

# Chapter 1

## GENERAL

### INTERPRETATION

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

**"affiliated company"** a company which, in accordance with the Statements of Standard Accounting Practice issued by the Hong Kong Society of Accountants, is recorded using the equity method of accounting in an entity's financial statements

**"approved share registrar"** a share registrar who is a member of an association of persons approved under Rule 3 of the Securities (Stock Exchange Listing) (Approved Share Registrar) Rules

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**"Articles"** [the Articles of Association of the Exchange](#)

**"asset-backed securities"** debt securities backed by financial assets which, at the time of the relevant issues, are evidenced by agreements and intended to produce funds to be applied towards interest payments due on the securities and repayment of principal on maturity, except those debt securities which are directly secured, in whole or in part, on real property or other tangible assets

**"associate"** (a) in relation to any director, chief executive, substantial shareholder or management shareholder (being an individual) means:-

(i) his spouse and any child or step-child under the age of 18 years of the director, chief executive, substantial shareholder or management shareholder or of his spouse ("family interests");

(ii) the trustees, acting in their capacity as such trustees, of any trust of which he or any of his family interests is a beneficiary or, in the case of a discretionary trust, is a discretionary object; and

(iii) any company in the equity capital of which he and/or his family interests taken together are directly or indirectly interested so as to exercise or control the exercise of 35 per cent (or such lower amount as may from time to time be specified in the Takeover Code as being the level for triggering a mandatory general offer) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors and any other company which is its subsidiary or holding company or a fellow subsidiary of any such holding company; and

(b) in relation to a substantial shareholder or management shareholder (being a company) means any other company which is its subsidiary or holding company or is a fellow subsidiary of any such holding company or one in the equity

capital of which it and/or such other company or companies taken together are directly or indirectly interested so as to exercise or control the exercise of 35 per cent (or such lower amount as may from time to time be specified in the Takeover Code as being the level for triggering a mandatory general offer) or more of the voting power at general meetings, or to control the composition of a majority of the board of directors

*Notes: This definition is:-*

*1 modified in the context of:-*

*(a) connected transactions, by virtue of rule 20.10; and*

*(b) PRC issuers, by virtue of rule 25.04; and*

*2 extended so as to apply to Sponsors, by virtue of rule 6.35, underwriters, by virtue of rules 16.13, 16.15 and 29.22, and significant shareholders, Sponsors and underwriters by virtue of rule 10.12;*

"authorised representative"	a person appointed as an authorised representative by a listed issuer under rule 5.19
"bank"	a bank licensed under the Banking Ordinance or a bank incorporated or otherwise established outside Hong Kong which is, in the opinion of the Hong Kong Monetary Authority, adequately supervised by an appropriate recognised banking supervisory authority in the place where it is incorporated or otherwise established
"bearer securities"	securities transferable to bearer
"Board"	<u>the Directors of the Exchange elected or appointed in accordance with the Articles and, where the context so permits, any committee or sub-committee thereof</u>
"business day"	any day on which the Exchange is open for the business of dealing in securities
"CCASS"	means the Central Clearing and Settlement System established and operated by HKSCC
"chief executive"	a person who either alone or together with one or more other persons is or will be responsible under the immediate authority of the board of directors for the conduct of the business of a listed issuer
"Code on Share Repurchases"	the Code on Share Repurchases approved by the Commission as amended from time to time
"Commission"	the Securities and Futures Commission established under section 3 of the Securities and Futures Commission Ordinance
"company"	a body corporate wherever incorporated or otherwise established
"Company Law"	the Company Law of the PRC adopted at the Fifth Session of the Standing Committee of the Eight National People's Congress on

29 December 1993 and effective from 1 July 1994, as amended, supplemented or otherwise modified from time to time

**"connected person" or "person connected"**

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

*Note: This definition is extended for the purposes of Chapter 20 by virtue of the provisions of rules 20.10 and 20.11 .*

**"controlling shareholder"**

any person who is or group of persons who are together entitled to exercise or control the exercise of 35 per cent (or such lower amount as may from time to time be specified in the Takeover Code as being the level for triggering a mandatory general offer) or more of the voting power at general meetings of the issuer or who is or are in a position to control the composition of a majority of the board of directors of the issuer; or in the case of a PRC issuer, the meaning ascribed to that phrase by rule 25.10

**"convertible debt securities"**

debt securities convertible into or exchangeable for equity securities or other property, and debt securities with non-detachable options, warrants or similar rights to subscribe or purchase equity securities or other property attached (which expression includes convertible bonds)

**"convertible equity securities"**

equity securities convertible into or exchangeable for shares and shares with non-detachable options, warrants or similar rights to subscribe or purchase shares attached (which expression excludes convertible bonds)

**"Council"**

~~the Council of the Exchange~~

**"debt issuance programmes"**

issues of debt securities where only part of the maximum principal amount or aggregate number of securities under the issue is issued initially and a further tranche or tranches may be issued subsequently

**"debt securities"**

debenture or loan stock, debentures, bonds, notes and other securities or instruments acknowledging, evidencing or creating indebtedness, whether secured or unsecured and options, warrants or similar rights to subscribe or purchase any of the foregoing and convertible debt securities

**"director"**

includes any person who occupies the position of a director, by whatever name called

**"domestic shares"**

shares issued by a PRC issuer under PRC law, the par value of which is denominated in Renminbi, and which are subscribed for in Renminbi

**"effective economic interest"**

in relation to any entity means the direct and/or indirect attributable economic interest therein

<b>"Eligible Security"</b>	means an issue of securities which is from time to time accepted as eligible by HKSCC for deposit, clearance and settlement in CCASS, in accordance with the General Rules of CCASS, and where the context so requires shall include any particular security or securities of such an issue
<b>"equity securities"</b>	shares (including preference shares), convertible equity securities and options, warrants or similar rights to subscribe or purchase shares or convertible equity securities
<b>"Executive Director - GEM Listing Division"</b>	the person occupying the position of the Executive Director of the GEM Listing Division from time to time by whatever name such position is called
<b>"Exchange"</b>	The Stock Exchange of Hong Kong Limited
<b><u>"Exchange Participant"</u></b>	<u>a person : (a) who, in accordance with the Rules of the Exchange, may trade on or through the Exchange; and (b) whose name is entered in a list, register or roll kept by the Exchange as a person who may trade on or through the Exchange</u>
<b>"expert"</b>	includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him
<b>"family interests"</b>	the same meaning as in (a)(i) of the definition of "associate"
<b>"financial year"</b>	the period in respect of which any profit and loss account of a company laid or to be laid before it in general meeting is made up, whether that period is a year or not
<b>"foreign shares"</b>	shares issued by a PRC issuer under PRC law, the par value of which is denominated in Renminbi, and which are subscribed for in a currency other than Renminbi
<b>"formal notice"</b>	a formal notice required to be published under rules 16.07, 16.08, 29.18, 29.19 or 30.37
<b>"gazetted newspapers"</b>	those newspapers which are, from time to time, specified in the list of newspapers issued and published in the Gazette for the purposes of section 71A of the Companies Ordinance by the Chief Secretary
<b>"GEM"</b>	the Growth Enterprise Market operated by the Exchange
<b>"GEM Listing Committee"</b>	the listing sub-committee of the <del>Council-Board</del> with responsibility for GEM
<b>"GEM Listing Division"</b>	the Listing Division of the Exchange with responsibility for GEM
<b>"GEM Listing Rules"</b>	the rules governing the listing of securities on GEM made by the Exchange from time to time
<b>"GEM website"</b>	the internet website operated by the Exchange for the purposes of GEM
<b>"group"</b>	the issuer or guarantor and its subsidiaries, if any
<b>"H Shares"</b>	overseas listed foreign shares of a PRC issuer which are listed and traded on GEM

<b>"HKSCC"</b>	means Hong Kong Securities Clearing Company Limited including, where the context so requires, its agents, nominees, representatives, officers and employees
<b>"holding company"</b>	the same meaning as in section 2 of the Companies Ordinance
<b>"Hong Kong"</b>	Hong Kong, the Special Administrative Region of the People's Republic of China
<b>"Hong Kong issuer"</b>	an issuer incorporated or otherwise established in Hong Kong
<b>"Hong Kong register"</b>	for an overseas issuer including a PRC issuer, the part of its register of members or branch register located and maintained in Hong Kong pursuant to its articles of association
<b>"issue"</b>	includes circulate, distribute and publish
<b>"issuer"</b>	any company or other legal person any of whose equity or debt securities are the subject of an application for listing on GEM or some or all of whose equity or debt securities are already listed on GEM
<b>"listed issuer"</b>	in the case of equity securities means any company or other legal person some of whose equity securities are already listed on GEM, and in the case of debt securities means a company or other legal person some of whose equity or debt securities are already listed on GEM
<b>"listing"</b>	the grant of a listing of and permission to deal in securities on GEM and "listed" shall be construed accordingly
<b>"Listing Appeals Committee"</b>	the listing appeals sub-committee of the <del>Council</del> <a href="#">Board</a>
<b>"listing document"</b>	a prospectus, circular or any equivalent document (including the composite document in relation to a scheme of arrangement and/or an introduction document) issued or proposed to be issued in connection with an application for listing
<b>"Main Board"</b>	the stock market operated by the Exchange prior to the establishment of GEM (excluding the options market) and which stock market continues to be operated by the Exchange in parallel with GEM. For the avoidance of doubt, the Main Board excludes GEM.
<b>"Main Board Listing Rules"</b>	the rules governing the listing of securities on the Main Board made by the Exchange from time to time
<b>"management shareholder"</b>	means any person who is (or group of persons who together are) entitled to exercise or control the exercise of 5 per cent or more of the voting power at general meetings of the issuer and who is (or are) able, as a practical matter, to direct or influence the management of the issuer

*Notes: 1 The Exchange will not ordinarily consider any professionally managed fund as a management shareholder if it can be demonstrated that it does not actively participate in the management of the issuer's business.*

2 *For the purposes of the GEM Listing Rules, a controlling shareholder will, in all cases, be deemed to be a management shareholder.*

<b>"new applicant"</b>	in the case of equity securities means an applicant for listing none of whose equity securities are already listed on GEM and in the case of debt securities means an applicant for listing none of whose equity or debt securities are already listed on GEM
<b>"notifiable transaction"</b>	any of the transactions specified in rule 19.06
<b>"overseas issuer"</b>	an issuer incorporated or otherwise established outside Hong Kong
<b>"overseas listed foreign shares"</b>	in respect of a PRC issuer means foreign shares which are listed outside the PRC
<b>"PRC"</b>	for the purposes of the GEM Listing Rules means the People's Republic of China, other than the regions of Hong Kong, Macau and Taiwan
<b>"PRC issuer"</b>	an issuer which is duly incorporated in the PRC as a joint stock limited company
<b>"PRC law"</b>	the applicable provisions of the PRC constitution, or any statute, ordinance, regulations, rule or normative statement from time to time in force in the PRC, as the context may require
<b>"PRC property"</b>	property located in the PRC
<b>"PRC stock exchange"</b>	the Shanghai Stock Exchange or the Shenzhen Stock Exchange
<b>"professional accountant"</b>	a person registered as a professional accountant under the Professional Accountants Ordinance
<b>"promoter"</b>	in relation to any PRC issuer, any person who undertook the establishment of such issuer, subscribed for shares of such issuer and assumes liability for such issuer's establishment, prepared the initial articles of association of such issuer and convened the inaugural meeting of the subscribers of shares of such issuer, or any person who performed a similar role under PRC law in the establishment of a PRC issuer
<b>"prospectus"</b>	the same meaning as in section 2(1) of the Companies Ordinance
<b>"the public"</b>	the meaning ascribed to that phrase by rule 11.23 and "in public hands" shall be construed accordingly
<b>"published on the GEM website"</b>	published, in the form prescribed by the GEM Listing Rules, in both the English and Chinese languages on the GEM Website
<b>"Regulations"</b>	the Special Regulations on the Overseas Offering and Listing of Shares by Joint Stock Limited Companies issued by the State Council of the PRC on 4 August 1994, as amended, supplemented or otherwise modified from time to time

<b>“reporting accountant”</b>	the professional accountant who is responsible for the preparation of the accountants’ report included in a listing document or circular in accordance with Chapter 7
<b>“SDI Ordinance”</b>	the Securities (Disclosure of Interests) Ordinance as amended from time to time
<b>“selectively marketed securities”</b>	debt securities marketed to or placed with any number of registered dealers or financial institutions either with a view to their reselling such securities as principals off-market, nearly all of which, because of their nature, will normally be purchased and traded by a limited number of investors who are particularly knowledgeable in investment matters or placing such securities with a limited number of such investors and “selective marketing” shall be construed accordingly
<b>“significant shareholder”</b>	<p>any person other than a management shareholder who, immediately prior to the date of the new applicant’s initial listing document and immediately prior to the date on which securities of the new applicant commence trading on GEM, is (or group of persons who together are) entitled to exercise or control the exercise of 5% or more of the voting power at general meetings of the new applicant</p> <p><i>Note: The Exchange reserves a power to deem any party to be a significant shareholder in circumstances where, prior to the date of issue of the new applicant’s initial listing document, that party has been entitled to exercise or control the exercise of 5% or more of the voting power at general meetings of the new applicant and, on or after the new applicant’s listing, that party again becomes entitled to exercise or control the exercise of 5% or more of the voting power at general meetings of the issuer.</i></p>
<b>“Sponsor”</b>	the entity appointed by a new applicant or a listed issuer to act as its sponsor for the purposes of Chapter 6
<b>“Statutory Rules”</b>	the Securities (Stock Exchange Listing) Rules as amended from time to time, a copy of which is set out in Appendix 12
<b>“subsidiary”</b>	the same meaning as in section 2 of the Companies Ordinance
<b>“substantial shareholder”</b>	<p>in relation to a company means a person who is entitled to exercise, or control the exercise of, 10% or more of the voting power at any general meeting of the company</p> <p><i>Note: This definition is qualified in the case of connected transactions falling within rule 20.12(1)(b)(i).</i></p>
<b>“supervisor”</b>	a member elected to the supervisory committee of a PRC issuer which under PRC law performs a supervisory function in relation to such issuer’s board of directors, the manager and other officers

**“Takeover Code”**

the Code on Takeovers and Mergers approved by the Commission as amended from time to time

**“tap issues”**

issues of debt securities where the subscription thereof may continue or further tranches thereof may be issued after listing has been granted

**“temporary documents of title”**

allotment letters, letters of allocation, split receipts, letters of acceptance, letters of rights, renounceable share certificates and any other temporary documents of title

**“title certificates”**

for the purposes of PRC property must comprise:—

(a) a state-owned land use rights certificate (國有土地使用證); or

(b) a building ownership certificate (房屋所有權證); or

(c) a real estate ownership certificate (房地產權證),

provided that the Exchange may, at its discretion, be prepared to accept other certificates or evidence of title in respect of a PRC property as title certificates for the purposes of the GEM Listing Rules, in which regard early consultation with the Exchange is required.



# Chapter 3

## GENERAL

### COMPOSITION, POWERS, FUNCTIONS AND PROCEDURES OF THE GEM LISTING COMMITTEE, THE LISTING APPEALS COMMITTEE AND THE GEM LISTING DIVISION

#### General

3.01 The ~~Council Board~~ has arranged for all of its powers and functions in respect of all listing matters in relation to GEM to be discharged by the GEM Listing Committee and/or its delegates, subject to the review procedures set out in this Chapter and Chapter 4. Any function which under the GEM Listing Rules may be performed by the Exchange or any power which under the GEM Listing Rules may be exercised by the Exchange may, therefore, be performed or exercised by the GEM Listing Committee and/or its delegates. Accordingly, the GEM Listing Committee and, in relation to certain powers of review, the Listing Appeals Committee have sole power and authority to act in relation to all listing matters to the exclusion of the ~~Council Board~~ unless and until the ~~Council Board~~ revokes these arrangements.

#### Composition of the GEM Listing Committee

3.18 The GEM Listing Committee shall consist of 21 members, comprising the following number of persons from the following categories:-

(1) ~~Stockbroker or Council members~~ Exchange Participants

4 individuals who are :-

- (a) ~~either an individual member or directors of a corporate member of the Exchange, representing any of the 3 constituencies, namely Constituency A, Constituency B and Constituency C, as defined by article 87A(b) of the Articles of the Exchange; or Exchange Participants or directors of Exchange Participants which are companies;~~
- (b) ~~Council members who are neither individual members nor directors of corporate members of the Exchange;~~

(2) Listed company representatives

4 individuals who are directors of listed issuers on GEM or the Main Board of varying sizes and business activities and who are neither ~~individual members nor officers or employees of individual or corporate members of the Exchange; Exchange Participants nor officers or employees of Exchange Participants;~~

(3) Market practitioners and users

12 individuals who are neither ~~individual members nor officers or employees of individual or corporate members of the Exchange Exchange Participants and who are:- nor officers or employees of Exchange Participants and who are :-~~

- (a) a director or a partner of a company or firm principally engaged in the business of fund management;
- (b) an officer or senior employee of a merchant bank;
- (c) a barrister or a partner of a firm of solicitors in private practice in Hong Kong;
- (d) a partner of an accounting firm;
- (e) a senior member of an industrial body with an interest in furthering the development of

technology or scientific-based research; or

- (f) a person who is otherwise involved in or experienced in the securities market and corporate finance matters or securities regulation;

A minimum of 1 member and a maximum of 4 members may come from any of the foregoing categories in this paragraph (3);

- (4) The Chief Executive, ex officio.

~~3.19 Members of the GEM Listing Committee may also be members of the Council provided that neither the Chairman of the Council nor any Vice Chairman of the Council may hold office on the GEM Listing Committee.~~

3.2019 Each individual to be appointed a member of the GEM Listing Committee must meet the following criteria:-

- (1) the individual must have relevant experience;
- (2) the individual must be a highly regarded member of his profession/occupation; and
- (3) the individual must be available to assume the duties and responsibilities of a member of the GEM Listing Committee for the duration of his term of office.

#### **Appointment and removal of members of the GEM Listing Committee**

3.210 All members of the GEM Listing Committee shall remain in office until any change or changes are made to their appointment or their offices are vacated pursuant to rule ~~3.253.24~~ or ~~3.283.27~~. Subject to rule ~~3.273.26~~, all members of the GEM Listing Committee are eligible for re-appointment.

3.221 Members of the GEM Listing Committee shall be appointed by the ~~Council~~Board. The ~~Council~~Board may appoint only persons nominated in accordance with rule ~~3.233.22~~.

3.232 The persons eligible for appointment or re-appointment in each year as members of the GEM Listing Committee under any of the categories set out in rule 3.18 shall be nominated by a Listing Nominating Committee comprising ~~3~~the Chief Executive and 2 members of the ~~board of HKEC Executive Committee of the Council (one being a broker member, one being a lay member of the Council and the third being the Chief Executive of the Exchange)~~ and the Chairman and 2 Executive Directors of the Commission. In their deliberations the Listing Nominating Committee shall seek the views of the current Chairman and Deputy Chairman of the GEM Listing Committee.

3.243 The Chairman and Deputy Chairman of the GEM Listing Committee shall be nominated by the Listing Nominating Committee and appointed by the ~~Council~~Board. ~~The Chairman must be a member of the Council and either he or the Deputy Chairman must be a lay member of the Council.~~ The Chief Executive may not be elected as either Chairman or Deputy Chairman of the GEM Listing Committee.

3.254 All members of the GEM Listing Committee shall vacate office annually at the earlier of:-

- (1) the conclusion of the ~~Council~~meeting ~~of the Board~~ appointing a new GEM Listing Committee ~~which is held after an annual general meeting of the Exchange which is held after the annual election of members of the Council (pursuant to Article 89 of the Articles of the Exchange) next following the date of their appointment;~~ and
- (2) 30 days after the date of the first ~~Council~~meeting ~~of the Board~~ held after the annual ~~election of members of the Council general meeting of the Exchange (pursuant to Article 89 of the Articles of the Exchange)~~ next following the date of their appointment;

unless they are re-appointed by the ~~Council~~Board for a further full term or such shorter period as the ~~Council~~Board may stipulate at the time of re-appointment.

- 3.265 The ~~Council Board~~ may fill any casual vacancies that may occur in the GEM Listing Committee by reason of resignation, retirement or otherwise. A person eligible for appointment to fill any such casual vacancy shall be nominated by the Listing Nominating Committee and shall be a person who is eligible within the same category of rule 3.18 as the member who has vacated office.
- 3.276 Members of the GEM Listing Committee may only remain in office for a maximum of 3 consecutive years. Any person who serves as the Chairman or the Deputy Chairman of the GEM Listing Committee may remain in office for a total of 4 years. A member (including the Chairman and Deputy Chairman) who has served for the maximum period permitted by this rule may be eligible for re-appointment after the lapse of 2 years from the date on which he last vacates office. Notwithstanding the foregoing, in exceptional circumstances, the Listing Nominating Committee shall have the discretion to nominate a person for re-appointment within a period shorter than 2 years from the date he vacates office but not shorter than 1 year from such date and the ~~Council Board~~ shall have the power to appoint such person.
- 3.287 The office of a member of the GEM Listing Committee shall be vacated if any one of the following events occurs:-
- (1) in respect of a member appointed under the category referred to in rule 3.18(1), if he ceases to be an ~~individual member or a director of a corporate member of the~~ Exchange Participant or a director of an Exchange Participant which is a company;
  - (2) if a receiving order is made against him or he makes any arrangement or composition with his creditors;
  - (3) if he becomes insane or is found to be of unsound mind within the meaning of the Mental Health Ordinance (Cap. 136);
  - (4) if by notice in writing to the ~~Council Board~~ and the GEM Listing Committee, he resigns from his office; or
  - (5) if by reason of serious misconduct he is removed by the ~~Council Board~~ and a written statement setting out the reasons for his removal has been delivered to the Commission.

Provided that the acts of such member shall nevertheless be treated as valid and effectual in all respects up to and until an entry of the vacation of office shall be entered in the minutes of the GEM Listing Committee.

### **Functions and powers of the GEM Listing Committee**

- 3.298 The GEM Listing Committee shall exercise all the powers and functions of the ~~Council Board~~ in relation to all listing matters in relation to GEM. The GEM Listing Committee's exercise of such powers and functions is only subject to the powers of review in the Listing Appeals Committee.

### **Conduct of meetings of the GEM Listing Committee**

- 3.3029 The GEM Listing Committee shall meet for the despatch of business, adjourn and otherwise regulate its meetings in accordance with the provisions of the rules made by the ~~Council Board~~ for this purpose, including rules governing members' conflicts of interest, subject to the provisions of this rule. The quorum necessary for the transaction of any business by the GEM Listing Committee shall be 5 members present in person. The Chief Executive may be counted in the quorum for a meeting of the GEM Listing Committee (including a meeting at which the GEM Listing Committee is determining a matter in the first instance) except that he shall not be counted in the quorum for any meeting at which a decision of the GEM Listing Division or the GEM Listing Committee is under review pursuant to any disciplinary proceedings. The Chief Executive may attend meetings of the GEM Listing Committee convened for such purpose and put forward his views (if any) on the matter under review pursuant to any disciplinary proceedings but he shall not thereafter be entitled to participate in the deliberations of the GEM Listing Committee or to vote on such matters. At any meeting held to review an earlier decision of the GEM Listing Committee pursuant to any disciplinary proceedings, all of the members present at the second meeting must be persons who were not present at the first meeting.

### **Composition of the Listing Appeals Committee**

- 3.310 The Listing Appeals Committee, being the final appellate body of the Exchange in respect of both GEM and

the Main Board, shall consist of 3 the chairman and 2 other members of the board of HKEC.

- 3.321 The Chairman of the Listing Appeals Committee shall be the ~~C~~chairman of the ~~Council~~board of HKEC. ~~from time to time if the Chairman of the Council is a person appointed to the Council from one of the three categories comprising the group of categories referred to in Article 87A(a)(iv), (v) and (vi) of the Articles of Association of the Exchange (a "lay member"). If the Chairman of the Council is not a lay member then the Chairman of the Listing Appeals Committee shall be appointed by the Council from amongst the lay members of the Council.~~
- 3.332 The Chairman of the Listing Appeals Committee shall appoint a Deputy Chairman from amongst the ~~lay~~ members of the ~~Council~~board of HKEC, ~~except the Chief Executive Officer of HKEC.~~ The Chairman ~~of the Listing Appeals Committee should vacate office when a new chairman of the board of HKEC is appointed by the members of the board of HKEC and approved in writing by the Chief Executive of Hong Kong or upon his earlier removal from the chairmanship of the board of HKEC. and~~The Deputy Chairman of the Listing Appeals Committee shall vacate office ~~upon (i) the expiry of his term as a director of HKEC unless he is re-appointed or re-elected as a director of HKEC (as the case may be ) and re-appointed by the Chairman of the Listing Appeals Committee as Deputy Chairman; or (ii) his earlier removal as director of HKEC. at the conclusion of the first meeting of the Council after the election of members of the Council (pursuant to Article 89 of the Articles of Association of the Exchange) next following the date of their appointment, unless they are reappointed by the Council at such meeting for a further full term or such shorter period as the Council may stipulate at the time of reappointment.~~
- 3.343 The third member shall be chosen and invited to sit on the Listing Appeals Committee by the Chairman ~~of the Listing Appeals Committee~~ as and when the Listing Appeals Committee is required to review a decision of the GEM Listing Committee and shall cease to be a member once the Listing Appeals Committee has given its decision upon the matter or upon resignation, whichever is the sooner. The third member shall be ~~a member of the Council who is an individual member or a director of a corporate member of the Exchange~~ a member of the board of HKEC.
- 3.354 In the event that either the Chairman or the Deputy Chairman ~~of the Listing Appeals Committee~~ is materially interested in the outcome of a review (otherwise than as a member of the ~~Council~~board of HKEC ~~and, where applicable, of the Board~~) or is otherwise unavailable to hear a review then the one who is available shall appoint a replacement member for the purposes of hearing that review and such person shall cease to be a member once the Listing Appeals Committee has given its decision upon the matter or upon resignation, whichever is the sooner. The replacement member ~~appointed~~ must be ~~appointed from the lay members on the Council or from those members of the Nominating Committee of the Exchange who are not members of the Exchange~~ a member of the board of HKEC.
- 3.365 In the event that both the Chairman and the Deputy Chairman ~~of the Listing Appeals Committee~~ are materially interested in the outcome of a review (otherwise than as members of the ~~Council~~board of HKEC ~~and where applicable, of the Board~~) or are otherwise unavailable to hear a particular review the ~~Council~~board of HKEC shall appoint a temporary Chairman of the Listing Appeals Committee from the ~~lay~~ members of the ~~Council~~board of HKEC. The temporary Chairman shall appoint a temporary Deputy Chairman ~~from the lay members of the Council or from those members of the Nominating Committee referred to in Article 95A(a) of the Articles of Association of the Exchange who are not members of the Exchange~~ and a third member of the Listing Appeals Committee from the ~~individual members or directors of corporate members who are members of the Council,~~ members of the board of HKEC to hear that review. The temporary Chairman, the temporary Deputy Chairman and the third member appointed by the temporary Chairman shall all cease to be members of the Listing Appeals Committee once the Listing Appeals Committee has given its decision upon the matter or upon resignation whichever is the sooner. The provisions of rule ~~3.353,34~~ and this rule shall apply mutatis mutandis to the temporary Chairman and temporary Deputy Chairman as if all references to the Chairman and Deputy Chairman were references to the temporary Chairman and temporary Deputy Chairman respectively.
- 3.376 The Chairman ~~of the Listing Appeals Committee~~ may not invite a person to sit on the Listing Appeals Committee if that person was present at any meeting of the GEM Listing Committee at which the decision under review was made or considered or is otherwise materially interested in the outcome of the review (otherwise than as ~~a member of the an~~ Exchange Participant or a member of the ~~Council~~board of HKEC ~~and, where applicable, of the Board~~).

## **Functions and powers of the Listing Appeals Committee**

3.387 The Listing Appeals Committee shall be the review body in respect of any decision of the GEM Listing Committee on any of the following matters:-

- (1) that an application for listing by a new applicant has been rejected solely on the grounds that the issuer or its business is unsuitable for listing;
- (2) that a prospective Sponsor's application for admission to the Exchange's list of Sponsors has been rejected or that a Sponsor should be removed from such list or that a Sponsor should be regarded as ineligible to act in any particular case;
- (3) that a person's appointment as an issuer's compliance officer or authorised representative should be terminated;
- (4) that an application for the lifting of a suspension of dealings in the securities of an issuer has been rejected where the suspension has been in place for more than 30 consecutive days;
- (5) that a request by an issuer for the suspension of dealings in its securities has been rejected or where a decision has been made to direct the resumption of dealings in the issuer's securities;
- (6) that the listing of a listed issuer be cancelled; or
- (7) any decision pursuant to rule 3.10 (2), (3), (5), (7), (8) or (9) or rule 6.69.

### **Conduct of meetings of the Listing Appeals Committee**

3.398 The Listing Appeals Committee shall meet for the despatch of business, adjourn and otherwise regulate its meetings in accordance with the provisions of the rules made by the ~~Council Board~~ for this purpose, including rules governing members' conflicts of interest, subject to the provisions of this rule. The quorum necessary for the transaction of any business by the Listing Appeals Committee shall be 3 members present in person.

### **Bona fide acts of committee members**

3.4039 All bona fide acts of a member of the GEM Listing Committee or any member of the Listing Appeals Committee pursuant to the resolutions passed at any meeting of those Committees shall, as regards all persons dealing in good faith with the Exchange, notwithstanding that it be subsequently discovered that there was some defect in the appointment of any such member or that such member was for some reason ineligible for appointment, be deemed to be valid as if every member had been duly appointed and was qualified to be a member of the relevant Committee.

# Chapter 4

## GENERAL

### REVIEW PROCEDURE

#### Conduct of review hearing

- 4.11 (1) The GEM Listing Committee, the GEM Listing (Review) Committee or the Listing Appeals Committee shall meet for the despatch of business, adjourn and otherwise regulate its hearings in accordance with the provisions of the rules made by the ~~Council Board~~ for this purpose, including rules governing members' conflicts of interest, subject to the provisions of this rule.
- (2) The quorum necessary for the transaction of any business by the GEM Listing Committee or the GEM Listing (Review) Committee shall be 5 members present in person. The quorum necessary for the transaction of any business by the Listing Appeals Committee shall be 3 members present in person.
- (3) The Chief Executive may be counted in the quorum for a meeting of the GEM Listing Committee (including a meeting at which the GEM Listing Committee is determining a matter in the first instance) except that he shall not be counted in the quorum for GEM Listing (Review) Committee at which a decision of the GEM Listing Division or the GEM Listing Committee is under review. The Chief Executive may attend meetings of the GEM Listing (Review) Committee convened for such purpose and put forward his views (if any) on the matter under review but he shall not thereafter be entitled to participate in the deliberations of the GEM Listing (Review) Committee or to vote on such matters.
- (4) At any meeting held to review an earlier decision of the GEM Listing Committee, subject to the facts and circumstances arising in the earlier meeting(s) in each case and subject further to the absolute discretion of either the Chairman of the GEM Listing Committee or the GEM Listing (Review) Committee, as the case may be, all of the members present at the review hearing shall be persons who were not present at the earlier GEM Listing Committee meeting.
- (5) (a) The relevant party shall have provided the GEM Listing Committee with all or any new information for the consideration by the GEM Listing Committee before seeking to review a GEM Listing Committee decision by the GEM Listing (Review) Committee.
- (b) A party may only request a review of a decision of the GEM Listing Committee when all the relevant information and evidence has been provided to the GEM Listing Committee. A party seeking to review shall not seek to present to the GEM Listing (Review) Committee new information or evidence that was not previously presented to the GEM Listing Committee.
- (c) If the GEM Listing Division upon receipt of the written submission from the relevant party discovers that the relevant party adduces new information in its written submissions prepared for the review hearing, the GEM Listing Division shall notify the Secretary immediately so that arrangements may be made for the relevant party to withdraw its application for review. The new submission will then be considered by the GEM Listing Committee as a first instance hearing.
- (6) Where the GEM Listing Committee is considering an application for listing from a new applicant, the GEM Listing Division will normally invite the new applicant and its directors to make itself available to attend the GEM Listing Committee hearing. The new applicant, including its directors and its Sponsor shall be prepared to answer questions raised by the GEM Listing Committee, but they will normally only be invited into the GEM Listing Committee hearing if the GEM Listing Committee wishes to directly question the new applicant. If the new applicant is invited to make itself available to attend, the new applicant may be accompanied by its directors, Sponsor and/or proposed authorised representatives.

- (7) At a GEM Listing (Review) Committee or Listing Appeals Committee hearing, the directors of the new applicant or the listed issuer (as the case may be) shall have the right to attend the hearing, to make submissions and to be accompanied by one representative of each of the Sponsor, authorised representatives, proposed or otherwise, the financial adviser, the legal adviser and auditors of the new applicant or the listed applicant (as the case may be); a Sponsor or authorised representative may be accompanied by its/his legal adviser.
  
- (8) In the case of a review hearing sought by a prospective Sponsor or admitted Sponsor pursuant to rule 4.07(2) or a compliance officer or an authorised representative pursuant to rule 4.07(3), the Sponsor, compliance officer or authorised representative, as the case may be, shall have the right to attend the review hearing, to make submissions and may be accompanied by one legal adviser.

# Chapter 10

## EQUITY SECURITIES

### METHODS OF LISTING

10.12 A placing by or on behalf of a new applicant or by or on behalf of a listed issuer of securities of a class new to listing must be supported by a listing document which must comply with the relevant requirements of Chapter 14 and such a placing must comply with the following specific requirements:—

- (1) No allocations will be permitted to nominee companies unless the name of the ultimate beneficiary is disclosed, without the prior written consent of the Exchange.
- (2) Details of the placing must be published in accordance with the requirements of rules 16.07 or 16.08, as applicable, and (as regards the results) in accordance with sub-paragraph (4) below and rule 16.16.
- (3) In relation to any initial public offering to be effected by way of a placing or which includes a placing tranche, the listing document issued in connection therewith must state details of any arrangements to allocate securities to any placee on a preferential basis, as referred to in rule 13.02. The Exchange reserves the right to reject any such proposed arrangements.
- (4) The announcement of the results of the placing required pursuant to rule 16.16 must include a brief generic description of the placees. If securities have been placed with different groups of placees, then the announcement must contain a description of each group and the number of shares placed with each group, provided that certain types of placee (as specified in Note 1 to this rule) must be identified on an individually-named basis, with the number of shares placed with each named placee also being disclosed.

*Notes: 1 The purpose of this rule is to enable shareholders and investors to understand the broad composition of the ownership of the placed shares immediately prior to trading in those shares. The groups of placees which the issuer must identify in the announcement, to the extent applicable, include:—*

- (a) management shareholders and their associates (on an individually-named basis);*
- (b) directors and their associates (on an individually-named basis);*
- (c) substantial shareholders and their associates (on an individually-named basis);*
- (d) in relation only to an initial public offering effected by way of a placing or which included a placing tranche, significant shareholders and their associates (on an individually-named basis);*
- (e) employees;*
- (f) the Sponsor and its associates;*



- (g) *the lead broker and/or any distributor and any connected clients of either (as defined in Note 2 below);*
- (h) *customers or clients of the issuer;*
- (i) *suppliers to the issuer; and*
- (j) *the underwriters (if any) and their associates, if different from (f) or (g) above.*

*The announcement should, if applicable, give particulars of any duplication between the descriptions of placees and must indicate the number and proportion of shares placed to the public.*

2 *For the purposes of sub-paragraph (g) of Note 1 above “connected client” in relation to ~~a member of the an~~ Exchange Participant means any client of such ~~member~~Exchange Participant who is:—*

- (a) *a partner of such ~~member~~Exchange Participant;*
- (b) *an employee of such ~~member~~Exchange Participant;*
- (c) *where the ~~member~~ Exchange Participant is a company,*
  - (i) *any person who is a substantial shareholder of such ~~member~~Exchange Participant; or*
  - (ii) *a director of such ~~member~~Exchange Participant*
- (d) *the spouse or infant child or step child of any individual described in (a) to (c) above;*
- (e) *a person in his capacity as trustee of a private or family trust (other than a pension scheme) the beneficiaries of which include any person in (a) to (d) above;*
- (f) *a close relative of any person in (a) to (d) above where his account is managed by such ~~member~~Exchange Participant in pursuance of a discretionary managed portfolio agreement; or*
- (g) *a company which is a member of the same group of companies as such ~~member~~Exchange Participant.*

3 *For the purposes of this rule, “associate” (in the context of any significant shareholder, the Sponsor or underwriters (if any)) shall have the same meaning as set out in rule 1.01, save that it shall be construed as also applying to a significant shareholder, Sponsor and an underwriter.*

- (5) Dealings in the securities cannot commence until the Exchange has been supplied with and approved a list setting out the names, addresses and identity card or passport numbers (where individuals) and the names, addresses and business registration numbers (where companies) of all placees, the names and addresses of the beneficial owners (in the case of nominee companies) and the amounts taken up by each placee.

- (6) Separate Marketing Statements in the form set out in Appendix 5D signed by each of: (a) the lead broker; (b) any distributor(s); and (c) any ~~member of the~~ Exchange Participant referred to in rule 12.26(6)(a), must be lodged with the Exchange before dealings commence.
- (7) The lead broker and each distributor and ~~member of the~~ Exchange Participant referred to in sub-paragraph (5) above must keep a record of their places for at least 3 years following the placing. This record should contain the information referred to in sub-paragraph (5) above.

# Chapter 12

## EQUITY SECURITIES

### APPLICATION PROCEDURES AND REQUIREMENTS

*After the date of issue of the listing document but before dealings commence*

- 12.26 As soon as practicable after the issue of the listing document but before dealings commence, the following documents must be lodged with the Exchange in respect of both a new applicant and a listed issuer:—
- (1) unless previously supplied under rules 12.22 or 12.24 a certified copy of the resolution(s) therein referred to and in the case of a capitalisation issue (unless previously supplied under rule 12.24(6)), a certified copy of any resolution which is extracted or referred to in the listing document supporting the capitalisation issue and the annual report and accounts;
  - (2) the completed company information sheet, in the prescribed form set out in Appendix 5F, submitted in the electronic format specified by the Exchange from time to time, for publication on the GEM website, together with a hard copy duly signed by or on behalf of each of the directors of the issuer;
  - (3) a copy of the relevant page(s) of any newspaper circulating in Hong Kong in which the listing document (if any) and/or any formal notice was published (if any);
  - (4) in the case of an offer for subscription or an offer for sale, a copy of the relevant page(s) of any newspaper circulating in Hong Kong in which the results of the offer were published (if any), and a list containing the name and address and number of securities received by each successful applicant;
  - (5) in the case of an offer for subscription or an offer for sale by tender, a copy of the relevant page(s) of any newspaper circulating in Hong Kong in which the announcement of the striking price was published (if any);
  - (6) in the case of a placing of securities by a new applicant, or in the case of the placing by a listed issuer of a class of securities new to listing:—
    - (a) a copy of the placing letter and separate marketing statements in the form set out in Appendix 5D signed by each of: (i) the lead broker; (ii) any distributors; and (iii) any ~~member of the~~ Exchange Participant referred to in that Appendix; and
    - (b) a list from each placing broker setting out the names, addresses and identity card or passport numbers (where individuals) and the names, addresses and business registration numbers (where companies) of all its placees, the names and addresses of the beneficial owners (in the case of nominee companies) and the amounts taken up by each of its placees. Such lists may be supplied directly to the Exchange by each placing broker in order to maintain confidentiality;
  - (7) a declaration substantially in the form set out in Appendix 5E, duly signed by a director and the secretary of the issuer together with any fee which is payable and which has not previously been paid (see Appendix 9);

- (8) in the case of a new applicant only, a declaration substantially in the form set out in Appendix 7I duly signed by the Sponsor; and
- (9) in the case of a new applicant only, duly completed undertakings from each of the initial management shareholders (see rule 13.16) and each of the significant shareholders (see rule 13.18) substantially in the form set out in Appendix 5G and 5H respectively, together with copies of all proposed form(s) of agreement(s) with relevant escrow agent(s), in all cases, to the extent not previously provided pursuant to rule 12.24(9).

## Chapter 13

### EQUITY SECURITIES

#### RESTRICTIONS ON PURCHASE, DISPOSAL AND SUBSCRIPTION

- 13.04 The Exchange reserves the right to prohibit an issuer from making purchases of shares on GEM if the Exchange considers that the issuer has committed a breach of any of the GEM Listing Rules which apply to that issuer. In the event that the Exchange does so prohibit such purchases no ~~member of the~~ Exchange Participant will carry out any such purchases on behalf of the issuer until such prohibition is lifted.

# Appendix 5

## FORMS RELATING TO LISTING

### FORM D

#### Marketing statement (concerning a placing of equity securities)

A separate marketing statement in this form must be completed by the lead broker, any distributor(s) and every ~~member of the Exchange~~ Participant with whom or through whom the securities are placed in the following circumstances:—

- (1) a placing of equity securities by or on behalf of a new applicant
- (2) a placing of equity securities of a class new to listing by or on behalf of a listed issuer.

Rule 10.12 of the Rules Governing the Listing of Securities on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited (the “GEM Listing Rules”) and the Notes accompanying this form should be read before completing this statement.

To: The GEM Listing Division,  
The Stock Exchange of Hong Kong Limited

/ /  
.....

#### C ANALYSIS OF DISTRIBUTION

10.	Number of	Amount or	
By the undersigned to: <i>(Note 5)</i>	holders	number of	% of placing
		securities	
(1) Connected clients (as defined in Note 2 to rule 10.12 of the GEM Listing Rules)	.....	.....	.....
(2) Directors/management shareholders/substantial shareholders and significant shareholders * of the issuer and their respective associates (*significant shareholders in respect only of an initial public offer)	.....	.....	.....
(3) Employees of the issuer	.....	.....	.....
(4) Customers or clients of the issuer	.....	.....	.....
(5) Suppliers to the issuer	.....	.....	.....
(6) Other <del>members of the Exchange</del> <u>Participants</u> (see also C12 below)	.....	.....	.....

- (7) Retained by the undersigned .....
  - (8) Other .....
  - (9) TOTAL .....
- (As in A4)

11. By the lead broker to the general public:  
(To be completed by lead broker only) (Note 3)

- (1) Offered to the public N/A .....
- (2) Applied for by the public ..... N/A
- (3) Basis of allocation, where .....  
oversubscribed .....

12. By the undersigned to other ~~members~~  
~~of the~~ Exchange Participants (Note 6)

Name of <del>member</del> Exchange Participant	Amount or number of securities	% of placing
.....	.....	.....
Total	As in C.10(6)	.....

Signed .....

Name and position held .....

Name of company .....

Date .....

**NOTES**

1. Marketing statements will only be accepted when the required details are typed on the statement.
2. A marketing statement in this form must be completed by each of the distributors named in paragraph 9 and each of the other ~~members of the~~ Exchange Participants (if any) named in paragraph 12 and sent directly to the Exchange by that person.
3. Paragraphs 5-8 of GENERAL, paragraph 9 of SUMMARY OF DISTRIBUTION and paragraph 11 of ANALYSIS OF DISTRIBUTION need be completed by the lead broker only.
4. In paragraph 5, the net price should represent the effective issue price to the issuer or vendor.
5. Please refer to rule 10.12 of the GEM Listing Rules for guidance.
6. In completing paragraphs 10(6) and 12, the lead broker may exclude the distributors named by him in paragraph 9.

7. *As soon as practicable after the hearing of the application by the Exchange but before dealings commence, a list setting out the names, addresses and identity card or passport numbers (in case of individuals) and the names, addresses and registration numbers (in the case of companies) of all placees, the names and addresses of the beneficial owners (in the case of nominee companies) and the amounts taken up by each placee must be lodged with the Exchange.*



## Appendix 9

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

#### 5. Brokerage

- (1) In respect of every Qualifying Transaction, brokerage will be payable by the person subscribing for or purchasing the securities at a rate of 1% of the subscription or purchase price.
- (2) In respect of every successful application form for securities to be issued, sold or disposed of which bears the chop of ~~a member of the Exchange~~ an Exchange Participant of the Exchange through whom such application is actually made or arranged, the brokerage paid by the applicant in respect of that application form shall be passed on by the issuer to that ~~member~~ Exchange Participant by way of a cheque made payable to that ~~member~~ Exchange Participant which shall be sent to the Exchange who will forward it to that ~~member~~ Exchange Participant.
- (3) In respect of every successful application form for securities to be issued, sold or disposed of which does not bear the chop of ~~a member of the Exchange~~ an Exchange Participant of the Exchange and in respect of every successful preferential application form the brokerage paid in respect of the application form shall be passed on by the issuer to the Exchange by way of a cheque made payable to the Exchange which will retain such amount.
- (4) Brokerage which would be payable in respect of any securities taken up by an underwriter or sub-underwriter in accordance with a normal underwriting or sub-underwriting agreement may be retained by such underwriter or sub-underwriter.

# Appendix 10

## MODEL FORMS OF FORMAL NOTICE

### FORM A

For offers for sale or subscription

*The Stock Exchange of Hong Kong Limited takes no responsibility for the contents of this announcement, makes no representation as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this announcement.*

This announcement is for information purposes only and does not constitute an invitation or offer to acquire, purchase or subscribe for securities.

[XYZ Limited]  
(Incorporated in [Hong Kong] under the [Companies Ordinance])

NEW ISSUE

of

[up to]

200,000,000 ordinary shares of 10 cents each

at

HK\$1.00 per share

on

THE GROWTH ENTERPRISE MARKET  
OF THE STOCK EXCHANGE OF HONG KONG LIMITED

[Underwritten by]

Lead Manager [and Sponsor]

ABC & Co.

Joint Managers

DEF & Co.

GHI & Co.

JKL & Co.

MNO & Co.

[Sponsor]

[RST & Co.]

Copies of the listing document required by the Rules Governing the Listing of Securities on The Growth Enterprise Market of The Stock Exchange of Hong Kong Limited together with application forms are available during normal office hours up to and including [ / / ] from:—

Any ~~member~~-Exchange Participant of The Stock Exchange of Hong Kong Limited

Application for the shares will only be considered on the basis of the listing document dated [ / / ].

Application has been made to The Stock Exchange of Hong Kong Limited for the listing of and permission to deal in the shares of XYZ Limited in issue and to be issued as described in the listing document. Dealings are expected to commence on The Growth Enterprise Market of The Stock Exchange of Hong Kong Limited on [ / / ].