

HKEx LISTING DECISION
Cite as HKEx-LD50-1 (March 2006)

[Withdrawn in April 2019; Superseded by HKEX-GL35-12]

Summary	
Name of Party	Company A - a Main Board listing applicant and its subsidiaries (the 'Group')
Subject	Whether a waiver should be granted to Company A to permit it to include in its prospectus a profit estimate of the unaudited financial information of the Group covering a period not coterminous with Company A's financial year-end?
Listing Rules	Listing Rules 11.17 and 11.18
Decision	The Exchange decided that no waiver would be granted to Company A to enable it to include in its prospectus a profit estimate of unaudited financial information of the Group covering a period not coterminous with Company A's financial year-end.

SUMMARY OF FACTS

1. Company A planned to publish a prospectus before the end of June 2004 containing audited financial information through 31 December 2003. Company A further proposed to include in its prospectus a profit estimate of the Group (the 'Profit Estimate') for the three months ending 31st March 2004 in addition to the profit forecast of Company A for the year ending 31 December 2004 (the 'Profit Forecast'). Such Profit Estimate would be made up of, in part, the profit amount based on unaudited consolidated management accounts of the Group for the two months ended 29 February 2004, and, in part, an estimate of the Group's results for the month ended 31 March 2004.
2. The Profit Estimate did not cover a period allowed under Listing Rule 11.18. The sponsor therefore applied, on behalf of Company A, for a waiver from strict compliance with Listing Rule 11.18 to enable Company A to include the Profit Estimate in its prospectus.
3. In support of its waiver application, Company A submitted the following:
 - a. the Profit Estimate formed part of the Profit Forecast;

- b. given the size and complexity of the Group, Company A was unable to complete an audit for the three months ended 31 March 2004 before the issue of the prospectus. As such, Company A had instructed its reporting accountant to conduct a review of the Profit Estimate to facilitate the inclusion of such estimate in the prospectus; and
 - c. the Profit Estimate would give better information to investors given the significant increase in the profit forecasted by the management of Company A for the year ending 31 December 2004. The directors of Company A were of the view that the inclusion of the Profit Estimate could provide useful and relevant information to investors to help them form a view as to the reasonableness of the Profit Forecast and to appreciate the momentum of the business during the early part of 2004.
4. In support of the waiver application, Company A proposed that:
- a. the Profit Estimate would conform to the requirements set out in Listing Rule 11.17, including the inclusion in the prospectus of standard comfort letters from Company A’s reporting accountants and the sponsor, setting out their views in relation to the Profit Estimate; and
 - b. Company A would undertake to publish an announcement to report on the audited consolidated profit of the Group for the three months ended 31 March 2004 on or before 30 June 2004 and that the announcement would follow the standard interim report’s disclosure requirements under the Listing Rules.

THE ISSUE RAISED FOR CONSIDERATION

5. Whether a waiver should be granted to Company A to permit it to include in its prospectus a profit estimate of the unaudited financial information of the Group covering a period not coterminous with Company A’s financial year-end?

APPLICABLE LISTING RULE OR PRINCIPLE

6. Listing Rule 11.17 provides that:

A “profit forecast”... includes any profit estimate, being any estimate of profit or losses for a financial period which has expired but for which the results have not yet been audited or published.

7. Listing Rule 11.18 provides that:

A profit forecast appearing in a listing document (other than one supporting a capitalisation issue) should normally cover a period which is coterminous with the issuer's financial year-end. If, exceptionally the profit forecast period ends at a half year-end the Exchange will require an undertaking from the issuer that the interim report for that half year will be audited. Profit forecast periods not ending on the financial year end or half year-end will not be permitted.

THE ANALYSIS

8. The Exchange noted that in the present case it was not practical for Company A to complete an audit of the financial information of the Group for the first quarter of 2004 within its listing timetable.
9. However, the Exchange noted that since 31 March 2004 the Listing Rules had been amended to enhance the quality of financial information disclosed in listing documents. Prior to the coming into effect of those amendments regarding disclosure of pro forma financial information (see Listing Rule 4.29), the information that Company A proposed to provide would typically be disclosed in unaudited form as part of the adjusted net tangible asset statement. If Company A's waiver application were granted, it might encourage an undesirable practice of including profit estimates rather than audits of 'stub periods'.
10. As such, the Exchange determined that Company A should not be permitted to include an unaudited profit estimate of the Group for the first quarter of 2004. If Company A had wished to include such information it should be audited.

THE DECISION

11. Based on the above analysis and having regard to the material facts, the Exchange decided that no waiver would be granted to Company A to enable it to include in its prospectus a profit estimate of unaudited financial information of the Group covering a period not coterminous with Company A's financial year-end.