

Guidance on long suspension and delisting

Subject	Guidance on long suspension and delisting
Listing Rules and Regulations	Main Board Rules 6.01, 6.01A and 6.10 GEM Rules 9.14, 9.14A and 9.15

~~Important note: This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You may consult the Listing Division on a confidential basis for an interpretation of the Listing Rules or this letter.~~

I. Background and purpose

1. This letter provides guidance to long suspended issuers¹ on the operation of the delisting framework under the Listing Rules (**Rules**), their general obligations and the Exchange's regulatory actions during the resumption process, and guidance specific to certain types of suspension cases.
2. The Exchange closely monitors the delisting process, in particular the circumstances where a remedial period may be specifically imposed and where an extension of time to a remedial period may be allowed, and the guidance given on time periods in this guidance letter. Based on this experience the Exchange may revise its procedures or policies from time to time, with the objectives of ensuring the integrity of the process, providing certainty to the delisting process and keeping trading suspension to a minimum. The Exchange also intends to revisit the duration of the fixed period in due course and may consider shortening these fixed periods at an appropriate time.
3. All Rule references in this letter are to the Main Board Listing Rules. As the relevant requirements under the GEM Board Rules are substantially similar to that of the Main Board, the guidance set out in this letter also applies to GEM issuers.
4. This letter supersedes the previous guidance for long suspended companies set out in Guidance Letter GL66-13.

II. The delisting framework

5. Under Rule 6.01 the Exchange may at any time suspend or cancel the listing of any securities to protect investors or maintain an orderly market. The rule specifies three circumstances under which the Exchange may also do so, including where an issuer (a) fails to maintain a sufficient public float; (b) fails to maintain sufficient operations or assets; and (c) is no longer suitable for listing.

¹ Issuers whose securities have been suspended from trading for more than three months

6. Under Rule 6.10 which sets out the procedures for delisting an issuer under Rule 6.01, the Exchange may,
 - (a) issue a delisting notice specifying a remedial period (**specific remedial period**). If the issuer fails to remedy the issues and resume trading before the end of the remedial period, the Exchange may cancel its listing; or
 - (b) delist the issuer immediately.
7. Under Rule 6.01A(1), without prejudice to its rights under Rules 6.01 and 6.10, the Exchange may delist a suspended issuer which fails to remedy the issues causing its suspension of trading and resume trading within 18 months from the date on which the trading suspension begins (**prescribed remedial period**).
Application of Rule 6.01 or 6.01A(1)
8. The objective of the delisting Rules is to keep the necessary trading suspension to the minimum, by facilitating timely delisting of issuers that no longer meet the continuing listing criteria. This, in turn, provides certainty to the market on the delisting process. The delisting Rules are also aimed at incentivizing suspended issuers to act promptly towards resumption and deterring issuers from committing material breaches of the Rules.
9. Following this principle, where both Rule 6.01A and Rule 6.01 are applicable, the Exchange will exercise its right under Rule 6.01 and impose a specific remedial period under Rule 6.10 ending earlier than the prescribed remedial period if it considers that the issuer:
 - (a) given the nature of the issues to be remedied, ought to remedy the issues and resume trading within a period shorter than the prescribed remedial period of 18 months (for example, insufficient public float, see paragraph 59 below); or
 - (b) has failed to take adequate action to remedy the issues, prolonging the duration of suspension. For example, the Exchange may impose a specific remedial period of 6 months on an issuer which does not take adequate action to remedy the matters rendering it no longer suitable for listing, as with the decision in Listing Decision LD114-2017.
10. The Exchange may delist an issuer immediately under Rule 6.01 only in exceptional circumstances where the matters triggering the application of a delisting criterion are fundamental to the general principles for listing and are beyond remedy. This may happen, for example, where an issuer becomes no longer suitable for listing after its management and controlling shareholder are found by a court to have operated a fraudulent scheme to overstate its business and profits.

III. General obligations of suspended issuers and the Exchange's regulatory actions

11. Under the Rules, a suspended issuer must, among others,
 - (a) keep the duration of any trading suspension to the shortest possible period as required under Rule 6.05;

- (b) comply with its continuing obligations under the Rules at all times, for example, those applying to notifiable and/or connected transactions under Chapters 14 and 14A of the Rules and financial results and reports under Rules 13.46 to 13.49;
 - (c) disclose inside information required to be disclosed under the Inside Information Provisions²; and
 - (d) announce quarterly updates under Rule 13.24A on its business operations, resumption plan and timetable, and the progress of implementing such resumption plan and satisfying the resumption conditions/guidance given by the Exchange (including the reasons for and impact of delay, if any).
12. **Under the Rules, the Exchange will cancel the listing of a long suspended issuer upon the expiry of the remedial period (prescribed or specific) if the issuer has not remedied the issues causing the suspension and re-complied with the Rules. This remedial period sets a deadline referenced to the resolution of the relevant issues and resumption of trading, as opposed to submission of a resumption proposal.**
13. Accordingly, the issuer must devise its own resumption plan setting out the actions that it considers appropriate to remedy the issues, announce such resumption plan, work according to that plan, and announce regular updates on its resumption progress and business developments. Based on these announcements, the Exchange will monitor the issuer's resumption status and, where appropriate, give guidance to the issuer. While the Exchange may give guidance to assist the issuer, it is the issuer's primary responsibility to devise its own resumption plan in order to ensure that it will remedy the relevant issues and re-comply with the Rules before the end of the remedial period to avoid delisting. The issuer may also consult³ the Exchange at any stage. When the issuer considers that it has remedied the issues and re-complied with the Rules, it must then seek a confirmation from the Exchange that this is the case. Trading will resume after the Exchange gives the confirmation.
14. In light of the above, the steps that a suspended issuer should take include:
- (a) promptly after trading is suspended, review the matter giving rise to the suspension and identify the relevant issues;
 - (b) devise a resumption plan with actions that it intends to take to remedy the issues and re-comply with the Rules. The resumption plan should be accompanied with a clear timeframe in respect of each stage of work under the plan to ensure that the relevant issues can be remedied and the Rules can be re-complied as soon as practicable and, in any event, before the remedial period ends. The timeframe should take into account not only the time required by it to implement the resumption plan, but the time that may be reasonably required by the Exchange to be satisfied that the issues have been remedied and the Rules re-complied;
 - (c) work diligently towards resumption in accordance with the resumption plan. In case of any delay, it should promptly assess its impact and make appropriate adjustments to the timetable but, in any event, continue to ensure trading to resume before the remedial period ends;

² Part XIVA of the Securities and Futures Ordinance

³ Please refer to the [Guide on Interpretation on Listing Rules and Request for Individual Guidance](#), issued by the Exchange on 28 November 2008.

- (d) timely announce the resumption plan and its timetable, any material change in the plan and timetable, and any material developments to the fulfillment of the resumption conditions/guidance (for example, the outcome of any forensic investigation or internal control review);
 - (e) where applicable, make announcements about corporate actions under its resumption plan described above in accordance with the requirements set out in the Rules (for example, an announcement on a very substantial acquisition or a reverse takeover);
 - (f) announce quarterly updates under Rule 13.24A on its business operations and the progress of implementing its resumption plan and satisfying the resumption conditions/guidance given by the Exchange (including the reasons for and impact of delay, if any). These disclosures would provide transparency to the market and enable the Exchange to monitor its resumption progress and, where appropriate, give guidance to the issuer;
 - (g) publish its periodic financial results and reports and, if they are not available, management accounts under Rules 13.46 to 13.49;
 - (h) maintain adequate internal controls and procedures to ensure full compliance with its continuing obligations under the Rules and the disclosure requirements under the Inside Information Provisions at all times; and
 - (i) where it considers that it has remedied the issues and re-complied with the Rules, seek the Exchange's confirmation that this is the case. It must ensure that it provides the Exchange with sufficient information to properly assess the situation, avoiding the risk of the Exchange not being satisfied with the issuer's position for lack of information. When seeking the Exchange's confirmation, the issuer should also provide the Exchange with a draft resumption announcement for pre-vetting.
15. Trading can resume only after the Exchange has confirmed that the issuer has remedied the issues and re-complied with the Rules to its satisfaction. Before such confirmation is given, the issuer must state in each of its announcements that trading will remain suspended with an explanation of the reasons for the continued suspension.

The Exchange's regulatory actions

16. During a suspended issuer's remedial period, the Exchange will:
- (a) issue resumption conditions/guidance to the issuer, setting out the requirements that the issuer must have fulfilled before trading can resume. These conditions/guidance are primarily based on the issuer's announcement(s) about the matter giving rise to the suspension and the issues identified by the issuer, and are generally issued within the first three months of the suspension of trading. The Exchange may revise these resumption conditions/guidance from time to time as the issuer's circumstances change (for example, a suspended issuer subsequently found to be involved in fraudulent activities will be required to conduct a forensic investigation). For the avoidance of doubt,

the issuer must comply with all the Rules before resumption. The resumption conditions/guidance are set out, based on information provided by the issuer from time to time, to guide the issuer toward re-compliance with the Rules. As such, the issuer is not entitled to an extension of the remedial period in cases where the Exchange modifies or adds resumption conditions/guidance;

- (b) review the issuer's quarterly announcements published under Rule 13.24A and other announcements to monitor its on-going compliance with the Rules and resumption progress. Where appropriate, the Exchange may make enquiries and require the issuer to publish supplemental announcements to disclose additional information or clarification, or give guidance to the issuer. The Exchange may also request the issuer to provide any documents relevant to the matters mentioned in an announcement (for example, a report of forensic investigation or internal control review) for review;
 - (c) give guidance sought by the issuer from time to time;
 - (d) pre-vet the issuer's announcements under Rule 13.52(2) including, for example, announcement for any very substantial acquisition or reverse takeover (and any other announcements that the Exchange has requested to pre-vet under Rule 13.52A) and circulars as required under the Rules, in the same manner as it does for other listed issuers;
 - (e) process the issuer's A1 applications where the resumption plan is treated as a new listing application;
 - (f) publish monthly long suspension reports on the HKEXnews website which summarise the suspension status of issuers suspended for three months or more; and
 - (g) upon the issuer's request (as noted in paragraph 14(i) above), confirm whether it is satisfied that the issuer has remedied the issues and re-complied with the Rules to meet the resumption conditions/guidance.
17. The Exchange will respond to a suspended issuer's request for confirmation about its resumption status (as described in paragraph 16(g) above) or guidance as soon as practicable, and generally not more than 10 business days after receipt of the issuer's written request and the relevant information.
18. Under the Rules, the Listing Committee reserves to itself the power to decide whether to delist an issuer⁴. Therefore, if the Listing Division is not satisfied with the issuer's resolution of the relevant issues and re-compliance with the Rules within the remedial period, it will take the matter to the Listing Committee for consideration and recommend the Listing Committee to delist the issuer.
19. The Listing Committee regulates its meeting(s) in such manner as it thinks fit⁵. The Rules do not mandate the Listing Committee's decision-making process to be subject to a right of the issuer to make submissions. Generally, the Listing Committee will consider and decide the matter administratively, without conducting an adversarial hearing.
20. The issuer will be informed of the Listing Committee's decision (together with the reasons thereof) by a decision letter. The issuer will then be entitled under the Rules to apply for a

⁴ Rule 2A.08

⁵ Rules 2A.28 and 2.04

review of the decision by the Listing Review Committee⁶ in accordance with the review procedure under the Rules⁷.

21. The review is a de novo review on the merits so that the Listing Review Committee will consider the issuer's case and decide it afresh, after considering all the relevant evidence and arguments⁸. The Listing Review Committee will convene an oral hearing. The issuer may make written submissions and also attend the hearing to provide oral submissions to the Listing Review Committee in accordance with the procedures adopted by the Listing Review Committee.

IV. Extension of remedial period

22. To ensure the effectiveness and credibility of the delisting framework and prevent undue delay of the delisting process, the Listing Committee may only extend the remedial period in exceptional circumstances. It may do so where:
 - (a) an issuer has substantially implemented the steps that, it has shown with sufficient certainty, will lead to resumption of trading; but
 - (b) due to factors outside its control, it becomes unable to meet its planned timeframe and requires a short extension of time to finalise the matters. The factors outside the issuer's control are generally expected to be procedural in nature only.⁹

This may happen where, for example, an A1 application has been approved by the Exchange but, due to a delay in the court hearing for approving a scheme of arrangement, the issuer requires additional time to implement the relevant transactions. The Exchange envisages that if an extension of time is given on the expiry of the remedial period, the Listing Committee would not normally extend the remedial period for a second time.

23. The Exchange recognises that in assessing whether exceptional circumstances exist to warrant a time extension, it is not restricted to the description stated in paragraph 22 above¹⁰. That said, given the overriding objective of the delisting Rules, the Exchange envisages that situations in which the Listing Committee may consider it appropriate to exercise its discretion to extend the remedial period (other than those set out in paragraph 22 above) are rare. In particular, even if an issuer can demonstrate that its ability to remedy the issues causing the suspension and re-comply with the Rules within the remedial period has been inhibited by factors outside its control, the Listing Committee is not obliged to consider such situation exceptional. The Listing Committee will still consider the specific facts of the issuer's case in deciding whether to extend the remedial period. The factors that the Listing Committee will consider include, among others:
 - i. whether the issuer has taken adequate action and acted promptly throughout the

⁶ In *Brightoil Petroleum (Holdings) Limited* [2020] HKCFI 1601, the court endorsed the approach adopted by the Listing Committee set out in paragraphs 18 to 20 in this Guidance Letter and considered that such approach strikes a fair balance between administrative efficiency and fairness.

⁷ Rule 2A.37K

⁸ Rule 2A.37L

⁹ For circumstances regarding a disclaimer or adverse opinion involving issues outside the issuers' control, see paragraph 51 below.

¹⁰ As noted in the judgment of *China Wood Optimization (Holding) Limited and The Stock Exchange of Hong Kong Limited* [2023] HKCFI 1000, dated 4 May 2023

remedial period to take steps for achieving compliance with all the resumption conditions/guidance and the Listing Rules (in particular for such conditions for which the issuer's ability to take steps for compliance has not been inhibited by factors outside the issuer's control); and

- ii. whether there is sufficient certainty that the issuer will be able to comply with all the resumption conditions/guidance and the Listing Rules within the requested time extension.

In addition, any time extension, if given, should be short as envisaged in paragraph 22 above.

Time extension request for reason of COVID-19

24. The Exchange appreciates the possible impact of COVID-19 on long suspended issuers' progress of resumption and that there could be situations where it is fair and reasonable to extend the resumption deadline because of such impact.
25. Therefore, the Exchange would also consider a request for extending the remedial period if an issuer demonstrates that its inability to meet the resumption conditions/guidance and re-comply with the Rules within the remedial period is caused by disruptions arising directly from the COVID-19 outbreak, and not from other substantive issues. This takes into account the need to uphold the stated objectives of the delisting Rules and to ensure the effectiveness and credibility of the Rules and prevent undue delay of the delisting process.
26. For this purpose, the guiding approach is below:
 - (a) Requests are to be considered case by case based on specific facts and circumstances.
 - (b) For an extension of time to be granted, an issuer must establish that its failure to meet the resumption deadline is caused by COVID-19.
 - (c) For the avoidance of doubt, the issuer is not regarded to have established the case under the preceding subparagraph if the issuer's failure to meet all the resumption conditions/guidance by the resumption deadline is at least partly attributable to a reason unrelated to COVID-19.
 - (d) The issuer must request a specific extension and provide a concrete action plan with a detailed timetable showing the expected time for resumption of trading, with an explanation of the factors in arriving at the timetable.
 - (e) To be consistent with the Exchange's policy to discourage shell activities, an extension would not be given to an issuer which, in the Exchange's opinion, is not operating a business which is of substance, viable and sustainable. An extension also would not be given to facilitate, for example (i) a reverse takeover, or (ii) a development of a new business unrelated to its current business after failure of the current business.
 - (f) An extension that may be given for each request is normally not more than six months. On expiry, the Listing Committee may further extend the deadline as it considers appropriate having regard to whether the issuer is able to meet the progress of forecast previously projected and, if not the reason for that, among others.

V. Guidance for issuers suspended for various reasons

27. Below sets out guidance specific to certain types of suspension cases.

A. Failure to maintain sufficient operations or assets under Rule 13.24

28. In our experience, an issuer suspended for failure to comply with Rule 13.24 may have either (i) completely or substantially ceased its operations or otherwise maintained only a minimal level of operations; or (ii) suspended all or most of its operations due to financial difficulties or loss of its major operating subsidiary/ies. Trading will resume after it has re-complied with Rule 13.24.

29. The Exchange will normally apply the prescribed remedial period of 18 months under Rule 6.01A(1) to issuers that fail to maintain sufficient operations and sufficient assets to support its operations to warrant a continued listing under Rule 13.24.

30. To re-comply with Rule 13.24, an issuer must demonstrate to the Exchange's satisfaction that it has a business that has substance and is viable and sustainable in the longer term. On this issue, the Exchange has published guidance materials on the application of the Rules to individual circumstances. Such guidance includes:

- (a) In a case where an issuer ceased to carry on its original principal business and retain any material operating assets, the Exchange found that the issuer was a listed shell and any acquisition of a material asset or business would constitute an attempt to achieve the listing of the asset or business and be treated as a new listing application. See Guidance Letter on Application of the Reverse Takeover Rules (GL104-19).
- (b) In a case where an issuer started a business substantially different from or unrelated to its original business, the Exchange found that this new business did not meet the requirements under Rule 13.24 because given its short operating history, the viability and sustainability of the new business was not substantiated by any track record or otherwise ~~(see Listing Decisions LD116-2017 and LD118-2018)~~. The Exchange may also consider a new business not to be a business of substance, having regard to its specific business model and the particular facts and circumstances of the issuer ~~(Listing Decisions LD112-2017 and LD117-2017)~~⁴¹. For further guidance, see Guidance Letter on Sufficiency of Operations (GL106-19).
- (c) Where an issuer proposes a large scale issue of securities to an investor for cash to finance the development of a new business, the Exchange may apply Rule 14.06D and refuse to grant listing approval for the shares to be issued, particularly if the cash injection (i) is very significant to the issuer and has little correlation with its existing business, (ii) would raise funds largely for greenfield operations of the new business; and (iii) would result in the investor obtaining control (or de facto control) of the issuer. In these circumstances, the Exchange may consider the issuer to be in effect a listed vehicle for the investor to achieve a listing of the new business and to circumvent the new listing requirements. For further guidance, see Guidance Letter on Large Scale Issues of Securities (GL105-19).

Process for resumption

⁴¹ — Also see Listing Decisions LD105-2017 and LD115-2017.

31. Where an issuer's resumption plan involves an acquisition of a business, it must make an announcement and comply with the applicable requirements under Chapters 14 and/or 14A of the Listing Rules. If the acquisition constitutes a very substantial acquisition or a reverse takeover, the announcement must be pre-vetted by the Exchange before publication.
32. The issuer may consult the Exchange at any stage about the Rule implications on an intended acquisition, for example, whether the acquisition would constitute a reverse takeover and, if so, whether the Exchange, subject to a formal A1 application, has any initial concerns about its compliance with the new listing requirements.
33. Where an acquisition constitutes a reverse takeover, the issuer must file an A1 application to the Exchange with the required documentation. As the issuer must obtain the Exchange's approval for the application and complete the implementation of the relevant transactions and arrangements in time to ensure trading to resume before the remedial period ends, the issuer is advised to file its A1 application as soon as practicable, taking into account the time that may be required, among others, by:
 - (a) the Exchange to process the A1 application. Under Rule 9.03(3), the information submitted to the Exchange in support of a new listing application must be substantially complete except in relation to information that by its nature can only be finalised and incorporated at a later date. In our experience, the Exchange's processing time could be prolonged by the substandard documentation provided by the issuer; and
 - (b) the issuer to implement the relevant transactions and arrangements after the Exchange gives an in-principle approval for the A1 application. This may include, for example, the time for obtaining shareholder approval and/or going through the court procedures for a scheme of arrangement, if required.

As guidance, an issuer should generally allow at least a 6 month period from the date of the filing of an A1 application to the date of resumption for the processing of the application, obtaining any required shareholder approval and completing the relevant transactions. It should consider its own circumstances and adjust the time period accordingly.

34. Where, without being required to submit a new listing application, an issuer considers that its business operations has re-complied with Rule 13.24, it must demonstrate to the Exchange's satisfaction that its business is one of substance and is viable and sustainable in a longer term. For this purpose, the issuer must ensure that it announces quarterly updates on its resumption progress under Rule 13.24A (for example, in the case of loss of a major subsidiary, updates on the progress of regaining control of the subsidiary). The issuer must also announce its financial results and reports under Rules 13.46 to 13.49 to demonstrate its financial performance and position. The Exchange's assessment of the issuer's re-compliance with Rule 13.24 is a continuing process, based primarily on these disclosures. The issuer should be prepared to provide additional information to the Exchange to support its compliance, for example, a profit forecast to demonstrate that it has a viable and sustainable business.
35. Where an issuer's failure to meet Rule 13.24 is caused by financial difficulties, the issuer is required to announce the corporate actions that it takes to resolve the financial difficulties. Such corporate actions generally involve a capital reorganisation, equity fundraisings and a scheme of arrangements. The issuer must announce these corporate actions in a timely manner. To demonstrate its re-compliance with Rule 13.24, the issuer must set out in the

relevant circular (or, if a circular is not required under the Rules, an announcement) information to support the viability and sustainability of the restructured group's business. Such information may include, for example, pro forma financial statements about its restructured group, a detailed description of the business model of the restructured business, a clear and detailed plan for its future developments and how the issuer would achieve it, and the restructured group's profit forecast. The Exchange may give guidance to the issuer on the viability of the corporate actions for resumption based on the disclosures, and may make enquiries for additional information (such as profits forecasts).

36. Where an issuer's corporate actions include equity fundraisings, the Exchange would consider granting the required listing approval only if the issuer satisfies the Exchange that upon completion of the equity fundraisings, the issuer will then have fulfilled all the resumption conditions/guidance, re-complied with the Listing Rules, and be eligible for trading resumption. Therefore, the Exchange will not grant listing approval to a suspended issuer which has not demonstrated that taking into account the equity fundraisings, it would have sufficient operations and assets to warrant its continued listing under Rule 13.24.

Others

37. Where an issuer fails to publish periodic financial results as required under the Rules, the Exchange is unable to monitor the issuer's business activities, operation status and financial performance to assess whether the issuer has sufficient operations and assets under Rule 13.24 to warrant its continuing listing. In these circumstances, as resumption conditions/guidance, the Exchange would require the issuer to demonstrate compliance with Rule 13.24 before trading can resume. As noted in paragraph 12 above, a suspended issuer must comply with the Rules before the remedial period ends to avoid delisting.

B. Failure to publish financial results or inside information due to material irregularities

38. Trading will be suspended if an issuer fails to announce periodic financial results or inside information, due to alleged material accounting or corporate governance irregularities or significant weaknesses in internal controls. The suspension will remain in force until the relevant issues are addressed or remedied and the outstanding financial results and/or inside information announced.

39. Irregularities that may result in an issuer's failure to announce financial results or inside information include, among others, the following:

(a) Accounting irregularities identified by the issuer's auditors during the auditing process. The auditors may have disclaimed the issuer's accounts (or resigned before the accounts are published) for the issuer's inability to explain or provide sufficient evidence to address the material issues to the auditors' satisfaction. These issues may include, among others:

- discrepancies between the group's accounting records on transactions and balances with certain customers and/or suppliers and the information independently obtained by the auditors;
- concern about the authenticity of documents in the group's accounting records on

bank balances;

- lack of information and evidence to substantiate the existence or ownership of material assets;
- concern about the nature and commercial substance of some material transactions; and/or
- failure to keep proper books and records for the group (for example, due to loss of accounting records of a major subsidiary during relocation of office).

(b) Corporate irregularities which may be discovered by the board of directors (sometimes with forensic investigators' assistance), the issuer's auditors, media, market commentaries or rumours or investigations undertaken by the Securities and Futures Commission (**SFC**), the ICAC or other regulators. These irregularities may include potentially fraudulent activities such as misappropriation of corporate assets through an unauthorised transfer of material assets or provision of loans or guarantees to third parties.

40. These irregularities could give rise to serious issues about the accuracy and credibility of the issuer's published financial statements or records in material respects, the integrity of its management and the lack of adequate internal controls or procedures over its financial, operations and compliance matters to safeguard its assets and protect shareholders' interests. These issues are detrimental to maintaining confidence in the market and are not in the interest of the investing public. This, in turn, would call the issuer's suitability for continued listing into question. See Listing Decision LD114-2017.

(l) Criteria for resumption

41. Before trading can resume, the issuer must satisfy the Exchange that it has addressed or remedied all the material issues as follows:

- (a) Address any audit issues raised by the auditors.
- (b) Address any other allegations or findings of material irregularities raised by forensic investigators, media, market commentaries or rumours, or regulators.
- (c) Rectify any material misstatements or errors in its financial statements and publish information that is accurate and not misleading, to enable the investing public to appraise its position.
- (d) Publish any outstanding financial statements and address any audit modifications.
- (e) If there are issues about management integrity, demonstrate that there is no reasonable regulatory concern about management integrity which may pose a risk to shareholders and investors or damage market confidence (for example, making necessary changes to the board of directors to ensure compliance with Rules 3.08 and 3.09).
- (f) If there are issues about material weaknesses of internal control systems, demonstrate adequate internal controls and procedures to rectify such weaknesses, ensure compliance with the Listing Rules and safeguard the interests of the issuer.

(g) Announce all inside information required to be disclosed under the Inside Information Provisions and inform the market of all other material information for the issuer's shareholders and investors to appraise its position.

(II) Process for resumption

42. Once trading is suspended, an issuer should promptly review the matter, identify the relevant issues and devise a plan to address the relevant issues and re-comply with the Rules, taking account of the resumption condition/guidance and any other guidance that may from time to time given by the Exchange.

43. The steps that an issuer is expected to take include:

(a) If any director is, or is suspected to be, involved in the issues, consider setting up an independent committee to review the matter. This is to avoid any conflict of interests which may arise during the review process. The independent committee should also assess whether the director in question can discharge his director's duties and comply with Rule 3.08 and remains suitable to act as a director of the issuer under Rule 3.09, while the internal investigation/review process (or any regulatory investigation) continues.

(b) If the matter involves or indicates potentially fraudulent activities (such as false accounting or misappropriation of assets), engage forensic accountants to investigate the matter. The forensic accountants to be engaged should have sufficient resources and professional staff with relevant qualifications and experiences in handling cases of similar nature and complexity.

The board or independent committee should review the findings of the forensic investigation once available, and consider whether the findings have adequately addressed the relevant issues and, if not, what further actions should be taken (e.g. extending the scope of the investigation or conducting an internal control review if any potential internal control failure is identified).

(c) If the matter raises concerns about the adequacy of the internal control system, engage independent experts to review the internal control system and to identify material weaknesses with remedial actions. Such concerns may arise, for example, where the issuer has failed to (i) provide sufficient evidence to support the completeness and accuracy of its financial statements in material respects, leading to a disclaimer audit opinion, (ii) prevent or detect corporate misconduct such as misappropriation of assets or funds, or (iii) timely disclose material information to shareholders and potential investors.

Again, the board or independent committee should review the findings of the internal control review once available and determine whether and, if so, what remedial actions should be taken to ensure that adequate internal controls and procedures are in place to rectify such weakness, ensure compliance with the Listing Rules and safeguard the interests of the issuer.

(d) If the issuer fails to publish financial results due to unresolved audit issues, consider with the auditors as to how to resolve the audit issues. If the auditors have resigned, the issuer should appoint a replacement promptly.

44. The issuer must continue to publish its periodic financial results and reports under Rules 13.46

to 13.49 (see paragraph 11(b) above). Where an issuer is unable to do so, it must publish its management accounts and unaudited financial results.

45. The issuer must keep the market updated by publishing quarterly announcements as required under Rule 13.24A. The Exchange assessment of the issuer's resumption progress is also a continuing process, primarily based on these announcements and additional information that may be provided by the issuer to the Exchange. In particular,
 - (a) where a report of a forensic investigation or internal control review is available, the issuer must announce the findings of the report together with the view of the board or independent committee on the report and any plan for further actions. The Exchange will review the announcement and request the issuer to provide it with a copy of the report (if not already provided). The Exchange may provide guidance to the issuer on concerns or issues that may arise from the report, the views of the board or independent committee and/or the remedial actions to be taken by the issuer (for example, any outstanding or further issues that require further investigation, or adequacy of the remedial action).
 - (b) Where the issuer has failed to publish financial results/reports, it must announce all the outstanding results and reports with any audit modifications addressed. If the Exchange considers that there are any issues that the issuer and/or the auditors should clarify, the Exchange will inform the issuer.
46. To minimise the risk of delisting as a result of not being able to complete a forensic investigation (and/or an internal control review) or implement all the remedial measures, a suspended issuer must properly devise its action plan with a detailed timeframe taking into account the time that may be required by the relevant process (including, among others, the time may be required by Exchange to be satisfied that the relevant issues have been remedied).
47. Where the issuer considers that it has, or will have after completion of certain transactions or arrangements, remedied the issues and re-complied with the Rules, it should seek a confirmation from the Exchange. For this purpose, the issuer must make a written submission and provide the Exchange with all the relevant information. Also see paragraphs 14(i), 16(g) and 17 above.

C. Disclaimer and adverse audit opinion on financial statements

48. Under Rule 13.50A, trading will normally be suspended if an issuer publishes a preliminary results announcement for a financial year as required under Rules 13.49(1) and (2) and the auditor has issued, or has indicated that it will issue, a disclaimer of opinion or an adverse opinion on the issuer's financial statements.
49. The suspension will normally remain in force until the issuer has addressed the issues giving rise to the disclaimer or adverse opinion, provided comfort that a disclaimer or adverse opinion in respect of such issues would no longer be required, and disclosed sufficient information to enable investors to make an informed assessment of its financial positions.
50. Examples on how an issuer could provide comfort that a disclaimer or adverse opinion in respect of such issues would no longer be required include (a) a full financial year audit or a special interim audit of the issuer's financial statements; or (b) a special engagement of the auditor to perform an audit on a single financial statement of the issuer or a specific element, account or item of a financial statement under HKSA805 (Revised). These are only examples to provide guidance on the possible actions that an issuer may take, having communicated with its auditors, and must be considered case by case to fit the particular circumstances. It is

the issuer, and not the auditor, who is responsible for providing comfort that a disclaimer or adverse opinion would no longer be required. The issuer should take all necessary actions to support the provision of such comfort.

Remedial period for circumstances outside issuer's control

51. Disclaimer or adverse opinions may involve issues outside the issuers' control. Where an issuer suspended under Rule 13.50A has satisfied the Exchange that it has made all reasonable efforts to resolve the issues but, due to reasons outside its control, such underlying issues remain unresolved upon expiry of the 18 month period, the Exchange would consider allowing a longer remedial period, with the duration of the period to be determined case by case. The issuer must demonstrate to the Exchange's satisfaction that it reasonably expects to resolve all underlying audit issues within the proposed extended remedial period. Such extension would be brought to the Listing Committee for consideration. The Listing Committee would not normally allow a further extension of the remedial period. Accordingly, issuers are reminded to provide sufficient information to the Exchange to make an informed assessment on the circumstances.
52. Examples of circumstances that may be considered to be outside the issuer's control include (i) delay in a government granting a requisite approval due to change in government policies, where due applications and filings had been made by the issuer, and where it has no influence on the outcome and timing of the grant; (ii) a temporary suspension of business upon the request of a regulatory or government authority due to a change in the regulatory requirements; and (iii) the audit issue can only be fully resolved upon a court order or a final arbitral awards with respect to outstanding proceedings is obtained or granted.
53. Circumstances that would be considered to be within the issuer's control include circumstances where actions that can be taken by issuers or can be pre-empted by proper internal controls or risk management controls. For example, the issues remain unresolved because the issuer has failed to timely obtain an independent valuation to support the valuation of its assets or take timely actions against its debtors to assess the recoverability of bad debts. Circumstances would also not be considered to be outside the issuer's control where the disclaimer or adverse opinion is attributed to the issuer's lack of adequate internal controls or risk management controls. These may include, for example, the issuer's failure to put in place adequate measures to control and manage its jointly-controlled entities or associates or keep the books and records of its subsidiaries.
54. An issuer should consult the Exchange in advance if it is in doubt as to whether its specific circumstances leading to a disclaimer or adverse audit opinion on its financial statements would be considered to be outside its control. Such issuer must provide sufficient information to the Exchange to make an informed assessment on the circumstances.

D. Insufficient public float

55. Where trading is suspended due to insufficient public float, the Exchange will expect the issuer to address the matter within a reasonably short period of time.
56. For this purpose, the board of the issuer should, promptly after the public float shortfall occurs,

devise and announce a concrete and viable action plan to restore the required minimum public float (for example, placing of existing shares by the controlling or substantial shareholder(s), or placing of new shares by the issuer). The action plan should include a clear timeframe in respect of each stage of work under the plan to demonstrate and ensure that the required minimum public float will be restored and trading will resume within a reasonable period of time. The Exchange may give guidance on the adequacy of the plan and comments on the timeframe, where appropriate.

57. Based on experience, prolonged suspensions due to insufficient public float are mostly caused by major shareholders' refusal to cooperate with the management of the issuer to resolve the issue. As the Exchange generally expects issuers suspended due to insufficient public float to resolve the issue within a reasonably short period of time, an issuer's inability to obtain cooperation from major shareholders would not be considered a valid ground for the Exchange to refrain from delisting the issuer if it fails to restore sufficient public float within the remedial period.
58. Where the Exchange considers that an issuer fails to take adequate action to restore the minimum public float, it may impose on it a specific remedial period of not more than 6 months under Rule 6.01.
59. During the suspension of trading, the issuer must announce any material developments and progress of its action plan from time to time and at least quarterly as required under Rule 13.24A. For the purpose of an application for resumption of trading, the issuer must announce completion of any relevant transactions and arrangements causing the issuer to restore sufficient public float and resume trading and seek confirmation from the Exchange that trading can resume.

VI. Issuers directed to be suspended by SFC

60. The SFC has the power to direct the Exchange to suspend trading in an issuer's securities under Rule 8 of the Securities and Futures (Stock Market Listing) Rules (**Rule 8 suspension**), whether or not trading is already suspended under the Rules.
61. For an issuer that is suspended under the Rules (for example, for failure to publish financial results or inside information, or to maintain sufficient operations or assets), the Exchange may commence or continue the procedures to delist the issuer under Rule 6.01 or 6.01A even if the SFC has issued a Rule 8 suspension. Where an issuer's trading suspension is attributed only to a Rule 8 suspension, the Exchange may still delist the issuer if the issuer fails to resume trading after a continuous trading suspension for a prescribed remedial period under Rule 6.10A.
62. The Exchange would discuss with the SFC before exercising its right to delist an issuer which is subject to a Rule 8 suspension.

Important note:

This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You may consult the Listing Division on a confidential basis for an interpretation of the Listing Rules, or this letter.