



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

The Listing Committee Report 2005



INTRODUCTION

1. This report provides a statistical overview of the work of the GEM and Main Board Listing Committees for the twelve months ended 31 December 2005. It has been prepared by the Secretary to the Listing Committees for despatch with the annual report of HKEx in respect of the same period.
2. The GEM and Main Board Listing Committees are appointed for a term of office of approximately one year which ends no later than thirty days after the Annual General Meeting of The Stock Exchange of Hong Kong Limited (the "Exchange"), a wholly-owned subsidiary of HKEx. The committees shall exercise all the powers and functions of the Board of the Exchange in relation to all listing matters. Their exercise of such powers and functions is only subject to the powers of review of the Listing Appeals Committee.
3. The Committees prepare and publish a detailed report (the "Annual Report") in respect of their activities during their term of office and these reports include both a statistical analysis of activities and the Committees' comments on those activities. The Committees' Annual Reports are published on the website of HKEx (www.hkex.com.hk) and are provided to the Financial Services and Treasury Bureau and the Securities and Futures Commission. The Committee's last annual report, in respect of the period from 1 May 2004 to 13 May 2005, was published in July 2005; the next annual report, in respect of the period from 14 May 2005 to a date in late May 2006 is expected to be published in or about July 2006, and will also be published on the website of HKEx and distributed to the Financial Services and Treasury Bureau and the Securities and Futures Commission.

MEMBERSHIP

4. Pursuant to the Listing Rules and the GEM Listing Rules, the Main Board Listing Committee and the GEM Listing Committee consist of 24 and 20 external members respectively. To provide consistency and continuity across these two committees, the members of these two committees are almost the same. The Chief Executive of HKEx is an ex-officio member of both these committees. For convenience, the Main Board Listing Committee and GEM Listing Committee are hereafter referred to as the Listing Committees.
5. The overlap in membership enables the two committees to be operated as one committee for most purposes and much of the routine business is conducted at combined meetings. This approach is not adopted for disciplinary meetings nor is it adopted for meetings at which decisions of the Listing Division or the respective Listing Committees are reviewed. A list of members who served on the Listing Committees during the year and their attendance record at the various different forms of Listing Committees' meetings is set out below.

	Nature of Meeting							
	Regular		Policy		Disciplinary		Review	
	No.	%	No.	%	No.	%	No.	%
Mr Moses Cheng ¹	27	54.0	5	100.0	1	4.8	0	0
Dr Marvin Cheung ²	9	75.0	1	100.0	5	83.3	6	75.0
Mr Carlson Tong ³	26	62.7	5	100.0	3	15.0	3	15.0
Mr V-Nee Yeh	37	148.0	4	80.0	7	36.8	6	33.3
Mr Anthony Lo	23	92.0	4	80.0	1	4.0	8	38.1
Mr Peter Wong	13	52.0	5	100.0	7	35.0	8	32.0
Mrs Angelina Lee	16	64.0	3	60.0	2	12.5	3	20.0
Mr Henry Cheong	19	76.0	2	40.0	8	36.4	10	40.0
Mr Roger Best	18	72.0	5	100.0	6	40.0	7	58.3
Mr Stephen Hui	22	88.0	4	80.0	9	40.9	6	25.0
Mr Ernest Ip	19	76.0	2	40.0	5	27.8	5	26.3
Mr Alex Ko	21	84.0	4	80.0	12	54.5	12	63.2
Mr Allan Lam	17	68.0	2	40.0	4	16.7	9	37.5

MEMBERSHIP (Continued)

	Regular		Nature of Meeting				Review	
	No.	%	No.	%	No.	%	No.	%
Mr Raymond Lee ⁴	16	64.0	2	40.0	6	24.0	5	20.8
Mr Gage McAfee	33	132.0	5	100.0	10	41.7	6	27.3
Mr Frank Slevin	9	36.0	4	80.0	7	31.8	7	28.0
Mr David Stannard	11	44.0	3	60.0	7	35.0	11	55.0
Mr David Sun	10	40.0	2	40.0	2	11.1	5	26.3
Mr Tony Tsoi	39	156.0	2	40.0	15	65.2	12	75.0
Mr Stephen Hunt	24	96.0	5	100.0	10	40.0	20	83.3
Mr Michael Lee ⁴	21	84.0	4	80.0	7	29.2	10	43.5
Mr Roy Chen ⁵	9	52.9	2	50.0	2	14.3	2	12.5
Mr Peter Tse ⁶	3	37.5	0	0	0	0	2	33.3
Mr Peter Greenwood ⁷	7	87.5	1	50.0	0	0	4	66.7
Mr Paul Chow ⁹	38	78.0	5	100.0	0	N/A	0	N/A

Notes:

1. Mr Moses Cheng was appointed as Chairman of the Listing Committees on 13 May 2005 having previously been Acting Chairman and Deputy Chairman.
2. Dr Marvin Cheung resigned as Chairman of the Listing Committees on 17 April 2005 following his appointment by the Government as a director of HKEx.
3. Mr Carlson Tong became Deputy Chairman on 13 May 2005 having previously been an ordinary member of the Listing Committees.
4. Mr Raymond Lee and Mr Michael Lee are members of the Main Board Listing Committee only.
5. Mr Roy Chen was appointed to the Listing Committees on 13 May 2005.
6. Mr Peter Tse did not seek re-appointment to the Listing Committees when his term of office expired on 13 May 2005.
7. Mr Peter Greenwood served on the Listing Committees from 13 May 2005 to 28 August 2005.
8. Save as disclosed above, all other members served throughout the year.
9. Mr Paul Chow is the Chief Executive of HKEx, an ex-officio member of the Listing Committees.
10. The Listing Rules currently provide that the Chief Executive of the Exchange, Mr Patrick Conroy, is the Chief Executive of HKEx's alternate on the Listing Committees. In accordance with amendments to the Listing Rules that were announced on 3 February 2006, the Chief Executive of HKEx will cease to have an alternate with effect from the expiry of current members' terms of office on the Listing Committees. Mr Conroy did not attend any meetings during the year.
11. 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 and the Deputy Chairman of the Listing Committees and the Chief Executive of HKEx, the percentage is calculated based on total number of meetings in the period.
12. 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 of HKEx does not participate in review and disciplinary meetings.

ROLE AND MODE OF OPERATION OF THE LISTING COMMITTEES

6. The Listing Committees act both as an independent administrative decision maker and an advisory body for the Exchange and has four principal functions:
- To oversee the Listing Division
 - To provide policy advice to the Listing Division on listing matters and to approve amendments to the Listing Rules
 - To take decisions of material significance for listed companies, sponsor firms 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 Committees
7. A more detailed description of the role and mode of operation of the Listing Committees, the manner in which they oversee the Listing Division and their approach to handling conflicts of interest is set out in the Listing Committee Annual Report which is published on the website of HKEx.

MEETING STATISTICS AND ACTIVITIES

8. The following meetings were held during 2005 and 2004.

Nature of Meeting	Number of Meetings		Average Number of Members in Attendance	
	2005	2004	2005	2004
Regular Meetings	50	51	9.8	8.2
Review Meetings	31	12	5.3	5.0
Disciplinary Meetings	25	20	5.4	6.0
Quarterly and Ad Hoc Policy Meetings	5	3	16.8	14.0
Total	111	86	-	-

Listing Applications

9. One of the principal items of business at the Listing Committees' regular meetings is considering whether or not to approve new listing applications. Statistics in relation to listing applications handled by the Listing Committees during 2005 and 2004 are set out below.

Meetings at which IPO applications were considered	2005		2004			
Meetings Within the Regular Schedule	41		43			
Specially Convened Meetings	3		2			
	2005			2004		
	Main Board	GEM	Total	Main Board	GEM	Total
Listing applications considered by the Listing Committees	76	13	89	62	29	91
Applications Approved	67	11	78	59	22	81
Applications Rejected	1	1	2	1	0	1
Decisions Deferred pending further information	8	1	9	2	7	9
Applications Listed during the year	55	9	64	46	15	61

MEETING STATISTICS AND ACTIVITIES *(Continued)*

Cancellation of Listing

10. At its regular meetings held during 2005, the Listing Committees:

- Approved one resumption proposal for a Main Board issuer.
- Approved placing five Main Board issuers into the third stage of the delisting procedures. None of these decisions has been appealed.
- Approved giving six GEM issuers notice of the Exchange's intention to cancel their listing, in other words to delist them. One of these decisions was appealed and that appeal remains outstanding at the year end.
- Approved cancelling the listing of eight Main Board issuers that had not submitted resumption proposals in accordance with Practice Note 17. Two of these decisions were appealed to the Listing (Review) Committee which upheld the Main Board Listing Committee's decisions, and these cases are now the subject of appeals to the Listing Appeals Committee.
- Approved cancelling the listing of four GEM issuers that had not submitted resumption proposals. None of these decisions were appealed.
- Approved cancelling the listing of four Main Board issuers after rejecting as not viable resumption proposals that had been submitted. All of these decisions have been appealed to the Listing (Review) Committee, which upheld the Listing Committee's decision in two cases and overturned it in one case, and the review of the remaining appealed case remains outstanding at the year end. The two upheld cases are now the subject of appeals to the Listing Appeals Committee.
- Approved cancelling the listing of three GEM issuers after rejecting as not viable resumption proposals that had been submitted. One of these decisions was not appealed, one was appealed and the Committee's decision was upheld by the Listing (Review) Committee on review and one was appealed and the review remains outstanding at the year end.

Sponsors

11. The Listing Committees attach considerable importance to the role of sponsors and the GEM Listing Committee has retained for itself the power to approve GEM sponsors and their supervisors, and these matters are generally dealt with at the Listing Committees' regular meetings. An analysis of GEM sponsor cases considered at the regular meetings during 2005 and 2004 is set out below.

	2005	2004
Meetings to consider GEM sponsor cases	34	33
New applications considered and approved	5	3
Annual reviews considered	43	50
Extensions of period for review considered	5	10
Voluntary withdrawal from list of sponsors	5	3

MEETING STATISTICS AND ACTIVITIES *(Continued)*

Other Business

12. An analysis of other matters considered at regular meetings during the 2005 and 2004 is set out below:

Nature of decision/advice sought	Number of cases	
	2005	2004
Approval of application for a temporary waiver from public float requirement for three months (2004: six months)	1	1
Rejection of application for limited waiver in relation to pre-emption rights and prior independent shareholder approval	1	–
Approval of proposed waiver of general application from requirement to cancel repurchased shares	1	–
Approval for a voluntary withdrawal of listing including 2 cases (2004: 4 cases) involving a transfer from GEM to the Main Board	14	11
Consideration of spin-off applications under Practice Note 15 of the Main Board Listing Rules	4	3
Approval of an issuer of structured products	6	3
Approval for listing of debt securities not delegated to the Head of Listing	4	2
Requests for pre-application guidance from potential IPO candidates	3	8
Approval of Application for waiver in connection with Model Code	–	1
Applications for waivers from classification test requirements by issuers with negligible assets	–	2
Applications for exemption from disclosure of intra-bank transactions under Practice Note 19 of the Main Board Listing Rules	–	1
Application for waiver in connection with a share option scheme	–	1
Consideration of a proposal for a change in the domicile of the issuer	–	1

Review Meetings

13. The Listing Committees considered 31 requests for reviews of decisions made by the Listing Division or the Listing Committees during the year, some of which related to decisions that had been made in the previous year. A number of review meetings centred on the Listing Division's decisions to reject listing applications and in almost all cases these decisions were upheld. In a number of cases appeals were lodged against decisions that reflected a strict application of the applicable Listing Rules and where the applicants felt that their particular circumstances warranted a modified application of the Listing Rules. In most cases the Listing Committees' hearing the review did not find that there were special or exceptional circumstances that warranted a modified application of the rules; however, where they did find this, the earlier decisions were modified.

MEETING STATISTICS AND ACTIVITIES *(Continued)*

Review Meetings *(Continued)*

14. Details of the reviews considered during the year are set out in the tables below.

Appeal Committee	Decision made by	Nature of decisions	Number of cases	Outcome
Listing Appeals Committee	Listing (Review) Committee	Disciplinary decision and sanctions imposed	2	Earlier decisions upheld
	GEM Listing Committee	Conditions attached to renewal of GEM sponsor status	2	Earlier decision upheld in 1 case and modified in 1 case
Listing (Review) Committee	Listing Committees	Viability of resumption proposal	6	Earlier decision upheld in 5 cases and overturned in 1 case
	Listing Committees	Rejection of waiver in respect of a spin off	1	Earlier decision modified
	Listing Committees	Rejection of listing application	2	Earlier decisions upheld
	Listing Committees	Cancellation of listing	2	Earlier decisions upheld
	Listing Committees	Transaction deemed as spin off	1	Earlier decision overturned. Modified conditions imposed.
GEM Listing (Review) Committee	GEM Listing Committee	Rejection of listing applications	1	Earlier decision upheld
	GEM Listing Committee	Viability of resumption proposal	1	Earlier decision upheld
Main Board Listing Committee	Listing Division	Requirement to rectify insufficient public float	1	Earlier decision upheld
	Listing Division	Suitability of proposed sponsor	3	Earlier decision overturned in 2 cases and endorsed in 1 case
	Listing Division	Rejection of waiver for prior shareholders' approval of very substantial acquisition	1	Earlier decision endorsed
	Listing Division	Rejection of waiver from disclosing advance to an entity	1	Earlier decision modified
	Listing Division	Rejection of listing application	3	Earlier decisions endorsed
	Listing Division	Viability of resumption proposal	2	Earlier decisions endorsed
	Listing Division	Rejection of listing applications	5	Earlier decisions endorsed in 4 cases and modified in 1 case
GEM Listing Committee	Listing Division	Viability of resumption proposal	1	Earlier decision endorsed

15. As at 31 December 2005, excluding disciplinary matters, ten cases were under review as follows:

Appeal Committee	Decision made by	Nature of decisions	Number of cases
Listing Appeals Committee	Listing (Review) Committee	Cancellation of listing following rejection of a resumption proposal	3
Listing (Review) Committee	Listing Committees	Imposition of conditions to be met before listing of a new applicant	1
	Listing Committees	Requirement to rectify insufficient public float	1
	Listing Committees	Cancellation of listing	2
	Listing Committees	Cancellation of listing following rejection of resumption proposals	2
	Listing Committees	Giving six months notice of proposed delisting following rejection of a resumption proposal	1

MEETING STATISTICS AND ACTIVITIES *(Continued)*

Disciplinary Matters

16. Disciplinary matters are generally dealt with at specially convened meetings of the GEM or Main Board Listing Committee, as appropriate, at which only one case is considered. The current process places a heavy emphasis on written representations. A typical case will involve two rounds of submissions from the Listing Division and two rounds of submissions from those alleged to have breached the Listing Rules (the listed issuer and/or its directors). At the meeting the Listing Division and those against whom action is being brought are permitted to make brief oral representations to supplement their written submissions and committee members may ask questions of any party present at the meeting. The parties may thereafter make brief closing submissions.
17. Some disciplinary matters are dealt with at regular meetings of the Listing Committees. This is especially the case where a proposal to settle a disciplinary matter with an agreed sanction is presented to the Listing Committees for endorsement. Disciplinary matters were dealt with at four regular meetings during the year and all resulted in public sanction.
18. An analysis of the nature of the other alleged breaches of the Listing Rules considered at disciplinary and regular meetings during the year is set out below.

Nature of Alleged breach of the Listing Rules	Number of :	
	Meetings	Cases
Failure to publish annual accounts and interim accounts within prescribed deadlines	5	5
Failure to disclose price sensitive information or significant advances to entities. (note: one case was considered once on first instance and once on review)	7	6
Failure to obtain shareholder approval for connected or other transactions	10	10
Failure to disclose connected transaction or other information	4	4
Failure to publish a circular within prescribed deadline	1	1
Failure to respond to enquiries about price and volume movements	1	1
Total	28	27

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. The above analysis also excludes one meeting of the Disciplinary Committee that was held to consider procedural issues in respect of a particular case.

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

Outcome	Number of Cases
Public Sanction and public statement that in the Exchange's opinion the retention of office by certain directors is prejudicial to the interests of investors	1
Public Sanction – published in period	12
Public Sanction – awaiting publication	4
Private Sanction	3
No sanction	4
Cases subject to further appeal	3
Meeting adjourned for further consideration	1
Total	28

POLICY DEVELOPMENT

20. The Listing Committees aim to hold policy meetings on a quarterly basis. The Listing Committees held quarterly and ad hoc policy meetings in February, April, July, October and December during the year.
21. Policy matters are generally dealt with at policy meetings of the Listing Committees as this helps to ensure broad participation from the committees' members. Nonetheless, it is sometimes necessary for issues to be considered at regular meetings. 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 meetings which were minor in nature but which, nonetheless, required the Listing Committees' approval.
22. We summarise in the table below the significant matters considered at the Listing Committees' quarterly and ad hoc policy meetings.

Significant matters considered at Listing Committees' Policy meetings

February 2005

- Recommendations to streamline the form and contents of Listing Division Reports
- Procedures for review of director's undertakings – convictions falling under provisions of the Rehabilitation of Offenders Ordinance or comparable legislation
- Issues relating to the service of documents for disciplinary proceedings
- Application of Rule 8.05B(3) to listing applicants carrying on operations through jointly controlled entities
- Discussion Paper – interpretation and application of Rule 13.09 and Rule A1 of the Model Code of the Listing Rules
- Discussion Paper – Independent Non-Executive Directors
- Adoption of revised accounting standards (effective January 2005) – proposed disclosure in initial listing documents and periodic financial reports
- Application of the Listing Rules to the formation of joint ventures for participation in land and property auction and tender processes
- Proposed IPO related housekeeping amendments to the Main Board and the GEM Listing Rules

April 2005

- Adoption of revised accounting standards (effective January 2005) and proposed disclosure in initial listing documents and periodic financial reports – revised proposals
- Disclosure requirements applicable to banks incorporated in the Mainland China

July 2005

- Procedures for review of Director's Undertaking – convictions falling under provisions of the Rehabilitation of Offenders Ordinance or comparable legislation – reporting back
- Prospectuses availability in new listing applications
- Proposal for a waiver of general application from strict compliance with Rule 10.07 and 10.08 of the Main Board Listing Rules for companies transferring from GEM to the Main Board
- Abolition of paid announcements in the newspapers and related matters for Main Board issuers

POLICY DEVELOPMENT *(Continued)*

Significant matters considered at Listing Committee Policy meetings *(Continued)*

- Rules 13.13 to 13.16 of the Main Board Listing Rules (advances to entities); application of Rules 13.13 to 13.15 of the Main Board Listing Rules to trade receivables; and application of the notifiable and connected transactions provisions of the Listing Rules to listed securities houses
- Annual review of GEM sponsors
- Clarification of policy on publicity of the imposition of conditions on a sponsor or removal from the list of sponsor firms
- Impartiality and independence of sponsors – members of sponsor group acting as auditors
- Reporting accountants assistance to sponsors in IPOs under Practice Note 21
- Mandatory share consolidation
- Policy paper on the Listing Division’s recent treatment of anti-dilution rights
- Information paper on the Listing Division’s treatment of the issue of certain convertible notes

October 2005

- Companies (Amendment) Ordinance 2005 – definition of “subsidiary”: amendment to the Main Board and the GEM Listing Rules
- Parameters for granting waivers from strict compliance with the requirements of Paragraph 4 of Practice Note 18 of the Listing Rules in relation to offer mechanisms
- Housekeeping amendments to the Main Board and the GEM Listing Rules
- Disclosure by listed issuers of issues of securities
- General mandate and related issues
- Consultation with the Listing Committees regarding issues arising from the proposed sale of domestic shares by domestic shareholders of H-shares companies
- Formation of joint ventures by issuers for property acquisitions and developments and awarding of construction contracts
- New structure for listing decision-making: consultation conclusions and proposed rule amendments
- Report on the progress of the GEM review
- Application of Rules 13.13 to 13.15 trade receivables: application of notifiable and connected transaction Rules to listed securities houses
- Abolition of paid announcements in the newspapers and related matters for Main Board issuers – follow up
- Proposal to extend the application of the exemption of a “PRC Governmental Body” to Chapter 3A of the Listing Rules and Chapter 6A of the GEM Listing Rules
- Review of experience in the application of the rules on sponsors’ independence (Rule 3A.07(9) of the Main Board Listing Rules and Rule 6A.07(9) of the GEM Listing Rules)

December 2005

- New Structure for listing decision-making proposed rule amendments – Phase 1 final proposals

Richard Williams

Secretary to the Main Board Listing Committee and the GEM Listing Committee

8 March 2006

MEMBERS LIST (As at 8 March 2006)

MAIN BOARD LISTING COMMITTEE

CHENG Mo Chi, Moses (*Chairman*)
TONG Carlson (*Deputy Chairman*)
BEST Roger
CHEN Roy Y
CHEONG Ying Chew, Henry
CHOW Man Yiu, Paul (*ex-officio member*)
CONROY, Patrick Kevin
(*alternate to ex-officio member*)
HUI Chiu Chung, Stephen
HUNT Stephen B
IP K W Ernest
KO Po Ming, Alex
LAM Hung, Allan
LEE Raymond
LEE Tze Hau, Michael
LEE WONG Pui Ling, Angelina
LO Kai Yiu, Anthony
McAFEE W Gage
SLEVIN Francis Joseph
STANNARD David
SUN T K David
TSOI Tong Hoo, Tony
WONG Shiu Hoi, Peter
YEH V-Nee

GEM LISTING COMMITTEE

CHENG Mo Chi, Moses (*Chairman*)
TONG Carlson (*Deputy Chairman*)
BEST Roger
CHEN Roy Y
CHEONG Ying Chew, Henry
CHOW Man Yiu, Paul (*ex-officio member*)
CONROY, Patrick Kevin
(*alternate to ex-officio member*)
HUI Chiu Chung, Stephen
HUNT Stephen B
IP K W Ernest
KO Po Ming, Alex
LAM Hung, Allan
LEE WONG Pui Ling, Angelina
LO Kai Yiu, Anthony
McAFEE W Gage
SLEVIN Francis Joseph
STANNARD David
SUN T K David
TSOI Tong Hoo, Tony
WONG Shiu Hoi, Peter
YEH V-Nee