

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please make your comments by replying to questions below against proposed changes discussed in the Consultation Paper at the hyperlink: http://www.hkex.com.hk/consul/paper/cp200910ct_e.pdf.

Where there is insufficient space provided for your comments, please attach additional pages.

A. Transactions with persons connected with an issuer only by virtue of their relationship with the issuer's subsidiaries

1. Do you think that the definition of connected person should exclude persons connected by virtue of their relationship with an issuer's subsidiaries?

Yes

No

Please provide reasons for your views.

Exclusion of person connected at issuer's subsidiary level may open the window for abuse by controlling shareholders and/or directors of the issuers.

2. If your answer to question 1 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

Not applicable

3. On the basis that the definition of connected person will continue to include person connected at the subsidiary level, do you agree with the proposal to introduce an "insignificant subsidiary exemption" for connected transactions?

Yes

No

Please provide reasons for your views.

The proposed "insignificant subsidiary exemption" is difficult to implement and monitored by issuers. Based on my experience, issuers may find it very difficult and troublesome to keep record of the details of their insignificant subsidiaries. These records, even if they are maintained, may not be reliable where it would be difficult for anyone to verify their accuracy and completeness. These records may also be expensive to be administered from issuers' perspective.

4. Based on your experience, do you think that the "insignificant subsidiary exemption" would be used by you (or for market practitioners, your clients)?

Yes

No

Please describe the circumstances and refer to Option 1 or 2.

I do not think the "insignificant subsidiary exemption" would be used by my clients. Please see my comments to Question 3 above.

5. If your answer to question 3 is "Yes", do you agree with

- (a) the proposed materiality threshold under (i) Option 1 or (ii) Option 2?

Yes (please choose one of the following options)

Option 1

Option 2

No

Please provide reasons for your views.

Not applicable

(b) the proposed bases for assessing the significance of a subsidiary, i.e. the asset ratio, revenue ratio and the profits ratio?

Yes

No. The significance of a subsidiary should be determined by (*please specify*): _____

Please provide reasons for your views.

Not applicable

(c) the proposed additional safeguard to require the consideration ratio be less than 10% if an "insignificant" subsidiary concerned is itself a party to the transaction or its securities/assets are the subject of the transaction?

Yes

No

Please provide reasons for your views.

Not applicable

(d) the proposed mechanism for applying the exemption to continuing connected transactions described in paragraph 27 of the Consultation Paper?

Yes

No

Please provide reasons for your views.

Not applicable

6. If your answers to question 5 are "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

Not applicable

7. If you agree with Option 2, do you think that the definition of "major subsidiary" under Rule 13.25 should be amended to align with that in the "insignificant subsidiary exemption" if adopted?

Yes

No

Please provide reasons for your views.

Not applicable

B. De minimis thresholds that trigger disclosure or shareholders' approval requirement for connected transactions

8. (a) For the exemption from independent shareholders' approval requirement, do you support the proposal to revise the percentage threshold to 5%? If your answer is "No", please specify the percentage threshold that you consider appropriate.

Yes

No. The percentage threshold should be *(please specify)*: _____

Please provide reasons for your views.

The proposed revision the percentage threshold reflects the practice in other major international financial centres.

- (b) For the exemption from all reporting, announcement and independent shareholders' requirements, do you support the proposal to revise the percentage threshold to 1%? If your answer is "No", please specify the percentage threshold that you consider appropriate.

Yes

No. The percentage threshold should be (*please specify*): _____

Please provide reasons for your views.

Same comments as the answer to Question 8(a) above.

9. If your answer to question 8 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed amendments accurately reflect the proposal.

10. Do you agree that a percentage threshold is sufficient to assess whether a connected transaction is eligible for the de minimis exemptions?

Yes

No

Please provide reasons for your views.

Monetary cap should also be imposed because the same minimum absolute amount needs to be set for de minimis regardless of the size of issuers in monetary terms.

11. Do you believe that an absolute monetary cap should also be imposed, irrespective of the percentage threshold test for de minimis exemptions? If your answer is yes, please specify the monetary cap that you consider appropriate for fully exempt connected transactions (the monetary cap for connected transactions exempt from independent shareholders' approval would be adjusted proportionately).

Yes. The monetary cap for fully exempt connected transactions should be:

- HK\$100 million
 HK\$200 million
 HK\$500 million
 HK\$1,000 million
 Other monetary cap (*please specify*): HK\$ _____

No

C. Transactions that are revenue in nature and in the ordinary and usual course of business

12. Do you agree that the connected transaction Rules should govern revenue transactions with connected persons?

Yes

No

Please provide reasons for your views.

General exemption for connected transactions in revenue nature is not appropriate under current business environment in Hong Kong.

Proposed exemption for revenue transactions with associates of a passive investor

13. Do you agree with the proposed exemption for revenue transactions with associates of a substantial shareholder who is a passive investor in the issuer group?

Yes

No

Please provide reasons for your views.

It may be very difficult to implement this exemption because proper records need to be maintained to make sure that criteria for exemption of passive investor would be fulfilled. Verification for accuracy of these records would not be easy. It would also be costly for maintaining these records.

14. Do you think that the proposed exemption should also require the substantial shareholder be a passive investor in the relevant associate, for example, it is not involved in the management of the relevant associate?

Yes

No

Please provide reasons for your views.

Same comments as the answer to Question 13 above.

15. If your answer to question 13 is "Yes",

- (a) do you agree that the passive investor must be a sovereign fund or an authorised unit trust or mutual fund?

Yes

No

Please provide reasons for your views.

Not applicable

(b) do you think that the exemption should be made available to other passive investors? If so, which?

Yes. The exemption should be made available to *(please specify)*:

No

Please provide reasons for your views.

Not applicable

(c) do you agree that the passive investor must not have representative on the board of directors of the issuer and its subsidiaries?

Yes

No

Please provide reasons for your views.

Not applicable

(d) do you agree with other proposed conditions set out in paragraph 59 of the Consultation Paper?

Yes

No

Please provide reasons for your views.

Not applicable

16. If your answer to question 13 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

Not applicable

Proposed modification of the exemption for provision of consumer goods or consumer services

17. Do you agree with the proposed changes to expand the exemption for acquisition of consumer goods or services described in paragraph 66 of the Consultation Paper?

Yes

No

Please provide reasons for your views.

18. If your answer to question 17 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed draft accurately reflects the proposal.

19. Can you think of any other suggestions to improve the regulation of revenue transactions with connected persons?

Yes

No

If your answer is "Yes", please elaborate your views.

D. Definition of associate

(1) Definition of associate in Rule 1.01 (for non-PRC issuer) and Rule 19A.04 (for PRC issuer)

20. Do you support the proposal to carve out from the definition of associate the following entities?

(i) The holding company of the investee company or a fellow subsidiary of this holding company described in paragraph 68(e) of the Consultation Paper.

Yes

No

(ii) A company controlled by the investee company (not being a subsidiary of the investee company) described in paragraph 68(f) of the Consultation Paper and this company's subsidiary, holding company and fellow subsidiary.

Yes

No

Please provide reasons for your views.

Agreed to carve out those entities as being "associates" as mentioned in paragraph 71 of the Consultation Paper.

21. If your answer to question 20 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed draft accurately reflects the proposal.

(2) Extended definition of associate in Rule 14A.11(4)

22. Do you agree with the proposed extension of the definition of associate to a company in which a connected person's relative has a majority control as described in paragraph 74 of the Consultation Paper?

Yes

No

Please provide reasons for your views.

The proposed extension should be able to remove the existing loophole.

23. If your answer to question 22 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

Suggest using "30%" threshold to make it consistent with the percentage shareholding requirement for a controlling shareholder.

E. Definition of connected person

(1) Non wholly-owned subsidiary

24. Do you agree with the proposed exemption for (i) transactions between a connected subsidiary and any of its own subsidiaries; and (ii) transactions between any subsidiaries of the connected subsidiary?

Yes

No

Please provide reasons for your views.

Agreed with the proposed exemptions set out in paragraph 80 of the Consultation Paper.

25. If your answer to question 24 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed drafting on page 56 and 57 of the Consultation Paper is very confusing and not easy to understand. I suggest the cave out provisions should not be made by way of notes to Rule 14A.11. Rule 14A.11 should be redrafted in its entirety to reflect the proposal (bearing in mind to reduce the use of notes to the rule). I understand that the notes are intended to clarify the ambiguity. However, sometimes these notes may have caused confusion that have never been anticipated.

Please also see Annex I to this Questionnaire.

26. Do you agree that a non wholly-owned subsidiary should not be regarded as a connected person in the circumstances described in paragraphs 81(a) and (b) of the Consultation Paper?

Yes

No

Please provide reasons for your views.

Agreed with the proposal set out in paragraph 82 of the Consultation Paper.

27. If your answer to question 26 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed draft rule may not accurately reflect the proposal. Further, the proposed amendment to the notes to Rule 14A.11 is very difficult to understand. Suggest to re-draft this rule by reducing the use of notes as far as possible.

Please also see Annex I to this Questionnaire.

(2) Promoter of a PRC issuer

28. Do you support the proposal to delete "promoter" of a PRC issuer from the definition of connected person?

Yes

No

Please provide reasons for your views.

Agreed with the proposal set out in paragraph 86 of the Consultation Paper.

29. If your answer to question 28 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed draft rule accurately reflects the proposal.

(3) PRC Governmental Body

30. Do you support the proposal to apply those provisions for PRC Governmental Body in Chapter 19A to connected persons of non-PRC issuers?

Yes

No

Please provide reasons for your views.

31. If your answer to question 30 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

Suggest removing the word "normally" to ensure certainty for the compliance with the rules by issuers. The Stock Exchange may use the deeming provision Rule 14A.06 if it consider necessary to deem a PRC Government Body as a connected person.

Please also see Annex II to this Questionnaire.

(4) Management shareholder of a GEM issuer

32. Do you support the proposal to delete "management shareholder" from the definition of connected person in the GEM Rules?

Yes

No

Please provide reasons for your views.

I agreed with the proposal.

33. If your answer to question 32 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed draft accurately reflects the proposal.

F. Other changes to the connected transaction Rules

(1) Exemption for small transaction involving issue of new securities by subsidiary

34. Do you agree with the proposal to remove the restriction on applying the de minimis exemptions to an issue of securities by the issuer's subsidiary?

Yes

No

Please provide reasons for your views.

Agreed with the proposal set out in paragraph 98 of the Consultation Paper.

35. If your answer to question 34 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed draft accurately reflects the proposal.

(2) Exemption for financial assistance provided on a pro-rata basis

36. Do you agree with the proposal to clarify that the exemption under Rule 14A.65(3)(b)(i) will apply where the commonly held entity is also a connected person?

Yes

No

Please provide reasons for your views.

Agreed with the proposal set out in paragraph 102 of the Consultation Paper.

37. If your answer to question 36 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed draft accurately reflects the proposal.

(3) Transactions with third parties involving joint investments with connected persons

38. Do you agree with the proposal to extend the exemption under Note 3 to Rule 14A.13(1)(b)(i) to disposal transactions mentioned in paragraph 108 of the Consultation Paper?

Yes

No

Please provide reasons for your views.

Agreed with the proposal set out in paragraph 108 of the Consultation Paper.

39. If your answer to question 38 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

The proposed draft accurately reflects the proposal.

(4) Annual review of continuing connected transactions

40. Do you agree with the proposed Rule amendments to clarify that the annual review requirements apply to continuing connected transactions that are subject to reporting and disclosure requirements in Chapter 14A?

Yes

No

Please provide reasons for your views.

I think annual review requirements should be applicable to all connected transactions (whether continuing or not) including those connected transactions under de minimis exemptions.

41. If your answer to question 40 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

Yes

No

If your answer is "No", please provide reasons and alternative views.

Please see the answer to Question 40.

Please also refer to the Exposure Draft (ED) of Practice Note 740 (PN) issued in October 2009 by the Hong Kong Institute of Certified Public Accountants (HKICPA). I note that the paragraph headed "Conclusion" in the sample auditor's letter on continuing connected transactions as shown in Appendix 2 on page 27 of the ED is not consistent with Rule 14A.38(1) to (4) of the Listing Rules. I think it is necessary for the HKICPA and the Stock Exchange to agree on the wordings so that the auditor's letter on continuing connected transactions must be consistent with the requirements of the Listing Rules.

Please also see Annex III to this Questionnaire.

42. Are there any other comments you would like to make?

Yes

No

If your answer is "Yes", please elaborate your views.

My other comments on Chapter 14A are as follows:

1. Rule 14A.37

Under Rule 14A.38, the auditors are required to deliver a letter to issuer at least 10 business days prior to the bulk printing of the issuer's annual report confirming the information set out in Rule 14A.38(1) to (4). However, there is no such reporting deadline for INEDs under Rule 14A.37. I think there is no reason why the INEDs could not meet the same reporting deadline. I suggest to setting the same reporting deadline for Rule 14A.37.

2. Rule 14A.38(2)

Under Rule 14A.38(2), the auditors need to confirm that the continuing connected transactions are in accordance with the pricing policies of the issuer if the transactions involve provision of goods/services by the listed issuer. However, there is no requirement for the auditors to confirm for goods/services received by the issuer from connected persons. I suggest revising this rule to include those transactions for goods/services received by the issuer from connected persons.

3. Securities and Futures (Stock Market Listing) Rules (the "SMLR")

If it is still the intention of the Government to codify, among others, Chapter 14A of the Listing Rules into the provisions in the SMLR, the current drafting of the Chapter 14A may need to be re-draft so as to avoid any confusion and ambiguity in their present form.

4. Notes to the Listing Rules

I note that some Listing Rules include many notes e.g. Rule 14A.11 and Rule 14A.13(1). If the notes form part of the relevant rules, I suggest that the Stock Exchange should incorporate the "notes" into formal "rules".

Please see Annex IV to this Questionnaire.

- End -

14A.11(1), (2) or (3);

..."

Q24, Q25 para 81, page 28

Q26 Q27, para 82, page 29

6. Draft Rule amendments relating to non wholly-owned subsidiaries defined as connected persons – [Chapter 2: Part E(1)]

“Definition of connected person

14A.11 Rule 1.01 contains a general definition of “connected person”. In this Chapter, the definition of “connected person” includes:

- (1) a director, chief executive or substantial shareholder of the listed issuer;
- (2) any person who was a director of the listed issuer within the preceding 12 months;
- (3) a promoter or supervisor of a PRC issuer;
- (4) any associate of a person referred to in rules 14A.11(1), (2) or (3). The definitions of “associate” (in the context of non-PRC issuers and PRC issuers) are contained in rules 1.01 and 19A.04, respectively. In this Chapter, an “associate” of a person referred to in rules 14A.11(1), (2) or (3) includes the following additional persons:
 - (a) ...

Notes: 1. A company which is an “associate” of a person referred to in rules 14A.11(1), (2) or (3) only because that person has an indirect interest in the company through its shareholding in the listed issuer is not a connected person.

Very confusing and difficult to understand.

2. A non wholly-owned subsidiary will not be regarded as a connected person or an associate of a substantial shareholder of that non wholly-owned subsidiary if such substantial shareholder is a connected person only by virtue of being (i) a substantial shareholder of another subsidiary under rule 14A.11(1) or (ii) an associate of any connected persons (at the level of the issuer’s subsidiaries only) as defined in rules 14A.11(1) to (3) a director of the non wholly-owned subsidiary and/or is a substantial shareholder in the non wholly-owned subsidiary concerned.

two may notes to this part 14A.11

- (5) any non wholly-owned subsidiary of the listed issuer where any connected person(s) of the listed issuer (other than at the level of its subsidiaries) as defined under rules 14A.11(1) to (4) is/are (individually or together) entitled to exercise, or control the exercise of, 10% or more of the voting power at any general meeting of such non

Suggest to move * to here 56
pls see page 57

* very difficult to understand with these words "non", "not", "no", "other than" appear in the same sentence

wholly-owned subsidiary; and

Notes: 1 It follows that a non wholly-owned subsidiary is not a connected person where:

(a) no connected person(s) of the listed issuer other than at the level of its subsidiaries) as defined under rules 14A.11(1) to (4) is/are (individually or together) entitled to exercise, or control the exercise of, 10% or more of the voting power at any general meeting of such non wholly-owned subsidiary; and

(b) the non wholly-owned subsidiary is not an associate of a connected person of the listed issuer (other than at the level of its subsidiaries) as defined referred to in rules 14A.11(1), (2) or (3).

2 An interest of a connected person of the listed issuer (other than at the level of its subsidiaries) in the subsidiary which is held through the listed issuer is to be excluded from the 10% referred to in this rule. any subsidiary of a non wholly-owned subsidiary referred to in rule 14A.11(5).

Note: If the subsidiaries are connected persons only by virtue of being the subsidiaries of a non wholly-owned subsidiary referred to in rule 14A.11(5), transactions among these subsidiaries or between the non wholly-owned subsidiary and any of these subsidiaries will not be regarded as connected transactions.

7. Draft Rule amendments relating to promoter of PRC issuer - [Chapter 2: Part E(2)]

Q28, Q29 Para 28 Dep 30

"1.01 Throughout this book, the following terms, save where the context otherwise requires, have the following meanings:

...

"associate"

(a) in relation to an individual means:—

...

Notes (1) This definition is modified in the context of connected transactions by virtue of rules 14A.11 and 14A.12.

(2) In the case of a PRC issuer, its promoters;

★ This note is referring to "associate" suggest to move to notes to Rule 14A.11(4) c)

pls also see (6) page 56

too many notes

directors, supervisors, chief executive and substantial shareholders, the definition is amended to have the same meaning as in rule 19A.04.

- ...
- "connected person"**
- (a) in relation to a company other than a PRC issuer, and other than any subsidiaries of a PRC issuer, means a director, chief executive or substantial shareholder of such company or any of its subsidiaries or an associate of any of them; and
 - (b) in relation to a PRC issuer means a ~~promoter~~ director, supervisor, chief executive or substantial shareholder of the PRC issuer or any of its subsidiaries or an associate of any of them

Note: This definition is modified in the case of Chapter 14A only by the provisions of rules 14A.11 and 14A.12.

Definition of connected person

14A.11 Rule 1.01 contains a general definition of "connected person". In this Chapter, the definition of "connected person" includes:

- (1) a director, chief executive or substantial shareholder of the listed issuer;
- (2) any person who was a director of the listed issuer within the preceding 12 months;
- (3) a ~~promoter or~~ supervisor of a PRC issuer;

..."

Q30, Q31 para 91. page 31

8. **Draft Rule amendments relating to PRC Governmental Body - [Chapter 2: Part E(3)]**

"Definition of connected person

...

14A.12A For the purpose of this Chapter, the Exchange will not normally treat a PRC Governmental Body (see definition in rule 19A.04) as a connected person of a listed issuer.

..."

< Extract from ED PN 740 > Annex III

(1/2)

AUDITOR'S LETTER ON CONTINUING CONNECTED TRANSACTIONS
UNDER THE HONG KONG LISTING RULES

Appendix 2

**Example Independent Auditor's Letter on Continuing Connected
Transactions**

To the Board of Directors of XYZ Limited ("the Company")

In accordance with our agreed terms of engagement dated [date], we have carried out procedures on the attached list¹ of continuing connected transactions entered into by the Company and its subsidiaries (collectively referred to as "the Group") for the year ended [date] and which the directors have advised us are to be disclosed in the Company's annual report for the year ended [date] ("the disclosed continuing connected transactions").

Directors' responsibilities

The Directors of the Company are responsible for the completeness and accuracy of disclosures of continuing connected transactions and the Company's compliance with the [Listing Rules][GEM Listing Rules] in respect of such transactions. This responsibility includes designing, implementing and maintaining internal controls relevant to the identification, recording, authorization and reporting of all continuing connected transactions.

Auditor's responsibilities

It is our responsibility to express a conclusion, based on our work, on the disclosed continuing connected transactions and to report our conclusions to you².

Basis of conclusion

We conducted our engagement in accordance with Hong Kong Standards on Assurance Engagements 3000 "Assurance Engagements Other Than Audits or Reviews of Historical Financial Information" and with reference to Practice Note 740 "Auditor's Letter on Continuing Connected Transactions under the Hong Kong Listing Rules" issued by the Hong Kong Institute of Certified Public Accountants.

Our work consisted of making inquiries, primarily of persons responsible for financial and accounting matters, applying analytical and other review procedures and testing transactions on a sample basis where we considered appropriate. Our work was substantially less in scope than an audit conducted in accordance with Hong Kong Standards on Auditing and consequently does not enable us to obtain assurance that we would become aware of all significant matters that might be identified in an audit. Accordingly, we do not express an audit opinion on the disclosed continuing connected transactions.

Furthermore, due to the nature of connected persons and transactions, it was not practicable for us to determine whether the disclosed continuing connected transactions and the books and records of the Group include all continuing connected transactions. It was impracticable for us to quantify the potential impact of this on the disclosures of continuing connected transactions in the Company's annual report. Accordingly, our report relates solely to the continuing connected transactions that have been disclosed to us and in the books and records of the Group made available to us.

¹ This could either be a list of the continuing connected transactions disclosed in the listed issuer's annual report or an extract from the listed issuer's annual report that contains the relevant disclosures. Where the letter refers to the listed issuer's annual report, as the letter is issued at least 10 business days prior to bulk printing of the annual report, ordinarily the annual report will be in draft form when the auditor issues his letter.

² Auditors may consider it appropriate to clarify to whom they are responsible here or elsewhere in the letter in accordance with their risk management policies and with reference to Professional Risk Management Bulletin No. 2 "Auditors' Duty of Care To Third Parties and The Audit Report".

(2/2)

AUDITOR'S LETTER ON CONTINUING CONNECTED TRANSACTIONS
UNDER THE HONG KONG LISTING RULES

Conclusion

Based on the foregoing, in respect of the disclosed continuing connected transactions:

- a. nothing has come to our attention that causes us to believe that the disclosed continuing connected transactions have not been approved by the Company's board of directors.
- b. for transactions involving the provision of goods or services by the Group, nothing has come to our attention that causes us to believe that the prices charged were not in accordance with the prices set out in the relevant agreements governing such transactions [or where the related agreement did not clearly specify a quantitative price, the prices charged were not consistent with prices charged for comparable transactions that were identified by management³].
- c. nothing has come to our attention that causes us to believe that there was not an agreement in place governing the transactions and that the prices charged were not in accordance with the pricing terms set out in the relevant agreements governing such transactions.
- d. with respect to the aggregate amount of [each of] the connected transactions set out in the attached list of continuing connected transactions, nothing has come to our attention that causes us to believe that the disclosed continuing connected transactions have exceeded the maximum aggregate annual value ("cap") disclosed in the previous announcement(s) dated [relevant date(s)] made by the Company in respect of [each of] the disclosed continuing connected transactions.

Restriction on use of this letter

This letter is intended solely for the purpose of assisting you in respect of your obligations under the [Main Board Listing Rule 14A.38][GEM Listing Rule 20.38] with respect of continuing connected transactions. This letter is not intended to be, and should not be, used for any other purpose and we expressly disclaim any liability or duty to any other party in this respect including The Stock Exchange of Hong Kong Limited.

This letter should not be distributed to any other parties save that we agree that a copy of this letter may be provided by the Company to The Stock Exchange of Hong Kong Limited without further comment from us.

XYZ & Co.
Certified Public Accountants (Practising) [or Certified Public Accountants]
[Address]
Date

not
consistent
with
Rule 14A.38
(1) to (4)

³ Alternatively, depending on the circumstances, it may be appropriate to state that the prices charged were not less than prices charged for comparable transactions as identified by management.

Annex IV (1/2)

Q 36, Q 37
126 (1), 127, page 36

10. Other draft Rule amendments - [Chapter 2: Parts F(2), F(3) and F(4)] Q 217, Q 411, Q 38, Q 39

"Definition of connected transaction"

14A.13 A connected transaction is:

- (1) (a) any transaction between a listed issuer and a connected person; or

Acquisition or disposal of interest in a company

- (b) (i) any transaction between a listed issuer and a person who is not a connected person and the transaction involves the listed issuer acquiring or disposing of an interest in a company where a substantial shareholder of that company is, or is proposed to be, a controller or is (or will become as a result of the transaction) an associate of a controller. The Exchange may aggregate the interests of any person and his associates (as defined in rule 14A.11(4)) in determining whether together they are a "substantial shareholder" of any company. Where assets (as opposed to businesses) account for 90% or more of such a company's net assets or total assets, the Exchange will treat the acquisition or disposal of such assets as a connected transaction and an acquisition or disposal of an interest in that company; or

Suggest to
 codify
 as "rules"
 not
 in form
 of "notes"

- Notes: 1 A listed issuer itself will not be considered an "associate" of a controller when the listed issuer is acquiring or disposing of an interest in a company of which it is already a substantial shareholder.
- 2 A controller whose only interest in a company is through its interest in the listed issuer will not be taken to be a "substantial shareholder" of that company.
- 3 This rule does not apply where all the following conditions are met:
- (i) the listed issuer acquires an interest in a company;
 - (ii) the substantial shareholder of the company being acquired is a director, chief executive or controlling shareholder of the company being acquired (or an associate of such director, chief executive or controlling

Suggest to codify as rules

shareholder) immediately prior to the acquisition;

(iii) it is proposed that the substantial shareholder will remain a director, chief executive or controlling shareholder of the company being acquired (or an associate of such director, chief executive or controlling shareholder) following the acquisition; and

(iv) following the acquisition, the only reason why he is still a controller is that he remains a director, chief executive or controlling shareholder of the company being acquired (or an associate of such director, chief executive or controlling shareholder), as the case may be. Where he remains a controlling shareholder, there must not be any increase in his interest in such company as a result of the acquisition.

4 For a disposal of interest in a company, this rule does not apply if the disposal falls within this rule only because the substantial shareholder of the company being disposed of is a director, chief executive or controlling shareholder of this company (or an associate of such director, chief executive or controlling shareholder) immediately prior to the disposal.

General rules

Categories

14A.16 The categories of connected transactions are:

- (1) connected transactions exempt from the reporting, announcement and independent shareholders' approval requirements (see rule 14A.31);
- (2) connected transactions exempt from the independent shareholders' approval requirements (see rule 14A.32);
- (3) continuing connected transactions exempt from the reporting, annual review, announcement and independent shareholders' approval requirements (see rule 14A.33);