

Applicant	Background and Decision												
<b>Company A</b> (MB applicant) (2005)  Rule reference: MB Rules 8.05(2)(b), 8.05(2)(c)	<p><i>Background</i></p> <p>1. Before the reorganisation, there was a lack of a single legal structure among Subsidiary X, Subsidiary Y and Subsidiary Z (collectively, the “<b>Subsidiaries</b>”). These subsidiaries with different principal activities had been separate entities held by their respective shareholders:</p> <table><tr><th>Entities</th><th>Shareholders</th><th>Principal Activities</th></tr><tr><td>Subsidiary X</td><td>Shareholder XX</td><td>Owned most of the revenue generating assets</td></tr><tr><td>Subsidiary Y</td><td>Shareholder YY</td><td>Provided management services to the Subsidiaries</td></tr><tr><td>Subsidiary Z</td><td>Shareholder YY and Shareholder ZZ</td><td>Owned the remaining revenue generating assets</td></tr></table> <p>2. The Subsidiaries came together as an integrated enterprise for a number of years prior to the track record period. Shareholder YY contributed its operating and management expertise and Shareholder XX contributed the required funding for the business to acquire revenue generating assets. To expand the business operations, Shareholder XX, Shareholder YY and Shareholder ZZ contributed additional capital to acquire revenue generating assets.</p> <p>3. The operation and management of the assets of Company A and its subsidiaries were delegated to Subsidiary Y through management contracts. Shareholder YY was in charge of the day to day management of Company A’s business, including Subsidiaries X and Z. Shareholder XX paid incentives to Shareholder YY for its performance as manager of Subsidiary X.</p> <p>4. Shareholder XX was involved in the strategic decision making of the group’s business as a whole. He had exerted substantial influence over the management of the business since its inception through various provisions under the management contracts, including (i) prior approval of Shareholder XX was needed for major transactions, corporate actions and/or policy decisions; (ii) Shareholder YY would not independently invest in any competing business without Shareholder XX’s consent; (iii) Shareholder XX and Shareholder YY held regular meetings to discuss the group’s affairs; and (iv) Shareholder YY had to regularly report to Shareholder XX, including business opportunities identified.</p> <p>5. Shareholder XX and Shareholder YY had also entered into a drag-along agreement whereby they would sell all or a significant part of their business together.</p> <p>6. Subsidiary Z was tied to Subsidiary Y through the management contracts and by its ownership structure. Shareholder YY controlled the board composition of and held all voting rights in all members (save for one) in Subsidiary Z. The role of Shareholder ZZ in the business was limited solely to funding part of the acquisition costs of new assets.</p>	Entities	Shareholders	Principal Activities	Subsidiary X	Shareholder XX	Owned most of the revenue generating assets	Subsidiary Y	Shareholder YY	Provided management services to the Subsidiaries	Subsidiary Z	Shareholder YY and Shareholder ZZ	Owned the remaining revenue generating assets
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	<p><i>Decision</i></p> <ol style="list-style-type: none"> <li>7. There was a high degree of integration and cooperation among the entities which together formed a unified group. Management continuity was demonstrated through different groups throughout the track record period. In particular:               <ol style="list-style-type: none"> <li>(i) Shareholder XX had demonstrated continuous ownership of Company A throughout the last financial year of the track record period and Shareholder XX was and would be the largest group of shareholders before and after the reorganisation; and</li> <li>(ii) Shareholder YY had, through participation on boards of directors and the management contracts, in fact managed the Subsidiaries comprising Company A throughout the track record period and would after the reorganisation have majority representation in the board of Company A.</li> </ol> </li> <li>8. Based on the above, the Exchange accepted the sponsor's submissions that the present structure was driven by commercial considerations related to the efficient growth and development of the business that formed the subject matter of listing, and the reorganisation was not found to be a combination of different and unrelated businesses purely for the purpose of "packaging" the businesses for meeting the eligibility requirements. As such, these entities could be viewed together as a group throughout the track record period for meeting the management and ownership continuity and control requirements under MB Rules 8.05(2)(b) and 8.05(2)(c).</li> </ol>
<p><b>Company B</b> (MB applicant) (2009)</p> <p>Rule reference: MB Rule 8.04</p>	<p><i>Background</i></p> <ol style="list-style-type: none"> <li>1. Company B was a company with no track record. Its controlling shareholder ("<b>Parentco</b>") was listed on a foreign stock exchange. Parentco proposed to spin off its operation in Country Y to be acquired by Company B, as part of reorganisation, from Parentco using the listing proceeds.</li> <li>2. Parentco proposed to complete the reorganisation immediately after listing because the reorganisation was solely to effect the separate listing of Company B. Without Company B's listing, Parentco would not adopt such corporate structure. The proposed reorganisation did not affect Company B's ability to satisfy the ownership and management continuity requirements.</li> <li>3. To ensure there would be sufficient financial information on the subject matter of the listing, the listing document would include:               <ol style="list-style-type: none"> <li>(i) Stand-alone accountants' report on Company B;</li> <li>(ii) Combined historical financial information of the business to be acquired from Parentco (i.e. the spun-off entity), the subject of the listing; and</li> <li>(iii) Proforma financial information for the post-IPO group reflecting the application of the IPO proceeds and the acquisition of the spun-off entity from Parentco in accordance with MB Rules 4.28 and 4.29, except that it would only reflect the changes to Company B's equity and additional paid-in capital. The exception was acceptable because the acquisition would have no impact on the proforma financial results and cash flows.</li> </ol> </li> </ol>

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	<p><i>Decision</i></p> <p>4. The Exchange allowed Company B's reorganisation to be completed immediately after listing subject to:</p> <ul style="list-style-type: none"> <li>(i) Disclosure in the listing document on the steps of the reorganisation and that the reorganisation would only complete immediately after listing;</li> <li>(ii) Effective mechanism to ensure that the reorganisation would take place immediately after listing and that the listing proceeds would be applied as disclosed in the listing document;</li> <li>(iii) All governmental and third party approvals and consents for the listing and reorganisation should be obtained before the listing document date; and</li> <li>(iv) Confirmations from directors, sponsor and legal advisers to the Exchange and announcement by Company B on due completion of the reorganisation on the listing date.</li> </ul>
<p><b>Company C</b> (MB applicant) (2015)</p> <p>Rule reference: MB Rule 2.06; MB Chapter 8</p>	<p><i>Background</i></p> <ol style="list-style-type: none"> <li>1. The listing application involved a very substantial acquisition of two companies ("<b>Target Groups</b>") which would make up the Company C's business upon listing. The Target Groups had been held by different controlling shareholders and managed by different individuals during the track record period.</li> <li>2. Company C failed to demonstrate compliance with the ownership continuity and control requirement during the most recent financial year under MB Rule 8.05(1)(c) as: <ul style="list-style-type: none"> <li>(i) There were and would be changes in the legal ownership and control in the Target Groups during the relevant period and upon completion of the very substantial acquisition; and</li> <li>(ii) There was no conclusive evidence that the controlling shareholder of Company C had been exercising control over the Target Groups during the relevant period through cooperation with the controlling shareholders of the Target Groups.</li> </ul> </li> <li>3. The Target Groups were able to comply with MB Rule 8.05(1)(a) only by aggregating their net profits during the track record period. However, there was no information to show that the Target Groups had been operated and managed as a single group during the track record period given that: <ul style="list-style-type: none"> <li>(i) The Target Groups only had one common senior management member and did not share any support function during the track record period; and</li> <li>(ii) The financial statements of the Target Groups were presented in two separate accountants' reports. The reporting accountants stated that the Target Groups' financial information could not be presented in one accountant's report because there was no common control.</li> </ul> </li> </ol>

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	<p><i>Decision</i></p> <ol style="list-style-type: none"> <li>Company C failed to demonstrate compliance with the ownership continuity and control requirement. Further, the Exchange did not accept the aggregation of the results of separate groups of companies presented in separate accountants' reports for the purpose of MB Rule 8.05(1)(a). This was to prevent packaging of businesses where acquisitions were made by an applicant solely for the purpose of satisfying the listing requirements.</li> </ol>
<p><b>Company D</b> (MB applicant) (2019)</p> <p>Rule reference: MB Rule 2.06; MB Chapter 8</p>	<p><i>Background</i></p> <ol style="list-style-type: none"> <li>Company D had five major subsidiaries split between Hong Kong and Mainland China, namely the "HK Group" and the "PRC Group".</li> <li>Company D marginally met the minimum profit requirement under MB Rule 8.05(1)(a) and neither of its HK Group or PRC Group was eligible for listing on a stand-alone basis.</li> <li>The HK Group was wholly owned by Mr. A, whilst the PRC Group was wholly owned by Mr. B and Mrs. B. Following a reorganisation in 2017, interests in the HK Group and the PRC Group were transferred to Company D; and Company D was owned 90% by Mr. A and 10% by Mrs. B.</li> <li>A confirmation deed was executed in the third year of the track record period by Mr. A, Mr. B and Mrs. B, acknowledging their cooperative business arrangements since 2011 and that they had historically acted in concert in managing the affairs of each group.</li> <li>Notwithstanding the confirmation deed, Company D could not otherwise demonstrate that the HK Group and the PRC Group had in fact been operating as an integrated group, given that the respective controlling shareholder of each group company did not hold any equity interest, directorship or managing role in the other group company, and no formal agreements were available to evidence the rights of either controlling shareholder in any profit or losses in the other group company.</li> </ol> <p><i>Decision</i></p> <ol style="list-style-type: none"> <li>Company D failed to demonstrate that different companies restructured under the listing group had operated as a single economic unit during the track record period, leading to the view that the reorganisation had been done solely to meet the eligibility requirements.</li> </ol>