HKEx LISTING DECISION
HKEx-LD112-1 (November 2010) (Updated in March 2019)

Parties	Company A and the Target – each a Main Board issuer
Issue	Whether Company A's proposal to seek a prior mandate from its shareholders for selling the Target's shares would meet the requirement of Rule 14.49
Listing Rules	Main Board Rule 14.49
Decision	The Exchange accepted the proposed mandate for the disposals would meet the requirement of Rule 14.49

FACTS

1. Company A held listed shares in the Target (the **Shares**) representing approximately 20% of the Target's share capital.

2. It was Company A's intention to realise all its investments in the Target subject to market conditions. The disposals would be, in aggregate, a possible very substantial disposal for Company A and therefore subject to shareholders' approval.

3. Company A proposed to seek a mandate from its shareholders for selling the Shares to independent third parties. It asked the Exchange to accept that the mandate would meet the shareholder approval requirement for the disposals under Chapter 14. Under the proposed mandate:

   - The Shares would be sold within a period after the shareholders approved the mandate.

   - The Shares would be sold (i) in the open market on the Exchange and/or (ii) through block trades by entering into placing agreements with reputable investment banks as placing agents. For any block trade, the terms and conditions of the sale would be negotiated on an arms' length basis.

     Company A submitted that it was a common market practice to sell a large quantity of securities through block trades where investment banks would procure independent buyers and close the deal overnight. In light of the substantial amounts of Shares held by Company A, it would be necessary and appropriate for the proposed mandate to cover block trades.

- The price for selling the Shares in an open market would be no less than a fixed dollar amount which was determined with reference to the market prices of the Shares in the past 12 months. Where Shares were to be sold through a block trade, the Company proposed a limit for the selling price based on the higher of (i) a fixed dollar amount and (ii) a small discount to the average closing price of the Shares for the 5 trading days immediately before the placing agreement.

- The proceeds would be used by Company A for general working capital.

4. Company A considered the mandate, if approved by shareholders, would provide its directors with flexibility in selling the Shares and enable them to react promptly to changing market conditions. Whether the Shares were to be sold in an open market or through block trades, the transactions would need to be completed within a very short period. It would be impractical to make any such sales conditional on shareholders' approval.

APPLICABLE LISTING RULES

5. Rule 14.34 states that:

> As soon as possible after the terms of a share transaction, discloseable transaction, major transaction, very substantial disposal, very substantial acquisition or reverse takeover have been finalised, the listed issuer must in each case:—
>
> ~~(1) inform the Exchange; and~~
>
> …
>
> (2) publish an announcement in accordance with rule 2.07C as soon as possible. See also rule 14.37.

6. Rule 14.49 states that:

> a very substantial disposal … must be made conditional on approval by shareholders in general meeting. …

7. Rule 14.63(2)(a) states that if voting or shareholder approval is required, a notifiable transaction circular must:

> contain all information necessary to allow the holders of the securities to make a properly informed decision.

ANALYSIS

8. Chapter 14 governs an issuer's transactions, principally acquisitions and disposals having material impacts on its financial position. Depending on the size of the transaction, the Rules require the issuer to disclose the terms of the transaction and/or obtain shareholder approval. Shareholders would vote on the agreement having considered its terms.

9. Here, there was no transaction and the requirements of Chapter 14 were not triggered. Company A proposed to seek a prior mandate for selling its investments in listed securities to independent third parties. When considering whether to accept such an arrangement, the Exchange noted the following:

   - Company A proposed to sell the Shares on the Exchange. It would be impractical, if not impossible, to seek shareholders' approval except by a prior mandate.

   - The mandate would also cover block trades which were necessary for selling a large quantity of securities. Under the terms of the mandate, block trades would be conducted through reputable investment banks and the selling price would be determined based on the prevailing market price of the Shares subject to the restrictions approved by shareholders. The mandate would not result in undue risks to shareholders.

   - Company A proposed thresholds for the selling price of the Share and specified the time period for the disposal. There was sufficient safeguard in the proposed mandate and information for the shareholders to make an informed assessment.

CONCLUSION

10. Company A's proposed mandate for selling the Shares would meet the shareholder approval requirement.