

Applicant	Background and Decision
<p>Company A (MB applicant) (2003)</p> <p>Rule reference: MB Rule 9.11(35)(b); paragraph 11 of MB Appendix F1</p>	<p><i>Background</i></p> <ol style="list-style-type: none"> Shares in Company A's IPO would be placed under the placing tranche to certain investment funds. Its sponsor, Sponsor X, sought guidance from the Exchange on the extent of the information to be provided to the Exchange in relation to the funds. <p><i>Decision</i></p> <ol style="list-style-type: none"> Where shares were placed to investment funds, the Exchange must be provided with a list setting out information required under paragraph 11 of MB Appendix F1. The Exchange might also request such additional information as it considered necessary for the purpose of determining whether the fund was in fact independent. Depending on the circumstances, the Exchange might ask to be provided with the names and Hong Kong identity card numbers of the beneficial owners of the fund.
<p>Company B (MB applicant) (2005 and 2012)</p> <p>Rule reference: MB Rule 9.11(35)(b); paragraph 11 of MB Appendix F1</p>	<p><i>Background</i></p> <ol style="list-style-type: none"> The international offering of Company B included a public offering without listing in Japan ("POWL"). The sponsor applied with respect to the IPO shares sold under POWL for a waiver from strict compliance with MB Rule 9.11(35)(b) and paragraph 11 of MB Appendix F1 requiring submission to the Exchange a list from each of the placing brokers setting out details of and the amounts taken up by each placee. The sponsor submitted its waiver application on the following grounds: <ol style="list-style-type: none"> Japanese regulations in general prohibited agents from disclosing clients' details (including but not limited to the name, address, age of clients and details of assets) to third parties; Information given by placees under standard market practice in Japan was insufficient for completing the information required under MB Rule 9.11(35)(b); The POWL was expected to involve over 10,000 investors. Further, all information relating to placees would need to be translated into English. It would be unduly burdensome and nearly impossible to submit the required information relating to POWL placees to the Exchange before commencement of dealings; and The Japanese agents would confirm in writing the independence of each placee from any director of Company B or their respective associates or any existing shareholder or nominee of Company B. <p><i>Decision</i></p> <ol style="list-style-type: none"> The rationale behind the rules governing placing of shares was to ensure that shares were placed to independent and genuine investors, rather than connected persons of the applicants or related parties of the underwriters/brokers. Previously, the Exchange had not required the submission of placee lists in respect of public offer of shares sold under POWL in Japan and the US, if it was reasonably

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	<p>satisfied that the investors were independent to the extent required under applicable foreign regulations.</p> <p>5. As such, the Exchange decided that the present application for waiver should be considered favourably if the following conditions were satisfied:</p> <ul style="list-style-type: none"> (i) The shares would be sold in a public offer governed by rules and regulations of the relevant jurisdiction to ensure independence of the investors; (ii) The applicant and the sponsor made a demonstrable effort to comply with the placee list requirements in good faith and full compliance would not be practicable; and (iii) The sponsor, underwriters or placing brokers would confirm in writing that the investors obtaining the shares sold in the public offer are independent of the sponsor/underwriters/brokers, the applicant's connected persons or their associates or any existing shareholders of the applicant, including nominee of the foregoing. <p>6. In a subsequent case where the applicant applied for the same waiver, it then came to the Exchange's attention that the relevant Japanese regulations prohibiting members of the Japanese Securities Dealers' Association from disclosing customers' information to any third party only applied to individual customers but not institutional customers. Therefore, in addition to the conditions as set out in paragraphs 5(i) to (iii) above, the waiver was granted to this applicant provided that each placing broker would submit to the Exchange a list setting out details of all institutional placees and the number of shares taken up by each of them as required under MB Rule 9.11(35)(b) and paragraph 11 of MB Appendix F1.</p> <p>7. Based on the above analysis and the facts of the two cases, the Exchange considered that the conditions set out above were satisfied and on this basis granted the requested waiver.</p>