

Frequently Asked Questions Series 26 (Released on 21 February 2014/ Last Updated on 28 December 2018)

Questions relating to the new Companies Ordinance (“New CO”) and its impact on issuers

Status of “Frequently Asked Questions”

The following frequently asked questions (FAQs) are designed to help issuers to understand and comply with the Listing Rules, particularly in situations not explicitly set out in the Rules or where further clarification may be desirable.

Users of the FAQs should refer to the Rules themselves and, if necessary, seek qualified professional advice. The FAQs are not substitutes for the Rules. If there is any discrepancy between the FAQs and the Rules, the Rules prevail.

In formulating our “answers”, we may have assumed certain underlying facts, selectively summarised the Rules or concentrated on one particular aspect of the question. They are not definitive and do not apply to all cases where the scenario may at first appear similar. In any given case, regard must be had to all the relevant facts and circumstances.

The Listing Division may be consulted on a confidential basis. Contact the Listing Division at the earliest opportunity with any queries.

No.	Main Board Rules	GEM Rules	Query	Response
Abolition of Nominal (Par) Value of Shares				
1.	MB Rule 13.28(2), App 16 (para 11(3))	GEM Rules 17.30(2) and 18.32(3)	How should issuers whose shares have no nominal value comply with the disclosure requirements for nominal values under the Rules?	These issuers should disclose in the relevant announcements or annual reports that their shares have no nominal value.
2.	(FAQ withdrawn on 1 April 2015)			
3.	(FAQ withdrawn on 1 April 2015)			
4.	MB App 1A (paras 15(2)(c) and 23(1)); App 1B (para 22(1)); App 1C (para 36); App 1E (paras 23(1) and 49(2)(c)); App 1F (para 18(1)); App 5 Forms	GEM App 1A (para 23(1); App 1B (para 22(1)); App 1C (para 36); App 5 Forms	How will the requirements to disclose nominal value of shares and authorised share capital in listing documents or listing application forms be satisfied by issuers without either of them?	The listing document or application form should disclose that the issuer does not have an authorised share capital and/or nominal value of shares in its share capital, and disclose the share capital structure it has instead, e.g. how many shares it has issued, including shares fully paid and yet to be fully paid.
5.	(FAQ withdrawn on 1 April 2015)			
6.	(FAQ withdrawn on 1 April 2015)			
7.	MB Rules 7.28, 8.11, 8.13, 10.06(1)(a)(i); App 1A (paras 15(2)(d), 23(1) and 26); App 1B (paras	GEM Rules 10.45, 11.25, 11.27, 13.07(1); App 1A (paras 23(1) and 26); App 1B (paras 22(1) and 24); App 1C	Will there be any change in what is meant in the Rules by “fully paid” and “partly paid” shares for Hong Kong-incorporated issuers after the New CO becomes effective?	When the New CO becomes effective, “fully paid” will mean that the shareholder to whom shares are issued has paid the full consideration which was agreed to be paid for those shares, i.e., the issue price (and not that the shareholder has paid the full nominal value of those shares, as is the case under the existing Companies Ordinance (“ Existing CO ”)). “Partly paid” will mean that the full issue price has not been paid.

No.	Main Board Rules	GEM Rules	Query	Response
	22(1) and 24); App 1C (para 34); App 1E (paras 23(1), 26 and 49(2)(d)); App 1F (paras 18(1) and 20); App 2A (para 4(3)); App 3 (para 1(2)); App 5 Forms	(para 34); App 2A (para 4(3)); App 3 (para 1(2)); App 5 Forms		
8.	(FAQ withdrawn on 1 April 2015)			
9.	(FAQ withdrawn on 1 April 2015)			
10.	MB App 8 (paras 2(1)(a) and 2(2))	GEM App 9 (para 1(2) (a)(i))	How will annual listing fees be calculated where the issuer's shares have no nominal value?	<p>In the case of listed issuers whose shares cease to have a nominal value subsequent to their date of listing (the “no-par event”), the nominal value per share that was used to calculate the annual listing fees immediately before the no-par event (the “notional nominal value per share”), shall be used to calculate the annual listing fees from the no-par event (including any change in the annual listing fees payable under paragraphs 2(4) or 2(5) of MB Appendix 8 (and the equivalent GEM Rules)). If an issuer conducts a subdivision of shares after the no-par event, the notional nominal value per share shall be adjusted accordingly, subject to a minimum of HK\$0.25 per paragraph 2(2) of MB Appendix 8 (and the equivalent GEM Rule).</p> <p>For Hong Kong incorporated issuers, the notional nominal value per share from 3 March 2014 shall be the nominal value per share on 2 March 2014. For example:</p> <p>If an issuer conducts a placing, bonus issue, rights issue or open offer, or consideration issue in September 2014, there will be an increase in annual listing fee payable in the remainder of that year based on the number of new shares issued and the notional nominal value per share.</p>

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				<p>If an issuer conducts a share subdivision in September 2014, the notional nominal value per share will be adjusted accordingly, subject to a minimum of HK\$0.25 per paragraph 2(2) of MB Appendix 8 (and the equivalent GEM Rule) (the “new nominal value per share”). The annual listing fee payable for the remainder of that year will be calculated based on the number of subdivided shares and the new nominal value per share.</p> <p>If an issuer conducts a share consolidation in September 2014, the annual listing fee payable for the remainder of that year will be calculated based on the number of consolidated shares and the notional nominal value per share. There will be no change to the nominal value per share as it is assumed that the share consolidation is conducted together with a capital reduction as it is under the current market practice.</p> <p>For Hong Kong incorporated issuers listed on or after 3 March 2014, we shall apply a nominal value of HK\$0.25 per paragraph 2(2) of MB Appendix 8 (and the equivalent GEM Rule) as we have done for other issuers with no nominal value per share or a nominal value per share < HK\$0.25 for calculating annual listing fees.</p> <p>(Please see the table appended at the end of these FAQs for additional examples of annual listing fee calculations.)</p>
Disclosure Requirements for Financial Statements				
11.	(FAQ withdrawn on 1 April 2015)			
Loans to Directors and Connected Entities				
12.	MB Rules 14A.07, 14A.76, 14A.87 to 14A.90	GEM Rules 20.07, 20.74, 20.85 to 20.88	Do the connected transaction Rules apply to any grant of loans to directors or their connected entities (as defined in the New CO) that are exempt under Part 11 of the New CO?	<p>Part 11 of the New CO governs fair dealing by directors and transactions involving directors and their connected entities.</p> <p>Since the scope of transactions regulated under Part 11 of the New CO and the connected transaction Rules are not the same, Hong Kong-incorporated</p>

No.	Main Board Rules	GEM Rules	Query	Response
				<p>issuers must ensure that they comply with any applicable requirements under both the New CO and the Rules when they enter into loan transactions involving directors or their connected entities (as defined in the New CO) or connected persons or associates (as defined in the Rules).</p> <p><i>Note: Rule reference updated in July 2014.</i></p>
Provision of Financial Assistance by a Company				
13.	MB Chapters 14 and 14A	GEM Chapters 19 and 20	Do the provisions on financial assistance in the New CO affect the Rules relating to financial assistance for issuers incorporated in Hong Kong?	No. As is the case under the Existing CO, the provisions on financial assistance in the New CO relate to the provision of financial assistance by a company or its subsidiaries for the acquisition of its own shares only. The Rules govern the provision of financial assistance by issuers (whether for the acquisition of their own shares or otherwise) and, as such, issuers incorporated in Hong Kong must comply with any applicable financial assistance provisions under both the New CO and the Rules.
Common and Official Company Seal				
14.	(FAQ withdrawn on 1 April 2015)			
General Meetings				
15.	(FAQ withdrawn on 1 April 2015)			
16.	(FAQ relocated to Series 17 No. 25A on 28 December 2018)			

Abolition of the Memorandum of Association				
17.	MB Rule 13.90	GEM Rule 17.102	How will Hong Kong-incorporated issuers satisfy the Rules regarding disclosure of their memorandum and articles of association?	For Hong Kong-incorporated issuers, reference to “memorandum and articles of association” in the Rules will be deemed to refer solely to their articles of association because provisions of the memorandum of association will be automatically deemed under the New CO to be regarded as provisions of the issuer’s articles of association.
18.	MB Rule 13.90	GEM Rule 17.102	Will Hong Kong-incorporated issuers (prospective or existing) need to amend and reprint their articles of association in order to incorporate the contents of their memorandum of association for the purposes of the Exchange’s disclosure requirements?	There will be no need for Hong Kong-incorporated issuers to amend or reprint their articles of association for the purposes of the Exchange’s disclosure requirements.
General questions				
19.	(FAQ withdrawn on 1 April 2015)			
20.	(FAQ withdrawn on 1 April 2015)			
21.	(FAQ withdrawn on 1 April 2015)			
22.	(FAQ withdrawn on 1 April 2015)			

CALCULATING 2014 ANNUAL LISTING FEES FOR HONG KONG-INCORPORATED ISSUERS

Hong Kong-incorporated issuers listed before 3 March 2014

Annual listing fees for the remainder of 2014 (i.e. from 3 March 2014) and thereafter will be calculated by reference to the latest nominal value per share that was used to calculate the issuer's 2014 annual listing fees (i.e. the latest nominal value before the issuer's shares ceased to have a nominal value). Going forward, this will be known as the “**notional nominal value per share**”.

Hong Kong-incorporated issuers listed on or after 3 March 2014

The nominal value shall be deemed to be HK\$0.25 for the purposes of calculating annual listing fees, in accordance with Main Board Appendix 8, paragraph 2(2). This is consistent with the current practice in respect of issuers with no nominal value per share or a nominal value per share less than HK\$0.25.

The table below sets out examples showing the nominal value per share that will be used to calculate annual listing fees for Hong Kong-incorporated issuers on or after 3 March 2014 depending on their date of listing. These examples assume that the issuer does not carry out any corporate actions (e.g. subsequent issues, share subdivisions or consolidations).

Calculation of Annual Listing Fees (absent any corporate action)

Examples	Listing Date	Nominal value per share on 2 March 2014 (i.e. Notional nominal value per share)	Nominal value per share used to calculate annual listing fee on or after 3 March 2014	Effect of change on annual listing fee as compared to current regime
A	Before end of 2013	HK\$1.00	HK\$1.00	None
B	28 February 2014	HK\$0.50	HK\$0.50	None
C	3 March 2014	No nominal value	HK\$0.25	None
D	3 July 2014	No nominal value	HK\$0.25	None

Subsequent Issues

If an issuer conducts a placing, bonus issue, rights issue or open offer, or consideration issue on or after 3 March 2014 (when its shares cease to have a nominal value), we will calculate the annual listing fee payable for the remainder of that year based on the number of new shares issued and the notional nominal value per share.

The table below sets out examples showing the nominal value per share that will be used to calculate annual listing fees for Hong Kong-incorporated issuers from the date of a subsequent issue depending on the date of issue. Examples A, B & C are for issuers listed prior to 3 March 2014.

Calculation of Annual Listing Fees (in the event of a subsequent issue)

Examples	Date of issue	Nominal value per share at time of issue	Nominal value per share on 2 March 2014 (i.e. Notional nominal value per share)	Nominal value per share used to calculate annual listing fee from the date of issue	Effect of change on annual listing fee as compared to current regime
A	28 February 2014	HK\$1.00	HK\$1.00	HK\$1.00	None
B	3 March 2014	No nominal value	HK\$1.00	HK\$1.00	None
C	3 September 2014	No nominal value	HK\$1.00	HK\$1.00	None
D: Issuer listed on or after 3 March 2014	3 October 2014 ¹	No nominal value	No nominal value	HK\$0.25 ²	None

¹ Note that no further issues of securities within six months of listing are generally allowed.

² For Hong Kong-incorporated issuers listed on or after 3 March 2014 that conduct a subsequent issue, the nominal value per share shall be deemed to be HK\$0.25 for the purposes of calculating annual listing fees from the date of the issue.

Share Subdivision

If an issuer conducts a share subdivision on or after 3 March 2014, the notional nominal value per share will be adjusted accordingly, subject to a minimum of HK\$0.25 per paragraph 2(2) of Main Board Appendix 8. The annual listing fee payable for the remainder of that year will be calculated based on the number of subdivided shares and this new nominal value per share.

The table below sets out examples showing the nominal value per share that will be used to calculate annual listing fees for Hong Kong-incorporated issuers from the date of a share subdivision depending on the date it is carried out. Examples A, B & C are for issuers listed prior to 3 March 2014.

Calculation of Annual Listing Fees (in the event of a share subdivision)

Examples	Date of subdivision	Nominal value per share at time of subdivision	Nominal value per share after subdivision	Nominal value per share on 2 March 2014 (i.e. Notional nominal value per share)	Nominal value per share used to calculate annual listing fee from the date of subdivision	Effect of change on annual listing fee as compared to current regime
A	28 February 2014	HK\$1.00	(i) HK\$0.50 (for a 2-for-1 split); or (ii) HK\$0.10 (for a 10-for-1 split)	(i) HK\$0.50 (for a 2-for-1 split); or (ii) HK\$0.10 (for a 10-for-1 split)	(i) HK\$0.50 (for a 2-for-1 split); or (ii) HK\$0.25 (for a 10-for-1 split) (per App 8, para 2(2))	None
B: Issuer conducts 2-for-1 split	3 March 2014	No nominal value	No nominal value	HK\$1.00	HK\$0.50	None
C: Issuer conducts 10-for-1 split	3 September 2014	No nominal value	No nominal value	HK\$1.00	HK\$0.25 Nominal value per share after the split would be HK\$0.10. However, per App 8, para 2(2), nominal value per share used to calculate annual fee for remainder of the year would be HK\$0.25.	None
D: Issuer listed on or after 3 March 2014	3 October 2014	No nominal value	No nominal value	No nominal value	HK\$0.25 ³	None

³ For Hong Kong-incorporated issuers listed on or after 3 March 2014 that conduct a share subdivision, the nominal value per share shall be deemed to be HK\$0.25 for the purposes of calculating annual listing fees from the date of the subdivision.

Share Consolidation

If an issuer conducts a share consolidation on or after 3 March 2014, together with a capital reduction (a common market practice), the annual listing fee payable for the remainder of that year will be calculated based on the number of consolidated shares and the notional nominal value per share. Even if an issuer conducts a share consolidation on or after 3 March 2014 without an accompanying capital reduction, the annual listing fee payable for the remainder of that year will still be calculated by reference to the notional nominal value per share, as if the share consolidation had been carried out together with a capital reduction.

The table below sets out examples showing the nominal value per share that will be used to calculate annual listing fees for Hong Kong-incorporated issuers from the date of a share consolidation depending on the date it is carried out. Examples A₁, A₂, B₁, B₂, C₁ & C₂ are for issuers listed prior to 3 March 2014.

Calculation of Annual Listing Fees (in the event of a share consolidation)

Examples	Date of consolidation	Nominal value per share before consolidation	Nominal value per share after consolidation	Nominal value per share after capital reduction	Nominal value per share on 2 March 2014 (i.e. Notional nominal value per share)	Nominal value per share used to calculate annual listing fee from date of consolidation	Effect of change on annual listing fee as compared to current regime
A ₁ : Issuer conducts 1-for-2 consolidation with capital reduction	28 February 2014	HK\$0.50	HK\$1.00	HK\$0.50	HK\$0.50	HK\$0.50	None
A ₂ : Issuer conducts 1-for-2 consolidation without capital reduction	28 February 2014	HK\$0.50	HK\$1.00	[No capital reduction carried out]	HK\$1.00	HK\$1.00	None
B ₁ : Issuer conducts 1-for-2 consolidation with capital reduction	3 March 2014	No nominal value	No nominal value	No nominal value	HK\$0.50	HK\$0.50	None
B ₂ : Issuer conducts 1-for-2 consolidation without capital reduction	3 March 2014	No nominal value	No nominal value	[No capital reduction carried out]	HK\$0.50	HK\$0.50 Under current regime, nominal value per share after consolidation would be HK\$1.00. Under new regime, nominal value per share	Decrease

Examples	Date of consolidation	Nominal value per share before consolidation	Nominal value per share after consolidation	Nominal value per share after capital reduction	Nominal value per share on 2 March 2014 (i.e. Notional nominal value per share)	Nominal value per share used to calculate annual listing fee from date of consolidation	Effect of change on annual listing fee as compared to current regime
						on 2 March 2014 (HK\$0.50) will still be used to calculate annual listing fee from date of consolidation.	
C ₁ : Issuer conducts 1-for-2 consolidation with capital reduction	3 September 2014	No nominal value	No nominal value	No nominal value	HK\$0.25	HK\$0.25	None
C ₂ : Issuer conducts 1-for-2 consolidation without capital reduction	3 September 2014	No nominal value	No nominal value	[No capital reduction carried out]	HK\$0.25	HK\$0.25 Under current regime, nominal value per share after consolidation would be HK\$0.50. Under new regime, nominal value per share on 2 March 2014 (HK\$0.25) will still be used to calculate annual listing fee from date of consolidation.	Decrease
D: Issuer listed on or after 3 March 2014 conducts 1-for-2 consolidation (with/without capital reduction)	3 October 2014	No nominal value	No nominal value	Where capital reduction carried out: No nominal value	No nominal value	HK\$0.25 ⁴	None

⁴For Hong Kong-incorporated issuers listed on or after 3 March 2014 that conduct a share consolidation, the nominal value per share shall be deemed to be HK\$0.25 for the purposes of calculating annual listing fees from the date of the consolidation.