

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below on the proposed change discussed in the Consultation Paper downloadable from the HKEx website at: <http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp201304.pdf>

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

Chapter III: Plain Language Amendments to Connected Transaction Rules

1. Do you support the proposal to re-write Chapter 14A?

☒ Yes

☐ No

If your answer is “No”, please give reasons for your views.

The current drafting of Chapter 14A is not user-friendly. Many issuers, listing applicants, financial advisers and public at large find this chapter not user friendly and difficult to understand. I strongly support the proposal for rewrite of Chapter 14A.

2. Do you consider that the draft new Chapter 14A in Appendix I of the Consultation Paper accurately reflects the current Chapter 14A?

☒ Yes

☐ No

If your answer is “No”, please give reasons for your views.

Yes, I generally agree with this. But also please see Appendix I to this questionnaire for my mark up for improving the drafting of the new Chapter 14A.

3. Do you have any other comments on the draft Rule amendments in Appendix I of the Consultation Paper?

☒ Yes

☐ No

If your answer is “Yes”, please elaborate your views.

Yes, please Appendix I to this questionnaire for my further comments on the drafting. In particular, please clarify whether the printed form of the new rules is in colour. For example, I note that the diagram in pages 77 and 78 contain various colour such as pink, green, yellow and blue. It would be extremely confusing if the printed form of the new rules is in black and white only.

Chapter IV: Scope of Connected Persons and Connected Transactions

Part 1 – Scope of connected persons

A. Definition of connected person

A(1) Connected persons at the issuer level

4. Do you agree that there is no need to extend the definition of connected person to the key management personnel of an issuer's controlling shareholder/holding company?

☒

Yes

☐

No

If your answer is "No", please give reasons for your views.

Yes, I agree with the reasons set out in paragraphs 79 and 80 of the Consultation Paper.

A(2) Connected persons at the subsidiary level

5. Do you support:

- (a) the proposal described in paragraph 90(a) of the Consultation Paper to require transactions with persons connected only at the subsidiary level be subject to the approval of the issuer's board members (including independent non-executive directors) who do not have a material interest in the transaction, instead of the approval of shareholders, and disclosed to the shareholders?

☐

Yes

☒

No

If your answer is "No", please give reasons for your views.

No, I strongly disagree with this proposal.

In paragraphs 87 and 88 of the Consultation Paper, I appreciated that the rationale behind this proposal was based on the assumption that transactions between a subsidiary and persons connected with that subsidiary are subject to oversight of the issuer's board whose interest is aligned with the minority shareholders and that potential for abuse is limited. However, this is not always the case. You would not forget what has happened to the case of Real Gold Mining Limited (stock code: 246) nearly two years ago.

In Real Gold's case, it was revealed by a local newspaper in June 2011 that in October 2010 the entire issued share capital of a subsidiary of Real Gold (Subsidiary B) was pledged as security for banking facilities for certain private companies owned by Mr Wu, a director of another subsidiary of Real Gold (Subsidiary A). Subsidiary A owned 100% of Subsidiary B. Since Mr Wu was not a director of Real Gold, he was a connected person at subsidiary level. It was also revealed at a later stage that there was also a similar pledge of Subsidiary B's shares dated back to 2009. It was reported that Mr Wu was the master mind in arranging these share pledges. I was surprised that the board of Real Gold was not aware of these pledges over this lengthy period of time.

Although one must also note that Mr Wu was a controlling shareholder of Real Gold at the material time, he was not a director of Real Gold. Thus, he was not a "genuine" connected person only at the subsidiary level. But it was clear in this case that a director at subsidiary level only (ie without any position in the issuer's board) might have tremendous influence over the subsidiary of which he was a director. In particular, it is possible that he could act to his sole personal interest and to the detriment of the issuer and its minority shareholders.

In paragraph 87, it was argue that it might be burdensome for issuers to establish additional systems and controls to identify and monitor these transactions, in particular, when issuers have a substantial number of subsidiaries or a large number of directors and substantial shareholders at subsidiary level. I believe that is exactly what issuers must do: to establish proper internal control systems to monitor transactions between directors at subsidiaries level and the issuers and their subsidiaries. Real Gold's case is a landmark case and an important lesson to learn. Please see Appendix 1 to this questionnaire for Real Gold's announcement dated 19 June 2011 detailing the incidents that had happened in 2009 and 2010.

In summary, potential abuse by connected person only at subsidiary level must be considered seriously. I strongly object the proposal set out in paragraph 90(a) of the Consultation Paper.

- (b) the proposal described in paragraph 90(b) of the Consultation Paper to exempt all transactions between the issuer group and connected persons at the subsidiary level, other than transactions between a subsidiary (or any subsidiary below it) and the person connected with that subsidiary?

☐

Yes

☒

No

If your answer is "No", please give reasons for your views.

No, for reasons set out in my response to Q5(a) above, I strongly disagree with this proposal.

B. The deeming provision

6. Do you agree with the proposal to introduce principle-based tests described in paragraph 95 of the Consultation Paper for deeming a person as connected?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

n/a

C. Exceptions to the definition of connected person

C(1) Insignificant subsidiary exemption (if persons connected at the subsidiary level are not excluded from the definition of connected person)

7. Do you agree with the proposal described in paragraph 100 of the Consultation Paper to exempt all persons connected only because of its relationship with the issuer's insignificant subsidiaries?

☒ Yes

☐ No

If your answer is "No", please give reasons for your reviews.

Yes, I agree with this proposal because the current drafting of the rule, in particular, Rule 14A.31(9)(c) is very confusing. The proposal would also clear any ambiguity and uncertainty of the current Rule 14A.31(9).

C(2) Exemption for trustee interests

8. Do you agree with the proposal described in paragraph 105 of the Consultation Paper to exclude from the definition of associate any trustee of an employee share scheme or occupational pension scheme if the connected persons' interests in the scheme are less than 10%?

☒ Yes

☐ No

If your answer is “No”, please give reasons for your views.

Yes, I agree with the proposal set out in paragraph 105 of the Consultation Paper.

C(3) Exemption for connected person holding an interest in an associate through the issuer

9. Do you agree with the proposal described in paragraph 110 of the Consultation Paper to clarify that the exemption in Note 1 to Rule 14A.11(4) (paragraph 9 of the Guide) would apply if the connected person and his associate’s interests in the entity (other than those held through the issuer) are less than 10%?

☒ Yes

☐ No

If your answer is “No”, please give reasons for your views.

Yes, I agree with the proposal set out in paragraph 110 of the Consultation Paper.

Part 2 – Scope of connected transactions

D. Financing arrangements with a commonly held entity

10. Do you agree that we should retain the connected transaction requirements for financing arrangements with commonly held entities?

☒ Yes

☐ No

If your answer is “No”, please give reasons for your views.

Yes, the existing requirement should be retained. One must note that no reported connected transactions involving financing arrangement with commonly-held-entities does not necessarily mean that the existing requirements are redundant nor there were no such financing arrangement actually occurring.

I think the point here is how to make the existing rule requirements easier to understand by issuers. With the implementation of the proposed plain language rule amendments to connected transactions rules, I am sure it would effectively improve the readability and user-friendliness of the rule requirements. Therefore, I do not believe we should remove the existing rule requirements for commonly-held-entity at this stage.

E. Buying or selling interests in a target company

11. Do you agree with the proposal described in paragraph 131(a) of the Consultation Paper to restrict Paragraph (i) of Rule 14A.13(1)(b) (paragraphs 27 to 29 of the Guide) to transactions involving controllers at the issuer level?

☐ Yes

☐ No

If your answer is "No", please give reasons for your views.

I agree with paragraph 130 of the Consultation Paper that Rule 14A.13(1)(b) is too wide. In fact this rule requirements are too complicated, too clumsy, too difficult for issuers to understand how it operates. Further, the drafting of this Rule 14A.13(1)(b)(i) is bad indeed.

According to the statistics shown in paragraph 128 of the Consultation Paper, I believe the reason for the low hit rate of Rule 14A.13(1)(b) must either be: (1) the circumstances triggering off this rule is very rare; or (2) there may be many case where this rule is applicable but this rule is too complicated that issuers did not even know how this rule is applicable to them!

I think the first thing for SEHK to do is to find out which situation: whether (1) or (2) above is the actual case. If situation (1) is the actual case, I think SEHK may take a step further in addition to the current proposals in paragraph 131 of the Consultation Paper: I propose that Rule 14A.13(1)(b) should be deleted in its entirety.

If situation (2) above is the actual case, I think the current proposals in paragraph 131 of the Consultation Paper are acceptable.

A rule is useless unless it is readily understandable and comprehensible by people who have duty to comply with it!

12. Do you agree with the proposal described in paragraph 131(b) of the Consultation Paper to exclude disposals of interests in target companies from Paragraph (i) of Rule 14A.13(1)(b) (paragraphs 27 to 29 of the Guide)?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

Please see my response to Q11 above.

13. Do you agree with the proposal described in paragraph 131(c) of the Consultation Paper to remove Paragraphs (ii) to (iv) of Rule 14A.13(1)(b) (paragraphs 31 and 32 of the Guide)?



Yes



No

If your answer is “No”, please give reasons for your views.

Please see my response to Q11 above.

Chapter V: Connected Transaction Requirements

F. Compliance framework for continuing connected transactions (“CCTs”)

14. Do you consider that information provided to shareholders regarding CCTs conducted under framework agreements contains sufficient specificity, in particular as to the methods or procedures to determine pricing for investors to make informed decisions?



Yes



No

If your answer is “No”, please also state the information that you consider should be disclosed in announcements and circulars.

n/a

Please give reasons for your views.

n/a

15. Do you consider that the current Rules governing CCTs and market practice in relation to CCTs that are conducted under framework agreements are appropriate? Do they provide sufficient safeguards to ensure that the transactions will be on normal commercial terms and will not be prejudicial to the interests of the issuers and its minority shareholders?



Yes



No

Please give reasons for your views.

n/a

F(1) Written agreements

16. Do you agree with the proposal to codify the waiver practice to allow an issuer to obtain a shareholders’ mandate (or a mandate from the board if the transactions is exempt from the shareholder approval requirement) in lieu of a framework agreement with the connected person?

☐ Yes

☒ No

If your answer is "No", please give reasons for your views.

No, I disagree with this proposal. One of the reasons why an associate of a connected person should be treated as a connected person is based on the assumption that the connected person has had significant influence over its associate. This the basic assumption of the definition of "associate" in the current connected transaction rules.

The argument in paragraph 150 of the Consultation Paper that the parties to individual transactions were subsidiaries of the connected person and operated independently, does not really make any sense according to the basic assumption of the definition of "associate". Even if there might have been some actual similar cases in reality, waiver should be granted based on merits of individual cases. Codification of the current waiver practice in the new rule requirements may open to abuses. We must be very careful with this issue.

We should maintain the current waiver practice which must not be codified in the new rules.

17. If your answer to Question 16 is 'Yes':

(a) Do you agree to limit the mandate period to not more than 3 years?

☐ Yes

☐ No

If your answer is "No", please give reasons for your views.

n/a

(b) Do you agree with the waiver conditions described in paragraph 151 of the Consultation Paper?

☐ Yes

☐ No

If your answer is "No", please give reasons for your views.

n/a

F(2) Annual cap

18. Do you support the proposal to allow the cap for a CCT of a revenue nature be expressed a percentage of the issuer's annual revenue or other financial items in its published audited accounts?

☐ Yes

☒ No

If your answer is "No", please give reasons for your views.

No, I disagree with the proposal set out in paragraph 157 of the Consultation Paper.

Revenue/income streams of an issuer may derive from various sources which depends on numerous factors, parameters or variables. These may not bear any relationship with a particular CCTs. By allowing the cap of a CCT of a revenue nature be expressed as a percentage of the issuer's annual revenue or other financial line items in its published financial statements may arbitrarily establish a "home-made" pre-determined relationship between the cap and the chosen line item of the financial statements. This is highly undesirable.

If there is a genuine close relationship (which can be readily determined and quantified) between the cap and the line items in the financial statements, the cap amount measured in monetary term should be easily measurable by directors. I find it difficult to understand why directors cannot estimate the monetary value of the issuer's CCTs but, on the other hand, could easily express the cap as a reasonable and quantifiable percentage of any line items in the financial statements.

I can tell you that if the proposal is accepted, directors may not bother to take time to consider or determine the cap in monetary term carefully.

Finally, determination of cap amount should be applied consistently and universally throughout the context of connected transaction rules: be it in the nature of revenue, capital or financial assistance.

F(3) Auditors' confirmation letter

19. Do you support the proposal described in paragraph 161 of the Consultation Paper to modify the Rules relating to auditors' confirmation on CCTs in line with PN 740?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

Yes, I absolutely agree with this proposal. In fact, I have already pointed out this inconsistency in my response to Q41 of the 2009 consultation paper.

I feel happy that you now make this proposal for the public to consider.

G. Requirements for connected transactions involving option arrangements

G(1) Transfer or non-exercise of option

20. Do you agree with the proposed alternative classification Rules for any transfer or non-exercise of an option?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

n/a

G(2) Termination of option

21. For any termination of an option involving a connected person:

- (a) Do you agree with the proposal described in paragraph 170 of the Consultation Paper to classify the termination as if the option is exercised unless the issuer has no discretion over the termination?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

n/a

- (b) Do you agree that the proposed alternative classification Rules described in paragraph 166 of the Consultation Paper should also apply to the termination?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

n/a

H. Minor changes to clarify the requirements relating to independent advice on connected transactions

22. Do you agree with the proposed Rule change to clarify that the independent board committee also needs to advise whether the connected transaction is on normal commercial terms and in the issuer's ordinary and usual course of business?



Yes



No

If your answer is "No", please give reasons for your views.

Yes, I agree with this proposal.

But please exercise extra care when revising Rule 14A.21. It is necessary to make sure that all related rules (eg Rules 13.39(6)(a), 13.39(6)(b), 13.39(7)(a), 13.39(7)(b) and 14A.22(4)) are considered as a whole and they must be consistent with each other and that no duplication or ambiguity would arise after revising Rule 14A.21.

Chapter VI: Exemptions for Connected Transactions

I. De minimis exemptions

23. Do you agree that we should retain the monetary limit of HK\$1 million for fully exempt connected transactions?

☒ Yes

☐ No

If your answer is “No”, do you think that the limit should be increased to HK\$2 million, HK\$3 million, HK\$4 million, HK\$5 million, or some other amount (*please specify with reasons*)?

☐ HK\$2 million

☐ HK\$3 million

☐ HK\$4 million

☐ HK\$5 million

☐ Other amount (*please specify*):

Please give reasons for your views.

n/a

24. Do you agree that we should retain the monetary limit of HK\$10 million for connected transactions exempt from the shareholder approval requirements?

☒ Yes

☐ No. The appropriate limit should be (*please specify*):

Please give reasons for your views.

n/a

J. Exemption for provision of consumer goods or services

25. Do you support the proposal described in paragraph 181 of the Consultation Paper to remove the 1% cap on transaction value for the exemption for provision or receipt of consumer goods or services?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

n/a

K. Exemption for provision of director's indemnity

26. Do you agree with the proposal described in paragraph 183 of the Consultation Paper to exempt an issuer granting indemnity to a director against liabilities that may be incurred in the course of the director performing his duties, if it does not contravene any law of the issuer's place of incorporation?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

n/a

27. Do you agree with the proposal described in paragraph 186 of the Consultation Paper to exempt an issuer purchasing and maintaining insurance for a director against liabilities to third parties that may be incurred in the course of performing his duties, if it does not contravene any law of the issuer's place of incorporation?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

n/a

28. Do you have any other comments or suggestions relating to the connected transaction Rules?

☒ Yes

☐ No

If your answer is “Yes”, please elaborate your views.

Yes, please see my further comments in Appendix 2 to this questionnaire on drafting of the "Draft Rule Amendments for Proposals Described in Chapter IV, V and VI".

- End -

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Real Gold

REAL GOLD MINING LIMITED

瑞金礦業有限公司

(Incorporated in the Cayman Islands with limited liability)

(Stock Code: 246)

ANNOUNCEMENT PURSUANT TO RULE 13.09 OF THE LISTING RULES

This announcement is made pursuant to Rule 13.09 of Listing Rules.

Reference is made to the article published on the South China Morning Post on 17 June 2011 in relation to the 2010 Pledge. It was later revealed that there was also a similar pledge of the issued share capital of Fubon Industrial to the Bank in 2009, the 2009 Pledge.

The Board confirms that, as at the date of this announcement, both the 2010 Pledge and the 2009 Pledge were released by the Bank, and there was no other charges of issued share capital of any subsidiary of the Company.

Mr. Wu resigned as a director of Lita with effect from 16 June 2011. Following his resignation as a director of Lita and from positions in other companies in the Group, Mr. Wu no longer holds any position in the Group, apart from being the controlling shareholder of the Company.

With respect to the legality of the 2010 Pledge and the 2009 Pledge, the PRC Legal Adviser was of the view that the equity pledge agreements signed on 7 October 2010 and 27 September 2009 were invalid.

At the request of the Company, trading in the shares of the Company on the Stock Exchange has been suspended with effect from 9:00 a.m. on Friday, 27 May 2011. The Company will make further announcements as and when appropriate to keep shareholders and the market generally apprised of the situation prior to any resumption of trading.

This announcement is made pursuant to Rule 13.09 of the Rules (the “Listing Rules”) Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the “Stock Exchange”).

Reference is made to the article (the “Article”) published on the South China Morning Post on 17 June 2011 regarding Real Gold Mining Limited (the “Company” and with its subsidiaries, the “Group”). It is reported in the Article that in October 2010, the entire issued share capital of Fubon Industrial (Huizhou) Co., Limited (富邦工業(惠州)有限公司) (“Fubon Industrial”), an indirect wholly-owned subsidiary of the Company, was pledged as security for banking facilities (the “2010 Pledge”) for certain private entities outside the Group under the control of Mr. Wu Ruilin (“Mr. Wu”). The above pledge of Fubon Industrial was made in favour of Shanghai Pudong Development Bank, the Huizhou Branch (the “Bank”), the provider of the above banking facilities. As at the date of this announcement, Mr. Wu indirectly owns 41.20% of the issued share capital of the Company and is accordingly the controlling shareholder of the Company.

It was later revealed that there was also a similar pledge of the issued share capital of Fubon Industrial to the Bank in 2009 (the “2009 Pledge”), as described in further detail below.

The board of directors (the “Board”) of the Company confirms that, as at the date of this announcement, both the 2010 Pledge and the 2009 Pledge were released by the Bank, and there was no other charges of issued share capital of any subsidiary of the Company.

THE BOARD’S REVIEW OF THE 2010 PLEDGE AND THE 2009 PLEDGE

The Board was not aware of the 2010 Pledge and the 2009 Pledge until 13 June 2011. In light of the foregoing, the Board has reviewed the equity pledge agreements in relation to the 2010 Pledge and the 2009 Pledge, and the consent letters issued by the Bank regarding the release of the said pledges, which were received by the Company from the Bank on 16 June 2011. Set out below are the findings following the review of the above-mentioned documents:

The 2010 Pledge

On 7 October 2010, the Bank and Lita Investment Limited (“Lita”), a wholly-owned subsidiary of the Company and the immediate holding company of Fubon Industrial, entered into an equity pledge agreement, pursuant to which Lita agreed to pledge the entire issued share capital of Fubon Industrial as security for an aggregate amount of RMB240 million of banking facilities (the “2010 Facilities”) available to the four private companies under Mr. Wu’s control. Without informing the Board, Mr. Wu, the then director of Lita, signed the above equity pledge agreement on behalf of Lita.

On 16 June 2011, a consent letter was issued by the Bank, formally releasing the 2010 Pledge.

The 2009 Pledge

On 27 September 2009, the Bank and Lita entered into another equity pledge agreement, pursuant to which Lita agreed to pledge approximately 97.14% of the issued share capital of Fubon Industrial, as security (the “2009 Pledge”) for an aggregate amount of RMB100 million of banking facilities (the “2009 Facilities”) available to the two private companies under Mr. Wu’s control. The above equity pledge agreement was also signed by Mr. Wu on behalf of Lita and without informing the Board.

On 27 September 2010, a consent letter was issued by the Bank, formally releasing the 2009 Pledge.

Resignation of Mr. Wu as a director of Lita

Mr. Wu resigned as a director of Lita with effect from 16 June 2011. The Board has reviewed the resignation letter submitted by Mr. Wu and the resolution in writing signed by the director of Lita approving the said resignation. In his resignation letter dated 16 June 2011, Mr. Wu confirmed that he had no claim against Lita whatsoever whether in respect of fees, remuneration or compensation for loss of office.

Following his resignation as a director of Lita and from positions in other companies in the Group, Mr. Wu no longer holds any position in the Group, apart from being the controlling shareholder of the Company.

Legality of the 2010 Pledge and the 2009 Pledge

With respect to the legality of the two equity pledge agreements mentioned above, the Company has appointed an independent PRC legal adviser, Commerce & Finance Law Offices (通商律師事務所) (the “PRC Legal Adviser”). Pursuant to the legal opinion dated 19 June 2011 issued by the PRC Legal Adviser, the PRC Legal Adviser was of the view that the equity pledge agreements signed on 7 October 2010 and 27 September 2009 were invalid.

Internal Control

After the Initial Public Offering of the shares of the Company in February 2009, we have engaged a third party independent internal control consulting firm to conduct once every year a review of the internal control of the Group for purposes of continual improvement of its internal control. In light of this incident, the Board of Directors is resolved to take strong action to strengthen the internal control of the Company.

Suspension of trading

At the request of the Company, trading in the shares of the Company on the Stock Exchange has been suspended with effect from 9:00 a.m. on Friday, 27 May 2011.

The Company will make further announcements as and when appropriate to keep shareholders and the market generally apprised of the situation prior to any resumption of trading.

By order of the Board
Real Gold Mining Limited
Lu Tianjun
Chairman

Hong Kong, 19 June 2011

As at the date of this announcement, the executive Directors are Mr. Lu Tianjun (Chairman), Mr. Ma Wenxue, Mr. Cui Jie and Mr. Li Qing; and the independent non-executive directors of the Company are Mr. Mak Kin Kwong, Mr. Zhao Enguang, Mr. Xiao Zuhe and Mr. Yang Yicheng.

APPENDIX II: DRAFT RULE AMENDMENTS FOR PROPOSALS DESCRIBED IN CHAPTERS IV, V AND VI

Amendments to Chapter 14A (marked up against the draft Chapter 14A in Appendix I)

Cross-references to existing Rules or guidance materials

Chapter 14A EQUITY SECURITIES CONNECTED TRANSACTIONS

INTRODUCTION

- 14A.01, 14A.02, 14A.03 (summarised)
- 14A.01 This Chapter applies to connected transactions entered into by an issuer or its subsidiaries. The connected transaction rules ensure that the interests of shareholders as a whole are taken into account by the issuer when a group enters into a connected transaction.
- 14A.02 Connected transactions include both capital and revenue nature transactions. They may be one-off transactions or continuing transactions.
- 14A.03 The general requirements for connected transactions include disclosures in announcements and annual reports, and shareholders' approval. Persons with material interests cannot vote on the resolution approving the transaction. Continuing connected transactions also require annual reviews by independent non-executive directors and the auditors.
- 14A.04 To reduce issuers' compliance burden, exemptions and waivers from all or some of the connected transaction requirements are available for specific categories of connected transactions. These apply to connected transactions that are immaterial to the group, or specific circumstances where the risk of abuse by connected persons is low.
- 14A.04A The rules in this Chapter have been illustrated with diagrams. ~~conflict between the rules and the diagrams, the rules prevail.~~ If there is any

any member of

a group is not a legal entity.

the diagram is an integral part of the rules. Rules and diagrams are inseparable. Suggest to delete this statement.

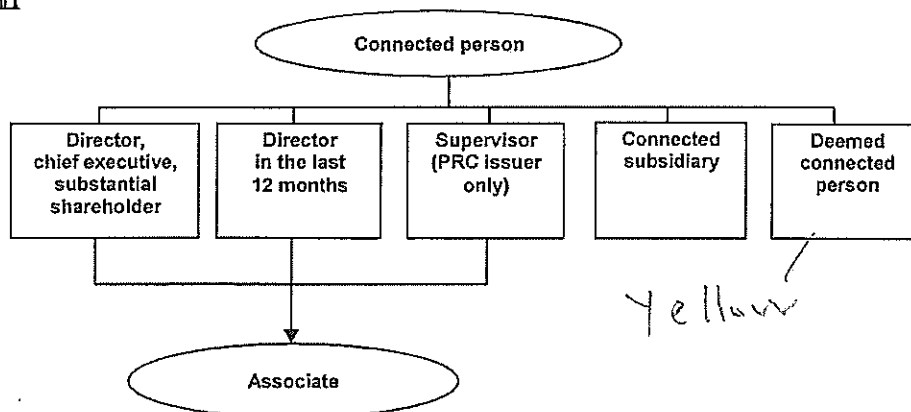
suggest not to use coloured box in the diagrams. Coloured diagram may cause confusion if it is printed in black & white form.

DEFINITION OF CONNECTED PERSON

14A.05 A "connected person" is:

- 1.01, 14A.11(1) (1) a director, chief executive or substantial shareholder of the issuer or any of its subsidiaries;
- 14A.11(2) (2) a person who was a director of the issuer or any of its subsidiaries in the last 12 months;
- 1.01, 14A.11(3) (3) a supervisor of a PRC issuer or any of its subsidiaries;
- 1.01, 14A.11(4) (4) an associate of any the above persons;
- 14A.11(5) (5) a connected subsidiary; or
- 14A.06 (6) a person deemed to be connected by the Exchange.

Diagram 1



21.13

14A.06 Where an issuer is an investment company listed under Chapter 21, its connected persons also include an investment manager, investment adviser or custodian (or any connected person of each of them).

Exceptions

Persons connected with insignificant subsidiaries

Proposal C(1)

14A.06A Rules 14A.05(1) to (3) do not include a director, chief executive, substantial shareholder or supervisor of the issuer's insignificant subsidiary/subsidiaries. For this purpose:

- (1) an "insignificant subsidiary" is a subsidiary whose total assets, profits and revenue compared to the group's are less than:
- (a) 10% under the percentage ratios for each of the latest three financial years (or if less, the period since the incorporation or establishment of the subsidiary); or
- (b) 5% under the percentage ratios for the latest financial year;

- (2) if the person is connected with two or more subsidiaries of the issuer, the Exchange will aggregate the subsidiaries' total assets, profits and revenue to determine whether they are together "insignificant subsidiaries" of the issuer; and
- (3) when calculating the percentage ratios, 100% of the subsidiary's total assets, profits and revenue will be used. If the percentage ratio produces an anomalous result, the Exchange may disregard the calculation and consider alternative test(s) provided by the issuer.

PRC Governmental Body

- 14A.12A(2),
19A.19
- 14A.07 The Exchange will not normally treat a PRC Governmental Body as a connected person. The Exchange may request an issuer to explain its relationship with a PRC Governmental Body and why it should not be treated as a connected person. If the Exchange decides to treat the PRC Governmental Body as a connected person, the issuer must comply with any additional requirements requested by the Exchange.

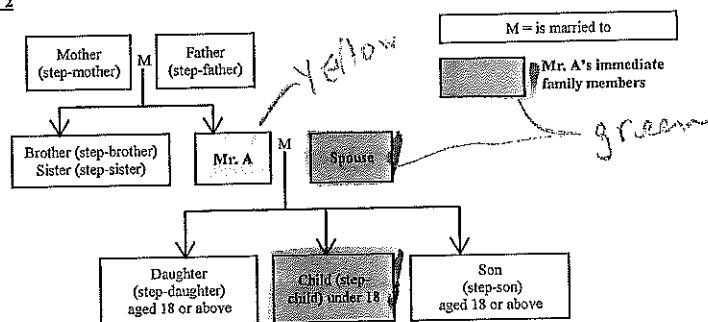
Depository

- 1.01 - (c),
19B.03
- 14A.08 For a listing of depository receipts, a person holding shares of an issuer as a depository will not be treated as:
- (1) an associate of the holder of the depository receipts; or
 - (2) a substantial shareholder or controlling shareholder of the issuer.

Definition of associate

- 1.01 - (a)(i), (ii),
19A.04 - (a)(i), (ii)
- 14A.09 An "associate" of a connected person described in rule 14A.05(1), (2) or (3) who is an individual includes:
- (1) (a) his spouse, his (or his spouse's) child (natural or adopted) or step-child under the age of 18 years (each an "immediate family member");

Diagram 2



1.01 - (a)(iii),
19A.04 - (a)(iii)

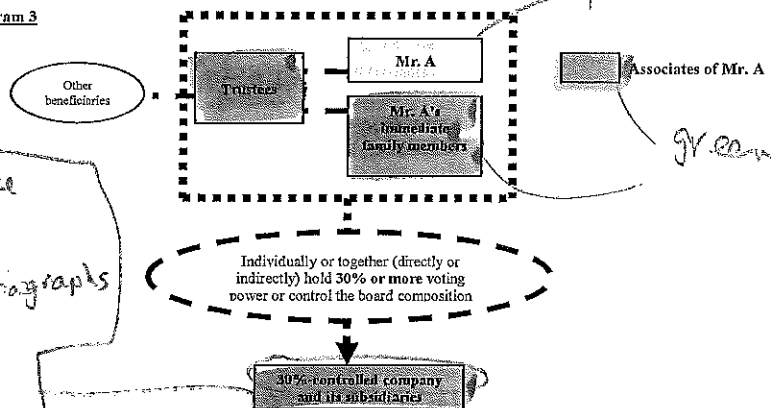
- (b) the trustees, acting in their capacity as trustee of any trust of which the individual or his immediate family member is a beneficiary or, in the case of a discretionary trust, is (to his knowledge) a discretionary object (other than a trust which is an employees' share scheme or occupational pension scheme and the connected persons' interests in the scheme are less than 10%) (the "trustees"); or

Proposal C(2)

1.01 - (a)(v),
19A.04 - (a)(v)

- (c) a 30%-controlled company held, directly or indirectly, by the individual, his immediate family members and/or the trustees (individually or together), or any of its subsidiaries; or

Diagram 3

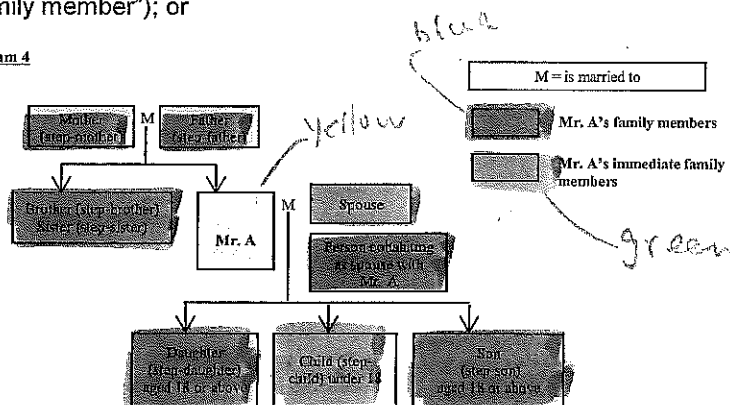


Suggest to use the term "Investee Company" so as to make it consistent with the same term used in paragraphs 67 to 69 of 2004 Consultation paper

14A.11(4)(b)(i)

- (2) (a) a person cohabiting with him as a spouse, or his child, step-child, parent, step-parent, brother, step-brother, sister or step-sister (each a "family member"); or

Diagram 4

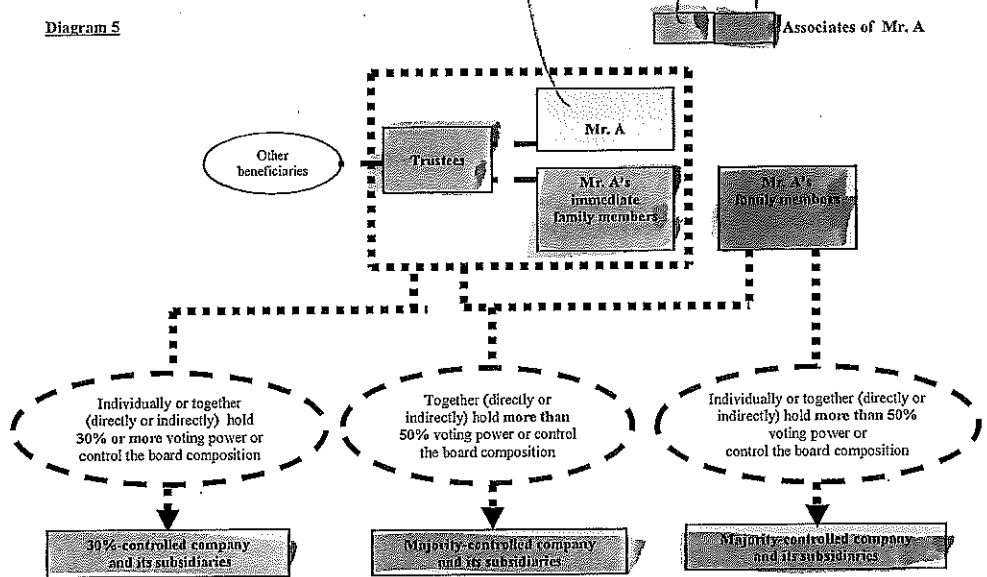


14A.11(4)(b)(ii),
14A.11(4) - N3

- (b) a majority-controlled company held, directly or indirectly, by the family members (individually or together), or held by the family members together with the individual, his immediate family members and/or the trustees, or any of its subsidiaries.

LD76-5,
FAQ Series 10
No. 12

Diagram 5



14A.10 An "associate" of a connected person described in rule 14A.05(1), (2) or (3) which is a company includes:

1.01 - (b)(i),
19A.04 - (b)(i)

(1) its subsidiary or holding company, or a fellow subsidiary of the holding company (together the "group companies");

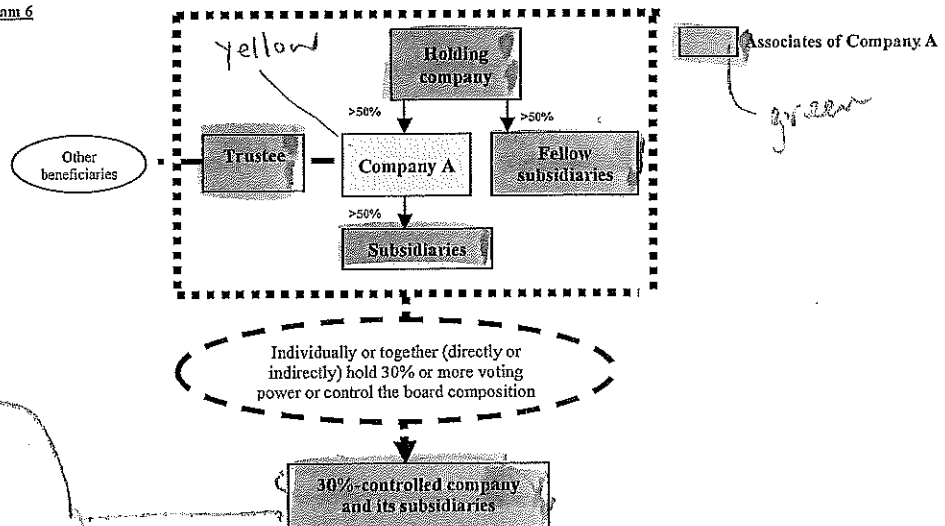
1.01 - (b)(ii),
19A.04 - (b)(ii)

(2) the trustees, acting in their capacity as trustees of any trust of which the company is a beneficiary or, in the case of a discretionary trust, is (to its knowledge) a discretionary object (the "trustees"); or

1.01 - (b)(iv),
19A.04 - (b)(iv)

(3) a 30%-controlled company held, directly or indirectly, by the company, the group companies, and/or the trustees (individually or together), or any of its subsidiaries.

Diagram 6



See
Comments
on page 114

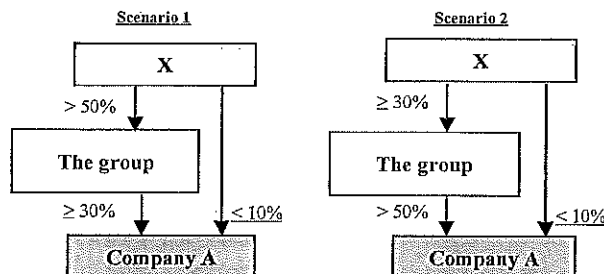
14A.11(4) – N1

LD100-1

14A.11 A company will not be regarded as a person's associate only because the person holds an interest in the company through his/its shareholding in the group. It will be regarded as an associate if the person and his/its associate(s) together have an interest in the company in addition to those held through the group of 10% or more.

Proposal C(3)

Diagram 7



• Company A is not an associate of X because X only has an indirect interest in it through the group

19A.04 - (b)(v)

14A.12 For PRC issuers only, a person's associates include any joint venture partner of a cooperative or contractual joint venture (whether or not it is a separate legal entity) where:

- (1) the person (being an individual), his immediate family members and/or the trustees; or
- (2) the person (being a company), its group companies and/or the trustees,

together directly or indirectly hold 30% (or an amount that would trigger a mandatory general offer or establish legal or management control over a business enterprise under the PRC law) or more in the joint venture's capital or assets contributions, or the contractual share of its profits or other income.

Diagram 8

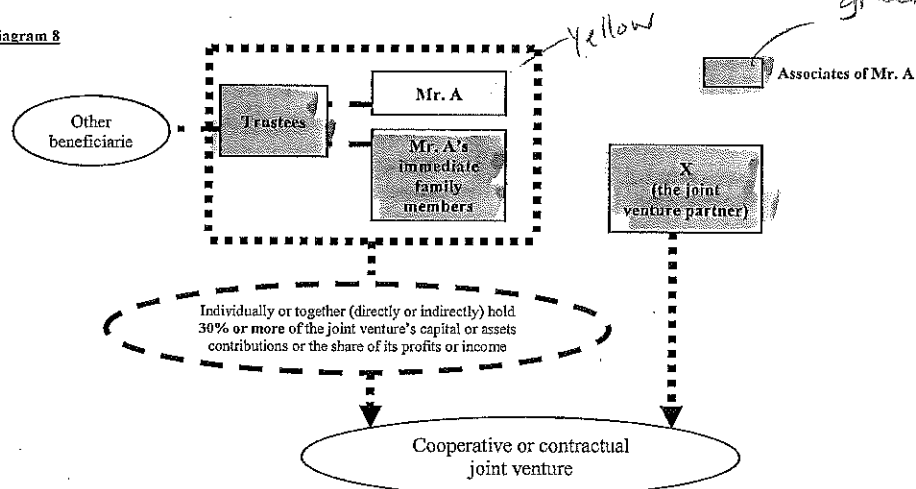
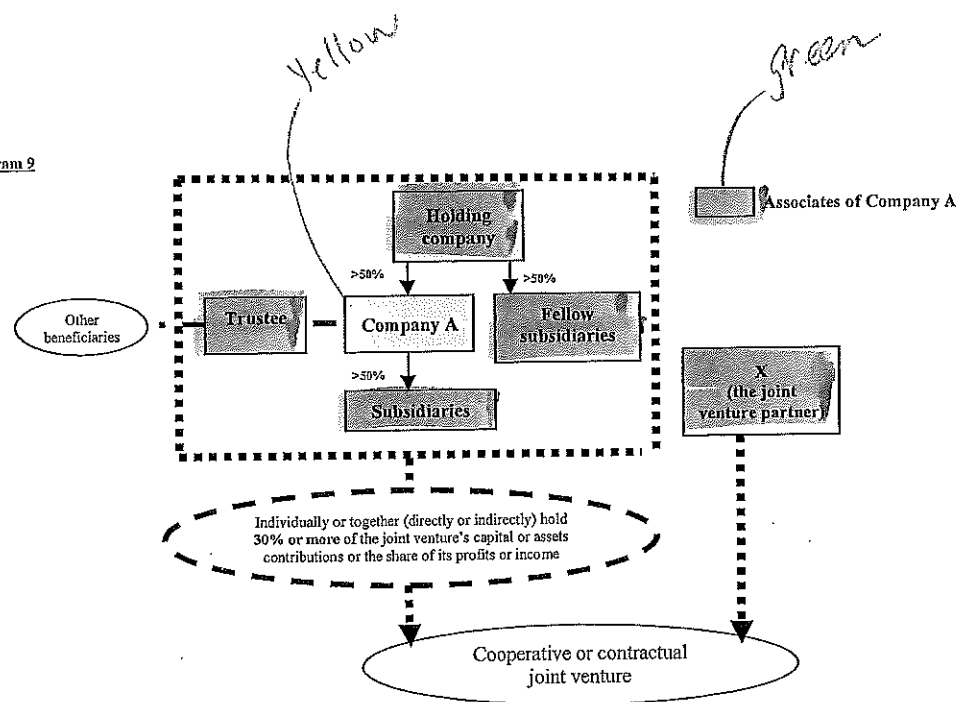


Diagram 9



Definition of connected subsidiary

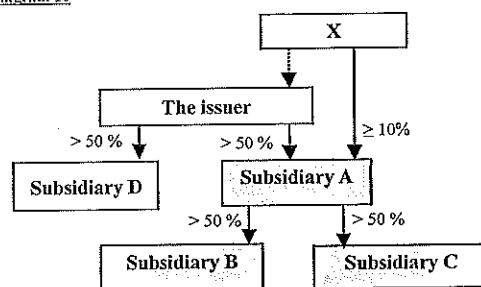
14A.13 A "connected subsidiary" is:

14A.11(5) (1) a non wholly-owned subsidiary of the issuer where any connected person(s) at the issuer level, individually or together, can exercise or control the exercise of 10% or more of the voting power at the subsidiary's general meeting. This 10% excludes any indirect interest in the subsidiary which is held by the connected person(s) through the issuer; or

14A.11(6) (2) any subsidiary of a non wholly-owned subsidiary referred to in (1) above.

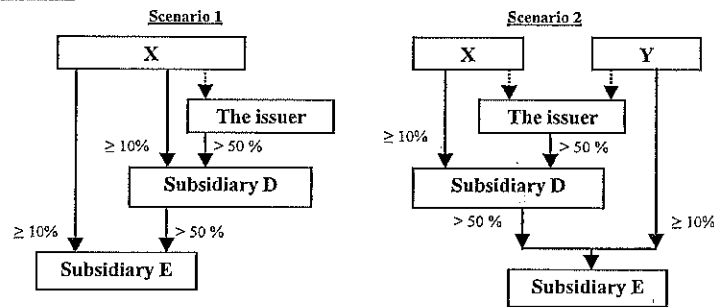
14A.31(1A) 14A.14 If an issuer's subsidiaries are connected persons only because they are the subsidiaries of a connected subsidiary, transactions between these subsidiaries will not be treated as connected transactions.

Diagram 10



- X is a connected person at the issuer level, and he/it has a 10% (or more) shareholding in Subsidiary A.
→ Subsidiary A is a connected subsidiary. (See rule 14A.13(1))
- Subsidiaries B and C are subsidiaries of Subsidiary A.
→ Subsidiaries B and C are also connected subsidiaries. (See rule 14A.13(2))
- Transactions between the issuer/Subsidiary D with Subsidiary A/B/C are connected transactions.
- Transactions between any of Subsidiaries A, B and C are not connected transactions if Subsidiaries B and C are connected solely because of their relationship with Subsidiary A. (See rule 14A.14)

Diagram 11

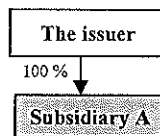


- X and Y are connected persons at the issuer level.
→ Subsidiaries D and E are connected subsidiaries.
- Subsidiary E is a subsidiary of Subsidiary D. However, the exemption in rule 14A.14 does not apply to transactions between them because Subsidiary E is a connected subsidiary not only because of its relationship with Subsidiary D but also its relationship with X or Y.

14A.15 A subsidiary of the issuer is not a connected person if:

- (1) it is wholly-owned by the issuer; or

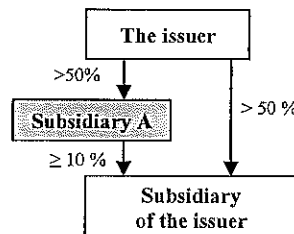
Diagram 12



- (2) it falls under the definition of connected person only because it is:

- (a) a substantial shareholder of another subsidiary of the issuer; or

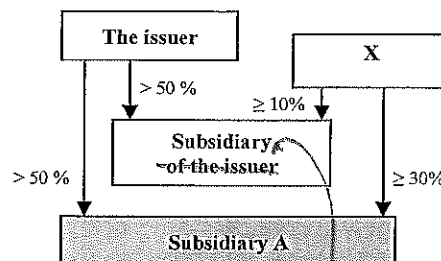
Diagram 13



- Subsidiary A is a substantial shareholder of another subsidiary of the issuer. However, this relationship will not make Subsidiary A a connected person of the issuer.

- (b) an associate of a director (or a person who was in past 12 months a director), a chief executive, a substantial shareholder or a supervisor of any subsidiary of the issuer.

Diagram 14



- X is a substantial shareholder of a subsidiary of the issuer.
- X holds 30% (or more) shareholding in Subsidiary A.
→ Subsidiary A is an associate of X. However, this relationship will not make Subsidiary A a connected person of the issuer because X is only a connected person at the subsidiary level.

Deemed connected persons

14A.06 14A.16 The Exchange has the power to deem any person to be an issuer's connected person.

14A.16A The Exchange will deem a person to be an issuer's connected person if the Exchange considers that:

✓
Proposal B

(1) he/it is a shadow director or de facto controlling shareholder of the issuer;
or

(2) he/it is accustomed to acting according to the directions or instructions of any connected person described in rules 14A.05(1) to (5).

14A.11(4)(a) 14A.17 A deemed connected person of an issuer includes a person:

(1) who has entered, or proposes to enter, into:

(a) a transaction with the group; and

(b) an agreement, arrangement, understanding or undertaking (whether formal or informal and whether express or implied) with a connected person described in rule 14A.05(1), (2) or (3) with respect to the transaction; and

(2) who, in the Exchange's opinion, should be considered as a connected person.

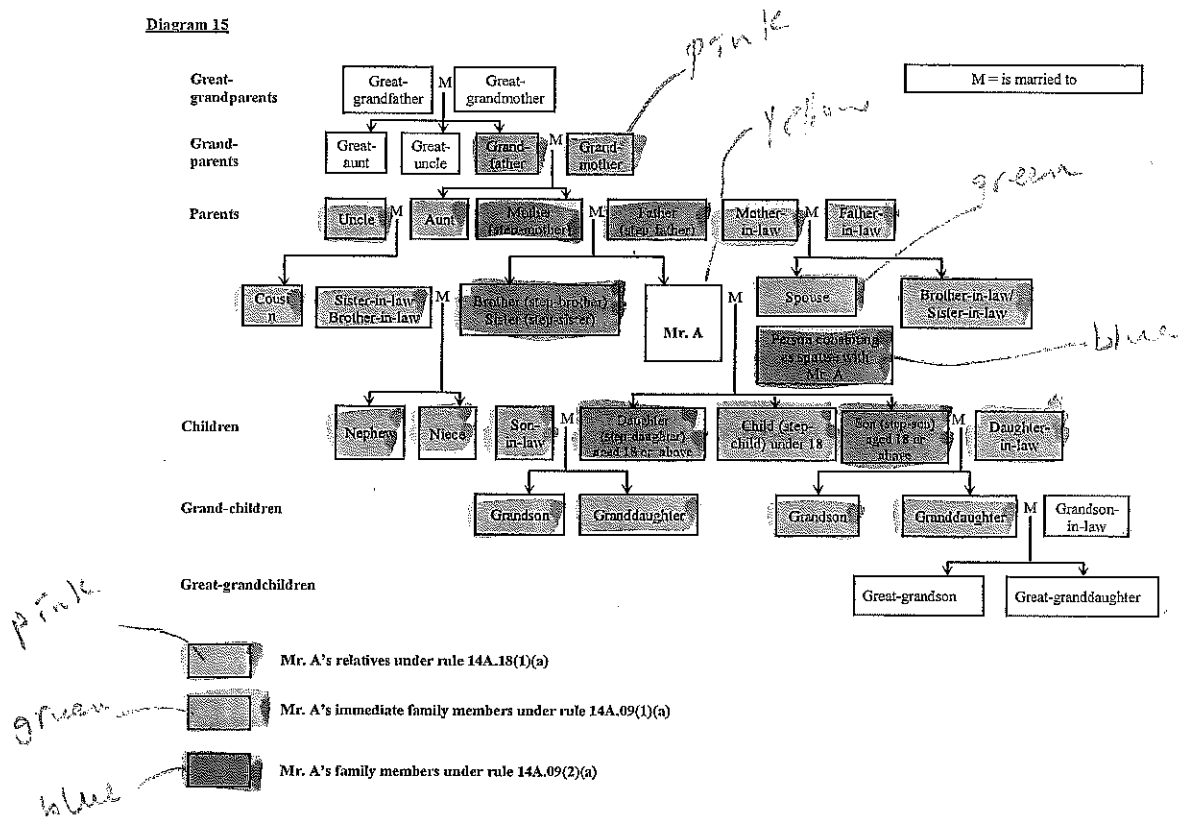
14A.18 A deemed connected person also includes a person:

(1) who is:

14A.11(4)(c)(i) (a) a father in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, uncle, aunt, cousin, nephew or niece (each a "relative") of a connected person as described in rule 14A.05(1), (2) or (3); or

14A.11(4)(c)(ii),

Diagram 15

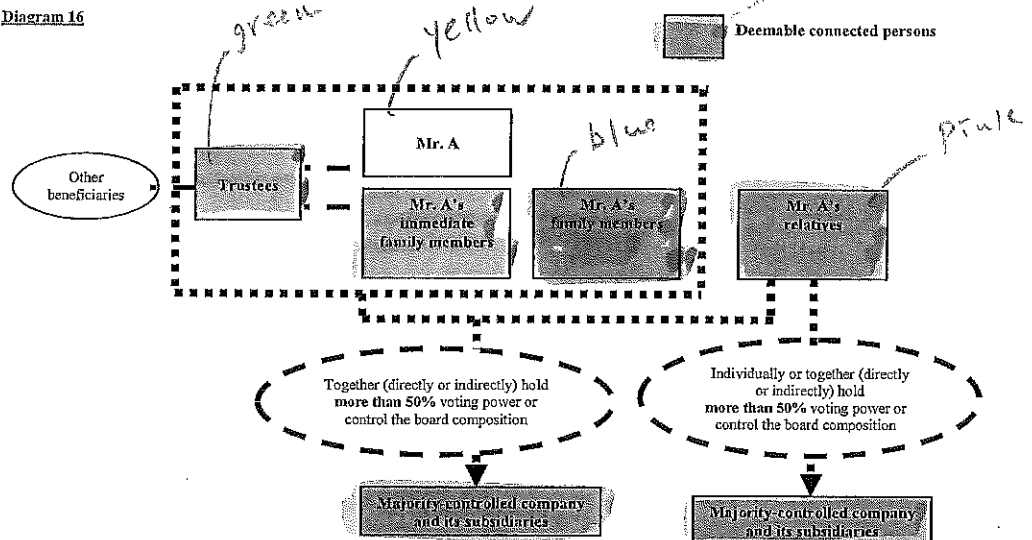


14A.11(4) – N3

LD76-5,
FAQ Series 10
No. 13

- (b) a majority-controlled company held, directly or indirectly, by the relatives (individually or together) or held by the relatives together with the connected person as described in rule 14A.05(1), (2) or (3), the trustees, his immediate family members and/or family members, or any subsidiary of that majority-controlled company; and

Diagram 16



- (2) whose association with the connected person is such that, in the Exchange's opinion, the proposed transaction should be subject to the connected transaction requirements.

14A.11(4)(c) 14A.19 The issuer must inform the Exchange of any proposed transaction with the person described in rule 14A.17(1) or 14A.18(1) unless it is exempt from all of the connected transaction requirements. It must provide information to the Exchange to demonstrate whether or not the transaction should be subject to connected transaction requirements.

Drafting
changes

WHAT ARE CONNECTED TRANSACTIONS

14A.20 Connected transactions include transactions with connected persons, and transactions with third parties that may confer benefits to connected persons through their interests in the entities involved in the transactions.

14A.10(13) 14A.21 "Transactions" include both capital and revenue nature transactions, whether or not conducted in the group's ordinary and usual course of business. This includes the following types of transactions:

- (1) any buying or selling of assets by a group including a deemed disposal;
- (2) (a) a group granting, accepting, exercising, transferring or terminating an option to buy or sell assets or to subscribe for securities; or

Note: Terminating an option is not a transaction if it is made under the terms of the original agreement and does not involve payment of any penalty, damages or other compensation by the group the group has no discretion over the termination.

Proposal G(2)

14A.10(13)(b),
14A.68

- (b) a group deciding not to exercise an option to buy or sell assets or to subscribe for securities;
- (3) entering into or terminating finance leases or operating leases;
- (4) providing or receiving financial assistance. "Financial assistance" includes granting credit, lending money, or providing an indemnity against obligations under a loan, or guaranteeing or providing security for a loan;
- (5) entering into an agreement or arrangement to set up a joint venture in any form (e.g. a partnership or a company), or any other form of joint arrangement;
- (6) issuing new securities of the issuer or its subsidiaries;
- (7) providing, receiving or sharing services; or
- (8) buying or selling raw materials, intermediate products and/or finished goods.

Transactions with connected persons

14A.13(1)(a),
14A.13(2)(a)(i),
14A.13(2)(b)(i) 14A.22 Any transaction between a group and a connected person is a connected transaction.

Financial assistance to/from commonly held entities

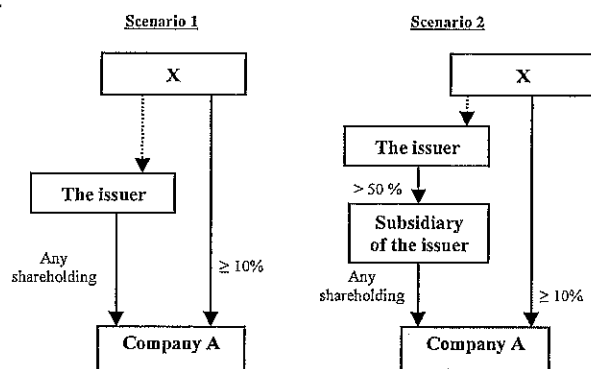
14A.13(2)(a)(ii),
14A.13(2)(b)(ii),
14A.13(3), (4)

14A.23 Financial assistance provided by a group to, or received by a group from, a commonly held entity is a connected transaction.

14A.24 A "commonly held entity" is a company whose shareholders include:

- (1) a member of the group; and
- (2) any connected person(s) at the issuer level who, individually or together, can exercise or control the exercise of 10% or more of the voting power at the company's general meeting. This 10% excludes any indirect interest held by the person(s) through the issuer.

Diagram 17



- X is a connected person at the issuer level
- Both the group and X are shareholders of Company A, and X holds 10% (or more) of shareholding in Company A.
→ Company A is a commonly held entity.
- Financial assistance provided by the group to, or received by the group from, Company A is a connected transaction.

Transactions with third parties

14A.13(1)(b)(i)

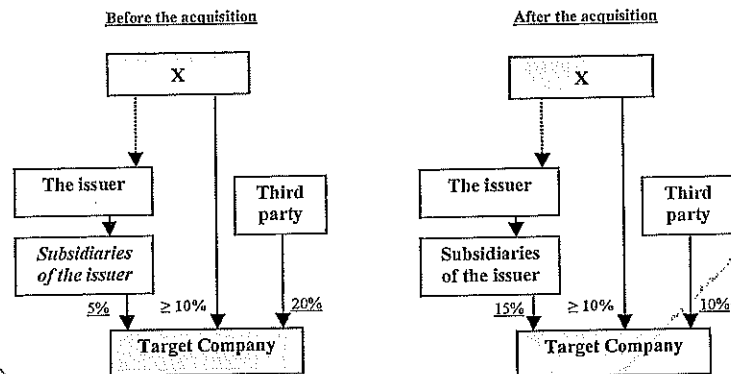
14A.25 A group buying or selling an interest in a company (the "target company") from or to a person who is not a connected person is a connected transaction if the target company's substantial shareholder:

- (1) is, or is proposed to be, a controller. A "controller" is a director, chief executive or controlling shareholder of the issuer or any of its subsidiaries; or
- (2) is, or will, as a result of the transaction, become, an associate of a controller or proposed controller.

Proposal E(b)

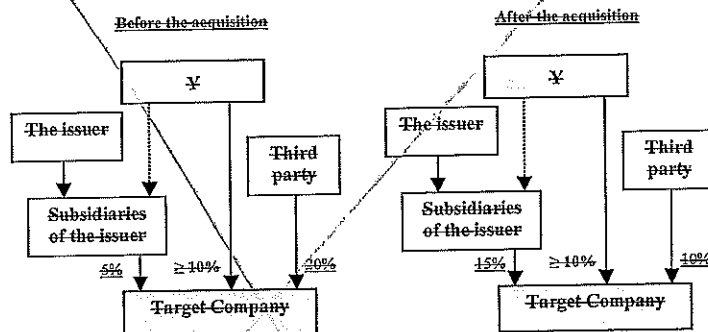
Proposal E(a)

Diagram 18



- X is a (proposed) controller of the issuer.
- X is a substantial shareholder of the Target Company.
- The group's acquisition of an interest in the Target Company from the third party is a connected transaction.
- The group's disposal of an interest in the Target Company to the Third Party or any other third party is also a connected transaction.

Diagram 19



- Y is a (proposed) controller of the issuer's subsidiary or subsidiaries.
- Y is a substantial shareholder of the Target Company.
- The group's acquisition of an interest in the Target Company from the Third Party is a connected transaction.
- The group's disposal of an interest in the Target Company to the Third Party or any other third party is also a connected transaction.

14A.13(1)(b)(i) 14A.26 The Exchange may aggregate the interests of the controller and his/its associates in the target company to decide whether they together are the target company's substantial shareholder.

14A.13(1)(b)(i) 14A.27 Buying or selling the target company's assets is also a connected transaction if these assets account for 90% or more of the target company's net assets or total assets.

Proposal E(b)

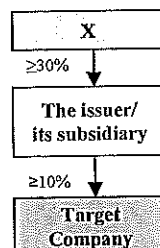
14A.28 Rule 14A.25 or 14A.27 does not apply to an issuer's proposed acquisition or disposal if:

Proposal E(b)

14A.13(1)(b)(i)
- N1, N2

- (1) — the controller or his/its associate(s) is/are together the target company's substantial shareholders only because of their indirect shareholdings in the target company held through the group; or

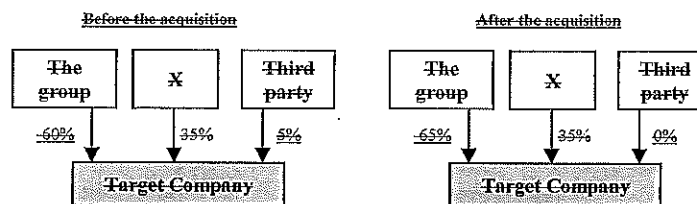
Diagram 20



- X is a controller of the issuer or its subsidiary or subsidiaries.
- X only has an indirect interest in the Target Company through the group.
- The group's acquisition or disposal of an interest in the Target Company from or to any third party (who is not a connected person) is not a connected transaction.

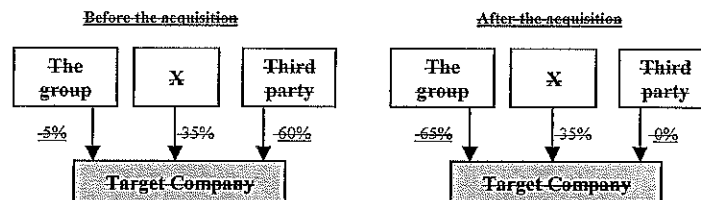
- (2) (a) the target company is, or will be, a subsidiary of the issuer;
- (b) the target company's substantial shareholder is a controller or proposed controller only because of his/its relationship with the target company; and
- (c) the substantial shareholder's interest in the target company does not increase (in the case of an acquisition) or change (in the case of a disposal) as a result of the proposed transaction or any related arrangement.

Diagram 21



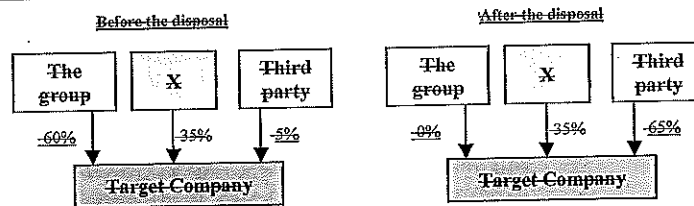
- The Target Company is a subsidiary of the issuer.
- X is a substantial shareholder of the Target Company.
- X is a controller of the group only because he is a controlling shareholder and/or director of the Target Company.
- There is no change in X's interest in the Target Company as a result of the transaction.
- The group's acquisition of an interest in the Target Company from the Third party (who is not a connected person) is not a connected transaction.

Diagram 22



- The Target Company will become a subsidiary of the issuer after the acquisition.
- X is a substantial shareholder of the Target Company.
- X will be a controller of the group only because he is, and will remain, a controlling shareholder and/or director of the Target Company.
- There is no change in X's interest in the Target Company as a result of the transaction.
- The group's acquisition of an interest in the Target Company from the third party (who is not a connected person) is not a connected transaction.

Diagram 23



- The Target Company is a subsidiary of the issuer.
- X is a substantial shareholder of the Target Company.
- X is a controller of the group only because he is a controlling shareholder and/or director of the Target Company.
- There is no change in X's interest in the Target Company as a result of the transaction.
- The group's disposal of an interest in the Target Company to the third party (who is not a connected person) is not a connected transaction.

14A.29 A transaction between a group and a person who is not a connected person is a connected transaction if it involves:

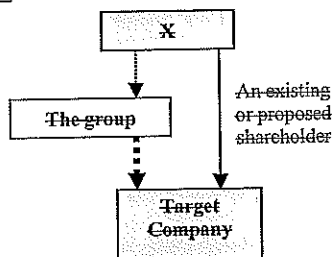
Proposal E(c)

14A.13(1)(b)(ii)

(1) the group acquiring an interest in a company (or an option to acquire such interest) of which the controller (or his/its associate) is, or will become, a shareholder, and the interest is:

- of a fixed income nature;
- shares to be acquired on less favourable terms than those granted to the controller or the associate;
- shares which are of a different class from those held or to be granted to the controller or the associate; or

Diagram 24



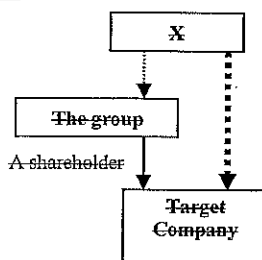
- X is a controller of the issuer or its subsidiary or subsidiaries.
- X is, or will become, a shareholder of the Target Company.
- The group proposes to acquire an interest in the Target Company which is (i) of a fixed income nature, (ii) on terms less favourable than those available to X, or (iii) shares of a different class from those held or to be acquired by X.
- The group's acquisition of the interest in the Target Company is a connected transaction.

14A.13(1)(b)(iii),
(iv)

(2) the controller (or his/its associate) subscribing for shares in a company of which the group is a shareholder, and

- the shares being subscribed are of a different class from those held by the group; or
- the shares are to be subscribed on specially favourable terms to the controller (or his/its associate).

Diagram 25



- X is a controller of the issuer or its subsidiary or subsidiaries
- The group is a shareholder of the Target Company.
- The group enters into a transaction with a third party which involves X subscribing for shares in the Target Company which are (i) of a different class from those held by the group; or (ii) to be subscribed on specially favourable terms to X
- The group's transaction with the third party is a connected transaction.

14A.13(1)(b)(ii), (iii), (iv) – N 14A.30 ~~Rule 14A.29 does not apply if the group and the controller (or his/its associate) acquire or subscribe for shares in a company where the terms of the acquisition or subscription have been approved by shareholders under this Chapter.~~

✓
Proposal E(c)

Definition of continuing connected transaction

14A.14 14A.31 Continuing connected transactions are connected transactions involving the provision of goods or services or financial assistance, which are carried out on a continuing or recurring basis and are expected to extend over a period of time. They are usually transactions in the group's ordinary and usual course of business.

REQUIREMENTS FOR CONNECTED TRANSACTIONS

14A.16, 14A.17 14A.32 This section sets out the requirements for connected transactions.

14A.33 Exemptions or waivers from all or some of the requirements are available for certain type of connected transactions. See rules 14A.74 to 14A.110A.

✗
Proposal F(1)

Written agreement

14A.04, 14A.35(1) 14A.34 The group must enter into a written agreement for a connected transaction.

14A.34A The issuer may apply for a waiver to enter into a written agreement if it meets the conditions described in rule 14A.110A.

✗
Proposal F(1)

Announcement

14A.47(2), 14A.56 14A.35 The issuer must announce the connected transaction as soon as practicable after its terms have been agreed. See rule 14A.70 for the content requirements.

Note: If the connected transaction is subsequently terminated or there is any material variation of its terms or material delay in the completion, the issuer must announce this fact as soon as practicable.

Shareholders' approval

14A.18, 14A.35(4), 14A.52, 14A.54 14A.36 The connected transaction must be conditional on shareholders' approval at a general meeting held by the issuer. Any shareholder who has a material interest in the transaction must abstain from voting on the resolution.

- 14A.43,
14A.53
- 14A.37 The Exchange may waive the general meeting requirement and accept a written shareholders' approval, subject to the conditions that:
- (1) no shareholder of the issuer is required to abstain from voting if a general meeting is held to approve the transaction; and
 - (2) the approval is given by a shareholder or a closely allied group of shareholders who (together) hold more than 50% of the voting rights in the general meeting.
- 14A.43 - N2
- 14A.38 If the issuer discloses inside information to any shareholder in confidence to solicit the written approval, it must ensure that the shareholder is aware that he must not deal in the securities before the information has been made available to the public.
- 14A.21
- 14A.39 If the connected transaction requires shareholders' approval, the issuer must (1) set up an independent board committee; and (2) appoint an independent financial adviser.

Independent board committee

- 14A.21,
13.39(6), (7)
- 14A.40 The independent board committee must, taking into account the recommendation of an independent financial adviser, advise the issuer's shareholders:
- (1) whether the terms of the connected transaction are fair and reasonable;
 - (2) whether the connected transaction is on normal commercial terms and in the group's ordinary and usual course of business;
 - (32) whether the connected transaction is in the interests of the issuer and its shareholders as a whole; and
 - (43) how to vote on the connected transaction.

Proposal H

- 13.39(6)(c)
- 14A.41 The independent board committee should consist only of independent non-executive directors who do not have a material interest in the transaction.
- 13.39(6)(c),
14A.58 - N
- 14A.42 If all the independent non-executive directors have a material interest in the transaction, an independent board committee will not be formed. The independent financial adviser must then make its recommendation to the shareholders directly.
- 14A.58(3)(c),
13.39(7)(a)
- 14A.43 If an independent board committee is formed, the circular should include a letter from the independent board committee containing its opinion and recommendation.

Independent financial adviser

- 13.39(6)(b),
14A.21,
14A.23
- 14A.44 The issuer must appoint an independent financial adviser acceptable to the Exchange to make recommendations to the independent board committee and shareholders on the matters in rules 14A.45(1) to (4). The independent financial adviser will give its opinion based on the written agreement for the transaction.

Independent

Requirements for continuing connected transactions

14A.51 The following additional requirements apply to a continuing connected transaction.

Terms of an agreement

14A.35(1) 14A.52 A written agreement for a continuing connected transaction must contain the basis for calculating the payments to be made. Examples include sharing of costs incurred by the parties, unit prices for goods or services provided, annual rental for leasing a property, or management fees based on a percentage of the total construction cost.

14A.35(1) 14A.53 The period for the agreement must be fixed and reflect normal commercial terms. It must not exceed 3 years except in special circumstances where the nature of the transaction requires a longer period. In this case, the issuer must appoint an independent financial adviser to explain why the agreement requires a longer period and to confirm that it is normal business practice for agreements of this type to be of such duration.

LD88-1,
FAQ Series 7
No.49 and 50

Annual cap

14A.54 The issuer must set an annual cap (the "cap") for the continuing connected transaction. The cap must be:

14A.35(2)

LD88-1

(1) (a) expressed in monetary terms; or

(b) as a percentage of the issuer's annual revenue or other financial items in its published accounts. This option only applies to continuing connected transactions of a revenue nature in the issuer's ordinary and usual course of business;

Proposal F(2)

14A.35(2)

(2) determined by reference to previous transactions and figures in the group's published information. If there were no previous transactions, the cap must be set based on reasonable assumptions; and

14A.52

(3) approved by shareholders if the transaction requires shareholders' approval.

Independent

Changes to annual cap or terms of agreement

14A.36

FAQ Series 7
No. 52

14A.55 The issuer must re-comply with the announcement and shareholders' approval requirements before:

(1) the cap is exceeded; or

(2) it proposes to renew the agreement or to effect a material change to its terms.

Note: The revised or new cap(s) will be used to calculate the percentage ratios for classifying the continuing connected transaction.

Annual review by independent non-executive directors and auditors

- | | | |
|--------|--------|--|
| 14A.37 | 14A.56 | <p>The issuer's independent non-executive directors must review the continuing connected transactions every year and confirm in the annual report whether the transactions have been entered into:</p> <ol style="list-style-type: none"> (1) in the group's ordinary and usual course of business; (2) on normal commercial terms; and (3) according to the agreement governing them on terms that are fair and reasonable and in the interests of the issuer's shareholders as a whole. |
| 14A.38 | 14A.57 | <p><u>The issuer must engage its auditors to report on the continuing connected transaction every year. The auditors must provide a letter to the issuer's board of directors confirming whether anything has come to their attention that causes them to believe that the continuing connected transactions:</u></p> <ol style="list-style-type: none"> (1) have <u>not</u> been approved by the issuer's board of directors; (2) <u>were not, in all material respects, in accordance</u> are in compliance with the group's pricing policies if the transactions involve provision of goods or services by the group; (3) <u>were not entered into, in all material respects, are in</u> are in accordance with the <u>relevant</u> agreement governing the transactions; and (4) have not exceeded the cap <u>(if applicable)</u>. <p><i>Note: A confirmation provided by the auditors according to Practice Note 740 issued by the Hong Kong Institute of Certified Public Accountants is acceptable under this rule.</i></p> |
| 14A.38 | 14A.58 | <p>The issuer must provide a copy of the auditors' letter to the Exchange at least 10 business days before the bulk printing of its annual report.</p> |
| 14A.39 | 14A.59 | <p>The issuer must allow, and ensure that the counterparties to the continuing connected transactions allow, the auditors sufficient access to their records for the purpose of reporting on the transactions.</p> |
| 14A.40 | 14A.60 | <p>The issuer must promptly notify the Exchange and publish an announcement if the independent non-executive directors and/or the auditors cannot confirm the matters as required. The Exchange may require the issuer to re-comply with the announcement and shareholders' approval requirements and may impose additional conditions.</p> |



Proposal F(3)

When a continuing transaction subsequently becomes connected

14A.61 If the group has entered into an agreement with fixed terms for:

- 14A.41 (1) a continuing transaction, and the transaction subsequently becomes a continuing connected transaction, or
- 14A.33 – N2 (2) a continuing connected transaction exempt under the “insignificant subsidiary exemption” (see rules 14A.98 to 14A.101) or the “passive investor exemption” (see rules 14A.102 and 14A.103), and the transaction subsequently cannot meet the conditions for the exemption,

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Proposal C(1)

the issuer must:

- (a) as soon as practicable after becoming aware of this fact, comply with the annual review and disclosure requirements including publishing an announcement and annual reporting if the group continues to conduct the transaction under the agreement; and
- (b) when the agreement is renewed or its terms are varied, comply with all connected transaction requirements.

Other requirements relating to connected transactions

Options

14A.62 If the group grants an option to a connected person and the group does not have discretion to exercise the option, the transaction is classified as if the option has been exercised (see rule 14A.80(1)). In addition, the issuer must announce the following subsequent events as soon as practicable:

- 14A.69(2), (3)(c) (1) any exercise or transfer of the option by the option holder; and/or
- 14A.69(3)(a), (b) (2) (if the option is not exercised in full), the option holder notifying the group that it will not exercise the option, or the expiry of the option, whichever is earlier.

Guaranteed profits or net tangible assets

14A.57, 14A.59(10) 14A.63 The following apply if the group acquires a company or business from a connected person, and the connected person guarantees the profits or net tangible assets or other matters regarding the financial performance of the company or business.

14A.57, 14A.59(10) 14A.64 If the actual amount is less than the amount guaranteed, the issuer must disclose the following in an announcement and in its next annual report:

- (1) the shortfall and any adjustment in the consideration for the transaction;
- (2) whether the connected person has fulfilled its obligations under the guarantee;
- (3) whether the group has exercised any option to sell the company or business back to the connected person or other rights it held under the terms of the guarantee, and the reasons for its decision; and

- 14A.73 When the issuer discloses in its annual report information of any related party transaction under the accounting standards for preparing its financial statements, it must specify whether the transaction is a connected transaction under this Chapter and whether it has complied with the requirements in this Chapter.

EXEMPTIONS

- 14A.74 Exemptions from the connected transaction requirements are available for the following types of transactions:

- (1) de minimis transactions (rule 14A.77);
- (2) financial assistance (rules 14A.88 to 14A.91A);
- (3) issues of new securities by the issuer or its subsidiary (rule 14A.92);
- (4) dealings in securities on stock exchanges (rule 14A.93);
- (5) repurchases of securities by the issuer or its subsidiary (rule 14A.94);
- (6) directors' service contracts and insurance (rules 14A.95 and 14A.95A);
- (7) buying or selling of consumer goods or services (rules 14A.96);
- (8) sharing of administrative services (rule 14A.97);
- (9) ~~transactions with persons connected with insignificant subsidiaries (rules 14A.98 to 14A.101);~~
~~transactions with connected persons at the subsidiary level (rules 14A.101A and 14A.101B);~~
- (10) transactions with associates of passive investors (rules 14A.102 and 14A.103); and
- (11) qualified property acquisitions (rules 14A.104 to 14A.106).

Proposal K

Proposal K

Proposal C(1)

Proposal A(2)

- 14A.75 The exemptions are broadly divided into two categories: (1) fully exempt from shareholders' approval, annual review and all disclosure requirements; and (2) exempt from shareholders' approval requirement.

- 14A.76 The Exchange has the power to specify that an exemption will not apply to a particular transaction.

14A.70(1) (2) if the group acquires or accepts an option granted by a connected person where the group has discretion to exercise the option, it is classified based on the amount of the premium payable by the group. However, if the premium represents 10% or more of the sum of the premium and the exercise price, the transaction will be classified as if the option has been exercised (see rule 14A.80(1));

14A.70(2) (3) if the group exercises an option granted by a connected person, it is classified based on the exercise price, the value of the underlying assets, and the revenue attributable to the assets. If the option is exercised in stages, the Exchange may require aggregation of the transactions;

14A.70(3) (4) if the group transfers an option granted by a connected person to a third party, terminates the option or decides not to exercise the option;

✓
Proposal G(2)

(a) it is classified as if the option has been exercised. The percentage ratios are calculated based on the exercise price, the value of the underlying assets, and the revenue attributable to the assets, and (if applicable) the premium for transferring the option, or the amount receivable or payable by the group for terminating the option;

(b) the Exchange may allow the issuer to disregard the percentage ratios calculated under paragraph (a) above and to classify the transaction using the asset and consideration ratios calculated based on the higher of:

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Proposals
G(1) and G(2)

(i) the difference between the exercise price and the value of the assets subject to the option; and

(ii) any amount payable or receivable by the group.

These alternative tests would be allowed only if the assets' valuation is provided by an independent expert using generally acceptable methodologies, and the issuer's independent non-executive directors and an independent financial adviser have confirmed that the transfer, termination or non-exercise of the option is fair and reasonable and in the interests of the issuer and its shareholders as a whole. In any event, the issuer must announce the transfer, termination or non-exercise of the option with the views of the independent non-executive directors and the independent financial adviser; and

14A.71 (5) if the actual monetary value of the premium, the exercise price, the value of the underlying assets and the revenue attributable to the assets have not been determined when the group grants or acquires/accepts the option:

(a) the issuer must demonstrate to the Exchange's satisfaction the highest possible monetary value for calculating the percentage ratios and classifying the transaction. If the issuer is unable to do so, it may be required to comply with all the connected transaction requirements for the transaction; and

(b) the issuer must inform the Exchange when the actual monetary value has been determined. If the transaction falls under a higher classification based on the actual monetary value, the issuer must as soon as reasonably practicable announce this fact and comply with the requirements applicable to the higher classification.

Note: The requirements in this rule are the same as the requirements applicable to options under Chapter 14 (notifiable transactions), except that

1. *Under Chapter 14, the issuer may, at the time of the group acquiring or accepting an option granted by a third party, seek shareholders' approval for its exercise of the option in the future. This is not allowed under this Chapter.*
2. *Under Chapter 14, transfer or termination of an option by the group is a transaction which is classified based on the consideration for transferring the option or the amount receivable or payable by the group. Under this Chapter, the transfer or termination is classified as if the option is exercised.*
3. *Non-exercise of an option is not a transaction under Chapter 14.*

Proposals
G(1) and G(2)

Exception to percentage ratio calculations

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- 14A.81 If any percentage ratio produces an anomalous result or is inappropriate to the activity of the issuer, the Exchange may disregard the ratio and consider alternative test(s) provided by the issuer. The issuer should seek prior consent of the Exchange if it wishes to apply this rule.

Aggregation of transactions

- 14A.25 14A.82 The Exchange will aggregate a series of connected transactions and treat them as if they were one transaction if they were all entered into or completed within a 12-month period or are otherwise related. The issuer must comply with the applicable connected transaction requirements based on the classification of the connected transactions when aggregated. The aggregation period will cover 24 months if the connected transactions are a series of acquisitions of assets being aggregated which may constitute a reverse takeover.

- 14A.26 14A.83 Factors that the Exchange will consider for aggregation of a series of connected transactions include whether:

- (1) they are entered into by the group with the same party, or parties who are connected with one another;
- (2) they involve the acquisition or disposal of parts of one asset, or interests in a company or group of companies; or
- (3) they together lead to substantial involvement by the group in a new business activity.

- 14A.27 14A.84 The Exchange may aggregate all continuing connected transactions with a connected person.

- 14A.27A 14A.85 An issuer must consult the Exchange before the group enters into any connected transaction if:

- (1) the transaction and any other connected transactions entered into or completed by the group in the last 12 months fall under any of the circumstances described in rule 14A.83; or
- (2) the transaction and any other transactions entered into by the group involve the acquisition of assets from a person or group of persons or any

- 14A.65(3) 14A.90 Financial assistance provided by a group to a connected person or commonly held entity is fully exempt if it is conducted:
- (1) on normal commercial terms (or better to the group); and
 - (2) in proportion to the equity interest directly held by the issuer or its subsidiary in the connected person or the commonly held entity. Any guarantee given by the group must be on a several (and not a joint and several) basis.

Financial assistance received by the group

- 14A.65(4) 14A.91 Financial assistance received by a group from a connected person or commonly held entity is fully exempt if:
- (1) it is conducted on normal commercial terms (or better to the group); and
 - (2) it is not secured by the group's assets.

The group providing indemnity for a director

14A.91A Providing an indemnity for a director of the issuer or its subsidiaries is fully exempt if:

- (1) the indemnity is for liabilities that may be incurred in the course of the director performing his duties; and
- (2) the indemnity is in a form permitted under the laws of the jurisdictions where the company providing the indemnity is incorporated.

Issue of new securities by an issuer or its subsidiary

14A.92 An issue of new securities by an issuer or its subsidiary to a connected person is fully exempt if:

- 14A.31(3)(a) (1) the connected person receives a pro rata entitlement to the issue as a shareholder;
- (2) the connected person subscribes for the securities in a rights issue or open offer:
 - 14A.31(3)(c) – N2 (a) through excess application (see rule 7.21(1) or 7.26A(1)); or
 - 14A.31(3)(c) (b) in his/its capacity as an underwriter or sub-underwriter of the rights issue or open offer, and rule 7.21 or 7.26A (arrangements to dispose of any excess securities) has been complied with. In this case, the listing document must contain the terms and conditions of the underwriting arrangement;
 - 14A.31(3)(c) – N1

Note: Any commission and fees payable by the group to the connected person for the underwriting arrangement are not exempt under this exemption.

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Proposal K

Repurchases of own securities

- 14A.31(5) 14A.94 Repurchases of own securities by an issuer or its subsidiary from a connected person is fully exempt if it is made:
- (1) on the Exchange or a recognised stock exchange, except where the connected person knowingly sells the securities to the group; or
 - (2) in a general offer made under the Code on Share Repurchases.

Service contracts and insurance for directors

- 14A.31(6) 14A.95 A director entering into a service contract with the issuer or its subsidiary is fully exempt.

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- 14A.95A Purchase and maintenance of insurance for a director of the issuer or its subsidiaries against liabilities to third parties that may be incurred in the course of performing his duties are fully exempt if it is in the form permitted under the laws of the jurisdictions where the company purchasing the insurance is incorporated.

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Proposal K

Buying or selling consumer goods or consumer services

- 14A.31(7), 14A.33(1) 14A.96 A group buying consumer goods or services as a customer from, or selling consumer goods or services to, a connected person on normal commercial terms in the ordinary and usual course of business is fully exempt if it meets the following conditions:

- (1) the goods or services must be of a type ordinarily supplied for private use or consumption;
- (2) they must be for the buyer's own consumption or use, and not be:
 - (a) processed into the buyer's products, or for resale; or
 - (b) used by the buyer for any of its businesses or contemplated businesses. This condition does not apply if the group is the buyer and there is an open market and transparency in the pricing of the goods or services;
- (3) they must be consumed or used by the buyer in the same state as when they were bought; and
- (4) ~~the total consideration or value of the goods or services must be less than 1% of the group's total revenue or total purchases, as published in its latest audited accounts; and~~
- (45) the transaction must be made on no more favourable terms to the connected person, or no less favourable terms to the group than those available from independent third parties.

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Proposal J

Note: Examples of consumer goods and services are:

- (1) Meals consumed by a director at a restaurant owned by the group.
- (2) A director buying groceries for his own use at a retail store operated by the group.
- (3) Utilities provided by the group to a director's apartment.

- (4) *Utilities provided by a connected person to the group where the prices are published or publicly quoted and apply to other independent consumers.*

Shared administrative services

14A.31(8),
14A.33(2)

- 14A.97 Administrative services shared between the group and a connected person on a cost basis are fully exempt, provided that the costs are identifiable and are allocated to the parties involved on a fair and equitable basis.

Note: Examples of shared administrative services are shared secretarial, legal and staff training services.

Transactions with persons connected with insignificant subsidiaries

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Proposal C(1)

14A.31(9),
14A.33(4)

- 14A.98 A connected transaction on normal commercial terms is fully exempt if it meets the following conditions:

- (1) ~~it is a connected transaction because it involves a person who is connected solely because of his/its relationship with the issuer's insignificant subsidiary/subsidiaries; and~~
- (2) ~~the consideration ratio of the transaction is less than 10%. This condition applies only if:~~
- ~~(a) the subsidiary (or any of its subsidiaries) is a party to the transaction, or the securities or assets of the subsidiary (or any of its subsidiaries) are the subject of the transaction; and~~
- ~~(b) the transaction is of a capital nature.~~

14A.31(9),
14A.33(4)

- 14A.99 An "insignificant subsidiary" is the issuer's subsidiary whose total assets, profits and revenue are less than:

- (1) ~~10% under the percentage ratios for each of the latest three financial years (or if less, the period since the incorporation or establishment of the subsidiary); or~~
- (2) ~~5% under the percentage ratios for the latest financial year.~~

- 14A.100 ~~If the person is connected with two or more subsidiaries of the issuer, the Exchange will aggregate the subsidiaries' total assets, profits and revenue to determine whether they are together "insignificant subsidiaries" of the issuer.~~

- 14A.101 ~~When calculating the percentage ratios, 100% of the subsidiaries' total assets, profits and revenue will be used. If the percentage ratio produces an anomalous result, the Exchange may disregard the calculation and consider alternative test(s) provided by the issuer.~~

Transactions with connected persons at the subsidiary level

- 14A.101A A connected transaction between the group and a connected person at the subsidiary level on normal commercial terms is exempt from the circular (including independent financial advice) and shareholders' approval requirements.

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Proposal
A(2)(a)

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14A.101B A connected transaction between the group and a connected person at the subsidiary level on normal commercial terms is fully exempt if:

Proposal
A(2)(b)

- (1) the transaction is a connected transaction only because of the person's relationship with the issuer's subsidiary/subsidiaries; and
- (2) the subsidiary (or any of its subsidiaries) is not a party to the transaction.

Transactions with associates of passive investors

14A.31(10),
14A.33(5)

14A.102 A connected transaction conducted between the group and an associate of a passive investor is fully exempt if it meets the following conditions:

- (1) the passive investor is a connected person only because it is a substantial shareholder of the issuer and/or any of its subsidiaries;
- (2) the passive investor
 - (a) is not a controlling shareholder of the issuer or its subsidiaries;
 - (b) does not have any representative on the board of directors of the issuer or its subsidiaries, and is not involved in the management of the group, including any influence over the group's management through negative control (e.g. its veto rights) on material matters of the group;
 - (c) is independent of the directors, chief executive, controlling shareholder(s) and any other substantial shareholder(s) of the issuer or its subsidiaries; and
- (3) the transaction is of a revenue nature in the group's ordinary and usual course of business, and conducted on normal commercial terms.

14A.103 A "passive investor" is a substantial shareholder of the issuer and/or any of its subsidiaries that:

- (1) is a sovereign fund, or a unit trust or mutual fund authorised by the Securities and Futures Commission or an appropriate overseas authority; and
- (2) has a wide spread of investments other than the securities of the group and the associate that enters into the transaction with the group.

Qualified property acquisitions

14A.72

14A.104 The formation of a joint venture by a qualified issuer and a qualified connected person to make a qualified property acquisition is exempt from shareholders' approval requirements if:

- (1) the project will be single purpose, relating to the acquisition and/or development of a specific property, and consistent with the purpose specified in the auction or tender document;
- (2) the joint venture arrangement is on an arm's length basis and on normal commercial terms;
- (3) the joint venture agreement contains clause(s) to the effect that the joint venture may not, without its partners' unanimous consent:

**Provision of guarantees to connected subsidiaries or commonly held entities
for public sector contracts awarded by tender**

- 14A.42(2) 14A.109 The Exchange may waive all or some of the connected transaction requirements for a joint and several guarantee or indemnity provided by the group to a third party creditor for the obligations of a connected subsidiary or a commonly held entity if:
- (1) the guarantee/indemnity is required for a government or public sector contract awarded by tender;
 - (2) each of the other shareholders of the connected subsidiary or commonly held entity has given a similar joint and several guarantee or indemnity to the third party creditor; and
 - (3) each of the other shareholders of the connected subsidiary or commonly held entity has agreed to indemnify the group for the liability guaranteed, or indemnified at least in proportion to its equity interest in the subsidiary or entity. The issuer must satisfy the Exchange that such shareholder indemnity is sufficient.

Continuing connected transactions of new applicants

- 14A.42(3) 14A.110 The Exchange may waive the announcement, circular and shareholders' approval requirements for continuing connected transactions entered into by a new applicant or its subsidiaries. The new applicant must disclose in the listing document its sponsor's opinion on whether the transactions are in the group's ordinary and usual course of business, on normal commercial terms, are fair and reasonable and in the interests of the shareholders as a whole.

Written agreement for continuing connected transactions

14A.110A The Exchange may waive the requirement under rule 14A.34 if the issuer can demonstrate to the Exchange's satisfaction that it is impracticable or unduly burdensome for the group to enter into a written agreement for continuing connected transactions. Factors which the Exchange will consider include the issuer's relationship with the connected person and the nature of the continuing connected transactions including whether they are of a revenue nature in the group's ordinary and usual course of business and the frequency or regularity of transactions. The issuer must satisfy the following conditions:

- (1) the issuer must seek a mandate for the transactions from its shareholders (or from its board if the transactions are exempt from the shareholders' approval requirement);
- (2) the mandate period must not exceed 3 years;
- (3) the issuer must comply with all the connected transaction requirements which are applicable to continuing connected transactions conducted under a written agreement. The issuer's announcement and, if applicable, circular must disclose the terms of the mandate which must include a framework for determining the terms of the transactions; and
- (4) the issuer must re-comply with the announcement and shareholders' approval requirements if it proposes to renew the mandate or effect a material change to its terms.

Proposal (1)

DEFINITIONS

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- 14A.10(13)(a) (13) a "**deemed disposal**" has the meaning in rule 14.29;
- (14) a company is "**directly held**" by an individual or an entity means that the individual or the entity has a direct ownership interest in the company;
- (15) a "**family member**" has the meaning in rule 14A.09(2)(a);
- (16) "**financial assistance**" has the meaning in rule 14A.21(4);
- (17) "**financial assistance provided in the ordinary and usual course of business**" means financial assistance provided by a banking company;
- 14A.10(6), (7) (18) a "**group**" means an issuer and its subsidiaries, or any of them;
- (19) an "**immediate family member**" has the meaning in rule 14A.09(1)(a);
- (20) a company is "**indirectly held**" by an individual or an entity means that the individual or the entity has an indirect ownership interest in the company through (in the case of an individual) his majority controlled company/ companies or (in the case of an entity) its subsidiary/ subsidiaries;
- (21) an "**insignificant subsidiary**" or "**insignificant subsidiaries**" has the meaning in rule 14A.06A-14A.99 to 14A.104; Proposal C(1)
- 14A.10(6), (7) (22) an "**issuer**" means a company or other legal person whose securities (including depositary receipts) are listed;
- (23) a "**majority-controlled company**" means a company held by a person who can exercise or control the exercise of more than 50% of the voting power at general meetings, or control the composition of a majority of the board of directors;
- (24) "**material interest**" in a transaction has the meaning in rules 2.15 and 2.16;
- (25) a "**monetary advantage**" has the meaning in rule 14.12;
- 14A.10(8) (26) "**normal commercial terms**" are terms which a party could obtain if the transaction were on an arm's length basis or terms no less favourable to the group than terms available to or from independent third parties;
- 14A.67 (27) an "**option**" and terms related to it (including "**exercise price**", "**premium**" and "**expiration**") have the meaning in rule 14.72;
- 14A.10(9) (28) "**ordinary and usual course of business**" of an entity means the entity's existing principal activities or an activity wholly necessary for its principal activities;