

HONG KONG EXCHANGES AND CLEARING LIMITED

GUIDE ON PRACTICES AND PROCEDURES FOR POST-VETTING ANNOUNCEMENTS OF LISTED ISSUERS AND HANDLING MATTERS INVOLVING TRADING ARRANGEMENTS PRIOR TO PUBLICATION OF ANNOUNCEMENTS

1 January 2009 (~~Updated~~ 1 January 2010)¹; [Rule reference updated on 1 July 2014](#))

Purpose of this Guide

1. The purpose of this Guide is to assist listed issuers to understand how the Exchange monitors their compliance with the Listing Rules through ex-post reviews of announcements published by the listed issuers (“post-vetting”). It also gives guidance on the Rule requirement relating to disclosure of matters involving trading arrangements in announcements.

Introduction

Change in vetting approach

2. In January 2008, the Exchange published a “*Combined Consultation Paper on Proposed Changes to the Listing Rules*”. Under Issue 7 in the Combined Consultation Paper, the Exchange proposed to amend the Listing Rules and its administrative practice in respect of the vetting of disclosure materials of listed issuers. The objective of the proposed changes is to further shift the Exchange’s regulatory focus from pre-vetting towards post-vetting, monitoring and enforcement. In respect of announcements, the Exchange has adopted a progressive phased approach to reduction of pre-vetting activities for different types of listed issuers’ announcements.
3. The consultation period ended on 7 April 2008. The market feedback received during the consultation process showed that the proposals had received general support. The consultation conclusion document was released on 28 November 2008 and the relevant Rule amendments became effective on 1 January 2009.

Pre-vetting requirements for listed issuers’ announcements

4. The specific pre-vetting requirements, set out in Main Board Rule 13.52(2) / GEM Rule 17.53(2), are only applicable to the certain types of announcements.

¹ Minor amendments have been made to remove specific references to Phase 1 of post-vetting which ended on 31 December 2009.

Main Board Rule 13.52(2) / GEM Rule 17.53(2) is a transitional provision and shall cease to have effect on such date as the Exchange, subject to the approval of the Securities and Futures Commission, may determine and promulgate. The Exchange will monitor developments for a period of time and implement the new approach to a wider scope of announcements. The Exchange's intention is to completely cease pre-vetting of all announcements of listed issuers but to maintain the pre-vetting of material shareholder circulars of listed issuers.

5. In addition to the specific requirements mentioned above, the Exchange may request to review any announcements prior to publication in individual cases under Main Board Rule 13.52A / GEM Rule 17.53A. It is envisaged that the Listing Division will only exercise this power in exceptional circumstances. In such cases, the Listing Division will communicate to the listed issuer its direction to review the announcement prior to publication and the reasons thereof.
6. Listed issuers and their advisers are encouraged to refer to the "Guide on Pre-vetting Requirements and Selection of Headline Categories for Announcements" which provides guidance on whether particular announcements require pre-vetting under the Listing Rules and the generally applicable headline categories for these announcements.

Offering Guidance through Consultation Process

7. Pre-vetting of announcements has been one of the means through which the Listing Division gives guidance to listed issuers on rule compliance issues. Notwithstanding the progressive reduction in the types of announcements that are subject to pre-vetting, the consultation process will offer individual guidance to listed issuers on rule compliance issues to at least the same extent as guidance provided under the current pre-vetting regime.
8. Before a listed issuer publishes an announcement under the Listing Rules, it is encouraged to consult the Exchange on any rule compliance issues in relation to the announcement and/or the subject matter. While the Listing Division will consider the issues raised by the listed issuer, it will not accede to a request to pre-vet the announcement, save in exceptional cases.
9. Listed issuers are reminded that some Rule compliance issues relating to notifiable transactions or issues of securities need prior consent or confirmation of the Exchange before publication of the announcements, which include (but are not limited to) the following:
 - whether the subject transaction forms part of a series of transactions and/or arrangements that the Exchange will require aggregation of transactions under Main Board Rules 14.06(6)(b) and/or 14.22 / GEM Rule 19.06(6)(b) and/or 19.22²;

² Main Board Rule 14.23B / GEM Rule 19.23B sets out the specific circumstances under which a listed issuer must consult the Exchange on the application of the aggregation rules before the listed issuer enters into a proposed transaction.

- whether the Exchange will allow the listed issuer to adopt alternative size test(s) to classify the subject transaction under Main Board Rule 14.20 / GEM Rule 19.20;
 - whether the Exchange will deem a party to the subject transaction to be a connected person of the listed issuer under Main Board Rules 14A.19 to 14A.21 ~~14A.06 or 14A.11(4)~~ / GEM Rules 20.17 to 20.19 ~~20.06 or 20.11(4)~~³;
 - whether the subject transaction / matter falls under the special or exceptional circumstances described in the Listing Rules, for example, a right issue or open offer proposed by a Main Board issuer without underwriting under the notes to Main Board Rule 7.19(1) or 7.24; a proposed issue of securities for cash under general mandate at the price representing a discount of 20% or more to the benchmarked price under Main Board Rule 13.36(5) / GEM Rule 17.42B; or a proposed issue of warrants that would not meet certain specific requirements under Main Board Rule 15.02 / GEM Rule 21.02; and
 - the subject transaction / matter involves the creation of or amendment to trading arrangements for the issuer's listed securities (see paragraphs 11 to 13 below for further detail).
10. As set out in Main Board Rule 13.52B(2) / GEM Rule 17.53B(2)⁴, if a listed issuer wishes to ascertain whether or to what extent any provisions in the Listing Rules apply to the announcement or the transaction / matter to which it relates; or request a waiver from any requirements of the Listing Rules in respect of the announcement or the subject transaction / matter, it must submit relevant details to the Exchange in sufficient time for its determination. Listed issuers may also refer to the Guides on "Interpretation of Listing Rules and Requests for Individual Guidance" and "Waivers and Modifications of the Listing Rules".

Handling Matters involving Trading Arrangements for Listed Securities

11. Before the Rule amendments, announcements with subject matters involving trading arrangements for listed securities were subject to pre-vetting. The Exchange commented on issues concerning trading arrangements that may affect an orderly market for trading in the listed securities.
12. Under the amended Rules, whilst these announcements no longer require pre-vetting, Main Board Rule 13.52B(1) / GEM Rule 17.53B(1)⁴ requires that where the subject matter of the announcement may involve a change in or relate to or affect trading

³ Main Board Rule ~~14A.22~~14A.11(4)(e) / GEM Rule ~~20.20~~20.11(4)(e) requires that a listed issuer must ~~inform~~ notify the Exchange of any proposed transaction with the persons described in Main Board Rule 14A.20(1) or 14A.21(1) / GEM Rule 20.18(1) or 20.19(1) ~~parties described in such rule~~ unless the ~~transaction it~~ is exempt from all of the connected transaction requirements under Main Board Rule 14A.31 or 14A.33 / GEM Rule 20.31 or 20.33.

⁴ The Rule also applies to a listed issuer proposing to publish circulars or other documents under the Listing Rules.

arrangements for listed securities, the listed issuer must consult the Exchange before the announcement is issued. The announcement must not include any reference to a specific date or specific timetable in respect of such matter which has not been agreed in advance with the Exchange.

13. Attachment 1 to this Guide provides guidance on the procedures and specific information that will normally be required when listed issuers consult the Exchange on different types of matters involving trading arrangements.

Post-vetting Announcements Published by Listed Issuers

14. It is a listed issuer's responsibility to take all reasonable care to ensure its announcements and the transactions/matters which the announcements relate comply with the requirements of the Listing Rules.
15. Review of announcements published by listed issuers would allow the Listing Division to monitor the activities of the issuers and their ongoing compliance with the obligations under the Listing Rules.

Information that is ordinarily required by the Exchange for post-vetting announcements

16. Where applicable, the listed issuer must complete the checklist "Size Tests for Notifiable Transactions and Connected Transactions" (CF006) and submit it to the Listing Division not later than the publication of the announcement⁵.
17. In respect of any announcement published by a listed issuer, the Listing Division may require the issuer to submit information and/or documents in respect of the announcement to demonstrate whether the Listing Rules have been complied with (for example the checklist for disclosure requirements applicable to the particular type of announcement duly completed by the listed issuer) (see also paragraph 22).

Circumstances under which the Exchange will make follow-up enquiry with a listed issuer

18. The Listing Division may make follow-up enquiry with listed issuers after the issuers have published their announcements.
19. Follow-up enquiry with listed issuers will normally be made by the Listing Division in the following circumstances:
 - (1) to clarify situation that may raise concerns about the need to consider suspension of trading for the protection of investors or maintenance of an orderly market;

⁵ Under Main Board Rules 14.85 and [14A.6614A.09](#)/ GEM Rules 19.85 and [20.0920.64](#), listed issuers must complete and submit any checklist(s) in such form as may be prescribed by the Exchange from time to time in respect of any notifiable transaction and connected transaction.

- (2) to better understand certain transactions or matters disclosed in the announcements to ascertain whether the obligations under the Listing Rules have been or will be complied with;
 - (3) to follow up on (i) any non-compliance or possible non-compliance with the Listing Rules; or (ii) any matters disclosed in the announcement that will affect an orderly market for trading in the listed securities;
 - (4) to request a further announcement to rectify non-compliance with disclosure requirements⁶; and/or
 - (5) to request remedial action for non-compliance with specific rule requirements⁶.
20. When making any follow up enquiry, the Listing Division will advise the listed issuer its basis for making the enquiry and, where applicable, its basis for requesting a further announcement or other remedial action, including by reference to specific rules or the general principle under the Listing Rules.

Listed issuers to respond to the Exchange's enquiry in a timely manner

21. Post-vetting procedures are established with an aim to ensure that rule compliance issues in respect of listed issuers' announcements are identified and addressed in a timely manner.
22. A listed issuer must respond promptly to the follow-up enquiry made by the Listing Division in respect of its announcement and must provide without delay all information and explanations required by the Listing Division⁷.
23. This is particularly the case where an announcement raises significant concerns on whether there would be a fair and orderly market. The listed issuer will be contacted immediately for clarification and it may need to consider publishing an appropriate clarification announcement before the market opens. Where the listed issuer is unable to promptly address the concerns, the need for immediate suspension of trading will be considered.
24. In general, when any post-vetting issue in respect of a particular announcement is communicated to the listed issuer, the issue should be resolved as soon as possible and within the same business day. Without prejudice to any requirements of the Listing Rules, a further announcement, if necessary, should be published by the listed

⁶ Under Note 3 to Main Board Rule 13.52 / Note 4 to GEM Rule 17.53, the Exchange reserves the right to require an issuer to issue a further announcement or documents and/or take other remedial action, if the original document does not comply with the requirements of the Listing Rules.

⁷ Under Main Board Rule 2.12A / GEM Rule 17.55A, an issuer must provide to the Exchange as soon as possible, or otherwise in accordance with time limits imposed by the Exchange: (1) any information that the Exchange considers appropriate to protect investors or ensure the smooth operation of the market; and (2) any other information or explanation that the Exchange may reasonably require for the purpose of investigating a suspected breach of or verifying compliance with the Exchange Listing Rules. Under Main Board Rule 13.10 / GEM Rule 17.11, an issuer shall respond promptly to any enquiries made of the issuer by the Exchange concerning any matters by giving such relevant information as is available to the issuer.

issuer without delay and not later than the next business day following the publication of the particular announcement.

Follow-up actions

25. Depending on the circumstances of individual cases, post-vetting activities may lead to one or more of the following actions:
- (1) The Listing Division may decide that no further action is necessary in light of the results of post-vetting the announcement and, where enquiries have been made with the listed issuer, the responses made by the listed issuer. We anticipate that this will be the most common course of action we take.
 - (2) The Listing Division may identify issues that raise concerns whether the trading of securities can be conducted in a fair and orderly manner. Where the listed issuer is unable to promptly address the concerns (for example, by issuing an appropriate clarification announcement to avert the risk of a disorderly market. A disorderly market being defined as a misinformed market or one which is based on incomplete information), suspension of trading in the listed issuer's securities may be warranted for the protection of the investor or the maintenance of an orderly market (see Chapter 6 of the Main Board Rules / Chapter 9 of the GEM Rules).
 - (3) Remedial or preventive measures to address rule compliance issues or rectify rule breaches⁴
 - Remedial or preventive measures to address any rule compliance issues (disclosure or specific compliance requirements) or rectify any rule breaches may be either (i) proposed by the listed issuer in response to the Listing Division's enquiry made in the post-vetting process; or (ii) required by the Listing Division where the circumstances necessitate.
 - Remedial or preventive measures may be taken in respect of a particular announcement or the subject matter/transaction of such announcement. For example, reclassifying a transaction; or putting necessary arrangements in place to maintain the minimum public float of the listed issuer's shares upon completion of a proposed issue of new shares to connected persons; or making further disclosure to clarify the book close dates and related entitlement dates for different corporate actions; or publishing a further announcement to disclose information on the transaction.
 - In determining the appropriate course of action in respect of a problem in rule compliance, the Exchange will also take into account the compliance history of the listed issuer. In particular where the circumstances suggest a persistent breach of rules by the listed issuer or reveal serious or systematic weaknesses in its compliance procedures, the Exchange may require the listed issuer to take appropriate remedial measures to enable it to meet its continuing obligations under the Listing Rules going forward. These measures could include:

- (i) the listed issuer appointing a compliance adviser under Main Board Rule 3A.20 / GEM Rule 6A.20 for such period as may be specified by the Exchange;
- (ii) the listed issuer retaining a professional adviser to conduct a thorough review of and make recommendations to improve the issuer's internal controls and compliance procedures; or
- (iii) any other measures considered appropriate by the Exchange.

The remedial measures will be imposed by the Listing Division without prejudice to any disciplinary action that may be taken by the Exchange in respect of the listed issuer's breach of the Listing Rules. However prompt remedial action by the listed issuer will be a factor looked upon favourably in determining whether disciplinary action is appropriate.

(4) Formal disciplinary actions

- The Exchange will consider taking appropriate disciplinary action against the listed issuer and its directors for any serious Rule breaches.

26. A further announcement⁴ will generally be required to be made by the listed issuer in conjunction with the above mentioned actions. For example:

- (1) Suspension announcement - Where trading has been suspended, the matters giving rise to the suspension (see also Main Board Rule 6.04 / GEM Rule 9.04)
- (2) Announcement to address non-compliance with disclosure requirements – This applies to circumstances where the original announcement does not comply with any specific disclosure requirement(s) in the Listing Rules or the general principle set out in Main Board Rule 2.13 / GEM Rule 17.56, or where material information came to light as a result of the Listing Division's follow-up enquiries. Making a clarification announcement is one of the remedial actions that the listed issuer may take to rectify a breach of disclosure requirements.
- (3) Announcement on other remedial actions - Information relating to the remedial or preventive measures proposed or taken by the listed issuer to address any compliance issue under the Listing Rules, for example, Main Board Rule 14.36 / GEM Rule 19.36 requires a further announcement where the remedial action proposed by the listed issuer involves changes in the terms, or termination, of a notifiable transaction disclosed in the original announcement.

Handling Matters involving Trading Arrangements for Listed Securities

Main Board Rule 13.52B(1) / GEM Rule 17.53B(1) requires that where the subject matter of the announcement (or other document) may involve a change in or relate to or affect trading arrangements for listed securities, the listed issuer must consult the Exchange before the announcement / document is issued. The announcement / document must not include any reference to a specific date or specific timetable in respect of such matter which has not been agreed in advance with the Exchange.

We set out below some guidance on the procedures and specific information that will normally be required when listed issuers consult the Exchange on different types of matters involving trading arrangements before they publish the relevant announcements / documents.

(A) Suspension of trading

(Main Board Rules 6.02, 6.03/ GEM Rules 9.05, 9.06)

1. The listed issuer (or an adviser on behalf of the listed issuer) must contact the Exchange to request for a trading suspension. The listed issuer must submit the reason(s) for trading suspension for the Exchange's consideration and agree with the Exchange on the proposed date and time of the trading suspension (which should be disclosed in the suspension announcement).

Specific information required:

- A suspension request supported by specific reason(s) in accordance with Chapter 6 and Practice Note 11 of the Main Board Rules/ Chapter 9 of the GEM Rules.

(B) Resumption of trading

(Main Board Rule 6.04 / GEM Rule 9.10)

2. The listed issuer (or an adviser on behalf of the listed issuer) must contact and notify the Exchange of the action it has taken to support its resumption request and agree on the proposed date and time of the trading resumption (which should be disclosed in the resumption announcement), as well as the subject matter of the resumption announcement. For example:
 - (a) Where the subject matter of the suspension relates to the entering into an agreement for a notifiable transaction / certain undisclosed price-sensitive information, resumption can take place upon publication of an announcement on the transaction/ the price- sensitive information.

- (b) Where the subject matter involves the Exchange's enquiry (e.g. enquiry on media reporting of alleged unpublished price-sensitive information), the listed issuer would generally be required to satisfy the Exchange that its obligations would be discharged by the publication of the announcement prior to the Exchange agreeing to the proposed date and time of resumption. The Exchange will not pre-vet the resumption announcement, but may request a submission on specific matters relating to the Exchange's enquiry prior to publication of the resumption announcement.
- (c) Where dealings in shares of the listed issuer are suspended pending restoration of public float, release of results announcement or rectification of another material breach of the Listing Rules, the listed issuer must satisfy the Exchange that the matter has been rectified prior to the Exchange agreeing to the resumption.
- (d) The Exchange may impose specific conditions for the trading resumption. Where this is the case, the listed issuer must demonstrate that all the conditions for the trading resumption of the listed issuer are satisfied.

(C) Withdrawal of listing

(Chapter 6 of the Main Board Rules/ Chapter 9 of the GEM Rules)

- 3. Under Main Board Rule 2A.08 and GEM Rule 3.09, withdrawal of listing of a listed issuer is subject to approval by the Listing Committee.
- 4. Where a listed issuer proposes to withdraw its listing status (whether a primary listing or a secondary listing) on the Exchange, it should notify the Exchange as soon as possible and demonstrate to the Exchange that the applicable requirements under the Listing Rules have been or will be complied with.
- 5. In all cases (including withdrawal of listing of a class of listed securities which has an expiry date e.g. expiry of listed warrants), the listed issuer should make an application for the withdrawal of listing sufficiently in advance of the expiry date to allow sufficient time for the Exchange to consider the application.
- 6. Where the listed issuer's announcement contains a timetable for its proposed withdrawal of listing and related trading arrangements, the listed issuer must agree the timetable with the Exchange prior to publication of the announcement.

Specific information required:

- Details of the listed issuer's proposal to withdraw listing of specified securities.
- For a proposed withdrawal of listing status of the issuer's securities on the Exchange, submission to demonstrate the listed issuer's compliance with the requirements under Chapter 6 of the Main Board Rules and Chapter 9 of the GEM Rules
- An application for the withdrawal of listing.
- The proposed timetable for the withdrawal of listing and related trading arrangements.

(D) Issue of securities of a class new to listing

7. Where a listed issuer proposes to issue a new class of securities for which a listing on the Exchange will be sought, it must demonstrate to the Exchange that the issue of securities meets the qualifications for listing set out in the Listing Rules. As it involves the creation of trading arrangement for listing the new class of securities, the listed issuer must consult the Exchange on such issue of securities before the listed issuer publishes an announcement containing details of the proposal.
8. Where the listed issuer's announcement contains a timetable for the proposed issue of securities and related trading arrangements, the listed issuer must agree the timetable with the Exchange prior to publication of the announcement.

Specific information required:

- Details of the proposed issue of the new class of securities.
- Information to demonstrate that the issue of securities meets the qualifications for listing set out in the Listing Rules, including the checklist "Basic Qualifications for Listing of a New Class of Equity Securities" (CF025M / CF025G) duly completed by the listed issuer.
- The proposed timetable for the issue of securities and related trading arrangements.
- An application for listing of the new class of securities proposed to be issued.

(E) Trading arrangements in respect of other corporate actions

(Main Board Rule 13.52B(1)/ GEM Rule 17.53B(1))

9. Where the listed issuer proposes to include in its announcement a timetable for trading arrangements in relation to the following matters:
- rights issue/ open offer
 - share consolidation/ subdivision
 - change of board lot
 - change of name or addition of Chinese name,

the issuer must agree with the Exchange on the proposed timetable prior to publication of the announcement.

10. Listed issuers are advised to refer to the “Guide on Trading Arrangement for Selected Types of Corporate Actions” for further guidance.

Specific information required:

- Details of the proposed corporate action.
- The proposed timetable for the corporate action and related trading arrangements.
- For rights issue or open offer, the form “Trading Arrangement Form for Rights Issue or Open offer” (CF091) duly completed by the listed issuer.
- For change of board lot size, share consolidation or share subdivision, the form “Trading Arrangement Form for Change of Board Lot Size, Share Consolidation or Share Subdivision” (CF090) duly completed by the listed issuer.