



The Listing Committee Report 2008



INTRODUCTION

1. This is the third calendar year report of the Listing Committee of the Stock Exchange of Hong Kong Limited (the “Exchange”). 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. Throughout this report, the expression Listing Committee refers to the combined committees unless the context requires otherwise.
2. This report is an account of work of the Listing Committee in respect of the year ended 31 December 2008.
3. This report has been prepared for the board of the Exchange (the “Exchange Board”) and the board of its parent company, Hong Kong Exchanges and Clearing Limited (“HKEx”). This report will be forwarded to the Financial Services and Treasury Bureau, the Securities and Futures Commission (the “SFC”) and posted on the HKEx website. It will also be distributed to all HKEx’s shareholders together with the annual report.
4. 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.

MEMBERSHIP

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

	Regular		Nature of Meeting				Review	
	No.	%	No.	%	No.	%	No.	%
Mr. Gage McAfee ¹	29	60	7	100	4	67	1	17
Ms. Teresa Ko ¹	26	54	4	57	0	0	2	25
Mr. Tony Tsoi ²	43	90	6	86	5	100	5	100
Mr. Jamie Allen ¹	14	58	6	86	2	40	4	67
Mr. Roger Best	16	67	4	57	3	75	2	67
Ms. Melissa Brown	23	96	7	100	1	20	3	43
Mr. Stephen Brown	18	75	4	57	2	33	2	50
Mr. Robert Bunker	29	121	6	86	4	100	2	50
Mr. Vincent Chan	12	50	4	57	2	33	1	25
Mr. Roy Chen	12	50	0	0	1	17	1	20
Dr. S K Fung	21	88	6	86	3	50	5	100
Mr. Paul Go	21	88	5	71	1	17	1	33
Mr. Stephen Hui	19	79	7	100	2	67	0	0
Mr. Stephen Hunt ¹	21	88	5	71	2	33	2	40
Mr. Ernest Ip	19	79	4	57	1	25	0	0
Mr. Terence Keyes ³	13	93	5	100	4	80	1	33
Mr. Alex Ko	22	92	7	100	1	17	2	67
Mr. Raymond Lee	19	79	5	71	1	20	3	50
Mr. Joseph Longo	10	42	4	57	3	75	2	29
Prof. C K Low	19	79	6	86	2	50	0	0
Mr. John Moore ³	11	79	5	100	0	0	1	20
Mr. Alex Ng	20	83	4	57	0	0	0	0
Mr. Alexander Schrantz ¹	16	67	5	71	3	50	3	50
Mr. James Soutar	13	54	5	71	2	29	3	43
Mr. Richard Winter	20	83	3	43	2	67	3	43
Mr. Adrian Wong	23	96	5	71	3	43	2	40
Dr. Kelvin Wong	15	63	5	71	2	29	1	20
Mr. Carlson Tong ⁴	12	60	2	100	0	0	0	0
Mr. David Stannard ⁴	6	60	0	0	0	0	0	0
Mr. Paul Chow ⁶	36	75	7	100	-	-	-	-

Notes:

1. Includes participation in one policy meeting by telephone.
2. Mr. Tony Tsoi became Deputy Chairman on 19th May 2008 having previously been an ordinary member of the Listing Committee.
3. Members appointed on 19th May 2008.
4. Members retired on 19th May 2008.
5. Save as disclosed above, all other members served throughout the year.
6. Mr. Paul Chow is the Chief Executive of HKEx, an ex-officio member of the Listing Committee.
7. For regular meetings, percentage attendance is calculated based on a member attending half the meetings in the period in accordance with the pooling schedule. A percentage in excess of 100 indicates a member attending more meetings than allocated under the pooling schedule. For the chairman, deputy chairmen and the Chief Executive the percentage is calculated based on total number of meetings in the period.
8. 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.

ROLE AND MODE OF OPERATION OF THE LISTING COMMITTEE

6. The Listing Committee acts both as an independent administrative decision maker and an advisory body for the Exchange. The Listing Committee has four principal functions:
 - To oversee the Listing Division (to the extent that this is practicable given the Listing 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")
 - To take decisions of material significance for listing applicants, listed companies and the individuals concerned
 - 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
7. 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 website of HKEx at <http://www.hkex.com.hk/listing/listcomrpt/LCRole&Mode.pdf>.

MAIN ISSUES ARISING IN THE YEAR

8. This section contains a summary of the issues the Listing Committee has dealt with during the year which the Listing Committee believes will be of greatest interest to the investing public, practitioners and listed companies, and outlines the position or action the Listing Committee has taken.
9. The Listing Committee has also considered other policy matters during the year. These policy matters include enforcement policy initiatives and the strategic review of the Listing Rules. They are discussed in later sections (paragraphs 97 to 107) of this report.

Combined Consultation Paper

10. On 11 January 2008, the Exchange published a Combined Consultation Paper ("CCP") on proposals to address 18 substantive policy issues which covers a range of matters designed to enhance corporate governance standards as well as to facilitate the daily operations of the listed issuers and reduce costs of compliance. The CCP is available on the HKEx website at: http://www.hkex.com.hk/consul/paper/cp200801_e.pdf.
11. The consultation period ended on 7 April 2008. The Exchange received a total of 105 submissions from a wide spectrum of respondents including listed issuers, market practitioners, and professional and industry associations. Except for one respondent who requested the Exchange not to publish his submission, all the submissions are posted on the HKEx website: http://www.hkex.com.hk/consul/response/combined_cp.htm. In addition, the Public Shareholders Group of the SFC had also provided its comments on the various issues in the CCP.

12. The consultation conclusions concerning 15 of the 18 substantive policy issues have been finalised and the revised Listing Rules have been approved by the Exchange Board and the SFC. The Exchange published the “Consultation Conclusions on Proposals in the 2008 Combined Consultation Paper” (“Consultation Conclusions”) on 28 November 2008. The Consultation Conclusions are posted on the HKEx website at: <http://www.hkex.com.hk/consul/conclusion/cc200811.pdf>.

13. Specifically, the 15 issues are:

Issue no.	Title
1	Use of websites for communication with shareholders
2	Information gathering powers
3	Qualified accountants
4	Review of sponsor’s independence
6	Bonus issues of a class of securities new to listing
7	Review of the Exchange’s approach to pre-vetting public documents of listed issuers
8	Disclosure of changes in issued share capital
9	Disclosure requirements for announcements regarding issues of securities for cash and allocation basis for excess shares in rights issue
10	Alignment of requirements for material dilution in major subsidiary and deemed disposal
12	Voting at general meetings
13	Disclosure of information about and by directors
14	Codification of waiver to property companies
16	Disclosure of information in takeovers
17	Review of director’s and supervisor’s declaration and undertaking
18	Review of Model Code for Securities Transactions by Directors of Listed Issuers

14. Overall market feedback indicated general support for the proposals concerning the 15 issues set out above, although certain aspects of the proposals prompted vigorous debate. The remaining three issues, namely Issue 5 (public float), Issue 11 (general mandates) and Issue 15 (self-constructed fixed assets) are under assessment and separate conclusions will be published in due course.

15. Save for the amendments relating to the extension of the “black out” period, which the Listing Committee has decided to defer implementation until 1 April 2009 (relevant press releases are posted on the HKEx website at <http://www.hkex.com.hk/news/hkexnews/081230news.htm>), amendments to the Listing Rules to implement the various proposals set out in the Consultation Conclusions took effect on 1 January 2009.

Extension of the black out period

16. One of the proposals in the CCP which has been adopted is the extension of the black out period, during which a director is prohibited from dealing in securities of the listed issuer from the end of each of the listed issuer’s financial periods to the date that the listed issuer publishes the relevant financial results.

17. At a special meeting of the Panel on Financial Affairs on 30 December 2008 to consider the concerns of some Legislative Councillors over the implementation of amendments to the Listing Rules, especially in relation to black out period and mandatory quarterly financial reporting, the Panel passed a motion requesting the authority concerned not to effect the amended Rules as scheduled on 1 January 2009 and launch a six-month consultation on the issue afresh, so as to address the market concerns (“Motion”).

18. The Listing Committee met on the afternoon of 30 December 2008 to consider the comments referred to in the Motion, which had been made by a sizeable group of listed issuers, the media and some of the Legislative Councillors on the Financial Affairs Panel. The Listing Committee also considered the views of the statutory regulator. The Listing Committee noted that the scale of the change in the length of the black out period had been perceived as dramatic and that the change had been introduced at too short notice and decided to defer implementation of the rule amendment of the extended black out period until 1 April 2009.
19. In February 2009, the Listing Committee continued to discuss on the rule to extend the black out period. The Listing Committee invited the SFC to provide its considered and authoritative advice on this issue and associated issues concerning enhancements to the Hong Kong disclosure regime.
20. The Listing Committee considered on 9 and 12 February 2009, the SFC's advice and new material prepared by the Listing Division including the findings of the Listing Division's analysis of dealings by directors during the year ended 31 December 2008; a memorandum dealing with the recent criticism and other comments concerning the extension of the black out period; and observations concerning the impact of the formulation of the new rule.
21. The Listing Committee decided to adopt a revised proposal to extend the current black out period applicable to the publication of an issuer's annual financial results from one month to 60 days. The black out periods for half year and other interim periods will be 30 days, in line with the current requirement of one month. To assist the Exchange in monitoring the revised black out arrangements, issuers will be required to give prior notification to the Listing Division of the imminent commencement of any black out period relating to the publication of financial results. The revised rule amendment will come into effect on 1 April and replace the rule amendment announced by the Exchange on 28 November 2008.
22. The Listing Committee also set out its view on how the current disclosure regime can be enhanced in the press release of 12 February 2009 published on HKEx's website at <http://www.hkex.com.hk/news/hkexnews/090212news.htm> in which the modified black out proposal was announced.

Removal of the qualified accountant requirement

23. Another proposal in the CCP which has been adopted is the removal of the qualified accountant requirement. The Exchange believes that the board of a listed issuer should have both the responsibility and freedom to decide the number of personnel and their accounting qualifications which are suitable for the company. To address concerns that removal of the specific Listing Rule requirement for a qualified accountant may lead to a decline in corporate governance standards and the effectiveness of corporate internal controls, the Exchange has expanded the Code Provisions of Appendix 14-Code on Corporate Governance Practices regarding internal controls to make specific references to the responsibility of the directors to conduct an annual review of the adequacy of staffing of the financial reporting function and the oversight role of the audit committee.

Consultation on Periodic Financial Reporting

24. The Exchange published a consultation paper on 31 August 2007 regarding the proposed amendments to the Listing Rules in relation to Periodic Financial Reporting. The paper sought views on shortening the time allowed for the release of results announcements and reports, the introduction of quarterly reporting requirements for Main Board issuers and alignment of the GEM Listing Rules in respect of quarterly reporting with the proposed Main Board requirements.
25. The Exchange received a total of 62 submissions and the comments received from the market were diverse. The market's responses are posted on the HKEx website at http://www.hkex.com.hk/consul/response/periodic_fin.htm.

Shortening the Deadlines for Half-Year and Annual Reporting by Main Board Issuers

26. Having taken into account the views expressed by the respondents, the Listing Committee accepted that additional time might be necessary for issuers to prepare and publish their periodic financial reports and therefore decided to retain the existing reporting deadlines for the release of interim reports of 3 months and annual reports of 4 months. The Listing Committee also decided not to adopt the original proposal of a phased implementation with "large companies" required to comply the new accelerated reporting deadlines first.
27. On 18 July 2008, the Exchange published its Consultation Conclusion on Shortening the Deadlines for Half-Year and Annual Reporting by Main Board Issuers. Amendments have been made to the Main Board Listing Rules to accelerate the deadlines for the release of half-year results announcements (from 3 months to 2 months) and annual results announcements (from 4 months to 3 months), and the new requirements will become effective for accounting periods ending on or after 30 June 2010 and 31 December 2010 respectively. The consultation conclusion is posted on the HKEx website at <http://www.hkex.com.hk/consul/conclusion/cc200807.PDF>.

Quarterly Reporting for Main Board issuers

28. The Listing Committee believes that a more structured flow of information to the market through the introduction of mandatory quarterly reporting will provide investors with more timely information and a better understanding of the risks and developments affecting the financial performance and financial position of listed issuers. More regular financial disclosures will provide an opportunity to improve the quality of the dialogue between issuers and the investing public and will enhance investor confidence as quarterly reporting will enhance transparency and market efficiency, reduce any information asymmetry and in turn reduce the risk of insider dealing.
29. During the year, the Listing Committee had numerous meetings and lively debates on the responses to the August 2007 Consultation Paper and the appropriate approach to proceed on this issue. To ensure a regular flow of timely information concerning issuers' financial performance and position, the Listing Committee believes that the Listing Rules should be enhanced to require issuers to report to the market on a quarterly basis. Under such a regime the Listing Committee views quarterly financial reporting as a long term goal. As an interim enhancement the Exchange will explore alternative approaches and undertake a further consultation with stakeholders on the alternatives to quarterly financial reporting. The Listing Committee notes and welcomes the SFC Executive's support for further engagement on this important topic.

Corporate Governance Review

30. At the April 2008 policy meeting, the Listing Committee reconsidered a paper on the review of the Code on Corporate Governance Practices (“Code”) which was presented to the Listing Committee in February 2008. The meeting discussed 18 issues set out in the paper which were aimed at enhancing corporate governance and addressing areas of concerns.
31. The Listing Committee agreed that the Code should be reviewed and the Listing Division was asked to further develop proposals with respect to the 18 issues for the Listing Committee’s consideration. These issues include evaluation and commentary on the effectiveness of internal control, role and qualification of company secretaries and sustainability – environmental and social reporting.
32. Policy papers containing proposals with respect to some of the 18 issues will be considered in the first half of 2009.

Depositary Receipts

33. To provide an alternative facility for issuers to list on the Exchange, the Listing Committee approved a framework for issuers to list in Hong Kong through Hong Kong depositary receipts (“HDRs”) which came into effect on 1 July 2008.
34. The governing principle of HDRs listing is that it involves no policy change. All the existing shareholder protections under the Listing Rules, as amplified by the joint policy statement issued by Exchange and the SFC on 7 March 2007, apply to HDRs issuers. Any overseas issuer seeking a listing on the Exchange will have to comply with the same regime, whether the issuer comes in the form of HDRs or of ordinary shares.
35. The HDRs initiative flows from the HKEx Strategic Plan 2007-09. HKEx’s Strategic Plan sets a goal of listing more overseas companies in Hong Kong. Prior to the introduction of the HDRs regime, issuers listing equity securities in Hong Kong could only have done so in the form of shares which would have required them to maintain their share register or a branch of their share register in Hong Kong. Noting the rigidity of this listing route might not be convenient for issuers from jurisdictions that prohibit the issuance of shares or the maintenance of a share register overseas, the Listing Committee, with the support of the SFC, considered it appropriate to accommodate issuers who prefer to list in the form of HDRs.
36. Although to date the Exchange has yet to list its first HDRs, the Exchange has received a number of enquiries from depositary receipt operators on specific issues of operation. Absent experience on the applicability of the Listing Rules to depositary receipt operations worldwide or on the compatibility of the Listing Rules with other securities law requirements, the Listing Committee is open to market suggestions as to how the HDRs regime may be improved or clarified to facilitate HDRs listings on the Exchange.

Update on Listing of Overseas Companies

37. The Listing Committee expressed in its report of 2007 its willingness to consider adopting a more liberal disclosure based approach regarding listing of overseas companies following the publication of the joint policy statement on listing of overseas companies on 7 March 2007 by the Exchange and the SFC.
38. In the year under review, the Exchange noted a marked increase in overseas companies indicating interest in listing in Hong Kong. These include companies incorporated in Australia, Canada, Cyprus, Israel, Italy, Japan, Jersey, Luxembourg, Singapore, South Korea, USA, and Vietnam.
39. In response to increased enquires regarding listing of overseas companies, the Exchange has developed certain administrative procedures to help overseas companies assess the acceptability of their own shareholder protection measures prior to filing of formal listing applications with the Exchange. If, based on the analysis performed by the Listing Division, it is believed that an overseas company has made out a plausible case of shareholder protection sufficiency based on the model promulgated in the joint policy statement, the Listing Division will ask the Listing Committee to provide guidance, on a case by case basis, with respect to the acceptability of the company's place of incorporation. Following this mode of operation, companies incorporated in Singapore, Luxembourg, and Cyprus respectively have obtained positive indications of the Listing Committee that their places of incorporation are acceptable to the Exchange.
40. To enable the market to better understand the rationale behind the decisions of the Listing Committee over the issue, the Listing Division will publish a new series of Listing Decisions.

Growth Enterprise Market (GEM)

41. As indicated in the Listing Committee Report 2007, the Consultation Conclusions on the Growth Enterprise Market and Listing Rule changes were published in the second quarter of 2008. During the year, the Listing Division and the Listing Committee continued to develop implementation plans with regard to the proposition to re-position GEM as a second board, and as a stepping stone towards the Main Board, which is a result of the consultation and discussions with the SFC.
42. Listing Rules amendments were introduced to reflect the new role of the market but GEM has largely retained its existing structure. The key changes which became effective from 1 July 2008 were:
 - Under quantitative admission requirements, applicants need to have achieved positive cash flow of not less than \$20 million in aggregate for two preceding financial years;
 - The power to approve the admission of new issuers to GEM has been delegated from the GEM Listing Committee to the Listing Division, and the GEM Listing Committee retains monitoring, appeal and policy responsibilities;
 - Continuing obligations of GEM listed issuers has been brought closer to the requirements applicable to the Main Board requirements; and
 - The process for transferring listing from GEM to the Main Board has been streamlined and there is a 50 per cent cut in the Main Board initial listing fee for all transfer applicants from GEM.

43. The Listing Committee considers that the quantitative admission requirements provide a clear benchmark for eligibility to the market, thereby removing a degree of uncertainty and cost in the application process. Delegating the power to approve the admission of new issuers to the Listing Division should also help address concerns about the duration and predictability of the listing process, helping to minimise the applicants' costs, without compromising regulatory standards.
44. Under the streamlined transfer procedure, a sponsor is no longer necessary and the prospectus has been replaced by regulatory announcements published electronically, hence the time and cost of transferring to the Main Board has also been significantly reduced.
45. Copies of the Consultation Paper issued on 27 July 2007 and the Consultation Conclusions on the Growth Enterprise Market issued on 2 May 2008 are available on HKEx website at <http://www.hkex.com.hk/consul/paper/cp200707e.pdf> and <http://www.hkex.com.hk/consul/conclusion/gem.PDF> respectively.

Mixed Media Offer

46. In April 2008, the Listing Committee authorised the publication, jointly with the SFC, of a consultation paper on the proposal to adopt a more flexible policy with regard to the distribution of listing documents in public offers relating to shares in or debentures of a company, and interests in an SFC-authorized collective investment scheme. Such proposal is known as the "mixed media approach" or "mixed media offer".
47. The mixed media approach focuses on access to prospectus information rather than the medium of its delivery. This approach involves allowing a paper application form for certain securities to be issued without an accompanying paper prospectus provided that certain conditions are met. Such conditions include making available an electronic copy of the prospectus on the issuer's website and the HKEx website and making free copies of the hard copy prospectus publicly available upon request at certain specified locations.
48. The consultation period ended in May 2008. The limited market views received from the consultation exercise are generally supportive of the proposal. The SFC and the Exchange will announce the consultation conclusions upon finalisation of the responses.

Withdrawal of IPO Subscriptions in the Event of Material Changes

49. During the year under review, the Listing Committee noted three listing applicants, namely SJM Holdings Limited ("SJM"), Renhe Commercial Holdings Company Limited ("Renhe") and CVM Minerals Limited ("CVM"), provided options for their investors to withdraw their applications for subscription of shares in their public offer. In the case of SJM, new material information relating to a judicial review emerged after the publication of the prospectus. For Renhe and CVM, the companies proposed a material reduction in their offer price after the prospectus date as a result of a deterioration of market conditions.

50. The mechanism proposed by SJM involved an opt-out approach where applicants in the public offer who wanted to withdraw their applications were asked to submit relevant withdrawal forms within three business days after the issue of the supplemental prospectus. If applicants did not submit their withdrawal forms (i.e. they did not actively seek to opt out), their applications would remain valid. On the other hand, Renhe and CVM adopted an opt-in approach where applicants in the public offer who wanted their applications to continue to be valid were asked to confirm their agreement in respect of all their shares being applied for by submitting the positive confirmation forms. If applicants did not re-confirm their applications (i.e. unless they actively sought to opt in), their applications would be rejected.
51. The Listing Committee was of the view that the steps taken for a withdrawal mechanism must afford potential investors sufficient time to consider their proposed subscriptions or reconsider their existing subscriptions on the basis of the newly-arisen information and/or the revised offer price range together with any corresponding additional information such as the revised use of proceeds, and to ensure that the potential investors were clear as to the proposed arrangements. Based on feedback from the market following the three IPOs mentioned above, the Listing Committee considered that the opt-in option is their preferred approach.
52. The Listing Committee agreed with the Listing Division that the following should be available when a withdrawal mechanism is proposed:
- the listing applicant should issue a supplemental prospectus updating investors of the newly-arisen information and/or the change in the indicative offer price range, together with an update of all relevant financial and other information that would be affected by the proposed change;
 - the listing applicant should extend the period under which the offer was open for acceptances such that potential investors could have sufficient time to consider their proposed subscriptions or reconsider their existing subscriptions; and
 - the listing applicant should give potential investors who had already subscribed for shares under the listing applicant's share offering the right to withdraw their applications given the material change in circumstances.
53. The Listing Committee noted that the recent volatility in the market has resulted in an increased occurrence of the need to revise the offering price after the opening of a public offering. In this regard, the Listing Committee cautions issuers and sponsors to exercise careful judgement in deciding the offer price range for public offering. The number of applications received for SJM, Renhe and CVM were only slightly over 11,000, 800 and 450 respectively (hence not considered large from a logistical point of view in terms of setting up the respective withdrawal mechanism arrangements). However, noting that the financial industry as a whole has not adopted any fixed procedures in establishing withdrawal mechanism arrangements, the Listing Committee considers that in the event where there is a larger number of applications, the withdrawal mechanism arrangements adopted in these previous cases may not be logistically practicable. To ensure a smooth and orderly public offering, issuers and sponsors should ensure the feasibility of any proposed arrangements. There could be situations where arrangements similar to those adopted in the three IPOs mentioned above may not be feasible, in which case the offering in question may have to be terminated and re-launched with a revised price range. In order to minimize the potential administrative implications arising from the withdrawal mechanisms, the Listing Division will continue to liaise with the SFC and the Cash Clearing Operations Department of the Exchange to consider how the current work flow may be enhanced.

Application of Main Board Listing Rule 19A.38 to a bonus or capitalization issue of shares by PRC issuers

54. Under Main Board Listing Rule 19A.38 (GEM Listing Rule 25.23) as it is currently drafted, where a PRC incorporated issuer makes a bonus or capitalization issue of shares pro rata to the existing shareholdings in the issuer, it is required to obtain shareholders' approvals by special resolutions in general meetings and separate class meetings. In contrast, an express exemption from shareholders' approval is available under the Listing Rules for a non-PRC incorporated issuer proposing similar pro-rata share issuances.
55. The Listing Rule was originally drafted to align with the Mandatory Provisions for Companies Listing Overseas (the "Mandatory Provisions"), which governs the articles of association of PRC incorporated issuers and provides that rights conferred on any class of shareholders in the capacity of shareholders may not be varied or abrogated by the company unless approved in separate class meetings.
56. The Exchange notes from recent cases that the Mandatory Provisions are interpreted not to require shareholders' approval where a PRC incorporated issuer makes a bonus or capitalization issue of shares, as such issues do not involve fundraising. Several waiver applications on the Listing Rule were considered during the year and individual waivers were granted. In September 2008, the Listing Committee considered and approved a proposal to grant a general waiver from strict compliance with the Listing Rule where a PRC incorporated issuer proposes a bonus or capitalization issue of shares to all its shareholders. The SFC has given consent pursuant to Main Board Listing Rule 2.04 (GEM Listing Rule 2.07) and agreed to allow the Exchange to grant such waivers of general application in the circumstances described above.

Announcement made by the Exchange to preserve general integrity and reputation of the market

57. The Exchange discharges its regulatory function generally on a confidential basis to preserve the integrity of its process as well as to protect listed issuers and their directors against whom unfounded accusations may have been made. It is the Exchange's general policy not to comment on individual companies, individuals, or cases. This "no comment" policy also ensures that the Exchange meets its statutory obligation to maintain confidentiality with respect to regulatory information in its possession.
58. In certain exceptional circumstances, however, it may be appropriate for the Exchange to comment, or to give information, about specific matters. The key reasons why the Exchange may adopt this approach are to maintain public confidence in the regulation of the market or to maintain a fair, orderly and informed market for the trading of securities; to protect investors in listed securities; to prevent widespread malpractice; or, to help in an investigation.

59. In April 2008, the Listing Committee resolved that the Exchange should, in the peculiar circumstances of the case of Styland Holdings Limited (Stock Code:211) (“Styland”), publish an announcement to the market concerning the prolonged trading suspension and the conditions imposed by the Exchange for trading resumption. The announcement was made by the Exchange in May 2008, to provide shareholders of Styland and the investing public with information concerning the prolonged trading suspension in Styland’s securities, and was made in the discharge of the Exchange’s obligation, pursuant to section 21 of the Securities and Futures Ordinance, to maintain, as far as reasonably practicable, an orderly, informed and fair market for the trading of securities and under Main Board Listing Rule 2.07(2)(e) to preserve the general integrity and reputation of the market.

60. Trading in Styland’s securities on the Exchange has been suspended since April 2004. Until the Exchange’s announcement in May 2008 shareholders of Styland and the investing public had not been, on a timely basis, informed with respect to the status of the trading suspension and conditions for trading resumption. Until April 2008 the Exchange was not prepared to disclose the relevant information as it was particularly conscious of the need to preserve confidentiality and the reputation and goodwill of relevant parties pending a resolution of certain disciplinary actions. Until April 2008 the serious regulatory concerns identified by the Exchange and the denial of the assertions made by Styland and its directors concerned were live issues before the Listing Committee for determination. Accordingly it would be inappropriate for information to be provided to the public in view of the potential risk of prejudice to the fair conclusion of that disciplinary process. As a result of the making of the relevant disciplinary decision in April 2008 such concerns had largely disappeared. The Listing Committee was satisfied that the making of the announcement was necessary in the discharge of its statutory and Listing Rules obligations.

General waiver from Main Board Listing Rules 14.92 and 14.93 in respect of disposal of existing business after a change in control

61. In March 2004, the reverse takeover rules were amended and define a reverse takeover to involve, generally, a change of control (as defined in the Codes of Takeovers and Mergers and Share Repurchases) and an injection of assets (or a series of injections) from the new controlling shareholders which meets the size of a very substantial acquisition. Main Board Listing Rules 14.92 and 14.93 (GEM Listing Rules 19.91 and 19.92) are part of the reverse takeover rules and restrict a listed issuer from disposing of its existing business for a 24-month period after a change in control, unless assets acquired from the new controlling shareholder (and its associates) and any other assets acquired after the change in control can meet the new listing trading record requirement. The Listing Rules intend to address circumvention of the reverse takeover rules in situations where the new controlling shareholder may structure a reverse takeover as a series of transactions, for example, by deferring the disposal of the existing business of the listed issuer until after an injection of assets to the listed issuer shortly after a change in control, thereby averting classification of the asset injection as a very substantial acquisition.

62. The drafting of the current Listing Rules supports a narrower interpretation and effectively restricts a listed issuer from disposing any of its existing businesses for legitimate reasons within a 24-month period after a change in control, even where there is no asset injection.
63. At the policy meeting in April 2008, the Listing Committee considered and endorsed the proposal to restore the original intention of the Listing Rules. Under the proposal the disposal restriction under the Listing Rules would apply in circumstances where (a) there has been an injection of assets from the new controlling shareholder (therefore raising a legitimate concern about a reverse takeover); and (b) where taking into account the disposal(s), the asset injection (or a series of injections) from the new controlling shareholder during the period leading to and after the change in control would have resulted in a very substantial acquisition.
64. The above proposal will be subject to market consultation in due course. In the interim, the SFC has given consent pursuant to Main Board Listing Rule 2.04 (GEM Listing Rule 2.07) and agreed to allow the Exchange to grant waivers of general application such that the Listing Rules would not apply unless the listed issuer falls under the circumstances described.

MEETING STATISTICS AND ACTIVITIES

65. 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	
	2008	2007	2008	2007
Regular Meetings	48	49	12.0	11.9
Review Meetings (*excluding reviews by Listing Appeals Committee)	9	8	5.8	6.0
Disciplinary Meetings	8	12	7.0	6.1
Quarterly and ad hoc policy meetings	7	4	20.4	21.7
Total	72	73		

APPROVAL OF NEW LISTING APPLICANTS

66. One of the principal items of business of the Listing Committee's regular meetings is considering whether or not to approve new listing applications. These are considered on the basis of reports from the Listing Division, which include a recommendation on whether or not to approve the listing application. In respect of each application considered by the Listing 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	2008	2007
Meetings Within the Regular Schedule	46	44
Specially Convened Meetings	0	2
Listing Applications considered by the Listing Committee	2008	2007
Main Board (see note 1 below)	93	92
GEM (see note 2 below)	4	3
Total	97	95
Applications Approved		
Main Board	89	90
GEM	2	3
Total	91	93
Decisions Deferred Pending Further Information		
Main Board	4	2
GEM	2	0
Total	6	2
Applications Subsequently Listed to 31st December		
Main Board	42	78
GEM	2	3
Total	44	81

Notes:

- 1 2008 includes a Very Substantial Acquisition, Very Substantial Disposal and reverse takeover treated as a new listing application.
- 2 2007 includes a Very Substantial Acquisition and reverse takeover treated as a new listing application.

CANCELLATION OF LISTING OF LISTED ISSUERS

67. 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 pursuant to Chapter 6 of the Main Board Listing Rules. GEM Listing Rules 9.14 to 9.18 deal with the delisting of GEM companies.
68. 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.
69. 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	
	2008	2007
Main Board		
Issuers to be placed into third stage of delisting procedures		
– Without issuer having submitted resumption proposal	3	5
– After rejecting resumption proposal as not viable (note 2)	–	2
Issuer to be given notice of intention to delist pursuant to Main Board Listing Rule 6.10	–	1
Listing to be cancelled without issuer having submitted resumption proposal (note 3)	3	2
Trading to be resumed	3	1
GEM		
Issuer to be given notice of intention to delist pursuant to GEM Listing Rule 9.14	–	2
Listing to be cancelled without issuer having submitted resumption proposal (note 4)	–	3
Listing to be cancelled after rejecting resumption proposal submitted as not viable (note 5)	1	1
Trading to be resumed	–	2

Notes:

- 1 Unless otherwise indicated these decisions were not appealed against.
- 2 One of the decisions in 2007 was appealed against and upheld on review.
- 3 One of the decisions in 2008 was appealed against and the review remains outstanding at the year end.
- 4 One of the decisions in 2007 was appealed against and upheld on review.
- 5 The decision in each of 2007 and 2008 was appealed against and upheld on review.

70. During the year, the Listing Committee noted the development of the judicial review (which involves the Exchange and Sanyuan Group Limited (“Sanyuan”)) concerning the delisting procedures. In the judgment dated 4 June 2008, the court upheld Sanyuan’s application on the following grounds:
- An applicant (such as Sanyuan) for resumption of trading in its shares must be told the financial levels which it must achieve in order to be re-listed. Alternatively, it must at least be given “ballpark” figures. In any event, an objective standard needs to be identified by the Exchange.

- Sanyuan was entitled to have the decision of the Listing Appeals Committee quashed for procedural unfairness and inadequacy of reasons.

An appeal against the court's judgment was made by the Exchange on 17 July 2008 and remains outstanding at the year end.

71. At the policy meeting in September 2008, the Listing Division sought the Listing Committee's preliminary view on whether the practices and procedures in respect of delistings should be varied on a general basis pending the outcome of the Exchange's appeal against the court's judgment.
72. Under the Listing Rules, where a listed company fails to comply with Main Board Listing Rule 13.24/GEM Listing Rule 17.26 (that requires a listed company to maintain a sufficient level of operations or assets of sufficient value), trading in its securities will be suspended and resumption of trading will only be permitted where the company is able to demonstrate its compliance with the Listing Rule. The Listing Committee acknowledged that the nature, characteristics and financial conditions of the suspended companies' businesses were unlikely to be the same and accordingly their resumption proposals would not be precisely similar. The Listing Committee endorsed the current approach adopted by the Exchange that resumption proposals submitted by individual listed companies should be considered on a case-by-case basis having regard to the particular circumstances of each case. Where a suspended company's resumption proposal was rejected and the Listing Committee decided to cancel its listing, the company has the right to appeal against the decision under the review process set out in the Listing Rules.
73. Further, the Listing Committee noted that where suspended companies submitted resumption proposals following the substantive procedures and requirements of the Exchange, the Listing Division would give guidance to the individual companies when considering their proposals. The Listing Division would indicate that further information was required in specific areas or elements of the proposals needed more substance. The Listing Committee agreed that the Exchange should be facilitative of resumption proposals and where necessary the Exchange would give specific guidance to the suspended company based on the particular facts and circumstances of its case. However, where no efforts were being made by a long suspended company to produce a viable resumption proposal, the existing procedures and requirements for delisting should be followed.
74. In the policy meeting, the Listing Committee was also presented with a summary of precedent cases with resumption proposals submitted by suspended companies concerning compliance with Main Board Listing Rule 13.24/GEM Listing Rule 17.26 since 2003. In respect of those viable resumption proposals, the summary indicated that certain key factors for assessing resumption proposals were taken into consideration in a fairly consistent manner (such as profitability and sufficiency of assets and funds to enable the suspended company concerned to achieve its business plans and the expected level of operations as described in its resumption proposal). It was also noted that for those resumption proposals rejected by the Exchange as not viable, they were rejected mainly on the basis of the lack of sufficient information and/or credibility of the proposals.
75. Pending the outcome of the Exchange's appeal against the court's judgment in the Sanyuan's case, the Listing Committee considered that there was no need to effect any substantial change to the Exchange's general approach in handling delisting cases at this stage. The Listing Committee determined that individual cases would continue to be assessed on their own merits and the Exchange would give specific guidance to the suspended company based on the particular facts and circumstances of its case.

76. During the year, the Listing Committee approved the cancellation of listing of (i) three long-suspended companies that had failed to submit any resumption proposals before the deadline; and (ii) one long suspended company after rejecting its resumption proposal as not viable due to the lack of sufficient information and concerns about the credibility of the proposal. The Listing Committee's decisions in these cases re-affirmed that it is important for the suspended companies to observe the standards and guidance issued by the Exchange regarding submission of resumption proposals, and that companies suspended for a prolonged period without taking adequate action to produce a viable resumption proposal and obtain a restoration of listing will be delisted.

OTHER REGULAR BUSINESS

77. 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 HKEx website in respect of long suspended companies.

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

Nature of decision/advice sought	Number of cases	
	2008	2007
Approval for a voluntary withdrawal of listing (including 2 cases (2007: 4 cases) involving a transfer from GEM to the Main Board)	7	14
Approval of an issuer of structured products	1	4
Approval for listing of debt securities not delegated to the Head of Listing	1	1
Requests for pre-application guidance from potential IPO candidates	7	6
Consideration of proposals for a change in domicile of the issuer	1	–
Consideration of spin-off applications	2	–
Rejection of application for review of a decision under Rule 2B.15	1	–
Approval of waiver to allow placing of shares to an associate of an existing shareholder in an IPO	1	–
Consenting to a placing of shares to a connected client of a distributor in an IPO	1	–
Guidance on public float in respect of an IPO	1	–
Guidance on whether to permit a connected person to provide underwriting services to an issuer	1	–
Extension of time allowed for appealing against a decision	1	–
Rejection of waiver of Rule 8.06 to extend validity period of accounts in a prospectus	1	–
Eligibility of an individual as a director	–	1
Eligibility of an individual to be appointed as company secretary	–	2
Guidance on parties to be regarded as associates of an issuer in a transaction	–	1
Guidance on application of Rule 10.04 to fund management company	–	1
Approval of waiver in respect of disclosure of certain property interests in circular to shareholders	–	1

REVIEW MEETINGS

79. The Listing Committee considered 9 (2007: 8) 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 3 (2007: 5) requests for reviews. Details of these reviews are set out in the table below.

Appeal Committee	Decision made by	Nature of decisions	Number of cases	Outcome as at 31 December 2008
Listing Appeals Committee	GEM Listing Disciplinary (Review) Committee	Disciplinary Sanction	1	Decision not issued
	GEM Listing (Review) Committee	Cancellation of listing	2	Upheld
Main Board Listing (Review) Committee	Main Board Listing Committee	Cancellation of listing	1	Upheld
	Main Board Listing Committee	Classification of a transaction as a reverse takeover	1	Upheld
GEM Listing (Review) Committee	GEM Listing Committee	Cancellation of listing	1	Upheld
Main Board Listing Committee	Listing Division	Classification of a transaction as a spin-off	1	None – transaction withdrawn
	Listing Division	Classification of a transaction as a reverse takeover	1	Upheld
	Listing Division	Information to be included in a circular to shareholders	1	None-meeting adjourned and application then withdrawn
	Listing Committee	Rejection of an application to reduce public float	1	Upheld
GEM Listing Committee	Listing Division	Rejection of application to extend deadline for submitting a listing application	1	Overtaken – waiver granted
	Listing Division	Rejection of listing application	1	Upheld

80. As at 31st December 2008, there were two cases under review as follows:

Appeal Committee	Decision made by	Nature of decisions	Number of cases
Listing Appeals Committee	Listing Disciplinary (Review) Committee	Disciplinary sanction	1
Listing Appeals Committee	Listing (Review) Committee	Cancellation of listing	1

DISCIPLINARY MEETINGS

81. Disciplinary matters are generally dealt with at specially convened meetings of the Listing Committee. Written representations are central to the process. A typical case will involve two rounds of written submissions from the Listing Division and from those alleged to have breached the Listing Rules (the listed issuer and/or its directors). At the hearing the Listing 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.
82. As in earlier years, to utilize its existing resources to the best regulatory effect, the Listing Division focuses its resources on pursuing the most blatant and serious breaches of the Listing Rules. These tend to be cases where some form of public sanction will be sought against the listed company and/or directors. The enforcement strategy of the Exchange towards listed companies and their management is fully explained in both Chinese and English on the HKEx's web-site.
83. 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.
84. An analysis of the nature of the alleged breaches of the Listing Rules considered at disciplinary and regular meetings is set out below. Some of the cases mentioned have been the subject of a first and then a review hearing by the Listing Committee. Further, some of the outcomes published in 2008 were the subject of meetings which took place in late 2007. In addition, two cases already heard by the Listing Committee at both first instance and on review are still the subject of further review proceedings before the Listing Appeals Committee.

Nature of Alleged Breach of Listing Rules	Meetings	Cases
Misstatement or misleading information in prospectus or announcement	4	2
Failure to publish annual accounts and interim accounts within prescribed deadlines	3	3
Failure to disclose price sensitive information, significant advances to entities or discloseable transactions	5	4
Failure to obtain shareholder approval for connected or other transactions	12	7
Failure to respond to enquiries	1	1
Total	25	17

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.

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

Outcome	No. of Cases
Public Sanction – published in period	15
Cases subject to further review	2
Total	17

86. The collective and individual responsibility of directors for compliance is 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 compliance of listed companies with the Listing Rules 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. This step has resulted in a significant increase in the number of individuals who have been involved in and subject to sanction by the Listing Committee. Table below provides more detail and encompasses the outcomes both public and private action at different levels against all directors who have been involved in disciplinary action before the Listing Committee.

	2006	2007	2008
Number of EDs against whom action was taken as a result of disciplinary or settlement cases	63	48	67
Number of NEDs against whom action was taken as a result of disciplinary or settlement cases	2	20	17
Number of INEDs against whom action was taken as a result of disciplinary or settlement cases	2	18	26
TOTAL	67	86	110

87. 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 an obligation to retain external assistance to create an internal control review.

88. Coupled with the retention of external advice and assistance, the Listing Committee views training for directors of particular importance as part of a remedial package where serious breaches have been identified. To support the directions made in specific disciplinary actions a sub-committee has been established to consider the provision of training for directors generally and the sub-Committee is currently working with professional institutions such as the Hong Kong Institute of Directors and the Hong Kong Institute of Chartered Secretaries to identify and structure appropriate programmes designed to deliver the requisite level of understanding to enable directors to discharge their compliance obligations.

89. A number of the cases considered by the Listing Committee during the year illustrate the importance of issuers' taking steps to ensure that they have adequate and appropriate systems in place to ensure that they can meet their obligations to report financial information in a timely manner. In addition, certain cases have emphasized the Exchange's views on senior management responsibility with regard to compliance systems.

90. The Exchange continues to expect directors, as senior management, to take responsibility for ensuring that listed companies identify Listing Rules 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 it is a factor we consider, in the context of the facts and circumstances of each case, to mitigate the level of sanction.

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

	2006	2007	2008
Number of disciplinary or settlement cases involving an “ Internal Control Review ” direction	1	3	4
Number of disciplinary or settlement cases involving a “ Retention of Compliance Adviser ” direction	1	4	5
Number of disciplinary or settlement cases involving a “ Training of Directors ” direction	1	7	4

92. Some disciplinary matters are dealt with at regular meetings of the Listing Committee when a proposal to settle a disciplinary matter with an agreed sanction is presented to the Listing Committee for endorsement. This approach has been adopted in a growing number of occasions over the last three years and transparency in the process and the factors to be taken into account was the subject of an announcement on 22 June 2007. The rationale for the adoption of this policy, which has been the subject of commentary in earlier years, remains relevant and will not be repeated here. The full text of the announcement can be found on the HKEx web-site at <http://www.hkex.com.hk/listing/enforcement/policy%20paper%20settlement.pdf>. In 2006, seven disciplinary matters were concluded by settlement whereas in 2007 eight cases were resolved in this way and five in 2008.

93. 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.

94. In last year’s Listing Committee Report, it was considered appropriate to mention the issue of co-operation. The Listing Committee believed that it is appropriate to take this opportunity to remind directors again that the level of co-operation shown in helping the Exchange to establish the facts during an investigation into suspected breaches is a factor taken into account in deciding what, if any, disciplinary action is appropriate. Directors are required by the terms of their undertaking to the Exchange, to cooperate with the Exchange to facilitate the performance of its regulatory function in responding promptly to enquiries and attending meetings with the Listing Division and the Listing Committee when required. Breach of these obligations may give rise to disciplinary action distinct from the substantive breaches of the Listing Rules suspected.

95. The Listing Committee has noted again with continuing concern a number of requests for the adjournment of disciplinary hearings by the parties subject to proceedings sometimes only shortly before the hearing is due to go ahead. Dates for disciplinary hearings are fixed well in advance to permit adequate time for preparation by all parties and for Listing Committee members hearing the case to read the papers which can be voluminous. While postponements may be granted in the interests of fairness, delays will only be permitted where compelling reasons are advanced with supporting documents (where necessary) to justify the request. It is not in the interests of the investing community and the market generally for excessive and extensive delays to be permitted against the timely discharge of disciplinary business unless strong and compelling reasons exist. As will be noted below, in the interests of transparency further details may be provided in the public sanctions issued at the conclusion of long running disciplinary action to inform shareholders and the market of the time-frame over which the action has been taken and why the publication of the outcome may have been delayed.
96. The Listing Committee had considered a number of issues relating to enforcement policy during 2008. The overall approach to disciplinary action against directors of listed issuers as described above was considered. The Listing Committee endorsed the existing approach adopted by the Listing Division which focuses on the collective and individual responsibility for compliance finessed by the personal undertaking given by directors to the Exchange. Responsibility for substantive breaches as well as creating the conditions for compliance by listed issuers through the creation of adequate and effective internal controls is and will remain the underlying themes for disciplinary action.

ENFORCEMENT POLICY INITIATIVES

97. There is, we understand, a perception in some quarters of the market that the enforcement work undertaken by the Exchange lacks transparency. The statutory obligation of secrecy places limitations on the extent to which information can be made public prior to the final disposal of disciplinary actions. Regrettably, the existing process can be abused leading to delays to the communication of outcomes to the market. As mentioned above, the Listing Committee has agreed that in future where long running disciplinary matters are brought to a conclusion and public sanctions are imposed that in the interests of transparency more information will be given in the public sanctions as to the time frame over which the matter has been pursued.
98. Two further measures were implemented on 19 November 2008. Firstly, the Listing Committee has authorized the Listing Division to publish announcements requesting the assistance of named individuals in investigations. These announcements are designed to be used in circumstances where the Listing Division has been unable to contact directors of listed issuers in order to pursue enquiries into matters of regulatory concern. It may be that some individuals for a variety of reasons may simply be unaware that the Listing Division has matters of concern to discuss. Equally however it may be that some individuals may deliberately avoid responding to enquiries made by the Listing Division. It should however be stressed that no adverse inferences should be drawn by the publication of these announcements naming the individuals concerned. Five such announcements were published in 2008.

99. Secondly, the Listing Committee noted and supports an initiative by the Listing Division to publish a series of guidance letters on enforcement related topics. If, following investigation, it is decided that no formal disciplinary action is necessary or appropriate, but that there are regulatory issues which merit guidance as to the Exchange's expectations of issuers in given circumstances, guidance will be offered by the Enforcement Department of the Listing Division. Where the guidance is considered to be important a redacted version of the letter will be published on the HKEx's web-site on an anonymous basis. Six such guidance letters were published in 2008.
100. These measures have been introduced in an effort to enhance transparency to the existing process. The Listing Committee will continue to work during 2009 with the executive of the Listing Division to identify further steps which can be taken against the background of our statutory obligations to enhance transparency where possible.
101. As noted above, the sanctions currently available are primarily reputational in character. The Listing Committee has considered whether it would be appropriate to consider seeking the ability to impose financial penalties (fines) on listed issuers on a similar basis to that available to the AIM market in London. Some preliminary work has been done in this direction and while it appears that it may be legally and administratively possible for the Exchange to impose financial penalties on listed issuers and their directors, it is not considered appropriate for the Exchange to take this policy initiative further at the moment. In making this decision, the Listing Committee noted that statutory fines in Hong Kong were relatively low; thus it might not be possible to introduce fines at a level that would act as a meaningful deterrent or provide an extended range of possible disciplinary sanctions available to the Exchange. Such a conclusion would defeat the primary purpose of introducing fining powers. Introducing fining powers might also have adverse effects on the informal nature of the current disciplinary process. Market acceptance would also be an extremely sensitive issue.

POLICY DEVELOPMENT

102. 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 Listing Committee. These items are normally in the nature of reporting back on minor revisions to policy previously agreed at quarterly meetings or amendments to the Listing Rules which had previously been approved at quarterly meetings that were minor in nature but which, nonetheless, required the Listing Committee's approval. A total of 17 meetings were held during 2008.

103. We summarise in the table below the policy matters considered at the Listing Committee's policy meetings and at various regular meetings as noted below.

Date	Items
3rd January 2008 Regular meeting	<ul style="list-style-type: none"> - Report on the Securities and Futures Commission's 2007 annual review of the Exchange's performance in its regulation of listing matters
5th February 2008 Policy meeting	<ul style="list-style-type: none"> - The use of publicity in Exchange enquiries - Periodical Financial Reporting: Consultation conclusions and proposed rule amendments - Draft consultation conclusions on GEM and revised GEM Listing Rules - Code on Corporate Governance Practices: report on implementation and review - Disciplinary Action against Non Executive and Independent Non Executive Directors: review of policy and practice
13th March 2008 Regular meeting	<ul style="list-style-type: none"> - Operational hours of Electronic Disclosure regime upon implementation of closing auction session: approval of Listing Rule amendments - Consultation Conclusions on Periodic Financial Reporting: review of Listing Division's proposals
20th March 2008 Regular meeting	<ul style="list-style-type: none"> - Draft Consultation Conclusions on GEM and Revised GEM Listing Rules: approval of the Consultation Conclusions - GEM IPO Listing Approval Procedures: review of Listing Division's proposals - Proposed establishment of a depositary receipts framework in Hong Kong: review of the Listing Division's proposals
21st April 2008 Policy meeting	<ul style="list-style-type: none"> - Implementation of Rule Amendments in 2008 Combined Consultation Paper: minor Rule Amendments - Share Registrar Fees: request for increase - Consultation Conclusions on Periodic Financial Reporting: review of the Listing Division's proposals - Application of Main Board Rule 14.92 to disposals of businesses within 24 months after change in control: review of policy and practice - Code on Corporate Governance Practices: report on implementation and review - Disciplinary Action against Non Executive and Independent Non Executive Directors: review of policy and practice (discussion resumed from 5th February 2008 policy meeting) - Remedial Training for directors following disciplinary actions: review of Listing Division's proposals
30th April 2008 Regular meeting	<ul style="list-style-type: none"> - GEM IPO Listing Approval Procedures: approval of Listing Division's proposals
29th May 2008 Regular meeting	<ul style="list-style-type: none"> - Project to explore the feasibility and desirability of establishing a Professional Board for the listing of overseas companies: review of policy and practice
10th July 2008 Regular meeting	<ul style="list-style-type: none"> - Proposed Guidance Regarding Indebtedness, Liquidity, Financial Resources and Capital Structure Disclosure in Listing Documents issued by New Applicants: review of Listing Division's proposals

Date	Items
17th July 2008 Policy meeting	<ul style="list-style-type: none"> – 2008 Combined Consultation: review of Listing Division’s proposals <ul style="list-style-type: none"> • Bonus issues of a class of securities new to listing (Issue 6) • Information gathering powers (Issue 2) • Disclosure requirements for announcements regarding issues of securities for cash and allocation basis for excess shares in rights issue (Issue 9) • Alignment of requirements for material dilution in major subsidiary and deemed disposal (Issue 10) • Disclosure of Information in takeovers (Issue 16) • Disclosure of Information about and by directors (Issue 13) • Review of the Director’s and Supervisor’s Declaration and Undertaking (Issue 17) • Qualified Accountant (Issue 3) • Voting at general meetings (Issue 12) • Review of the Exchange’s approach to pre-vetting public documents of listed issuers (Issue 7) • Review of the Model Code (Issue 18) – Consultation Conclusions on Shortening the Deadlines for Half-year and Annual Reporting by Main Board Issuers: review of Listing Division’s proposals – Consultation Feedback and Supplemental Consultation on Proposals to Mandate Quarterly Financial Reporting and Proposals to Introduce Quarterly Narrative Management Statements as a Transitional Measure: review of Listing Division’s proposals – New structure for listing decision-making: review of policy and practice – Disciplinary Sanctions: imposition of Financial Penalties and Transparency in the Disciplinary Process – Follow-up Policy Paper on “Application of Main Board Rule 14.92 to disposal of businesses within 24 months”: review of policy and practice – External Review of Listing Rules and their application: information paper
11th September 2008 Policy meeting	<ul style="list-style-type: none"> – Quarterly Reporting: update – Preliminary Review of the Current Delisting Procedures – 2008 Combined Consultation <ul style="list-style-type: none"> • Use of websites for communication with shareholders (Issue 1) • Disclosure of changes in issued share capital (Issue 8) • Codification of waiver to property companies (Issue 14) • Review of sponsor’s independence (Issue 4) – Review of the Pilot Scheme on WPIP-posting requirement – Proposal to grant relief from certain connected transaction requirements to allow a connected person to act as underwriter in an issue of securities by listed issuer: review of policy and practice – Application of Main Board Listing Rule 19A.38 to a bonus or capitalization issue of shares by PRC issuers: review of Listing Division’s proposals – ICAC’s Report on Corporate Governance Practices for Listed Companies: review of policy and practice
25th September 2008 Regular meeting	<ul style="list-style-type: none"> – 2008 Combined Consultation – Listing Rule amendments pertaining to Issues 6, 7, 10, 12, 13, 16 and 17 for endorsement by the Listing Committee
23rd October 2008 Regular meeting	<ul style="list-style-type: none"> – 2008 Combined Consultation: review of Listing Division’s proposals <ul style="list-style-type: none"> • Disclosure of changes in issued share capital (Issue 8) • Review of the Model Code (Issue 18) • Minor changes to proposed Listing Rule amendments
13th November 2008 Policy meeting	<ul style="list-style-type: none"> – Report on the Strategic Review of the Listing Rules
20th November 2008 Regular meeting	<ul style="list-style-type: none"> – “Consultation Conclusions on Proposals in the 2008 Combined Consultation Paper”: approval of the Consultation Conclusions
6th December 2008 Policy meeting	<ul style="list-style-type: none"> – Report on the Strategic Review of the Listing Rules
18th December 2008 Regular meeting	<ul style="list-style-type: none"> – Oral briefing on meeting with SFC Board – Review of the Pilot Scheme on WPIP-posting Requirement
30th December 2008 Policy meeting	<ul style="list-style-type: none"> – Black out period: consider recent comments from listed issuers and legislative councilors together with the letter from the SFC and decide what actions to be taken

STRATEGIC REVIEW OF THE LISTING RULES

104. During the first half of 2008, views were expressed in various quarters that certain aspects of the Listing Rules may pose administrative or compliance burdens to potential issuers and could potentially act as a disincentive to companies considering listing in Hong Kong.
105. In the light of such opinions, HKEx Board resolved to engage a consultant to conduct a strategic review of the Listing Rules and their application. The overall objective of the project is to review the existing listing regime (including the rules and related procedures) with a view to identifying possible means of enhancing the competitiveness of the Exchange as an international listing venue, while taking full account of the need to maintain the quality of the Hong Kong securities market.
106. The review involved interviewing a number of market participants (particularly issuers, intermediaries and professional advisers) and other interested parties (including the Government, the SFC and HKEx Board and Listing Committee members). It also involved reviewing the listing regimes of a number of other jurisdictions. The review would culminate with a final report to the HKEx Board, Listing Committee and the senior management.
107. The Listing Committee had discussed the report submitted by the consultant in two meetings. The report is also being reviewed by HKEx. HKEx will then work with the SFC on any actions that the HKEx Board considers appropriate following the recommendations of the review.

POLICY AGENDA FOR 2009

108. We highlight below those matters we currently plan to consider during 2009:

- Corporate Governance Review
- Quarterly Reporting for Main Board issuers
- Strategic Review of the Listing Rules
- Proposal to accept financial statements of Mainland companies listed in Hong Kong prepared under Mainland accounting standards and audited by Mainland auditors
- Review of Main Board IPO documentary requirements
- Review of initial listing eligibility criteria
- Reform of the general obligation of disclosure

CONCLUSION

109. I shall be retiring from the Listing Committee this year. For me it has been an honour and privilege to have served on the Listing Committee these past six years and to have had an opportunity to contribute towards the success of the Hong Kong listing regime. I should like to thank my two deputy chairpersons, fellow Listing Committee members and the Listing Division for their continued support in the past year, and especially for their hard work in enhancing Hong Kong's disclosure regime.

110. This report was approved for submission to the boards of the Exchange and HKEx on 26 February 2009.

Gage McAfee
Chairman

Listing Committee Members List

(As at 31 December 2008)

Chairman

McAFEE William Gage

Deputy Chairmen

KO Yuk-yin, Teresa

TSOI Tong Hoo, Tony

Ex-officio member

CHOW Man Yiu, Paul

Other members (in alphabetical order)

ALLEN Jamie

BEST Roger Thomas

BROWN Melissa

BROWN Stephen James

BUNKER Robert Edward John

CHAN Chun Hung, Vincent

CHEN Yang Chung, Roy

FUNG Shing Kwong

GO Kai Lung, Paul

HUI Chiu Chung, Stephen

HUNT Stephen Burnau

IP Koon Wing, Ernest

KEYES Terence Francois

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