

HKEx LISTING DECISION
Cite as HKEx-LD36-3 (October 2003)

[Streamlined and incorporated into the Guide for New Listing Applicants in January 2024]

Summary	
Name of Party	Company A – a new listing applicant
Subject	Whether an offer size adjustment option is allowed for purposes other than stabilization
Listing Rule	General principles
Decision	Allowed subject to certain conditions

Summary of Facts

Company A's proposed IPO offering would have a total value of less than HK\$100 million.

Company A proposed to include in its IPO an over-allotment option (or, more correctly, an offer size adjustment option) which was not to be used for price stabilization purposes and would only be exercisable before the commencement of trading in its shares. Under the option, Company A might increase (but not decrease) the number of shares to be offered under the IPO by up to 10 per cent.

Company A's sponsor submitted that, since the proposed offer size adjustment option would not be for price stabilization purposes, it would not contravene the provisions of the Securities and Futures (Price Stabilizing) Rules. A relevant point to note was that the Securities and Futures (Price Stabilizing) Rules, which is a piece of subsidiary legislation made under the Securities and Futures Ordinance and which came into effect on 1 April 2003, provide that, among other things, no price stabilization action may be undertaken in respect of offers with a total value of less than HK\$100 million. Accordingly, price stabilization action would not be allowed in the case of Company A's offering.

The Exchange was asked whether it had any objection in principle to the inclusion of the proposed option mechanism and, if not, whether any additional requirements would be imposed in connection with the use of such a mechanism.

Analysis

The issue of offer size adjustment was considered in the Consultation Paper on Offering Mechanisms published jointly by the Securities and Futures Commission and the Exchange in June 1997. In the Consultation Conclusions published in February 1998, it was decided that changes in the size of an IPO during the subscription process should be permitted. This essentially remains the Exchange's position and the Exchange therefore has no objection to the inclusion of an offer size adjustment option either on IPO's or in respect of subsequent offers.

In the interests of an orderly and informed market, the Exchange believes that it is necessary to establish certain requirements, most of which would be analogous to those applicable in circumstances where the use of an over-allotment option for price stabilization purposes is permitted under the law. The Exchange also considers it necessary to impose a cap on the relative size of the option and decided that a 15 per cent threshold for options of this type will apply.

Decision

Company A's offer size adjustment option was permitted subject to the following conditions:

- the number of additional shares which can be issued under the offer size adjustment option must not exceed in aggregate 15 per cent of the total number of shares initially available under the offering;
- the IPO applicant would need to meet the minimum listing criteria even if the offer size adjustment option were not exercised;
- the option must be exercised prior to listing or lapse;
- the following disclosure must be included in the prospectus:
 - full details of the offer size adjustment option including the exercise period and a statement that Company A would disclose in its allotment results announcement whether the option has been exercised;
 - a statement that the offer size adjustment option would not be used for price stabilization purposes and was not subject to the Securities and Futures (Price Stabilizing) Rules;
 - the extent of potential dilution resulting from the exercise of the offer size adjustment option; and
 - the use of the additional proceeds resulting from the exercise of the offer size adjustment option; and
- Company A would need to disclose in its allotment results announcement whether the option has been exercised and, where the option has not been exercised, confirm in the announcement that the option has lapsed and cannot be exercised at any future date.

In order to distinguish it from an option which can be used for price stabilization purposes, the offer size adjustment option should not be described as an "over-allotment option".

