 6A.23;
- (5) in relation to an application by the listed issuer for a waiver from any of the requirements in Chapter 14A, advise the listed issuer on its obligations and in particular the requirement to appoint an independent financial adviser; and
- (6) assess the understanding of all new appointees to the board of the listed issuer regarding the nature of their responsibilities and fiduciary duties as a director of a listed issuer, and, to the extent the Compliance Adviser forms an opinion that the new appointees' understanding is inadequate, discuss the inadequacies with the board and make recommendations to the board regarding appropriate remedial steps such as training.

### **Impartiality of Compliance Advisers**

6A.25 A Compliance Adviser must perform its duties with impartiality.

### **Termination of a Compliance Adviser's role**

6A.26 A listed issuer may terminate a Compliance Adviser's role only if the Compliance Adviser's work is of an unacceptable standard or if there is a material dispute (which cannot be resolved within 30 days) over fees payable by the listed issuer to the Compliance Adviser.

6A.27 In the case of resignation by, or termination of, a Compliance Adviser, a replacement Compliance Adviser must be appointed by the listed issuer within 3 months of the effective date of resignation or termination (as the case may be).

### **Application of other rules**

6A.28 Insofar as the GEM Listing Rules impose a higher standard of conduct on Sponsors or Compliance Advisers to that set out in the Commission's Corporate Finance Adviser Code of Conduct, the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission, the Takeovers Code, the Share Repurchases Code and all other relevant codes and guidelines applicable to them, the GEM Listing Rules will prevail.

- Notes:
1. The Exchange notes that paragraph 4.4 of the Corporate Finance Adviser Code of Conduct requires that all requirements applicable to Sponsors as set out in the GEM Listing Rules be satisfied.
  2. The Exchange also reminds Sponsors and Compliance Advisers of their other statutory obligations including but not limited to those under the Securities and Futures Ordinance.

# Chapter 9

## GENERAL

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

#### Suspension

##### *Procedure*

9.06 If the issuer believes that a suspension cannot, in all of the circumstances, be avoided it should contact the Exchange at the earliest practicable opportunity.

- Notes:*
- 1 Any request for a suspension of dealings should be directed by telephone to the GEM Listing Division in accordance with rule 2.22. It will only be considered when it is received directly from an authorised representative of the issuer or some other responsible officer of the issuer or from its ~~Sponsor~~ *Compliance Adviser*, financial adviser or legal adviser. Confirmation may be requested as to the authority of the person requesting the suspension. A formal letter supporting the request will be required, although, if the circumstances are exceptionally urgent, this need not be delivered to the GEM Listing Division at the time of the initial request.
  - 2 Reason(s) for the suspension must be given in support of the request and the issuer will be expected to explain why an announcement cannot be or could not have been issued in order to avoid the suspension.
  - 3 A request for suspension of dealings (or continued suspension of dealings) following the publication of an announcement based solely on a wish that the information should be allowed time to disseminate more widely will not be accepted by the Exchange.

# Chapter 11

## EQUITY SECURITIES

### QUALIFICATIONS FOR LISTING

#### General conditions applicable to all issuers

- 11.09 ~~Issuers must comply with Chapter 6A, in particular, with respect to the appointment of a Sponsor and a Compliance Adviser. A new applicant must, prior to any listing application, have appointed a Sponsor pursuant to a contract for a fixed term period covering at least the remainder of the financial year during which the listing occurs and the 2 financial years thereafter (see rule 6.01). At any time after that, a listed issuer must appoint a Sponsor in the circumstances referred to in rule 6.02.~~

#### Additional conditions applicable to new applicants

##### *Active business pursuits*

- 11.12 (1) Subject to rule 11.14, a new applicant must demonstrate that, throughout the period specified in sub-paragraph (2) below, it has, either by itself or through one or more of its subsidiaries, actively pursued one focused line of business under substantially the same management and ownership as existing at the time of the application for listing, and must make a statement in the listing document concerning that business which complies with the requirements of rules 14.15 to 14.18.

- (2) The period referred to in sub-paragraph (1) above is:—
- (a) at least the 24 months immediately preceding the date of submission of the listing application (on the prescribed form set out in Appendix 5A) by the new applicant; or
  - (b) in the case of a new applicant satisfying the conditions specified in sub-paragraph (3) below, at least the 12 months immediately preceding the date of submission of the listing application (on the prescribed form set out in Appendix 5A) by the new applicant.

*Note: If the new applicant has a longer period of active business pursuits, the initial listing document should cover the full period from the commencement of active business pursuits.*

- (3) The conditions referred to in sub-paragraph (2) above are:—
- (a) the new applicant has actively pursued its focused line of business for not less than 12 months;
  - (b) (i) the new applicant has turnover of not less than HK\$500,000,000 in the last 12 months reported upon in the accountants' report contained in its initial listing document;

*Note: Where a financial period in the accountants' report commences before the "last 12 months," the new applicant must include a note in its accountants' report disclosing the turnover in that financial period attributable to the period after the commencement of the "last 12 months."*

- (ii) the new applicant has total assets of not less than HK\$500,000,000 as shown in the balance sheet in respect of the last financial period reported upon in the accountants' report contained in its initial listing document; or

*Note: The Exchange reserves the right to exclude the intangible assets of the new applicant from its total assets in determining whether the total assets meet the minimum requirement of HK\$500,000,000 if it is of the view that the intangible assets constitute a material portion of the new applicant's total assets.*

- (iii) the expected market capitalisation of the securities of the new applicant (determined as at the time of listing) must be not less than HK\$500,000,000;

- (c) at the time of listing, the equity securities of the new applicant which are in the hands of the public (see Notes 2 and 3 to rule 11.23) must:

- (i) have a market capitalisation of not less than HK\$150,000,000; and
- (ii) be held among at least 300 shareholders (including those whose equity securities are held through CCASS) with the largest 5 and largest 25 of such shareholders holding in aggregate not more than 35 per cent and 50 per cent, respectively, of the equity securities (being shares) in the hands of the public; and

*Note: In the case where shareholders of the new applicant obtained their securities through a distribution in specie, only a maximum of 100 such shareholders may be counted in determining whether the requirement of "at least 300 shareholders" is met.*

- (d) the offering price of the shares of the new applicant at its initial public offering must be not less than HK\$1.00.

*Notes: 1 The requirement for a new applicant to demonstrate its active business pursuits is one specific to GEM.*

*2 As GEM has been established with the intention of appealing to emerging or growth companies from all industrial and commercial sectors, it is acknowledged that they may not necessarily be able to demonstrate past profits or a consistently profitable track record.*

*3 Nevertheless, a new applicant must be able to demonstrate that it has a business of both substance and potential. A business will, subject to rule 11.14, only be regarded as having the requisite substance if the applicant can show that it has spent at least the 24 month period prior to the issue of the listing document, or for applicants satisfying the conditions of rule 11.12(3), at least the 12 month period set out in rule 11.12(2)(b), making substantial progress in building up that business.*

*4 Whilst every new applicant will wish to demonstrate its own particular activities and performance in the manner it regards as most befitting, the Exchange requires the information to be presented in a reasonable level of detail and in a manner which complies with rules 14.15 to 14.18.*

- 5 ~~*It is for the Sponsor to satisfy itself in relation to the new applicant's application for listing as required by Chapter 6A. It is for the Sponsor to satisfy itself, to the best of its knowledge and belief, having made due and careful enquiries, that the new applicant has made sufficient efforts and progress to proceed with a listing on GEM and that it is suitable for a listing on GEM.*~~
- 6 *For a new applicant to be considered suitable for listing, it should be actively engaged in one focused line of business rather than two or more disparate businesses. The reason for this is that the Exchange expects an applicant's management to be devoting its attention towards advancing one core business rather than a variety of concerns which compete or may compete for their attention.*
- 7 *In exceptional circumstances, the Exchange may, at its discretion and on a case by case basis, permit the listing of a new applicant notwithstanding changes of a material nature in management and ownership during the period referred to in this rule.*

# Chapter 12

## EQUITY SECURITIES

### APPLICATION PROCEDURES AND REQUIREMENTS

#### Applications

##### *Applications by new applicants*

12.14 The listing application form must be accompanied by:—

- (1) the documents, as applicable, stipulated in rules 12.22 and 12.23;
- (2) ~~[Repealed 1 January 2005]the Sponsor's declaration of interests in the form set out in Appendix 7H;~~
- (3) a certified extract from the board minutes of the new applicant authorising the submission of the listing application form and approving the undertaking, declaration and acknowledgements set out therein; and
- (4) the non-refundable initial listing fee in the amount specified in Appendix 9.

The GEM Listing Division may return to the Sponsor any application for listing which it considers to be incomplete, together with the initial listing fee.

##### *Applications by listed issuers*

12.17 The listing application form must be accompanied by:—

- (1) the documents, as applicable, stipulated in rule 12.22;
- (2) in circumstances where the listed issuer is required to have (or otherwise retains) a Compliance Adviser (or other adviser appointed pursuant to rule 6.60), ~~the adviser's~~ ~~Sponsor, the Sponsor's~~ declaration of interests in the form set out in Appendix 7H; and
- (3) the subsequent issue fee in the amount specified in Appendix 9.

#### Documentary requirements

##### *After notification of approval in principle but before the date of issue of the listing document*

12.24 The following must be lodged with the Exchange, in the case of a new applicant, as soon as practicable after the hearing of the application by the GEM Listing Committee but on or before the date of issue of the listing document and, in the case of a listed issuer, on or before the date of issue of the listing document:—

- (1) in the case of a new applicant, the signed Sponsor's declaration in the form set out in Appendix 7G, as referred to in rules ~~6A.13 to 6A.166-47~~ and in the case of a listed issuer proposing to issue a listing document of the type referred to in rule 6.58 within the minimum period referred to in rule ~~6A.196-01~~ or any period fixed for the purposes of rule ~~6A.206-02~~, the signed ~~Sponsor's~~ declaration in the form set out in Appendix 7J as referred to in rule 6.57;

- (2) 7 copies of the listing document:—
- (a) one of which must be dated and signed by every person who is named therein as a director or proposed director of the issuer or by his agent authorised in writing and by the secretary or, in the case of a capitalisation issue, one of which has been dated and signed by the secretary; and
  - (b) one of which must be marked in the margin to indicate where compliance has been made with the relevant provisions of the GEM Listing Rules and, in the case only of a prospectus, to indicate where compliance has been made with the relevant provisions of the Companies Ordinance;
- (3) where any document referred to in (2)(a) above is signed by an agent, a certified copy of the authorisation for such signature;
- (4) 7 copies of the formal notice, where applicable;
- (5) 7 copies of any application form (including any excess or preferential application form) to subscribe or purchase the securities for which listing is sought;
- (6) a certified copy of every letter, report, financial statement, statement of adjustments, valuation, contract, resolution or other document (including any profit forecast memorandum, if applicable) any part of which is extracted or referred to in the listing document, other than, in the case of a capitalisation issue, the annual report and accounts and the certified copies of every resolution extracted or referred to in the listing document supporting the capitalisation issue;

*Note: The Exchange must be passed a certified copy of any valuation report in respect of properties held under operating leases notwithstanding that the full text of such valuation report may not be required to be included in the listing document, as referred to in rule 8.06.*

- (7) a certified copy of the written consent by any expert to the issue of the listing document with the inclusion therein of the following in the form and context in which they are included:—
- (a) a statement purporting to be a copy of or extract from or summary of or reference to a report or valuation or other statement by such expert; and
  - (b) any recommendation by such expert in relation to acceptance or rejection of an offer or proposal;
- (8) in the case of a class of securities new to listing, a copy of the written notification issued by HKSCC stating the securities will be Eligible Securities;
- (9) any undertakings referred to in the listing document and/or required to be given to the Exchange, including (where it has been possible to ascertain and complete the same prior to the issue of the listing document) those undertakings from initial management shareholders (see rule 13.16) and significant shareholders (see rule 13.17) substantially in the forms set out in Appendix 5G and 5H respectively; together, where possible, with copies of the proposed form(s) of agreement(s) with relevant escrow agent(s) (see rules 13.16 and 13.17);
- (10) a specimen of any temporary document of title, where applicable; and
- (11) a specimen of the definitive certificate or other document of title, unless the securities for which listing is sought are or are to be identical in all respects with a class already listed.

# Chapter 13

## EQUITY SECURITIES

### RESTRICTIONS ON PURCHASE, DISPOSAL AND SUBSCRIPTION

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

*Procedures to be complied with*

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

- (1) a statement of the total number and description of the shares which the issuer proposes to purchase;
- (2) a statement by the directors of the reasons for the proposed purchase of shares;
- (3) a statement by the directors as to the proposed source of funds for making the proposed purchase, which shall be funds legally available for such purposes in accordance with the issuer's constitutive documents and the laws of the jurisdiction in which the issuer is incorporated or otherwise established;
- (4) a statement as to any material adverse impact on the working capital or gearing position of the issuer (as compared with the position disclosed in its most recent published audited accounts) in the event that the proposed purchases were to be carried out in full at any time during the proposed purchase period, or an appropriate negative statement;
- (5) a statement of the name of any directors, and to the best of the knowledge of the directors having made all reasonable enquiries, any associates of the directors, who have a present intention, in the event that the proposal is approved by shareholders, to sell shares to the issuer, or an appropriate negative statement;
- (6) a statement that the directors have undertaken to the Exchange to exercise the power of the issuer to make purchases pursuant to the proposed resolution in accordance with the GEM Listing Rules and the laws of the jurisdiction in which the issuer is incorporated or otherwise established;
- (7) a statement as to the consequences of any purchases which will arise under the Takeovers Code of which the directors are aware, if any;
- (8) a statement giving details of any purchases by the issuer of shares made in the previous 6 months (whether on GEM or otherwise), giving the date of each purchase and the purchase price per share or the highest and lowest prices paid for such purchases, where relevant;
- (9) a statement as to whether or not any connected persons of the issuer have notified the issuer that they have a present intention to sell shares to the issuer or have undertaken not to sell any of the shares held by them to the issuer, in the event that the issuer is authorised to make purchases of shares;

- (10) a statement giving the highest and lowest prices at which the relevant shares have traded on GEM during each of the previous twelve months; and
- (11) a prominent and legible disclaimer on the front cover of the circular in the form set out in rule 2.19.

*Notes: 1 The Explanatory Statement need not contain the statement set out in rule 2.20 concerning the characteristics of GEM nor information on the interests (if any) of the Compliance Adviser~~Sponsor~~ (as referred to in rule 6.35) and all directors, management shareholders and their respective associates (as referred to in rule 11.04).*

- 2 The Explanatory Statement must be reviewed by the Exchange prior to its dispatch to shareholders of the issuer and must not be issued until the Exchange has confirmed to the issuer that it has no further comments thereon.*

# Chapter 17

## EQUITY SECURITIES

### CONTINUING OBLIGATIONS

#### Miscellaneous obligations

##### *Sponsor-related matters*

- 17.81 ~~[Repealed 1 January 2005]~~A new applicant must appoint a Sponsor pursuant to a contract for a fixed term period covering at least the remainder of the financial year during which the listing occurs and the 2 financial years thereafter.
- 17.82 ~~[Repealed 1 January 2005]~~Notwithstanding the expiry of the period referred to in rule 17.81, an issuer must appoint a Sponsor in the circumstances referred to in rule 6.02.
- 17.83 ~~[Repealed 1 January 2005]~~In order that the Sponsor may perform its responsibilities:—
- (1) ~~an issuer must ensure that the Sponsor has access, at all times, to the issuer's authorised representatives, directors and other officers and should procure that such persons provide promptly to the Sponsor such information and assistance as the Sponsor may need or may reasonably request;~~
  - (2) ~~the issuer must ensure that there are adequate and efficient means of communication between itself, its authorised representatives, directors and other officers and the Sponsor and must keep the Sponsor fully informed of all communications and dealings between it and the Exchange;~~
  - (3) ~~under rule 6.54, the issuer shall review, regularly with the Sponsor, the issuer's operating performance and financial condition against the issuer's statement of business objectives and against any profit forecast, estimate or projection included in the issuer's listing document or otherwise made public by or on behalf of the issuer; and~~
  - (4) ~~under rule 6.55, the issuer shall provide the Sponsor with drafts or proofs of all announcements, listing documents and circulars, required to be issued under the GEM Listing Rules and the annual report and accounts, half-year report and quarterly reports, in each case, as soon as practicable prior to the proposed date of publication and allowing sufficient time for the Sponsor to review and comment on the drafts or proofs.~~

*Note: See also rule 17.04 concerning the advice and guidance that should be sought by the directors of the issuer from the Sponsor.*

- 17.84 ~~[Repealed 1 January 2005]~~In the event that the contract between an issuer and its Sponsor is terminated by the issuer, for whatsoever reason, prior to the expiry of the period referred to in rule 17.81 or any period fixed for the purposes of rule 17.82, the issuer must immediately notify the Exchange of the termination and the reasons therefor.
- 17.85 ~~[Repealed 1 January 2005]~~In the circumstances set out in rule 17.84, an issuer must, as soon as practicable, publish an announcement, stating the reasons for the termination, and make immediate arrangements to appoint a replacement Sponsor for at least the balance of the minimum period referred to in rule 17.81 or any period fixed for the purposes of rule 17.82 and must inform the Exchange and publish a further announcement immediately after the appointment has been made. The issuer must, in any event, appoint a replacement Sponsor within 3 months of the date on which the former Sponsor ceased to act.

*Note: The replacement Sponsor must not have been admitted to the Exchange's list to act only in the capacity of a co-Sponsor (see rule 6.04).*

17.86 ~~[Repealed 1 January 2005]~~The appointment or termination of a Sponsor in any circumstances other than as referred to above, must be announced by the issuer as soon as practicable after such appointment or termination:

17.87 ~~[Repealed 1 January 2005]~~An issuer must ensure that the documents referred to in rule 6.36 set out the interests of the Sponsor (and its directors, employees and associates) as advised to it by the Sponsor pursuant to rule 6.35:

*Independent financial advisers*

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

- (1) it has a reasonable basis for making the statements required by paragraphs (1) to (5) of rule 20.22; and
- (2) without limiting the generality of paragraph (1) above, there is no reason to believe any of the following information is not true or omits a material fact:
  - (a) any information relied on by the independent financial adviser in forming its opinion; or
  - (b) any information relied on by any third party expert on whose opinion or advice the independent financial adviser relies in forming its opinion.

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

- (a) obtaining all information and documents of the issuer relevant to an assessment of the fairness and reasonableness of the terms of the transaction, for example, if the transaction involves the purchase or sale of products or services, information and documents showing the prices at which the issuer buys and sells such products and services to independent third parties;
- (b) researching the relevant market and other conditions and trends relevant to the pricing of the transaction;
- (c) reviewing the fairness, reasonableness and completeness of any assumptions or projections relevant to the transaction;
- (d) without limiting the generality of paragraph (c) above, in relation to any third party expert providing an opinion or valuation relevant to the transaction:
  - (i) interviewing the expert including as to its expertise and any current or prior relationships with the issuer, other parties to the transaction and connected persons of either the issuer or another party to the transaction;
  - (ii) reviewing the terms of engagement (having particular regard to the scope of work, whether the scope of work is appropriate to the opinion required

to be given and any limitations on the scope of work which might adversely impact on the degree of assurance given by the expert's report, opinion or statement); and

(iii) where the independent financial adviser is aware the issuer or another party to the transaction has made formal or informal representations to the expert, assessing whether the representations are in accordance with the independent financial adviser's knowledge; and

(e) if there have been any relevant alternative offers made (for example, offers made recently for the same asset), then reviewing and assessing such alternative offers and the reasons given, if any, by the management for rejecting these offers.

2. The Exchange expects the independent financial adviser will ensure the letter referred to at rule 20.22 takes account of the following principles:

(a) the source for any fact which is material to an argument should be clearly stated, including sufficient detail to enable the significance of the fact to be assessed; however, if the fact has been included in a document recently sent to shareholders, an appropriate cross reference may instead be made;

(b) a quotation (for example, from a newspaper or a stockbroker circular) should not be used out of context and details of the origin should be included. Since quotations will necessarily carry the implication that they are endorsed by the independent financial adviser, quotations should not be used unless the independent financial adviser has corroborated or substantiated them;

(c) pictorial representations, charts, graphs and diagrams should be presented without distortion and, when relevant, should be to scale; and

(d) any comparables referred to in a document must be a fair and representative sample. The bases for compiling such comparables must be clearly stated in the document.

17.93 The issuer must:

(1) afford any independent financial adviser it appoints pursuant to rule 17.47(6)(b) or rule 24.05(6)(a)(ii) full access at all times to all persons, premises and documents relevant to the independent financial adviser's performance of its duties as set out in the GEM Listing Rules. In particular, terms of engagement with experts retained to perform services related to the transaction should contain clauses entitling the independent financial adviser access to:

(a) any such expert;

(b) the expert's reports, draft reports (both written and oral), and terms of engagement;

(c) information provided to or relied on by the expert;

(d) information provided by the expert to the Exchange or Commission; and

(e) all other correspondence exchanged between the issuer or its agents and the expert or between the expert, the issuer and the Exchange or Commission;

Note: The Exchange expects that access to documents for the purposes of this rule would include the right to take copies of the documents without charge.

- (2) keep the independent financial adviser it appoints informed of any material change to any information previously given to or accessed by the independent financial adviser pursuant to paragraph (1) above; and
- (3) provide to or procure for the independent financial adviser all necessary consents to the provision of the information referred to in paragraphs (1) and (2) above to the independent financial adviser.

17.94 An independent financial adviser must be appropriately licensed by the Commission and must discharge its responsibilities with due care and skill.

17.95 An independent financial adviser must perform its duties with impartiality.

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

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

- (b) the aggregate of:
    - (i) amounts due from the IFA group to:
      - (A) the issuer;
      - (B) the issuer's subsidiaries; and
      - (C) any controlling shareholder of the issuer; and
    - (ii) all guarantees given on behalf of the IFA group by:
      - (A) the issuer;
      - (B) the issuer's subsidiaries; and
      - (C) any controlling shareholder of the issuer;
  - (c) the aggregate of:
    - (i) amounts due from the IFA group to any of the following (referred to in this rule as "the Other Parties"):
      - (A) another party to the transaction;
      - (B) any holding company of another party to the transaction;
      - (C) any subsidiary of any holding company of another party to the transaction;
      - (D) any controlling shareholder of:
        - (1) another party to the transaction; or
        - (2) any holding company of another party to the transaction,  
which controlling shareholder is not, itself, a holding company of another party to the transaction; and
      - (E) any associate of any controlling shareholder referred to in paragraph (D) above; and
    - (ii) all guarantees given by any of the Other Parties on behalf of the IFA group; and
  - (d) the aggregate of:
    - (i) amounts due to the IFA group from any of the Other Parties; and
    - (ii) all guarantees given by the IFA group on behalf of any of the Other Parties;
- (4) any of the following has a current business relationship with the issuer or another party to the transaction, or a director, subsidiary, holding company or substantial shareholder of the issuer or another party to the transaction, which would be reasonably considered to affect the independent financial adviser's independence in performing its duties as set out in the

GEM Listing Rules, or might reasonably give rise to a perception that the independent financial adviser's independence would be so affected, save and except where that relationship arises pursuant to the independent financial adviser's appointment for the purpose of providing the subject advice:

- (a) any member of the IFA group;
  - (b) an employee of the independent financial adviser who is directly engaged in providing the subject advice to the issuer;
  - (c) an associate of an employee of the independent financial adviser who is directly engaged in providing the subject advice to the issuer;
  - (d) a director of any member of the IFA group; or
  - (e) an associate of a director of any member of the IFA group;
- (5) within 2 years prior to making the declaration pursuant to rule 17.97(1):
- (a) a member of the IFA group has served as a financial adviser to:
    - (i) the issuer or its subsidiaries;
    - (ii) another party to the transaction or its subsidiaries; or
    - (iii) a connected person of the issuer or another party to the transaction; or
  - (b) without limiting paragraph (a), an employee or a director of the independent financial adviser who is directly engaged in providing the subject advice to the issuer:
    - (i) was employed by or was a director of another firm that served as a financial adviser to any of the entities referred to at paragraphs (a)(i) to (a)(iii) above; and
    - (ii) in that capacity, was directly engaged in the provision of financial advice to the issuer or another party to the transaction;
- (6) the independent financial adviser or a member of the IFA group is the issuer's auditor or reporting accountant.

Notes: 1. In addition to it being a breach of the GEM Listing Rules, if it comes to the Exchange's attention that an independent financial adviser is not independent, the Exchange will not accept documents produced by that independent financial adviser for any purpose required under the GEM Listing Rules in relation to the subject transaction.

2. In calculating the percentage figure of shares that it holds or will hold for the purposes of sub-paragraphs (1), (2) and (4), an entity is not required to include an interest:

(a) held by an investment entity on behalf of its discretionary clients;

(b) held by a fund manager on a non-discretionary basis such as a managed account or managed fund;

- (c) held in a market-making capacity;*
- (d) held in a custodial capacity;*
- (e) in shares that would be disregarded for the purposes of Divisions 2 to 4 of Part XV of the Securities and Futures Ordinance under section 323 of that Ordinance; or*
- (f) in shares held by a member of the entity's group that is an investment manager whose interest would not be aggregated with its holding company under section 316(2) of the Securities and Futures Ordinance by reason of the operation of section 316(5) of that Ordinance.*

*For these purposes "investment manager" has the meaning given to it in section 316(7) of the Securities and Futures Ordinance.*

- 3. For the purposes of this rule, ultimate holding company means a holding company that itself does not have a holding company.*

17.97 No later than the earlier of the independent financial adviser agreeing its terms of engagement with the issuer and the independent financial adviser commencing work as independent financial adviser to the issuer, the independent financial adviser must submit to the Exchange:

- (1) a declaration in the prescribed form set out in Appendix [13] to the effect that the independent financial adviser is independent, including a statement addressing each of the circumstances set out in rule 17.96; and
- (2) an undertaking, in the terms set out in Appendix [14] to:
  - (a) comply with the GEM Listing Rules; and
  - (b) co-operate in any investigation conducted by the Listing Division and/or the Listing Committee of the Exchange, including answering promptly and openly any questions addressed to the independent financial adviser, promptly producing the originals or copies of any relevant documents and attending before any meeting or hearing at which the independent financial adviser is requested to appear.

17.98 Where an independent financial adviser or issuer becomes aware of a change in the circumstances set out in the declaration required by rule 17.97(1) during the period the independent financial adviser is engaged by the issuer, the independent financial adviser or issuer must notify the Exchange as soon as possible upon that change occurring.

17.99 Insofar as the GEM Listing Rules impose a higher standard of conduct on independent financial advisers to that set out in the Commission's Corporate Finance Adviser Code of Conduct, the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission, the Takeovers Code, the Share Repurchases Code and all other relevant codes and guidelines applicable to them, the GEM Listing Rules will prevail.

*Note: The Exchange also reminds independent financial advisers of their other statutory obligations including but not limited to those under the Securities and Futures Ordinance.*

# Chapter 18

## EQUITY SECURITIES

### FINANCIAL INFORMATION

#### Additional disclosure for Financial Conglomerates

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

- 18.45 Information as to the interests (if any) of the Compliance Adviser~~Sponsor~~ and its directors, employees and associates, as notified to the issuer pursuant to rule 6.36 and all directors and management shareholders of the issuer and their respective associates as referred to in rule 11.04.

#### Half-year reports

*Content of half-year reports*

- 18.63 Information as to the interests (if any) of the Compliance Adviser~~Sponsor~~ and its directors, employees and associates, as notified to the issuer pursuant to rule 6.36 and all directors and management shareholders of the issuer and their respective associates as referred to in rule 11.04.

#### Quarterly reports

*Content of quarterly reports*

- 18.75 Information as to the interests (if any) of the Compliance Adviser~~Sponsor~~ and its directors, employees and associates, as notified to the issuer pursuant to rule 6.36 and all directors and management shareholders of the issuer and their respective associates as referred to in rule 11.04.

# Chapter 19

## EQUITY SECURITIES

### NOTIFIABLE TRANSACTIONS

#### Classification and explanation of terms

- 19.05 A listed issuer considering a transaction must, at an early stage, consider whether the transaction falls into one of the classifications set out in rule 19.06. In this regard, the listed issuer must determine whether or not to consult with its ~~Compliance Adviser~~~~Sponsor~~ and/or its financial, legal or other professional advisers. Listed issuers, ~~Compliance Advisers or other advisers~~~~Sponsor or advisers~~ which are in any doubt as to the application of the requirements in this Chapter should consult the Exchange at an early stage.

*Note: Refer to rule 6A.23 regarding when a listed issuer is required to consult with and, if necessary, seek advice from its Compliance Adviser.*

#### Contents of circulars

##### *Discloseable transaction circulars*

- 19.64 All circulars relating to discloseable transactions must contain the following:
- (1) a prominent and legible disclaimer on the front cover of the circular in the form set out in rule 2.19;
  - (2) a statement, at a prominent position in the document, and in bold type, about the characteristics of GEM, in the form set out in rule 2.20;
  - (3) the information regarding the listed issuer specified in the following paragraphs of Appendix 1, Part B:—
    - 1- name
    - 2- directors' responsibility
    - 5- expert statements
    - 29(2)- requirements if there is a profit forecast
    - 33- litigation statement
    - 35- details of secretary and other officers
    - 36- address of registered office and head office;
  - (4) information regarding interests of directors and chief executive in the listed issuer required under paragraphs 34, 38 and 38A of Appendix 1, Part B;
  - (5) information regarding the assets being acquired or disposed of, which is required to be included in the announcement under rule 19.60;
  - (6) information concerning the effect of the transaction on the earnings and assets and liabilities of the listed issuer;
  - (7) where a company either becomes a subsidiary or ceases to be a subsidiary of the listed issuer:—
    - (a) the percentage of the issued share capital (if any) held by the listed issuer in that company after the acquisition or disposal; and

- (b) in the case of a disposal, a statement whether the remaining shares are to be sold or retained;
- (8) details of any existing or proposed service contracts of directors and proposed directors of the listed issuer, or an appropriate negative statement;

*Note: Details of contracts to expire or which may be terminated by the employer within a year without payment of any compensation (other than statutory compensation) need not be included.*

- (9) information as to the competing interests (if any) of the Compliance Adviser~~Sponsor~~ and each of the directors, employees and associates (as referred to in rule 6.36) and each of the directors of the listed issuer and his/her respective associates (as would be required to be disclosed under rule 11.04 if each of them were a controlling shareholder); and
- (10) any additional information requested by the Exchange.

# Chapter 20

## EQUITY SECURITIES

### CONNECTED TRANSACTIONS

#### Contents of circular

##### *Specific disclosure in circular*

20.59 The circular must contain at least:

- (1) a prominent and legible disclaimer on the front cover in the form set out in rule 2.19;
- (2) a statement, at a prominent position in the document, and in bold type, about the characteristics of GEM, in the form set out in rule 2.20;
- (3) full details of the transaction including:
  - (a) the date of the transaction and the identity and activities of the parties to the transaction including the identity and activities of the ultimate beneficial owner of the disposing or acquiring party;
  - (b) a general description of the nature and the value (being the book value and valuation, if any) of any assets concerned. If any of the assets are securities, the circular must include the name of the company in which the shares are or were held and a general description of its activities;
  - (c) a description of the terms and conditions of the consideration and a statement of the total consideration, explaining how this is being or is to be satisfied;
  - (d) the name of the connected person concerned;
  - (e) a statement of the nature of the connected person's relationship with any controller and the name and office held by that controller; and
  - (f) the nature and extent of the interest of the connected person in the transaction;
- (4) the information regarding the listed issuer specified in the following paragraphs of Appendix 1, Part B:
  - 1 — name
  - 2 — directors' responsibility
  - 5 — expert statements
  - 8A — procedures for demanding a poll by shareholders
  - 10 — securities to be issued (if applicable)
  - 29(2) — requirements if there is a profit forecast (see rule 19.61 for the definition of "profit forecast")
  - 32 — no material adverse change
  - 39 — directors' service contracts
  - 40 — directors' interests in assets
  - 42(2)(a) & (c) — documents on display

- (5) information regarding interests of directors and chief executive in the listed issuer required under paragraphs 34, 38 and 38A of Appendix 1, Part B;
- (6) where independent shareholders' approval is required, a statement that any connected person with a material interest in the transaction, and any shareholder with a material interest in the transaction and its associates, will not vote and the information required under rule 2.28;
- (7) an independent valuation if the primary significance of the asset being acquired or disposed of is its capital value (for example, real property);
- (8) where independent shareholders' approval is required, a letter from the independent board committee as required under rule 20.58(3)(c) and its recommendation to the independent shareholders as required under rule 20.21;
- (9) a copy of the independent financial adviser's opinion letter referred to in rule 20.22;
- (10) in the case of a continuing connected transaction, details of the cap for the purpose of rule 20.35(2) and an explanation of how and the basis upon which it was calculated;
- (11) where a listed issuer acquires a company or business from a connected person who provides a guarantee of the profits or net tangible assets or other matters regarding the financial performance of that company or business,
  - (a) statements that:
    - (i) the listed issuer will publish an announcement if the profits or net tangible assets or other matters regarding the financial performance are less than the amount guaranteed and will include details in its next published annual report and accounts; and
    - (ii) the independent non-executive directors of the listed issuer will provide an opinion in the listed issuer's next published annual report and accounts as to whether the connected person has fulfilled its obligations under the guarantee; and
  - (b) details of any option granted to the listed issuer to sell the company or business back to the connected person and/or other rights granted to the listed issuer;

*Note: An option under the terms of the guarantee is also subject to the requirements of rules 20.67 to 20.71.*
- (12) information as to the competing interests (if any) of the [Compliance Adviser](#)~~Sponsor~~ and its directors, employees and associates (as referred to in rule 6.36) and all directors of the issuer and their respective associates (as would be required to be disclosed under rule 11.04 if each of them were a controlling shareholder);
- (13) where appropriate, details of any guarantee and/or other security given and required as part of the transaction;
- (14) reasons for entering into the transaction and the benefits which are expected to accrue to the listed issuer as a result of the transaction;

- (15) where the transaction involves the purchase of assets by the listed issuer, the original purchase cost of the asset to the connected person;
- (16) where appropriate, the original acquisition cost of the assets which will be sold to connected persons where the listed issuer has held such assets for a period of 12 months or less;
- (17) if the transaction involves a disposal of an interest in a subsidiary by a listed issuer, a declaration as to whether the subsidiary will continue to be a subsidiary of the listed issuer following the transaction;
- (18) (a) where appropriate, the business valuation report on a business or company being acquired or disposed of and/or traffic study report in respect of any infrastructure project or infrastructure or project company. Such report(s) must clearly set out:
  - (i) all fundamental underlying assumptions including discount rate or growth rate used; and
  - (ii) a sensitivity analysis based on the various discount rates and growth rates;
- (b) where any business valuation is based on a profit forecast, the accounting policies and calculations for the underlying forecasts must be examined and reported on by the auditors or reporting accountants. Any financial adviser mentioned in the circular must also report on the underlying forecasts; and
- (19) any additional information requested by the Exchange.

# Chapter 27

## DEBT SECURITIES

### (OTHER THAN SELECTIVELY MARKETED SECURITIES)

#### QUALIFICATIONS FOR LISTING

##### Basic conditions

27.04 ~~Chapter 6A does not apply to initial listings of debt securities. However:—Where the holding company of a new applicant seeking a listing only of debt securities on GEM has equity securities already listed on GEM, or seeks to list its equity securities on GEM at the same time as the new applicant's debt securities, the new applicant is not required to appoint a Sponsor. However:—~~

~~(1) where a new applicant (or holding company of the new applicant), that seeks a listing of debt securities on GEM, seeks such listing at the same time as seeking to list its (or its holding company's) equity securities on GEM, then the Sponsor appointed by the new applicant pursuant to rule 6A.02 (or another party admitted to the Exchange's list of Sponsors and specifically appointed for the purpose) must advise the new applicant in connection with the issue and listing of the debt securities; in circumstances where the holding company of the new applicant is required to appoint or has appointed a Sponsor under rule 6.01 or 6.02, that Sponsor (or another party admitted to the Exchange's list of Sponsors, specifically appointed for the purpose) must advise the new applicant in connection with the issue and listing of the debt securities; or~~

~~(2) a new applicant (or holding company of the new applicant) seeking a listing of debt securities on GEM in circumstances other than those described in paragraph (1) above, must appoint a financial adviser, acceptable to the Exchange, to advise the new applicant in connection with the issue and listing of the debt securities. in circumstances where the holding company of the new applicant is not required to appoint or has not appointed a Sponsor under rule 6.01 or 6.02, the new applicant must, in any event, appoint a financial adviser, acceptable to the Exchange, to advise the new applicant in connection with the issue and listing of the debt securities.~~

~~27.04A In exercising its discretion under rule 27.04 to determine whether a Sponsor or financial adviser is acceptable, the Exchange may have regard to paragraphs (3) to (7) of the test of independence set out in rule 6A.07 as those paragraphs would apply to the relationships between the Sponsor or financial adviser and the issuer.~~

# Chapter 28

## DEBT SECURITIES

### (OTHER THAN SELECTIVELY MARKETED SECURITIES)

#### APPLICATION PROCEDURES AND REQUIREMENTS

##### Application

- 28.10 ~~In circumstances where rule 27.04 applies such that the issuer has appointed a Sponsor or financial adviser, that Sponsor or financial adviser~~In circumstances where the issuer, or the issuer's holding company, is required to appoint or has appointed a Sponsor under rule 6.01 or 6.02, that Sponsor (or another party admitted to the Exchange's list of Sponsors, specifically appointed for the purpose) is responsible for providing advice to the issuer in connection with the debt issue and must lodge the issuer's application for listing and all supporting documents and deal with the Exchange on all matters in connection with the application.
- 28.11 The application for listing must be made, in accordance with the provisions of rule 28.03, in the prescribed form set out in Appendix 5C, signed by a duly authorised officer of the issuer. The form must be accompanied:—
- (1) by the documents, as applicable, stipulated in rule 28.13;
  - (2) in circumstances where the issuer or the issuer's holding company is required to have (or otherwise retains) ~~a Sponsor or financial adviser, the Sponsor's or financial adviser's statement relating to independence in a form acceptable to the Exchange a Sponsor, by the Sponsor's declaration of interests in the form set out in Appendix 7H~~; and
  - (3) the listing fee in the amount specified in Appendix 9.

##### Documentary requirements

*After notification of listing approval but before the date of issue of the listing document*

- 28.14 On or before the date of issue of the listing document, the following documents must be supplied to the Exchange:—
- (1) in the case of a new applicant or a listed issuer proposing to issue a listing document of the type referred to in rule 6.58(1) within the minimum period referred to in rule ~~6A.196-01~~ or any period fixed for the purposes of rule ~~6A.206-02~~ during which the issuer or the issuer's holding company is required to appoint a ~~Compliance Adviser~~Sponsor, the signed declaration in the form set out in Appendix 7J as referred to in rule 6.57;
  - (2)
    - (a) 7 copies of the listing document, one of which must be dated and signed by every person who is named therein as a director or proposed director of the issuer and any guarantor or by his agent authorised in writing;
    - (b) 7 copies of the formal notice, where applicable;
    - (c) 7 copies of any application form (including any excess or preferential application form) to subscribe or purchase the debt securities for which listing is sought; and
    - (d) where any document referred to in (a) above is signed by an agent, a certified copy of the authorisation for such signature;

- (3) a certified copy of every letter, report, financial statement, statement of adjustments, valuation, contract, resolution or other document any part of which is extracted or referred to in the listing document;
- (4) a certified copy of the written consent by any expert to the issue of the listing document with the inclusion therein of the following in the form and context in which they are included:—
  - (a) a statement purporting to be a copy of or extract from or summary of or reference to a report or valuation or other statement by such expert; and
  - (b) any recommendation by such expert in relation to acceptance or rejection of an offer or proposal; and
- (5) 25 copies of each of the English language version and the Chinese language version of the listing document and related application form (including any excess application form).

# Chapter 30

## DEBT SECURITIES

### SELECTIVELY MARKETED SECURITIES

#### Qualifications for listing

##### *Basic conditions for issuers*

30.08 ~~Chapter 6A does not apply to initial listings of debt securities. However, where the holding company of a new applicant seeking only a listing of debt securities on GEM has equity securities already listed on GEM, or seeks to list its equity securities on GEM at the same time as the new applicant's debt securities, the new applicant is not required to appoint a Sponsor. However:—~~

- (1) ~~where a new applicant (or holding company of the new applicant), that seeks a listing of debt securities on GEM, seeks such listing at the same time as seeking to list its (or its holding company's) equity securities on GEM, then the Sponsor appointed by the new applicant pursuant to rule 6A.02 (or another party admitted to the Exchange's list of Sponsors and specifically appointed for the purpose) must advise the new applicant in connection with the issue and listing of the debt securities; in circumstances where the holding company of the new applicant is required to appoint or has appointed a Sponsor under rule 6.01 or 6.02, that Sponsor (or another party admitted to the Exchange's list of Sponsors, specifically appointed for the purpose) must advise the new applicant in connection with the issue and listing of the debt securities; or~~
- (2) ~~a new applicant (or holding company of the new applicant) seeking a listing of debt securities on GEM in circumstances other than those described in paragraph (1) above, must appoint a financial adviser, acceptable to the Exchange, to advise the new applicant in connection with the issue and listing of the debt securities. in circumstances where the holding company of the new applicant is not required to appoint and has not appointed a Sponsor under rule 6.01 or 6.02, the new applicant must, in any event, appoint a financial adviser, acceptable to the Exchange, to advise the new applicant in connection with the issue and listing of the debt securities.~~

~~30.08A In exercising its discretion under rule 30.08 to determine whether a Sponsor or financial adviser is acceptable, the Exchange may have regard to paragraphs (3) to (7) of the test of independence set out in rule 6A.07 as those paragraphs would apply to the relationships between the Sponsor or financial adviser and the issuer.~~

#### Application procedures and requirements

##### *Preliminary*

30.22 ~~In circumstances where rule 30.08(1) applies such that the issuer has appointed a Sponsor or financial adviser, that Sponsor or financial adviser~~ In circumstances where the issuer, or the issuer's holding company, is required to appoint or has appointed a Sponsor under rule 6.01 or 6.02, that Sponsor (or another party admitted to the Exchange's list of Sponsors, specifically appointed for the purpose) is responsible for providing advice to the issuer in connection with the debt issue and must lodge the issuer's application for listing and all supporting documents and deal with the Exchange on all matters in connection with the application.

### *Documentary requirements*

30.27 The documents referred to in rule 30.26 are as follows:—

- (1) a formal application for listing in the prescribed form set out in Appendix 5C, signed by a duly authorised officer or member of the governing body of the issuer;
- (2) 6 drafts or proof copies of the listing document in anticipated final form, marked in the margin to indicate where compliance has been made with the relevant provisions of the GEM Listing Rules and, in the case only of a prospectus, to indicate in addition where compliance has been made with the relevant provisions of the Companies Ordinance;
- (3) 3 copies of the anticipated final proof of the formal notice;
- (4) 3 copies of the anticipated final draft, if available, of the trust deed or other document securing or constituting the debt securities, which must comply with Appendix 4 (with the exception of paragraphs 1(1),1(2) and 6(1)), and which are marked in the margin to indicate where the relevant items from Appendix 4 have been met;
- (5) 3 certified copies of the memorandum and articles of association or equivalent documents of both the applicant and the guarantor, in the case of a guaranteed issue, or, if previously supplied in connection with a previous listing and where no amendments have been made thereto, a certificate of an authorised officer or member of the governing body of the issuer and of the guarantor, in the case of a guaranteed issue, confirming that there have been no amendments thereto;
- (6) in the case of a new applicant, the annual report and accounts for each of the 2 completed financial years of the issuer or its group and the guarantor or its group in the case of a guaranteed issue, immediately preceding the issue of the listing document or such shorter period as may be acceptable to the Exchange;
- (7) where possible, a certified copy of:—
  - (a) the resolution(s) of the issuer in general meeting (if any) authorising the issue of all debt securities for which listing is sought, together with one copy of the notice of meeting (if any) of shareholders referred to in the listing document;
  - (b) the resolution(s) of the board of directors or other governing body or any other person to whom it has properly delegated these powers (together, in such cases, with a certified copy of the power of attorney or resolution delegating the powers) authorising the issue and allotment of such debt securities, the making of the application for listing in the prescribed form and approving and authorising the issue of the listing document; and
  - (c) in the case of a guaranteed issue, the resolution(s) of the board of directors or other governing body of the guarantor approving and authorising the giving and signing of the guarantee(s) and the undertaking to comply with the GEM Listing Rules (see rule 30.17) and authorising the issue of the listing document;
- (8) any checklist(s) in the form prescribed by the Exchange from time to time, duly completed; and
- (9) in circumstances where the issuer or the issuer's holding company is required to have (or otherwise retains) a Sponsor or financial adviser, the Sponsor's or financial adviser's statement relating to independence in a form acceptable to the Exchange.~~a Sponsor, the Sponsor's declaration of interests in the form set out in Appendix 7H.~~

30.28 The following documents must be supplied to the Exchange after notification of listing approval:—

- (1) in the case of a new applicant or a listed issuer proposing to issue a listing document of the type referred to in rule 6.58(1) within the minimum period referred to in rule ~~6A.196-01~~ or any period fixed for the purposes of rule ~~6A.206-02~~ during which the issuer or the issuer's holding company is required to appoint a ~~Compliance Adviser~~~~Sponsor~~, the signed declaration in the form set out in Appendix 7J as referred to in rule 6.57;
- (2) on or before the date of issue of the listing document (or such other date as the Exchange may agree):—
  - (a)
    - (i) 7 copies of the listing document, one of which must be dated and signed by a duly authorised officer of the issuer and the guarantor, in the case of a guaranteed issue, or by 2 members of an issuer's governing body in the case of an overseas issuer or by their agents authorised in writing;
    - (ii) where any document referred to in (a) above is signed by an agent, a certified copy of the authorisation for such signature;
  - (b) a certified copy of every letter, report, financial statement, statement of adjustments, valuation, contract, resolution or other document any part of which is extracted or referred to in the listing document;
  - (c) a certified copy of the written consent by any expert to the issue of the listing document with the inclusion therein of a statement purporting to be a copy of or extract from or summary of or reference to a report or valuation or other statement by such expert in the form and context in which they are included;
  - (d) 25 copies of each of the English language version and the Chinese language version (if any) of the listing document to be supplied to the Exchange; and
- (3) in the case of a listing document which constitutes a prospectus under the Companies Ordinance, the following documents (lodged with the Exchange by no later than 11:00 a.m. on the intended date of authorisation of the prospectus):—
  - (a) an application for authorisation for registration of the prospectus pursuant to section 38D(3) or section 342C(3) of the Companies Ordinance (as the case may be);
  - (b) 2 printed copies of the prospectus, duly signed in accordance with section 38D(3) or section 342C(3) of the Companies Ordinance (as the case may be) and having endorsed thereon or annexed thereto the documents stipulated by the relevant section;
  - (c) in respect of a Chinese translation of the prospectus, a certificate issued by the translator certifying that the Chinese translation of the English version of the prospectus is true and accurate or in respect of an English translation of the prospectus, a certificate issued by the translator certifying that the English translation of the Chinese version of the prospectus is true and accurate; and in either case, a certificate issued by a competent officer of the Sponsor certifying that the translator is competent to have given the certificate as to translations in respect of the prospectus documents; and
  - (d) the powers of attorney or other authority pursuant to which the prospectus is signed, together with one certified copy of each such power or authority.

(4) on or before the date that permission to deal becomes effective:—

- (a) the completed company information sheet in the prescribed form set out in Appendix 5F, submitted in the electronic format specified by the Exchange from time to time, for publication on the GEM website, together with a hard copy duly signed by or on behalf of each of the directors of the issuer; and

*Note: This requirement does not relate to the guarantor, in the case of a guaranteed issue, unless the guarantor is itself a listed issuer.*

- (b) a copy of the relevant page(s) of any newspaper circulating in Hong Kong in which any formal notice was published (if any).

# The Stock Exchange of Hong Kong Limited

## **Practice Note 2**

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

Issued pursuant to rule 1.07 of the GEM Listing Rules

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

1. This Practice Note should be read together with Chapter 6A of the GEM Listing Rules. Chapter 6A, amongst other things, requires that sponsors conduct reasonable inquiries (“due diligence”) to enable the Sponsor to make a declaration in the terms of rules 6A.14 to 6A.16.
2. The Sponsor should make such inquiries as may be necessary until the Sponsor can reasonably satisfy itself in relation to the disclosure in the listing document. In undertaking its role a Sponsor should examine with professional scepticism the accuracy and completeness of statements and representations made, or other information given, to it by the new applicant or its directors. An attitude of professional scepticism means making a critical assessment with a questioning mind and being alert to information, including information from experts, that contradicts or brings into question the reliability of such statements, representations and information.
3. This Practice Note sets out the Exchange’s expectations of due diligence sponsors will typically perform. It is not in any way intended to set out the actual steps that may be appropriate in any particular case. Each new applicant is unique and so will be the due diligence steps necessary for the purpose of its listing application. The scope and extent of appropriate due diligence by a Sponsor may be different from (and in some cases, considerably more extensive than) the more typical examples in this Practice Note. The Sponsor must exercise its judgment as to what investigations or steps are appropriate for a particular new applicant and the extent of each step.
4. The Exchange expects sponsors to document their due diligence planning and significant deviations from their plans. This includes demonstrating that they have turned their minds to the question of what inquiries are necessary and reasonably practicable in the context and circumstances of the case. The Exchange also expects sponsors to document the conclusions they reach in respect of the new applicant’s compliance with all the conditions in Chapter 11 of the GEM Listing Rules, in particular, rules 11.02, 11.04, 11.05, 11.07, 11.08, 11.10, 11.11, 11.14, 11.15, 11.18, 11.20, 11.21, 11.24, 11.25, 11.26, 11.27, 11.28, 11.30, 11.31 and 11.32 taking into account the extent to which compliance with those rules has been waived by the Exchange.
5. It may be appropriate for a Sponsor to engage third party professionals to assist it to undertake tasks related to certain due diligence inquiries. For example, assistance in reviewing the circumstances of all current legal proceedings to which the new applicant is a party. In such cases, the Exchange expects the Sponsor to satisfy itself that it is reasonable to rely on information or advice provided by the third party professional. That would include, for example:
  - (a) being satisfied as to the competence of the professional, the scope of work to be undertaken by the professional and the methodology proposed to be used by the professional; and

(b) being satisfied that the third party professional's report or opinion is consistent with the other information known to the Sponsor about the new applicant, its business and its business plans.

6. The Exchange reminds sponsors of their other obligations including but not limited to those under the GEM Listing Rules more generally, the SFC Corporate Finance Adviser Code of Conduct, the Takeovers Code, the Code on Share Repurchases, the Securities and Futures Ordinance and all other relevant ordinances, codes, rules and guidelines applicable to sponsors. Nothing in this Practice Note detracts from or diminishes those obligations.

### **Interpretation of this Practice Note**

7. Unless otherwise stated, all terms used in this Practice Note have the meanings attributed to them in the GEM Listing Rules.

8. All references in this Practice Note to the new applicant's listing document include supporting or supplementary documents, for example, correspondence with the Exchange in relation to the new applicant's initial listing application and relied on by the Exchange in assessing that application.

9. All references in this Practice Note to the new applicant include the new applicant's group of companies.

10. Unless otherwise stated, all references in this Practice Note to directors include executive and non-executive directors.

### **Due diligence**

11. Typical due diligence inquiries in relation to the collective and individual experience, qualifications, competence and integrity of the directors include:

(a) reviewing written records that demonstrate each director's past performance as a director of the new applicant including participation in board meetings and decision making relating to the management of the new applicant and its business;

(b) assessing individually and collectively the financial literacy, corporate governance experience and competence generally of the directors with a view to determining the extent to which the board of the new applicant as a whole has a depth and breadth of financial literacy and understanding of good corporate governance, having regard to any code on corporate governance practices that the Exchange publishes from time to time; and

(c) reviewing the financial and regulatory track record of each publicly listed company (this includes companies listed on other exchanges as well as on the Exchange) of which any of the new applicant's directors is or was an executive or non-executive director, for example, by reference to company disclosures, media articles and information about those companies on the website of the relevant stock exchange.

12. Typical due diligence inquiries in relation to the new applicant's compliance with the qualifications for listing include:

(a) searching the company registry in the new applicant's place of incorporation to confirm that the new applicant is duly established in that place and that the new applicant is in compliance with its memorandum and articles of association or equivalent constitutive documents;

- (b) reviewing material financial information, including:
  - (i) financial statements of the new applicant;
  - (ii) financial statements of all subsidiaries of the new applicant and other companies that are material to the group's financial statements; and
  - (iii) the internal financial records, tax certificates and supporting documents to the tax certificates for the trading record period.

Such review would in most cases include interviewing the new applicant's accounting staff and internal and external auditors and reporting accountants and, where relevant, obtaining comfort from the new applicant's external auditors or reporting accountants based upon agreed procedures; and

- (c) assessing the accuracy and completeness of the information submitted by the new applicant to demonstrate that it satisfies the trading record requirement.

13. Typical due diligence inquiries in respect of each new applicant and the preparation of its listing document and supporting information include:

- (a) assessing the financial information to be published in the listing document including:
  - (i) obtaining written confirmation from the new applicant and its directors that the financial information (other than that already reported upon by a reporting accountant) has been properly extracted from the relevant underlying accounting records; and
  - (ii) being satisfied that the confirmation referred to at paragraph (i) has been given after due and careful inquiry by the new applicant and its directors;
- (b) assessing the new applicant's performance and finances, business plan and any profit forecast or estimate, including an assessment of the reasonableness of budgets, projections and assumptions made when compared with past performance, including historical sales, revenue and investment returns, payment terms with suppliers, costs of financing, long-term liabilities and working capital requirements. This would normally include interviewing the new applicant's senior management and would often involve interviewing the new applicant's major suppliers and customers, creditors and bankers;
- (c) assessing whether there has been any change since the date of the last audited balance sheet included in the listing document that would require disclosure to ensure the listing document is complete and not misleading;
- (d) assessing whether it is reasonable to conclude that the proceeds of the issue will be used as proposed by the new applicant, taking into account the outcome of the Sponsor's assessment of, in particular, the new applicant's existing cash and liquid reserves, projected liabilities, working capital requirements and expenditure controls;
- (e) undertaking a physical inspection of material assets, whether owned or leased, including property, plant, equipment, inventory and biological assets (for example, livestock or crops) used or to be used in connection with the new applicant's business;

Notes:

1. By physical inspection the Exchange means the Sponsor should visit the site of the asset in order to view the asset and to assess its extent, quality and quantity and the purpose for which it is used.
2. Where, in the reasonable opinion of the Sponsor, assessment of an asset, including as to its extent, quality, quantity and use, genuinely cannot be achieved without the use of an expert (for example, in undertaking the physical inspection the Sponsor becomes suspicious that the asset does not exist as to the extent represented or exists but is not used for the purpose claimed) the Sponsor should ensure that the new applicant instructs an appropriately qualified independent expert to conduct all or part of the inspection. In such cases the Sponsor should ensure the expert is required to provide a written report in respect of the inspection.

(f) reaching an understanding of the new applicant's production methods;

(g) reaching an understanding of the manner in which the new applicant manages its business, including as relevant actual or proposed marketing plans, including distribution channels, pricing policies, after-sales service, maintenance and warranties;

(h) reviewing the business aspects of all contracts material to the new applicant's business;

Note: By business aspects the Exchange means non-legal aspects.

(i) reviewing legal proceedings and other material disputes that are current or recently resolved (for example, resolved in the previous 12 months) and in which the new applicant is involved, and all proceedings or material disputes the new applicant knows to be contemplated and which may involve the new applicant or one of its subsidiaries;

(j) analysing the business aspects of economic, political or legal conditions that may materially affect the new applicant's business;

(k) considering the industry and target markets in which the new applicant's business has principally operated and is intended to principally operate, including geographical area, market segment and competition within that area and/or segment (including existing and potential principal competitors and their relative size, aggregate market share and profitability);

(l) assessing whether there is appropriate documentation in place to confirm that the material assets, whether owned or leased, including property, plant, equipment, inventory and biological assets used or to be used, in connection with the new applicant's business, are appropriately held by the new applicant (for example, reviewing the relevant certificates of title and rights of land use);

(m) assessing the existence, validity and business aspects of proprietary interests, intellectual property rights, licensing arrangements and other intangible rights of the new applicant;

(n) reaching an understanding of the technical feasibility of each new product, service or technology developed, being developed or proposed to be developed pursuant to the new applicant's business plan that may materially affect the new applicant's business; and

- (o) assessing the stage of development of the new applicant's business and assessing the new applicant's business plan and any forecasts or estimates, including reaching an understanding of the commercial viability of its product(s), service(s) or technology, including an assessment of the risk of obsolescence as well as market controls, regulation and seasonal variation.

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

- (a) interviewing the expert, reviewing the terms of engagement (having particular regard to the scope of work, whether the scope of work is appropriate to the opinion required to be given and any limitations on the scope of work which might adversely impact on the degree of assurance given by the expert's report, opinion or statement) and reviewing publicly available information about the expert to assess:
  - (i) the expert's qualifications, experience and resources; and
  - (ii) whether the expert is competent to undertake the required work;
- (b) reviewing the expert sections of the draft listing document in order to form an opinion as to whether the following are disclosed and commented on appropriately:
  - (i) the factual information on which the expert relies;
  - (ii) the assumptions on which the expert opinion is based; and
  - (iii) the scope of work performed by the expert in arriving at his/her opinion;
- (c) verifying factual information for the purpose of making that part of the declaration referred to at rule 6A.16(1);
- (d) where the Sponsor is aware that the new applicant has made formal or informal representations to an expert in respect of an expert section or in respect of a report made in connection with the listing application, assessing whether the representations are consistent with the Sponsor's knowledge of the new applicant, its business and its business plans;
- (e) by reference to the Sponsor's knowledge of the new applicant, its business and its business plans assessing whether the assumptions disclosed by the expert as those on which the expert's opinion is based, are fair, reasonable and complete;
- (f) if the expert's opinion is qualified, assessing whether the qualification is adequately disclosed in the listing document; and
- (g) where the standard of independence is not set by a relevant professional body, obtaining written confirmation from the expert that it is independent from the new applicant and its directors and controlling shareholder(s), and being satisfied that there is no cause to inquire further about the truth of such confirmation. This would include confirming that the expert does not have a direct or indirect material interest in the securities or assets of the new applicant, its connected persons, or any associate of the new applicant beyond that allowed by rule 6A.07.

15. Typical due diligence inquiries in relation to the new applicant's accounting and management systems and in relation to the directors' appreciation of their and the new applicant's obligations include:

- (a) assessing the new applicant's accounting and management systems that are relevant:
  - (i) to the obligations of new applicant and its directors to comply with the GEM Listing Rules and other legal and regulatory requirements, in particular the financial reporting, disclosure of price sensitive information and notifiable and connected transaction requirements; and
  - (ii) to the directors' ability to make a proper assessment of the financial position and prospects of the new applicant and its subsidiaries, both before and after listing.

Such assessment should cover the new applicant's compliance manuals, policies and procedures including corporate governance policies and any letters given by the reporting accountants to the new applicant that comment on the new applicant's accounting and management systems or other internal controls; and

- (b) interviewing all directors and senior managers with key responsibilities for ensuring compliance with the GEM Listing Rules and other legal and regulatory requirements (including the chief financial officer, company secretary, qualified accountant and any compliance officers) to assess:
  - (i) their individual and collective experience, qualifications and competence; and
  - (ii) whether they appear to understand relevant obligations under the GEM Listing Rules and other relevant legal and regulatory requirements and the new applicant's policies and procedures in respect of those obligations.

16. To the extent that the Sponsor finds that the new applicant's procedures or its directors and/or key senior managers are inadequate in any material respect in relation to the issues referred to at paragraph 15 above, the Sponsor should typically discuss the inadequacies with the new applicant's board of directors and make recommendations to the board regarding appropriate remedial steps. It should also typically ensure that such steps be taken prior to listing. Such steps might include training tailored to the needs of individual directors and senior managers.

# Appendix 1

## CONTENTS OF LISTING DOCUMENTS

### Part A

#### Equity Securities

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

#### Miscellaneous

54. Information:

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

~~Information as to the interests of the Sponsor and its directors, employees and associates (as referred to in rule 6.36) and of all directors, management shareholders and substantial shareholders of the issuer and their respective associates (as referred to in rule 11.04). (Note 9)~~

# Appendix 1

## CONTENTS OF LISTING DOCUMENTS

### Part B

#### Equity Securities

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

#### **Miscellaneous**

43. Information as to the interests (if any) of the Sponsor or Compliance Adviser, as applicable, and its directors, employees and associates (as referred to in rule 6.36) and of all directors, and management shareholders of the issuer and their respective associates (as referred to in rule 11.04). *(Note 8)*

# Appendix 5

## FORMS RELATING TO LISTING

### FORM A

#### Application Form - Equity securities (of an issuer no part of whose share capital is already listed)

**This form must be lodged, duly completed, at least 25 clear business days prior to the provisional hearing date of the application by the GEM Listing Committee.**

13. Particulars of the principal supervisor and assistant supervisor to be (or expected to be) engaged by the Compliance Adviser for the purposes of rule 6.50 representing the Sponsor to act as the principal channel of communication with the Exchange on behalf of the new applicant after listing (see rule 6.51 of the GEM Listing Rules):—

(a) Principal supervisor:

Name: . . . . . (English) . . . . . (Chinese)

Telephone Number: . . . . . (Office) . . . . . (Home)  
. . . . . (Mobile)

Fax Number: . . . . .  
E-mail: . . . . .

(b) Assistant supervisor:

Name: . . . . . (English) . . . . . (Chinese)

Telephone Number: . . . . . (Office) . . . . . (Home)  
. . . . . (Mobile)

Fax Number: . . . . .  
E-mail: . . . . .

***Please attach a certified extract from the board minutes of the Issuer authorising the submission of this form and approving the undertaking, declaration and acknowledgements set out herein.***

21. **Sponsor's Undertaking:**

**We, . . . . . [Limited], the Sponsor, hereby undertake:—**

- (a) **to comply with the GEM Listing Rules applicable to Sponsors; to keep the Exchange informed, at timely intervals, of the progress of this application and, in any event, on a fortnightly basis;**
- (b) **to use reasonable endeavours to ensure that all information provided to the Exchange during the listing application process is true in all material respects and does not omit any material information and, to the extent that we subsequently become aware of information that casts doubt on the truth, accuracy or completeness of information provided to the Exchange, we will promptly inform the Exchange of such information; to**

~~advise the Exchange if any change of circumstance, of which we become aware, arises prior to the hearing date of the application by the GEM Listing Committee that would render any information contained in the application form or the draft listing document submitted herewith misleading in any material respect;~~

- (c) ~~to cooperate in any investigation conducted by the Listing Division and/or the GEM Listing Committee of the Exchange, including answering promptly and openly any questions addressed to us, promptly producing the originals or copies of any relevant documents and attending before any meeting or hearing at which we are requested to appear; and to lodge with the Exchange the following:~~
- ~~(i) prior to publication of the listing document, the Sponsor's declaration (Appendix 7G), as referred to in rules 6.47 and 12.24(1) of the GEM Listing Rules; and~~
  - ~~(ii) before dealings in the Issuer's securities commence, the declaration of compliance (Appendix 7I) as referred to in rules 6.48 and 12.26(8) of the GEM Listing Rules.~~
- (d) ~~to lodge with the Exchange, before dealings in the Issuer's securities commence, the declaration of compliance (Appendix 7I) as referred to in rules 6.48 and 12.26(8) of the GEM Listing Rules.~~

**NOTES:**

- (1) *Where more than one Sponsor has been appointed, please refer to rule [6A.106.59](#) of the GEM Listing Rules for guidance. The Exchange must be advised as to which of the Sponsors is, in the first instance, principally responsible for communicating on the Issuer's behalf with the Exchange.*

# Appendix 5

## FORMS RELATING TO LISTING

### FORM B

#### Application Form - Equity securities (of an issuer part of whose share capital is already listed)

**In circumstances where the application is required to be supported by a listing document this form must be lodged, duly completed, at least 10 clear business days prior to the date on which the issuer proposes to bulk print the listing document and, in circumstances where the application is not required to be supported by a listing document, this form must be submitted at least 4 clear business days prior to the proposed date for issuing the securities.**

#### **NOTES:**

- (1) *Please refer to rule 6.56 of the GEM Listing Rules. In circumstances where a listed issuer proposes to issue a listing document of the type referred to in rule 6.58 within the minimum period referred to in rule in ~~6A.196-01~~ or any period fixed for the purposes of rule ~~6A.206-02~~, the Issuer's ~~Compliance Adviser~~~~Sponsor~~ (or adviser appointed under rule 6.60) shall be responsible for dealing with the Exchange.*

# Appendix 5

## FORMS RELATING TO LISTING

### FORM C

#### Application Form - Debt securities

**This form, must be lodged, duly completed, in the case of an issuer applying for the simultaneous listing of both equity and debt securities, in accordance with the timetable relevant to the application to list such equity securities and, otherwise, as follows:**

- (i) in circumstances where the application is required to be supported by a listing document at least 10 clear business days prior to the provisional hearing date of the application by the GEM Listing Committee or, in the case of a selectively marketed issue, such other period as may be agreed with the Exchange; or**
- (ii) in circumstances where the application is not required to be supported by a listing document, the application must be submitted at least 4 clear business days prior to the proposed date for issuing the securities.**

#### **NOTES:**

- (2) Please refer to rules 6.56, 27.04 and 30.08 of the GEM Listing Rules for guidance. In circumstances where the Issuer proposes to issue a listing document of the type referred to in rule 6.58 within the minimum period referred to in rule ~~6A.196-01~~ or any period fixed for the purposes of rule ~~6A.206-02~~ the Sponsor or adviser of the Issuer or the Issuer's holding company shall be responsible for dealing with the Exchange.*

## Appendix 7

### SPONSOR'S FORMS

#### FORM G

##### Sponsor's Declaration in support of a New Applicant

**This declaration must be lodged, duly completed, prior to the issue of the listing document by or on behalf of the new applicant.**

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

..... / ..... / .....

We, ..... are a / the ~~the~~ Sponsor appointed by ..... (the "Company") for the purpose referred to in rule 6A.02 of the Rules Governing the Listing of Securities on Growth Enterprise Market of The Stock Exchange of Hong Kong Limited (the "GEM Listing Rules") and have offices located at .....

Pursuant to rule 6A.13 we declare to The Stock Exchange of Hong Kong Limited (the "Exchange") that:

- (1) all of the documents required by the GEM Listing Rules to be submitted to the Exchange on or before the date of issue of the Company's listing document and in connection with the Company's listing application have been submitted;
- (2) having made reasonable due diligence inquiries, we have reasonable grounds to believe and do believe that:
  - (a) the answers provided by each director or proposed director of the Company in the director's declaration(s) in the form at Appendix [6A] ~~or, in the case of PRC issuers, Appendix 6B~~ are true and do not omit any material information;
  - (b) the Company is in compliance with all the conditions in Chapter 11 of the GEM Listing Rules, in particular, rules 11.02, 11.04, 11.05, 11.07, 11.08, 11.10, 11.11, 11.14, 11.15, 11.18, 11.20, 11.21, 11.24, 11.25, 11.26, 11.27, 11.28, 11.30, 11.31 and 11.32 (except to the extent that compliance with those rules has been waived by the Exchange in writing);
  - (c) the Company's listing document contains sufficient particulars and information to enable a reasonable person to form as a result thereof a valid and justifiable opinion of the shares and the financial condition and profitability of the Company at the time of the issue of the listing document;
  - (d) the information in the non-expert sections of the listing document:
    - (i) contains all information required by relevant legislation and rules;
    - (ii) is true in all material respects, or, to the extent it consists of opinions or forward looking statements on the part of the directors of the Company or any other person, such opinions or forward looking statements have been made after due and careful consideration and on bases and assumptions that are fair and reasonable; and
    - (iii) does not omit material information;

- (e) the Company has established procedures, systems and controls (including accounting and management systems) which are adequate having regard to the obligations of the Company and its directors to comply with the GEM Listing Rules and other relevant legal and regulatory requirements (in particular rules 17.10, 17.11, 18.03, 18.49 and 18.53 to 18.64 and Chapters 19 and 20) and which are sufficient to enable the Company's directors to make a proper assessment of the financial position and prospects of the Company and its subsidiaries, both before and after listing; and
- (f) the directors of the Company collectively have the experience, qualifications and competence to manage the Company's business and comply with the GEM Listing Rules, and individually have the experience, qualifications and competence to perform their individual roles, including an understanding of the nature of their obligations and those of the Company as an issuer under the GEM Listing Rules and other legal or regulatory requirements relevant to their role; and

(3) in relation to each expert section in the listing document, having made reasonable due diligence inquiries, we have reasonable grounds to believe and do believe (to the standard reasonably expected of a Sponsor which is not itself expert in the matters dealt with in the relevant expert section) that:

- (a) where the expert does not conduct its own verification of any material factual information on which the expert is relying for the purposes of any part of the expert section, such factual information is true in all material respects and does not omit any material information, where factual information includes:
  - (i) factual information that the expert states the expert is relying on;
  - (ii) factual information we believe the expert is relying on; and
  - (iii) any supporting or supplementary information given by the expert or the Company to the Exchange relating to an expert section;
- (b) all bases and assumptions on which the expert sections of the listing document are founded are fair, reasonable and complete;
- (c) the expert is appropriately qualified, experienced and sufficiently resourced to give the relevant opinion;
- (d) the expert's scope of work is appropriate to the opinion given and the opinion required to be given in the circumstances (where the scope of work is not set by a relevant professional body);
- (e) the expert is independent from the Company and its directors and controlling shareholder(s); and
- (f) the listing document fairly represents the views of the expert and contains a fair copy of or extract from the expert's report.

Signed: . . . . .

Name: . . . . .

For and on behalf of: . . . . . *[insert the name of Sponsor]*

Dated: . . . . .

**NOTES:**

Each and every director of the Sponsor, and any officer or representative of the Sponsor supplying information sought in this form, should note that this form constitutes a record or document which is to be provided to the Exchange in connection with the performance of its functions under "relevant provisions" (as defined in Part 1 of Schedule 1 to the Securities and Futures Ordinance, Cap 571) and is likely to be relied upon by the Exchange. In relation to this, you should be aware that giving to the Exchange any record or document, which is false or misleading in a material particular, will render relevant persons liable for prosecution for an offence under subsection 384(3) of the Securities and Futures Ordinance. If you have any queries you should consult the Exchange or your professional adviser immediately.

Dear Sirs,

Re: . . . . . (state name of new applicant) (the "applicant")

We, . . . . ., being Sponsor (Note 2) to the applicant, hereby confirm that:—

- (1) ~~all the documents required by the Rules Governing the Listing of Securities on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited ("GEM Listing Rules") to be submitted to The Stock Exchange of Hong Kong Limited (the "Exchange") prior to the issue of the listing document have been so submitted;~~
- (2) ~~we have satisfied ourselves, to the best of our knowledge and belief, having made due and careful enquiries, that:—~~
  - (a) ~~the applicant is suitable for listing on GEM;~~
  - (b) ~~the applicant is in compliance with all of the qualifications for listing set out in the GEM Listing Rules;~~
  - (c) ~~the listing document is in compliance with the GEM Listing Rules and that:—~~
    - (i) ~~the information contained in the listing document is accurate and complete in all material respects and not misleading;~~
    - (ii) ~~there are no other matters the omission of which would make any statement in the listing document misleading;~~
    - (iii) ~~all opinions of the directors of the applicant expressed in the listing document have been arrived at after due and careful consideration on their part and are founded on bases and assumptions that are fair and reasonable; and~~
    - (iv) ~~the directors of the applicant have made sufficient enquiries so as to enable them to give the directors' confirmations set out in the "responsibility statement" contained in the listing document;~~
  - (d) ~~there are no matters other than those disclosed in the listing document or otherwise in writing to the Exchange which should have been taken into account by the Exchange in considering the application for listing of the relevant securities; and~~

~~(3) the directors of the applicant have had explained to them the nature of their responsibilities under the GEM Listing Rules and other applicable laws and provisions relating to securities and we have satisfied ourselves to the best of our knowledge and belief, having made due and careful enquiries that:—~~

- ~~(a) the directors of the applicant have the requisite expertise and experience;~~
- ~~(b) they appreciate the nature of those responsibilities and can be expected to honour their obligations under the GEM Listing Rules and other applicable laws and provisions relating to securities;~~
- ~~(c) they can be expected to prepare and publish all information necessary for an informed market to take place in the applicant's securities; and~~
- ~~(d) they can be expected, generally, to honour their obligations, both in relation to shareholders and to the applicant's creditors.~~

Yours faithfully,

Signed: . . . . .

Name: . . . . .  
(Principal supervisor)

Signed: . . . . .

Name: . . . . .  
(Assistant supervisor)

For and on behalf of  
Name of Sponsor: . . . . .

**NOTES**

- ~~(1) This declaration must be read in conjunction with the full text of the GEM Listing Rules and the notes provided herein do not replace or limit the effect of the GEM Listing Rules.~~
- ~~(2) In the case of joint or co-sponsorships, separate declarations must be completed by each of the Sponsors.~~

## Appendix 7

### SPONSOR'S FORMS

#### FORM H

#### Compliance Adviser's Sponsor's Declaration of Interests

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

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

..... / ..... / .....

Dear Sirs,

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

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

- (1) neither ourselves nor our associates have or may, as a result of the listing or transaction, have any interest in any class of securities of the Issuer, or any other company in the Issuer's group (including options or rights to subscribe such securities); (Note 2)
- (2) no director or employee of the Compliance Adviser Sponsor who is involved in providing advice to the Issuer has or may, as a result of the listing or transaction, have any interest in any class of securities of the Issuer or any other company in the Issuer's group (including options or rights to subscribe such securities but, for the avoidance of doubt, excluding interests in securities that may be subscribed by any such director or employee pursuant to an offer by way of public subscription made by the issuer);
- (3) neither ourselves nor our associates expect to have accrued any material benefit as a result of the successful outcome of the listing or transaction, including by way of example, the repayment of material outstanding indebtedness and payment of any underwriting commissions or success fees; and

- (4) no director or employee of the Compliance AdviserSponsor has a directorship in the Issuer, or any other company in the Issuer's group, save as disclosed below (Note 3) (complete on a separate sheet if necessary):

Yours faithfully,

Signed: . . . . .

Name: . . . . .  
(Principal supervisor)

for and on behalf of  
Name of Compliance AdviserSponsor:

**NOTES:**

- (1) *This declaration must be read in conjunction with the full text of the GEM Listing Rules and the notes provided herein do not replace or limit the effect of the GEM Listing Rules.*
- (2) *For the purposes of paragraphs 1 and 3, "associate" shall have the same meaning as set out in rule 1.01 of the GEM Listing Rules, save that it shall be construed as applying to the Compliance AdviserSponsor.*
- (3) *Please refer to rules 6.34 and 6.35 of the GEM Listing Rules for guidance. The Compliance AdviserSponsor must forward a copy of this form to the new applicant or listed issuer.*

# Appendix 7

## SPONSOR'S FORMS

### FORM I

#### Sponsor's Declaration of Compliance concerning a New Applicant

**This declaration must be lodged, duly completed, prior to the commencement of dealing of the securities of the new applicant.**

- (5) All of the provisions of the GEM Listing Rules, insofar as applicable and required to be fulfilled prior to the grant of listing, have been complied with, and we confirm that we have complied with all of the requirements laid down in Chapters [6](#) and [6A](#) of the GEM Listing Rules concerning the application for listing.

## Appendix 7

### SPONSOR'S FORMS

#### FORM J

##### Declaration in relation to certain Listing Documents issued by an Issuer

**This declaration must, in the circumstances referred to in rule 6.57 of the GEM Listing Rules, be lodged with The Stock Exchange of Hong Kong Limited (the "Exchange"), duly completed, prior to the issue of the listing document.**

#### **NOTES:**

- (2) *~~Where a listed issuer appoints, in connection with the issue, a party admitted to the Exchange's list of Sponsors other than the Compliance Adviser appointed by the issuer for the purposes of rules 6A.19 and 6A.20, the newly appointed adviser is responsible for completing and lodging this form (see rule 6.60). Where a listed issuer appoints, in connection with the issue, a party admitted to the Exchange's list of Sponsors, other than the Sponsor appointed by the issuer for the purposes of rule 6.01 or 6.02 of the GEM Listing Rules, the newly appointed adviser shall be responsible for completing and lodging this form (see rule 6.60 of the GEM Listing Rules).~~*

**Appendix 7**

**SPONSOR'S FORMS**

**FORM K**

**Sponsor's statement relating to independence**

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

..... L ..... L .....

We, ..... (the "Firm") are a / the [cross out whichever is not applicable]  
Sponsor appointed by ..... (the "Company") for the purpose referred to in  
rule 6A.02 of the Rules Governing the Listing of Securities on Growth Enterprise Market of The Stock  
Exchange of Hong Kong Limited (the "GEM Listing Rules") and have offices located at  
.....

Pursuant to rule 6A.08 we declare to The Stock Exchange of Hong Kong Limited that as regards the  
Firm's relationship with the Company [clearly strike out whichever of the following does not apply]:

- (1) pursuant to rule 6A.07, the Firm expects to be independent; [or]
- (2) pursuant to rule 6A.07, the Firm does not expect to be independent because, at the time it expects  
to make the declaration referred to in rule 6A.13:

[describe in some detail the circumstances that give rise to the lack of independence]

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

Signature: .....  
Name: .....  
For and on behalf of: ..... [insert the name of Firm]  
Dated: .....

**NOTES:**

- (1) Sponsors are reminded that rule 6A.09 requires, amongst other things, that where a Sponsor becomes aware of a change to the information set out in this statement, it must notify the Exchange as soon as possible upon that change occurring.
- (2) Each and every director of the Sponsor, and any officer or representative of the Sponsor supplying information sought in this form, should note that this form constitutes a record or document which is to be provided to the Exchange in connection with the performance of its functions under "relevant provisions" (as defined in Part 1 of Schedule 1 to the Securities and Futures Ordinance, Cap 571) and is likely to be relied upon by the Exchange. In relation to this, you should be aware that giving to the Exchange any record or document, which is false or misleading in a material particular, will render relevant persons liable for prosecution for an offence under subsection 384(3) of the Securities and Futures Ordinance. If you have any queries you should consult the Exchange or your professional adviser immediately.

**Appendix 7**

**SPONSOR'S FORMS**

**FORM M**

**Compliance Adviser's undertaking**

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

..... L ..... L .....

We, ....., are the Compliance Adviser appointed by .....  
..... (the "Company") for the purpose referred to in rule 6A.19 / rule 6A.20  
[cross out whichever is not applicable] of the Rules Governing the Listing of Securities on Growth  
Enterprise Market of The Stock Exchange of Hong Kong Limited (the "GEM Listing Rules") and have  
offices located at .....

Pursuant to rule 6A.21 we undertake with The Stock Exchange of Hong Kong Limited (the "Exchange")  
that we shall:

- (1) comply with the GEM Listing Rules from time to time in force and applicable to Compliance Advisers;
- (2) cooperate in any investigation conducted by the Listing Division and/or the GEM Listing Committee of the Exchange, including answering promptly and openly any questions addressed to us, promptly producing the originals or copies of any relevant documents and attending before any meeting or hearing at which we are requested to appear.

Signature: .....

Name: .....

For and on behalf of: ..... [insert the name of Compliance Adviser]

Dated: .....

## Appendix 13

### INDEPENDENT FINANCIAL ADVISER'S DECLARATION RELATING TO INDEPENDENCE

We, . . . . ., are the independent financial adviser (the "Firm") appointed by . . . . . (the "Company") under rule 17.47(6)(b) / rule 24.05(6)(a)(ii) [~~cross out whichever is not applicable~~] of the Rules Governing the Listing of Securities on Growth Enterprise Market of The Stock Exchange of Hong Kong Limited (the "GEM Listing Rules") and have offices located at . . . . .

Pursuant to rule 17.97(1) we declare to The Stock Exchange of Hong Kong Limited that, pursuant to rule 17.96, the Firm is independent.

Signature: . . . . .

Name: . . . . .

For and on behalf of: . . . . . [*insert the name of Firm*]

Dated: . . . . .

#### **NOTES:**

- (1) Independent financial advisers are reminded that rule 17.98 requires, amongst other things, that where an independent financial adviser becomes aware of a change to the information set out in this declaration, it must notify the Exchange as soon as possible upon that change occurring.
  
- (2) Each and every director of the Firm, and any officer or representative of the Firm supplying information sought in this form, should note that this form constitutes a record or document which is to be provided to the Exchange in connection with the performance of its functions under "relevant provisions" (as defined in Part 1 of Schedule 1 to the Securities and Futures Ordinance, Cap 571) and is likely to be relied upon by the Exchange. In relation to this, you should be aware that giving to the Exchange any record or document, which is false or misleading in a material particular, will render relevant persons liable for prosecution for an offence under subsection 384(3) of the Securities and Futures Ordinance. If you have any queries you should consult the Exchange or your professional adviser immediately.

## Appendix 14

### INDEPENDENT FINANCIAL ADVISER'S UNDERTAKING

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

. . . . . L . . . . . L . . . . .

We . . . . . are the independent financial adviser appointed by  
. . . . . (the "Company") under rule 17.47(6)(b) / rule 24.05(6)(a)(ii) [cross out  
whichever is not applicable] of the Rules Governing the Listing of Securities on Growth Enterprise  
Market of The Stock Exchange of Hong Kong Limited (the "GEM Listing Rules") and have offices located  
at . . . . .

Pursuant to rule 17.97(2) we undertake with The Stock Exchange of Hong Kong Limited (the  
"Exchange") that we shall:

- (1) comply with the GEM Listing Rules from time to time in force; and
  
- (2) cooperate in any investigation conducted by the Listing Division and/or the GEM Listing  
Committee of the Exchange, including answering promptly and openly any questions addressed to  
us, promptly producing the originals or copies of any relevant documents and attending before any  
meeting or hearing at which we are requested to appear.

Signature: . . . . .

Name: . . . . .

For and on behalf of: . . . . . [insert name of independent financial adviser]

Dated: . . . . .