

HKE_x LISTING DECISION
HKE_x-LD32-2012 (published in June 2012)

Party	Company A – a Main Board listing applicant
Issue	Whether Company A must prepare a competent person’s report (“CPR”) for mining interests it intended to acquire or develop
Listing Rules	Main Board Rules 18.03 and 18.05
Decision	<p>The listing document did not need to include a CPR on the mining interests it intended to acquire or develop on condition that Company A must:</p> <p>(a) include in the listing document material information regarding each of these mining interests</p> <p>(b) undertake to prepare and issue a CPR for each of these mining interests when information necessary for the preparation of a CPR is available</p> <p>(c) undertake to report in the annual reports the status of each of these mining interests</p>

FACTS

1. Company A was a mineral company under Chapter 18 of the Main Board Rules. It had the following assets:

Description	Nature of Interests
Mine W	Mining right
Mine X	Exploration right
Mine Y	A conditional agreement to purchase the majority equity interests in an entity which held the exploration right for Mine Y
Mine Z	An option to purchase the majority equity interests in an entity which held the mining right for Mine Z

2. Company A intended to include in the listing document a competent person’s report (“CPR”) on Mine W with resource and reserve information; and on Mine Y with JORC compliant geological and exploration reviews but without any resource and reserve estimation. There would be no CPR reports covering Mines X and Z.
3. Company A explained in the listing document that:
 - Mine X was at the early exploration stage and there was insufficient information for a competent person to conduct a JORC compliant geological and exploration review for inclusion in the CPR.
 - Mine Y was at the preliminary exploration stage but at a more advanced stage than Mine X. Accordingly, the CPR only contained JORC compliant geological

and exploration reviews, but not a resource and reserve estimation or other mine planning information. Further exploration would be needed to determine the final purchase price of Mine Y and whether all conditions for completion could be met.

- Company A had not yet determined whether to exercise the option to acquire Mine Z, and would engage an independent technical adviser to conduct exploration of Mine Z after listing. The purchase price for Mine Z would be determined based on the resource estimate provided by the independent technical adviser.

APPLICABLE RULES, REGULATIONS AND PRINCIPLES

4. Chapter 18 defines a mineral company applicant as a new applicant whose major activity (whether directly or through its subsidiaries) is exploration for and/or extraction of natural resources.
5. Rule 18.03 requires a mineral company to have right to participate actively in the exploration and/or extraction of natural resources, and establish to the Exchange's satisfaction that it has at least a portfolio of indicated or contingent resources identifiable under a reporting standard and substantiated in a competent person's report. This portfolio must be meaningful and of sufficient substance to justify a listing.
6. Rule 18.05 requires a mineral company to include in its listing document a competent person's report, and other details of its business operations and risks.
7. Rule 2.13 states that a listing document must be accurate and complete in all material aspect and not be misleading or deceptive.

ANALYSIS

8. A mineral company applicant must establish that it has a portfolio of indicated or contingent resources that is meaningful and of sufficient substance to justify a listing. The estimated resources must be substantiated in a CPR. The Exchange expects a mineral company applicant to include a CPR for all its mineral resources where the conditions for the preparation of a CPR are present.
9. To require an applicant to include in its listing document a CPR for each and every resource, irrespective of its size, stage of development, ownership status or, management's plans for development may at times create undue burden to the applicant.

Information to prepare CPR not available

10. There are circumstances where the necessary information for the preparation of a CPR is not available. For example:
 - (a) early stage exploration resources may not be at a stage where the necessary information for the preparation of a CPR is available; and

- (b) the applicant may not have the information on the entities or businesses to be acquired (including options to acquire those entities or businesses) that hold the mineral resources. The information is usually not available to the acquirer before completion.
- 11. Where the Exchange is satisfied with the applicant's explanation for the absence of information on a minor part of its portfolio of mineral resources for the preparation of a CPR, and that the applicant's other mineral resources are sufficient to qualify a listing, the Exchange would agree that the CPR requirements do not apply to the minor part of the portfolio.
- 12. The Exchange normally will impose an undertaking to comply with the CPR requirements when the information to enable the preparation of a CPR on that part of the portfolio becomes available (e.g. when the applicant acquires the entities or businesses or when the exploration resources are further developed).
- 13. To enable investors understand the progress of acquisition and the development of the part of the portfolio of resources that are not previously reported on by a competent person, the undertaking will include an obligation to report in annual reports on the stage of development of the portfolio.

Waiver required where information for preparation of CPR is available

- 14. Where a mineral company applicant has information on its resources for the preparation of a CPR, a CPR will normally be required, unless there are special circumstances to justify a grant of waiver from preparing a CPR. Each case will need to be considered based on its own facts and circumstances.
- 15. The Exchange will only consider granting a waiver if the applicant is not relying on those resources to satisfy the initial listing requirements. The Exchange will impose conditions on the waiver to ensure that investors will obtain qualitative information after listing. These conditions include:
 - (a) the preparation of a CPR when the management determines to develop the resources; and
 - (b) continuing reporting on the status of these resources in annual reports in accordance with Rules 18.15 to 18.17.
- 16. Based on the principle and the conditions mentioned in paragraphs 14 and 15, the Exchange previously granted a waiver to a mineral company applicant from compliance with Rule 18.05(1) to exempt it from including in the listing document a CPR on a mine which it had no intention to develop due to its insignificant size and lack of commercial value.

CONCLUSION

- 17. The Exchange was satisfied that:

- (a) the preparation of a CPR for Mines X, Y and Z was not practicable before listing and the listing document would not include any estimated resource or reserve information of Mines X, Y and Z; and
 - (b) Company A did not rely on the contribution of Mines X, Y and Z to attain a listing status.
18. Given that these Mines formed part of Company A's existing and potential mineral portfolio, and that Company A would apply a substantial amount of internal resources or listing proceeds to finance their acquisitions and development, the Exchange considered that sufficient information of these Mines must be made available to investors at appropriate times.
19. In accordance with the principle of Rule 2.13, the Exchange allowed Company A not to include a full CPR for each of Mines X, Y and Z in the listing document on the condition that Company A must:
- (a) include in the listing document material information regarding Mines X, Y and Z and the proposed terms of acquisitions, such as the location and size of the mines, expected mineral quality, proposed purchase consideration and expected development cost, for investors' assessment on the potential of these Mines and the likely benefit of the acquisitions;
 - (b) undertake to prepare and issue a CPR for each of these Mines when information necessary for the preparation of a CPR is available, i.e. upon completion of the acquisition and/or when exploration has come to a more advanced stage; and
 - (c) undertake to report in the annual reports the status of each of these Mines and the management's intention on these Mines.
