



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

The Listing Committee Report 2013



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 2013. 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 2014 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 (or such greater number that the board of the Exchange shall agree) 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 expressions “Listing Committee” and “Committee” refer 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")(together the "Listing Rules" or "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 Initial policy development, market developments and certain operational matters are considered at Listing Liaison Forum ("LLF"). This comprises the Committee's chairman and two deputies, the Chief Executive of HKEx, and the Head of Listing. LLF generally meets on a monthly basis. In addition, on a semi-annual basis, the Committee's chairman and two deputies and Head of Listing attend a meeting of the HKEx Board to communicate with the HKEx Board on the operation of the Listing Division and the Listing Committee.
- 2.4 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 that 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, Listing Division and the Exchange have taken.

CONSULTATIONS

Consultation Conclusions on Trading Halts

- 3.1 The Exchange published a Consultation Conclusions paper on trading halts in March 2013. Taking into account the implementation of the trading halt proposals will involve significant changes to Exchange Participants' systems and operations, implementation of the proposals will coincide with the rollout of other upcoming major market infrastructure initiatives to minimise the development and testing efforts required by market participants. Subject to the rollout schedule, implementation of the trading halt proposals will not be earlier than mid-2014. The implementation date and schedule will be announced in due course.
- 3.2 The Consultation Conclusions are available on the HKEx website at <http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp201207cc.pdf>.

Consultations on Proposed Rule Changes relating to (i) Connected Transactions and (ii) the Definitions of Connected Person and Associate

- 3.3 In April 2013, the Exchange published (i) the Consultation Paper on Review of Connected Transaction Rules and (ii) the Consultation Paper on Proposed Changes to Align the Definitions of Connected Person and Associate in the Listing Rules.
- 3.4 The first Consultation Paper reviewed the Exchange’s current model for regulating connected transactions conducted by Hong Kong listed issuers and the regulation of related party transactions in other jurisdictions, and sought market views on a number of proposals to simplify the connected transaction Rules and address anomalies. This includes proposals to refine the scope of connected persons and connected transactions, fine tune the framework for continuing connected transactions, improve clarity of the connected transaction requirements and re-write the Rules in plainer language.
- 3.5 The second Consultation Paper sought market views on proposals to align the meanings of connected person and associate in certain Rules with those used in Chapter 14A of the Main Board Listing Rules (or Chapter 20 of the GEM Listing Rules) where their purposes are also to protect minority shareholders in circumstances involving actual or potential conflict of interests. Views were also sought on the proposal to rename the definitions in Chapter 1 of the Listing Rules to distinguish them from those used in Chapter 14A.
- 3.6 The consultation period ended in June 2013. The Exchange received 63 and 47 submissions to the two Consultation Papers from listed issuers, professional and industry associations, practitioners, individuals and other entities. Most of the consultation proposals were supported by a large majority of the respondents.
- 3.7 The consultation papers and the respondents’ submissions are available on the HKEx website at <http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp201304.pdf>; <http://www.hkex.com.hk/eng/newsconsul/mktconsul/responses/cp201304r.htm>; <http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp2013042.pdf>; and <http://www.hkex.com.hk/eng/newsconsul/mktconsul/responses/cp2013042r.htm>. The Exchange plans to publish the consultation conclusions and the Rule amendments in the first quarter of 2014.

LISTING DOCUMENTS

Simplifying Prospectuses, Application Forms and Related Documents

- 3.8 Following on the listing document simplification initiative culminating in the publication of guidance materials on how to prepare a formal notice and various sections of a prospectus (“Summary and Highlights”, “Industry Overview”, “History and Development” and “Business”), we have published new and revised guidance letters under the prospectus theme as follows:

Risk Factors Section of a Prospectus

- 3.9 The Listing Division published a guidance letter HKEx-GL54-13 in May 2013 on how to draft risk factors which will help investors understand and focus on specific risks before making informed investment decisions.

Application Forms and How to Apply Section of Prospectus

- 3.10 The Listing Division completed a review of the white and yellow application forms (“AFs”) and the prospectus section “How to apply for Hong Kong Offer Shares” (“HTA”) to make these documents more user friendly. The review conclusion which was published as Guidance Letter HKEx-GL64-13 in July and updated in December 2013, gives guidance on disclosure in AFs and HTA to ensure that the information disclosed is relevant, concise and in plain language.

LISTING MATTERS

Listing Rules Amendments, Streamlined Vetting Process and Revised Procedures to Complement the SFC’s New Sponsor Regulation

- 3.11 The Listing Division amended the Listing Rules relating to new listing applications of equity securities and certain collective investment schemes to complement the SFC’s new sponsor regulation with effect from 1 October 2013 (subject to certain transitional arrangements).
- 3.12 The new sponsor regulation is consequential to the SFC’s Consultation Conclusions published in December 2012 regarding its Consultation Paper on the regulation of IPO sponsors issued in May 2012.
- 3.13 These Rule amendments, in material part:
- Dovetail the Listing Rules with the new paragraph 17 of the “Code of Conduct for Persons Licensed by the Registered with the Securities and Futures Commission” and set a minimum period of 2 months from the date of the sponsor’s formal appointment to submit a listing application;
 - Require that the initial draft of the listing document submitted for vetting (the “Application Proof”) must be substantially complete;
 - Impose an 8-week moratorium on returned listing applications which could not meet the substantially complete requirement; and establish an accelerated process for reviewing the Listing Division’s decision on returning the applications;
 - Establish a streamlined regulatory commenting process focusing on major issues such as eligibility, suitability, sustainability, Listing Rules, the Companies Ordinance (Cap. 32) and Securities and Futures Ordinance (Cap. 571) compliance and any material disclosure deficiencies;
 - Subject to transitional arrangements, require the publication on the Exchange’s website of the Application Proof and a later draft of the listing document after the Listing Committee hearing (i.e. Post Hearing Information Pack (“PHIP”));
 - Set the content and publication requirements of Application Proofs and PHIPs; and
 - Re-define the required documents for new listing applications.
- 3.14 New and revised guidance materials have also been published on HKEx’s website to explain the logistics and key aspects of the Rule amendments and provide templates for action. The Exchange has set up training sessions for sponsors and market practitioners to help them adapt to the new Rules and streamlined vetting process.

3.15 To allow regulators, market practitioners and new applicants more time to get familiar with the new process before full implementation, we have built in transitional arrangements which include:

- From 1 October 2013 to 31 March 2014, the Exchange will suspend:
 - The publication of the Application Proofs;
 - The publication of the name of the new applicant and the sponsor where an Application Proof is returned by the Exchange; and
 - The submission of a Chinese version of the Application Proof.

3.16 The SFC and the Exchange are reviewing the effectiveness of the 3-day check (i.e. an initial 3-day check of the Application Proof based on a prescribed checklist) and will inform the public of the review conclusion in due course.

Review of Overseas Company Listing Regime

3.17 In September 2013, the Exchange and the SFC published a revised Joint Policy Statement Regarding the Listing of Overseas Companies (“revised JPS”). This clarified our requirements, provided regulatory certainty for overseas companies seeking either a primary or secondary listing in Hong Kong and maintained high standards of regulation, investor protection and corporate governance. The key elements of the revised JPS are:

- Shareholder protection standards – refining key shareholder protection standards by removing from the revised JPS those already covered by the Listing Rules;
- Regulatory co-operation arrangements – expanding the regulatory co-operation arrangements expected to be in place with relevant overseas jurisdictions;
- Accounting and auditing related and other disclosure requirements – providing guidance on acceptable overseas accounting and auditing standards;
- Practical and operational matters – highlighting some practical or operational matters that overseas companies contemplating a listing in Hong Kong may encounter, such as cross-border clearing and settlement;
- Suitability for secondary listing – clarifying the approach to vetting the suitability of companies applying for secondary listings; and
- Waivers – providing guidance on the common waivers the Exchange is prepared to grant an overseas company with, or seeking, a listing and on the waivers that are automatically granted to companies with, or seeking, a secondary listing if they meet the criteria described in the revised JPS.

3.18 The Exchange also published 20 “Country Guides” in December 2013. These set out, among other things, comprehensive and user-friendly guidance that is tailor-made for companies incorporated in a particular jurisdiction seeking a listing on the Exchange.

3.19 The SFC and the Exchange have agreed that the Exchange will likely amend the Listing Rules in the longer term to incorporate the practical experience the Exchange gains from using the revised JPS.

Review of weighted voting rights regimes

- 3.20 At the April 2013 policy meeting, the Committee considered whether as part of the soft consultation with the financial community on the overseas company listing regime, views on weighted voting rights should also be sought. The Committee decided that the Listing Division should carry out a review of weighted voting rights regimes more generally as a separate exercise from the overseas company listing regime and to report back with an outline paper that could form the basis of a future public consultation.
- 3.21 At the July 2013 policy meeting, the Committee considered the outline paper produced by the Listing Division and asked the Listing Division to undertake further analysis and draft a paper for fuller consideration by the Committee (and the SFC).
- 3.22 At the October 2013 policy meeting, progress was made in developing a course of action which may lead to a public consultation exercise.

Update on Review of Structured Contracts

- 3.23 At the July 2013 policy meeting, the Committee considered the impact on the existing policy on contract-based arrangements (“Structured Contracts”) arising from a recent PRC court judgment which held that the use of certain trust arrangements unlawfully circumvented the PRC’s ownership restriction on foreign investment for certain businesses. Having obtained a PRC legal opinion confirming that such PRC court judgment would not affect the legality and validity of the use of Structured Contracts, the Committee confirmed the acceptance of Structured Contracts. The Committee also concluded that where the relevant laws and regulations specifically disallow foreign investors from using any agreements or contractual arrangements to gain control of or operate a foreign restricted business (e.g. on-line game business in the PRC), the legal adviser’s opinion on the Structured Contracts must include a positive confirmation that the use of the Structured Contracts does not constitute a breach of those laws and regulations and that the Structured Contracts will not be deemed invalid or ineffective under those laws and regulations.
- 3.24 The Listing Division became aware that listing applicants were using Structured Contracts to avoid compliance with the PRC requirements for foreign investors to have overseas experience in certain industries (“Qualification Requirements”) in addition to the limitation on foreign ownership. The Committee reviewed the permitted scope of Structured Contracts in October 2013 and concluded that the use of Structured Contracts should be tailored narrowly to address only the foreign ownership restriction. Hence, applicants cannot rely on Structured Contracts to avoid complying with the Qualification Requirements and must demonstrate to the satisfaction of the Exchange that they have, upon advice from their legal advisers, reasonably assessed the requirements under all applicable rules and have taken all reasonable steps to comply with them before listing. The Listing Division will continue to monitor the use of Structured Contracts based on current principles.
- 3.25 Listing Decision HKEx-LD43-3 has been revised accordingly and the updated version was published in November 2013.

Analysis of Corporate Governance Practices Disclosure in 2012 Annual Reports

- 3.26 The revised Corporate Governance Code and Corporate Governance Report (“Corporate Governance Code”) became effective on 1 April 2012. The Listing Division reviewed issuers’ compliance with the Corporate Governance Code by analysing the disclosures made by 1,083 issuers in their 2012 annual reports, focusing on the period from 1 April to 31 December 2012 (the “Review”). The 1,083 issuers represent 70% of all issuers listed as at 31 December 2012. The issuers were selected on the basis that they had a financial year-end falling between 30 April and 31 December 2012.
- 3.27 The Review shows that issuers responded positively and swiftly to the changes made in the Corporate Governance Code.
- 3.28 The Listing Committee approved the publication of the “Analysis of Corporate Governance Practice Disclosure in 2012 Annual Reports” which was published in November 2012. A copy of the Analysis can be accessed at: http://www.hkexnews.hk/reports/corpgovpract/Documents/CG_Practices_2012_e.pdf

Review of Approach to Handling Long Suspended Companies

- 3.29 In the July 2013 policy meeting, the Listing Committee reviewed the Exchange's approach to handling long suspended companies. “Long suspended companies” refer to companies whose trading has been suspended for over three months. They include (i) companies which are in severe financial difficulties and/or have ceased to maintain sufficient operations or assets to warrant a continued listing. They are subject to the delisting procedures under the Rules (“PN 17 companies”); and (ii) companies which are suspended due to material issues including identified irregularities and/or regulatory investigations, and failure to publish financial results or significant internal control weaknesses.
- 3.30 The Committee noted that many PN 17 companies have been suspended for a fairly long time, significantly longer than the minimum 18 months under the 3-stage delisting process (for the Main Board). The prolonged suspension is attributable to a number of factors, including that many companies only submitted resumption proposals shortly before expiry of a delisting stage, and the proposals were often not in a substantially final form. The delisting procedure would be further prolonged if the companies sought to review the Exchange’s decision to reject the proposal and to put them in the next delisting stage (or delist them if they were in the final stage). Under the current Rules, a company is entitled to two levels of review of the Exchange’s decision.
- 3.31 Considering the above, the Committee endorsed the Listing Division's recommendations to adopt new administrative requirements for PN 17 companies to submit resumption proposals in a substantially final form. A guidance letter (HKEx-GL66-13) to describe the new requirements and the expected standards of resumption proposals was published. The Committee also noted that the current delisting procedure under the Rules is cumbersome and in the longer term will consider streamlining the delisting procedure and the review procedures applicable to these companies.

- 3.32 For companies suspended due to material issues, the Committee observed that the suspension period of these companies varied depending on the complexity of the issues. The Listing Rules do not specify a delisting procedure for these companies, but generally require a listed company to keep its suspension duration to the shortest possible period. The Rules empower the Exchange to delist a company if it remains suspended for a prolonged period without taking adequate actions to resume trading. However, the Exchange has been cautious in applying this Rule out of concern for minority shareholders' interests. The Committee acknowledged that in many cases the issues are complex and the companies require considerable time to investigate and resolve the issues, and a delisting may not be in minority shareholders' interest. Nevertheless, the Committee considered that in the interest of a fair and continuous market for trading of listed securities, any suspension for a prolonged period should be avoided as it denies investors access to the market and prevents its proper functioning.
- 3.33 A guidance letter (HKEx-GL66-13) has been published to promote transparency and facilitate investors' understanding of the Exchange's approach to handling this type of long suspended companies. In the longer term, the Exchange may review the delisting Rules for these companies.

Review of Reverse Takeovers Requirements

- 3.34 In October 2013, the Listing Committee considered a discussion paper on the current reverse takeover policy and an analysis of the Listing Division's approach in applying the reverse takeover Rules ("RTO Rules"). The paper also included a review of 173 material acquisitions between January 2011 and August 2013.
- 3.35 The current RTO Rules and policy were reviewed and endorsed by the Committee in 2009 and 2010, and discussed in those Listing Committee annual reports. The Committee considered the current approach in handling backdoor listing transactions has worked well. Since the Committee's endorsement of the RTO policy in 2010, the criteria used to assess whether a transaction is an "extreme" case subject to the RTO Rules have been robustly applied. The current approach strikes a balance between allowing legitimate business activities such as business combinations and expansions, and applying the more onerous new listing requirements to cases which are, in substance, buying listed shells.
- 3.36 The Committee also endorsed the current approach and some fine-tuning to the RTO policy:
- Addition of de facto control test in the principle-based test – The Committee noted that the bright line tests may be circumvented through the issue of highly dilutive convertible securities as consideration for the acquisition. It also noted that under the principle-based test, it is possible that a Very Substantial Acquisition ("VSA") that is not "extreme" when measured against other criteria may be "extreme" when considered together with an issue of highly dilutive convertible securities, and a change in the listed company's board and/or controlling shareholder. The Committee considered that change in de facto control should be included as a factor when considering whether a proposed transaction is an "extreme" case warranting the application of the RTO Rules under the principle-based test.
 - Realignment of RTO policy on rescue proposals – The Committee endorsed a policy in 2010 that a VSA may not be treated as an RTO where the asset injected is not from the incoming shareholder, and is in the same line of business as the original business of the company. This was to facilitate management in reactivating the company's business, which may require some acquisitions to bring the activities up to a level suitable for relisting. This policy intention may not have been achieved, as the characteristics of cases reviewed were more in line with a backdoor listing instead of reactivation.

- To strike a better balance between the quality of listed companies and shareholder protection, the Committee endorsed a realignment of the RTO policy applicable to rescue proposals: where the company that is the subject of the rescue proposal is a shell company or has a minimal level of operations, we will apply the RTO Rules. Depending on the facts and circumstances, the RTO Rules may not apply in the case of a business reactivation where the company maintains a reasonable degree of operations throughout the period of suspension and makes acquisitions to supplement its current operations.

3.37 The Committee also considered the following:

- Removal of the 24-month test – The Committee noted some issuers proposed asset injections 24 months after a change in control, which appeared to circumvent the bright line test. It considered and decided that the 24-month test under the bright line test should not be removed. The Exchange experience did not show a widespread circumvention in this regard. In any event, such asset injections would be evaluated under the principle-based test and may be subject to the RTO Rules where it is considered an “extreme” case under the test.

Review of Capital Raising by Listed Issuers

3.38 In April 2013, the Committee considered a paper on the review of Rule requirements and practices relating to open offers in recent years, which followed a review of rights issues conducted in 2012. During the review period, open offers only accounted for 3% of the total funds raised, and issuers conducting highly dilutive open offers or rights issues were usually smaller cap issuers. The review concluded that open offers and rights issues in general were not highly abusive, in terms of either pricing discount or dilution impact. While both open offers and rights issues are pre-emptive offers, open offers conceptually provide less protection to shareholders than rights issues as shareholders cannot sell their rights to subscribe shares under open offers. In view of the results of the review and the low level of fund raising by open offers, the Exchange did not propose any Rule changes for the time being.

3.39 In 2013, the Exchange also conducted a review of issuers’ capital raising transactions, including placings under general mandates. For the period from 2009 to 2012, while there was no material change in the percentage of issuers seeking a general mandate, the percentage of issuers seeking a refreshment of general mandate decreased substantially from 6% in 2009 to 1% in 2012. It was also noted that while funds raised through placings under general mandates increased (compared to other methods of fund raising), the percentage of issuers that placed shares under general mandate decreased. Among issuers that conducted placings, there was a slight decrease in the utilisation of general mandates as 44% issued less than 10% of their issued share capital under general mandate (2009: 26%); further, the average discount of the placing price to market price also decreased slightly, from 10% in 2009 to 8% in 2012. The review did not reveal any widespread abuse, and the Committee considered that it was not necessary to review the Rules in this area at this time. The Exchange continues to monitor developments in this area.

3.40 At the October 2013 policy meeting, the Committee agreed that there are merits to amending the Rules to allow overseas issuers to hold treasury shares. To provide issuers prohibited from holding treasury shares under their local laws (e.g. Hong Kong issuers) with similar benefit, the Committee also agreed to examine a block listing regime to expedite the reissue of cancelled shares by those issuers. This regime involves the Exchange giving a standing approval for listing of repurchased shares up to the number of shares that can be repurchased by an issuer under a shareholder mandate. The Exchange will work with the SFC to explore the feasibility of the treasury shares and block listing proposals.

Handling of Listing Applicants/Listed Issuers with Business in Countries Subject to Economic Sanctions

- 3.41 From May 2012 to February 2013, the Listing Committee considered a few listing applications by applicants with business in countries subject to trade or economic sanctions (“Sanctioned Countries”) imposed by other jurisdictions such as the United States, the member states of the European Union and Australia.
- 3.42 Those sanctions restrict the nationals of the imposing jurisdictions from making assets or services available, directly or indirectly, to the Sanctioned Countries. Some sanctions have extra-territorial effect on persons who are not nationals of the imposing jurisdiction; and implications for activities or investments which may be regarded as financing, facilitating or contributing to the enhancement of a Sanctioned Country’s ability to develop certain specific products or industries. An issuer with business in a Sanctioned Country might therefore expose it, its investors, and other entities which may be involved in the listing process to a sanctions risk. This raises the issue of suitability for listing.
- 3.43 The Committee approved the new listing applications given the applicants’ risk mitigation measures and the legal opinion that the sanctions risks to the relevant parties were very low.
- 3.44 In October 2013, the Committee considered a policy paper on the handling of applicants and listed issuers with business in Sanctioned Countries. The Committee agreed that sanctions risks, if any, to the relevant parties and their impact turned on the particular facts of the individual case. A case by case assessment is required to determine the issue of suitability for listing. Where suitability for listing may be a concern as a particular activity of the applicant is sanctionable, it would case by case consider requiring the applicant to take risk mitigation measures before listing. For guidance, the Exchange recently published a listing decision HKEx-LD76-2013.
- 3.45 Once listed, an issuer must comply with the Listing Rules which promote the protection of investors and the maintenance of an orderly market. Under the Inside Information Provisions², a listed issuer must timely disclose information relating to it that is likely to materially affect its share price (e.g. any material sanctions risks, regulatory action/litigation or sanctions and their impact). Given this, investors are able to make a properly informed assessment of the issuer and hence an informed investment decision.
- 3.46 An issuer’s suitability for continued listing/trading would be an issue in an extreme case where, for example, (i) the impact of sanctions or sanctions risks is material and the issuer cannot properly disclose the information to allow trading in an orderly manner; (ii) the sanctions risks and sanctions imposed have materially undermined the issuer’s business and the issuer does not have sufficient operations or assets required under the Rules to maintain a listing status; or (iii) the sanctions risks to it, its investors or other entities which may be involved in the listing process are significant.
- 3.47 When issuers conduct secondary equity fundraisings, we would consider their listing applications case by case. Where the funds are raised to finance sanctionable activities, we would unlikely give the listing approval. Where the funds are raised for activity which is likely to attract sanctions, we may ask the issuer for a legal opinion ascertaining the sanctions risks to the relevant parties before we give the listing approval. Where the funds are not to be used for sanctionable activities or business that is likely to attract sanctions, we would normally give the listing approval.

² Part XIVA of the Securities and Futures Ordinance (Cap. 571).

Updates on the Results of Implementation of the Guide on Enhancing Regulation of the Listed Structured Products Market

- 3.48 The Guide on Enhancing Regulation of the Listed Structured Products Market (the “Guide”) was published in July 2012. The Guide aims to foster higher standards across structured products issuers, enhance service levels of liquidity providers and promote the healthy long-term development of Hong Kong’s listed structured products market.
- 3.49 Following the implementation of the Guide, we monitored issuers’ and liquidity providers’ compliance with regulatory requirements, committed service levels set out in listing documents and industry best practices set out in the Guide. In July 2013, the Committee was presented with a report on the results of implementation of the Guide. The review indicated that in general there are no fundamental issues that require further tightening of industry standards or regulations at the current stage.
- 3.50 The Exchange shall continue to provide guidance to issuers in areas where improvements can be made. To enhance market efficiency, the Exchange shall continue to assess the possibility of further streamlining operations and listing documents in relation to the listed structured products market.

Update on Quarterly Reporting

- 3.51 During 2013, the Committee noted the latest European Union developments in abolishing the mandatory requirement for Quarterly Reporting and agreed that no changes be made to the extant Recommended Best Practice (“RBP”) for Main Board issuers and considered that there was no longer a need to consider consulting the market in the short term on mandating Quarterly Reporting for Main Board issuers. The Committee continues to monitor the extant mandatory requirement for GEM issuers to issue Quarterly Reports and will reconsider at a later stage, whether an alignment with the existing RBP for Main Board Issuers should take place, or even completely removing it as a requirement for GEM issuers if it is considered appropriate to remove it as a RBP for Main Board Issuers. These considerations will be subject to a separate consultation exercise.

SFC Legal Proceedings over Access to Accounting Records

- 3.52 The Committee continues to monitor developments in the SFC’s case against a firm of accountants for failing to provide accounting records and audit working papers relating to the firm’s work as auditor and reporting accountant. If necessary, the Committee will work with relevant parties for further enhancements of co-operation between Hong Kong and Mainland regulators in relation to access of audit working papers in the PRC.

Disclosure in Results Announcements of Prior Year Adjustments Due to Correction of Material Errors

- 3.53 During 2013, the Committee considered whether issuers could be requested to disclose specifically in their results announcements when a prior year adjustment was made due to a correction of prior period error. This would help to easily identify financial statements that might need further investigation when such prior year adjustments are made. Unlike significant changes in accounting policies, there is currently no explicit provision in the Listing Rules for the disclosure of correction of prior period errors in the issuers’ results announcements. The Committee endorsed the proposed amendment and this will be subject to a consultation exercise in due course.

New Enforcement Statement and New Procedures for Disciplinary Action Involving Listing Rules

- 3.54 In September 2013, the Exchange published a new statement on its approach to enforcement of the Listing Rules (“Enforcement Statement”), and implemented new procedures for disciplinary matters involving breaches of the Listing Rules (“New Disciplinary Procedures”). Attached to the New Disciplinary Procedures is a statement on principles and factors in determining sanctions and directions imposed by a Listing (Disciplinary) Committee or Listing (Disciplinary Review) Committee for Listing Rule breaches (“Sanctions Statement”).
- 3.55 The Enforcement Statement outlines, amongst other matters, the Exchange’s approach towards the enforcement of the Listing Rules and the criteria for assessing the appropriate level of enforcement action. It also contains a number of reminders on the Exchange’s continuing expectations with respect to compliance related matters. The Sanctions Statement is designed to assist a Disciplinary or Review Committee in achieving consistency in determining and imposing sanctions. The publication of these statements is part of the Exchange’s continuing efforts to enhance transparency of the decision-making process involved in enforcement of the Listing Rules.
- 3.56 As for the New Disciplinary Procedures (which apply to disciplinary proceedings commencing from 13 September 2013), they represent a continuing effort on the part of the Exchange to improve the efficiency, timeliness and effectiveness of its enforcement actions. They ensure that parties subject to disciplinary actions have the right to be heard and that the Exchange will observe the principles of natural justice and due process. They are intended to enable the Committee to deal with all disciplinary matters expeditiously and on merits, and are designed to be flexible.
- 3.57 Features of the New Disciplinary Procedures include enhanced case management powers for the chairman of a Disciplinary Committee who may make directions in respect of the conduct of the disciplinary proceedings; reduction of the number of written submissions to be filed as a matter of course during the disciplinary process; strict adherence to all time limits provided for under the procedures and the directions made by the chairman of the Disciplinary Committee; and encouragement of earlier hearing dates.

Review of Disciplinary Sanctions Available to the Listing Committee

- 3.58 At the July 2013 policy meeting, the Listing Committee considered a paper prepared by the Listing Division on the review of the sanctions available to the Listing Committee in exercise of its disciplinary power under the Listing Rules.
- 3.59 As mentioned in the 2012 Listing Committee Report, the range of sanctions available to the Listing Committee under the existing enforcement regime is limited. The Listing Committee, whilst recognising the limitations on the available sanctions, seeks 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 as well as to remedy the consequence of the breach.

- 3.60 It is against this background that the paper was presented to the Committee for consideration in July 2013. The paper (a) contained a high level review of the existing range of sanctions and directions the Listing Committee may impose and their application in recent years; (b) explored deployment of further possible sanctions and directions on remedial actions under the existing scope of the power of the Listing Committee; and (c) identified related issues which require to be addressed if the proposals at (b) are to be taken further.
- 3.61 Having had a preliminary discussion, the Committee agreed that the Listing Division is to conduct further study, seek further legal advice and report back in due course.

4. MEETING STATISTICS AND ACTIVITIES

MEETINGS TO APPROVE NEW LISTING APPLICANTS

- 4.1 One of the principal items of business at 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	2013	2012
Meetings Within the Regular Schedule	37	39
Specially Convened Meetings	5	1
Listing Applications considered by the Listing Committee	2013	2012
Applications Considered (see note 1 below)	106	63
Applications Approved (see note 2 below)	101	55
Applications Rejected (see note 3 below)	3	5
Decisions Deferred Pending Further Information (see note 4 below)	2	3
Applications approved and listed in the year	81	37
Applications approved in previous year and listed in the year	6	13
Applications listed in the year	87	50

Notes:

- (1) In 2013 includes two Very Substantial Acquisitions and reverse takeovers treated as new listing applications.
- (2) In 2013 includes seven applications approved at the second hearing including one that was rejected at the first hearing. In 2012 includes six applications approved at the second hearing.
- (3) In 2012 includes one application that was rejected at the second hearing.
- (4) In 2012 includes one application considered twice.

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 Listing Rules. They may also be delisted under Chapter 6 of the Main Board Listing Rules. GEM Listing 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 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, also 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	
	2013	2012
Main Board		
Companies to be placed into third stage of delisting procedures		
– Without company having submitted resumption proposal	–	2
– After rejecting resumption proposal as not viable	1	1
Resumption proposals ruled as reverse takeover (note2)	2	0
Listing to be cancelled		
– Without company having submitted resumption proposal	1	–
– After rejecting resumption proposal as not viable (notes 3 and 4)	1	1
Company to be given notice of intention to delist under Rule 6.10 (note 5)	–	1
Trading to be resumed (note 6)	2	1
GEM		
Company to be given notice of intention to delist under GEM Rule 9.14	1	1
Listing to be cancelled after rejecting resumption proposal as not viable (note 7)	1	–
Company requested to provide additional information to support resumption proposal	1	–
Trading to be resumed	1	–

Notes:

- (1) Unless otherwise indicated these decisions were not appealed against.
- (2) The Listing Committee allowed additional time for the company to submit a new listing application to the Exchange for approval.
- (3) The decision in 2012 was appealed against. The company submitted a revised resumption proposal to the Listing (Review) Committee (“LRC”), and the LRC decided to refer the revised proposal to the Listing Committee for consideration. The Listing Committee considered the case in 2013 and decided that the proposal would constitute a reverse takeover and required the company to submit a new listing application within a deadline (see also note 2).
- (4) The decision in 2013 was appealed against and the LRC decided to allow the company to resume trading subject to conditions.
- (5) The decision in 2012 was appealed against. In 2013, the LRC and the Listing Appeals Committee (“LAC”) upheld the decision to cancel the company’s listing. The company was delisted in 2013.
- (6) This includes one case where the resumption proposal was ruled as a reverse takeover by the LAC in 2012 and approved by the Listing Committee in 2013 after the company has satisfied the new listing requirements.
- (7) The decision was appealed against. The company subsequently withdrew its application for a review of the delisting decision. It was delisted in 2013.

- 4.5 During the year, the Exchange approved two resumption proposals involving fund raisings and debt restructuring to resolve financial difficulties. In these cases, the companies continued to operate their businesses existing at the time of trading suspension which had turned around and achieved profitability.
- 4.6 The Exchange also considered two resumption proposals which constituted reverse takeovers and granted additional time for the companies to submit a new listing application. The Exchange continued to observe resumption proposals involving companies being acquired as a listed shell. These companies had ceased operations and new businesses would be injected under the proposals. In those cases, the RTO Rules applied and the companies were required to comply with the new listing requirements and submit a new listing application for the Exchange's approval.
- 4.7 The Exchange rejected three resumption proposals as they were considered not viable. In one case, substantially all of the company's businesses and assets were proposed to be transferred to the creditors and the company would only retain a very small operation. The Listing Committee was not satisfied that the proposal had demonstrated a sufficient level of operations or assets to warrant a continued listing on the Exchange. In the other two cases, the proposals were not in an advanced form as their terms were not finalised. They also displayed characteristics of reverse takeovers as they involved investors injecting businesses into the companies, which had no operations and were essentially listed shells, in exchange for significant equity interests in the shells. As the companies and the injected businesses did not satisfy the new listing requirements, the proposals could not proceed under the Listing Rules.
- 4.8 The appeals by Hontex International Holdings Company Limited against the Listing Committee's decision to cancel its listing were heard this year. Both the Listing (Review) Committee and Listing Appeals Committee decided to uphold the Listing Committee's decision to delist the company after the completion of a share repurchase offer accepted by most minority shareholders, taking into account the disclosure of false information in its prospectus (as acknowledged by the company). The Committees considered that the issue giving rise to the delisting decision could not be addressed by way of a business acquisition proposed by the company in its submissions for the appeals. The company was delisted on 23 September 2013.

MEETINGS FOR OTHER REGULAR BUSINESS

- 4.9 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.

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

Nature of decision/advice sought	Number of cases	
	2013	2012
Requests for pre-application guidance from potential IPO applicants (Note 1)	11	6
Approval of voluntary withdrawal of listing (Note 2)	7	26
Approval of waiver from providing an assured entitlement in a spin off	3	2
Determination that a transaction was not a reverse takeover	3	1
Approval of resumption proposal	2	1
Extend deadlines in connection with resumption proposals	2	–
Approval of an issuer of structured products	1	2
Conditional approval for placings to a connected client of a sponsor	1	1
Determination that a transaction was a reverse takeover	1	–
Approval of waiver from requirement to cancel repurchased shares	1	–
Approval of waiver to reduce public float of an issuer	1	–
Consideration of spin off proposal	1	–
Consideration of issues arising from an issuer's withdrawal of an overseas listing	1	–
Consideration of individuals' suitability to be directors	1	–
Consideration of listing eligibility requirements for a GEM applicant	1	–
Waiver of "bright line" test in Rule 14.06(6)(a)	–	1

Note 1: 2013 includes two cases considered twice.

Note 2: 2013 includes four ETFs (2012: thirteen) and one debt security (2012: three).

REVIEW MEETINGS

4.11 The Listing Committee considered eleven (2012: four) 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 three (2012: three) 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 2013
Listing Appeals Committee	Listing (Disciplinary Review) Committee	Disciplinary sanction	2	Upheld
	Listing (Review) Committee	Cancellation of listing	1	Upheld
Listing (Review) Committee	Listing Committee	Rejection of application for listing	4	Upheld: 3 Overturned:1
	Listing Committee	Cancellation of listing	3	Upheld: 1 Overturned:2
	Listing Committee	Decision to require additional information on a listing application	2	Upheld (Note:1)
Listing Committee	Listing Division	Determination that a proposed transaction was a reverse takeover	2	Upheld

Note 1: The Listing (Review) Committee considered one of the cases twice, overturning the initial decision at the first meeting and subsequently upholding the initial decision at the second meeting.

4.12 As at 31 December 2013, there was one case under review as follows:

Appeal Committee	Decision made by	Nature of Decision	Number of Cases
Listing Committee	Listing Division	Determination that an acquisition was a reverse takeover	1

DISCIPLINARY MEETINGS

- 4.13 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. In respect of disciplinary proceedings commenced before 13 September 2013, 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.
- 4.14 For agreed disposals 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 appear before the Committee to address any concerns which the Committee may have in respect of the settlement proposal, and the Committee may also ask questions of the parties present regarding the proposed settlement.
- 4.15 The practices and procedures for disciplinary matters have been established under Main Board Listing Rule 2A.15 for a considerable period of time. As mentioned in our report of last year, in November 2012, a paper with proposed changes to the then practices and procedures with a view to refining and streamlining them so as to expedite resolution of disciplinary matters was presented to the Listing Committee. The Committee was generally in support of the proposals, and further work was undertaken this year, which culminated in the publication of the New Disciplinary Procedures on 13 September 2013 which apply to proceedings commenced on or after that day.
- 4.16 Features of the New Disciplinary Procedures are set out in paragraphs 3.56 and 3.57 above. Two disciplinary actions have now been conducted under the new procedures, and there will be more in 2014.
- 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. To enhance transparency of the decision-making process involved in the enforcement of the Listing Rules, the Enforcement Statement referred to in paragraph 3.54 was published in both Chinese and English on the HKEx website on 13 September 2013, with information and reminders as detailed in paragraph 3.55 above.
- 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 As mentioned in paragraphs 3.58 to 3.61 above, in July 2013, the Committee considered a paper which contained a high level review of the existing range of sanctions and directions the Committee may impose and their application in recent years; and explored deployment of further possible sanctions and directions on remedial actions. The Exchange will conduct further study and will report back in due course with further recommendations.
- 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. The Committee also notes that two of the cases, with their first and then review hearings by the Committee in 2012, have been concluded with publication of a censure announcement in March 2013 and a criticism announcement in June 2013 respectively, each following a review by the Listing Appeals Committee.
- 4.21 During 2013 the Listing Enforcement Team has referred 14 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, cautioning or taking no action if appropriate. These steps, taken in line with established criteria published on the HKEx website 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	1	1
Failure to disclose price sensitive information	10	6
Failure to obtain shareholder approval for connected transactions, major transactions or very substantial acquisitions	2	1
Total	13	8

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 Separately, in the year the Committee also held one first instance hearing in respect of disciplinary actions which remained ongoing as at the year-end.

4.24 An analysis of the outcome of the above disciplinary cases concluded in the year is set out in the table below.

Outcome	No. of Cases
Public Sanction – published in period	8
Private Sanction – made in period	0
Total	8

4.25 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.

	2013	2012	2011
Number of EDs against whom action was taken as a result of contested or settlement cases	35	37	17
Number of NEDs against whom action was taken as a result of contested or settlement cases	3	12	7
Number of INEDs against whom action was taken as a result of contested or settlement cases	19	17	15
Total	57	66	39

4.26 In addition, ongoing disciplinary actions concern a further 17 directors holding either executive or non-executive office.

4.27 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 function.

4.28 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 emphasised the Exchange's views on senior management responsibility with regard to compliance systems.

4.29 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.

4.30 The following table provides some information on the Listing Committee’s work in this direction.

	2013	2012	2011
Number of disciplinary or settlement cases involving an “Internal Control Review” direction	6	4	1
Number of disciplinary or settlement cases involving a “Retention of Compliance Adviser” direction	7	7	1
Number of disciplinary or settlement cases involving a “Training of Directors” direction	8	10	7

4.31 As referred to in paragraph 4.14 above, some disciplinary matters are disposed of by settlement as approved by the Listing Committee. The new disciplinary procedures referred to in paragraph 3.56 above include procedures for resolution of disciplinary business by agreement. This settlement 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 announcement can be found at <http://www.hkex.com.hk/eng/newsconsul/hkexnews/2007/0706222news.htm>.

4.32 Provided the terms represent a fair overall regulatory outcome and treatment of the conduct giving rise to regulatory concern and achieve the Exchange’s regulatory objectives, the Listing Committee continues to welcome the efforts made by market users and the Listing Division to bring about the settlement and agreed disposal of disciplinary matters. Continuing the trend witnessed in the past few years, four disciplinary matters (representing 50% of actions disposed of this year) were concluded by settlement.

4.33 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.

4.34 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 co-operate 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.

- 4.35 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 four 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.
- 4.36 Secondly, the Listing Committee has noted that there are now seven 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>.
- 4.37 Thirdly, with reference to the guidance letters delivered by Listing Enforcement which had been published on the HKEx website, following implementation of the statutory regime to disclose inside information with effect from 1 January 2013, three of those guidance letters were no longer effective and were repealed.
- 4.38 Another effort which has been made in 2013 to enhance transparency of the decision-making process is the publication of the Sanctions Statement referred to in paragraph 3.54 above on 13 September 2013, available in both English and Chinese on the HKEx website. The statement contains the principles and factors in determining sanctions and directions to be imposed by a Disciplinary or Review Committee, and is aimed at achieving consistency in the Committee's application of sanctions and directions.

POLICY DEVELOPMENT MEETINGS

- 4.39 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. Policy matters were considered at 13 meetings during the year.
- 4.40 The table below summarises the policy matters considered at the Listing Committee's policy and regular meetings during the year.

Date	Items
17 January 2013 Regular meeting	– Review of draft Guidance on Disclosure of Risk Factors in Prospectuses
7 February 2013 Regular meeting	– Approval of Listing Committee Report 2012 – Approval of Guidance on Cornerstone Investments
28 February 2013 Regular meeting	– Approval of Guidance on the Rule implications arising from the adoption of Hong Kong Financial Reporting Standard 10/ International Financial Reporting Standard 10 – Consolidated Financial Statements

Date	Items
21 March 2013 Regular meeting	<ul style="list-style-type: none"> – Approval of The Review of Disclosure in Issuers’ Annual Reports to Monitor Rule Compliance Report 2012 – Briefing on draft ICAC Report on Initial Public Offering Procedures and ICAC Research Study on Initial Public Offers in Hong Kong
15 April 2013 Policy meeting	<ul style="list-style-type: none"> – Initial consideration of amendments to Listing Rules and Procedures to complement the New Sponsor Regulations – Initial consideration of amendments to Disciplinary and Review Hearings Procedural Rules – Approval of: <ul style="list-style-type: none"> – Consultation Paper on Review of Connected Transactions – Consultation Paper on Proposed Changes to Align the Definitions of Connected Person and Associate in the Listing Rules – Enforcement Policy Statement (Initial Draft) – Guidance on Disclosure of Risk Factors in Prospectuses – Guidance on the “How to Apply for Hong Kong Offer Shares” section of a prospectus – Updates/briefings on: <ul style="list-style-type: none"> – Development of XBRL Taxonomy for Financial Reporting in Hong Kong – Access to Audit Working Papers in the PRC – Review of Requirements for Overseas Listing (including weighted voting rights) – Reviews of: <ul style="list-style-type: none"> – Open Offers – Accounting Provisions in the Listing Rules
25 April 2013 Regular meeting	<ul style="list-style-type: none"> – Briefing on returned listing applications
2 May 2013 Regular meeting	<ul style="list-style-type: none"> – Further consideration of procedures to complement the New Sponsor Regulations
6 June 2013 Regular meeting	<ul style="list-style-type: none"> – Approval of Rule Amendments and Procedures to complement the New Sponsor Regulation

Date	Items
29 July 2013 Policy meeting	<ul style="list-style-type: none"> - Formation of subcommittee to consider requirements in relation to internal controls and risk management - Approval of: <ul style="list-style-type: none"> - Enforcement Policy Statement - Changes to Disciplinary and Review Hearings Procedural Rules - Guidance on disclosure of new applicants' net profits/losses after the track record period - Updates/briefings on: <ul style="list-style-type: none"> - Organisational changes to complement the New Sponsor Regulation - Responses to Consultation Paper on Review of Connected Transactions - Responses to Consultation Paper on Proposed Changes to Align the Definitions of Connected Person and Associate in the Listing Rules - Review of Requirements for Overseas Listing - Weighted Voting Rights - Changes in European Union Requirements for Quarterly Reporting - ICAC Report on Initial Public Offering Procedures and ICAC Research Study on Initial Public Offers in Hong Kong - Policy initiatives in the structured products market - Overseas requirements for disclosure of payments to governments by mineral companies - Reviews of: <ul style="list-style-type: none"> - Approach to long suspended companies - Disciplinary Sanctions available to the Listing Committee - Use of structured contracts by listing applicants - Accounting Provisions in the Listing Rules - Capital Raising by listed issuers - Disclosure requirements for material contracts
15 August 2013 Regular meeting	<ul style="list-style-type: none"> - Approval of further amendments to the Rules to complement the New Sponsor Regulation
29 August 2013 Regular meeting	<ul style="list-style-type: none"> - Approval of amendments to the Joint Policy Statement Regarding the Listing of Overseas Companies

Date	Items
29 October 2013 Policy meeting	<ul style="list-style-type: none"> <li data-bbox="582 248 1410 315">– Consideration of guidance on treatment of unrealised gains and losses in the context of suitability for listing <li data-bbox="582 349 778 376">– Approval of: <ul style="list-style-type: none"> <li data-bbox="620 394 1294 461">– FAQs on matters arising from the New Companies Ordinance <li data-bbox="620 472 1302 539">– Consultation Conclusions on Review of Connected Transaction Rules (Initial Draft) <li data-bbox="620 551 1378 651">– Consultation Conclusions on Proposed Changes to Align the Definitions of Connected Person and Associate in the Listing Rules (Initial Draft) <li data-bbox="620 663 1406 689">– Soft consultation on Treasury Shares (in principle approval) <li data-bbox="620 701 1366 768">– Minor Rule amendment in relation to dividend payment dates (in principle approval) <li data-bbox="620 779 1209 806">– Changes to complaints handling procedures <li data-bbox="620 817 1366 884">– Analysis of Corporate Governance Practice Disclosure in 2012 Annual Reports <li data-bbox="620 896 1294 922">– Policy direction on disclosure of material contracts <li data-bbox="582 969 903 996">– Updates/briefings on: <ul style="list-style-type: none"> <li data-bbox="620 1008 967 1034">– Weighted Voting Rights <li data-bbox="620 1046 1370 1146">– Subcommittee on internal controls and risk management and extension of scope to include board evaluations and management reporting <li data-bbox="582 1193 767 1220">– Reviews of: <ul style="list-style-type: none"> <li data-bbox="620 1232 1353 1332">– Approach to listed issuers and listing applicants that had conducted business in countries subject to trade or economic sanctions <li data-bbox="620 1344 967 1370">– Weighted Voting Rights <li data-bbox="620 1382 1257 1408">– Use of structured contracts by listing applicants <li data-bbox="620 1420 1043 1447">– Reverse takeover requirements
12 December 2013 Regular meeting	<ul style="list-style-type: none"> <li data-bbox="582 1541 1410 1608">– Listing Decision on listing applicants with business in countries subject to sanctions <li data-bbox="582 1641 1370 1733">– Approval of Guidance on suitability for listing of applicants that had conducted business in countries subject to trade or economic sanctions

MEETING STATISTICS

4.41 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	
	2013	2012	2013	2012
Regular Meetings:				
– With regular business only	37	36	14.7	15.6
– With policy items	10	9	21.0	20.3
Total	47	45	16.1	16.6
Review Meetings (*excluding reviews by Listing Appeals Committee)	12	4	6.8	6.0
Disciplinary Meetings	6	18	7.6	7.7
Quarterly and ad hoc policy meetings	3	3	21.3	20.0
Total	68	70		

5 POLICY AGENDA FOR 2014 AND BEYOND

5.1 We highlight below those matters we currently plan to consider during 2014 and beyond:

Prospectuses and listing process

- Implementation review of Rule amendments and procedures to complement the SFC's reform of the sponsor regime
- Prospectus simplification
- Review of listing process for GEM applications
- Review of placing guidelines

Listing Matters

- Review of weighted voting rights regimes
- Review of Hong Kong depository receipts
- Consultation conclusions and Rule changes on connected transactions
- Review on treasury shares and block listing regime
- Review of new structured products classes
- Review and update of Chapter 17 of the Main Board Listing Rules and Chapter 23 of the GEM Listing Rules (share option schemes)
- Review of independent financial advisers (IFA) requirements

Ongoing obligations and other related matters

- Possible consequential amendments to the Rules to implement the new Companies Ordinance
- Review of environmental, social and governance reporting guide
- Risk management and internal controls review by Sub-Committee of the Listing Committee
- Review of disclosure requirements of Appendix 16 to the Main Board Listing Rules with reference to the new Companies Ordinance and International Financial Reporting Standards/HKFRSs

6. CONCLUSION

- 6.1 2013 was another busy year for the Committee, particularly during the fourth quarter when five additional meetings were necessary to consider IPO listing applications. Various sub-committees led by a deputy chairman were formed in order to spend the additional time and focus on the more difficult projects or issues (e.g., Rule amendments to complement the SFC's new sponsor regime; internal controls and risk management) and the work of such sub-committees is exemplary. Under the leadership of our new Head of Listing, David Graham, our Listing Division has continued to perform well and maintain a very high standard. I wish to thank my two deputy chairmen, fellow Committee members and the Listing Division for their insight, dedication and hard work during the past year.
- 6.2 This report was approved for submission to the boards of the Exchange and HKEx on 13 February 2014.



Carmelo Lee
Chairman

MAIN BOARD AND GEM LISTING COMMITTEE MEMBERS LIST (As at 31 December 2013)

Chairman

LEE Ka Sze, Carmelo

Deputy Chairmen

BROWN Stephen James

TAYLOR Stephen

Ex officio member

LI Xiaojia, Charles

Other members (in alphabetical order)

CHAN Wing Tak, Kevin

CHARLTON Julia Frances

CHOW Yik-Cheung, Eric

CLARK Stephen John

DAVIS Nigel Justin

GOODING Nial Dennis Henry

HO Yvonne

IP Tin Chee, Arnold

JIANG Guorong

KEYES Terence Francois

LEUNG Heung Ying, Alvin

LEUNG Siu Tung, Anthony

LI Kai Cheong, Samson

LIU Ting An

MAGUIRE John Martin

MALCOLM Andrew Craig

NG Meng Hua, Daniel

PHENIX Paul Anthony

SUN Po Yuen, Richard

TAN May Siew Boi

TRACY Alexandra Boakes

YEUNG Eirene

ZEE Helen

ATTENDANCE AT MEETINGS

	NATURE OF MEETING							
	Regular (47 Meetings)		Policy (3 Meetings)		Disciplinary (6 Meetings)		Review (12 Meetings)	
	Attended	%	Attended	%	Attended/ Eligible	%	Attended/ Eligible	%
Current Members								
Mr Carmelo Lee ¹	40	85	3	100	1/5	20	1/2	50
Mr Stephen Brown ¹	29	62	3	100	3/6	50	5/7	71
Mr Stephen Taylor ¹	29	67	3	100	4/4	100	3/4	75
Mr Kevin Chan ⁴	23	153	2	100	1/2	50	0/0	n/a
Ms Julia Charlton	34	155	3	100	3/3	100	2/4	50
Mr Eric Chow ⁴	23	177	2	100	0/1	0	1/1	100
Mr Stephen Clark	29	145	3	100	1/1	100	6/6	100
Mr Nigel Davis	24	114	1	33	2/2	100	4/7	57
Mr Nial Gooding	28	147	2	67	3/4	75	1/1	100
Ms Yvonne Ho	32	145	3	100	3/3	100	2/5	40
Mr Arnold Ip	29	132	3	100	2/3	67	4/4	100
Dr Guorong Jiang	22	105	2	67	2/4	50	4/7	57
Mr Terence Keyes	23	115	2	67	3/3	100	6/6	100
Mr Alvin Leung	22	110	3	100	2/5	40	3/5	60
Mr Anthony Leung	23	110	3	100	1/1	100	2/2	100
Mr Samson Li	28	140	3	100	0/0	n/a	1/1	100
Mr Liu Ting An	25	125	2	67	2/5	40	1/4	25
Ms Mary Ma ⁶	17	106	3	100	1/3	33	1/4	25
Mr John Maguire ⁴	17	121	1	50	1/2	50	1/2	50
Mr Andrew Malcolm	20	100	2	67	1/3	33	8/8	100
Mr Daniel Ng	35	184	2	67	0/2	0	1/3	33
Mr Paul Phenix	38	181	3	100	3/3	100	4/4	100
Mr Richard Sun	19	100	3	100	0/2	0	5/7	71
Ms May Tan	28	140	3	100	2/3	67	4/5	80
Mrs Alexandra Tracy ⁴	18	129	1	50	1/1	100	1/2	50
Ms Eirene Yeung	26	137	3	100	0/3	0	3/5	60
Ms Helen Zee ⁴	22	169	1	50	1/2	50	0/0	n/a
Mr Tobias Brown ⁵	1	17	0	0	0/1	0	0/4	0
Mr James Soutar ⁵	5	83	1	100	1/1	100	3/4	75
Mr Sing Wang ⁵	4	57	0	0	0/2	0	0/5	0
Mr Richard Winter ⁵	6	86	1	100	1/1	100	1/3	33
Mr Kelvin Wong ⁵	7	100	1	100	1/2	50	3/4	75
Mr Charles Li ¹	29	63	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, excluding meetings where the relevant member is conflicted on all substantive matters to be considered at the meeting. For other members percentage attendance is calculated based on the member attending scheduled meetings in the period in accordance with the pooling schedule, excluding meetings where the member is conflicted on all substantive matters to be considered at the meeting. 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 May 2013.
- (5) Members retired on 24 May 2013.
- (6) Ms Mary Ma resigned on 14 November 2013.
- (7) Except where indicated members served throughout the year.

Hong Kong Exchanges and Clearing Limited

12/F, One International Finance Centre, 1 Harbour View Street, Central, Hong Kong

Tel: +852 2522 1122

Fax: +852 2295 3106

HKEx website: www.hkex.com.hk

Email: info@hkex.com.hk

HKEx Group website: www.hkexgroup.com