

HKEX LISTING DECISION

HKEX-LD41-2013 (published in January 2013) (updated in October 2019 (amendments to the reverse takeover Rules))

Parties	Company A – a Main Board issuer The Target – a company which Company A proposed to acquire from an independent third party
Issue	Whether the Target had a portfolio of natural resources that was meaningful and of sufficient substance to justify a listing
Listing Rules	Main Board Rules 14.06 B(6) and 18.03(2)
Decision	The Target could not demonstrate that it had a portfolio of natural resources as required solely based on the resources and reserves identified under the Chinese Standard

FACTS

1. Company A proposed to acquire the Target. The Target held mining rights of certain iron mines in the PRC (the **Mines**) and had not yet commenced production.
2. The size of the Acquisition was very significant to Company A. When assessing whether the acquisition would constitute a reverse takeover, one of the factors that the Exchange considered was whether the Target could meet the new listing requirements (see Guidance Letter HKEX-GL104-19 Listing Decisions 95-1, 95-2 and 95-4 for guidance on the application of the reverse takeover Rules). There was an issue whether the Target could meet Rule 18.03(2) which requires a new applicant mineral company to have at least a portfolio of Indicated Resources, and the portfolio must be meaningful and of sufficient substance.
3. To address the issue, Company A provided the estimate of resources and reserves for the Mines identifiable under the Chinese standard. Company A would appoint a competent person to report on the resources and reserves under the JORC Code when preparing the circular for the acquisition at a later stage.

APPLICABLE LISTING RULES

4. Rule 18.03(2) states that “A *Mineral Company* must:—

...

- (2) *establish to the Exchange’s satisfaction that it has at least a portfolio of:—*

(a) *Indicated Resources; or*

(b) *Contingent Resources,*

identifiable under a Reporting Standard and substantiated in a Competent Person's Report. This portfolio must be meaningful and of sufficient substance to justify a listing;"

5. Rule 18.01(3) defines "Reporting Standard" as:

"a recognised standard acceptable to the Exchange, including:

(1) *the JORC Code, NI 43-101, and the SAMREC Code, with regard to mineral Resources and Reserves;*

(2) *PRMS with regard to Petroleum Resources and Reserves; and*

(3) *CIMVAL, the SAMVAL Code, and the VALMIN Code, with regard to valuations."*

6. Rule 18.29 states that *"A Mineral Company must disclose information on mineral Recourses, Reserves and/or exploration results either:*

(1) *under:*

(a) *the JORC Code;*

(b) *NI 43-101; or*

(c) *the SAMREC Code,*

as modified by this Chapter; or

(2) *under other codes acceptable to the Exchange as communicated to the market from time to time, provided the Exchange is satisfied that they give a comparable standard of disclosure and sufficient assessment of the underlying assets.*

Note: The Exchange may allow presentation of Reserves under other reporting standards provided reconciliation to a Reporting Standard is provided. A Reporting Standard applied to specific assets must be used consistently."

7. As to the issue on the acceptance of other reporting standards, paragraph 5.14 of Consultation Paper on New Listing Rules for Mineral Companies published in September 2009 states that: *"We propose to recognise Russian and Chinese standards when they are more widely accepted. The current concerns over comparability of these standards with those internationally recognised and a lack of global recognition necessitate a transitional period where reconciliations to JORC-type codes will protect the interests of investors."* As set out in paragraph 77 and 81 under Part B of the Consultation Conclusions published in May 2010 (the

Consultation Conclusions), the Exchange decided to implement the proposal to request reconciliation to one of the Reporting Standards where information is presented in accordance with Russian or Chinese standards, until such time as they achieve widespread recognition or efforts at convergence between these standards and JORC-type codes are sufficiently advanced.

8. Paragraphs 83 under Part B of the Consultation Conclusion further states that *“The crucial difference between Chinese or Russian standards and the JORC-type Codes is that the former standards are based on in-situ estimates, while the latter are focused on commercial extractability, taking account of mining dilution and losses. Listing applicants should be cautioned that owing to the difference between Chinese/Russian resource estimates and those estimated under JORC, a resource under Chinese/Russian standards may not be categorized as such under a JORC-type Code. A “Reserve” referred to by a Russian or Chinese estimate is only a Resource under the JORC Code as it does not include economic and technical factors.”*
9. Paragraph 4 under the Executive Summary of Consultation Conclusions elaborated our view on early stage exploration company: *“Given the importance of retail investors in the Hong Kong IPO market and the significantly higher investment risks involved in investing in early stage or pure-play exploration companies, we consider it is not appropriate to list early stage exploration companies at this time.”*
10. Paragraph 224 under Part B of Consultation Conclusions further states that *“Early stage exploration companies are considered speculative by nature. The requirement for Indicated or Contingent Resources together with a production plan should also ensure that the market is less susceptible to potential abuse.”*

ANALYSIS

11. As stated in the Consultation Conclusion, the Exchange considers it inappropriate to list early exploration companies. To ensure the market is less susceptible to abuse, the Rules require new applicant mineral companies to have Indicated or Contingent resources together with a production plan.
12. In this case, when the Exchange determined the transaction classification at the announcement stage, Company A could only provide the estimate on resources and reserves under the Chinese standard. However, Chinese standards are not yet recognized as acceptable reporting standards for the purpose of the Chapter 18 requirements. As the basis for information presentation under Chinese standards and JORC-like codes are fundamentally different, resources and reserves presented under Chinese standards may not be recognized as such under JORC-like codes.

CONCLUSION

13. The Target could not meet Rule 18.03(2) solely based on the estimate of resources and reserves under the Chinese standard.