

HKEx LISTING DECISION
Cite as HKEx-LD35-2 (July 2003)

[Withdrawn in April 2019; Superseded by HKEX-GL35-12]

| Summary | |
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| Name of Party | Company A - a listing applicant |
| Subject | IPO prospectus - disclaimer by reporting accountants in relation to profit forecast |
| Listing Rule | Paragraph 34(2) of Part A of Appendix 1; Rule 11.17 |
| Decision | Disclaimer needed to be removed |

Summary of Facts

Company A proposed to include a profit forecast in its IPO prospectus.

A report from its reporting accountants on the accounting policies and calculations for the profit forecast was to be included in the prospectus. However, the report contained a disclaimer warning investors not to rely on the profit forecast.

Analysis

Paragraph 34(2) of Part A of Appendix 1 to the Listing Rules provides as follows:

"Where a profit forecast appears in any listing document the principal assumptions, including commercial assumptions, upon which it is based, must be stated. The accounting policies and calculations for the forecast must be examined and reported on by the reporting accountants and their report must be set out. The financial adviser or sponsor, in the case of a new applicant, must report in addition that they have satisfied themselves that the forecast has been stated by the directors after due and careful enquiry, and such report must be set out."

This wording is essentially mirrored in Rule 11.17:

"As required by paragraph 34(2) of Part A and paragraph 29(2) of Part B of Appendix 1, where a profit forecast appears in any listing document (other than one supporting a capitalisation issue) the principal assumptions, including commercial assumptions, upon which it is based, must be stated. The accounting policies and calculations for the forecast must be reviewed and reported on by the reporting accountants and their report must be set out. The financial advisers must report in addition that they have satisfied themselves that the forecast has been stated by the directors after due and careful enquiry, and such report must be set out."

Inclusion of the profit forecast in Company A's IPO prospectus was on a purely voluntary basis. Having decided to launch an IPO backed up by a profit forecast, it was incumbent upon the directors of Company A to satisfy themselves that the forecast had indeed been prepared to such a standard as would justify reasonable reliance upon it by investors. The disclaimer served to undermine the extent to which investors could rely on it.

Accordingly, the prospectus should not contain any disclaimer by the reporting accountants warning investors not to rely on the profit forecast.

Decision

Inclusion of the disclaimer in the report of the reporting accountants on Company A's profit forecast was not acceptable. The disclaimer needed to be taken out of the report.