



Hong Kong Exchanges and Clearing Limited
香港交易及結算所有限公司

The Listing Committee Report 2011



1. INTRODUCTION

- 1.1 This report is an account of work of the Listing Committee¹ of The Stock Exchange of Hong Kong Limited (the “Exchange”) for the year ended 31 December 2011. It highlights the issues the Listing Committee has dealt with during the year which it believes will be of greatest interest to the investing public, practitioners and listed companies, and outlines the position or action the Listing Committee, the Listing Division and the Exchange have taken. It also includes a policy agenda of issues that the Listing Committee anticipates it will discuss in 2012 and beyond.
- 1.2 It has been prepared for the board of the Exchange and the board of its parent company, Hong Kong Exchanges and Clearing Limited (“HKEx”). It will be forwarded to the Financial Services and Treasury Bureau (“FSTB”), the Securities and Futures Commission (the “SFC”) and posted on the HKEx website.
- 1.3 The Listing Committee has no staff and no budget. The members of the Listing Committee are offered a fixed annual fee of HK\$80,000 on account of attendance at and preparation for regular, policy, disciplinary and review meetings.

2. COMPOSITION AND ROLE OF THE LISTING COMMITTEE

MEMBERSHIP

- 2.1 The Listing Committee consists of 28 members as follows:
- At least eight individuals who the Listing Nominating Committee (“LNC”) considers will represent the interests of investors.
 - Nineteen individuals who the LNC considers will be a suitable balance of representatives of listed issuers and market practitioners including lawyers, accountants, corporate finance advisers and Exchange Participants or officers of Exchange Participants.
 - The Chief Executive of HKEx as an ex-officio member.

¹ The Main Board and GEM Listing Committees have operated as a combined committee since 2003, and membership of the committees was fully unified in May 2006. The expression “Listing Committee” refers to the combined committees.

ROLE AND MODE OF OPERATION OF THE LISTING COMMITTEE

2.2 The Listing Committee acts both as an independent administrative decision maker and an advisory body for the Exchange. It has four principal functions:

- To oversee the Listing Division (to the extent practicable given the Committee's mode of operation).
- To provide policy advice to the Listing Division on listing matters and to approve amendments to the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited ("Main Board Listing Rules") and Rules Governing the Listing of Securities on the Growth Enterprise Market of the Stock Exchange of Hong Kong Limited ("GEM Listing Rules").
- To take decisions of material significance for listing applicants, listed companies and the individuals concerned. These include approvals of listing applications and cancellations of listing and disciplinary matters.
- To act as a review body (in its role as the Listing (Review) Committee) for decisions made by the Listing Division and by the Listing Committee.

2.3 A more detailed description of the role and mode of operation of the Listing Committee and its approach to handling conflicts of interest is set out on the HKEx website at http://www.hkex.com.hk/eng/listing/listcomrpt/documents/LCRole_Mode.pdf.

3. MAIN ISSUES ARISING IN THE YEAR

This section contains the issues the Listing Committee has dealt with during the year which it believes will be of greatest interest to the investing public, practitioners and listed companies, and outlines the position or action the Listing Committee, the Listing Division and the Exchange have taken.

CONSULTATIONS

Consultation Conclusions on Review of the Corporate Governance Code and Associated Listing Rules

- 3.1 On 28 October 2011, the Exchange published the Consultation Conclusions on Review of the Corporate Governance Code and Associated Listing Rules after analysing the 118 submissions it received from respondents to the consultation paper that was published on 18 December 2010. The respondents included listed issuers, market practitioners, professional and industry associations.
- 3.2 The primary aim of the review was to enhance the overall standard of issuers' corporate governance and align the Exchange's Corporate Governance Code (Code) and Rules with international best practices. Issuers and the market as a whole benefit from enhanced corporate governance.
- 3.3 The revised Code and Rules encourage better accountability of issuers and directors. The new measures will have the goal of improving transparency, enhancing the quality and effectiveness of directors and company secretaries, and bringing into focus the important functions of the various board committees.

- 3.4 Whilst some of the revised Rules took effect on 1 January 2012, the revised Code and related Rules take effect on 1 April 2012.
- 3.5 The market generally supports these latest Exchange's corporate governance initiatives.

Consultation on Environmental, Social and Governance Reporting Guide

- 3.6 In view of increasing focus on environmental, social and governance (ESG) issues in the business community, the HKEx Board considers that the Exchange should take steps to raise ESG awareness among Hong Kong issuers and encourage them to start reporting. The Listing Committee shares this view.
- 3.7 HKEx sponsored five free half-day seminars and 10 free full-day workshops between May and July 2011 based on a draft guide prepared by HKEx. The seminars and workshops were conducted by an external consultant specialising in ESG reporting. There were 823 participants from 498 issuers at the seminars and 518 participants from 348 issuers attended the workshops. The seminars and workshops were well received by participants. To facilitate issuers to start ESG reporting, the draft guide, seminar and workshop materials, frequently asked questions and answers, steps for reporting, a reporting toolkit and a list of useful resources hyperlinks are available on the HKEx website at <http://www.hkex.com.hk/eng/rulesreg/listrules/listsptop/esg/index.htm>.
- 3.8 On 9 December 2011, the Exchange published a Consultation Paper on ESG Reporting Guide. The proposed ESG Reporting Guide, drafted as a simple and easy-to-use guide, aims to raise awareness and to encourage issuers to start reporting. The Exchange proposes that the disclosure be recommended best practices initially. It may consider raising the level of obligation to "comply or explain", which is similar to the Corporate Governance Code, in the future.
- 3.9 The Consultation Paper is available on the HKEx website at <http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp201112.pdf>. The consultation will end on 9 April 2012.
- 3.10 The Committee led its first corporate social responsibility (CSR) event, "Pedal Power", on 28 May 2011. Fifty-one cyclists including members of the Committee and their families, staff of the Listing Division and a member of the HKEx Board cycled 18 kilometres, raising slightly over HK\$1.1 million. This will enable 285 local secondary-school students to participate in five-day leadership courses with Outward Bound.

Joint Consultation Conclusions on Proposed Changes to Property Valuation Requirements

- 3.11 The consultation on proposed changes to property valuation requirements ended on 11 February 2011. The SFC and the Exchange received 52 submissions from market practitioners, issuers, professional associations and individuals. Comments by respondents indicated that the market supported the proposals, which streamline property valuation requirements for IPO applicants and issuers. The SFC and the Exchange published the Joint Consultation Conclusions on 20 October 2011. The Joint Consultation Conclusions are available on the HKEx website at <http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp201012cc.pdf>.
- 3.12 The Rule amendments to streamline property valuation requirements took effect on 1 January 2012.

Consultation Conclusions on Ex-entitlement Trading and Shareholder Approval

- 3.13 In May 2011, the Exchange published the Consultation Conclusions on Ex-entitlement Trading and Shareholder Approval. A majority of the respondents comprising listed issuers, professional and industry associations, market practitioners and individuals supported the view that shares should be traded ex-entitlement only after shareholder approval.
- 3.14 The Exchange has amended the Listing Rules to:
- Prevent shares from trading ex-entitlement before shareholder approval;
 - Require the record date to be set at least three business days after the date of shareholder approval (ie at least one cum-trading day will be provided);
 - Require a minimum of one cum-trading day after the general meeting; and
 - Apply the changes to all conditional entitlements that are subject to shareholder approval.
- 3.15 The Rule amendments, which took effect on 20 June 2011, help ensure a fair and orderly market, enhance investor protection and eliminate the risk in the market when shares go ex-entitlement before the entitlement is approved by shareholders.

Consultation Conclusions on Proposed Changes to Requirements for the Listing of Debt Issues to Professional Investors Only

- 3.16 In October 2011, the Exchange published the Consultation Conclusions on Proposed Changes to Requirements for the Listing of Debt Issues to Professional Investors Only. The Rule amendments, which took effect on 11 November 2011, aim to bring the Exchange more in line with the requirements of other stock exchanges and offer processing times that are comparable to those exchanges.
- 3.17 The new Rules simplify and streamline application and approval procedures while keeping the issuer eligibility criteria broadly unchanged. The detailed disclosure requirements in listing documents are replaced by an obligation to include information that is customary for offers of debt securities to professional investors. Provisions relevant only to retail investors are also removed.
- 3.18 The definition of professional investors in the new Rules is now aligned with that in the Securities and Futures Ordinance (excluding those prescribed under Section 397 of the Ordinance). Section 397 mainly covers high net worth individuals and corporations that meet stipulated size requirements. Subsequent to the introduction of the new definition, the Exchange received market feedback on the practical difficulties that the exclusion of Section 397 would cause. The Exchange has advised practitioners that relief would be granted by waivers on a case by case basis.

Proposal for Statutory Obligation for Continuing Disclosure of Price Sensitive Information and Consultation on Proposed Consequential Rule Changes

- 3.19 The Government published the Consultation Conclusions on the proposal to codify the continuing obligation to disclose price sensitive information into law on 11 February 2011. The Securities and Futures (Amendment) Bill, with the relevant proposed changes, was gazetted on 24 June 2011, and is now subject to review by a Bills Committee established for this purpose.
- 3.20 There will be consequential amendments to the Listing Rules when the proposal becomes law. The intention is that the majority of the existing Main Board Rule 13.09(1) will be deleted and in particular, Main Board Rules 13.09(1)(a) and (c) (and their GEM Listing Rules equivalent) which closely mirror what will become the statutory obligation. There will also be a large number of other consequential amendments. For example, references to the term “price sensitive information” in the Rules should, where appropriate, be replaced by the term “inside information” to ensure consistency.
- 3.21 Drafting of the revised Rules is underway and the Listing Committee has been kept informed of progress. The final form of the revised Rules will depend on the final version of the amended legislation. Consultation on the Rule amendments will be conducted, the timing of which will depend on how the legislative process proceeds.

PROSPECTUSES

Simplifying Prospectuses and Related Documents

- 3.22 The Committee has supported the Exchange’s initiative to simplify prospectuses and related documents since the first quarter of 2011 and the progress made to date includes the following:

Formal Notices

- 3.23 The Exchange published on the HKEx website on 30 March 2011 a guidance letter “Disclosure requirements for IPO cases – Formal Notice” (HKEx-GL24-11) which essentially requires only information prescribed under the Listing Rules and the Companies Ordinance to be included in these notices. All other information can be removed, except, for ease of reference, information on how the shares on offer can be applied for through different channels. Information on when and where allotment results from the offer will be published was recommended to be included in these notices since many investors are interested in those details.

Application Forms

- 3.24 The Exchange is working to simplify the application forms to reduce unnecessary repetition of disclosure of information already made available in the prospectuses. The Exchange is working closely with the SFC and proposes to draft a guidance letter on the subject.

How To Apply Section of Prospectuses

- 3.25 The Exchange is working to simplify the “How To Apply” section of the prospectus in conjunction with the review of the Application Forms to eliminate unnecessary repetition of information that overlaps with the application forms. The text of the prospectus will be reviewed to make the contents more concise and to use plain language that investor can understand more easily.

Summary Section of Prospectuses

- 3.26 The Exchange conducted an informal consultation with market practitioners including lawyers and listing sponsors in early 2011 on how to improve the summary section of a prospectus. The feedback supported simplification.
- 3.27 The Listing Committee has formed an internal working group to formulate practical and effective guidance in this area. The Exchange published a guidance letter, HKEx-GL27-12, on the HKEx website in January 2012 to give guidance on how to draft the “Summary and Highlights” section in a way that is concise, easy to read and in plain language. It also provides guidance on what information that is typically expected to be included in the section.
- 3.28 The Division will work with market practitioners to help them become familiar with the simplified approach.

Repeal of Main Board Rule 8.21B

- 3.29 Since the introduction of Main Board Rule 8.21B in 2004, market practitioners had been uncertain about when a profit forecast or other forward looking statements in a pre-deal research report prepared by analysts connected to the underwriting syndicate (Connected Analysts) would be considered to be substantially in the same form as those in the listing document as required under the Rule.
- 3.30 The price discovery function of pre-deal research was confirmed by the SFC after a consultative review in 2006 following which the SFC decided to preserve pre-deal research during the IPO process². In order to address Connected Analysts’ perceived conflicts of interest when conducting pre-deal research, the SFC conducted a consultation in 2010 and 2011 to gauge market views on how pre-deal research could be better regulated. This process culminated in the recent amendments to the Code of Conduct for Persons Licenced by or Registered with the Securities and Futures Commission and the Corporate Finance Adviser Code of Conduct³. The revised SFC regulations took effect on 31 October 2011.

² Consultation Conclusions on the Consultation Paper on Possible Reforms to the Prospectus Regime in the Companies Ordinance was published by the SFC in September 2006

³ Consultation Conclusions on the Regulatory Framework for Pre-deal Research was published by the SFC in June 2011

- 3.31 Given the enhanced SFC regulation on pre-deal research, the Committee reviewed Main Board Rule 8.21B in the December 2011 policy meeting and decided to repeal the Rule so that the conduct of pre-deal research will primarily be governed under the SFC regulations. However, the existing practice by the Exchange of requiring a profit forecast memorandum to be filed continues irrespective of whether a profit forecast is contained in the prospectus. The Rule amendment relating to repeal of Main Board Rule 8.21B took effect on 1 February 2012. With the repeal of Main Board Rule 8.21B, the uncertainty over the interpretation of the Rule is removed.

Comments of Listing Committee on Standard of Listing Documents

- 3.32 The Committee notes that as an international exchange, it is important to align our listing document contents presentation⁴ with international standards. The Committee has contributed considerably to raising the disclosure quality of individual listing documents, such as by requiring key information to be presented in a simple, concise and understandable manner, to enable investors to easily understand listing applicants' business operation and to identify any "high risk" areas.
- 3.33 The Committee recognises that the initiative to simplify disclosure in listing documents is an interactive process. It requires not only guidance to the market but also the concerted effort of many parties, including the applicants' management and their advisers to implement the "simple listing document" principles. During the year under review, the listing document simplification initiative included, among other things, issuing a guidance letter on the disclosure in the "Summary and Highlights" section in listing documents in January 2012 under HKEx-GL27-12 where the general principles will help to simplify and improve the content of listing documents. The Exchange proposes to provide guidance for other sections of the listing document going forward.
- 3.34 The Exchange has also released guidance letters that highlight industry-specific risks identified by the Exchange, and the materials and disclosure that the Exchange expects to be provided or disclosed in the relevant listing document. Under this category, the Exchange has issued guidance on business models with significant forfeited income from prepaid packages under HKEx-GL26-12 and guidance on disclosure for restaurant businesses under HKEx-GL28-12. The Exchange will consider further guidance on different industries where necessary.
- 3.35 The Exchange intends to hold interactive forums with market practitioners to further improve the standard of listing documents, including encouraging the use of plain language.

⁴ Prospectus Directive (Directive 2003/71/EC and amended by an Amending Directive 2010/73/EU) issued by the Commission of the European Communities aims to ensure investor protection and market efficiency.

The "plain English principle" for presenting information in prospectuses in the US is embodied under the Securities and Exchange Commission's rules. The summary usually describes the offering and briefly describes the company, with a focus on its most distinctive features.

LISTING MATTERS

Review of Requirements for Overseas Listings

- 3.36 In 2011, Hong Kong continued attracting listings from overseas companies including global businesses such as Glencore International PLC and worldwide luxury brands such as Samsonite International S.A., Prada S.p.A. and Coach, Inc.

Joint Policy Statement Streamlining

- 3.37 In March 2007, the Exchange issued jointly with the SFC the Joint Policy Statement Regarding the Listing of Overseas Companies (JPS). The JPS provides a roadmap for overseas issuers seeking to list on the Hong Kong Stock Exchange.
- 3.38 The Exchange has also since 2007, published a list of the jurisdictions of incorporation the Committee finds acceptable for overseas issuers seeking a listing on the Exchange and issued guidance on how individual issuers can meet with the Exchange's requirements. Following the expansion of the list to eight jurisdictions in September 2009, the Exchange streamlined the JPS guidance to incorporate the vetting practices that the Exchange had developed to facilitate the IPO listing process for these issuers.
- 3.39 The acceptable jurisdictions list has now reached 19⁵. In April 2011, the Committee considered proposals to streamline the JPS further by reducing its focus on comparability with Hong Kong company law and placing more attention on compliance with the general principles underlying the Listing Rules. The Exchange is working closely with the SFC on possible revisions to the JPS.

Review of Rules for Secondary Listed Issuers

- 3.40 The Committee also took steps in 2011 to ensure that Hong Kong remains an attractive listing venue for secondary listed issuers. Normally, these issuers have listed on at least one overseas market before they list in Hong Kong and so are already subject to regulation in their home exchange. In most cases, after they list, the majority of their shares will be held or traded outside Hong Kong.
- 3.41 Secondary listed issuers, in addition to the rules of their home market, are also required to comply with substantially the same Rules as domestic issuers in Hong Kong.
- 3.42 To reduce their compliance burden, secondary listed issuers apply for a large number of waivers. Over time the waivers and guidance on the subject of secondary listings has grown in number and complexity. The Exchange has received feedback from the market that it is unclear on what a "secondary listing" actually means, what requirements apply and what waivers will be granted.
- 3.43 In April and December 2011, the Committee considered proposals to revise the Rules for secondary listings. These aim to provide certainty, reduce unnecessary regulatory burden and expense and, at the same time, preserve Hong Kong's reputation for high standards of regulation, investor protection and corporate governance.

⁵ In addition to Hong Kong, Mainland China, Bermuda and the Cayman Islands.

- 3.44 The proposals incorporate feedback from soft consultations with the market. The SFC soft-consulted with the Public Shareholders Group and the SFC Advisory Group. The Exchange (jointly with the SFC) conducted a soft consultation meeting with a group of eight investment banks.
- 3.45 The Exchange received feedback that Hong Kong should preserve a balance between maintaining high standards and facilitating market development. Market practitioners commented that the Exchange should not simply lower standards to attract overseas issuers as this would bring reputational risk. However, they thought that it was important to further develop Hong Kong as an international financial centre by attracting overseas issuers.
- 3.46 The Exchange is working closely with the SFC to publish a consultation paper on proposals to revise the Rules for secondary listed issuers in 2012.

Implementation of the Structured Products Integrated Transaction System

- 3.47 In May 2011, the Exchange implemented a new web-based system, Structured Products Integrated Transaction System (SPRINTS), to automate and streamline the listing application of structured products. It allows issuers to submit term sheet data electronically to the Exchange in a standardized format (Extensible Markup Language, XML) or to enter term sheet data on a pre-defined screen provided by the system one sheet at a time. The new system aims to enhance the communication and workflow between issuers and the Exchange.
- 3.48 To help structured product issuers prepare for the new system, the Exchange organized briefing sessions, trial tests and user training sessions prior to system implementation. A help desk function has also been set up to address any system operational questions that issuers may have.
- 3.49 As at 31 December 2011, 18 out of 22 structured product issuers used SPRINTS for term sheet submission. It is anticipated that all structured product issuers will submit term sheets via SPRINTS by March 2012.

Listing of Business Trusts

- 3.50 In response to market demands and encouragement from the Government, the Exchange and the SFC have been working actively since March 2011 with market practitioners generally and a number of listing applicants to explore ways to list active businesses by way of a trust under the existing Hong Kong regulatory framework.
- 3.51 Given that business trusts effectively operate as business enterprises, the Exchange proposed to consider their listing applications and regulate them by applying the same principles in the Listing Rules as those applying to any company seeking a listing. To achieve this, the Exchange would modify the current regulatory framework for listed companies to apply to business trusts in a manner that fully preserves all the current Listing Rule requirements for investor protection, disclosure and corporate governance. The Listing Committee endorsed this approach in policy meetings in March and April 2011.

- 3.52 Business trusts are established by trust deeds and unlike companies, are not subject to the provisions for shareholder protection under the Companies Ordinance (or equivalent company laws) and other laws and regulations applicable to listed companies. A listing applicant will need to address existing requirements for investor protection standards by incorporating these matters into its trust deed or by other acceptable means. The principle underlying this approach is to ensure that holders of units in business trusts enjoy investor protection standards comparable to those required of Hong Kong incorporated issuers, including investor rights to approve significant matters relating to the trust and to attend and vote at general meetings.
- 3.53 A key part of the regulatory regime for Hong Kong listed companies is provided by the Securities and Futures Ordinance (SFO). As the relevant sections of the SFO make reference to a listed corporation and not a trust, a business trust structure might not be subject to the relevant SFO provisions, including those relating to insider dealing, market manipulation, disclosure of interests and section 214 of the SFO (which empowers the SFC to apply to the court for certain orders where the business or affairs of a corporation have been conducted in a manner that is oppressive to its members or involves misconduct towards its members).
- 3.54 The SFC considers it essential for investor protection that listed business trusts are subject to these sections of the SFO. It would, however, require legislative changes to apply these provisions of the SFO directly to a listed business trust. Having said that, in other jurisdictions some businesses have listed a “stapled” security where a share in a company is “stapled” to a unit in a trust. These trade as a single stapled security. As the security that is listed includes a share issued by corporation, this structure has the potential to ensure that the SFO would apply.
- 3.55 The Exchange and the SFC worked closely with entities seeking to list a business trust to identify a structure that meets their commercial requirements and at the same time ensures that the provisions of the SFO would apply. These entities and the SFC have obtained legal opinions from leading counsel and legal practitioners on the many and complex legal issues involved. These legal opinions suggest that there are structures that will result in a listed business trust coming within the ambit of the relevant sections of the SFO.
- 3.56 The SFC and the Exchange also conducted a discussion with representatives from eleven interested investment banks in April 2011 to discuss possible structures and key issues regarding listing business trusts under the current Hong Kong regulatory framework. There was a general consensus that there are suitable ways (including but not limited to a “stapled security” structure) to structure business trusts so as to comply with the SFO.
- 3.57 HKT Trust, which comprises a form of “stapled security” structure, was listed as the first business trust listing in Hong Kong on 29 November 2011. A HKT Trust unit is stapled to a specifically identified preference share of HKT Limited (an underlying corporation), and linked to a beneficial interest in a specifically identified ordinary share of HKT Limited, with the ordinary shares legally held by the trustee manager of HKT Trust. A subscriber for HKT Trust would subscribe for a “share stapled unit” which comprises the above HKT Trust unit, the beneficial interest in the specifically identified ordinary share and the specifically identified preference share. There would be a single price quotation on the Exchange for the share stapled unit. The SFC and the Exchange worked closely with the listing applicant to consider the issues of the applicability of the SFO to ensure that the interests of the unit holders of the trust would be tied with the interests of the shareholders of the shares.

- 3.58 The Exchange is currently actively working with the SFC and with other prospective business trust listing applicants with a view to exploring other business trust structures that would address the requirements of the SFO and the Listing Rules, and the commercial considerations. The Exchange also plans to issue guidance to the market on the requirements for the listing of business trusts, or provides templates to the market for possible business trust structures that address the relevant requirements under the SFO. The Exchange anticipates that there may be more business trust listings in the future.

Updates on the Developments of the Structured Products Market

- 3.59 As part of the ongoing regulation of the structured products market, the Exchange held discussion meetings with structured products issuers in September 2011 and invited issuers to consider, develop and formalize industry best practices. The Exchange indicated that issuers should give priority to the issues of streamlining of listing documentation, liquidity provision obligations and consideration of collateralization. Issuers were requested to provide a submission by October 2011 with a view to finalizing concrete proposals before the end of 2011. The remaining areas, including review of issuers' systems and controls on market surveillance, investor education and communication policies and development of contingency arrangements, are expected to be completed by the first quarter of 2012. A working group representing 18 issuers (Issuer Group) has provided initial response to proposals to develop best market practices. The Exchange met with the Issuer Group in December 2011 to provide further guidance and requested them to finalize concrete proposals as soon as possible.
- 3.60 In light of the debt crisis in Europe and market volatility, the Exchange issued a joint press release with the SFC in September 2011 to remind investors holding uncollateralized structured products that they should pay close attention to the financial strength and creditworthiness of structured products issuers. Issuers are required to publish announcements about changes to their credit ratings and to include a caution and risk statement to ensure that investors are trading on a fully informed basis.
- 3.61 The Committee will continue to support the joint effort of the Exchange and the SFC in enhancing the regulation of the structured products market and maintaining investor confidence.

Further Measures to Address the Risks of Synthetic Exchange Traded Funds

- 3.62 A synthetic Exchanged Traded Fund (ETF) uses financial derivative instruments to track index performance. The Exchange and the SFC have been working closely to raise investors' awareness of synthetic ETFs. These measures included the addition of a marker to synthetic ETF stock short names and the annotation “*This is a synthetic ETF” against their names in communications.
- 3.63 During 2011, the Exchange and the SFC further conducted a joint review of the risks to investors of synthetic ETFs, and in November 2010 and January 2011, jointly introduced new measures allowing investors to more easily distinguish synthetic ETFs from other ETFs before making investment decisions. This resulted in the SFC requiring, from 31 October 2011, domestic synthetic ETFs to have at least 100% collateralization. This means domestic synthetic ETFs are less exposed to counterparty risk from their use of financial derivatives.
- 3.64 The Committee will continue to support the joint effort of the Exchange and the SFC to further enhance the regulatory regime of synthetic ETFs.

Goldman Incident Related to the Suspension of Four Derivative Warrants Linked to the Nikkei 225 Index

- 3.65 Four derivative warrants over the Nikkei 225 Index issued by Goldman Sachs Structured Products (Asia) Limited (GS) were suspended on 31 March 2011 after the warrants' prices and trading volume increased substantially. It appeared that the settlement price formulae of the warrants were incorrect in the listing documents.
- 3.66 Under the terms and conditions of the warrants, the issuer could unilaterally correct an obvious error. GS took the view, supported by senior counsel's opinion, that the errors in the documents were obvious errors and made the amendments to the formulae. It also requested continued suspension of the warrants until their expiries, in view of concerns over fair and orderly market in the warrants if they resumed trading. This view was deliberated and accepted by the Committee. GS also suspended new warrant issuance until it satisfied the Exchange that remedial steps were taken and its internal controls strengthened.
- 3.67 To compensate for the prolonged suspension and lack of market for the warrants, GS offered to buy back the outstanding warrants at a 10% premium to the higher of the "fair value" or cost to the warrant holders. Out of 121 holders, 107 accepted GS's offer, representing 88% of all holders of the warrants. Individual warrant holders were free to pursue legal claim against GS whether or not they had accepted the offer.
- 3.68 The incident was discussed in a meeting of the Legislative Council's Panel on Financial Affairs held on 23 May 2011 where the FSTB, the SFC and the Exchange explained their respective roles and responsibilities in the incident and the structured products market generally. The matter was further discussed at a meeting of the Complaints Committee of the Legislative Council on 21 July 2011.
- 3.69 After the incident, the Exchange became aware of further cases of documentation errors by other warrant issuers. The Exchange requested warrant issuers to review all other listing documentation and suspend new issuance until they had satisfied the Exchange that the errors did not affect the terms and conditions of the warrants, that they had been verified and satisfactory measures had been put in place to prevent documentation errors from recurring.
- 3.70 As part of the on-going regulation of the structured products market, the Exchange is currently in discussion with structured products issuers on proposals in enhancing the regulation of the structured products industry. Areas under review include issuers' internal controls, liquidity provision obligations, streamlining of documentation requirement, investor communication and education, credit risk on outstanding warrant positions and governance of issuers' conduct.

Review of Structured Contracts

- 3.71 The Mainland Government imposes restrictions on foreign investment in certain businesses to protect national industries (Restricted Businesses). Listing applicants have since 2004 adopted various contract-based arrangements (Structured Contracts) to give the applicants contractual rights to gain control over and receive all economic benefits derived from the Restricted Businesses, despite the lack of equity interests.

- 3.72 The suitability of listing applicants with Structured Contracts was discussed by the Committee in 2004 as a policy issue in which it was decided that such applicants are suitable for listing as long as they can demonstrate that their adoption of Structured Contracts is in compliance with all relevant laws and regulations and the Structured Contracts arrangements are binding and enforceable. This decision is memorialized in Listing Decision HKEx-LD43-3 (LD43-3).
- 3.73 At the policy meeting held in April 2011, the Committee reviewed the adoption of Structured Contracts by listing applicants and decided that it was not appropriate to generally allow the use of Structured Contracts in all businesses and circumstances. The Committee decided to maintain our current practice that the use of Structured Contracts would be considered on a case-by-case basis and subject to the conditions set out in LD43-3. Where the cases involve non-Restricted Businesses, the Division would seek the Committee's preliminary views. This Listing Committee decision was documented as an update to LD43-3.

INFORMATION DISSEMINATION

Review of Trading Halt Policy

- 3.74 On 10 August 2011, malicious hacking attacks were made on the Exchange's HKExnews website, disrupting issuers' news dissemination and causing the suspension of seven equity securities and their related debt/derivative products. The incident was discussed in a meeting of the Legislative Council's Panel on Financial Affairs on 31 August 2011. At that meeting, the Exchange announced it would review the feasibility of a trading halt policy that would allow issuers to announce price sensitive information during trading hours accompanied by a short halt in trading of the securities of the issuer.
- 3.75 Between October and December 2011, the Exchange conducted soft consultations with selected brokers and seven broker associations to gather their views and to understand their trading system requirements. A majority of the participants supported the dissemination of price sensitive information during trading hours. They were concerned however that allowing news dissemination during trading hours would cause confusion for investors generally and proposed that there must be a clear set of Rules to deal with trading halts and resumptions. The participants raised a number of financial issues which will require careful consideration.
- 3.76 At the policy meeting held on 5 December 2011, the Listing Committee considered comments from the soft consultations. The Exchange will continue to consult with the market on the trading halt policy.

Review of Issuers' Information Dissemination Model

- 3.77 Following the malicious hacking attacks in August 2011, the Exchange announced revised issuers' information dissemination and suspension arrangements in the event of a HKExnews dissemination system failure. The Exchange is considering enhancing its dissemination model with multiple information dissemination platforms to further reduce risks of disruption to issuers' news dissemination. The Exchange will explore an enhanced distribution model with multiple free issuers' news dissemination platforms in addition to the HKExnews website. As part of this arrangement, the Exchange may provide free issuers' news feed to brokers, financial websites and media portals willing to freely disseminate the information to the public through their information platforms.

GREATER TRANSPARENCY TO THE MARKETS

Market Outreach Program

- 3.78 Under the guidance of the Listing Committee, the Exchange continued its program of issuer education and market outreach to issuers and other stakeholders with a view to promoting issuers' self-compliance with the Rules and facilitating mutual understanding of regulatory issues through dialogue. In 2011, the Exchange organized a series of 10 issuer seminars in Hong Kong on corporate governance Rule amendments and practical compliance issues which attracted almost 1,800 participants. The same issuer seminars in Putonghua were held in Hong Kong, Shanghai and Beijing in January 2012 which attracted almost 600 participants. The Exchange also conducted 11 meet and greet sessions with over 400 issuers' representatives and market practitioners to discuss controversial and evolving issues.
- 3.79 The Exchange also conducted soft consultations in the form of "town hall" meetings to consult the market on topical issues. In 2011, the Exchange organized two "town hall" meetings with representatives from interested investment banks on the topics of business trusts and overseas listings.

Seminars on Revised Corporate Governance Code and Associated Listing Rules

- 3.80 Following the publication of the Consultation Conclusions on Review of the Corporate Governance Code and Associated Listing Rules, the Exchange organised 10 half-day seminars in November and December 2011 on amendments of the Code and other Listing Rule updates. A total of 1,781 participants including 1,589 from 938 listed issuers and 192 from 118 market practitioner firms attended the seminars.
- 3.81 A recording of one of the seminars has been posted on the HKEx website as a webcast.
- 3.82 In January 2012, the Exchange presented the same seminar in Putonghua in Hong Kong, Shanghai and Beijing. A total of 519 participants including 505 from 325 listed issuers and 14 from Mainland regulatory agencies attended the seminars. One of the Putonghua seminars has also been posted on the HKEx website as a webcast.

Environmental, Social and Governance Reporting

- 3.83 To raise awareness and help equip issuers with tools for reporting, HKEx sponsored five free half-day seminars and 10 free full-day workshops on ESG reporting for issuers between May and July 2011 based on a draft ESG Reporting Guide. The seminars and workshops were conducted by an external consultant specialising in ESG reporting and were well received by participants. To facilitate issuers to start reporting, the seminar and workshop and other relevant materials are available on the HKEx website at <http://www.hkex.com.hk/eng/rulesreg/listrules/listsptop/esg/material.htm>.

Policy on Share Trading Suspension

- 3.84 In June 2011, following receipt of a number of enquiries about its approach in administering share trading suspensions, the Exchange published an open letter to listed issuers and market practitioners. The letter attached an article originally published in the July 2004 edition of the Exchange Newsletter, which explained its suspension policy and practice, which had not changed since its publication. The letter also provided guidance on how the Exchange's suspension policy is applied in four common scenarios.

Listing Rules Guidance Search on HKEx website

- 3.85 As part of the Exchange's effort to improve access to its guidance materials, the Exchange launched a search engine on the HKEx website in March 2011 that facilitates issuers and market participants to search for the relevant guidance by the Listing Rules more effectively. The new search engine can be found under the Rules and Guidance on Listing Matters section of the HKEx website which supports searches over all Listing Rules guidance materials.
- 3.86 In 2011, the Exchange issued 23 Listing Decisions, 15 letters to issuers, 3 sets of frequently asked questions and 2 new guidance letters.

4. MEETING STATISTICS AND ACTIVITIES

MEETINGS TO APPROVE NEW LISTING APPLICANTS

- 4.1 One of the principal items of business of the Listing Committee's regular meetings is considering whether or not to approve new listing applications for the Main Board. Applications for listing on GEM are considered by the Listing Division, with applicants retaining a right of appeal to the Listing Committee. Listing applications are considered on the basis of reports from the Listing Division, which include a recommendation on whether or not to approve the application. In respect of each application considered by the Committee it may approve the application, with or without the imposition of conditions, reject the application or defer a decision pending the submission of further information. Statistics in relation to listing applications handled by the Listing Committee are set out in the tables below.

Meetings at which IPO applications were considered	2011	2010
Meetings Within the Regular Schedule	46	47
Specially Convened Meetings	6	1

Listing Applications considered by the Listing Committee	2011	2010
Applications Considered (see note 1 below)	133	125
Applications Approved (see note 2 below)	127	122
Applications Rejected	3	–
Decisions Deferred Pending Further Information	3	3
Applications approved and listed in the year	77	102
Applications approved in the previous year and listed in the year	12	4
Applications listed in the year	89	106

Notes:

- (1) In 2011 includes a Very Substantial Acquisition and reverse takeover treated as a new listing application.
- (2) In 2011 includes four applications that were approved at the second hearing and one application that was approved at the fourth hearing. In 2010 includes six applications that were approved at the second hearing.

MEETINGS TO APPROVE CANCELLATION OF LISTING

- 4.2 The power to approve the cancellation of listing of securities (“delisting”) rests with the Listing Committee. Main Board companies may be delisted under the three-stage process set out in Practice Note 17 of the Main Board Listing Rules. They may also be delisted under Chapter 6 of the Main Board Listing Rules. GEM Rules 9.14 to 9.18 deal with the delisting of GEM companies.
- 4.3 The Listing Committee’s approval is required to place a Main Board company in the third stage of the delisting procedures according to Practice Note 17 of the Main Board Listing Rules, to give a Main Board or GEM company notice of the Exchange’s intention to delist the company, or to cancel the listing of a Main Board or GEM company. The Listing Committee’s decision to delist a Main Board or GEM company may be subject to review by the Listing (Review) Committee and, in turn, the Listing Appeals Committee.
- 4.4 Statistics in relation to delisting matters considered at the Listing Committee’s regular meetings are set out below:

Nature of decision (note 1)	Number of cases	
	2011	2010
Main Board		
Issuers to be placed into third stage of delisting procedures		
– Without issuer having submitted resumption proposal	2	5
– After rejecting resumption proposal as not viable	–	4
Listing to be cancelled after rejecting resumption proposal submitted as not viable (notes 2 and 3)	5	1
Trading to be resumed	6	1
GEM		
Issuer to be given notice of intention to delist under GEM Rule 9.14	1	1
Listing to be cancelled after rejecting resumption proposal submitted as not viable (note 4)	1	–

Notes:

- (1) Unless otherwise indicated these decisions were not appealed against.
- (2) Two decisions in 2011 were appealed against and were upheld by the Listing (Review) Committee. The cases will be heard by the Listing Appeals Committee in 2012.
- (3) One decision in 2010 was appealed against. The case was heard in 2011 and the Listing Appeals Committee decided to allow the company to resume trading.
- (4) The decision in 2011 was appealed against and the GEM Listing (Review) Committee decided to allow the company to resume trading.

- 4.5 During the year, some business acquisitions proposed by long suspended companies had reverse takeover implications. In two cases, the companies, which only retained minimal operations, proposed to acquire very significant businesses and issue substantial amounts of new shares and convertible securities to the vendors as consideration. The vendors would have de facto control over the company as it would become the single largest shareholder of the company, or a major shareholder who was able to control the company's board. The proposals were considered a means to list the injected business which could not meet the profit requirement for new listings. The reverse takeover Rules applied and the resumption proposals could not proceed. In one case, the company appealed against the Committee's decision to reject the proposal. The decision was upheld by the Listing (Review) Committee and will be reviewed by the Listing Appeals Committee in 2012.
- 4.6 The Committee rejected a number of resumption proposals that fell short of the Exchange's expectation. They failed to demonstrate that the companies have a business of substance and the business models are viable and sustainable. As in previous years, the Committee found that those proposals did not include sufficient details to support viability of the business models or achievability of profit forecasts. The proposals did not clearly explain the business models or there was a lack of information to bridge the gap between the historical track records of the existing and/or acquired businesses and the profit forecasts. In some cases, the future business plans were at a preliminary stage with no track record to demonstrate the company's ability to generate a sustainable level of profits. Some companies proposed to increase the level of operations by way of business acquisitions. However, the historical profitability of the acquisition target was low, and the size of operations was insufficient to support that the enlarged group would reach a meaningful scale of operation and justify a listing.
- 4.7 During the year, a number of companies were suspended for reasons other than insufficient operations or assets. In particular, some cases involved allegations of irregular transactions or false accounting. The Exchange imposed resumption conditions requiring the companies to investigate the irregularities and explain their impact on the group. In some cases, the companies were required to engage independent experts to conduct forensic investigations.

Legal actions concerning Styland Holdings Limited

- 4.8 Styland Holdings Limited (Styland) resumed trading on 15 December 2011, having been suspended from trading since 2004. The disciplinary proceedings before the Listing Appeals Committee remain adjourned pending the decision of the Court in a legal action brought by the SFC against three of the former executive directors of Styland. In 2010, one former executive director of Styland was disqualified by the Court from acting as a company director for a period of six years.
- 4.9 The Listing Committee made an announcement concerning the reasons for the long suspension on 2 May 2008. In making the decision to permit resumption, the Committee took into account a number of factors including the subsequent resignation of all four executive directors of Styland in office at the relevant time. The negotiations between Styland and the Listing Division leading to resumption took place over a number of years and against a background of a series of complaints by individuals claiming to be minority shareholders in Styland against the Listing Division and members of its staff. Two legal actions were launched by individual complainants against senior members of the staff of the Listing Division in their personal capacity. One action was brought in the Small Claims Tribunal and the other in the High Court. Both of the claims have now been struck out. The Listing Committee notes that the award of costs made in the High Court action is being pursued.

MEETINGS FOR OTHER REGULAR BUSINESS

4.10 At each regular meeting, the Listing Division provides the Listing Committee with information on companies whose shares have been suspended from trading since the last regular meeting of the Listing Committee. Each month, the Listing Committee receives an information paper on companies whose shares have been suspended for a prolonged period. This forms the basis for a monthly update that is published on the HKEx website in respect of long suspended companies.

4.11 An analysis of other matters considered at regular meetings during the year is set out below:

Nature of decision/advice sought	Number of cases	
	2011	2010
Requests for pre-application guidance from potential IPO applicants	21	14
Approval of voluntary withdrawal of listing (Note)	6	6
Approval of resumption proposal	5	1
Determination that a transaction was not a reverse takeover	2	5
Approval of an issuer of structured products	1	4
Approval for listing of debt securities not delegated to the Head of Listing	1	1
Consideration of spin off proposal	1	–
Eligibility of an individual to be an INED	1	–
Approval of resumption of trading in an issuer's shares	1	–
Approval of continued suspension of trading in certain issues of structured products	1	–
Approval of waiver to reduce public float of an issuer	1	–
Approval of waiver from providing an assured entitlement in a spin off	1	–
Approval of waiver from shareholder approval requirement in connection with capital reorganisation of subsidiaries	1	–
Rejection of waiver of requirement for one-third of an issuer's board to be INEDs	1	–
Determination that a transaction was a reverse takeover	–	1
Approval of an application for a review of a decision under Main Board Rule 2B.15	–	1
Approval of waiver under Main Board Rule 10.08	–	1
Eligibility of an auditor under Main Board Rule 19.20(2)	–	1

Note: 2011 includes two debt securities (2010: nil)

REVIEW MEETINGS

4.12 The Listing Committee considered five (2010: six) requests for reviews of decisions made by the Listing Division or Committee during the year, some of which related to decisions that had been made in the previous year. The Listing Appeals Committee considered two (2010: one) requests for reviews. Details of these reviews are set out in the table below.

Appeal Committee	Decision made by	Nature of Decision	Number of Cases	Outcome as at 31 December 2011
Listing Appeals Committee	Listing (Review) Committee	Cancellation of listing following the rejection of a resumption proposal	1	Overtured
	Listing (Disciplinary Review) Committee	Disciplinary sanction	1	Upheld
Listing (Review) Committee	Listing Committee	Cancellation of listing following the rejection of a resumption proposal	3	Upheld
	Listing Committee	Cancellation of listing following the rejection of a resumption proposal	1	Overtured
Listing Committee	Listing Division	Determination that certain transactions constituted financial assistance for which the prior approval of shareholders was required	1	Upheld

4.13 As at 31 December 2011, there were seven cases under review as follows:

Appeal Committee	Decision made by	Nature of Decision	Number of Cases
Listing Appeals Committee	Listing (Disciplinary Review) Committee	Disciplinary sanction (note 1)	1
	Listing (Review) Committee	Cancellation of listing following the rejection of a resumption proposal	2
Listing (Review) Committee	Listing Committee	Rejection of application for listing application	1
	Listing Committee	Rejection of application for waiver of Main Board Rule 3.10A	1
Listing Committee	Listing Division	Determination that a holding announcement in respect of a very substantial acquisition did not contain sufficient information to allow a resumption of trading	1
	Listing Division	Rejection of application for waiver of Main Board Rule 10.06(5)	1

Note 1: The Listing Appeals Committee met in May 2009 to consider this matter. That meeting was adjourned pending the outcome of legal proceedings being instigated by the SFC.

DISCIPLINARY MEETINGS

4.14 Disciplinary matters are generally dealt with at specially convened meetings of the Listing Committee. For contested disciplinary actions, written representations are central to the process. A typical case will involve two rounds of written submissions from the Listing Division and from those alleged to have breached the Listing Rules (the listed issuer and/or its directors). At the hearing the Division and those against whom action is being brought are permitted to make oral representations to supplement their written submissions and Listing Committee members may ask questions of any party or its legal representative present at the meeting. The parties may thereafter make closing submissions.

- 4.15 For agreed disposal of disciplinary matters, a settlement proposal as agreed between the Listing Division and the relevant parties is tabled before the Listing Committee at a meeting for the Committee to consider and where appropriate, to endorse. All settlements are subject to the Committee's approval. For transparency and procedural fairness purposes, all the parties to the disciplinary action are invited to attend the meeting at which the settlement proposal is considered, and the Committee may ask questions of the parties present regarding the proposed settlement.
- 4.16 The practices and procedures for disciplinary matters have been established under Main Board Rule 2A.15 for a considerable period of time. The Committee has agreed with the Listing Division to conduct a review of existing practices and procedures to consider what, if any, changes can be made to refine and streamline them so as to expedite resolution of disciplinary matters before the Listing Committee.
- 4.17 As in previous years, the Listing Division has continued to focus its resources on pursuing the most blatant and serious breaches of the Listing Rules with a view to utilising its existing resources to the best regulatory effect. These breaches tend to be cases where some form of public sanction will be sought against the listed company and/or directors. The enforcement strategy of the Exchange towards listed companies and their management is fully explained in both Chinese and English on the HKEx website.
- 4.18 The range of sanctions available to the Listing Committee under the existing enforcement regime is limited. The sanctions available are in the main shaming and reputational in character with a major distinction between those with publicity attached and those which remain in the private domain. This must be contrasted with the range of behaviour and conduct and differing roles of individuals who are the subject of disciplinary action. The narrow compass of sanctions available gives rise to considerable challenges in their fair application between the sometimes large number of individuals involved with their differing levels of culpability and an outcome which reflects the expectations of the Exchange and the market from the limited range available.
- 4.19 The Listing Committee, whilst recognizing the limitations on the available sanctions as discussed above, will, going forward, seek to deploy the available sanctions more creatively and in a manner which delivers an effective regulatory outcome to deal with the conduct of the relevant issuers and directors.
- 4.20 An analysis of the nature of the alleged breaches of the Listing Rules considered by the Listing Committee (whether in the disciplinary actions or by way of approved settlement) is set out below. One of the cases mentioned has been the subject of a first and then a review hearing by the Committee.
- 4.21 During 2011 Listing Enforcement has referred 3 cases, which may include egregious breaches of the Listing Rules, to the statutory regulator for consideration of possible enforcement action. Consistent with the practice in previous years, disciplinary action may be brought before the Listing Committee at the conclusion of any action brought by the statutory regulator in respect of those matters in due course, where appropriate.

- 4.22 The Listing Committee has also noted that the Listing Division has continued to take a number of steps to identify serious breaches of the Rules and dispose of less serious cases earlier by, for example, warning or taking no action if appropriate. These steps, taken in line with established criteria published on the HKEx website (<http://www.hkex.com.hk/eng/newsconsul/newsltr/2004/documents/2004-10-02-e.pdf>) and with the overall objectives outlined in paragraph 4.17 above, have once again served to substantially reduce the back-log of cases to be dealt with and the number of cases to be heard this year.

Nature of Alleged Breach of Listing Rules	Meetings	Cases
Misstatement or misleading information in announcements or listing documents	2	1
Failure to disclose price sensitive information	4	4
Director's failure to comply with the dealing restrictions during the black-out period for director's dealings in shares of the company	4	4
Total	10	9

Note: For the purposes of the above analysis cases involving more than one alleged breach of the Listing Rules are classified according to the most serious alleged breach of the Listing Rules.

- 4.23 An analysis of the outcome of the above cases is set out in the table below.

Outcome	No. of Cases
Public Sanction – published in period	9
Private Sanction – made in period	0
Total	9

- 4.24 The collective and individual responsibility of directors for compliance remains a cornerstone of the current enforcement regime. This obligation is refined by the application of the personal undertaking given by directors to the Exchange to procure Listing Rule compliance by listed companies encompassing due responsibility of ensuring substantive compliance with the Listing Rules and creating the conditions for compliance. Developing the broad enforcement themes mentioned above, action has been taken where appropriate against both executive and non-executive members of the board. The table below provides more detail and encompasses the outcomes of both public and private action at different levels against all directors who have been involved in disciplinary action before the Listing Committee.

	2008	2009	2010	2011
Number of EDs against whom action was taken as a result of contested or settlement cases	67	20	30	17
Number of NEDs against whom action was taken as a result of contested or settlement cases	17	10	4	7
Number of INEDs against whom action was taken as a result of contested or settlement cases	26	16	18	15
Total	110	46	52	39

- 4.25 In addition, ongoing disciplinary actions concern a further 65 directors holding either executive or non-executive office.
- 4.26 Further, continuing a theme established in recent years, the Listing Committee has, in addition to imposing public and private sanctions to punish past conduct by listed issuers and their management, deployed its powers to require listed issuers and their management to take remedial action to rectify breaches of the Listing Rules and improve corporate governance. Such directions have, for example, imposed training requirements and an obligation to retain external assistance to create an internal control review.
- 4.27 A number of the cases considered by the Listing Committee during the year once again illustrate the importance of (a) issuers' taking steps to ensure that they have adequate and appropriate systems in place and (b) directors having proper understanding of the Listing Rule requirements to ensure that the issuers can meet their obligations to disclose price-sensitive information including in particular, any significant changes in their financial and business performance in a timely manner. In addition, certain cases have emphasized the Exchange's views on senior management responsibility with regard to compliance systems.
- 4.28 The Exchange continues to expect directors, as senior management, to take responsibility for ensuring that listed companies identify Listing Rule compliance risk, have appropriate systems and controls in place to mitigate these risks and ensure that the systems and controls work in practice. Where deficiencies are uncovered prompt remedial action will be important. Some listed companies expect that when they self-report compliance failings there should be no further regulatory action. Self-reporting cannot automatically lead to no sanction but, as in the past, it is a factor the Listing Committee considers, in the context of the facts and circumstances of each case, to mitigate the level of sanction.
- 4.29 The following table provides some information on the Listing Committee's work in this direction.

	2008	2009	2010	2011
Number of disciplinary or settlement cases involving an “ Internal Control Review ” direction	4	6	1	1
Number of disciplinary or settlement cases involving a “ Retention of Compliance Adviser ” direction	5	5	5	1
Number of disciplinary or settlement cases involving a “ Training of Directors ” direction	4	7	6	7

- 4.30 As referred to in paragraph 4.15 above, some disciplinary matters are disposed of by settlement as approved by the Listing Committee. This approach has been adopted in a number of occasions in recent years and transparency in the process and the factors to be taken into account was the subject of an announcement on 22 June 2007. The rationale for the adoption of this policy, which has been the subject of commentary in earlier years, remains relevant and will not be repeated here. The full text of the announcement can be found on the HKEx website at <http://www.hkex.com.hk/eng/newsconsul/hkexnews/2007/0706222news.htm>.

- 4.31 The past few years witnessed an increased awareness of and a readiness to explore settlement of disciplinary matters on the part of listed issuers, directors and their professional advisers. This is further evidenced in this year in which five disciplinary matters (representing 56% of disciplinary matters disposed of this year) were concluded by settlement. In 2009, three cases were resolved in this way, and four in 2010, representing respectively 33% and 44% of disciplinary matters disposed of in each of the years. Provided the settlement terms represent an overall fair regulatory outcome to the breaches occurred and the relevant parties' conduct and achieve the Exchange's regulatory objectives, the Listing Committee continues to welcome the efforts made by the market users and the Listing Division in bringing about agreed disposal of disciplinary matters.
- 4.32 In summary, the Listing Committee has and will continue to use the existing limited powers available to it to sanction the conduct of issuers and directors who act in breach of the Listing Rules and also direct remedial and other actions designed to enhance the corporate governance of issuers who have acted in breach of the Listing Rules.
- 4.33 The Listing Committee would again take this opportunity to remind directors that the level of co-operation shown in helping the Exchange establish the facts during an investigation into suspected breaches is a factor taken into account in deciding what, if any, disciplinary action is appropriate. Directors are required by the terms of their undertaking to the Exchange, to cooperate with the Exchange to facilitate the performance of its regulatory function in responding promptly to enquiries and attending meetings with the Listing Division and the Committee when required. Breach of these obligations may give rise to disciplinary action distinct from the substantive breaches of the Listing Rules suspected.
- 4.34 As to the three areas where measures have been taken with a view to improving transparency as referred to in the Listing Committee's last three Annual Reports, the Committee would comment on them in turn. Firstly, the Committee would report that it has continued to take steps to expand on the information in public announcements concluding disciplinary action, including expanded reasons and more explanation for its actions.
- 4.35 Secondly, the Listing Committee has noted that there are now 7 announcements on the HKEx website made by the Listing Division requesting the assistance of directors in their enquiries. The full text of the announcements can be found on the HKEx website at <http://www.hkexnews.hk/reports/raa/rfaa.htm>.
- 4.36 Thirdly, the Listing Committee has also noted that the Listing Enforcement Department has delivered a total of 14 guidance letters of which 8 have been published on the HKEx website. No new letters were published during 2011. The full text of the guidance letters can be found on the HKEx website at http://www.hkex.com.hk/eng/rulesreg/listrules/interltr/2009int_letter.htm (LEGL08-09) and http://www.hkex.com.hk/eng/rulesreg/listrules/interltr/2008int_letter.htm (LEGL01-08 to LEGL07-08).

POLICY DEVELOPMENT MEETINGS

- 4.37 Policy matters are generally dealt with at policy meetings of the Listing Committee as this helps to ensure broad participation from the Listing Committee membership. The Listing Committee aims to hold policy meetings on a quarterly basis. Nonetheless it is sometimes necessary for issues to be considered at regular meetings of the Committee. These items are normally in the nature of reporting back on minor revisions to policy previously agreed at quarterly policy meetings or amendments to the Listing Rules which had previously been approved at quarterly policy meetings that were minor in nature but which, nonetheless, required the Listing Committee's approval. A total of 12 meetings were held during 2011.
- 4.38 The table below summarises the policy matters considered at the Listing Committee's policy and regular meetings during the year.

Date	Items
20th January 2011 Regular meeting	<ul style="list-style-type: none"> – Update on Proposals for Giving Statutory Backing to the Continuing Disclosure of Price Sensitive Information
10th February 2011 Regular meeting	<ul style="list-style-type: none"> – Listing Committee Report 2010 – Approval of France as a jurisdiction of incorporation for listing applicants
10th March 2011 Regular meeting	<ul style="list-style-type: none"> – Briefing on HKEx's International Strategy and RMB initiatives
17th March 2011 Regular meeting	<ul style="list-style-type: none"> – Briefing on a proposed listing of a business trust and stapled securities
24th March 2011 Regular meeting	<ul style="list-style-type: none"> – Approval of Guernsey as a jurisdiction of incorporation for listing applicants – Approval of Guidance Letter on contents of Formal Notices
18th April 2011 Policy Meeting	<ul style="list-style-type: none"> – Approval of authorisation to provide witness statements to law enforcement authorities – Approval of Consultation Conclusions and related Listing Rule Amendments: <ul style="list-style-type: none"> – Requirements for the Listing of Debt Issues for Professional Investors Only (Initial draft) – Ex-entitlement Trading and Shareholder Approval – Joint Consultation Conclusions on Changes to Property Valuation Requirements – Updates/briefings on: <ul style="list-style-type: none"> – Administering of share trading suspensions – Responses to the Consultation Paper on Review of the Corporate Governance Code and Associated Listing Rules – Contingency measures during failure of HKEx News Websites – Measures to simplify prospectuses

Date	Items
28th April 2011 Regular Meeting	<ul style="list-style-type: none"> - Reviews of: <ul style="list-style-type: none"> - Use of structured contracts by listing applicants - Joint Policy Statement on the Listing of Overseas Companies - Rules for Secondary Listings - Consideration of proposed guidance for the listing of business trusts and stapled securities
22nd August 2011 Policy meeting	<ul style="list-style-type: none"> - Approval of Alberta Canada as a jurisdiction of incorporation for listing applicants - Approval of Consultation Conclusions and Related Listing Rule Amendments: <ul style="list-style-type: none"> - Review of the Corporate Governance Code and Related Listing Rules - Requirements for the Listing of Debt Issues for Professional Investors Only (Final draft) - Approval of: <ul style="list-style-type: none"> - Guidance on contents of summary sections of prospectuses - Guidance on IPO application forms - Guidance on listing companies under Chapter 21 of the Listing Rules - Updates/briefings on: <ul style="list-style-type: none"> - Environmental, Social and Governance Reporting - Work of the Joint ETF Working Group - Matters arising from suspension of four derivative warrants - Market concerns about Mainland Issuers
1st September 2011 Regular meeting	<ul style="list-style-type: none"> - Approval of Delaware as a jurisdiction of incorporation for listing applicants
22nd September 2011 Regular meeting	<ul style="list-style-type: none"> - Report on the Securities and Futures Commission's 2011 annual review of the Exchange's performance in its regulation of listing matters - Approval of: <ul style="list-style-type: none"> - Minor amendment to the Listing Rules in respect of corporate governance matters - Delaware as a jurisdiction of incorporation for listing applicants - Extending the acceptance of Alberta Canada as a jurisdiction of incorporation for listing applicants to unlisted companies - Briefing on dual counter for trading shares in RMB and Hong Kong dollars

Date	Items
20th October 2011 Regular meeting	<ul style="list-style-type: none"> - Approval of implementation dates for Rule changes arising from the Review of the Corporate Governance Code and Associated Listing Rules
5th December 2011 Policy meeting	<ul style="list-style-type: none"> - Approval of: <ul style="list-style-type: none"> - Consultation Paper on Environmental, Social and Governance Reporting Guide - Report on Analysis of Corporate Governance Practices Disclosure in 2010 Annual Report (Initial Draft) - Guide on Connected Transaction Rules (approved for soft consultation) - Repeal of Rule 8.21B on pre-deal Research - Guidance on disclosure of intellectual property rights in prospectuses - Guidance on disclosure in listing documents for companies engaged in the restaurant business - Updates/briefings on: <ul style="list-style-type: none"> - Listing applications in progress - Contingency measures during failure of HKEx News Websites - Proposals to develop an eXtensible Business Reporting Language (XBRL) Taxonomy in Hong Kong - Listing of business trusts - Review of Requirements for Overseas listings - Trading halt policy - Proposals for Giving Statutory Backing to the Continuing Disclosure of Price Sensitive Information

MEETING STATISTICS

4.39 The following meetings were held during the period covered by this report and in the preceding period.

Nature of Meeting	Number of Meetings		Average Number of Members in Attendance	
	2011	2010	2011	2010
Regular Meetings:				
- With regular business only	43	39	15.0	13.8
- With policy items	9	12	19.9	18.8
Total	52	51	15.9	14.9
Review Meetings (*excluding reviews by Listing Appeals Committee)	5	6	5.8	6.5
Disciplinary Meetings	9	14	6	6.2
Quarterly and ad hoc policy meetings	3	4	25.7	24
Total	69	75		

5. POLICY AGENDA FOR 2012 AND BEYOND

5.1 We highlight below those matters we currently plan to consider during 2012 and beyond:

Prospectuses and listing process

- Prospectus simplification
- Streamline listing application procedures and review of associated publication requirements
- Review of operation of mixed media offerings and consideration of electronic applications
- Review of settlement process and timing
- Review of content of accountants' reports

Listing matters

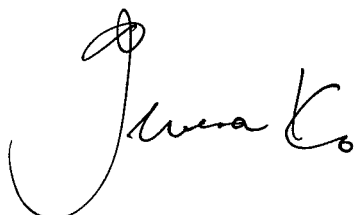
- Review of listings by overseas companies and secondary listings
- Review of listed structured products regime
- Review of business trusts
- Review of Hong Kong depository receipts
- Review of operation of Chapter 18 (mineral companies)
- Review of listing of investment vehicles

Ongoing obligations and other related matters

- Consultation conclusions on Environmental, Social and Governance Reporting Guide
- Consequential amendments to the Listing Rules from the proposed statutory backing on continuing disclosure obligations
- Review of Connected Transaction Rules
- Development of XBRL taxonomy (facilitating exchange of information through an “eXtensible Business Reporting Language”)
- Update on quarterly reporting
- Update on global corporate governance trends including board diversity
- Review of delisting procedure
- Review of trading halts

6. CONCLUSION

- 6.1 2011 was another busy year for the Committee – 133 Main Board Listing Applications were considered by the Committee. I wish to thank Mark Dickens and the staff of the Listing Division for their hard work and commitment to maintaining the high quality and standards at the Exchange and for their willingness to adapt their approach in response to the continuing evolution of our market. Special thanks to Mark Bewley for his excellent work as the Committee’s Assistant Secretary. I also wish to thank my two deputy chairmen and fellow Committee members for their time, continued support, enthusiasm and hard work during the past year.
- 6.2 This report was approved for submission to the boards of the Exchange and HKEx on 23 February 2012.

A handwritten signature in black ink, appearing to read 'Teresa Ko', with a large, stylized initial 'T'.

Teresa Ko
Chairman

MAIN BOARD AND GEM LISTING COMMITTEE MEMBERS LIST (As at 31 December 2011)

Chairman

KO Yuk-yin, Teresa

Deputy Chairmen

LEE Ka Sze, Carmelo

MOORE John Douglas

Ex officio member

LI Xiaojia, Charles

Other members (in alphabetical order)

BROWN Melissa

BROWN Tobias Josef

BUNKER Robert Edward John

CANHAM Janine Sarah

CHAN Chun Hung, Vincent

DAVIS Nigel Justin

FUNG Shing Kwong

JIANG Guorong

KEYES Terence Francois

LEUNG Heung Ying, Alvin

LEUNG Siu Tung, Anthony

LI Kai Cheong, Samson

LIU Ting An

MA Xuezheng, Mary

NG Meng Hua, Daniel

PHENIX Paul Anthony

SHIH, Edith

SOUTAR James Alexander

SUN Po Yuen, Richard

TAYLOR Stephen

WANG Sing

WINTER Richard David

WONG Koon Man, Adrian

WONG Tin Yau, Kelvin

ATTENDANCE AT MEETINGS

	NATURE OF MEETING							
	Regular (52 Meetings)		Policy (3 Meetings)		Disciplinary (9 Meetings)		Review (5 Meetings)	
	Attended	%	Attended	%	Attended/ Eligible	%	Attended/ Eligible	%
Ms. Teresa Ko ¹	39	75	3	100	0/7	0	1/2	50
Mr. Carmelo Lee ¹	44	85	3	100	6/7	86	1/2	50
Mr. John Moore ¹	40	77	3	100	0/7	0	1/2	50
Ms. Melissa Brown	31	119	2	67	2/2	100	0/4	0
Mr. Tobias Brown ⁴	15	125	2	100	4/5	80	2/3	67
Mr. Robert Bunker	23	88	1	33	2/5	40	0/1	0
Ms. Janine Canham	28	108	1	33	5/6	83	1/2	50
Mr. Vincent Chan	19	73	3	100	1/3	33	1/3	33
Mr. Nigel Davis	26	100	3	100	0/5	0	2/2	100
Dr. S K Fung	23	88	3	100	2/2	100	1/2	50
Dr. Guorong Jiang	22	85	3	100	1/3	33	1/3	33
Mr. Terence Keyes	36	138	3	100	1/2	50	1/1	100
Mr. Alvin Leung	29	112	3	100	3/4	75	1/1	100
Mr. Anthony Leung	27	104	3	100	1/5	20	3/4	75
Mr. Samson Li	30	115	3	100	2/2	100	3/3	100
Mr. Liu Ting An	30	115	3	100	2/3	67	0/1	0
Ms. Mary Ma	34	131	2	67	1/3	33	0/0	n/a
Mr. Daniel Ng	39	150	3	100	4/5	80	0/1	0
Mr. Paul Phenix	41	158	3	100	2/4	50	1/1	100
Ms. Edith Shih	25	96	3	100	1/6	17	0/3	0
Mr. James Soutar	24	92	3	100	3/7	43	1/3	33
Mr. Richard Sun	23	88	3	100	1/2	50	1/2	50
Mr. Stephen Taylor ⁴	15	125	2	100	0/1	0	1/1	100
Mr. Sing Wang ⁴	9	75	2	100	0/5	0	1/3	33
Mr. Richard Winter	22	85	2	67	7/7	100	3/3	100
Mr. Adrian Wong	31	119	3	100	2/7	29	0/1	0
Dr. Kelvin Wong	27	104	3	100	0/3	0	1/2	50
Mr. Roy Chen ⁵	10	77	1	100	1/2	50	0/1	0
Mr. Jack Chow ⁵	14	108	1	100	0/0	n/a	1/1	100
Mr. Stephen Hunt ⁵	13	100	1	100	0/1	0	0/1	0
Mr. Charles Li ¹	37	71	3	100	–	–	–	–

Notes:

- (1) For the chairman, deputy chairmen and the Chief Executive the percentage attendance at regular and policy meetings is calculated based on total number of meetings in the period. For other members percentage attendance is calculated based on the member attending half the meetings in the period in accordance with the pooling schedule. A percentage in excess of 100 indicates a member attending more meetings than allocated under the pooling schedule.
- (2) For review and disciplinary meetings, percentage attendance is based on the number of meetings a member was eligible to attend having regard to potential conflicts of interest and whether the member had attended the meeting reaching the decision that was being reviewed. The members' unavailability due to other commitments on a scheduled date has not been taken into account in the table above. The Chief Executive does not participate in review and disciplinary meetings.
- (3) Attendance includes participation by telephone in policy meetings and regular meetings at which policy matters were discussed.
- (4) Members appointed on 24 June 2011.
- (5) Members retired on 24 June 2011.
- (6) Except where indicated members served throughout the year.

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