

Consultation Conclusions

# Codification of General Waivers and Principles Relating to IPOs and Listed Issuers and Minor Rule Amendments



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## **Consultation Conclusions Paper**

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CONSULTATION CONCLUSIONS

CODIFICATION OF GENERAL WAIVERS AND PRINCIPLES RELATING TO IPOS  
AND LISTED ISSUERS AND MINOR RULE AMENDMENTS

AUGUST 2020

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## DEFINITIONS

TERM	DEFINITION
“Application Proof”	A draft listing document that is required to be substantially complete and is submitted to the Exchange by a new applicant together with a listing application form for listing its equity securities
“Co. Sec Proposal”	Proposal #11 in the Consultation Paper to codify the factors considered by the Exchange in granting a waiver in respect of the experience and qualification requirements of a company secretary under Main Board Rule 3.28
“Companies Ordinance”	Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32 of the laws of Hong Kong)
“Consultation Paper”	The consultation paper on “ <i>Codification of General Waivers and Principles Relating to IPOs and Listed Issuers and Minor Rule Amendments</i> ” (August 2019)
“GEM”	GEM of the SEHK
“GEM Rules”	The Listing Rules Governing the Listing of Securities on GEM
“General Waiver”	A waiver from the Rules with general effect approved by the SFC pursuant to Main Board Rule 2.04 (GEM Rule 2.07)
“General Principle”	A waiver which has been granted on multiple occasions to new applicants and/ or listed issuers on the basis of similar principles and conditions
“Exchange” or “SEHK”	The Stock Exchange of Hong Kong Limited
“HKEX”	Hong Kong Exchanges and Clearing Limited
“HKMA”	Hong Kong Monetary Authority
“IPO”	Initial public offering
“Main Board”	The main board of the SEHK
“Main Board Rules”	The Listing Rules Governing the Listing of Securities on Main Board
“Professional Accountants Ordinance”	Professional Accountants Ordinance (Cap. 50 of the laws of Hong Kong)
“Rules”	Collectively, the Main Board Rules and the GEM Rules
“SFC”	Securities and Futures Commission

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## EXECUTIVE SUMMARY

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1. This paper presents the results of the consultation conducted by SEHK on 19 proposed codifications comprising of (a) three General Waivers in relation to new applicants and listed issuers, the basis and conditions for which are unlikely to change or evolve in the foreseeable future; (b) nine General Principles; and (c) seven minor Rule amendments. The Consultation Paper also included certain housekeeping Rule amendments. The consultation period ended on 27 September 2019.
2. We received a total of 351 responses from professional bodies, market practitioners, issuers, industry associations, individuals and other entities. For all of the 19 proposals in the Consultation Paper except for the Co. Sec Proposal, strong support was received from institutional respondents with an average support rate of 96%, while the support rate from individual respondents ranged from 12% to 41%. Please see Appendix I for a summary of conclusions on the 19 proposals.
3. We have performed a quantitative analysis to determine the level of support for the proposals. Please see Appendix II for a summary result of our quantitative analysis of the responses. We also performed a qualitative analysis to give due consideration to the broad spectrum of respondents and their views. This enables due weight to be given to (a) responses submitted by institutions on behalf of multiple persons; and (b) respondents' positions that are supported by a reasoned explanation.
4. After carefully considering each respondent's view and opinion, we will adopt all the proposals outlined in the Consultation Paper, with the exception of the Co. Sec Proposal. The proposed amendments to Main Board Rules and GEM Rules are set out in Appendix III and Appendix IV, respectively. For some of the proposals adopted, we have included clarifications in the relevant Rules in response to some respondents' comments.
5. Main Board Rule 3.28 requires issuers to appoint individuals with the requisite knowledge and experience to assist them in compliance with relevant laws and regulations in Hong Kong, and to achieve good corporate governance standards. We have in the past granted Main Board Rule 3.28 waivers in order to allow issuers' existing employees who are familiar with their operations and boards to meet the requirements under Main Board Rule 3.28 over time.
6. As explained in the Consultation Paper, the Co. Sec Proposal was to codify factors we take into consideration when granting Main Board Rule 3.28 waivers under our existing practice. However, a majority of the respondents did not support this proposal. Some of the major comments include (a) the proposal will have a negative impact on the corporate governance standards in Hong Kong; (b) the proposal will adversely affect the career development of existing professionals who are already qualified to be company secretaries; and (c) any Main Board Rule 3.28 waivers should only be granted in exceptional cases.

7. We acknowledge the concern of the market and after carefully analysing all responses, we have decided we will not adopt this proposal and believe it is more appropriate to publish a new guidance letter to provide clarifications and guidance to the market on, among other things, the policy rationale of Main Board Rule 3.28 and factors we considered when granting a Main Board Rule 3.28 waiver, as well as the relevant conditions. We have also tightened the waiver condition whereby a Main Board Rule 3.28 waiver will be revoked if the issuer has material breaches to the Rules. This guidance letter is set out in Appendix V.
8. As we believe Main Board Rule 3.28 waivers will not lower the corporate governance standards on the basis that (a) the waiver has been and will continue to be granted on a case-by-case basis subject to the applicant demonstrating its need to appoint a non-qualified person as a company secretary; and (b) the waiver is temporary and the issuer is required to appoint a qualified person as a company secretary during the waiver period, we do not believe there is a need to change our current practice or tighten the Rule requirement, as suggested by some of the respondents. Our position is supported by the fact that none of the issuers that had been granted Main Board Rule 3.28 waivers during the five years between 2015 and 2019 were involved in any material non-compliances that implicated the quality of a company secretary during the waiver period.
9. The Rule amendments will take effect from 1 October 2020.

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## CHAPTER 1: INTRODUCTION

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### Background

10. On 2 August 2019, the Exchange published the Consultation Paper. The purpose of the Consultation Paper is to codify certain General Waivers and General Principles, as well as a number of administrative guidance that are currently set out in various guidance letters or listing decisions into the Rules, with a view to keep the Rules relevant and up to date in light of changing market conditions. The consultation period ended on 27 September 2019.
11. In the Consultation Paper, we sought the market's views on 19 proposals under three areas:
  - (a) **General Waivers for codification:** to codify the General Waivers relating to (i) publication and distribution of annual results and reports; (ii) shareholder approval requirement for bonus or capitalisation issues by PRC incorporated issuers; (iii) calculation of the consideration ratio for PRC incorporated issuers dually listed on the Exchange and a PRC exchange; and (iv) inclusion of stock code in documents.
  - (b) **General Principles for codification:** to codify the general principles underpinning a number of waivers which have been granted to new applicants and/ or listed issuers relating to financial disclosure matters, acquisition of aircrafts by airline operators, incentive schemes, experience and qualification of company secretary, and working capital statement in listing documents and transaction circulars of Main Board issuers that are banking companies or insurance companies.
  - (c) **Minor rule amendments:** a number of minor amendments to the Rules for the purpose of providing greater clarity to the Rules and codifying a number of administrative guidance that is currently provided in guidance letters or listing decisions.
12. We also invited comments from the market on a number of housekeeping amendments to the Rules. These amendments are to improve clarity of the Rules, to correct clerical errors and/ or update outdated references, and do not involve questions of policy.

## Number of responses and nature of respondents

13. We received 351 responses from a broad range of respondents:

**Table 1: Number and percentage of responses by respondent category**

CATEGORY <sup>1</sup>	NUMBER OF RESPONSES	PERCENTAGE
<b>INDIVIDUALS</b>		
Listed Company Staff	144	41.0%
Company secretary	45	12.8%
Individual Investor	26	7.4%
Accountant	24	6.8%
Lawyer	6	1.7%
Corporate Finance Staff	6	1.7%
HKEX Participant Staff	2	0.6%
Investment Management Staff	1	0.3%
Others	42	12.0%
<i>Total Individuals</i>	<i>296</i>	<i>84.3%</i>
<b>INSTITUTIONS</b>		
Law Firm	18	5.1%
Listed Company	11	3.1%
Professional Body/ Industry association	10	2.8%
Corporate Finance Firm	7	2.0%
Accountancy Firm	3	0.9%
Company secretary services companies	3	0.9%
HKEX Participant	1	0.3%
Investment Management Firm	1	0.3%
Others	1	0.3%
<i>Total Institutions</i>	<i>55<sup>2</sup></i>	<i>15.7%</i>
<b>Total</b>	<b>351</b>	<b>100.0%</b>

<sup>1</sup> The Exchange has used its best judgment to categorise the respondents under the most appropriate descriptions based on information available.

<sup>2</sup> Although the number of institutional respondents is lower than individuals, they however represent a large number of members of professional bodies and market practitioners.



14. A list of respondents (other than those who requested anonymity) is set out in Appendix VI. Except for two respondents who requested the Exchange not to publish its submission, the full text of all submissions are available on the HKEX website [https://www.hkex.com.hk/News/Market-Consultations/2016-to-Present/Responses\\_Aug\\_2020\\_2?sc\\_lang=en](https://www.hkex.com.hk/News/Market-Consultations/2016-to-Present/Responses_Aug_2020_2?sc_lang=en).

### **Methodology**

15. We performed a quantitative and qualitative analysis to determine the level of support for the proposals from individual and institutional respondents:
- (a) Quantitative analysis – we counted the number of responses received. In calculating the percentage of support for or against each proposal, we excluded those respondents who did not respond or did not indicate clearly a view to that proposal.
  - (b) Qualitative analysis – we considered the broad spectrum of respondents and their views. Due weight was given to responses submitted by institutions on behalf of multiple persons (for example, submission by a professional body that represents many members but was only counted as one response under our quantitative analysis), and respondents' positions that are supported by a reasoned explanation.
16. The amended Main Board Rules and GEM Rules are set out in Appendix III and Appendix IV. They are also available on the HKEX website at:
- <https://en-rules.hkex.com.hk/node/2> (update no.130) and
- <https://en-rules.hkex.com.hk/node/49> (update no. 66).
- These amended Rules have been approved by the Board of the Exchange and by the Board of the SFC, and will become effective on 1 October 2020.
17. We would like to thank all the respondents for their time and effort in reviewing the Consultation Paper and sharing their views with us.
18. This paper should be read in conjunction with the [Consultation Paper](#), which is posted on the HKEX website. The issues and proposals apply equally to the GEM Rules where applicable.

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## **CHAPTER 2: MARKET FEEDBACK AND CONCLUSIONS ON PROPOSED CODIFICATION OF GENERAL WAIVERS**

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19. In this chapter we set out the comments received to each proposal in the Consultation Paper in relation to the General Waivers. We also set out our responses and conclusion.

### **Proposal 1 Shareholder approval requirement for bonus or capitalisation issues by PRC incorporated issuers**

20. We proposed to codify the General Waiver to exempt bonus or capitalisation issues by a PRC incorporated issuer from shareholders' approvals in general meetings and separate class meetings.

#### **Comments received**

21. Of the 240 respondents<sup>3</sup>, 27% supported the proposal while 73% opposed it. 95% of the institutional respondents and 13% of the individual respondents supported the proposal.
22. Some supporting respondents stated that (a) the proposed exemption for PRC incorporated issuers is consistent with that currently available to non-PRC incorporated issuers under the Rules; and (b) it provides a level playing ground for all issuers.
23. Some opposing respondents disagreed with the proposal because (a) there should not be any special exemption to issuers incorporated in a particular country; (b) the current Rule protects minority shareholders of PRC issuers and should not be relaxed; and (c) the current approach for granting the waiver on a case-by-case basis helps to maintain corporate governance standards of listed issuers, and there is no need to codify the waiver.
24. Some opposing respondents provided similar explanations that the proposal will deprive minority shareholders' rights to vote on matters that affect their interests. They said that PRC incorporated issuers usually have concentrated shareholding, and bonus or capitalisation issues would increase price volatility. It is important that minority shareholders can attend and vote at the general meeting to protect their interests, as issuer management may not act in the interests of minority shareholders.

#### **Our responses and conclusion**

25. As explained in the Consultation Paper, the proposed exemption for PRC incorporated issuers is consistent with that currently available to non-PRC incorporated issuers under Main Board Rule 13.36. The proposal would not provide more favourable treatment to PRC incorporated issuers.

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<sup>3</sup> The remaining 111 respondents did not indicate a view.

26. The exemption would apply only if the issuers make bonus or capitalisation issues to existing shareholders on a pro rata basis. This is in line with the general principle of the Rules that all new issues of equity securities must first be offered to the existing shareholders unless they have agreed otherwise.
27. Having considered the above, we will adopt the proposal.

**Proposal 2 Calculation of the consideration ratio for PRC incorporated issuers dually listed on the Exchange and a PRC exchange**

28. We proposed to codify the General Waiver in relation to the modification of the calculation of consideration ratio for a PRC incorporated issuer whose domestic shares are listed on a PRC exchange.

**Comments received**

29. Of the 237 respondents<sup>4</sup>, 26% supported the proposal while 74% opposed it. 95% of the institutional respondents and 12% of the individual respondents supported the proposal.
30. Some supporting respondents agreed that the proposal better reflects the market value of PRC incorporated issuers, and some supporting institutional respondents suggested that (a) for PRC incorporated issuers whose H shares represent a significant part of total issue shares, waiver should only apply when the percentage of an issuer's A or B shares exceeds a certain portion of its total issued shares (e.g. 50%); and (b) the waiver may also apply to dual-listed companies, in addition to A+H share issuers.
31. Amongst the opposing respondents who provided an explanation, (a) some stated that the same standards should be applied to all issuers, irrespective of their place of incorporation; (b) some individual respondents provided similar explanations that the HKD, Hong Kong's official currency, is pegged to a linked exchange rate system, while the RMB is subject to exchange rate fluctuations and its value is unstable; and (c) others commented that the mainland stock market is very volatile as it is mostly made up of retail investors who tend to be speculative and sensitive to change in government policies and market news.
32. A professional association respondent, who did not indicate a view on the proposal, questioned the rationale for this proposal, given international investors' access to the PRC market is much more limited.

**Our responses and conclusion**

33. As explained in the Consultation Paper, this proposal would only affect PRC issuers dually listed on the PRC stock exchanges as their H shares listed on the Exchange are regarded as a different class of shares separate from their A or B shares listed on a PRC stock exchange and are not fungible. As the market price of its shares listed on a PRC exchange may be different from the market

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<sup>4</sup> The remaining 114 respondents did not indicate a view.

price of its shares listed on the Exchange, the proposal would better reflect the market value of the PRC issuer.

34. Other issuers dually listed on overseas exchanges have only one class of listed securities and their market capitalisation would be calculated based on the total number of issued shares and the share price quoted on the Exchange.
35. The purpose of the consideration ratio is to measure the materiality of a transaction by reference to the market value of the issuer at the time of the transaction. Where there is a substantial difference between their A and H share prices, the consideration ratio calculated under the current Rule requirement (i.e. by reference to H share price only) may overstate or understate the materiality of transactions to the PRC issuers. The proposal, which takes into account the market prices of both A and H shares of the issuer at the time of a transaction, would be in line with the policy intent of the consideration ratio.
36. The comment on the RMB being subject to exchange rate fluctuations is irrelevant to the issue. PRC incorporated issuers with the RMB as their reporting currency already calculate other size test ratios with reported RMB figures.
37. With the growing importance of the A share markets to international investors (including the launch of the Stock Connect to enhance the accessibility of the A share markets and the inclusion of A shares in the MSCI Emerging Markets Index beginning in June 2018), it would be reasonable for PRC issuers to take into account the A share market capitalisation when assessing the materiality of their transactions.
38. The proposal would affect the calculation of the consideration ratio only. Issuers are also required to assess the materiality of their transactions using other size tests under the current Rules. The proposal would not result in undue risks to the issuers' shareholders.
39. We do not propose to adopt the respondent's suggestion to limit the waiver to PRC issuers with A/B shares exceeding a certain portion of their total issued shares. As explained in the Consultation Paper, the calculation of the PRC issuer's market capitalisation already takes into account the relative size of its shares listed on the Exchange and the PRC exchange.
40. Having considered the above, we will adopt the proposal.

### **Proposal 3 Inclusion of stock code in documents**

41. We proposed to codify the General Waiver to allow the listed issuer's stock code to be displayed prominently in the corporate or shareholder information section of financial reports.

### **Comments received**

42. Of the 238 respondents<sup>5</sup>, 32% supported the proposal while 68% opposed it. 93% of the institutional respondents and 19% of the individual respondents supported the proposal.
43. Some respondents agreed that the proposal could serve the purpose of Main Board Rule 13.51A (i.e. to highlight the stock codes in financial reports).
44. Among the opposing respondents who provided an explanation, they indicated that (a) stock codes should be displayed on the cover pages of financial reports for investors to easily identify the reports of individual issuers; and (b) the proposal would reduce clarity as it allows the disclosure of stock codes in other parts of financial reports.

### **Our responses and conclusion**

45. We are of the view that the objective of Main Board Rule 13.51A could still be achieved where the stock code is displayed prominently in the corporate or shareholder information section of a financial report. The proposal would not compromise the level of shareholder protection and at the same time provide some flexibility to listed issuers.
46. Having considered the above, we will adopt the proposal.

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<sup>5</sup> The remaining 113 respondents did not indicate a view.

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## CHAPTER 3: MARKET FEEDBACK AND CONCLUSIONS ON PROPOSED CODIFICATION OF GENERAL PRINCIPLES

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47. In this chapter we set out the comments received to each proposal in the Consultation Paper in relation to the General Principles. We also set out our responses and conclusion. In respect of all proposals which we will codify, we have made it clear in the Rules whether a waiver application is required.

### **Proposal 4 Disclosure of financial information of subsidiaries or businesses acquired or to be acquired after trading record period**

48. We proposed to codify the following conditions in granting waivers from the requirements under Main Board Rules 4.04(2) and 4.04(4) ("**R4.04(2)&(4)**") regarding the disclosure of financial information of subsidiaries or businesses acquired or to be acquired after trading record period (the "**R4.04(2)&(4) Waiver Conditions**");

- (a) the acquisition is not material (i.e. all of the percentage ratios (as defined under Main Board Rule 14.04(9)) for each acquisition are less than 5% by reference to the most recent audited financial year of the new applicant's trading record period);
- (b) where the acquisition will be financed by the proceeds raised from the IPO, the new applicant has obtained a certificate of exemption from the SFC from the relevant requirements under paragraphs 32 and 33 of the Third Schedule to the Companies Ordinance; and
- (c) with respect to:
  - (i) a new applicant whose principal activities involve acquisition of equity securities, the new applicant (1) is not able to exercise any control and does not have any significant influence over the underlying company or business; and (2) has disclosed in its listing document the reasons for the acquisition and a confirmation that the counterparties and their respective ultimate beneficial owners are independent of the new applicant and its connected persons; or
  - (ii) acquisition of a business (including acquisition of an associate and any equity interest in a company other than in the circumstances described in sub-paragraph (c)(i) above) or a subsidiary by a new applicant, (1) the historical financial information of such business or subsidiary is unavailable, and it would be unduly burdensome for the new applicant to obtain or prepare such financial information (the "**Unavailability and Undue Burden Condition**"); and (2) the new applicant has disclosed in its listing document information required for the announcement for a discloseable transaction under Main Board Rules 14.58 and 14.60 on each acquisition (the "**Disclosure Condition**").

## Comments received

49. Of the 236 respondents<sup>6</sup>, 31% supported the proposal while 69% opposed it. 98% of the institutional respondents and 17% of the individual respondents supported the proposal.
50. Some supporting respondents suggested to (a) clarify whether a new applicant is still required to submit a waiver application if the R4.04(2)&(4) Waiver Conditions are codified; (b) clarify the meaning of certain terms including “control”, “unduly burdensome” and “proposed to be acquired”; and (c) remove the Unavailability and Undue Burden Condition and the Disclosure Condition in relation to acquisition of a business or a subsidiary, as the materiality test in paragraph 48(a) is already sufficient.
51. Amongst the opposing respondents who provided an explanation, (a) some disagreed with this proposal in view of the negative performance of a particular listed issuer which issued a profit warning announcement shortly after listing; and (b) some indicated that (i) a listing document should contain sufficient disclosure of the new applicant’s financial information; (ii) acquisitions have material impact on a new applicant’s operations and therefore should be disclosed to allow investors to make an informed investment decision; (iii) the waiver should only be granted on a case-by-case basis; and (iv) the codification will have a negative impact on corporate governance standards and limit the Exchange’s power in administering the Rules.

## Our responses and conclusion

52. With regards to the comments in paragraph 50:
  - (a) we will clarify in the Rules the meaning of “control”, “unduly burdensome” and “proposed to be acquired”. Currently, Guidance Letter HKEX-GL32-12 (Guidance on the accounting and disclosure requirements for acquisitions of subsidiaries and businesses conducted during or after the trading record period) (“**GL32-12**”) provides guidance on the R4.04(2)&(4) Waiver Conditions as well as other guidance in respect of acquisitions by a new listing applicant during or after the trading record period (including brief guidance on the meaning of “proposed to be acquired”). In view of the market’s comments and for completeness, we have also included in the Rules all relevant guidance in GL32-12, and this guidance letter will be withdrawn;
  - (b) we believe removing the Unavailability and Undue Burden Condition and relying on the materiality test alone may limit the Exchange’s power in administering the Rules. To ensure the listing document contains sufficient information on acquisitions or proposed acquisitions that take place after the trading record period for potential investors to make an informed assessment, the Exchange would, in practice, consider a new applicant’s specific circumstances, and take into account each of the R4.04(2)&(4) Waiver Conditions before deciding whether to grant a waiver. Therefore,

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<sup>6</sup> The remaining 115 respondents did not indicate a view.

we believe the Unavailability and Undue Burden Condition should be retained to provide better safeguard to investors; and

- (c) we are of the view that a new applicant that is granted a R4.04(2)&(4) waiver should provide alternative disclosure of the acquisition in the listing document to provide potential investors with some basic information of such acquisition. Our proposal of such alternative disclosure under the Disclosure Condition mirrors those required under Main Board Rules 14.58 and 14.60, which is the minimum level of disclosure required of listed issuers for discloseable transactions.
53. With regards to the comments from the opposing respondents in paragraph 51, the comment on the particular listed issuer is not applicable because such issuer did not undertake any acquisition after the trading record period based on information provided in its listing application. We agree that a listing document should contain sufficient disclosure of the new applicant's financial information and therefore proposed that a waiver will only be granted if, among other things, the acquisition is immaterial to the applicant and alternative disclosure is provided (see paragraph 48). Further, the codification should not have a negative impact on corporate governance standards and limit the Exchange's power in administering the Rules because all waiver applications will be considered on a case-by-case basis, taking into account the R4.04(2)&(4) Waiver Conditions.
54. Having considered the above, we will adopt the proposal with modifications and clarify the following in the Rules:
- (a) that a new applicant must submit a waiver application demonstrating its need for a waiver, and that the factors considered by the Exchange will include the R4.04(2)&(4) Waiver Conditions; and
  - (b) the terms as suggested in paragraph 50(b) above as well as other relevant guidance in GL32-12. GL32-12 will be withdrawn.

#### **Proposal 5 Disclosure of financial information by overseas banking companies**

55. We proposed to codify the following conditions in granting waivers from the requirements under Main Board Rule 4.10 ("**R4.10**") regarding the disclosure of financial information of overseas banking companies under the Guideline on the Application of the Banking (Disclosure) Rules issued by the HKMA (the "**Banking Disclosure Guideline**"):
- (a) the applicants are banking companies organised outside Hong Kong and primarily regulated by a regulator which has functions similar to the HKMA and the Exchange is satisfied that the foreign regulator provides adequate supervision to the applicants; and
  - (b) alternative financial disclosure with regards to four specific areas, namely (i) capital adequacy; (ii) loan quality (including non-performing loans, restructured loans and overdue loans); (iii) loan provisioning; and (iv) guarantees, contingencies and other commitments ("**Key Disclosure**");



**Areas**") has been made in the listing document and is sufficient for potential investors to make a fully informed investment decision (together, the "**R4.10 Waiver Conditions**").

### Comments received

56. Of the 233 respondents<sup>7</sup>, 30% supported the proposal while 70% opposed it. 98% of the institutional respondents and 16% of the individual respondents supported the proposal.
57. Some supporting respondents stated that the proposal (a) is reasonable as the Banking Disclosure Guideline should not be applicable to overseas banking companies and the Key Disclosure Areas as alternative disclosure will be sufficient for investors; and (b) provides a meaningful revision to the Rules to keep up with the current standard.
58. Others suggested clarification on (a) how the Exchange determines whether a regulator "*has functions similar to the HKMA*" and "*provides adequate supervision to the applicant*"; and (b) whether an applicant is still required to submit a waiver application if the R4.10 Waiver Conditions are codified.
59. Amongst the opposing respondents who provided an explanation:
  - (a) some indicated that the Exchange should consult relevant authorities on what regulators "*have functions similar to the HKMA*" and clarify how the Exchange can be satisfied that such regulator "*provides adequate supervision to the applicant*";
  - (b) one stated that the overseas regulator should also have similar or equivalent guidelines and regulations as HKMA (instead of only having functions similar to HKMA); while one who did not indicate its view suggested that it is more appropriate that HKMA (instead of the Exchange) be satisfied that overseas regulators "*have functions similar to the HKMA*" and "*provides adequate supervision to the applicant*"; and
  - (c) others indicated that (i) all overseas applicant should comply with all Rules if they plan to list in Hong Kong; (ii) investors will not be able to make a meaningful comparison between Hong Kong and overseas banking companies listed on the Exchange; and (iii) the codification is unfair to Hong Kong banking companies.

### Our responses and conclusion

60. R4.10 is to ensure that (a) financial information disclosed in an issuer's accountants' report in a listing document is made in accordance with best practice; and (b) with respect to banking companies, the detailed standards established by

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<sup>7</sup> The remaining 118 respondents did not indicate a view.

the statutory regulator of banks in Hong Kong (i.e. HKMA) are fully and fairly reflected in their listing documents.

61. Since 2005, in view of the increasing number of Mainland banks seeking listing on the Exchange, we considered whether it was appropriate to require overseas banking companies that were applying for listing in Hong Kong to comply with the local reporting requirements in respect of banks which they are otherwise not required to follow. It was concluded that the Exchange would ordinarily consider R4.10 waiver applications from banking companies organised outside Hong Kong favourably, if their primary regulators are confirmed to provide adequate supervision to the applicants. It is not reasonable to require an overseas banking company to fully comply with the Banking Disclosure Guidelines which are imposed by HKMA on authorised institutions conducting banking business in Hong Kong, while the overseas banking company still needs to comply with the requirement in the place where they are organised and operate.
62. In the past, R4.10 waivers had been mainly granted to Mainland banks which are supervised by the China Banking Regulatory Commission<sup>8</sup> and the People's Bank of China. For other regulators going forward, we may consult HKMA, where necessary, on whether such regulator "*has functions similar to the HKMA*" and "*provides adequate supervision to the applicant*". Given the facts and circumstances of each case may vary, it is the responsibility of the applicant and its sponsor(s) to demonstrate that the foreign regulator has adequate supervision of the applicant, including the guidelines and regulations of the overseas regulator and its enforcement of such regulations.
63. We believe granting R4.10 waivers will not affect the quality of disclosure of overseas banking companies because, as explained in the Consultation Paper, one of the R4.10 Waiver Conditions is to provide alternative disclosure in the listing document with regards to specific items under the Key Disclosure Areas. Further, even if a relief of the disclosure requirement in relation to the Banking Disclosure Guideline is granted, disclosure by applicants are still expected to meet the "*best practice*" standards of R4.10 and the general disclosure requirements under Main Board Rule 2.13(2). Therefore, a R4.10 waiver will be narrowly tailored based on specific circumstances and where necessary, additional disclosure to Key Disclosure Areas may be required. This would ordinarily provide sufficient information for potential investors to make an informed investment decision.
64. Having considered the above, we will adopt the proposal and clarify in the Rules that an applicant must submit a waiver application demonstrating its need for such waiver.

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<sup>8</sup> In April 2018, the China Banking Regulatory Commission was merged with the China Insurance Regulatory Commission to form the China Banking and Insurance Regulatory Commission.

## Proposal 6 Change of financial year period

65. We proposed to codify the following conditions in granting waivers from the requirements under Main Board Rule 8.21(1) (“**R8.21(1)**”) regarding the change of financial year period:
- (a) the new applicant is an investment holding company and the change is to allow the new applicant’s financial year to be coterminous with that of all or a majority of its major operating subsidiaries;
  - (b) the proposed change in the financial year end date is not designed to circumvent the requirements under Main Board Rule 8.05; and
  - (c) the proposed change will not materially affect the presentation of financial information or result in any omission of material information that should otherwise be disclosed in the listing document or would be relevant to assessment of the new applicant’s suitability (together, “**R8.21(1) Waiver Conditions**”).

### Comments received

66. Of the 234 respondents<sup>9</sup>, 35% supported the proposal while 65% opposed it. 98% of the institutional respondents and 22% of the individual respondents supported the proposal.
67. Some supporting respondents stated that the proposal will provide sufficient investor protection while allowing flexibility to the application of the Rules.
68. Some supporting respondents suggested the Exchange should (a) require new applicants and/ or their reporting accountants to confirm positively whether there was a change of the financial year end date and if so, whether Main Board Rule 8.05 can be satisfied both before and after the change; (b) clarify that “*the relevant requirements under Main Board Rule 8.05*” in the R8.21(1) Waiver Conditions include not only the financial tests but also management continuity and ownership continuity and control requirements; and (c) clarify whether a waiver application is required if the R8.21(1) Waiver Conditions are codified.
69. Amongst the opposing respondents who provided an explanation:
- (a) some indicated that the assessment of the impact of change in financial year end on the presentation of financial information involves subjective judgment, and the Exchange should avoid areas that involve subjective judgment given the recent news on the misconduct of an ex-employee of the Exchange; and
  - (b) others indicated that (i) the proposal will provide an opportunity for new applicants to manipulate their financial information and mislead investors; (ii) the requirement under R8.21(1) is key for investor protection and waivers

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<sup>9</sup> The remaining 117 respondents did not indicate a view.

should only be granted on a case-by-case basis; and (iii) the codification will have a negative impact on corporate governance standards.

### **Our responses and conclusion**

70. A separate confirmation from new applicants and/ or their reporting accountants is not necessary because it is the responsibility of a new applicant and its sponsor(s) to ensure all material information, which include a change of the financial year end date and the related impact, be provided to the Exchange in the listing application.
71. We believe it would be unreasonable for the Exchange to “*avoid areas that involve subjective judgment*” as the review of listing applications inevitably involves professional scepticism and judgment. Also, we do not believe the codification will negatively affect the corporate governance standards as all waiver applications will be considered on a case-by-case basis, subject to the R8.21(1) Waiver Conditions.
72. Having considered the above, we will adopt the proposal with clarifications in the Rules that (a) the relevant requirements under Main Board Rule 8.05 include management continuity and ownership continuity and control requirements as well as financial tests thereunder; and (b) a new applicant must submit a waiver application demonstrating its need for such waiver.

### **Proposal 7 Publication of preliminary results announcements and distribution of annual reports and interim reports**

73. We proposed to (i) codify the conditions in granting the General Waivers from the publication and distribution requirements of annual results and reports under Main Board Rules 13.46 and 13.49(1) (the “**Annual Results and Reports Waiver Conditions**”); (ii) codify similar exceptions to Main Board Rule 13.48(1) with respect to the distribution requirement of interim reports, as well as GEM Rules 18.66 and 18.79 with respect to the publication and distribution requirements of quarterly results and reports for the first three and nine months period of each financial year (as the case may be)<sup>10</sup>; (iii) align the exception currently provided in paragraph 3 of Practice Note 10 to the Main Board Rules (“**PN 10**”) with respect to the publication requirement of interim results under Main Board Rule 13.49(6) with the Annual Results and Reports Waiver Conditions; and (iv) repeal PN 10 and consolidate the guidance with the relevant Main Board Rules.

### **Comments received**

74. Of the 235 respondents<sup>11</sup>, 35% supported the proposal while 65% opposed it. 98% of the institutional respondents and 22% of the individual respondents supported the proposal.
75. Some supporting respondents stated that the proposal will alleviate the administrative burden for newly listed issuers which already disclosed the

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<sup>10</sup> No equivalent Main Board Rules.

<sup>11</sup> The remaining 116 respondents did not indicate a view.

relevant information in their listing documents. Others suggested to clarify whether (a) newly listed issuers who meet the Annual Results and Reports Waiver Conditions would also be exempted from the publication of Environmental, Social and Governance (“**ESG**”) report post listing<sup>12</sup>; and (b) applicants are still required to submit relevant waiver applications.

76. Amongst the opposing respondents who provided an explanation:

- (a) some indicated that they disagreed with this proposal in view of the negative performance of a particular listed issuer which issued a profit warning announcement shortly after its listing; and
- (b) others indicated that (i) it is important to ensure there is sufficient disclosure of financial information by a listed issuer; (ii) issuers that have a professional company secretary would have taken into account publication and distribution requirements of reports and results under the Rules when planning its listing time table, and therefore compliance with the relevant requirements post listing should not be unduly burdensome; and (iii) the codification will have a negative impact on corporate governance standards.

### **Our responses and conclusion**

- 77. The comment in paragraph 76(a) on a particular listed issuer is not applicable because that issuer did not apply for any waivers from the publication and distribution requirements of reports and results under the Rules.
- 78. With regards to the comment that a professional company secretary would help an applicant plan its listing time table such that it can meet the publication and distribution requirements of reports and results under the Rules, the timing of the new applicant’s listing is subject to various factors which are beyond its control, such as market conditions and comments raised and issues identified by the regulators during the review process. Further, this waiver is given solely because of the fact that the information required to be published and distributed by an issuer post listing has already been disclosed in its listing document.
- 79. We agree that it is important to ensure there is sufficient disclosure of financial information by listed issuers. However, the proposal would neither reduce the amount of disclosure for issuers nor affect corporate governance standards because, as explained in the Consultation Paper, a waiver is only granted if a new applicant will disclose the same level of financial information as that required under the relevant Rules in the listing document. Nevertheless, to ensure better communication with shareholders and potential investors, we will require a newly listed issuer to duly inform the market that the relevant information has been included in their listing document (with appropriate reference) at the time when it is ordinarily required to publish or distribute the relevant reports and results under the Rules.

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<sup>12</sup> Main Board Rule 13.91 requires ESG reports to be published annually, and an issuer is encouraged to publish the ESG report at the same time with its annual report. In any event, an issuer should publish the ESG report as close as possible to, and no later than five months after, the end of the financial year.

80. Having considered the above, we will adopt the proposal with clarifications in the Rules that (a) issuers are still required to comply with the ESG report publication requirement post listing; (b) new applicants meeting the relevant codified conditions do not need to submit any waiver application; and (c) newly listed issuers should publish an announcement around the time when they would ordinarily be required to publish or distribute the relevant reports and results, to inform the investing public that the relevant information has been included in their listing document (with appropriate references).

## **Proposal 8 Acquisition of aircrafts by airline operators**

81. We proposed to codify the waiver from disclosure of actual consideration of aircrafts to be acquired by listed airline operators.

### **Comments received**

82. Of the 234 respondents<sup>13</sup>, 38% supported the proposal while 62% opposed it. 95% of the institutional respondents and 25% of the individual respondents supported the proposal.
83. One supporting respondent indicated that the waiver should also cover acquisitions or leasing of aircraft by aircraft leasing companies. Another suggested extending the disclosure waiver to other price-related information subject to confidentiality restrictions.
84. Some opposing respondents provided written comments that the proposal would reduce the transparency of material transactions.

### **Our responses and conclusion**

85. We have explained in the Consultation Paper that the proposal is to address the practical difficulty of airline operators in complying the disclosure requirement for acquisitions of aircraft in their ordinary course of business as there are normally strict confidentiality provisions in the issuers' contracts with aircraft manufacturers to prohibit disclosure of aircraft purchase price.
86. The proposed alternative disclosure would provide investors with relevant information to assess of the impact of acquisitions of aircraft on the issuer's financial position on an aggregated basis. None of the opposing respondents provided substantive comments on the proposed requirement.
87. As to the respondents' suggestions described in the above, the current Rules already provide specific exemptions for aircraft leasing companies from the disclosure and shareholders' approval requirements under Chapter 14. We do not propose to extend the proposed disclosure waiver to cover other price-related information relating to acquisition of aircraft. Any such waiver applications would need to be considered case by case.
88. Having considered the above, we will adopt the proposal.

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<sup>13</sup> The remaining 117 respondents did not indicate a view.

## **Proposal 9 Share option scheme limit for a listed issuer's subsidiary to be spun-off for separate listing**

89. We proposed, in the case of a spin-off of a listed issuer's subsidiary ("**SpinCo**"), to allow the issuer to determine SpinCo's share option scheme limit with reference to SpinCo's shares in issue as at the date of SpinCo's listing.

### **Comments received**

90. Of the 232 respondents<sup>14</sup>, 44% supported the proposal while 56% opposed it. 98% of the institutional respondents and 33% of the individual respondents supported the proposal.
91. Some supporting respondents stated that the proposal is in line with the practice for new listing applicants whose scheme limits are based on their issued shares as at the date of listing. Two opposing individual respondents stated that there is no need to codify the waivers but did not provide substantive reasons for their view.

### **Our responses and conclusion**

92. Having considered the above, we will adopt the proposal.

## **Proposal 10 Determination of exercise price of options under a share option scheme adopted by issuers dually listed on the Exchange and a PRC exchange**

93. We proposed to codify the waiver of the exercise price requirement for issuers dually listed on the Exchange and a PRC exchange.

### **Comments received**

94. Of the 234 respondents<sup>15</sup>, 35% supported the proposal while 65% opposed it. 98% of the institutional respondents and 21% of the individual respondents supported the proposal.
95. One supporting respondent noted that the proposal would allow the Exchange to withhold the waiver even if the waiver conditions are fully satisfied. It suggested modifying the proposal to codify the waiver as an exemption for A share option schemes to provide more certainty to issuers.
96. Amongst the opposing respondents who provided an explanation:
- (a) some individual respondents indicated that there is no guarantee that A shares will continue to be traded at a higher price compared to H shares. If the situation reverses, Hong Kong investors may suffer losses because new A shares may be issued at a lower price; and

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<sup>14</sup> The remaining 119 respondents did not indicate a view.

<sup>15</sup> The remaining 117 respondents did not indicate a view.

- (b) some respondents stated that the proposal should equally apply to issuers with dual listing on overseas stock exchanges. There should not be any special treatment to issuers listed in the PRC.

### **Our responses and conclusion**

- 97. We do not propose to adopt the respondent's suggestion in the above. A waiver would be granted only if the issuer can demonstrate that it has fulfilled all the waiver conditions.
- 98. We have explained in the Consultation Paper that the mechanism of using the A share market price to set the exercise price of A share options is in accordance with PRC laws and regulations and would better reflect the market value of the A shares. The proposal is in line with the underlying rationale of the exercise price requirement (which restricts issuers from granting share options with exercise price below the market price of shares). H shareholders are protected as the A share option schemes are subject to approval by H and A shareholders at class meetings.
- 99. Other issuers dually listed on overseas exchanges have only one class of listed securities and their share option schemes should comply with the exercise price requirement. We may consider applications for specific waivers from the exercise price requirement on a case-by-case basis.
- 100. Having considered the above, we will adopt the proposal.

### **Proposal 11 Experience and qualification of company secretary**

- 101. We proposed to codify the following factors considered by the Exchange in granting a waiver from the requirements under Main Board Rule 3.28 ("**R3.28**") regarding the experience and qualification of company secretary:
  - (a) whether the issuer has principal business activities primarily outside Hong Kong;
  - (b) the reasons why the directors consider the individual who does not have the qualification or experience required under R3.28 (the "**Proposed Company Secretary**") to be suitable to act as the issuer's company secretary; and
  - (c) whether the Proposed Company Secretary will be assisted by a person who possesses the qualification or experience as required under R3.28 ("**Qualified Person**") throughout a period of not more than three years ("**Waiver Period**"), the length of which may depend on (i) the Proposed Company Secretary's experience in handling company secretarial matters and his/ her relevant professional qualifications and/ or academic background; (ii) the measures and systems in place to facilitate the Proposed Company Secretary in discharging his/ her duties as a company secretary; and (iii) the issuer's regulatory compliance and/ or material deficiencies/ weaknesses in internal controls.



## Comments received

102. Of the 349 respondents<sup>16</sup>, 9% supported the proposal while 91% opposed it. Only 50% of the institutional respondents and 1% of the individual responses supported the proposal.
103. The major comments include:
- (a) the Co. Sec Proposal will have a negative impact on the corporate governance standards of issuers in Hong Kong and is inconsistent with the global trend, as it lowers the qualification requirement of a company secretary by allowing non-qualified individuals to become a company secretary simply by obtaining “*relevant experience*”. It is also unfair to allow these persons to be appointed as company secretary after only being “hand-held” by a Qualified Person for three years;
  - (b) the proposal will have material adverse impact on the career development of existing professionals who are already qualified to be company secretaries. The Exchange should revise R3.28 and only allow professional chartered secretaries, accountants or lawyers, who are governed by code of professional ethics and conduct of respective professional bodies, to be company secretaries in Hong Kong;
  - (c) issuers with principal operations outside Hong Kong are usually not familiar with Hong Kong requirements and hence they should appoint a qualified company secretary in Hong Kong. They can appoint local legal advisors or joint company secretaries who will be responsible for the domestic laws and regulations of the issuers’ home jurisdictions;
  - (d) the proposal implies that the granting of R3.28 waivers is a mechanical administrative procedure. R3.28 waivers should only be granted in exceptional cases and factors considered by the Exchange should be disclosed in listing documents/ announcements;
  - (e) it is unclear how the Exchange assesses whether a Proposed Company Secretary meets the requirements under R3.28 at the end of the Waiver Period (e.g. specific training and knowledge he/she should have attended/ acquired); and
  - (f) some respondents suggested the Exchange to clarify (i) whether a waiver application is still required; (ii) factors considered by the Exchange in granting the waiver; and (iii) circumstances the Exchange will reject a R3.28 waiver application.

## Our responses and conclusion

104. We acknowledge the concern of the market and after carefully analysing all responses, we believe it is more appropriate to provide clarification on the policy rationale of R3.28 and our practice in granting R3.28 waivers. As such, we have decided not to codify the Co. Sec Proposal but will instead publish a new

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<sup>16</sup> The remaining two respondents did not indicate a view.

guidance letter to provide clarifications and guidance (a) on the policy rationale of R3.28 and granting of R3.28 waivers and related conditions; (b) that an issuer must submit a waiver application demonstrating its need to appoint a Proposed Company Secretary; and (c) on the factors considered by the Exchange to determine whether a Proposed Company Secretary has attained Relevant Experience at the end of the Waiver Period. We have also tightened the waiver condition whereby a Main Board Rule 3.28 waiver will be revoked if the issuer has material breaches to the Rules. The new guidance letter is set out in Appendix V.

### **Policy rationale of Rule 3.28**

105. As background, we would like to provide information on the policy rationale of R3.28. R3.28 was introduced in December 1989 to ensure issuers appointing individuals with the requisite knowledge and experience to assist them in compliance with relevant law and regulations in Hong Kong, and to achieve good corporate governance standards. Individuals can demonstrate compliance with R3.28 either by virtue of Acceptable Qualification or Relevant Experience (as defined in paragraph 106).
106. R3.28 requires a company secretary of an issuer to possess certain academic or professional qualifications, or relevant experience to be considered capable of discharging the functions of a company secretary. Guidance as follows is set out in the notes to R3.28:
- (a) The academic or professional qualifications to be considered acceptable by the Exchange, including (i) a member of The Institute of Chartered Secretaries; (ii) a solicitor or barrister under the Legal Practitioners Ordinance; and (iii) a certified public accountant under the Professional Accountants Ordinance (“**Acceptable Qualification**”).
  - (b) The Exchange’s assessment criteria for “relevant experience” include: (i) length of employment with the issuer and other issuers and the roles they played; (ii) familiarity with the Rules and other relevant laws and regulations; (iii) relevant training taken and/ or to be taken in addition to the minimum requirement under Main Board Rule 3.29 (i.e. 15 hours per financial year); and (iv) professional qualifications in other jurisdictions (“**Relevant Experience**”).
107. Section F of the Corporate Governance Code under Appendix 14 to the Main Board Rules states that a company secretary plays an important role in supporting the board by ensuring good information flow within the board and that board policy and procedures are followed. Additionally, the company secretary is responsible for advising the board on governance matters and should be an employee of the issuer and has day-to-day knowledge of the issuer’s affairs.

### **Policy rationale of granting R3.28 waivers**

108. We acknowledge that issuers with overseas operations may have practical difficulties in finding a company secretary who possesses day-to-day knowledge of their affairs and the Acceptable Qualification or Relevant Experience. While it is important for the company secretary of an issuer to be familiar with the relevant requirements in Hong Kong, he/ she also needs to have experience relevant to the issuer's industry/ operations, nexus to the board and close working relationship with management of the issuer to perform the function of a company secretary in the most effective and efficient manner. Therefore, we have granted R3.28 waivers in the past to allow issuers' existing employees who are familiar with their operations and boards to meet the requirements under R3.28 over time.
109. The Co. Sec Proposal is to codify factors we take into consideration when granting a R3.28 waiver under our existing practice<sup>17</sup> without any intention to lower the corporate governance standards or result in the waiver approval process becoming an administrative procedure. Issuers are still required to submit waiver applications demonstrating their needs to appoint a non-qualified person as company secretary and all R3.28 waivers will continue to be granted on a case-by-case basis.
110. A R3.28 waiver does not and will not dispense an issuer from appointing a qualified company secretary because all R3.28 waivers were granted on the condition that the Proposed Company Secretary (who is an employee with nexus to the board and management of the issuers but does not possess the Acceptable Qualification or Relevant Experience) would be assisted by a Qualified Person (who must be appointed as a joint company secretary) throughout the Waiver Period, which is usually three years. This can ensure (a) the Qualified Person will assist the issuer to comply with relevant Hong Kong law and regulations and to achieve good corporate governance standards; and (b) the Proposed Company Secretary will attain the Relevant Experience during the Waiver Period.
111. At the end of the Waiver Period, the Proposed Company Secretary will not automatically be qualified under R3.28. The issuer must demonstrate that the Proposed Company Secretary has attained the Relevant Experience. The Exchange will take into consideration the compliance history of the listed issuer and the relevant training undertaken by the Proposed Company Secretary.
112. We do not believe the granting of R3.28 waivers diminishes the standard of company secretaries or has a negative impact on the corporate governance standards of issuers in Hong Kong. Based on the compliance records of the 518 issuers which were granted R3.28 waivers during the five years between 2015 and 2019, only one was publicly sanctioned by the Exchange for breach of the Rules during the Waiver Period. Yet, even in that case the facts did not implicate the issuer's Proposed Company Secretary. As such, there is no evidence that

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<sup>17</sup> Listing Decision HKEX-LD35-1 sets out factors the Exchange considers when granting R3.28 waivers.

R3.28 waivers caused any unintended consequences as alluded by some respondents in paragraph 103(a) above.

113. Having considered the above, we do not believe there is a need to change the current practice or tighten the Rule requirements as suggested by some of the respondents.

**Proposal 12 Working capital statement in listing documents and transaction circulars of listed issuers engaging in provision of financial services**

114. We proposed to exempt Main Board listed issuers that are banking companies or insurance companies from including a working capital statement, subject to appropriate alternative disclosures in their listing documents and transaction circulars if they are able to meet the same conditions as those set out in Main Board Rule 8.21A(2) ("**R8.21A(2)**"), and to limit the exemption to R8.21A(2) to only banking companies or insurance companies.

**Comments received**

115. Of the 236 respondents<sup>18</sup>, 30% supported the proposal while 70% opposed it. 90% of the institutional respondents and 17% of the individual respondents supported the proposal.
116. A number of respondents agreed with the proposal because banks and insurance companies are already subject to prudential supervision of other regulators. One supporting respondent suggested removing the words "and the Exchange is satisfied" from the proposed Main Board Rule 14.66(10), otherwise the issuer would require a confirmation from the Exchange that it has fulfilled the proposed conditions to the satisfaction of the Exchange.
117. Amongst the opposing respondents who provided an explanation:
- (a) a few suggested extending the proposed exemption to cover other companies engaging in financial services businesses that are subject to prudential regulation (and not only banking companies and insurance companies). The underlying principles for the proposed exemption may equally apply to those financial services companies;
  - (b) some individual respondents provided similar comments that the Exchange should set out the proposed alternative disclosure requirement for consultation. The public should have a chance to discuss whether such disclosure can adequately protect investor interests; and
  - (c) others considered that the requirement for a working capital statement should be retained for the sake of transparency.

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<sup>18</sup> The remaining 115 respondents did not indicate a view.

## **Our responses and conclusion**

118. We agree to remove the wording “to the Exchange’s satisfaction”<sup>19</sup> in the Rules given all issuers must demonstrate to the Exchange that it has fulfilled all the proposed conditions before clearance of the relevant listing document/ transaction circular, and the wording is superfluous.
119. We have explained in the Consultation Paper that these types of waivers were in the past granted to banks and insurance companies only. Given that this proposal is bespoke to issuers that are banking or insurance companies based on the original requirements, we maintained the view not to extend the scope of the exemption to other institutions/ fields generally.
120. We have also set out the proposed alternative disclosure requirement in the Consultation Paper (which includes (a) the regulatory requirements as to the solvency, capital adequacy and liquidity of banking companies or insurance companies (as the case may be) in the relevant jurisdiction or place of operation; and (b) the issuers’ solvency ratios, capital adequacy ratios and liquidity ratios (as applicable) for the latest three financial years). This would provide relevant information for investors to assess the liquidity and financial position of the company concerned. The respondents did not provide any substantive comments on the proposed requirement.
121. Having considered the above, we will adopt the proposal.

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<sup>19</sup> The Department will remove all similar wordings in the Rules for consistency as part of the housekeeping amendments. Please refer to Appendices III and IV.

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## **CHAPTER 4: MARKET FEEDBACK AND CONCLUSIONS ON MINOR RULE AMENDMENTS AND HOUSEKEEPING RULE AMENDMENTS**

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122. In this chapter we set out the comments received to each proposal in the Consultation Paper in relation to the minor Rule amendments and housekeeping Rule amendments. We also set out our responses and conclusion.

### **Minor Rule Amendments**

#### **Proposal 13 All documentary requirements for refiling a listing application (a) more than six months after the date of the original listing application; or (b) where there is a change of sponsor**

123. We proposed to codify the guidance in Guidance Letter HKEX-GL7-09 (Documents required for re-filing a listing application (a) more than six months after the date of the original listing application; or (b) where a sponsor has changed) (“**GL7-09**”) in Main Board Rules 9.10A(1) and 9.10B for new applicants’ easy reference.

#### **Comments received**

124. Of the 231 respondents<sup>20</sup>, 47% supported the proposal while 53% opposed it. 98% of the institutional respondents and 36% of the individual respondents supported the proposal.

125. One supporting respondent indicated that, in practice, when there is a change of sponsor, the outgoing sponsor firm is not bound to co-operate with any investigation that the incoming sponsor firm may wish to conduct in relation to the required assurance and clearance, and in practice problems and delays may arise. While under relevant SFC codes and guidelines a licensed intermediary owes a range of duties to its client, it is less clear what (if any) duty it has vis-a-vis another firm serving the same client as the successor to that intermediary. The respondent suggested that this is an aspect on which the Exchange may wish to discuss with the SFC, because without specific duty for the outgoing sponsor firm to co-operate, there is and will continue to be a regulatory gap in requiring the incoming sponsor firm to provide assurances on the work done by the outgoing one. No opposing respondents provided an explanation to their views.

#### **Our responses and conclusion**

126. We acknowledge it will be ideal where an outgoing sponsor fully co-operates with an incoming sponsor when performing relevant clearance procedure. However, in reality, there are practical difficulties for an incoming sponsor to obtain such cooperation from an outgoing sponsor. We have therefore stated in GL7-09 and the proposed Rules amendment that a copy of clearance letter from the outgoing sponsor is required to be submitted only if it is available. We also believe that it would not be necessary to impose a new Rule requirement to procure

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<sup>20</sup> The remaining 120 respondents did not indicate a view.

cooperation between the two parties, given that the relevant requirements under the Rules already ensure both parties to provide the necessary information to the Exchange in this regard: (a) the incoming sponsor needs to satisfy its obligation under Main Board Rule 3A.18<sup>21</sup>; and (b) the outgoing sponsor is required under Main Board Rule 3A.02A(2)<sup>22</sup> to inform the Exchange of the termination of appointment with reasons.

127. Having considered the above, we will adopt the proposal and GL7-09 will be withdrawn.

#### **Proposal 14 Initial listing fee for listings by introduction**

128. We proposed to codify the guidance in Listing Decision HKEX-LD15-3 (Calculation of initial listing fee where applicant is to be listed by way of introduction with Hong Kong as its only place of listing) (“**LD15-3**”) in paragraph 1(4) of Appendix 8 to the Main Board Rules for new applicants’ easy reference.

##### **Comments received**

129. Of the 229 respondents<sup>23</sup>, 48% supported the proposal while 52% opposed it. 97% of the institutional respondents and 38% of the individual respondents supported the proposal.
130. Some supporting respondents stated that the proposal (a) will provide clearer guidance to new listing applicants; and (b) has been adopted in practice for many years. None of the opposing respondents provided an explanation for their views.

##### **Our responses and conclusion**

131. Having considered the above, we will adopt the proposal and LD15-3 will be withdrawn.

#### **Proposal 15 Restriction on grant of share options**

132. We proposed to amend Main Board Rule 17.05 (“**R17.05**”) to state clearly that the restricted period for grant of share options would cover the trading day after the announcement is made with respect to the inside information.

##### **Comments received**

133. Of the 234 respondents<sup>24</sup>, 50% supported the proposal while 50% opposed it. 93% of the institutional respondents and 41% of the individual respondents supported the proposal.
134. Some supporting respondents agreed that the proposal would eliminate

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<sup>21</sup> Main Board Rule 3A.18 states that a replacement sponsor shall not be regarded as having satisfied any of the obligations of a sponsor by virtue of work performed by a predecessor sponsor.

<sup>22</sup> Main Board Rule 3A.02A(2) states that if a sponsor ceases to act for a new applicant at any time after its appointment (regardless of whether a listing application has been submitted), the sponsor must inform the Exchange in writing, as soon as practicable, of its reasons for ceasing to act.

<sup>23</sup> The remaining 122 respondents did not indicate a view.

<sup>24</sup> The remaining 117 respondents did not indicate a view.

confusion and provide greater clarity.

135. Amongst the opposing respondents who provided an explanation:

- (a) one stated that the proposed Rule should make clear that grants can only be made after the shares have commenced trading on the next trading day, to prevent an unscrupulous issuer from granting options before the morning session begins on the trading day after announcement of inside information;
- (b) one indicated that if an issuer achieves good results, share price appreciation is part of the reward to employees receiving share options. Issuers should be allowed to grant share options during the black-out period; and
- (c) some individual respondents stated that the proposal is not necessary. If the share price did not fully reflect the effect of inside information during the trading day after the relevant announcement, grants of share options after the trading day may still be unfair.

### **Our responses and conclusion**

136. With regard to the comments in paragraph 135, we have explained in the Consultation Paper that the purpose of this rule is to prevent abuses where grantees of share options can gain an unfair advantage through the grant as the prevailing share price has not reflected that inside information.
137. Having considered the above, we will adopt the proposal with the modification of R17.05 to make clear that *“An issuer may not grant any options after inside information has come to its knowledge until (and including) the trading day after it has announced the information. ...”* to better reflect the policy intent of the Rule amendment.

### **Proposal 16 Pre-vetting of documents and announcements in IPO cases and post-vetting announcements relating to price stabilisation actions**

138. We proposed to codify the guidance in Guidance Letter HKEX-GL16-09 (Pre-vetting of documents and announcements in IPO cases and post-vetting announcements relating to price stabilisation actions) (“**GL16-09**”) in Main Board Rules 2.07C(1)(a), 12.05 and 12.09 for completeness.

### **Comments received**

139. Of the 230 respondents<sup>25</sup>, 50% supported the proposal while 50% opposed it. 98% of the institutional respondents and 41% of the individual respondents supported the proposal.
140. One supporting respondent suggested to amend the notes to Main Board Rules 12.05 and 12.09 to *“An issuer must not publish formal notices/ announcements in accordance with rules... until the Exchange has reviewed them.”*. No opposing

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<sup>25</sup> The remaining 121 respondents did not indicate a view.



respondents provided an explanation for their views.

### **Our responses and conclusion**

141. Having considered the above, we will adopt the proposal with modification stated in paragraph 140 and GL16-09 will be withdrawn.

### **Proposal 17 Typhoon and rainstorm warning arrangements**

142. We proposed to codify the guidance in Guidance Letter HKEX-GL31-12 (Typhoon and rainstorm warning arrangements) (“**GL31-12**”) as a new practice note to the Rules for completeness.

### **Comments received**

143. Of the 230 respondents<sup>26</sup>, 50% supported the proposal while 50% opposed it. 98% of the institutional respondents and 40% of the individual respondents supported the proposal.
144. One supporting respondent stated that GL31-12 was amended in August 2019 to cover “extreme conditions” caused by a super typhoon as described in the revised “Code of Practice in Times of Typhoons and Rainstorms” issued by the Labour Department in June 2019, and suggested the proposed Rule amendments to be updated accordingly. No opposing respondents provided an explanation for their views.

### **Our responses and conclusion**

145. Having considered the above, we will adopt the proposal with modification stated in paragraph 144. We will also update Practice Note 8 to the Main Board Rules and Main Board Rule 13.66 to cover “extreme conditions” as described in FAQ Number 058-2019. GL31-12 will be withdrawn.

### **Proposal 18 Confirmations required on the accountants’ report, pro forma financial information and profit forecast in Application Proofs and subsequent draft listing documents**

146. We proposed to codify the guidance in Guidance Letter HKEX-GL58-13 (Confirmations required on the accountants’ report, pro forma financial information and profit forecast in Application Proofs and subsequent draft listing document) (“**GL58-13**”) in Main Board Rule 9.11 to complete the documentary requirements at the time of the listing application, and post a template of the confirmation in the Appendix to GL58-13 on Exchange’s website.

### **Comments received**

147. Of the 232 respondents<sup>27</sup>, 51% supported the proposal while 49% opposed it. 98% of the institutional respondents and 41% of the individual respondents

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<sup>26</sup> The remaining 121 respondents did not indicate a view.

<sup>27</sup> The remaining 119 respondents did not indicate a view.

supported the proposal.

148. One supporting respondent suggested the Exchange to consider codifying the Guidance Letter HKEX-GL6-09A (Guidance on the financial information for the trading record expected in the first draft listing document for listing applications) (“**GL6-09A**”) in relation to our administrative practices accepting an accountants’ report covering a period shorter than the trading record period in the Application Proof. No opposing respondents provided an explanation for their views.

### **Our responses and conclusion**

149. GL6-09A was withdrawn in April 2019 and the relevant guidance consolidated into Guidance Letter HKEX-GL56-13 (Guidance on (i) disclosure requirements for substantially complete Application Proofs; and (ii) publication of Application Proofs and Post Hearing Information Packs (“PHIPs”) on the Exchange’s website). We do not intend to codify our administrative practice in this guidance letter in order to maintain flexibility given the administration procedures may change from time to time.
150. Having considered the above, we will adopt the proposal and GL58-13 will be withdrawn.

### **Proposal 19 Confirmations required on expert opinions in Application Proofs and subsequent draft listing documents**

151. We proposed to codify the guidance in Guidance Letter HKEX-GL60-13 (Confirmations required on Expert Opinions in Application Proofs and subsequent draft listing documents) (“**GL60-13**”) in Main Board Rule 9.11 to complete the documentary requirements at the time of the listing application, and post a template of the confirmation in the Appendix to GL60-13 on Exchange’s website.

### **Comments received**

152. Of the 231 respondents<sup>28</sup>, 50% supported the proposal while 50% opposed it. 98% of the institutional respondents and 40% of the individual respondents supported the proposal.
153. Some supporting respondents suggested (a) to clarify the requirement on an expert’s opinion with regards to work performed on stub period; and (b) as reporting accountants are also a named expert for the purposes of the listing document, the proposed Main Board Rule 9.11(3)(e) should explicitly exclude reporting accountants, as they are already covered under proposed Main Board Rule 9.11(3)(d) pursuant to proposal 18 (see paragraph 146). No opposing respondents provided an explanation for their views.

### **Our responses and conclusion**

154. The trading record period disclosed in the listing document of a new applicant includes the stub period. There is no difference with regards to work performed on stub period and other period within the trading record period. Therefore, we

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<sup>28</sup> The remaining 120 respondents did not indicate a view.

do not consider necessary to provide clarification with regards to work performed on stub period in the proposed Rule amendment.

155. Having considered the above, we will adopt the proposal with modification to clarify in the Rules that reporting accountants are not covered under this proposal. GL60-13 will be withdrawn.

### **Housekeeping Rule Amendments**

156. In the Consultation Paper, we proposed the following housekeeping Rule amendments:

- (a) amend the Chinese version of the Rules to address inconsistencies with English version and rectify clerical errors;
- (b) repeal outdated transitional arrangements;
- (c) align the Main Board Rules and GEM Rules with respect to the requirement on adequate market in the securities for which listing is sought; and
- (d) consequential changes to the GEM Rules following the changes to documentary requirements relating to listed issuers becoming effective in March 2019.

### **Comments received**

157. One respondent suggested the Exchange to also repeal outdated transitional arrangements on independent non-executive directors and on share option schemes, as well as to delete the references to an outdated transitional arrangement on directors' service contracts.

### **Our responses and conclusion**

158. We will adopt the proposals with modifications stated in paragraph 157.

## APPENDIX I SUMMARY OF CONCLUSIONS ON PROPOSALS

Proposals in the Consultation Paper	Way Forward	Proposed Rules Reference	
		Main Board	GEM
General Waivers			
<b>Proposal 1</b> - To codify the General Waiver to exempt bonus or capitalisation issues by a PRC incorporated issuer from shareholders' approvals in general meetings and separate class meetings	To adopt	R19A.38	R25.23
<b>Proposal 2</b> - To codify the General Waiver in relation to the modification of the calculation of consideration ratio for a PRC incorporated issuer whose domestic shares are listed on a PRC exchange	To adopt	R19A.38A	R25.34C
<b>Proposal 3</b> - To codify the General Waiver to allow the listed issuer's stock code to be displayed prominently in the corporate or shareholder information section of financial reports	To adopt	R13.51A	R17.52A
General Principles			
<b>Proposal 4</b> - To codify the conditions in granting waivers from the requirements under R4.04(2)&(4) regarding the disclosure of financial information of subsidiaries or businesses acquired or to be acquired after trading record period	To adopt with modifications to include in the Rules the clarification of certain terms and relevant guidance in GL32-12, and clarify in the Rules that a new applicant must submit a waiver application, and the Exchange will consider factors including those in the R4.04(2)&(4) Conditions.	4.02A Notes to R4.04(4) 4.05A 4.28	7.01A Note to R7.03(4) 7.04A 7.30
<b>Proposal 5</b> - To codify the conditions in granting waivers from the requirements under R4.10 regarding the disclosure of financial information of the	To adopt with modification to clarify in the Rules that an applicant must submit a waiver application	Note to R4.10	Note to R7.11

Proposals in the Consultation Paper	Way Forward	Proposed Rules Reference	
		Main Board	GEM
overseas banking companies under the Guideline on the Application of the Banking (Disclosure) Rules issued by the HKMA	demonstrating its need for such waiver.		
<b>Proposal 6</b> - To codify the conditions in granting waivers from the requirements under R8.21(1) regarding the change of financial year period	To adopt with modification to clarify in the Rules that (a) the relevant requirements under Main Board Rule 8.05 include management continuity and ownership continuity and control requirements as well as the financial tests thereunder; and (b) a new applicant must submit a waiver application demonstrating its need for such waiver.	R8.21(3)	R11.21A
<b>Proposal 7</b> - To (i) codify the conditions in granting the General Waivers to Main Board Rules 13.46 and 13.49(1); (ii) codify similar exceptions to Main Board Rule 13.48(1) as well as GEM Rules 18.66 and 18.79; (iii) align the current exception to Main Board Rule 13.49(6) in Practice Note 10 to the Main Board Rules (“ <b>PN 10</b> ”) with those conditions in (i); and (iv) repeal PN 10 and consolidate the guidance with the Main Board Rules	To adopt with modification to clarify in the Rules that (a) issuers are still required to comply with the ESG report publication requirement post listing; (b) new applicants meeting the relevant codified conditions do not need to submit any waiver application; and (c) newly listed issuers should publish an announcement around the time when they would be required to publish or distribute the relevant reports and results to inform the investing public that the information has been included in their listing	Note 4 to R13.46 Note to R13.48(1) Note to R13.49(1) Note to R13.49(6) PN10	Note 6 to R18.03 Note 2 to R18.49 Note 1 to R18.53 Note 1 to R18.66 Note to R18.78 Note 4 to R18.79

Proposals in the Consultation Paper	Way Forward	Proposed Rules Reference	
		Main Board	GEM
	document with appropriate references.		
<b>Proposal 8</b> - To codify the waiver from disclosure of actual consideration of aircrafts to be acquired by listed airline operators	To adopt	Note to R14.58(4)	Note to R19.58(5)
<b>Proposal 9</b> - To codify the waiver to allow listed issuers to determine SpinCo's Scheme Limit with reference to its shares in issue as at the date of SpinCo's listing	To adopt	Note 1 to R17.03(3)	Note 1 to R23.03(3)
<b>Proposal 10</b> - To codify the waiver of the exercise price requirement for issuers dually listed on the Exchange and a PRC exchange	To adopt	R19A.39C	R25.34D
<b>Proposal 11 (Co. Sec Proposal)</b> - To codify the factors considered by the Exchange in granting a waiver from the requirements under R3.28 regarding the experience and qualification requirements of a company secretary	Not to adopt but will instead publish a new guidance letter to provide clarifications and guidance in relation to R3.28	Not Applicable	Not Applicable
<b>Proposal 12</b> - To exempt Main Board listed issuers that are banking companies or insurance companies from including a working capital statement, subject to appropriate alternative disclosures and conditions same as those in Rule 8.21A(2), and to limit the exemption to Rule 8.21A(2) to only banking companies or insurance companies	To adopt	R8.21A(2) R11.06 R11.09A R14.66(10) Note 3 to Appendix 1 Part A paragraph 36	Not applicable
<b>Minor Rule Amendments</b>			
<b>Proposal 13</b> - To codify the guidance in Guidance Letter HKEX-GL7-09 for new applicants' easy reference	To adopt	R9.10A(1) R9.10B	R12.08 R12.14
<b>Proposal 14</b> - To codify the guidance in Listing Decision	To adopt	Appendix 8 paragraph 1(4)	Appendix 9 paragraph 1(1)(d)

Proposals in the Consultation Paper	Way Forward	Proposed Rules Reference	
		Main Board	GEM
HKEX-LD15-3 for new applicants' easy reference			
<b>Proposal 15</b> - Amend Rule 17.05 to state clearly that the restricted period for grant of share options would cover the trading day after the announcement is made with respect to the inside information	To adopt with the modification of Main Board Rule 17.05 to <i>"An issuer may not grant any options after inside information has come to its knowledge until <u>(and including) the trading day after it has announced the information.</u> ..."</i> to better reflect the policy intent of the Rule amendment.	R17.05	R23.05
<b>Proposal 16</b> - To codify the guidance in Guidance Letter HKEX-GL16-09 for completeness	To adopt with the modification of notes to Main Board Rules 12.05 and 12.09 to <i>"A new applicant must not publish formal notices/ announcements <u>in accordance</u> with rules... until the Exchange has reviewed them."</i> .	R2.07C(1)(a) (iii) Note to R12.05 Note to R12.09	R16.10 R16.14 R16.17(1)(c)
<b>Proposal 17</b> - To codify the guidance in Guidance Letter HKEX-GL31-12 as a new practice note to the Rules for completeness	To adopt with the modification to cover "extreme conditions" caused by a super typhoon as described in the revised "Code of Practice in Times of Typhoons and Rainstorms" issued by the Labour Department in June 2019.	Note 2 to R13.66 Paragraphs 2 and 3 of Appendix A to Practice Note 8 Practice Note 8A	Note 1 to R17.78 R17.79 Table 1 of Chapter 17 Practice Note 7
<b>Proposal 18</b> - To codify the guidance in Guidance Letter HKEX-GL58-13 to complete documentary requirements at the time of the listing application and post a template of the	To adopt	R9.11(3)(d)	R12.22(3)(a)

Proposals in the Consultation Paper	Way Forward	Proposed Rules Reference	
		Main Board	GEM
confirmation on Exchange's website			
<b>Proposal 19</b> - To codify the guidance in Guidance Letter HKEX-GL60-13 to complete documentary requirements at the time of the listing application, and post a template of the confirmation on Exchange's website	To adopt with modification that reporting accountants are excluded as they are covered under Proposal 18.	R9.11(3)(e)	R12.22(3)(b)



## APPENDIX II SUMMARY RESULT OF QUANTITATIVE ANALYSIS

	Individuals			Institutions		
	Support	Oppose	Total <sup>1</sup>	Support	Oppose	Total <sup>1</sup>
Proposal 1	25 (13%)	174 (87%)	199	39 (95%)	2 (5%)	41
Proposal 2	24 (12%)	173 (88%)	197	38 (95%)	2 (5%)	40
Proposal 3	37 (19%)	159 (81%)	196	39 (93%)	3 (7%)	42
Proposal 4	34 (17%)	161 (83%)	195	40 (98%)	1 (2%)	41
Proposal 5	30 (16%)	163 (84%)	193	39 (98%)	1 (2%)	40
Proposal 6	43 (22%)	150 (78%)	193	40 (98%)	1 (2%)	41
Proposal 7	42 (22%)	152 (78%)	194	40 (98%)	1 (2%)	41
Proposal 8	49 (25%)	144 (75%)	193	39 (95%)	2 (5%)	41
Proposal 9	64 (33%)	128 (67%)	192	39 (98%)	1 (2%)	40
Proposal 10	41 (21%)	152 (79%)	193	40 (98%)	1 (2%)	41
Proposal 11 <sup>2</sup>	3 (1%)	292 (99%)	295	27 (50%)	27 (50%)	54
Proposal 12	34 (17%)	161 (83%)	195	37 (90%)	4 (10%)	41
Proposal 13	69 (36%)	122 (64%)	191	39 (98%)	1 (2%)	40
Proposal 14	72 (38%)	118 (62%)	190	38 (97%)	1 (3%)	39
Proposal 15	79 (41%)	114 (59%)	193	38 (93%)	3 (7%)	41
Proposal 16	77 (41%)	113 (59%)	190	39 (98%)	1 (2%)	40
Proposal 17	76 (40%)	113 (60%)	189	40 (98%)	1 (2%)	41
Proposal 18	78 (41%)	113 (59%)	191	40 (98%)	1 (2%)	41
Proposal 19	76 (40%)	115 (60%)	191	39 (98%)	1 (2%)	40

<sup>1</sup> Respondents who did not respond or did not indicate clearly a view to that proposal were excluded.

<sup>2</sup> Co. Sec Proposal

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## APPENDIX III      AMENDMENTS TO THE MAIN BOARD RULES

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### Chapter 2

#### GENERAL

##### INTRODUCTION

...

- 2.07C      (1)(a) (i)      A listed issuer or a new applicant which is obliged to publish ~~for the purposes of the Exchange Listing Rules~~ any announcement or notice under the Exchange Listing Rules must submit through HKEx-EPS a ready-to-publish electronic copy of the document to the Exchange for publication on the Exchange's website.

...

- (iii)      All announcements or notices which are published in the newspapers by an issuer pursuant to these Exchange Listing Rules must be clearly presented, use legible font size and paragraph spacing and state that it is available for viewing on the Exchange's website and the issuer's own website giving details as to where on these websites it is to be found (to the fullest extent known at the time of publication of the announcement or notice).

...

### Chapter 3

#### GENERAL

##### AUTHORISED REPRESENTATIVES, DIRECTORS, BOARD COMMITTEES AND COMPANY SECRETARY

...

##### Directors

...

- 3.09      Directors of a listed issuer must ~~satisfy the Exchange that they have the~~ character, experience and integrity and ~~be~~ are able to demonstrate a standard of competence commensurate with their position as directors of a listed issuer. The Exchange may request further information regarding the background, experience, other business interests or character of any director or proposed director of a listed issuer.

...

3.10 ~~Every board of directors of a listed issuer must include~~Subject to the transitional provisions in rule 3.19,;

- ~~(1) every board of directors of a listed issuer must include~~ at least three independent non-executive directors; and
- (2) at least one of the independent non-executive directors must have appropriate professional qualifications or accounting or related financial management expertise.

...

3.12 In addition to fulfilling the requirements and continuing obligations of rules 3.08, 3.09 and 3.13, every independent non-executive director must ~~have~~satisfy the Exchange that he has the character, integrity, independence and experience to fulfil his role effectively. The Exchange may stipulate a minimum number of independent non-executive directors which is higher than three if, in the opinion of the Exchange, the size of the board or other circumstances of the listed issuer justify it.

3.13 In assessing the independence of a non-executive director, the Exchange will take into account the following factors, none of which is necessarily conclusive. Independence is more likely to be questioned if the director:—

- (1) holds more than 1% of the number of issued shares of the listed issuer;

*Notes: 1. A listed issuer wishing to appoint an independent non-executive director holding an interest of more than 1% must ~~demonstrate~~satisfy the Exchange, prior to such appointment, that the candidate is independent. A candidate holding an interest of 5% or more will normally not be considered independent.*

...

3.14 Where a proposed independent non-executive director fails to meet any of the independence guidelines set out in rule 3.13, the listed issuer must ~~demonstrate to the satisfaction of the Exchange~~, prior to the proposed appointment, that the person is independent. The listed issuer must also disclose the reasons why such person is considered to be independent in the announcement of his appointment as well as in the next annual report published after his appointment. In cases of doubt, the listed issuer must consult the Exchange at an early stage.

3.15 ~~[Repealed 1 October 2020]Independent non-executive directors who were appointed by listed issuers on or before 31 March, 2004 shall submit to the Exchange a written confirmation in respect of the factors set out in rule 3.13 concerning their independence no later than 30 September, 2004.~~

...

3.19 ~~[Repealed 1 October 2020]~~In respect of all listed issuers whose securities were admitted to listing on or before 31 March, 2004, the following transitional provisions apply:—

- ~~(1) the listed issuer must have at least one independent non-executive director who has appropriate professional qualifications or accounting or related financial management expertise by 30 September, 2004; and~~
- ~~(2) the listed issuer must have at least three independent non-executive directors by 30 September, 2004.~~

...

### **Audit Committee**

3.21 Every listed issuer must establish an audit committee comprising non-executive directors only. The audit committee must comprise a minimum of three members, at least one of whom is an independent non-executive director with appropriate professional qualifications or accounting or related financial management expertise as required under rule 3.10(2). The majority of the audit committee members must be independent non-executive directors of the listed issuer. The audit committee must be chaired by an independent non-executive director.

*Notes: 1. ~~[Repealed 1 October 2020]~~The transitional provisions set out in rule 3.19 shall apply.*

...

### **Company Secretary**

...

3.29 In each financial year an issuer's company secretary must take no less than 15 hours of relevant professional training.

*Note: A person who was a company secretary of an issuer:*

- ~~(1) on or after 1 January 2005 must comply with rule 3.29 for the financial year commencing on or after 1 January 2012;~~
- ~~(2) between 1 January 2000 to 31 December 2004 must comply with rule 3.29 for the financial year commencing on or after 1 January 2013;~~
- ~~(3) between 1 January 1995 to 31 December 1999 must comply with rule 3.29 for the financial year commencing on or after 1~~

~~January 2015; and~~

~~(4) on or before 31 December 1994 must comply with rule 3.29 for the financial year commencing on or after 1 January 2017.~~

...

## **Chapter 4**

### **GENERAL**

#### **ACCOUNTANTS' REPORTS AND PRO FORMA FINANCIAL INFORMATION**

##### **When Required**

...

##### **Scope**

**4.02A** For the purpose of rules 4.04(2), 4.04(4), 4.05A and 4.28:—

- (1) “acquisitions of business” include acquisitions of associates and any equity interest in another company. The rules generally do not apply to acquisitions of assets, but the Exchange may consider such transactions to be acquisitions of business based on specific facts and circumstances. For example, the Exchange may consider the substance of the transaction and guidance under relevant accounting standards;
- (2) “trading record period” refers to the three financial years immediately preceding the issue of the listing document and any stub period reported on by the reporting accountants in conformity with rule 8.06; and
- (3) “proposed to be acquired” refers to a proposal to acquire a specific subsidiary or business, even if there are no legally binding agreements. Examples include a memorandum of understanding entered into by a new applicant, and a tender that a new applicant has submitted, or will submit, for the acquisition of any business or subsidiary in the case of an open bid/ tender invitation.

...

##### **Basic Contents of Accountants' Report for a Listing Document**

**4.04** In the case of a new applicant (rule 4.01(1)) and an offer of securities to the public for subscription or purchase falling within rule 4.01(2) the accountants' report must include:—

##### **History of results**

- (1) ...
- (2) the results of any business or subsidiary acquired, agreed to be acquired or proposed to be acquired since the date to which the latest audited financial statements of the issuer have been made up (on the same basis, where the subsidiary is itself a holding company, as in rule 4.04(1)) in respect of each of the three financial years immediately preceding the issue of the listing document or in respect of each of the financial years since commencement of such business or the incorporation or other establishment of such subsidiary (as the case may be) if this occurred less than three years prior to such issue or such shorter period as may be acceptable to the Exchange (see rules 8.05A, 8.05B and 23.06);

### **Statement of financial position**

- (3) ...
- (4)(a) the statement of financial position of any business or subsidiary acquired, agreed to be acquired or proposed to be acquired since the date to which the latest audited financial statements of the issuer have been made up (on the same basis, where the subsidiary is itself a holding company, as in rule 4.04(3)) in each case as at the end of each of the three financial years to which the latest audited financial statements of such business or subsidiary (as the case may be) have been made up;
- (b) ...

Notes: For the purpose of rules 4.04(2) and 4.04(4):—

- (1) if a new applicant has entered into a legally binding acquisition agreement after the trading record period but the acquisition will not be completed upon listing, the completion of the acquisition after the new applicant's listing will not be subject to the notification, disclosure and shareholders' approval requirements under Chapters 14 and 14A (where applicable), only if the new applicant has disclosed all information as required under rules 4.04(2) and 4.04(4) in its listing document and there have been no material changes to the acquisition and information disclosed;
- (2) the financial information on the business or subsidiary acquired, agreed to be acquired or proposed to be acquired must normally be drawn up in conformity with accounting policies adopted by the new applicant and be disclosed in the form of a note to the accountants' report or in a separate accountants' report;
- (3) where an acquisition of business or subsidiary is subject to the relevant requirements under the Third Schedule to the Companies

(Winding Up and Miscellaneous Provisions) Ordinance because the listing proceeds, or any part thereof, are or is to be applied directly or indirectly for the acquisition, the financial information of the acquisition target has to be disclosed in a separate accountants' report; and

(4) the Exchange may consider an application for a waiver from strict compliance with rules 4.04(2) and 4.04(4) taking into account the following:—

- (i) that all the percentage ratios (as defined under rule 14.04(9)) are less than 5% by reference to the most recent audited financial year of the new applicant's trading record period;
- (ii) if the acquisition will be financed by the proceeds raised from a public offer, the new applicant has obtained a certificate of exemption from the Commission in respect of the relevant requirements under paragraphs 32 and 33 of the Third Schedule to the Companies (Winding Up and Miscellaneous Provisions) Ordinance; and
- (iii) (a) where a new applicant's principal activities involve the acquisition of equity securities (the Exchange may require further information where securities acquired are unlisted), the new applicant is not able to exercise any control, and does not have any significant influence over the underlying company or business to which rules 4.04(2) and 4.04(4) relate, and has disclosed in its listing document the reasons for the acquisition and a confirmation that the counterparties and their respective ultimate beneficial owners are independent of the new applicant and its connected persons. In this regard, "control" means the ability to exercise or control the exercise of 30% (or any amount specified in the Takeovers Code as the level for triggering a mandatory general offer) or more of the voting power at general meeting, or being in a position to control the composition of a majority of the board of directors of the underlying company or business; or
  - (b) with respect to an acquisition of a business (including acquisition of an associated company and any equity interest in a company other than in the circumstances covered under sub-paragraph (1) above) or a subsidiary by a new applicant, the historical financial information of such business or subsidiary is unavailable, and it would be unduly burdensome for the new applicant to obtain or prepare such financial information; and the new applicant has disclosed in its listing document

information required for the announcement for a discloseable transaction under rules 14.58 and 14.60 on each acquisition. In this regard, “unduly burdensome” will be assessed based on each new applicant’s specific facts and circumstances (e.g. why the financial information of the acquisition target is not available and whether the new applicant or its controlling shareholder has sufficient control or influence over the seller to gain access to the acquisition target’s books and records for the purpose of complying with the disclosure requirements under rules 4.04(2) and 4.04(4)).

## **Additional disclosure of pre-acquisition financial information for a Listing Document**

- 4.05A Where a new applicant acquires any material subsidiary or business during the trading record period (see rule 4.04(1)) and such an acquisition if made by a listed issuer would have been classified at the date of application as a major transaction (see rule 14.06(3)) or a very substantial acquisition (see rule 14.06(5)), it must disclose pre-acquisition financial information (which should include the full financial statements with information required under rules 4.04 and 4.05) on that material subsidiary or business from the commencement of the trading record period (or if the material subsidiary or business commenced its business after the commencement of the trading record period, then from the date of the commencing of its business) to the date of acquisition. Pre-acquisition financial information on the material subsidiary or business must normally be drawn up in conformity with accounting policies adopted by the new applicant and be disclosed in the form of a note to the accountants’ report or in a separate accountants’ report.

*Notes: (1) For the purpose of determining whether an acquisition is material and falls within the classification of a major transaction or a very substantial acquisition, reference shall be made to total assets, profits or revenue (as the case may be) for the most recent financial year of the trading record period of the acquired business or subsidiary and this shall be compared to the total assets, profits or revenue (as the case may be) of the new applicant for the same financial year.*~~*as shown in the most recent financial year of the trading record period*~~ *If the financial year of the acquired business or subsidiary is not coterminous with that of the new applicant, the total assets, profits or revenue (as the case may be) for the most recent financial year of the acquired business or subsidiary should be compared to those of the new applicant for the most recent financial year of its trading record period. For example, if a new applicant’s trading record period covers year 1, year 2 and year 3 and it acquired a subsidiary during year 2, the total assets, profits or revenue of the acquired subsidiary for year 3 should be compared to those of the new applicant for year 3; and*



- (2) *If a new applicant which is allowed a shorter trading record period under rule 8.05A or 8.05B acquires any material subsidiary or business during its trading record period, it must disclose pre-acquisition financial information of that material subsidiary or business for the period from the three financial years immediately preceding the issue of the listing document (or if such material subsidiary or business commenced its business less than three financial years ago, then from the commencement date of its business) to the date of the acquisition.*

...

## Disclosure

- 4.10 The information to be disclosed in respect of rules 4.04 to 4.09 must be in accordance with best practice which is at least that required to be disclosed in respect of those specific matters in the accounts of a company under the HKFRS, IFRS or CASBE in the case of a PRC issuer that has adopted CASBE for the preparation of its annual financial statements and, in the case of banking companies, the Guideline on the Application of the Banking (Disclosure) Rules issued by the Hong Kong Monetary Authority ("Guideline").

*Note: If a new applicant is a banking company organised outside Hong Kong and primarily regulated by a regulator which has functions similar to the Hong Kong Monetary Authority and provides adequate supervision to the applicant, the Exchange may consider an application for a waiver from strict compliance with the disclosure requirement in relation to the Guideline. The applicant must provide alternative disclosure in its listing document, including disclosure on capital adequacy, loan quality, loan provisioning, and guarantees, contingencies and other commitments, that is sufficient for potential investors to make a fully informed investment decision.*

...

- 4.28 In the case of a new applicant (rule 4.01(1)) which has acquired or proposed to acquire any businesses or companies, which would at the date of application or such later date of acquisition before listing of the applicant be classified as a major subsidiary, since the date to which the latest audited financial statements of the issuer have been made up, it must include ~~in~~ as an appendix to its listing document the pro forma financial information required under rule 4.29 in respect of the enlarged group (i.e. the new applicant, its subsidiaries and any businesses or companies acquired or proposed to be acquired since the date to which the latest audited financial statements of the issuer have been made up) and the pro forma financial information must be reported on by the reporting accountants as required under rule 4.29(7).

Notes: (1) For the purposes of rule 4.28, all acquisitions or proposed acquisitions since the date to which the latest audited financial statements in the accountants' report of the issuer have been made up, whether of businesses or companies, should be aggregated. If the aggregated total assets, profits or revenue represents 5% or more under any of the percentage ratios as defined under rule 14.04(9), these acquisitions will be deemed to be an acquisition of a major subsidiary for the purpose of rule 4.28. 100% of the major subsidiary's total assets, profits or revenue (as the case may be) or, where the major subsidiary itself has subsidiaries, the consolidated total assets, profits or revenue (as the case may be) of the major subsidiary is to be compared to the total assets, profits or revenue (as the case may be) shown in the issuer's latest audited consolidated financial statements in the accountants' report irrespective of the interest held in the major subsidiary.

(2) Where any of the percentage ratios calculated in accordance with (1) above is 5% or more but is less than 100%, the issuer should disclose, as a minimum, a pro forma statement of assets and liabilities of the enlarged group. Where any of the percentage ratios is 100% or more, the issuer should disclose, as a minimum, a pro forma balance sheet, a pro forma income statement and a pro forma cash flow statement of the enlarged group.

...

## Chapter 6

### GENERAL

#### TRADING HALT, SUSPENSION, CANCELLATION AND WITHDRAWAL OF LISTING

...

##### Trading halt or suspension

...

- 6.03 The issuer requesting a trading halt or suspension of trading in its securities has the obligation to demonstratesatisfy the Exchange that a trading halt or suspension would be appropriate.

...

## Chapter 7

### EQUITY SECURITIES

## METHODS OF LISTING

...

### Restrictions on rights issues, open offers and specific mandate placings

- 7.27B A listed issuer may not undertake a rights issue, open offer or specific mandate placing that would result in a theoretical dilution effect of 25% or more (on its own or when aggregated with any other rights issues, open offers, and/or specific mandate placings announced by the issuer (i) within the 12 month period immediately preceding the announcement of the proposed issue or (ii) prior to such 12 month period where dealing in respect of the shares issued pursuant thereto commenced within such 12 month period, together with any bonus securities, warrants or other convertible securities (assuming full conversion) granted or to be granted to shareholders as part of such rights issues, open offers and/or specific mandate placings), unless the issuer can demonstrate ~~satisfy the Exchange~~ that there are exceptional circumstances (for example, the issuer is in financial difficulties and the proposed issue forms part of the rescue proposal).

...

## Chapter 8

### EQUITY SECURITIES

#### QUALIFICATIONS FOR LISTING

##### Preliminary

...

- 8.05A In the case of the market capitalisation/revenue test, the Exchange will accept a shorter trading record period under substantially the same management as required under rule 8.05(3) (a) and (b) if the new applicant is able to demonstrate ~~to the satisfaction of the Exchange~~ the following:

...

- 8.07 There must be an adequate market in the securities for which listing is sought. This means that the issuer must demonstrate ~~Exchange must be satisfied~~ that there will be sufficient public interest in the business of the issuer and in the securities for which listing is sought.

...

- 8.13 The securities for which listing is sought must be freely transferable. Partly-paid securities will normally be regarded as fulfilling this condition provided that in the Exchange's view their transferability is not unreasonably restricted and dealings in them can take place on an open and proper basis. Existing issued securities which are offered for sale on an instalment payment basis, approved by the Exchange, will normally be regarded as fulfilling this condition.

*Note: Since it is not common practice in Hong Kong for purchasers to register every transaction, a vendor of a partly-paid security cannot ensure that his name is removed from the register and he may therefore retain his original liability to pay further calls on the security. ~~In order for the Exchange to be satisfied~~To demonstrate that dealings in partly-paid securities can take place on an open and proper basis, an issuer must satisfy the Exchange thatthere must be either:—*

...

- 8.15 Without prejudice to the specific requirements for management experience under rules 8.05A, 8.05B(2) and 18.04, the persons proposed to hold office as directors of the issuer must meet the requirements of Chapter 3 ~~to the satisfaction of the Exchange.~~

...

- 8.21 (1) Subject to (2) and (3) below the Exchange will not normally consider an application for listing from a new applicant which:—
- (a) has changed the period of its financial year during the latest complete financial year (being twelve months) immediately preceding the proposed date of issue of the listing document; or
  - (b) intends to change the period of its financial year during the period of the profit forecast, if any, or the current financial year, whichever is the longer period.

(2) ...

(3) Notwithstanding (1) above, the Exchange may consider an application for a waiver from strict compliance with rule 8.21(1) if:—

- (a) the new applicant is an investment holding company and the change is to allow its financial year to be coterminous with that of all or a majority of its major operating subsidiaries;
- (b) the new applicant would be able to satisfy all requirements under rule 8.05 before and after the proposed change; and

(c) the proposed change will not materially affect the presentation of financial information, or result in any omission of material information in the listing document or information that would otherwise be relevant to assessment of the new applicant's suitability.

8.21A (1) ...

(2) The Exchange will not require a working capital statement under rule 8.21A(1), paragraph 36 of Part A of Appendix 1 and paragraph 36 of Part E of Appendix 1 to be made by a new applicant which is a banking company or an insurance company, whose business is entirely or substantially that of the provision of financial services, provided the ~~Exchange is satisfied that:—~~

(a) the inclusion of such a statement would not provide significant information for investors; ~~and~~

(b) the new applicant's solvency and capital adequacy are subject to prudential supervision by another regulatory body; and

(c) the new applicant will provide alternative disclosures on (i) the regulatory requirements as to the solvency, capital adequacy and liquidity of banking companies or insurance companies (as the case may be) in the relevant jurisdiction or place of operation; and (ii) the new applicant's solvency ratios, capital adequacy ratios and liquidity ratios (as applicable) for the latest three financial years.

*Note: Refer to Chapter 3A for other sponsor obligations.*

...

## Chapter 9

### EQUITY SECURITIES

#### APPLICATION PROCEDURES AND REQUIREMENTS

...

#### Documentary Requirements – New Listing Applications

9.10A The documents under rules 9.11(1) to (38) must be lodged with the Exchange according to the following schedule:

- (1) documents under rules 9.11(1) to 9.11(17c) must be lodged at the time of submission of Form A1;

Notes: 1. For applications re-submitted at any time after the lapse of a previous application, the new applicant and its sponsor must provide, if applicable, a submission with supporting documents addressing all outstanding matters set out in the Exchange's letter on the lapsed application and material changes in the listing application, business or circumstances of the new applicant.

2. For applications re-submitted within three months of a lapsed application by at least one of the original and independent sponsors of the lapsed application (see rule 9.10B), all documents lodged with the Exchange in relation to the previous application will remain valid and applicable. The new applicant and its sponsor will only need to submit documents that have been revised due to material changes, and provide a confirmation to the Exchange that there has been no material changes to all other documents.

(2) ...

...

9.10B (1) Where there is a change in sponsors, the replacement or remaining sponsor, as the case may be, must submit to the Exchange why the outgoing sponsor left; a copy of the clearance letter (if any) from the outgoing sponsor; and any matters the replacement or remaining sponsor considers necessary to be brought to the Exchange's attention regarding the application and the outgoing sponsor as soon as practicable.

(2) Where an additional sponsor is appointed, the new applicant and the sponsors must submit to the Exchange reasons for appointing the additional sponsor; and the additional sponsor must submit to the Exchange a confirmation that it fully agrees with all submissions previously made by the new applicant and its existing sponsor when a new listing application is submitted pursuant to rule 3A.02B(2).

9.11 The following documents must be lodged with the Exchange by a new applicant in connection with its listing application:—

### **Together with the Form A1**

...

(3d) a written confirmation to the new applicant from the reporting accountants that no significant adjustment is expected to be made to the draft accountants' reports on (1) historical financial information; (2) pro forma financial information; and (3) profit forecast (if any) included in the Application Proof based on the work done as of the date of the confirmation;

(3e) a written confirmation to the new applicant from each of the experts who is named as an expert in the listing document (excluding reporting accountants) that no material change is expected to be made to the relevant expert opinion included in the Application Proof based on the work done as of the date of the confirmation;

*Note: Where the relevant information in the listing document is updated, the reporting accountants and each of the experts, where applicable, must provide a written confirmation on the updated information similar to those in sub-paragraphs (3d) and (3e).*

...

## **Chapter 11**

### **EQUITY SECURITIES**

#### **LISTING DOCUMENTS**

...

11.06 Subject to rule 11.09 and rule 11.09A, listing documents must contain all of the specific items of information which are set out in either Part A, B, E or F of Appendix 1 (as the case may be). In those cases where listing is sought for securities of an issuer no part of whose share capital is already listed the items of information specified in Part A or E (as the case may be) must be included; in those cases where listing is sought for securities of an issuer some part of whose share capital is already listed the items of information specified in Part B or F (as the case may be) must be included.

...

11.09A A working capital statement in paragraph 30 of Part B of Appendix 1 or paragraph 26 of Part F of Appendix 1 is not required in the listing document of a listed issuer which is a banking company or an insurance company, provided that:—

(1) the inclusion of such a statement would not provide significant information for investors;

(2) the issuer's solvency and capital adequacy are subject to prudential supervision by another regulatory body; and

- (3) the issuer will provide alternative disclosures on (i) the regulatory requirements as to the solvency, capital adequacy and liquidity of banking companies or insurance companies (as the case may be) in the relevant jurisdiction or place of operation; and (ii) the issuer's solvency ratios, capital adequacy ratios and liquidity ratios (as applicable) for the latest three financial years.

...

## **Chapter 12**

### **EQUITY SECURITIES**

#### **PUBLICATION REQUIREMENTS**

...

- 12.05 Model forms of formal notices for offers for subscription or sale, placings and introductions or transfers from GEM to the Main Board are set out in Appendix 11 for the guidance of issuers. Issuers are reminded that where a prospectus has been registered with the Registrar of Companies pursuant to the Companies (Winding Up and Miscellaneous Provisions) Ordinance, every formal notice must comply with Section 38B of that Ordinance.

*Note: A new applicant must not publish formal notices in accordance with rules 12.02, 12.03 and 12.05 until the Exchange has reviewed them.*

...

#### **After Issue**

...

- 12.09 In the case of an offer for subscription or an offer for sale by tender, an announcement of the striking price must be published in accordance with rule 2.07C as soon as possible, but in any event not later than the time that is 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day next after the allotment letters or other relevant documents of title are posted.

*Note: A new applicant must not publish announcements in accordance with rules 12.08 and 12.09 until the Exchange has reviewed them.*

...

## **Chapter 13**

### **EQUITY SECURITIES**

#### **CONTINUING OBLIGATIONS**

...



### **Sufficient operations**

- 13.24 (1) An issuer shall carry out, directly or indirectly, a business with a sufficient level of operations and assets of sufficient value to support its operations to warrant the continued listing of the issuer's securities.

*Note: ...*

*Where the Exchange raises concerns with an issuer about its compliance with the rule, the onus is on the issuer to provide information to address the Exchange's concerns and ~~demonstrate to the satisfaction of the Exchange~~ its compliance with the rule.*

...

### **Pre-emptive rights**

- 13.36 (1) ...

...

- (5) In the case of a placing or open offer of securities for cash consideration, the issuer may not issue any securities pursuant to a general mandate given under rule 13.36 (2)(b) if the relevant price represents a discount of 20% or more to the benchmarked price of the securities, such benchmarked price being the higher of:

(a) ...

(b) ...

unless the issuer can demonstratesatisfy the Exchange that it is in a serious financial position and that the only way it can be saved is by an urgent rescue operation which involves the issue of new securities at a price representing a discount of 20% or more to the benchmarked price of the securities or that there are other exceptional circumstances. The issuer shall provide the Exchange with detailed information on the allottees to be issued with securities under the general mandate.

...

## **DISCLOSURE OF FINANCIAL INFORMATION**

### **Distribution of annual report and accounts**

- 13.46 (1) In the case of an issuer (other than an overseas issuer and a PRC issuer):

—

(a) Such issuer shall send to

(i) every member of the issuer; and

(ii) every other holder of its listed securities (not being bearer securities),

a copy of either (A) its annual report including its annual accounts and, where the issuer prepares consolidated financial statements referred to in section 379(2) of the Companies Ordinance, the consolidated financial statements, together with a copy of the auditors' report thereon, or (B) its summary financial report not less than 21 days before the date of the issuer's annual general meeting and in any event not more than four months after the end of the financial year to which they relate. The issuer may send a copy of its summary financial report to a member and a holder of its listed securities in place of a copy of its annual report and accounts, provided that it complies with the relevant provisions set out in sections 437 to 446 of the Companies Ordinance and in the Companies (Summary Financial Reports) Regulation.

(b) ...

(2) In the case of an overseas issuer or a PRC issuer:—

(a) Such issuer shall send to:—

(i) every member of the issuer; and

(ii) every other holder of its listed securities (not being bearer securities),

a copy of either (A) its annual report including its annual accounts and, where the issuer prepares group accounts, its group accounts, together with a copy of the auditors' report thereon or (B) its summary financial report, not less than 21 days before the date of the issuer's annual general meeting and in any event not more than four months after the end of the financial year to which they relate. The issuer may send a copy of its summary financial report to a member and a holder of its listed securities in place of a copy of its annual report and accounts, provided that it complies with provisions no less onerous than the relevant provisions set out in sections 437 to 446 of the Companies Ordinance and in the Companies (Summary Financial Reports) Regulation for listed issuers incorporated in Hong Kong.

(b) ...

(c) ...

*Notes: ...*

4. Newly listed issuers will be required to prepare and publish the relevant annual report or summary financial report (irrespective of whether the period in question ends on a date before or after the date on which dealings in the securities of the listed issuer commenced) where the four-month deadline for publishing the report falls after the date on which dealings in the securities of the listed issuer commenced. The requirements under rule 13.46(1)(a) or 13.46(2)(a) are not applicable to the reporting period which ended immediately before the listing of a newly listed issuer if the following is disclosed in its listing document:—

(a) the financial information required under Appendix 16 in relation to annual reports, in respect of such reporting period;

(b) a statement as to whether it complies with the Corporate Governance Code in Appendix 14 and, if not, the reason for deviation; and

(c) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not distributing such annual reports and accounts.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rule 13.46(1)(a) or 13.46(2)(a) that the relevant financial information has been included in its listing document. The newly listed issuer must still comply with the requirements under rule 13.91(5).

...

### **Interim Reports**

- 13.48 (1) In respect of the first six months of each financial year of an issuer unless that financial year is of six months or less, the issuer shall send to the persons listed in rule 13.46(1), either (i) an interim report, or (ii) a summary interim report not later than three months after the end of that period of six months. The issuer may send a copy of its summary interim report to a member and a holder of its listed securities in place of a copy of its interim report, provided that such summary interim report complies with the relevant provisions of the Companies (Summary Financial Reports) Regulation governing summary financial reports.

Note: Newly listed issuers will be required to prepare and publish the relevant interim report or summary interim report (irrespective of whether the period in question ends on a date before or after the

date on which dealings in the securities of the listed issuer commenced) where the three-month deadline for publishing the report falls after the date on which dealings in the securities of the listed issuer commenced. The requirements under rule 13.48(1) are not applicable to the interim period which ended immediately before the listing of a newly listed issuer if the following is disclosed in its listing document:—

- (a) the financial information required under Appendix 16 in relation to interim reports, in respect of such six-month period (with comparative figures for the corresponding six-month period of the immediately preceding financial year);
- (b) a statement as to whether it complies with the Corporate Governance Code in Appendix 14 and, if not, the reason for deviation; and
- (c) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not distributing such interim reports.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rule 13.48(1) that the relevant financial information has been included in its listing document.

...

### **Preliminary Announcements of Results – Full Financial Year**

- 13.49 (1) An issuer shall publish in accordance with rule 2.07C its preliminary results in respect of each financial year as soon as possible, but in any event not later than the time that is 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the next business day after approval by or on behalf of the board. The issuer must publish such results not later than three months after the end of the financial year.

Note: Newly listed issuers will be required to prepare and publish the relevant annual results (irrespective of whether the period in question ends on a date before or after the date on which dealings in the securities of the listed issuer commenced) where the three-month deadline for publishing the results falls after the date on which dealings in the securities of the listed issuer commenced. The requirements under rule 13.49(1) are not applicable to the reporting period which ended immediately before the listing of a newly listed issuer if the following is disclosed in its listing document:—

(a) the financial information required under Appendix 16 in relation to annual results announcements, in respect of such reporting period; and

(b) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not publishing such annual results announcements.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rule 13.49(1) that the relevant financial information has been included in its listing document.

...

### **Preliminary Announcements of Results – First Half of The Financial Year**

- (6) The issuer shall publish in accordance with rule 2.07C a preliminary announcement in respect of its results for the first six months of each financial year, unless that financial year is of six months or less, as soon as possible, but in any event not later than the time that is 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the next business day after approval by or on behalf of the board. The issuer must publish such results not later than two months after the end of that period of six months.

In circumstances where the issuer is unable to make such an announcement, the issuer must make an announcement within the required time referred to above. The announcement must contain:—

- (i) a full explanation for its inability to make an announcement based on unaudited financial statements; and
- (ii) the expected date of announcement of the unaudited results for the first half of the financial year.

Note: Newly listed issuers will be required to prepare and publish the relevant interim results (irrespective of whether the period in question ends on a date before or after the date on which dealings in the securities of the listed issuer commenced) where the two-month deadline for publishing the results falls after the date on which dealings in the securities of the listed issuer commenced. The requirements under rule 13.49(6) are not applicable to the interim period which ended immediately before the listing of a newly listed issuer if the following is disclosed in its listing document:—

(a) the financial information required under Appendix 16 in relation to interim results announcements, in respect of such six-month period (with comparative figures for the corresponding six-month period of the immediately preceding financial year); and

(b) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not publishing such interim results announcements.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rule 13.49(6) that the relevant financial information has been included in its listing document.

...

## NOTIFICATION

...

### Inclusion of stock code in documents

13.51A An issuer shall set out its stock code in a prominent position on the cover page or, where there is no cover page, the first page of all announcements, circulars and other documents published by it pursuant to these Exchange Listing Rules.

Note: For an issuer's annual report and interim report, the Exchange would consider rule 13.51A to be satisfied if the issuer's stock code is displayed prominently in the corporate or shareholder information section of the report.

...

### Closure of books and record date

13.66 (1) ...

(2) ...

Notes:

1. ...

2. In addition, for a rights issue, the issuer must provide at least two trading days for trading in the securities with entitlements (i.e. before the ex-date) after publication of the book closure. If trading on the Exchange is interrupted due to a typhoon, "extreme conditions" caused by a super typhoon (as defined in the note to paragraph 2 of Practice Note 8) and/or a black rainstorm warning, the book-close date will be automatically

*postponed, where necessary, to provide at least two trading days (during neither of which trading is interrupted) for trading of the securities with entitlements during the notice period. In these circumstances the issuer must publish an announcement on the revised timetable.*

3. ...

...

### **Directors' service contracts**

...

13.69 ~~[Repealed 1 October 2020] Directors' service contracts entered into by the issuer or any of its subsidiaries in accordance with the Exchange Listing Rules on or before 31 January, 2004 are exempt from the shareholders' approval requirement under rule 13.68. Upon any variation as to duration or payment on termination or any other material terms of the directors' service contracts or renewal of any such directors' service contracts, the issuer must comply in full with the requirements set out in rule 13.68 in respect of the service contracts effected after such variation or renewal. Pursuant to paragraph 14A of Appendix 16, the issuer must include particulars of any service contracts that are exempt under this rule in its annual reports during the term of any such service contracts.~~

...

## **Chapter 14**

### **EQUITY SECURITIES**

#### **NOTIFIABLE TRANSACTIONS**

...

#### **Definitions**

14.04 For the purposes of this Chapter:—

(1) ...

...

(12) “total assets” means:—

(a) ...

(b) ...

*Note: ~~Listed issuers must demonstrate to the satisfaction of the Exchange that any such adjustments or modifications to the accounts of the relevant company, legal person, partnership, trust or business unit are necessary and appropriate in order to reflect its latest financial position.~~*

...

#### *Extreme transactions*

- 14.06C An “extreme transaction” is an acquisition or a series of acquisitions of assets by a listed issuer, which individually or together with other transactions or arrangements, may, by reference to the factors set out in Note 1 to rule 14.06B, have the effect of achieving a listing of the acquisition targets, but where the issuer can demonstrate ~~to the satisfaction of the Exchange~~ that it is not an attempt to circumvent the requirements for new applicants set out in Chapter 8 of the Listing Rules and that:

...

#### **Contents of announcements**

##### *All transactions*

- 14.58 The announcement of a share transaction, discloseable transaction, major transaction, very substantial disposal, very substantial acquisition, extreme transaction or reverse takeover must contain at least the following information:—

...

- (4) the aggregate value of the consideration, how it is being or is to be satisfied and details of the terms of any arrangements for payment on a deferred basis. If the consideration includes securities for which listing will be sought, the listed issuer must also include the amounts and details of the securities being issued;

*Note: Where the transaction involves an acquisition of aircraft from an aircraft manufacturer by a listed issuer principally engaged in airline operations and the acquisition is in the issuer’s ordinary and usual course of business, the Exchange may waive the requirement of disclosing the aggregate value of the consideration if there are contractual confidentiality restrictions from disclosing the actual consideration for the aircraft. In this case, the issuer must disclose:*

- (a) the reasons for its waiver application and provide alternative disclosure (including the list price of the aircraft, a description of any price concession received,*



whether the price concession received is comparable to that obtained in previous purchases and whether the concession has any material impact on the issuer's future operating costs as a whole) in the announcement and, where applicable, the circular for the transaction; and

(b) the following information in its next interim report (where applicable) and annual report:

(i) the aggregate number of aircraft owned as at the end of the reporting period with a breakdown by aircraft model, and the aggregate net book value of the aircraft; and

(ii) the aggregate number of aircraft committed to purchase as at the end of the reporting period with a breakdown by aircraft model, and the commitment amounts for future commitments.

...

## **Contents of circulars**

...

### *Major transaction circulars*

14.66 A circular relating to a major transaction must contain:—

...

(10) the information regarding the listed issuer specified in the following paragraphs of Appendix 1, Part B:—

28- indebtedness

29(1)(b)- financial and trading prospects

30- sufficiency of working capital, which must take into account the effect of the transaction

40- directors' and experts' interests in group assets

42- material contracts

43- documents on display;

A working capital statement in paragraph 30 of Part B of Appendix 1 is not required if the issuer is a banking company or an insurance company and:—

(a) the inclusion of such a statement would not provide significant information for investors;

(b) the issuer's solvency and capital adequacy are subject to prudential supervision by another regulatory body; and

(c) the issuer will provide alternative disclosures on (i) the regulatory requirements as to the solvency, capital adequacy and liquidity of banking companies or insurance companies (as the case may be) in the relevant jurisdiction or place of operation; and (ii) the issuer's solvency ratios, capital adequacy ratios and liquidity ratios (as applicable) for the latest three financial years.

...

*Inability to access information to compile circulars for major transactions or very substantial acquisitions*

14.67A (1) Where a listed issuer has acquired and/or agreed to acquire equity capital in a company and the transaction constitutes a major transaction or a very substantial acquisition, and the listed issuer does not have access or only has limited access to the non-public information on the target company that would be required for the purpose of complying with the disclosure requirements in respect of the target company and the enlarged group under rules 14.66 and 14.67 (for a major transaction) or rule 14.69 (for a very substantial acquisition), then the listed issuer may defer complying with certain of the disclosure requirements in the manner set out in paragraphs (2) and (3) below, provided that the following conditions are met~~demonstrated to the satisfaction of the Exchange:~~

...

**Options**

...

14.76 (1) For the purpose of rules 14.74(1) and 14.75(1), where, on the grant of the option, the actual monetary value of each of the premium, the exercise price, the value of the underlying assets and the profits and revenue attributable to such assets has not been determined, the listed issuer must ~~demonstrate to the satisfaction of the Exchange~~ the highest possible monetary value, which value will then be used for the purpose of classification of notifiable transaction. Failure to do so will result in the transaction being classified as at least a major transaction. The listed issuer must inform the Exchange of the actual monetary value of each of the premium, the exercise price, the value of the underlying assets and the profits and revenue attributable to such assets as soon as it has been determined. If the actual monetary value results in the transaction falling within a higher classification of notifiable transaction, the listed issuer must announce this fact by means of an announcement which is published in accordance with rule 2.07C as soon as reasonably practicable and comply with the additional requirements of such higher classification.

...

## Chapter 14A

### EQUITY SECURITIES

#### CONNECTED TRANSACTIONS

...

#### *Percentage ratio calculations*

...

14A.79 The following applies when calculating percentage ratios for connected transactions involving options:

(1) ...

...

(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 listed issuer's group grants or acquires or accepts the option:

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

...

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

14A.104 The Exchange may waive all or some of the connected transaction requirements for a joint and several guarantee or indemnity provided by the listed issuer's group to a third party creditor for the obligations of a connected subsidiary or a commonly held entity if:

(1) ...

...

(3) each of the other shareholders of the connected subsidiary or commonly held entity has agreed to indemnify the listed issuer's group for the liability guaranteed, or indemnified at least in proportion to its equity interest in the subsidiary or entity. The listed

issuer must ~~demonstrate~~satisfy the Exchange that such shareholder indemnity is sufficient.

...

## **Chapter 15A**

### **STRUCTURED PRODUCTS**

...

- 15A.14 Where an issuer fails to satisfy the criteria in rules 15A.12 or 15A.13 the Exchange may accept an arrangement whereby the issuer's obligations arising under the non-collateralised structured products are unconditionally and irrevocably guaranteed or otherwise secured ("guaranteed") ~~to the satisfaction of the Exchange~~ by another legal person (the "guarantor") which meets the criteria in rules 15A.12 and 15A.13.

...

#### **Collateralised Structured Products**

- 15A.48 In addition to the other requirements which apply generally to structured products, an issuer of collateralised structured products must:–
- (1) ~~demonstrate~~satisfy the Exchange that the proposed security arrangements are for the benefit of and adequately protect the interests of holders of the structured product. In particular, the underlying securities or assets (or rights to acquire the underlying securities or assets) must normally be held as security for the performance of the issuer's obligations under the collateralised structured product by an independent trustee, custodian or depositary for the benefit of holders of the structured product;

...

#### **Further Issue**

- 15A.52 An issuer may make a further issue or issues of structured products ("Further Issue") to form a single series with a structured product ("Existing Issue") which has been approved for listing by the Exchange. The issuer must comply with the following requirements for a Further Issue:
- (1) An issuer must ~~demonstrate~~satisfy the Exchange that the terms and conditions of the Existing Issue either permit the Further Issue so as to form a single series with the Existing Issue or have been properly amended so that the right to issue one or more Further Issues is created.

...

**Chapter 17**  
**EQUITY SECURITIES**  
**SHARE OPTION SCHEMES**

...

**Terms of the scheme**

17.03      (1) ...

...

- (3) the total number of securities which may be issued upon exercise of all options to be granted under the scheme, together with the percentage of the issued shares that it represents at the date of approval of the scheme;

*Notes: (1) The total number of securities which may be issued upon exercise of all options to be granted under the scheme and any other schemes must not in aggregate exceed 10% of the relevant class of securities of the listed issuer (or the subsidiary) in issue as at the date of approval of the scheme (alternatively, in respect of a scheme of a subsidiary that will become effective only upon its separate listing, the 10% limit may be calculated by reference to the relevant class of securities of the subsidiary in issue as at the date of its listing). Options lapsed in accordance with the terms of the scheme will not be counted for the purpose of calculating the 10% limit.*

...

**Restriction on the time of grant of options**

17.05      An issuer may not grant any options after inside information has come to its knowledge until (and including) the trading day after it has announced the information. In particular, it may not grant any option during the period commencing one month immediately before the earlier of:

(1) ...

...

**Transitional arrangements**

17.10 ~~[Repealed 1 October 2020]~~The following transitional provisions apply to existing share option schemes of a listed issuer or a new applicant, which were approved by shareholders of the listed issuer or the new applicant and adopted before 1st September 2001:

~~(1) if the listed issuer or the new applicant wishes to continue to grant options under its existing schemes on or after 1st September 2001 (or in the case of the new applicant, after listing), it must comply with the requirements of this chapter 17. The disclosure requirements in the interim report and annual report under rules 17.07, 17.08 and 17.09 of this chapter 17 will apply to the financial year/period ending on or after 1st October 2001; and~~

~~(2) if the listed issuer or the new applicant wishes to change the terms of any of its existing schemes or implement a new scheme in accordance with the requirements of this chapter 17 on or after 1st September 2001, it must first ensure that all its existing schemes comply with the requirements of this chapter 17. The listed issuer or new applicant cannot grant any further options under its existing schemes which do not comply with the requirements of this chapter 17.~~

~~Note: The Exchange may allow a listed issuer to grant options under the terms of its existing share option schemes on or after 1st September 2001 if the listed issuer is able to demonstrate to the satisfaction of the Exchange that such options are granted to a participant pursuant to a contractual commitment given by the listed issuer to such participant before 1st September 2001.~~

...

## Chapter 18

### EQUITY SECURITIES

#### MINERAL COMPANIES

...

18.03 A Mineral Company must:—

(1) ~~establish to the Exchange's satisfaction~~ that it has the right to participate actively in the exploration for and/or extraction of Natural Resources, either:—

...

(2) ~~establish to the Exchange's satisfaction~~ that it has at least a portfolio of:—

....

- (4) demonstrate ~~to the Exchange's satisfaction~~ that it has available working capital for 125% of the group's present requirements, that is for at least the next 12 months, which must include:—

...

- 18.04 If a Mineral Company is unable to satisfy either the profit test in rule 8.05(1), the market capitalisation/revenue/cash flow test in rule 8.05(2), or the market capitalisation/revenue test in rule 8.05(3), it may still apply to be listed if it can establish ~~to the Exchange's satisfaction~~ that its directors and senior managers, taken together, have sufficient experience relevant to the exploration and/or extraction activity that the Mineral Company is pursuing. Individuals relied on must have a minimum of five years relevant industry experience. Details of the relevant experience must be disclosed in the listing document of the new applicant.

...

## **Chapter 18A**

### **EQUITY SECURITIES**

#### **BIOTECH COMPANIES ...**

- 18A.03 An applicant that has applied for listing under this Chapter must:—
- (1) demonstrate ~~to the Exchange's satisfaction~~ that it is both eligible and suitable for listing as a Biotech Company;

...

#### **CONTENTS OF LISTING DOCUMENTS FOR BIOTECH COMPANIES**

- 18A.04 In addition to the information set out in Appendix 1A, a Biotech Company must disclose in its listing document:—
- (1) its strategic objectives;
- (2) the details of each Core Product, including:
- (a) a description of the Core Product;
- ...
- (h) details of any patent(s) granted and applied for in relation to the Core Product(s) (unless the applicant is able to demonstrate ~~to the satisfaction of the Exchange~~ that such disclosure would require the applicant to disclose highly sensitive commercial information), or an appropriate negative statement;

...

### **Dis-application of rules 18A.09 to 18A.11**

- 18A.12 Upon application by the listed Biotech Company and demonstration ~~to the Exchange's satisfaction~~ that it is able to meet the requirements of rule 8.05, rules 18A.09 to 18A.11 do not apply to a Biotech Company listed under this chapter.

...

## **Chapter 19**

### **EQUITY SECURITIES**

#### **OVERSEAS ISSUERS**

...

#### **Qualifications for Listing**

- 19.05 The following additional requirements apply:—

...

- (6) where an overseas issuer wishes to obtain its primary listing on the Exchange by way of an introduction in the circumstances set out in rule 7.14(3):—

(a) it must comply with the following additional requirements:—

- (i) provide the Exchange with details of the relevant regulatory provisions (statutory or otherwise) in its place of incorporation or other establishment and demonstrate ~~to the satisfaction of the Exchange~~ that the standards of shareholder protection provided by that jurisdiction are not lower than those pertaining in Hong Kong;

...

- 19.57 If, in the sole opinion of the Exchange, the majority of trading in the overseas issuer's securities is likely to be on the Exchange, then:—

- (1) the overseas issuer's primary listing must be on a regulated, regularly operating, open stock market which is recognised for this purpose by the Exchange;
- (2) the overseas issuer must have an adequate nexus with that market; and
- (3) the primary regulator in that market must have entered into a written agreement with the Exchange governing the parties' respective roles in the



regulation of the overseas issuer, in a form acceptable to the Exchange, after prior consultation with the Commission.

...

*Note 3: An adequate nexus will be shown where ~~the Exchange is satisfied that~~ there is an established trading market in the overseas issuer's securities in the primary market. In determining whether there is an established trading market the Exchange will normally expect, inter alia, at least 10 per cent. of worldwide trading volume or HK\$1 billion of trading by value in the overseas issuer's securities to have taken place on the overseas issuer's primary exchange during the 12 month period preceding the application for a secondary listing.*

## **Chapter 19A**

### **EQUITY SECURITIES**

#### **ISSUERS INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA**

...

#### **Chapter 3A — Sponsors and Compliance Advisers**

...

19A.07B In the case of a PRC issuer, references to directors in rules 13.67 and, 13.68 ~~and 13.69~~ shall also mean and include supervisors.

...

#### **Chapter 13 — Continuing Obligations**

...

##### ***Pre-emptive rights***

19A.38 The requirements of rule 13.36(1) and (2) are replaced in their entirety by the following provisions:

“13.36 (1) ...

(2) No such approval as is referred to in rule 13.36(1)(a) shall be required in the case of authorising, allotting or issuing shares if, but only to the extent that,

(a) it is made under a bonus or capitalisation issue to the shareholders of the PRC issuer, which excludes for that

purpose any shareholder that is resident in a place outside the PRC and Hong Kong, provided that the directors of the PRC issuer consider such exclusion to be necessary or expedient on account either of the legal restrictions under the laws of the relevant place or the requirements of the relevant regulatory body or stock exchange in that place and, where appropriate, to holders of other equity securities of the PRC issuer entitled to the issue, pro rata (apart from fractional entitlements) to their existing holdings; or

Notes: (1) The PRC issuer must make enquiries regarding the legal restrictions under the laws of the relevant place and the requirements of the relevant regulatory body or stock exchange and may only exclude such overseas shareholders on the basis that, having made such enquiries, it would be necessary or expedient to do so.

(2) If any shareholders that are resident outside the PRC and Hong Kong are excluded from an offer of securities pursuant to rule 13.36(2)(a), the PRC issuer shall include an explanation for the exclusion in the relevant circular or document containing the offer of securities. PRC issuers shall ensure that the circular or offer document is delivered to such shareholders for their information subject to compliance with the relevant local laws, regulations and requirements.

- (ba) the existing shareholders of the PRC issuer have by special resolution in general meeting given approval, either unconditionally or subject to such terms and conditions as may be specified in the resolution, for the PRC issuer to authorise, allot or issue, either separately or concurrently once every twelve months, not more than twenty per cent. of each of the existing issued domestic shares and overseas listed foreign shares of the PRC issuer; or
- (cb) such shares are part of the PRC issuer's plan at the time of its establishment to issue domestic shares and overseas listed foreign shares and which plan is implemented within 15 months from the date of approval by the China Securities Regulatory Commission or such other competent state council securities regulatory authority.

*Notes:(1) Other than where independent shareholders' approval has been obtained, an issue of*

*securities to a connected person pursuant to a general mandate given under rule 13.36(2) is only permitted in the circumstances set out in rule 14A.92.*

- (2) The PRC issuer does not have to comply with rule 13.36 if its primary listing is or is to be on another stock exchange and it is not subject to any other statutory or other requirement giving pre-emptive rights to shareholders over further issues of share capital. If the PRC issuer has no domestic shares issued, nor expects to issue domestic shares in the future, the PRC Issuer should consult the Exchange concerning appropriate modifications to the provisions of rule 13.36(2).*
- (3) Notwithstanding any issue of securities pursuant to a general mandate given under rule 13.36(2), the PRC issuer must at all times comply with the prescribed minimum percentage requirements concerning shares held by the public, as set out in rule 13.32.”*

## **Chapter 14 – Notifiable Transactions**

19A.38A      Rule 14.07(4) is amended by adding the following provisions:

In respect of a PRC issuer whose domestic shares are listed on a PRC stock exchange, the market capitalisation of its PRC listed domestic shares is to be determined based on the average closing price of those shares for the 5 business days immediately preceding the transaction.

Where a PRC issuer has issued unlisted domestic shares, the market capitalisation of its unlisted domestic shares is calculated by reference to the average closing price of its H shares for the 5 business days preceding the transaction.

...

## **Chapter 17 – Share Option Schemes**

19A.39C      The Exchange may waive the exercise price requirement under Note 1 to rule 17.03(9) for a share option scheme of a PRC issuer dually listed on the Exchange and a PRC stock exchange, provided that: (i) the scheme involves only shares listed on the PRC stock exchange; and (ii) the scheme contains provisions to ensure that the exercise price of the options is no less than the prevailing market price of the relevant shares on the PRC stock exchange at the time of grant of the options.

...

## **Chapter 19C**

### **EQUITY SECURITIES**

#### **SECONDARY LISTINGS OF QUALIFYING ISSUERS**

...

- 19C.08 A Non-Greater China Issuer or a Grandfathered Greater China Issuer must demonstrate, ~~to the Exchange's satisfaction,~~ how the domestic laws, rules and regulations to which it is subject and its constitutional documents, in combination, provide the shareholder protection standards set out in rule 19C.07. For this purpose, the Exchange may require the issuer to amend its constitutional documents to provide them.

...

## **Chapter 21**

### **INVESTMENT VEHICLES**

#### **INVESTMENT COMPANIES**

...

#### **Qualifications for Listing**

- 21.04 The qualifications for listing contained in Chapter 8 shall apply, save for rules 8.05, 8.06, 8.07, 8.08(1) 8.09, 8.10 and 8.21 and save as otherwise agreed with the Exchange. However, the Exchange may be prepared to waive the guideline regarding the minimum number of shareholders which is set out in rule 8.08(2) in appropriate circumstances (for example, where the securities of the investment company are not marketed to the public in Hong Kong). The following additional conditions will apply in respect of an application made under this Chapter:—
- (1) ~~the Exchange must be satisfied as to~~each of the directors of any investment company, its management company and/or its investment adviser (if any) must have the character, experience and integrity ~~of the directors of any investment company, its management company and/or its investment adviser (if any) and each of them must be able to demonstrate a standard of competence commensurate with their position in relation to the issuer. The Exchange must be satisfied as to the fitness and competence of e~~Each of the directors of the issuer, its management company and/or its investment adviser must be suitable and competent, and ~~must be satisfied that the executive management committee must~~

have had satisfactory experience in the professional management of investments on behalf of third party investors. The Exchange will reserve the right to request further information regarding any such proposed director's or adviser's background, experience or other business interests. The Exchange will not approve an application for listing under this Chapter unless the foregoing provisions are met ~~to the satisfaction of the Exchange;~~

...

## **The Stock Exchange of Hong Kong Limited Practice Note 3**

to the Rules Governing the Listing of Securities  
(the "Exchange Listing Rules")

Issued pursuant to rule 1.06 of the Exchange Listing Rules

### **THE TRADING RECORD OF THE MANAGEMENT OF A NEW APPLICANT**

...

#### **2. Introduction**

Rule 8.05 sets out the basic conditions which have to be met as a pre-requisite to the listing of equity securities. One of those conditions is that a new applicant must have an adequate trading record under substantially the same management. This Practice Note is intended to give guidance on certain aspects of this condition and is not intended to be a general commentary on rule 8.05 in its entirety.

In all cases the trading record period of a new applicant must enable the Exchange and investors to make an informed assessment of the management's ability to manage the applicant's business and the likely performance of that business in the future. In order to make this assessment the applicant must be able to demonstrate ~~satisfy the Exchange~~ that its main business or businesses, as at the time of listing, have normally been managed by substantially the same persons throughout the period of the qualifying trading record and that such persons are the management of the new applicant.

...

#### **4. Consideration of an Application by the Exchange**

While a company is free to acquire or dispose of assets at any time, in some cases, it may be difficult for a new applicant to ~~satisfy the Exchange~~ demonstrate that it meets the requirements of rule 8.05 where it has acquired a new business or businesses during the period of the qualifying trading record or where the companies comprising the group to be listed have been recently organised into a group.

...

## 5. Accountants' Report Evidencing the Trading Record

Rule 8.05 states that a new applicant must normally have an adequate trading record of not less than three years. ~~In order for the Exchange to be satisfied that~~ To assess whether the trading record is acceptable, the Exchange will review the underlying audited accounts of the group companies and expects that the accountants' report on the results of a new applicant (or the consolidated results of a new applicant and its subsidiaries) which evidences the trading record, should not normally contain any modified opinion in respect of the latest two financial periods which relate to a matter of significance to investors.

## 6. This amended Practice Note takes effect from 16th October, 1995.

*Note: The applicant is taken to be a holding company together with all its subsidiaries and associated companies. The applicant must ~~satisfy the Exchange~~ demonstrate that the management of the new applicant, as head of the group, has exercised overall and effective control of the main businesses operated through its subsidiaries throughout the qualifying trading record period.*

...

## The Stock Exchange of Hong Kong Limited Practice Note 4

to the Rules Governing the Listing of Securities  
(the "Exchange Listing Rules")

Issued pursuant to rule 1.06 of the Exchange Listing Rules

## ISSUE OF NEW WARRANTS TO EXISTING WARRANTHOLDERS

...

## 4. The Exchange's New Requirements

...

a) ...

...

- g) the warrant proposal may not be announced unless the issuer can fulfil all of the above conditions ~~to the satisfaction of the Listing Division of the Exchange~~, subject only to obtaining the approval of shareholders, warrantholders, and the Listing Committee. Such announcement should be made in accordance with rule 2.07C as soon as possible after the Listing Division have confirmed to the issuer that they are satisfied that the relevant requirements have been met; and

...

# **The Stock Exchange of Hong Kong Limited**

## **Practice Note 8**

to the Rules Governing the Listing of Securities  
(the “Exchange Listing Rules”)

Issued pursuant to rule 1.06 of the Exchange Listing Rules

### **INTRODUCTION OF CCASS AND EMERGENCY SHARE REGISTRATION ARRANGEMENTS DURING A TYPHOON AND/OR A BLACK RAINSTORM WARNING**

...

## **2. Introduction**

With the implementation of CCASS the Exchange wishes to maintain the status quo as much as possible with respect to the distribution of shareholder communications by listed issuers. In addition, the Exchange wishes to ensure that investors in securities which have been designated by the HKSCC as eligible for deposit and settlement in CCASS are informed where they may obtain information regarding the effects of CCASS on dealings in those securities on the Exchange. This is to minimise disruptions to the market and to make the transition to CCASS for listed issuers and other market participants as smooth as possible. With the implementation of CCASS, it is also necessary to formalise the emergency share registration arrangements which will apply when a typhoon, “extreme conditions” caused by a super typhoon and/or a black rainstorm warning affects an ex-date or book-close date. The Exchange Listing Rules and where applicable, the listing agreements specified that where a listed issuer changed its book close date due to exceptional circumstances, such as a typhoon, it needed to notify the Exchange in writing and publish a notice in the newspapers as soon as practicable. With the implementation of the arrangements set out below, a listed issuer will only be required to notify the Exchange and make a further announcement in accordance with rule 2.07C where a change is made to the dividend payment date and/or the book closure period is extended.

*Note: According to the “Code of Practice in Times of Typhoons and Rainstorms”, the Hong Kong Government may issue an announcement on “extreme conditions” in the event of, for example, serious disruption of public transport services, extensive flooding, major landslides or large-scale power outage after super typhoons. When “extreme conditions” are in force (i.e. the two-hour period after cancellation of typhoon warning signal no. 8), the Hong Kong Government will review the situation and further advise the public by the end of the two-hour period whether “extreme conditions” will be extended or cancelled.*

## **3. The Exchange’s New Requirements**

(1) ...

(2) **Emergency Share Registration Arrangements During a Typhoon or “Extreme Conditions” Caused by a Super Typhoon**

...

With the implementation of CCASS the Exchange has switched to a T+2 settlement system under which securities will trade ex-entitlement (an "ex-date") for two trading days prior to the advertised date on which a listed issuer's transfer books or register of members is to be closed (the "book-close date") preceding a record date; the two trading days prior to the book-close date being referred to in this Practice Note as the first and second ex-date, respectively. A typhoon or “extreme conditions” occurring on either of the two ex-dates may affect the ability of the purchaser to effect registration in time. Accordingly, in the event of a typhoon or “extreme conditions” the following arrangements will apply:

- (a) Where the No. 8 signal or above is hoisted or remains hoisted, or “extreme conditions” are announced or remain in force, between 9 am and 12 noon on either the first or second ex-date and is not lowered or cancelled at or before 12 noon on the relevant ex-date:—
  - i) the last time for accepting shares for registration shall be deferred to the next business day during normal business hours for each ex-date affected; and
  - ii) the book-close date shall be automatically postponed by the number of ex-dates affected;
- (b) Where the No. 8 signal or above is hoisted or remains hoisted, or “extreme conditions” are announced or remain in force, between 12 noon and 3 pm on either the first or second ex-date:—
  - i) the last time for accepting shares for registration shall be deferred to the next business day during normal business hours for each ex-date affected; and
  - ii) the book-close date shall be automatically postponed by the number of ex-dates affected;
- (c) Where the No. 8 signal or above is hoisted between 3 pm and 4 pm on the first ex-date, no changes will be made to the timetable for accepting shares for registration in respect of the reduced business hours on such ex-date;
- (d) Where the No. 8 signal or above is hoisted, or “extreme conditions” are announced, between 3 pm and 4 pm on the second ex-date but lowered or cancelled at or before 9 am on the next business day:—
  - i) the last time for accepting shares for registration shall be deferred to 12 noon on the next business day; and



- ii) if the original book-close date is not a business day, the book-close date shall be automatically postponed to the next business day;
- (e) Where the No. 8 signal or above is hoisted, or “extreme conditions” are announced, between 3 pm and 4 pm on the second ex-date but lowered or cancelled after 9 am but at or before 12 noon on the next business day:—
  - i) the last time for accepting shares for registration shall be deferred to 5 pm on the next business day; and
  - ii) if the original book-close date is not a business day, the book-close date shall be automatically postponed to the next business day;
- (f) Where the No. 8 signal or above is hoisted, or “extreme conditions” are announced, between 3 pm and 4 pm on the second ex-date but not lowered or cancelled until after 12 noon on the next business day:—
  - i) the last time for accepting shares for registration shall be deferred to 12 noon on the following business day; and
  - ii) the book-close date shall be automatically postponed to such date;
- (g) Where the No. 8 signal is lowered or “extreme conditions” are cancelled at or before 12 noon on the first ex-date, no changes will be made in respect of the time for accepting shares for registration or the book-close date in respect of the reduced business hours on such ex-date. On the other hand, where the No. 8 signal is lowered or “extreme conditions” are cancelled at or before 12 noon on the second ex-date, the time for accepting shares for registration shall be deferred to at least 5 pm on the same day but no change will automatically be made to the book-close date;

...

### **(3) Emergency Share Registration Arrangements During a Black Rainstorm Warning**

...

4. ...

...

Revised on 1 October, 2020

**APPENDIX A TO PRACTICE NOTE 8**  
**EMERGENCY SHARE REGISTRATION ARRANGEMENTS FOR T + 2**  
**SETTLEMENT SYSTEM**

Event	Ex-entitlement Day (Ex-Date)	<u>Issue/cancellation of a typhoon warning signal or “extreme conditions”</u> Typhoon Approach/Retreat		Registrar	Book-Close Date	Closure Period For Transfer Books or Register of Members	Announcements Required
		Time	Status of Signal	Time for Accepting Shares for Registration			
1	First	9 am - 12 noon	No. 8 Signal or above is hoisted or remains hoisted and is not lowered at or before 12 noon; <u>or</u>  “ <u>Extreme conditions</u> ” <u>are announced or remain in force and are not cancelled at or before 12 noon</u>	For each ex-date affected defer to the next business day (normal business hours)	Automatically postponed by number of ex-dates affected	The book-closure period may be extended in accordance with the delay to the book-close date so that the book-closure period remains the same	No announcement required unless:— i) the payment date is also deferred, in which case an announcement of the new payment date must be made by the listed issuer; or ii) the book-closure period is extended, in both cases the listed issuer must notify the Exchange in writing and publish in accordance with rule 2.07C an announcement of such
2	Second						
3	First						

4	Second	12 noon - 3 pm	No. 8 Signal or above is hoisted or remains hoisted during this period; <u>or</u>  <u>“Extreme conditions” are announced or remain in force during this period</u>				change as soon as practicable
5	First	3 pm - 4 pm	No. 8 Signal or above is hoisted	No- deferment on first ex-date	No change	No change	No announcement required
6	Second	3 pm - 4 pm	No. 8 Signal or above is hoisted but lowered at or before 9 am on the next business day; <u>or</u>  <u>“Extreme conditions” are announced but cancelled</u>	Defer to 12 noon on the next business day	If the original book-close date is a business day - no change. Otherwise postponed to the next business day	The book-closure period may be extended in accordance with the delay to the book-close date so that the book-closure period remains the same	No announcement required unless:— i) the payment date is also deferred, in which case an announcement of the new payment date must be made by the listed issuer; or ii) the book-closure period is extended, in which case the listed issuer must notify the Exchange in writing and

			<u>at or before 9 am on the next business day</u>				publish an announcement of such change in accordance with rule 2.07C as soon as practicable
7	Second	3 pm - 4 pm	No. 8 Signal or above is hoisted but lowered after 9 am but at or before 12 noon on the next business day; <u>or</u>  <u>"Extreme conditions" are announced but cancelled after 9 am but at or before 12 noon on the next business day</u>	Defer to 5 pm on the next business day	If the original book-close date is a business day - no change. Otherwise postponed to the next business day		
8	Second	3 pm - 4 pm	No. 8 Signal or above is hoisted but not lowered until after 12 noon on the	Defer to 12 noon on the business day following the next business day ("B day")	Automatically postponed to B day		

			next business day; or  “ <u>Extreme conditions</u> ” <u>are announced but not cancelled until after 12 noon on the next business day</u>				
9	First	At or before 12 noon	No. 8 Signal is lowered <u>or</u> “ <u>extreme conditions</u> ” are cancelled	No deferment	No Change	No Change	No announcement required
10	Second	At or before 12 noon	No. 8 Signal is lowered <u>or</u> “ <u>extreme conditions</u> ” are cancelled	Extension to 5 pm on the same day			

...

# **The Stock Exchange of Hong Kong Limited**

## **Practice Note 8A**

to the Rules Governing the Listing of Securities  
(the “Exchange Listing Rules”)

Issued pursuant to rule 1.06 of the Exchange Listing Rules

### **ARRANGEMENTS FOR APPLICANTS DURING BAD WEATHER SIGNALS**

1. This Practice Note sets out the arrangements in relation to dealings with the Exchange regarding a listing document that constitutes a prospectus under the Companies (Winding Up and Miscellaneous Provisions) Ordinance and related announcements when a No. 8 typhoon warning signal or above, “extreme conditions” caused by a super typhoon and/ or a black rainstorm warning signal (collectively, “Bad Weather Signals”) is issued during the period from the registration of a prospectus to the commencement of dealing of shares.

*Note: According to the “Code of Practice in Times of Typhoons and Rainstorms”, the Hong Kong Government may issue an announcement on “extreme conditions” in the event of, for example, serious disruption of public transport services, extensive flooding, major landslides or large-scale power outage after super typhoons. When “extreme conditions” are in force (i.e. the two-hour period after cancellation of typhoon warning signal no. 8), the Hong Kong Government will review the situation and further advise the public by the end of the two-hour period whether “extreme conditions” will be extended or cancelled.*

2. Applicants should ensure their prospectuses set out the arrangements in the event of bad weather which may disrupt their listing timetable in order to have greater clarity on the arrangements and to avoid market confusion.

### **Issue of certificate for registration of prospectus**

3. On the day of the publication of a prospectus ("P Day"), an electronic copy of the prospectus and application forms will be published on the Exchange's website in accordance with rule 2.07C and hardcopies will be available for distribution to the public.
4. An applicant must submit documents under rule 9.11(33) to the Exchange by 11 a.m. on the date of the registration of a prospectus, which is the business day before the P Day ("P-1 Day") in order to obtain a certificate from the Exchange for prospectus registration with the Companies Registry under the Companies (Winding Up and Miscellaneous Provisions) Ordinance. It is the responsibility of the applicant to deliver the prospectus and any ancillary documents to the Companies Registry for registration. The applicant should receive a written confirmation from the Companies Registry of the registration on P-1 Day.
5. If a Bad Weather Signal is issued on P-1 Day, the arrangements with the Exchange are as follows:

<u>Time when a Bad Weather Signal is issued</u>	<u>Status of the Bad Weather Signal</u>	<u>Arrangements</u>
<u>Before 9 a.m.</u>	<u>Cancelled at or prior to 12:00 noon</u>	<u>The Exchange will review relevant documents and issue the registration certificate on P-1 Day.</u>
<u>Before 9 a.m.</u>	<u>Remains in force at and after 12:00 noon</u>	<u>The Exchange will review relevant documents on the business day after the Bad Weather Signal is lowered or cancelled, and issue the registration certificate as soon as possible.</u>
<u>At or after 9 a.m.</u>	<u>Business as usual</u>	<u>The Exchange will review relevant documents and issue the registration certificate on P-1 Day.</u>

6. If a Bad Weather Signal causes a delay in the registration of a prospectus with the Companies Registry whereby:—

- (a) the offer period becomes less than 3 days as required under the Companies (Winding Up and Miscellaneous Provisions) Ordinance, the applicant must revise its listing timetable to ensure compliance with the requirement and make an announcement of the revised timetable on the business day after the Bad Weather Signal is lowered or cancelled. The announcement is not required to be reviewed by the Exchange, and the applicant is not required to amend its prospectus or issue a supplemental prospectus for this purpose; and/ or
- (b) the prospectus would be published later than the date of the prospectus, the applicant should prepare a letter to the Companies Registry stating that the reason for the delay in publishing, circulating or distributing prospectus for the purpose of registration with the Companies Registry. The applicant is not required to amend the date of the prospectus.

#### **Publication of a prospectus**

7. If a Bad Weather Signal is in force at 9:00 a.m. on P Day, the applicant must take necessary actions to ensure the offer period is at least 3 days as required under the Companies (Winding Up and Miscellaneous Provisions) Ordinance. If as a result the applicant amends its listing timetable set out in the prospectus, an announcement in relation to the revised timetable must be made on the business day after the Bad Weather Signal is lowered or cancelled. The announcement is not required to be reviewed by the Exchange, and the applicant is not required to issue a supplemental prospectus.

#### **Opening or closing of the application lists in a public offer**

8. If a Bad Weather Signal is in force at any time between 9:00 a.m. and 12:00 noon on the scheduled date of the opening of the application lists ("A Day"), the application lists will not be opened on A Day but instead be opened between 11:45 a.m. and 12:00 noon on the next business day when no Bad Weather Signal is in force between 9:00 a.m. and 12:00 noon ("A+1 Day").

9. An applicant is not required to make an announcement on the change of opening of the application lists only if the arrangement in paragraph 7 above is included in the prospectus. Otherwise, the applicant is required to make an announcement on the change of the opening of the application lists as a result of the Bad Weather Signal on A+1 Day, and such announcement is not required to be reviewed by the Exchange.

#### **Vetting of an allocation announcement under rule 12.08**

10. Depending on the applicant's intended date of listing ("L Day"), an allocation announcement is normally approved by the Exchange by the close of business on the second business day before listing ("L-2 Day"). The allocation announcement must be published on the Exchange's website no later than 8:30 a.m. on the business day before listing ("L-1 Day").



11. If a Bad Weather Signal is issued on L-2 Day, the arrangements with the Exchange are as follows:

<u>Time when a Bad Weather Signal is issued</u>	<u>Status of the Bad Weather Signal</u>	<u>Arrangements</u>
<u>Before 9 a.m.</u>	<u>Cancelled at or prior to 12:00 noon</u>	<u>The Exchange will review the allocation announcement on L-2 Day.</u>
<u>Before 9 a.m.</u>	<u>Remains in force at and after 12:00 noon</u>	<p><u>The allocation announcement must be published before 8:30 a.m. on L-1 Day on the Exchange's website and will be post-vetted by the Exchange on the same day. If the Exchange considers the published allocation announcement omits material information, or contains inaccurate information, the applicant will be required, on L-1 Day, to publish a supplemental allocation announcement and may be required to take other actions to ensure the omitted or inaccurate information in the published allocation announcement will not result in a disorderly market on the L Day. Otherwise, the applicant may be required to delay its listing timetable and make an announcement in relation to the revised timetable on L-1 Day.</u></p> <p><u>If the applicant is unable to publish the allocation announcement before 8:30 a.m. on L-1 Day on the Exchange's website, or if the Exchange cannot post-vet the allocation announcement because a Bad Weather Signal is issued before 9 a.m. and remains in force at and after 12:00 noon on L-1 Day, it must revise its listing timetable and make an announcement in relation to the revised timetable on L-1 Day.</u></p>
<u>At or after 9 a.m.</u>	<u>Business as usual</u>	<u>The Exchange will review the allocation announcement on L-2 Day.</u>

### **Issue of a listing approval letter**

12. The Exchange normally issues the listing approval letter by close of business on L-1 Day.

13. If a Bad Weather Signal is issued on L-1 Day, the arrangements with the Exchange are as follows:

<u>Time when a Bad Weather Signal is issued</u>	<u>Status of the Bad Weather Signal</u>	<u>Arrangements</u>
<u>Before 9 a.m.</u>	<u>Cancelled at or prior to 12:00 noon</u>	<u>The Exchange will issue the approval letter by close of business on L-1 Day.</u>
<u>Before 9 a.m.</u>	<u>Remains in force at and after 12:00 noon</u>	<u>If a Bad Weather Signal was anticipated, the Exchange will issue the approval letter on L-2 Day. Otherwise, the Exchange will issue the approval letter before 9:15 a.m. on L Day if the Bad Weather Signal is no longer in force.</u>
<u>At or after 9 a.m.</u>	<u>Business as usual</u>	<u>The Exchange will issue the approval letter by close of business on L-1 Day.</u>

### **Commencement of dealings in shares**

14. Dealings of an applicant's shares will only commence when trading on the Exchange resumes, even if trading is only for half-day. The applicant shall refer to the "Trading Hours & Severe Weather Arrangements" on the Exchange's website for details of the trading arrangement.
15. Applicants are not required to make any announcement on the trading arrangements in the event of Bad Weather Signal as this is on the Exchange's website.
16. This Practice Note takes effect from 1 October 2020.

Hong Kong, 1 October 2020

...

## **The Stock Exchange of Hong Kong Limited**

### **Practice Note 10**

to the Rules Governing the Listing of Securities  
(the "Exchange Listing Rules")

Issued pursuant to rule 1.06 of the Exchange Listing Rules

### **INTERIM REPORTING FOR NEW ISSUERS**

**1. Definitions**

~~Terms used in this Practice Note which are defined or interpreted in the Exchange Listing Rules shall have the same meaning as in the Exchange Listing Rules.~~

**2. Introduction**

~~The Exchange wishes to clarify the obligations of newly listed issuers to prepare interim results announcements, interim reports or summary interim reports. The Exchange places considerable importance on interim reporting and wishes to ensure there is no confusion or uncertainty surrounding a newly listed issuer's obligation to prepare interim results announcements, interim reports or summary interim reports.~~

**3. Requirement for Interim Results Announcements and Reports**

~~Rule 13.48 requires issuers to prepare an interim report or summary interim report in respect of the first six months of the financial year. The interim report or summary interim report is to be published not later than three months after the end of that period of six months. Rule 13.49(6) requires issuers to prepare an interim results announcement in respect of the first six months of the financial year. The interim results announcement is to be published not later than two months after the end of that period of six months.~~

~~In order to meet this requirement, newly listed issuers will be required to:—~~

- ~~(a) prepare and publish interim results and reports in respect of the first six month period (irrespective of whether this period ends on a date before or after the date on which dealings in the securities of the issuer commenced) where the deadline for publishing the results falls after the date on which dealings in the securities of the issuer commenced.~~
- ~~(b) prepare and publish interim reports in respect of the first six month period where the deadline for publishing the reports falls after the date on which dealings in the securities of the issuer commenced.~~

~~In the event that the results for the interim period (containing financial information required for interim results announcements under paragraph 46(1) of Appendix 16) have been included in the prospectus for the purpose of applying for a listing on the Exchange, there will be no obligation to separately publish the results.~~

**4. This Practice Note takes effect from 1st June, 1994.**

~~Hong Kong, 1st June, 1994~~

~~Revised on 31st March, 2004~~

~~Revised on 1st September, 2008~~

~~Revised on 1st April, 2015~~

...

## **The Stock Exchange of Hong Kong Limited Practice Note 12**

to the Rules Governing the Listing of Securities  
(the “Exchange Listing Rules”)

Issued pursuant to rule 1.06 of the Exchange Listing Rules

### **VALUATIONS OF PROPERTY SITUATED IN DEVELOPING PROPERTY MARKETS**

...

#### **4. Professional qualifications of the Independent valuer**

- 4.1 For the purpose of valuing properties in developing property markets, a valuer would normally be regarded as having the appropriate professional qualifications and experience for valuing properties in developing property markets if he is subject to the discipline of The Royal Institution of Chartered Surveyors (“RICS”) or the HKIS or professional body of similar standing to the RICS or HKIS and has a minimum of 2 years experience in valuing properties in the relevant location or has relevant experience to the satisfaction of the Exchange.

...

## **The Stock Exchange of Hong Kong Limited Practice Note 15**

to the Rules Governing the Listing of Securities  
(the “Exchange Listing Rules”)

Issued pursuant to rule 1.06 of the Exchange Listing Rules

### **PRACTICE WITH REGARD TO PROPOSALS SUBMITTED BY ISSUERS TO EFFECT THE SEPARATE LISTING ON THE EXCHANGE OR ELSEWHERE OF ASSETS OR BUSINESSES WHOLLY OR PARTLY WITHIN THEIR EXISTING GROUPS**

#### **2. Introduction**

...

*Note: This Practice Note is normally only applicable to an issuer and entity which is a subsidiary of the issuer at the time of submission of the spin-off proposal. However, the Exchange will treat an entity as if it were a subsidiary of an issuer for the purpose of this Practice Note if such entity is at the time of submission of the issuer's spin-off proposal, an associated company of the issuer and was, at any time during the latest completed financial year of the issuer (comprising at least 12 months)*

*up to the date of submission of the spin-off proposal, a subsidiary of the issuer.*

*In such circumstances, the entity will be required to comply with the requirements of this Practice Note and will be treated as if it has remained as a subsidiary of the issuer. The issuer is required to substantiate ~~to the satisfaction of the Exchange~~ the changes in the beneficial ownership of the entity's issued shares in the period stated above.*

### **3. Principles**

...

#### *(c) The remaining business of the Parent*

...

Where the Parent, excluding its interest in Newco, cannot meet the minimum profit requirement of rule 8.05, the Exchange may grant a waiver to the Parent if the Parent is able to demonstrate that it, excluding its interest in Newco, fails to meet the minimum profit requirement of rule 8.05 due solely to a significant market downturn. The Parent must also demonstrate ~~to the satisfaction of the Exchange~~ that the circumstances that led to its inability to meet the minimum profit requirement was temporary and is not likely to continue or recur in the future or that appropriate measures have been taken by the Parent to negate the impact on its profit of the market downturn (as the case may be). In addition, the Parent, excluding its interest in Newco, must have an aggregate profit attributable to shareholders of not less than HK\$50 million in respect of any three out of the five financial years immediately preceding the spin-off application.

*Note: For the purpose of meeting the minimum aggregate profit requirement referred to above, the Parent must satisfy the following criteria:*

...

*In the case of (b) or (c) above, the Parent must demonstrate ~~to the satisfaction of the Exchange~~ that the profit/loss of any financial year whose profit/loss is not taken into account in the calculation of the minimum net profit of HK\$50 million was affected by the significant market downturn.*

...

## **The Stock Exchange of Hong Kong Limited Practice Note 20**

to the Rules Governing the Listing of Securities  
(the "Exchange Listing Rules")

**ALLOCATION OF SECURITIES SUBSCRIBED FOR BY  
AN ISSUER'S EMPLOYEES IN CONJUNCTION WITH ITS  
INITIAL SHARE OFFER  
("Pink Form Allocation")**

...

**3. Pink Form Allocation Guidelines**

- (a) The Issuer shall demonstrate ~~to the Exchange's satisfaction~~ the fairness of the basis of allocation. The basis of allocation shall be fully disclosed in the Prospectus. The factors underlying any subjective basis of allocation adopted by the Issuer shall be set out in the Prospectus to the extent reasonably possible. The Issuer is advised to consult the Exchange in advance in respect of these matters.

...

**Appendix 1**

**Contents of Listing Documents**

**Part A**

**Equity Securities**

**In the case where listing is sought for equity  
securities of an issuer no part of  
whose share capital is already listed**

...

36. A statement by the directors that in their opinion the working capital available to the group is sufficient for the group's requirements for at least 12 months from the date of publication of the listing document or, if not, how it is proposed to provide the additional working capital thought by the directors to be necessary. (Note 3)

*Note 1: ...*

*Note 2: ...*

*Note 3: A new applicant which is a banking company or an insurance company should refer to rule 8.21A(2).*

...

**Appendix 1**  
**Contents of Listing Documents**

**Part B**

**Equity Securities**

**In the case where listing is sought for equity  
securities of an issuer some part of  
whose share capital is already listed**

...

30. A statement by the directors that in their opinion the working capital available to the group is sufficient for the group's requirements for at least 12 months from the date of publication of the listing document or, if not, how it is proposed to provide the additional working capital thought by the directors to be necessary. (Note 2)

Note: An issuer which is a banking company or an insurance company should refer to rule 11.09A.

...

**Appendix 1**  
**Contents of Listing Documents**

**Part E**

**Depository receipts**

**In the case where listing is sought for depository receipts of an issuer no part  
of whose share capital is already listed**

...

36. A statement by the directors that in their opinion the working capital available to the group is sufficient for the group's present requirements, that is for at least the next 12 months from the date of publication of the listing document, or, if not, how it is proposed to provide the additional working capital thought by the directors to be necessary. (Note 3)

Note 1: ...

Note 2: An issuer which is a banking company or an insurance company should refer to rule 8.21A(2).

...

## **Appendix 1**

### **Contents of Listing Documents**

#### **Part F**

##### **Depository receipts**

...

26. A statement by the directors that in their opinion the working capital available to the group is sufficient for the group's requirements for at least 12 months from the date of publication of the listing document or, if not, how it is proposed to provide the additional working capital thought by the directors to be necessary. (Note 2)

*Note: An issuer which is a banking company or an insurance company should refer to rule 11.09A.*

...

## **Appendix 8**

### **Listing Fees, Transaction Levies and Trading Fees on New Issues and Brokerage**

...

#### **1. Initial Listing Fee**

- (1) In the case of an issue of equity securities by a new applicant, other than units in a unit trust, redeemable shares in a mutual fund, or an issue of securities by an open-ended investment company or other collective investment scheme, an initial listing fee shall be payable on the application for listing as follows:—

...



(4) Listing by Introduction

The initial listing fee shall be calculated in accordance with paragraph (1) above and the monetary value of the equity securities to be listed should be determined as follows:—

- (a) if the new applicant is already listed on another stock exchange, based on its average market capitalisation on the relevant stock exchange for the period from the sixth business day to the tenth business day immediately before the date of its listing application;  
or
- (b) if the new applicant is not listed on any other stock exchange, based on its expected market capitalisation upon listing.

...

## **Appendix 16**

### **DISCLOSURE OF FINANCIAL INFORMATION**

...

#### **Information in annual reports**

...

- 14A. ~~[Repealed 1 October 2020] A listed issuer must include particulars of any service contracts that are exempt under rule 13.69.~~

...

### **Main Board Listing Rules (amendments to Chinese version only)**

#### **第十四 A 章**

#### **股本證券**

#### **關連交易**

...

*持續交易其後變成關連交易*

- 14A.60 如上市發行人集團簽訂了一份有固定期限及固定條款的協議，而該協議涉及：

(1) ...

...

## 附錄二

### 所有權文件

#### B 部

#### 確實所有權文件

#### 記名股本證券

...

3. 證書的正面須載明下列各項：

(1) 任命發行人的權利力機構；

...

12. 證書亦須註明：

(1) ...

(2) 發行證券的機構權限；及

(3) ...

...

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## APPENDIX IV    AMENDMENTS TO THE GEM RULES

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### Chapter 5

### GENERAL

#### DIRECTORS, COMPANY SECRETARY, BOARD COMMITTEES, AUTHORISED REPRESENTATIVES AND CORPORATE GOVERNANCE MATTERS

##### Directors

...

- 5.02        Directors must ~~satisfy the Exchange that they~~ have the character, experience and integrity and ~~be~~ able to demonstrate a standard of competence commensurate with their position as directors of an issuer. The Exchange may request information regarding the background, experience, other business interests or character of any director or proposed director of an issuer. The Exchange expects all directors of an issuer:—

...

##### *Independent non-executive directors*

- 5.05        Every board of directors of an issuer must include~~Subject to the transitional provisions in rule 5.08:~~

- (1) ~~every board of directors of an issuer must include~~ at least 3 independent non-executive directors; and
- (2) at least one of the independent non-executive directors must have appropriate professional qualifications or accounting or related financial management expertise.

...

- 5.07        In addition to fulfilling the requirements and continuing obligations of rules 5.01, 5.02 and 5.09, every independent non-executive director must have~~satisfy the Exchange that he has~~ the character, integrity, independence and experience to fulfil his role effectively. The Exchange may stipulate a minimum number of independent non-executive directors which is higher than 3 if, in the opinion of the Exchange, the size of the board or other circumstances of the issuer justify it.

- 5.08        [Repealed 1 October 2020]~~In respect of all issuers whose securities were admitted to listing on or before 31 March, 2004, the following transitional provisions apply:—~~

~~(1) the issuer must have at least one independent non-executive director who has appropriate professional qualifications or accounting or related financial management expertise by 30 September, 2004; and~~

~~(2) the issuer must have at least 3 independent non-executive directors by 30 September, 2004.~~

5.09 In assessing the independence of non-executive directors, the Exchange will take into account the following factors, none of which is necessarily conclusive. Independence is more likely to be questioned if the director:—

(1) holds more than 1% of the number of issued shares of the issuer;

*Notes: 1. An issuer wishing to appoint an independent non-executive director holding an interest of more than 1% must demonstrate satisfy the Exchange, prior to such appointment, that the candidate is independent. A candidate holding an interest of 5% or more will normally not be considered independent.*

...

5.10 Where a proposed independent non-executive director fails to meet any of the independence guidelines set out in rule 5.09, the issuer must demonstrate ~~to the satisfaction of the Exchange~~, prior to the proposed appointment, that the person is independent. The issuer must also disclose the reasons why such person is considered to be independent in the announcement of his appointment as well as in the next annual report published after his appointment. In cases of doubt, the issuer must consult the Exchange at an early stage.

5.11 ~~[Repealed 1 October 2020]Independent non-executive directors who were appointed by issuers on or before 31 March, 2004 shall submit to the Exchange a written confirmation in respect of the factors set out in rule 5.09 concerning their independence no later than 30 September, 2004.~~

...

### **Company secretary**

...

5.15 In each financial year an issuer's company secretary must take no less than 15 hours of relevant professional training.

*Note: A person who was a company secretary of an issuer:*

~~(1) on or after 1 January 2005 must comply with rule 5.15 for the financial year commencing on or after 1 January 2012;~~

- ~~(2) — between 1 January 2000 to 31 December 2004 must comply with rule 5.15 for the financial year commencing on or after 1 January 2013;~~
- ~~(3) — between 1 January 1995 to 31 December 1999 must comply with rule 5.15 for the financial year commencing on or after 1 January 2015; and~~
- ~~(4) — on or before 31 December 1994 must comply with rule 5.15 for the financial year commencing on or after 1 January 2017.~~

...

### **Audit committee**

5.28 Every issuer must establish an audit committee comprising non-executive directors only. The audit committee must comprise a minimum of 3 members, at least one of whom is an independent non-executive director with appropriate professional qualifications or accounting or related financial management expertise as required in rule 5.05(2). The majority of the audit committee members must be independent non-executive directors of the issuer. The audit committee must be chaired by an independent non-executive director.

Notes: 1 ...

~~2 [Repealed 1 October 2020] The transitional provisions set out in rule 5.08 shall apply.~~

...

## **Chapter 7**

### **GENERAL**

#### **ACCOUNTANTS' REPORTS AND PRO FORMA FINANCIAL INFORMATION**

##### **When required**

...

##### **Scope**

7.01A For the purpose of rules 7.03(2), 7.03(4), 7.04A and 7.30: —

- (1) “acquisitions of business” include acquisitions of associates and any equity interest in another company. The rules generally do not apply to acquisitions of assets, but the Exchange may consider such transactions to be acquisitions of business based on specific facts and circumstances. For example, the Exchange may consider the substance of the transaction and guidance under relevant accounting standards;

- (2) “trading record period” refers to the two financial years immediately preceding the issue of the listing document and any stub period reported on by the reporting accountants in conformity with rule 11.11; and
- (3) “proposed to be acquired” refers to a proposal to acquire a specific subsidiary or business, even if there are no legally binding agreements. Examples include a memorandum of understanding entered into by a new applicant, and a tender that a new applicant has submitted, or will submit, for the acquisition of any business or subsidiary in the case of an open bid/ tender invitation.

### **Basic contents of accountants’ report for a listing document**

- 7.03 In the case of a new applicant (rule 7.01(1)) and an offer of securities to the public for subscription or purchase falling within rule 7.01(2), the accountants’ report must include:—

#### *History of results*

- (1) ...
- (2) the results of any business or subsidiary acquired, agreed to be acquired or proposed to be acquired since the date to which the latest audited financial statements of the issuer have been made up (on the same basis, where the subsidiary is itself a holding company, as in (1) above) in respect of each of the 2 financial years referred to in (1) above (or in respect of the period since commencement of such business or the incorporation or establishment of such subsidiary, as the case may be, if this occurred within such 2 year period).
- ...
- (4)(a) the statement of financial position of any business or subsidiary acquired, agreed to be acquired or proposed to be acquired since the date to which the latest audited financial statements of the issuer have been made up (on the same basis, where the subsidiary is itself a holding company, as in (3) above) in each case as at the end of each of the two financial years to which the latest audited financial statements of such business or subsidiary (as the case may be) have been made up;
- (b) ...

Notes: For the purpose of rules 7.03(2) and 7.03(4):—

- (1) if a new applicant has entered into a legally binding acquisition agreement after the trading record period but the acquisition will not be completed upon listing, the completion of the acquisition after the new applicant's listing will not be subject to the notification, disclosure and shareholders' approval requirements under Chapters 19 and 20 (where applicable), only if the new applicant has disclosed all information as required under rules 7.03(2) and 7.03(4) in its listing document and there have been no material changes to the acquisition and information disclosed;
- (2) the financial information on the business or subsidiary acquired, agreed to be acquired or proposed to be acquired must normally be drawn up in conformity with accounting policies adopted by the new applicant and be disclosed in the form of a note to the accountants' report or in a separate accountants' report;
- (3) where an acquisition of a business or subsidiary is subject to the relevant requirements under the Third Schedule to the Companies (Winding Up and Miscellaneous Provisions) Ordinance because the listing proceeds, or any part thereof, are or is to be applied directly or indirectly for the acquisition, the financial information of the acquisition target has to be disclosed in a separate accountants' report; and
- (4) the Exchange may consider an application for a waiver from strict compliance with rules 7.03(2) and 7.03(4)(a) taking into account the following:—
  - (a) that all the percentage ratios (as defined under rule 19.04(9)) are less than 5% by reference to the most recent audited financial year of the new applicant's trading record period;
  - (b) if the acquisition will be financed by the proceeds raised from a public offer, the new applicant has obtained a certificate of exemption from the Commission with the relevant requirements under paragraphs 32 and 33 of the Third Schedule to the Companies (Winding Up and Miscellaneous Provisions) Ordinance; and
  - (c) (i) where a new applicant's principal activities involve the acquisition of equity securities (the Exchange may require further information where securities acquired are unlisted), the new applicant is not able to exercise any control, and does not have any significant influence over the underlying company or business to which rules 4.04(2) and 4.04(4) relate, and has disclosed in its listing document the reasons for the acquisition and a confirmation that the counterparties and their respective ultimate beneficial owners are independent of the new

applicant and its connected persons. In this regard, “control” means the ability to exercise or control the exercise of 30% (or any amount specified in the Takeovers Code as the level for triggering a mandatory general offer) or more of the voting power at general meeting, or being in a position to control the composition of a majority of the board of directors of the underlying company or business; or

- (ii) with respect to an acquisition of a business (including acquisition of an associated company and any equity interest in a company other than in the circumstances covered under sub-paragraph (1) above) or a subsidiary by a new applicant, the historical financial information of such business or subsidiary is unavailable, and it would be unduly burdensome for the new applicant to obtain or prepare such financial information; and the new applicant has disclosed in its listing document information required for the announcement for a discloseable transaction under rules 19.58 and 19.60 on each acquisition. In this regard, “unduly burdensome” will be assessed based on each new applicant’s specific facts and circumstances (e.g. why the financial information of the acquisition target is not available and whether the new applicant or its controlling shareholder has sufficient control or influence over the seller to gain access to the acquisition target’s books and records for the purpose of complying with the disclosure requirements under rules 7.03(2) and 7.03(4)).

...

#### **Additional disclosure of pre-acquisition financial information for a Listing Document**

- 7.04A Where a new applicant acquires any material subsidiary or business during the trading record period (see rule 7.03 (1)(a)) and such an acquisition if made by a listed issuer would have been classified at the date of application as a major transaction (see rule 19.06(3)) or a very substantial acquisition (see rule 19.06(5)), it must disclose pre-acquisition financial information (which should include the full financial statements with information required under rules 7.03 and 7.04) on that material subsidiary or business from the commencement of the trading record period (or if the material subsidiary or business commenced its business after the commencement of the trading record period, then from the date of the commencing of its business) to the date of acquisition. Pre-acquisition financial information on the material subsidiary or business must normally be drawn up in conformity with accounting policies adopted by the new applicant and be disclosed in the form of a note to the accountants’ report or in a separate accountants’ report.

*Notes: (1) For the purpose of determining whether an acquisition is material and falls within the classification of a major transaction or a very substantial acquisition, reference shall be made to total assets, profits or revenue*



(as the case may be) for the most recent financial year of the trading record period of the acquired business or subsidiary and this shall be compared to the total assets, profits or revenue (as the case may be) of the new applicant as shown in the most recent financial year of the trading record period for the same financial year. If the financial year of the acquired business or subsidiary is not coterminous with that of the new applicant, the total assets, profits or revenue (as the case may be) for the most recent financial year of the acquired business or subsidiary should be compared to those of the new applicant for the most recent financial year of its trading record period. For example, if a new applicant's trading record period covers year 1 and year 2 and it acquired a subsidiary during year 1, the total assets, profits or revenue of the acquired subsidiary for year 2 should be compared to those of the new applicant for year 2; and

- (2) If a new applicant which is allowed a shorter trading record period under rule 11.14 acquires any material subsidiary or business during its trading record period, it must disclose pre-acquisition financial information of that material subsidiary or business for the period from the two financial years immediately preceding the issue of the listing document (or if such material subsidiary or business commenced its business less than two financial years ago, then from the commencement date of its business) to the date of the acquisition.

...

## **Disclosure**

- 7.11 The information to be disclosed in respect of rules 7.03, 7.09 and 7.10 must be in accordance with best practice which is at least that required to be disclosed in respect of those specific matters in the financial statements of a company under the HKFRS, IFRS or CASBE in the case of a PRC issuer that has adopted CASBE for the preparation of its annual financial statements and, in the case of banking companies, the Guideline on the Application of the Banking (Disclosure) Rules issued by the Hong Kong Monetary Authority ("Guideline").

Note: If a new applicant is a banking company organised outside Hong Kong and primarily regulated by a regulator which has functions similar to the Hong Kong Monetary Authority and provides adequate supervision to the applicant, the Exchange may consider an application for a waiver from strict compliance with the disclosure requirement in relation to the Guideline. The applicant must provide alternative disclosure in its listing document, including disclosure on capital adequacy, loan quality, loan provisioning, and guarantees, contingencies and other commitments, that is sufficient for potential investors to make a fully informed investment decision.

...

7.30 In the case of a new applicant (rule 7.01(1)) which has acquired or proposed to acquire any businesses or companies, which would at the date of application or such later date of acquisition before listing of the applicant be classified as a major subsidiary, since the date to which the latest audited financial statements of the issuer have been made up, it must include as an appendix to its listing document the pro forma financial information required under rule 7.31 in respect of the enlarged group (i.e. the new applicant, its subsidiaries and any businesses or companies acquired or proposed to be acquired since the date to which the latest audited financial statements of the issuer have been made up) and the pro forma financial information must be reported on by the reporting accountants as required under rule 7.31(7).

*Notes: (1) For the purposes of rule 7.30, all acquisitions or proposed acquisitions since the date to which the latest audited financial statements in the accountants' report of the issuer have been made up, whether of businesses or companies, should be aggregated. If the aggregated total assets, profits or revenue represents 5% or more under any of the percentage ratios as defined under rule 19.04(9), these acquisitions will be deemed to be an acquisition of a major subsidiary for the purpose of rule 7.30. 100% of the major subsidiary's total assets, profits or revenue (as the case may be) or, where the major subsidiary itself has subsidiaries, the consolidated total assets, profits or revenue (as the case may be) of the major subsidiary is to be compared to the total assets, profits or revenue (as the case may be) shown in the issuer's latest audited consolidated financial statements in the accountants' report irrespective of the interest held in the major subsidiary.*

*(2) Where any of the percentage ratios calculated in accordance with (1) above is 5% or more but is less than 100%, the issuer should disclose, as a minimum, a pro forma statement of assets and liabilities of the enlarged group. Where any of the percentage ratios is 100% or more, the issuer should disclose, as a minimum, a pro forma balance sheet, a pro forma income statement and a pro forma cash flow statement of the enlarged group.*

...

## Chapter 8

### VALUATION OF AND INFORMATION ON PROPERTIES

...

8.32 A valuer is a qualified valuer only if:—

(1) ...

- (2) for the purpose of valuing properties situated outside Hong Kong, the valuer has the appropriate professional qualifications and experience. This, he will normally be regarded as having if he is subject to the discipline of The Hong Kong Institute of Surveyors or The Royal Institution of Chartered Surveyors or a professional body of similar standing to such bodies and has a minimum of 2 years' experience in valuing properties in the relevant location or has relevant experience to the satisfaction of the Exchange.

...

## **Chapter 9**

### **GENERAL**

#### **TRADING HALT, SUSPENSION AND RESUMPTION OF DEALINGS, CANCELLATION AND WITHDRAWAL OF LISTING**

...

#### **Resumption**

...

- 9.13 The power conferred upon the Exchange by rule 9.12 shall be subject to the review process set out in rule 4.06. The burden shall be on the issuer opposing the resumption to demonstrate ~~satisfy the Exchange~~ that a continued trading halt or suspension would be appropriate.

...

## **Chapter 10**

### **EQUITY SECURITIES**

#### **METHODS OF LISTING**

...

#### **Restrictions on rights issues, open offers and specific mandate placings**

- 10.44A A listed issuer may not undertake a rights issue, open offer or specific mandate placing that would result in a theoretical dilution effect of 25% or more (on its own or when aggregated with any other rights issues, open offers, and/or specific mandate placings announced by the issuer (i) within the 12 month period immediately preceding the announcement of the proposed issue or (ii) prior to such 12 month period where dealing in respect of the shares issued pursuant thereto commenced within such 12 month

period, together with any bonus securities, warrants or other convertible securities (assuming full conversion) granted or to be granted to shareholders as part of such rights issues, open offers and/or specific mandate placings), unless the issuer can ~~demonstratesatisfy the Exchange~~ that there are exceptional circumstances (for example, the issuer is in financial difficulties and the proposed issue forms part of the rescue proposal).

...

## **Chapter 11**

### **EQUITY SECURITIES**

#### **QUALIFICATIONS FOR LISTING**

...

11.20 Subject to rules 11.21 and 11.21A, a new applicant must not:—

- (1) have changed the period of its financial year during the latest complete financial year immediately preceding the issue of the listing document; or
- (2) change the period of its financial year during the period of any profit forecast, if any, or the current financial year, whichever is the longer period.

...

11.21A Notwithstanding rule 11.20, the Exchange may consider an application for a waiver from strict compliance with rule 11.20 if:—

- (1) the new applicant is an investment holding company and the change is to allow its financial year to be coterminous with that of all or a majority of its major operating subsidiaries;
- (2) the new applicant would be able to satisfy all requirements under rule 11.12A before and after the proposed change; and
- (3) the proposed change will not materially affect the presentation of financial information, or result in any omission of material information in the listing document or information that would otherwise be relevant to assessment of the new applicant's suitability.

...

#### **Conditions relevant to the securities for which listing is sought**

11.22A There must be an adequate market in the securities for which listing is sought. This means that the issuer must demonstrate that there will be sufficient public interest in the business of the issuer and in the securities for which listing is

sought.

...

## Chapter 12

### EQUITY SECURITIES

#### APPLICATION PROCEDURES AND REQUIREMENTS

...

- 12.08 If there is a termination or addition of a Sponsor during the vetting process of any listing document to be issued by a new applicant, the new applicant must submit a new listing application detailing a revised timetable and, ~~in the case of the new applicant only~~, a further initial listing fee in the amount specified in Appendix 9. Any initial listing fee paid will, in such circumstances, be forfeited.

*Notes: (1) [Repealed 1 October 2013]*

*(2) See also Chapter 4 for other circumstances when a new applicant may be required to submit a new listing application form.*

*(3) Where there is a change in Sponsors, the replacement or remaining Sponsor, as the case may be, must submit to the Exchange why the outgoing Sponsor left; a copy of the clearance letter (if any) from the outgoing Sponsor; and any matters the replacement or remaining Sponsor considers necessary to be brought to the Exchange's attention regarding the application and the outgoing Sponsor as soon as practicable.*

*(4) Where an additional Sponsor is appointed, the new applicant and the Sponsors must submit to the Exchange reasons for appointing the additional Sponsor; and the additional Sponsor must submit to the Exchange a confirmation that it fully agrees with all submissions previously made by the new applicant and its existing Sponsor when a new listing application is submitted pursuant to rule 6A.02B(2).*

...

- 12.14 The listing application form must be accompanied by:—

...

- (4) the initial listing fee in the amount specified in Appendix 9.

Notes: (1) *If the Exchange returns an application to a Sponsor before the Exchange issues its first comment letter to the Sponsor, the initial listing fee will be refunded; and in other cases the initial listing fee will be forfeited.*

(2) *For applications re-submitted at any time after the lapse of a previous application, the new applicant and its Sponsor must provide, if applicable, a submission with supporting documents addressing all outstanding matters set out in the Exchange's letter on the lapsed application and material changes in the listing application, business or circumstances of the new applicant.*

(3) *For applications re-submitted within three months of a lapsed application by at least one of the original and independent Sponsors of the lapsed application (see notes 3 and 4 to rule 12.08), all documents lodged with the Exchange in relation to the previous application will remain valid and applicable. The new applicant and its Sponsor will only need to submit documents that have been revised due to material changes, and provide a confirmation to the Exchange that there has been no material changes to all other documents.*

...

12.22 The following documents, as applicable, must be lodged with the Exchange for review together with the application for listing form in respect of a new applicant:—

...

(3) where the Application Proof contains an accountants' report, an advanced draft of any statement of adjustments relating to the accountants' report;

(3a) a written confirmation to the new applicant from the reporting accountants that no significant adjustment is expected to be made to the draft accountants' reports on (1) historical financial information; (2) pro forma financial information; and (3) profit forecast (if any) included in the Application Proof based on the work done as of the date of the confirmation;

(3b) a written confirmation to the new applicant from each of the experts who is named as an expert in the listing document (excluding reporting accountants) that no material change is expected to be made to the relevant expert opinion included in the Application Proof based on the work done as of the date of the confirmation;

Note: Where the relevant information in the listing document is updated, the reporting accountants and each of the experts, where applicable, must provide a written confirmation on the updated information similar to those in sub-paragraphs (3a) and (3b).

...

## **Chapter 16**

### **EQUITY SECURITIES**

#### **PUBLICATION REQUIREMENTS**

...

##### **Formal notice on issue**

...

- 16.10 Model forms of formal notices for offers for subscription or sale, placings and introductions are set out in Appendix 10 for the guidance of issuers. Issuers are reminded that where a prospectus has been registered with the Registrar of Companies pursuant to the Companies (Winding Up and Miscellaneous Provisions) Ordinance, every formal notice must comply with Section 38B of that Ordinance.

Note: A new applicant must not publish formal notices in accordance with rules 16.07, 16.08 and 16.10 until the Exchange has reviewed them.

...

##### **Results of offers, rights issues and placings**

...

- 16.14 In the case of an offer for subscription or an offer for sale by tender, an announcement of the striking price must be published on the GEM website as soon as possible, but in any event not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following the date on which the allotment letters or other relevant documents of title are posted.

Note: A new applicant must not publish announcements in accordance with rules 16.13 and 16.14 until the Exchange has reviewed them.

...

##### **Publication on the GEM website**

16.17 After the Listing Division has confirmed that it has no further comments on any draft announcement, notice or other document, the issuer must submit the cleared version to the Exchange, for publication on the GEM website. The cleared version must be submitted in sufficient time so as to enable it to be published on the GEM website in accordance with any time limit prescribed by the GEM Listing Rules. For any announcement, notice or other document required by the GEM Listing Rules to be published on the GEM website but which is not required to be cleared by the Exchange, the issuer must submit the final version of the document. In this regard, the following must be adhered to:

- (1)(a) A listed issuer or a new applicant which is obliged to publish ~~for the purposes of the GEM Listing Rules~~ any announcement or notice under the GEM Listing Rules must submit through HKEx-EPS a ready-to-publish electronic copy of the document to the Exchange for publication on the GEM website.

...

- (c) All announcements or notices which are published in the newspapers by an issuer pursuant to the GEM Listing Rules must be clearly presented, use legible font size and paragraph spacing and state that it is available for viewing on the GEM website and the issuer's own website giving details as to where on these websites it is to be found (to the fullest extent known at the time of publication of the announcement or notice).

...

## Chapter 17

### EQUITY SECURITIES

#### CONTINUING OBLIGATIONS

...

#### *Sufficient operations*

17.26 (1) ...

*Note: ...*

*Where the Exchange raises concerns with an issuer about its compliance with the rule, the onus is on the issuer to provide information to address the Exchange's concerns and ~~demonstrate to the satisfaction of the Exchange~~ its compliance with the rule.*

...



### *Pre-emptive rights*

...

17.42B In the case of a placing or open offer of securities for cash consideration, an issuer may not issue any securities pursuant to a general mandate given under rule 17.41(2) if the relevant price represents a discount of 20% or more to the benchmarked price of the securities, such benchmarked price being the higher of:

(1) ...

(2) the average closing price in the 5 trading days immediately prior to the earlier of:

(a) ...

...

(c) ...

unless the issuer can ~~demonstrate~~satisfy the Exchange that it is in a serious financial position and that the only way it can be saved is by an urgent rescue operation which involves the issue of new securities at a price representing a discount of 20% or more to the benchmarked price of the securities or that there are other exceptional circumstances. The issuer shall provide the Exchange with detailed information on the allottees to be issued with securities under the general mandate.

...

### **Inclusion of stock code in documents**

17.52A An issuer shall set out its stock code in a prominent position on the cover page or, where there is no cover page, the first page of all announcements, circulars and other documents published by it pursuant to these GEM Listing Rules.

*Note: For an issuer's annual report and interim report, the Exchange would consider rule 17.52A to be satisfied if the issuer's stock code is displayed prominently in the corporate or shareholder information section of the report.*

...

### *Closure of books and record date*

17.78 (1) ...

(2) ...

Notes:

1. For a rights issue, the issuer must provide at least two trading days for trading in the securities with entitlements (i.e. before the ex-date) after publication of the book closure. If trading on the Exchange is interrupted due to a typhoon, “extreme conditions” caused by a super typhoon (as defined in note 3 to rule 17.79) and/or a black rainstorm warning, the book-close date will be automatically postponed, where necessary, to provide at least two trading days (during neither of which trading is interrupted) for trading of the securities with entitlements during the notice period. In these circumstances the issuer must publish an announcement on the revised timetable.

2. ...

*Emergency share registration arrangement during a typhoon or “extreme conditions” caused by a super typhoon*

17.79 Under the T+2 settlement system, securities trade ex-entitlement (an "ex-date") for two trading days prior to the advertised date on which a listed issuer's transfer books or register of members is to be closed (the "book-close date") preceding a record date; the 2 trading days prior to the book-close date being referred to in this rule (and rule 17.80) as the first and second ex-date, respectively. A typhoon or “extreme conditions” occurring on either of the two ex-dates may affect the ability of the purchaser to effect registration in time. Accordingly, in the event of a typhoon or “extreme conditions”, the following arrangements will apply:—

- (1) Where the No. 8 signal or above is hoisted or remains hoisted, or “extreme conditions” are announced or remain in force, between 9 am and 12 noon on either the first or second ex-date and is not lowered or cancelled at or before 12 noon on the relevant ex-date:—
  - (a) the last time for accepting shares for registration shall be deferred to the next business day during normal business hours for each ex-date affected; and
  - (b) the book-close date shall be automatically postponed by the number of ex-dates affected;
- (2) Where the No. 8 signal or above is hoisted or remains hoisted, or “extreme conditions” are announced or remain in force, between 12 noon and 3 pm on either the first or second ex-date:—
  - (a) the last time for accepting shares for registration shall be deferred to the next business day during normal business hours for each ex-date affected; and
  - (b) the book-close date shall be automatically postponed by the number of ex-dates affected;

- (3) Where the No. 8 signal or above is hoisted between 3 pm and 4 pm on the first ex-date, no changes will be made to the timetable for accepting shares for registration in respect of the reduced business hours on such ex-date;
- (4) Where the No. 8 signal or above is hoisted, or “extreme conditions” are announced, between 3 pm and 4 pm on the second ex-date but lowered or cancelled at or before 9 am on the next business day:—
- (a) the last time for accepting shares for registration shall be deferred to 12 noon on the next business day; and
  - (b) if the original book-close date is not a business day, the book-close date shall be automatically postponed to the next business day;
- (5) Where the No. 8 signal or above is hoisted, or “extreme conditions” are announced, between 3 pm and 4 pm on the second ex-date but lowered or cancelled after 9 am but at or before 12 noon on the next business day:—
- (a) the last time for accepting shares for registration shall be deferred to 5 pm on the next business day; and
  - (b) if the original book-close date is not a business day, the book-close date shall be automatically postponed to the next business day;
- (6) Where the No. 8 signal or above is hoisted, or “extreme conditions” are announced, between 3 pm and 4 pm on the second ex-date but not lowered or cancelled until after 12 noon on the next business day:—
- (a) the last time for accepting shares for registration shall be deferred to 12 noon on the following business day; and
  - (b) the book-close date shall be automatically postponed to such date;
- (7) Where the No. 8 signal is lowered or “extreme conditions” are cancelled at or before 12 noon on the first ex-date, no changes will be made in respect of the time for accepting shares for registration or the book-close date in respect of the reduced business hours on such ex-date. On the other hand, where the No. 8 signal is lowered or “extreme conditions” are cancelled at or before 12 noon on the second ex-date, the time for accepting shares for registration shall be deferred to at least 5 pm on the same day but no change will automatically be made to the book-close date;

...

(11) ...

Notes: 1 ...

2 ...

3. According to the “Code of Practice in Times of Typhoons and Rainstorms”, the Hong Kong Government may issue an announcement on “extreme conditions” in the event of, for example, serious disruption of public transport services, extensive flooding, major landslides or large-scale power outage after super typhoons. When “extreme conditions” are in force (i.e. the two-hour period after cancellation of typhoon warning signal no. 8), the Hong Kong Government will review the situation and further advise the public by the end of the two-hour period whether “extreme conditions” will be extended or cancelled.

...

#### *Directors’ service contracts*

...

17.91 ~~[Repealed 1 October 2020] Directors’ service contracts entered into by an issuer or any of its subsidiaries in accordance with the GEM Listing Rules on or before 31 January, 2004 are exempt from the shareholders’ approval requirement under rule 17.90. Upon any variation as to duration or payment on termination or any other material terms of the directors’ service contracts or renewal of any such directors’ service contracts, the issuer must comply in full with the requirements set out in rule 17.90 in respect of the service contracts effected after such variation or renewal. Pursuant to rule 18.24A, the issuer must include particulars of any service contracts that are exempt under this rule in its annual reports during the term of any such service contracts.~~

...

**TABLE 1 (CHAPTER 17)**  
**EMERGENCY SHARE REGISTRATION ARRANGEMENTS FOR T + 2**  
**SETTLEMENT SYSTEM**

Event	Ex-entitlement Day (Ex-Date)	<u>Issue/cancellation of a typhoon warning signal or “extreme conditions”</u> <b>Typhoon Approach/Retreat</b>		Registrar	Book-Close Date	Closed Period for Transfer Books or Register of Members	Announcements Required
		Time	Status-of Signal	Time for Accepting Shares for Registration			
1	First	9 am - 12 noon	No. 8 Signal or above is hoisted or remains hoisted and is not lowered at or before 12 noon; <u>or</u>  “ <u>Extreme conditions</u> ” are <u>announced or remain in force and are not cancelled at or before 12 noon</u>	For each ex-date affected defer to the next business day (normal business hours)	Automatically postponed by number of ex-dates affected	The book-closure period may be extended in accordance with the delay to the book-close date so that the book-closure period remains the same	No announcement required unless:— (i) the payment date is also deferred, in which case an announcement of the new payment date must be made by the listed issuer; or (ii) the book-closure period is extended, in both cases the listed issuer must publish a notice of such changes as soon as possible.
2	Second						
3	First	12 noon - 3 pm	No. 8 Signal or above is hoisted or remains hoisted during this period; or				
4	Second						

			<u>“Extreme conditions” are announced or remain in force during this period</u>				
5	First	3 pm - 4 pm	No. 8 Signal or above is hoisted	No deferment on first ex-date	No change	No change	No announcement required
6	Second	3 pm - 4 pm	No. 8 Signal or above is hoisted but lowered at or before 9 am on the next business day; <u>or</u>  <u>“Extreme conditions” are announced but cancelled at or before 9 am on the next business day</u>	Defer to 12 noon <del>on</del> the next business day	If the original book-close date is a business day - no change. Otherwise postponed to the next business day	The book-closure period may be extended in accordance with the delay to the book-close date so that the book-closure period remains the same	No announcement required unless:—  (i) the payment date is also deferred, in which case an announcement of the new payment date must be made by the listed issuer; or (ii) the book-closure period is extended,  in both cases the listed issuer must publish a notice of such changes as soon as practicable.
7	Second	3 pm - 4 pm	No. 8 Signal or above is hoisted but lowered after 9 am but at or before 12	Defer to 5 pm on the next business day	If the original book-close date is a business day - no change.		

			noon on the next business day; <u>or</u>  “ <u>Extreme conditions</u> ” are <u>announced but cancelled after 9 am but at or before 12 noon on the next business day</u>		Otherwise postponed to the next business day		
8	Second	3 pm - 4 pm	No. 8 Signal or above is hoisted but not lowered until after 12 noon on the next business day; <u>or</u>  “ <u>Extreme conditions</u> ” are <u>announced but not cancelled until after 12 noon on the next business day</u>	Defer to 12 noon on the business day following the next business day ("B day")	Automatically postponed to B day		
9	First	At or before 12 noon	No. 8 Signal is lowered <u>or</u> “ <u>extreme conditions</u> ” are <u>cancelled</u>	No deferment	No change	No change	No announcement required

10	Second	At or before 12 noon	No. 8 Signal is lowered <u>or</u> <u>“extreme conditions” are cancelled</u>	Extension to 5 pm			
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...



## Chapter 18

### EQUITY SECURITIES

### FINANCIAL INFORMATION

...

#### Annual reports

##### *Distribution*

18.03 The listed issuer must send to:—

- (1) every member of the listed issuer; and
- (2) every other holder of its listed securities,

a copy of either (i) the directors' report and its annual financial statements and, where the listed issuer prepares consolidated financial statements, the consolidated financial statements, together with a copy of the auditors' report thereon or (ii) its summary financial report, not less than 21 days before the date of the listed issuer's annual general meeting and not more than 3 months after the date upon which the financial period ended. The issuer may send a copy of its summary financial report to a member and a holder of its listed securities in place of a copy of its annual report and financial statements, provided that it complies with rule 18.81 and the relevant provisions set out in sections 437 to 446 of the Companies Ordinance and in the Companies (Summary Financial Reports) Regulation or, in the case of overseas issuers, with provisions no less onerous than the above provisions for listed issuers incorporated in Hong Kong.

...

Notes: ...

6 Newly listed issuers will be required to prepare and publish the relevant annual report or summary financial report (irrespective of whether the period in question ends on a date before or after the date on which dealings in the securities of the listed issuer commenced) where the 3-month deadline for publishing the report falls after the date on which dealings in the securities of the listed issuer commenced. The requirements under rule 18.03 are not applicable to the reporting period which ended immediately before the listing of a newly listed issuer if the following is disclosed in its listing document:—

- (a) the financial information required under Chapter 18 in relation to annual reports, in respect of such reporting period;
- (b) a statement as to whether it complies with the Corporate Governance Code in Appendix 15 and, if not, the reason for deviation; and
- (c) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not distributing such annual reports and accounts.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rule 18.03 that the relevant financial information has been included in its listing document. The newly listed issuer must still comply with the requirements under rule 17.103(5).

...

*Information to accompany directors' report and annual financial statements*

...

18.24A ~~[Repealed 1 October 2020]Particulars of any service contracts that are exempt under rule 17.91.~~

...

## **Preliminary announcement of results for the financial year**

### *Preliminary*

18.49 A listed issuer must publish (in accordance with the requirements of Chapter 16) a preliminary announcement of the results for the financial year, which has been agreed with its auditors, on the GEM website as soon as possible, but in any event not later than the time that is 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the next business day after approval by or on behalf of the board of its results. The issuer must publish such results not later than 3 months after the date upon which the financial year ended.

Notes: 1 The term financial year refers to the period covered by a listed issuer's financial statements even where the period is not a calendar year.

2 Newly listed issuers will be required to prepare and publish the relevant annual results (irrespective of whether the period in question ends on a date before or after the date on which dealings in the securities of the listed issuer commenced) where the 3-month deadline for publishing the results falls after the date on which dealings in the

securities of the listed issuer commenced. The requirements under rule 18.49 are not applicable to the reporting period which ended immediately before the listing of a newly listed issuer if the following is disclosed in its listing document:—

(a) the financial information required under Chapter 18 in relation to annual results announcements, in respect of such reporting period; and

(b) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not publishing such annual results announcements.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rule 18.49 that the relevant financial information has been included in its listing document.

...

### **Half-year reports**

#### *Obligation to prepare and publish*

- 18.53 The listed issuer shall prepare, in respect of each of the first 6 months of each financial year of the listed issuer, either (i) a half-year report, or (ii) a summary half-year report containing at least the information required by rules 18.55 and 18.82, respectively and publish the same (in accordance with the requirements of Chapter 16) not later than 45 days after the end of such period. The listed issuer may send a copy of its summary half-year report to a member and a holder of its listed securities in place of a copy of its half-year report, provided that such summary half-year report complies with the relevant provisions of the Companies (Summary Financial Reports) Regulation governing summary financial reports.

Notes: 1 *Newly listed issuers will be required to prepare and publish the relevant half-year report or summary half-year report (irrespective of whether the period in question ends on a date before or after the date on which dealings in the securities of the listed issuer commenced) where the 45-day deadline for publishing the report falls after the date on which dealings in the securities of the listed issuer commenced. ~~In the event that the results for the period in question (whether audited or not) have been included in the prospectus for the purpose of applying for a listing on the Exchange, there will be no obligation separately to publish the results.~~ The requirements under rules 18.53 and 18.54 are not applicable to the half-year period which ended immediately before the listing of a newly listed issuer if the following is disclosed in its listing document:—*

- (a) the financial information required under Chapter 18 in relation to half-year reports, in respect of such six-month period (with comparative figures for the corresponding six-month period of the immediately preceding financial year);
- (b) a statement as to whether it complies with the Corporate Governance Code in Appendix 15 and, if not, the reason for deviation; and
- (c) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not distributing such half-year reports.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rules 18.53 and 18.54 that the relevant financial information has been included in its listing document.

...

## **Quarterly reports**

### *Obligation to prepare and publish*

- 18.66 The listed issuer shall prepare, in respect of each of the first 3 and 9 month periods of each financial year of the listed issuer, a quarterly report containing at least the information required by rule 18.68 and publish the same (in accordance with the requirements of Chapter 16) not later than 45 days after the end of such period.

Notes: 1 *Newly listed issuers will be required to prepare and publish the relevant quarterly report (irrespective of whether the period in question ends on a date before or after the date on which dealings in the securities of the listed issuer commenced) where the 45-day deadline for publishing the report falls after the date on which dealings in the securities of the listed issuer commenced. ~~In the event that the results for the period in question (whether audited or not) have been included in the prospectus for the purpose of applying for a listing on the Exchange, there will be no obligation separately to publish the results.~~ The requirements under rules 18.66 and 18.67 are not applicable to the 3-month or 9-month period which ended immediately before the listing of a newly listed issuer if the following is disclosed in its listing document:—*

- (a) the financial information required under Chapter 18 in relation to quarterly reports, in respect of such 3-month or 9-month period (with comparative figures for the corresponding 3-month or 9-month period of the immediately preceding financial year);

(b) a statement as to whether it complies with the Corporate Governance Code in Appendix 15 and, if not, the reason for deviation; and

(c) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not distributing such quarterly reports.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rules 18.66 and 18.67 that the relevant financial information has been included in its listing document.

...

#### **Preliminary announcement of results for each of the first 6 month of each financial year**

18.78 A listed issuer must publish (in accordance with the requirements of Chapter 16) a preliminary announcement of the results for the first 6 months of each financial year, containing at least the information set out below, on the GEM website as soon as possible, but in any event not later than the time that is 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the next business day after approval by or on behalf of the board of the results. The issuer must publish such results not later than 45 days after the end of such period:

(1) ...

...

(9) ...

Note: Newly listed issuers will be required to prepare and publish the relevant half-year results (irrespective of whether the period in question ends on a date before or after the date on which dealings in the securities of the listed issuer commenced) where the 45-day deadline for publishing the results falls after the date on which dealings in the securities of the listed issuer commenced. The requirements under rule 18.78 are not applicable to the half-year period which ended immediately before the listing of a newly listed issuer if the following is disclosed in its listing document:—

(a) the financial information required under Chapter 18 in relation to half-year results announcements, in respect of such six-month period (with comparative figures for the corresponding six-month period of the immediately preceding financial year); and

(b) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not publishing such half-year results

announcements.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rule 18.78 that the relevant financial information has been included in its listing document.

**Preliminary announcement of results for each of the first 3 and 9 month periods of each financial year**

- 18.79 Issuers' preliminary announcements of results for each of the first 3 and 9 month periods of each financial year must contain at least the information set out below stated in respect of the group and such information must be published (in accordance with the requirements of Chapter 16) on the GEM website as soon as possible, but in any event not later than the time that is 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the next business day after approval by or on behalf of the board of the results. The issuer must publish such results not later than 45 days after the end of such period:

...

Notes: ...

4 Newly listed issuers will be required to prepare and publish the relevant 3-month or 9-month results (irrespective of whether the period in question ends on a date before or after the date on which dealings in the securities of the listed issuer commenced) where the 45-day deadline for publishing the results falls after the date on which dealings in the securities of the listed issuer commenced. The requirements under rule 18.79 are not applicable to the 3-month or 9-month period which ended immediately before the listing a newly listed issuer if the following is disclosed in its listing document:—

- (a) the financial information required under Chapter 18 in relation to quarterly results announcements, in respect of such 3-month or 9-month period (with comparative figures for the corresponding 3-month or 9-month period of the immediately preceding financial year); and
- (b) that it will not breach its constitutional documents, laws and regulations of its place of incorporation or other regulatory requirements as a result of not publishing such quarterly results announcements.

Such a newly listed issuer should publish an announcement no later than the time prescribed in rule 18.79 that the relevant financial information has been included in its listing document.

...

## ~~CHAPTER~~Chapter 18A

### EQUITY SECURITIES

#### MINERAL COMPANIES

...

18A.03 A Mineral Company must:—

- (1) ~~establish to the Exchange's satisfaction~~ that it has the right to participate actively in the exploration for and/or extraction of Natural Resources, either:—

...

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

...

- (4) ~~demonstrate to the Exchange's satisfaction~~ that it has available working capital for 125% of the group's present requirements, that is for at least the next 12 months, which must include:—

...

## Chapter 19

### EQUITY SECURITIES

#### NOTIFIABLE TRANSACTIONS

...

#### Definitions

19.04 For the purposes of this Chapter:—

- (1) ...

...

- (12) "total assets" means:—

- (a) ...

- (b) ...

Note: Listed issuers must ~~demonstrate to the satisfaction of the Exchange~~ that any such adjustments or modifications to the accounts of the relevant company, legal person, partnership, trust or business unit are necessary and appropriate in order to reflect its latest financial position.

...

### *Extreme transactions*

- 19.06C An “extreme transaction” is an acquisition or a series of acquisitions of assets by a listed issuer, which individually or together with other transactions or arrangements, may, by reference to the factors set out in Note 1 to rule 19.06B, have the effect of achieving a listing of the acquisition targets, but where the issuer can demonstrate ~~to the satisfaction of the Exchange~~ that it is not an attempt to circumvent the requirements for new applicants set out in Chapter 11 of the GEM Listing Rules and that:

...

### **Additional requirements for reverse takeovers**

- 19.54 The Exchange will treat a listed issuer proposing a reverse takeover as if it were a new listing applicant.

(1) ...

- (2) Where the reverse takeover is proposed by a listed issuer that has failed to comply with rule 17.26, the acquisition targets must also meet the requirement of rule 11.22A, ~~the Exchange must be satisfied that there will be sufficient public interest in the business of the acquisition targets and the enlarged group and in the securities for which listing is sought (in addition to the requirements for the acquisition targets and the enlarged group set out in rule 19.54(1)).~~

...

### **Contents of announcements**

#### *All transactions*

- 19.58 The announcement of a share transaction, discloseable transaction, major transaction, very substantial disposal, very substantial acquisition, extreme transaction or reverse takeover must contain at least the following information:—

(1) ...

...

- (5) the aggregate value of the consideration, how it is being or is to be satisfied and details of the terms of any arrangements for payment on a deferred basis. If the consideration includes securities for which listing will be sought, the listed issuer must also include the amounts and details of the securities being issued;



Note: Where the transaction involves an acquisition of aircraft from an aircraft manufacturer by a listed issuer principally engaged in airline operations and the acquisition is in the issuer's ordinary and usual course of business, the Exchange may waive the requirement of disclosing the aggregate value of the consideration if there are contractual confidentiality restrictions from disclosing the actual consideration for the aircraft. In this case, the issuer must disclose:

- (a) the reasons for its waiver application and provide alternative disclosure (including the list price of the aircraft, a description of any price concession received, whether the price concession received is comparable to that obtained in previous purchases and whether the concession has any material impact on the issuer's future operating costs as a whole) in the announcement and, where applicable, the circular for the transaction; and
- (b) the following information in its next interim report (where applicable) and annual report:
  - (i) the aggregate number of aircraft owned as at the end of the reporting period with a breakdown by aircraft model, and the aggregate net book value of the aircraft; and
  - (ii) the aggregate number of aircraft committed to purchase as at the end of the reporting period with a breakdown by aircraft model, and the commitment amounts for future commitments.

...

*Inability to access information to compile circulars for major transactions or very substantial acquisitions*

- 19.67A (1) Where a listed issuer has acquired and/or agreed to acquire equity capital in a company and the transaction constitutes a major transaction or a very substantial acquisition, and the listed issuer does not have access or only has limited access to the non-public information on the target company that would be required for the purpose of complying with the disclosure requirements in respect of the target company and the enlarged group under rules 19.66 and 19.67 (for a major transaction) or rule 19.69 (for a very substantial acquisition), then the listed issuer may defer complying with certain of the disclosure requirements in the manner set out in paragraphs (2) and (3) below, provided that the following conditions are demonstrated ~~to the satisfaction of the Exchange:~~

...

## **Options**

### *Definitions*

...

- 19.76 (1) For the purpose of rules 19.74(1) and 19.75(1), where, on the grant of the option, the actual monetary value of each of the premium, the exercise price, the value of the underlying assets and the profits and revenue attributable to such assets has not been determined, the listed issuer must demonstrate ~~to the satisfaction of the Exchange~~ the highest possible monetary value, which value will then be used for the purpose of classification of notifiable transaction. Failure to do so will result in the transaction being classified as at least a major transaction. The listed issuer must inform the Exchange of the actual monetary value of each of the premium, the exercise price, the value of the underlying assets and the profits and revenue attributable to such assets as soon as it has been determined. If the actual monetary value results in the transaction falling within a higher classification of notifiable transaction, the listed issuer must announce this fact in accordance with the requirements of Chapter 16 as soon as reasonably practicable and comply with the additional requirements of such higher classification.

...

## **Chapter 20**

### **EQUITY SECURITIES**

#### **CONNECTED TRANSACTIONS**

...

- 20.77 The following applies when calculating percentage ratios for connected transactions involving options:

(1) ...

...

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

...

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

20.102 The Exchange may waive all or some of the connected transaction requirements for a joint and several guarantee or indemnity provided by the listed issuer's group to a third party creditor for the obligations of a connected subsidiary or a commonly held entity if:

- (1) the guarantee or 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 listed issuer's group for the liability guaranteed, or indemnified at least in proportion to its equity interest in the subsidiary or entity. The listed issuer must demonstrate ~~satisfy the Exchange~~ that such shareholder indemnity is sufficient.

...

**Chapter 21**

**EQUITY SECURITIES**

**OPTIONS, WARRANTS AND SIMILAR RIGHTS**

...

**Issue of new warrants to existing warrant holders  
and/or altering the terms of existing warrants**

...

21.07 Without prejudice to the generality of rule 21.06, where an issuer proposes to issue new warrants to existing warrant holders and/or alter the exercise period or the exercise price of existing warrants (save for any alterations that take effect automatically under the terms of such existing warrants) (defined for the purposes of this rule as the "warrant proposal"), the Exchange will not approve the warrant proposal unless the following requirements, in addition to those set out in rule 21.02(2) are met:—

- (1) ...

...

- (8) the warrant proposal may not be announced unless the issuer can fulfil all of the above conditions ~~to the satisfaction of the Exchange~~, subject only to obtaining the approval of shareholders, warrant holders and the Exchange. Such announcement should be made as soon as possible after the Exchange has confirmed to the issuer that it is satisfied that the relevant requirements have been met.

...

## Chapter 23

### EQUITY SECURITIES

#### SHARE OPTION SCHEMES

...

##### Terms of the scheme

- 23.03 The scheme document must include the following provisions and/or provisions as to the following (as the case may be):—

- (1) ...

...

- (3) the total number of securities which may be issued upon exercise of all options to be granted under the scheme, together with the percentage of the issued shares that it represents at the date of approval of the scheme;

*Notes: 1. The total number of securities which may be issued upon exercise of all options to be granted under the scheme and any other schemes must not in aggregate exceed 10 per cent of the relevant class of securities of the listed issuer (or the subsidiary) in issue as at the date of approval of the scheme (alternatively, in respect of a scheme of a subsidiary that will become effective only upon its separate listing, the 10% limit may be calculated by reference to the relevant class of securities of the subsidiary in issue as at the date of its listing). Options lapsed in accordance with the terms of the scheme will not be counted for the purpose of calculating the 10% limit.*

.....

##### Restriction on the time of grant of options

23.05 An issuer may not grant any options after inside information has come to its knowledge until (and including) the trading day after it has announced the information. In particular, it may not grant any option during the period commencing one month immediately before the earlier of:

(1) ...

...

### **Transitional arrangements**

23.10 ~~[Repealed 1 October 2020]~~The following transitional provisions apply to existing share option schemes of a listed issuer or a new applicant, which were approved by shareholders of the listed issuer or the new applicant and adopted before 1 October 2001:

~~(1) if the listed issuer or the new applicant wishes to continue to grant options under its existing schemes on or after 1 October 2001 (or in the case of the new applicant, after listing), it must comply with the requirements of this Chapter 23. The disclosure requirements in the annual report and half-year report under rules 23.07, 23.08 and 23.09 of this Chapter 23 will apply to the financial year/period ending on or after 1 October 2001; and~~

~~(2) if the listed issuer or the new applicant wishes to change the terms of any of its existing schemes or implement a new scheme in accordance with the requirements of this Chapter 23 on or after 1 October 2001, it must first ensure that all its existing schemes comply with the requirements of this Chapter 23. The listed issuer or new applicant cannot grant any further options under its existing schemes which do not comply with the requirements of this Chapter 23.~~

~~Note: The Exchange may allow a listed issuer to grant options under the terms of its existing share option schemes on or after 1 October 2001 if the listed issuer is able to demonstrate to the satisfaction of the Exchange that such options are granted to a participant pursuant to a contractual commitment given by the listed issuer to such participant before 27 July 2001.~~

...

## **Chapter 24**

### **EQUITY SECURITIES**

#### **OVERSEAS ISSUERS**

...

24.05 The following requirements apply in addition to those set out in Chapter 11:—

...

(6) where an overseas issuer wishes to obtain its listing on the Exchange by way of an introduction in the circumstances set out in rule 10.18(3):—

(a) it must comply with the following additional requirements:—

- (i) provide the Exchange with details of the relevant regulatory provisions (statutory or otherwise) in its place of incorporation or other establishment and demonstrate ~~to the satisfaction of the Exchange~~ that the standards of protection for shareholders and investors provided by that jurisdiction are not lower than those pertaining in Hong Kong; and

...

## Chapter 25

### EQUITY SECURITIES

#### ISSUERS INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA

...

##### *Pre-emptive rights*

25.23 The requirements of rules 17.39 to 17.41 are replaced in their entirety by the following provision:—

“17.39 ...

...

17.41 No such approval as is referred to in rule 17.39 shall be required in the case of authorising, allotting or issuing shares if, but only to the extent that,

- (1) it is made under a bonus or capitalisation issue to the shareholders of the PRC issuer, which excludes for that purpose any shareholder that is resident in a place outside the PRC and Hong Kong, provided that the directors of the PRC issuer consider such exclusion to be necessary or expedient on account either of the legal restrictions under the laws of the relevant place or the requirements of the relevant regulatory body or stock exchange in that place and, where appropriate, to holders of other equity securities of the PRC issuer entitled to the issue, pro rata (apart from fractional entitlements) to their existing holdings; or

Notes: (1) The PRC issuer must make enquiries regarding the

legal restrictions under the laws of the relevant place and the requirements of the relevant regulatory body or stock exchange and may only exclude such overseas shareholders on the basis that, having made such enquiries, it would be necessary or expedient to do so.

(2) If any shareholders that are resident outside the PRC and Hong Kong are excluded from an offer of securities pursuant to rule 17.41(1), the PRC issuer shall include an explanation for the exclusion in the relevant circular or document containing the offer of securities. PRC issuers shall ensure that the circular or offer document is delivered to such shareholders for their information subject to compliance with the relevant local laws, regulations and requirements.

- (42) the shareholders of the PRC issuer have by special resolution of its shareholders in general meeting given approval, either unconditionally or subject to such terms and conditions as may be specified in the resolution, for the PRC issuer to authorise, allot or issue, either separately or concurrently once every twelve months, not more than twenty per cent of each of the existing issued domestic shares and overseas listed foreign shares of the PRC issuer; or
- (23) such shares are part of the PRC issuer's plan at the time of its establishment to issue domestic shares and overseas listed foreign shares and which plan is implemented within fifteen months from the date of approval by China Securities Regulatory Commission or such other competent state council securities regulatory authority.

Notes: 1 *Other than where independent shareholders' approval has been obtained, an issue of securities to a connected person pursuant to a general mandate given under rule 17.41(2) is only permitted in the circumstances set out in rule 20.90.*

2 *Notwithstanding any issue of securities pursuant to a general mandate given under rule 17.41, the PRC issuer must at all times comply with the prescribed minimum percentage requirements concerning shares held by the public, as set out in rule 11.23."*

...

## **Chapter 19 – Notifiable Transactions**

25.34C Rule 19.07(4) is amended by adding the following provisions:

In respect of a PRC issuer whose domestic shares are listed on a PRC stock exchange, the market capitalisation of its PRC listed domestic shares is to be determined based on the average closing price of those shares for the 5 business days immediately preceding the transaction.

Where a PRC issuer has issued unlisted domestic shares, the market capitalisation of its unlisted domestic shares is calculated by reference to the average closing price of its H shares for the 5 business days preceding the transaction.

### **Chapter 23 – Share Option Schemes**

25.34D The Exchange may waive the exercise price requirement under Note 1 to rule 23.03(9) for a share option scheme of a PRC issuer dually listed on the Exchange and a PRC stock exchange, provided that: (i) the scheme involves only shares listed on the PRC stock exchange; and (ii) the scheme contains provisions to ensure that the exercise price of the options is no less than the prevailing market price of the relevant shares on the PRC stock exchange at the time of grant of the options.

...

## **The Stock Exchange of Hong Kong Limited Practice Note 3**

to the Rules Governing the Listing of Securities on GEM  
of The Stock Exchange of Hong Kong Limited  
(the “GEM Listing Rules”)

Issued pursuant to rule 1.07 of the GEM Listing Rules

### **PRACTICE WITH REGARD TO PROPOSALS SUBMITTED BY ISSUERS TO EFFECT THE SEPARATE LISTING ON THE EXCHANGE OR ELSEWHERE OF ASSETS OR BUSINESSES WHOLLY OR PARTLY WITHIN THEIR EXISTING GROUPS**

...

## **2. Introduction**

...

*Note: This Practice Note is normally only applicable to an issuer and entity which is a subsidiary of the issuer at the time of submission of the spin-off proposal. However, the Exchange will treat an entity as if it were a subsidiary of an issuer for the purpose of this Practice Note if such entity is at the time of submission of the issuer's spin-off proposal, an associated company of the issuer and was, at any time during the latest completed*



*financial year of the issuer (comprising at least 12 months) up to the date of submission of the spin-off proposal, a subsidiary of the issuer.*

*In such circumstances, the entity will be required to comply with the requirements of this Practice Note and will be treated as if it has remained as a subsidiary of the issuer. The issuer is required to substantiate ~~to the satisfaction of the Exchange~~ the changes in the beneficial ownership of the entity's issued shares in the period stated above.*

...

## **The Stock Exchange of Hong Kong Limited**

### **Practice Note 7**

to the Rules Governing the Listing of Securities on GEM  
of The Stock Exchange of Hong Kong Limited  
(the “GEM Listing Rules”)

Issued pursuant to rule 1.07 of the GEM Listing Rules

## **ARRANGEMENTS FOR APPLICANTS DURING BAD WEATHER SIGNALS**

1. This Practice Note sets out the arrangements in relation to dealings with the Exchange regarding a listing document that constitutes a prospectus under the Companies (Winding Up and Miscellaneous Provisions) Ordinance and related announcements when a No. 8 typhoon warning signal or above, “extreme conditions” caused by a super typhoon and/ or a black rainstorm warning signal (collectively, “Bad Weather Signals”) is issued during the period from the registration of a prospectus to the commencement of dealing of shares.

*Note: According to the “Code of Practice in Times of Typhoons and Rainstorms”, the Hong Kong Government may issue an announcement on “extreme conditions” in the event of, for example, serious disruption of public transport services, extensive flooding, major landslides or large-scale power outage after super typhoons. When “extreme conditions” are in force (i.e. the two-hour period after cancellation of typhoon warning signal no. 8), the Hong Kong Government will review the situation and further advise the public by the end of the two-hour period whether “extreme conditions” will be extended or cancelled.*

2. Applicants should ensure their prospectuses set out the arrangements in the event of bad weather which may disrupt their listing timetable in order to have greater clarity on the arrangements and to avoid market confusion.

## **Issue of certificate for registration of prospectus**

3. On the day of the publication of a prospectus ("P Day"), an electronic copy of the prospectus and application forms will be published on the GEM website in accordance with Chapter 16 and hardcopies will be available for distribution to the public.
4. An applicant must submit documents under rule 12.25 to the Exchange by 11 a.m. on the date of the registration of a prospectus, which is the business day before the P Day ("P-1 Day") in order to obtain a certificate from the Exchange for prospectus registration with the Companies Registry under the Companies (Winding Up and Miscellaneous Provisions) Ordinance. It is the responsibility of the applicant to deliver the prospectus and any ancillary documents to the Companies Registry for registration. The applicant should receive a written confirmation from the Companies Registry of the registration on P-1 Day.
5. If a Bad Weather Signal is issued on P-1 Day, the arrangements with the Exchange are as follows:

<u>Time when a Bad Weather Signal is issued</u>	<u>Status of the Bad Weather Signal</u>	<u>Arrangements</u>
<u>Before 9 a.m.</u>	<u>Cancelled at or prior to 12:00 noon</u>	<u>The Exchange will review relevant documents and issue the registration certificate on P-1 Day.</u>
<u>Before 9 a.m.</u>	<u>Remains in force at and after 12:00 noon</u>	<u>The Exchange will review relevant documents on the business day after the Bad Weather Signal is lowered or cancelled, and issue the registration certificate as soon as possible.</u>
<u>At or after 9 a.m.</u>	<u>Business as usual</u>	<u>The Exchange will review relevant documents and issue the registration certificate on P-1 Day.</u>

6. If a Bad Weather Signal causes a delay in the registration of a prospectus with the Companies Registry whereby:—
  - (a) the offer period becomes less than 3 days as required under the Companies (Winding Up and Miscellaneous Provisions) Ordinance, the applicant must revise its listing timetable to ensure compliance with the requirement and make an announcement of the revised timetable on the business day after the Bad Weather Signal is lowered or cancelled. The announcement is not required to be reviewed by the Exchange, and the applicant is not required to amend its prospectus or issue a supplemental prospectus for this purpose; and/ or
  - (b) the prospectus would be published later than the date of the prospectus, the applicant should prepare a letter to the Companies Registry stating that the reason for the delay in publishing, circulating or distributing prospectus for the purpose of registration with the Companies Registry. The applicant is not required to amend the date of the prospectus.

### **Publication of a prospectus**

7. If a Bad Weather Signal is in force at 9:00 a.m. on P Day, the applicant must take necessary actions to ensure the offer period is at least 3 days as required under the Companies (Winding Up and Miscellaneous Provisions) Ordinance. If as a result the applicant amends its listing timetable set out in the prospectus, an announcement in relation to the revised timetable must be made on the business day after the Bad Weather Signal is lowered or cancelled. The announcement is not required to be reviewed by the Exchange, and the applicant is not required to issue a supplemental prospectus.

### **Opening or closing of the application lists in a public offer**

8. If a Bad Weather Signal is in force at any time between 9:00 a.m. and 12:00 noon on the scheduled date of the opening of the application lists ("A Day"), the application lists will not be opened on A Day but instead be opened between 11:45 a.m. and 12:00 noon on the next business day when no Bad Weather Signal is in force between 9:00 a.m. and 12:00 noon ("A+1 Day").
9. An applicant is not required to make an announcement on the change of opening of the application lists only if the arrangement in paragraph 7 above is included in the prospectus. Otherwise, the applicant is required to make an announcement on the change of the opening of the application lists as a result of the Bad Weather Signal on A+1 Day, and such announcement is not required to be reviewed by the Exchange.

### **Vetting of an allocation announcement under rule 16.13**

10. Depending on the applicant's intended date of listing ("L Day"), an allocation announcement is normally approved by the Exchange by the close of business on the second business day before listing ("L-2 Day"). The allocation announcement must be published on the GEM website no later than 8:30 a.m. on the business day before listing ("L-1 Day").
11. If a Bad Weather Signal is issued on L-2 Day, the arrangements with the Exchange are as follows:

<b><u>Time when a Bad Weather Signal is issued</u></b>	<b><u>Status of the Bad Weather Signal</u></b>	<b><u>Arrangements</u></b>
<u>Before 9 a.m.</u>	<u>Cancelled at or prior to 12:00 noon</u>	<u>The Exchange will review the allocation announcement on L-2 Day.</u>

<u>Before 9 a.m.</u>	<u>Remains in force at and after 12:00 noon</u>	<p><u>The allocation announcement must be published before 8:30 a.m. on L-1 Day on the GEM website and will be post-vetted by the Exchange on the same day.</u></p> <p><u>If the Exchange considers the published allocation announcement omits material information, or contains inaccurate information, the applicant will be required, on L-1 Day, to publish a supplemental allocation announcement and may be required to take other actions to ensure the omitted or inaccurate information in the published allocation announcement will not result in a disorderly market on the L Day. Otherwise, the applicant may be required to delay its listing timetable and make an announcement in relation to the revised timetable on L-1 Day.</u></p> <p><u>If the applicant is unable to publish the allocation announcement before 8:30 a.m. on L-1 Day on the GEM website, or if the Exchange cannot post-vet the allocation announcement because a Bad Weather Signal is issued before 9 a.m. and remains in force at and after 12:00 noon on L-1 Day, it must revise its listing timetable and make an announcement in relation to the revised timetable on L-1 Day.</u></p>
<u>At or after 9 a.m.</u>	<u>Business as usual</u>	<u>The Exchange will review the allocation announcement on L-2 Day.</u>

### **Issue of a listing approval letter**

12. The Exchange normally issues the listing approval letter by close of business on L-1 Day.
13. If a Bad Weather Signal is issued on L-1 Day, the arrangements with the Exchange are as follows:

<b><u>Time when a Bad Weather Signal is issued</u></b>	<b><u>Status of the Bad Weather Signal</u></b>	<b><u>Arrangements</u></b>
<u>Before 9 a.m.</u>	<u>Cancelled at or prior to 12:00 noon</u>	<u>The Exchange will issue the approval letter by close of business on L-1 Day.</u>
<u>Before 9 a.m.</u>	<u>Remains in force at and after 12:00 noon</u>	<u>If a Bad Weather Signal was anticipated, the Exchange will issue the approval letter on L-2 Day. Otherwise, the Exchange will issue the approval letter before 9:15 a.m. on L Day if the Bad Weather Signal is no longer in force.</u>

<u>At or after 9 a.m.</u>	<u>Business as usual</u>	<u>The Exchange will issue the approval letter by close of business on L-1 Day.</u>
---------------------------	--------------------------	---

### **Commencement of dealings in shares**

14. Dealings of an applicant's shares will only commence when trading on the Exchange resumes, even if trading is only for half-day. The applicant shall refer to the "Trading Hours & Severe Weather Arrangements" on the Exchange's website for details of the trading arrangement.
15. Applicants are not required to make any announcement on the trading arrangements in the event of Bad Weather Signal as this is on the GEM website.
16. This Practice Note takes effect from 1 October 2020.

Hong Kong, 1 October 2020

...

## **Appendix 5**

### **FORMS RELATING TO LISTING**

#### **FORM B**

#### **Application Form - Equity securities (of an issuer part of whose share capital is already listed)**

...

16. **We hereby undertake:—**

- (a) to advise the Exchange if any change of circumstance arises prior to the hearing date of the application (if applicable) or the date on which we propose to bulk print the listing document (if any) or the proposed date of issue of the securities the subject of this application, that would render any information contained in this application form or the listing document (if any) misleading in any material respect;
- (b) ~~to lodge with the Exchange, before dealings in the securities the subject of this application commence, the declaration (Appendix 5E) required by rule 12.27(8) of the GEM Listing Rules; and~~

...

**Appendix 5**  
**FORMS RELATING TO LISTING**  
**FORM F**  
**GEM**  
**Company Information Sheet**

...

The Directors acknowledge that the Stock Exchange has no responsibility whatsoever with regard to the Information and undertake to indemnify the Exchange against all liability incurred and all losses suffered by the Exchange in connection with or relating to the Information.

Signed:

.....

.....

.....

.....

.....

.....

Submitted by:

\_\_\_\_\_  
(Name)

Title:

\_\_\_\_\_  
(Director, secretary or other duly authorised officer)

**NOTES**

- ~~1 This information sheet must be signed by or pursuant to a power of attorney for and on behalf of each of the Directors of the Company.~~
- 2 Pursuant to rule 17.52 of the GEM Listing Rules, the Company must submit to the Exchange (in the electronic format specified by the Exchange from time to time) for publication on the GEM website a revised information sheet, ~~together with a hard copy duly signed by or on behalf of each of the Directors,~~ as soon as reasonably practicable after any particulars on the form previously published cease to be accurate.
- ~~3 Please send a copy of this form by facsimile transaction to Hong Kong Securities Clearing Company Limited (on 2815-9353) or such other number as may be prescribed from time to time) at the same time as the original is submitted to the Exchange.~~

## Appendix 9

### LISTING FEES, TRANSACTION LEVIES AND TRADING FEES ON NEW ISSUES AND BROKERAGE

#### 1. Equity Securities

##### (1) Initial Listing Fee

- (a) In the case of an issue of equity securities by a new applicant, an initial listing fee shall be payable on the application for listing as follows:

...

- (c) The initial listing fee should be calculated by reference to the proposed maximum value of the maximum number of equity securities to which the listing application relates.

##### (d) Listing by Introduction

The initial listing fee shall be calculated in accordance with subparagraph (a) above and the monetary value of the equity securities to be listed should be determined as follows:—

- (1) if the new applicant is already listed on another stock exchange, based on its average market capitalisation on the relevant stock exchange for the period from the sixth business day to the tenth business day immediately before the date of its listing application; or
- (2) if the new applicant is not listed on any other stock exchange, based on its expected market capitalisation upon listing.

...

#### GEM Listing Rules (amendments to Chinese version only)

第二十章

股本證券

關連交易

...

*持續交易其後變成關連交易*

20.58 如上市發行人集團簽訂了一份有固定期限及固定條款的協議，而該協議涉及：

(1) ...

...

**附錄六**

**董事及監事的表格**

**B 表格**

**董事的聲明、承諾及確認（適用於中國發行人）**

...

**第二部分**

**承諾及確認**

...

(d) 在本人須在下列情況下（以聯交所不時規定的方式）將下述資料通知聯交所：

...

- (ii) 在出任發行人董事期間，如第(i)段所述聯絡資料有變，須在合理可行的情況下盡快（無論如何於有關變動出現後 28 日內）通知會聯交所；及

...

**附錄六**

**董事及監事的表格**

**C 表格**



## 監事的聲明、承諾及確認

(適用於在中華人民共和國(「中國」)註冊成立的發行人)

...

### 第二部分

#### 承諾及確認

...

2. 本人承認及同意，在本人出任發行人監事期間或不再出任發行人監事之後，但凡聯交所就任何目的向本人發出的信函及／或送達的通知書及其他文件（包括但不限於送達紀律程序的通知）若以面交本人的方式，或以郵寄、傳真或電郵的方式送達本人向聯交所提供的地址或號碼，即被視為已有效及充分地送達本人。本人同意及確認，本人有責任向聯交所提供本人最新的聯絡資料。本人確認，若本人（作為發行人的監事或前監事）未能向聯交所提供本人最新的聯絡資料，或未有為送呈本人的通知、文件或書信提供轉送安排，本人可能會不知悉聯交所向本人展開的任何程序。

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## APPENDIX V GUIDANCE LETTER ON COMPANY SECRETARY

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### HKEX GUIDANCE LETTER HKEX-GL108-20 (August 2020)

<b>Subject</b>	<b>Experience and Qualification Requirements of a Company Secretary</b>
<b>Listing Rules and Regulations</b>	<b>Main Board Rules 3.28, 3.29 and 8.17, and Appendix 14 to the Main Board Rules</b>  <b>GEM Rules 5.14, 5.15 and 11.07, and Appendix 15 to the GEM Rules</b>
<b>Related Publications</b>	<b>HKEX-LD72-1, HKEX-LD72-2 and HKEX-LD46-2013</b>
<b>Author</b>	<b>IPO Vetting Department</b>

**Important note:** *This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You may consult the Listing Division on a confidential basis for an interpretation of the Listing Rules, or this letter.*

#### **I. Purpose**

- 1 This letter provides (i) information on the policy rationale of Main Board Rule 3.28 (GEM Rule 5.14) with regards to the experience and qualification requirements of a company secretary (“**R3.28**”); (ii) guidance on factors considered by the Exchange when granting waivers from R3.28 and conditions to be imposed; and (iii) guidance on factors considered by the Exchange in determining whether the Proposed Company Secretary (as defined in paragraph 7) has attained the Relevant Experience (as defined in paragraph 3(ii)) under R3.28 by the end of the Waiver Period (as defined in paragraph 9).

#### **II. Relevant Listing Rules**

- 2 Section F of the Corporate Governance Code and Corporate Governance Report under Appendix 14 to the Main Board Rules (Appendix 15 to the GEM Rules) states that, among other things, the company secretary plays an important role in supporting the board by ensuring good information flow within the board and that board policy and procedures are followed. The company secretary is responsible for advising the board on corporate governance matters, and should be an employee of the issuer and have day-to-day knowledge of the issuer’s affairs.
- 3 R3.28 requires a company secretary of an issuer to possess certain academic or professional qualifications, or relevant experience to be considered capable of discharging the functions of company secretary:

- (i) The academic or professional qualifications to be considered acceptable by the Exchange include (a) a member of The Institute of Chartered Secretaries; (b) a solicitor or barrister under the Legal Practitioners Ordinance; and (c) a certified public accountant under the Professional Accountants Ordinance (“**Acceptable Qualification**”).
  - (ii) The Exchange’s assessment criteria for “relevant experience” includes: (a) length of employment with the issuer and other issuers and the roles the company secretary has played; (b) familiarity with the Rules and other relevant laws and regulations; (c) relevant training taken and/ or to be taken in addition to the minimum requirement under Main Board Rule 3.29 (GEM Rule 5.15) (i.e. 15 hours per financial year); and (d) professional qualifications in other jurisdictions (“**Relevant Experience**”).
- 4 Main Board Rule 8.17 (GEM Rule 11.07) states that an issuer must appoint a company secretary who satisfies R3.28.

### III. Guidance

- 5 R3.28 was introduced to ensure issuers appointing individuals with the requisite knowledge and experience to assist them in compliance with the Listing Rules and relevant law and regulations in Hong Kong, and to achieve a good corporate governance standard. Individuals can demonstrate compliance with R3.28 by virtue of Acceptable Qualification and/ or Relevant Experience.
- 6 Issuers tend to appoint senior management members, or other employees that had served related roles for a period of time and are familiar with the issuer’s business and affairs as company secretary. However, these individuals may not possess the Acceptable Qualification nor Relevant Experience as required under R3.28. In addition, issuers with principal business activities outside Hong Kong may have practical difficulties in finding a company secretary who possesses day-to-day knowledge of their affairs and the Acceptable Qualification or Relevant Experience. Under such circumstances, these issuers may prefer a company secretary who meets their specific needs (e.g. with special knowledge or skills in the laws and regulations of the jurisdiction in which the issuer operates) or industry-specific experience or expertise) rather than only being familiar with securities regulation in Hong Kong. This is because while it is important for the company secretary of an issuer to be familiar with the relevant requirements in Hong Kong, he/ she also needs to have experience relevant to the issuer’s industry/ operations, nexus to the board and close working relationship with management of the issuer in order to perform the function of a company secretary and to take the necessary actions in the most effective and efficient manner.
- 7 In view of the above, the Exchange has in the past granted waivers to issuers proposing to appoint a company secretary who does not have the qualification and experience required under R3.28 (the “**Proposed Company Secretary**”) for a specified period.

#### **R3.28 waivers**

- 8 The Exchange will consider any R3.28 waiver applications based on the specific facts and circumstances. Factors that will be considered by the Exchange include:

- (i) whether the issuer has principal business activities primarily outside Hong Kong;
  - (ii) whether the issuer was able to demonstrate the need to appoint a person who does not have the Acceptable Qualification nor Relevant Experience as a company secretary; and
  - (iii) why the directors consider the individual to be suitable to act as the issuer's company secretary.
- 9 A R3.28 waiver, if granted, will be for a fixed period of time ("**Waiver Period**") and on the following conditions:
- (i) the Proposed Company Secretary must be assisted by a person who possesses the qualifications or experience as required under R3.28 ("**Qualified Person**") and is appointed as a joint company secretary throughout the Waiver Period; and
  - (ii) the waiver can be revoked if there are material breaches of the Listing Rules by the issuer.
- 10 These conditions are intended to ensure (i) the Qualified Person will assist the issuer to comply with relevant Hong Kong law and regulations and to achieve a good corporate governance standard; and (ii) a reasonable time is given to enable the Proposed Company Secretary to acquire the Relevant Experience required under R3.28 (in particular, the familiarity with the relevant regulatory requirements) over time.
- 11 The length of the Waiver Period will depend on the following factors, but in any case, will not exceed three years as the Proposed Company Secretary is expected to have acquired the relevant qualification or experience required under R3.28 within such period:
- (i) the Proposed Company Secretary's experience in handling company secretarial matters and his/ her relevant professional qualifications and/ or academic background;
  - (ii) the measures and systems in place to facilitate the Proposed Company Secretary in discharging his/ her duties as a company secretary; and
  - (iii) the issuer's regulatory compliance and/ or material deficiencies/ weaknesses in internal controls.
- 12 New applicants and issuers should disclose in the listing document and the announcement (as the case may be) (i) reasons for a R3.28 waiver; (ii) details and conditions of the R3.28 waiver; and (iii) qualification and experience of both the Proposed Company Secretary and the Qualified Person.
- 13 Before the end of the Waiver Period, the Exchange will not automatically deem the Proposed Company Secretary to be qualified under R3.28. The issuer must demonstrate and seek the Exchange's confirmation that the Proposed Company Secretary has attained the Relevant Experience and is capable of discharging the

functions of company secretary under R3.28. The Exchange will assess each case based on the specific facts and circumstances, taking into consideration the following factors:

- (i) compliance history of the listed issuer during the Waiver Period; and
  - (ii) the relevant training undertaken by the Proposed Company Secretary during the Waiver Period.
- 14 For clarity, the expectation is that the issuer should be able to demonstrate that the Proposed Company Secretary, having had the benefit of the Qualified Person's assistance during the Waiver Period, would have acquired the Relevant Experience under R3.28 such that a further waiver would not be necessary.

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## APPENDIX VI LIST OF RESPONDENTS

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### INSTITUTIONS

#### Accountancy Firm

1. Ernst & Young
2. PricewaterhouseCoopers
3. KPMG

#### Company secretary services companies

4. Vistra Corporate Services (HK) Limited
5. to 6. 2 company secretary services companies (*names not disclosed at respondents' request*)

#### Corporate Finance Firm

7. Altus Capital Ltd
8. Central China International Capital Limited
9. Jun Hui International Finance Limited
10. SWCS Corporate Service Group (Hong Kong) Limited
11. to 13. 3 corporate finance firms (*names not disclosed at respondents' request*)

#### HKEX Participant

14. 1 HKEX participant (*name not disclosed at respondent's request*)

#### Investment Management Firm

15. BoH Investments Limited

#### Law Firm

16. Baqian Law Group
17. Cleary Gottlieb Steen & Hamilton (Hong Kong)
18. Davis Polk & Wardwell
19. Dewell & Partners
20. Dongheng Law Firm
21. Edward Lau, Wong & Lou, Solicitors
22. Henry Yu & Associates
23. Herbert Smith Freehills
24. Hoosenally & Neo
25. Juheng Law Firm
26. L&Y Law Office in Association with China Commercial (Hong Kong Law Firm) in association with Jointide Law Firm
27. Patrick Chu, Conti Wong Lawyers LLP
28. Slaughter and May
29. Withers
30. Yang Chau Law Office
31. Yong Jia Xin Law Firm
32. to 33. 2 law firms (*names not disclosed at respondents' request*)

#### Listed Company

34. AIA Group Limited
35. Cathay Pacific Airways Limited
36. CLP Holdings Limited
37. Ping An Insurance (Group) Company of China, Ltd
38. Star Properties Group (Cayman Islands) Ltd
39. Swire Pacific Limited
40. Swire Properties Limited
41. Yuexiu Real Estate Investment Trust
42. to 44. 3 listed companies (*names not disclosed at respondents' request*)

#### Professional bodies and industry associations

- 45. Association of Chartered Certified Accountants
- 46. Hong Kong General Chamber of Commerce
- 47. Hong Kong Institute of Certified Public Accountants
- 48. The Chamber of Hong Kong Listed Companies
- 49. The Hong Kong Blockchain Professional Institute Limited
- 50. The Hong Kong Independent Non-Executive Director Association
- 51. The Hong Kong Institute of Chartered Secretaries
- 52. The Hong Kong Institute of Directors
- 53. The Law Society of Hong Kong
- 54. 1 professional body / industry association (*name not disclosed at respondent's request*)

#### Others

- 55. CN Century Limited

### **INDIVIDUALS**

#### Accountant

- 56. Lai Tin Yin Fion
- 57. 鍾立雄
- 58. to 79. 22 accountants (*names not disclosed at respondents' request*)

#### Company Secretary

- 80. Angela Tsang
- 81. Chan Chun Yu Freda
- 82. Chow Man Yee Bony
- 83. Christopher Hung
- 84. Deng Xiaoren
- 85. Harry Ko
- 86. Isabel Wong
- 87. Latifa Chow
- 88. Lee Yuk Wah
- 89. Man Yun Wah
- 90. Mohan Datwani
- 91. Ng Leung Chi
- 92. Niji Cheung
- 93. P W Greenwood
- 94. Patrick Lee
- 95. Rebecca Lee
- 96. Samuel Yau
- 97. Veronica Cheung
- 98. 林婉玲
- 99. to 124. 26 company secretaries (*names not disclosed at respondents' request*)

#### Corporate Finance Staff

- 125. to 130. 6 corporate finance staff (*names not disclosed at respondents' request*)

#### HKEX Participant Staff

- 131. to 132. 2 HKEX participant staff (*names not disclosed at respondents' request*)

#### Individual Investor

- 133. Ms. Wu
- 134. to 158. 25 individual investors (*names not disclosed at respondents' request*)

Investment Management Staff

159. 1 investment management staff (*name not disclosed at respondent's request*)

Lawyer

160. Anthony Pang

161. Antonio

162. Terence Lau

163. to 165. 3 lawyers (*names not disclosed at respondents' request*)

Listed Company Staff

166. Chan Man Hei

167. Chan Yan Kwan Andy

168. Chu Ka Yin Tiffany

169. Chung Wing Man

170. Edith Shih

171. Eric Mok

172. Feng Zhe

173. Kathy Lam

174. Ku Cheuk Tung

175. Lam Ka Man

176. Lee Ka Mun

177. Lyon Leung

178. Penny Hui

179. Stella Lo

180. Wong Kiu Fung

181. Wong Mei Ling

182. Yung Wai Ching

183. 歐陽耀忠

184. to 309. 126 listed company staff (*names not disclosed at respondents' request*)

Others

310. Bella Chow

311. Cheung Chun Chuen

312. Cheung Wing Kit

313. Chris Siu

314. Cicero Lo

315. Dennis Kwok

316. Desmond Lau

317. Emily Leung

318. Eugene Lal

319. Flora Wong

320. Henry Yeung

321. Ho Yuan Fan Carol

322. Kenneth Leung

323. Kevin Lam

324. Lau Sum Wah

325. Lisa Goh

326. Mike Chan

327. Ng Kwok Fai

328. Shana Chan

329. Stephen Ho

330. Stephen Ho

331. Wong K

332. Yan Lau

333. Yan Lau

334. 何嘉欣

335. to 351. 17 other individual respondents (*names not disclosed at respondents' request*)



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