In respect of a proposed rights issue of shares with bonus warrants, whether the Exchange would waive the requirements on the number and spread of warrantholders at the time of listing of the warrants

Facts

1. A Main Board issuer (**Company A**) proposed a rights issue on the basis of one rights share for every 10 existing shares held, with 2 bonus warrants for each rights share subscribed. The rights issue would be fully underwritten by independent underwriters.

2. Company A would apply for listing of the warrants on the Exchange.

3. For a class of securities new to listing, Rules 8.08(2) and 8.08(3) require that at the time of listing, there must be at least 300 holders of the securities to be listed, and not more than 50% of the securities in public hands can be beneficially owned by the three largest public shareholders. The Rules provide an exemption for listing of warrants that are offered to the issuer's existing shareholders by way of bonus issue, subject to certain conditions.

4. The exemption for bonus issue of warrants was not applicable in this case as the warrants were offered only to shareholders who would subscribe for the rights shares. The number and spread of warrantholders at the time of listing would depend on the results of the rights issue. Company A therefore sought a waiver from Rules 8.08(2) and (3).

5. Company A submitted that there were over 600 registered shareholders and 300 CCASS participants holding its shares based on its register of members and the CCASS shareholding information. Further, about 70% of its shares were held in public hands, and there was no information indicating a high concentration of shareholdings. Given a wide spread of shareholders, a lack of open market in the warrants was unlikely to occur at the time of listing.

Relevant Listing Rules

6. Rule 8.08 states that

"There must be an open market in the securities for which listing is sought. This will normally mean that:

(1) (a) at least 25% of the issuer's total issued share capital must at all times be held by the public;

…

(2) for a class of securities new to listing, at the time of listing there must be an adequate spread of holders of the securities to be listed, except where: (a) they are options, warrants or similar rights to subscribe for or purchase shares; (b) they are offered to existing holders of a listed issuer's shares by way of bonus issue; and (c) in the 5 years before the date of the announcement of the proposed bonus issue, there are no circumstances to indicate that the issuer's shares may be concentrated in the hands of a few shareholders. The number will depend on the size and nature of the issue, but in all cases there must be at least 300 shareholders; and

(3) not more than 50% of the securities in public hands at the time of listing can be beneficially owned by the three largest public shareholders, save where: (a) the securities to be listed are options, warrants or similar rights to subscribe or purchase shares; (b) such securities are offered to existing holders of a listed issuer's shares by way of bonus issue; and (c) in the 5 years preceding the date of the announcement on the proposed bonus issue, there are no circumstances to indicate that the shares of the issuer may be concentrated in the hands of a few shareholders."

(Rule 8.08(1)(a) was amended on 11 June 2024. See Note below.)

Analysis

7. Rules 8.08(2) and (3) seek to ensure a broad base of holders of a new class of securities at the time of listing to support their secondary market liquidity.

8. When assessing this waiver application, the Exchange noted that:

- The warrants were to be offered to Company A's existing shareholders under a rights issue. As Company A had a wide spread of shareholders, it was likely to have an open market in the warrants at the time of listing.

- Listing the warrants would provide a market for the shareholders to trade the warrants taken up by them.

- There was less concern on liquidity in the case of warrants as they could be exercised and converted into listed shares of Company A.

9. The Exchange considered it acceptable to waive the requirements on the number and spread of warrantholders at the time of listing of the warrants. However, if there were only a small number of warrantholders upon completion of the rights issue, the Exchange had the right to request Company A and the underwriters to explore the opportunity for placing some warrants to independent placees to increase the number of warrantholders at the time of listing.

Conclusion

10. The Exchange granted the waiver to Company A.

Note: Rule 8.08(1)(a) was amended on 11 June 2024 to exclude treasury shares in the calculation of issued shares for the purpose of determining the public float of the issuer. The Rule amendments would not change the analysis and conclusion in this case.