HKEx LISTING DECISION
HKEX-LD136-2022 (published in June 2022) (Withdrawn in January 2024)

[Streamlined and incorporated into the guidance letter GL104-19 (Guidance on application of the reverse takeover Rules).]

Parties	Company A – a Main Board issuer Target Company – a company which Company A proposed to acquire
Issue	Whether Company A's proposed acquisition which constituted a disclosable transaction was a reverse takeover
Listing Rules	Main Board Rule 14.06B
Decision	The Exchange ruled the proposed acquisition to be a reverse takeover

FACTS

1. Company A was principally engaged in hotel hospitality business. Its assets comprised primarily a hotel property and a substantial amount of cash. The size of the operations was small and in the last five years, it recorded annual revenue of about HK$20 million to HK$40 million and incurred losses.

2. Company A proposed to acquire a majority interest in the Target Company (the **Proposed Acquisition**) from a third party vendor. Upon completion, the Target Company would become a subsidiary of Company A.

3. The Target Company was newly established to carry out a natural gas project involving the construction and operation of gas pipes and gas stations in the PRC. It had signed the relevant contracts but yet to commence operations. The Target Company expected to complete construction in one year and commence the sales of natural gas thereafter.

4. The Proposed Acquisition constituted a discloseable transaction based on the percentage ratios. The Target Company had not recorded any revenue and did not own any material assets. However, based on the financial forecast of the Target Company, it was expected to record substantial amounts of revenue and profits in the coming years. The projected annual revenue of the Target Company would be over 20 times of that of Company A's hotel business.

APPLICABLE LISTING RULES

5. Rule 14.06B defines a *"reverse takeover"* as *"an acquisition or a series of acquisitions of assets by a listed issuer which, in the opinion of the Exchange, constitutes, or is part of a transaction and/or arrangement or series of transactions and/or arrangements which constitute, an attempt to achieve a listing of the acquisition targets (as defined in rule 14.04(2A)) and a means to circumvent the requirements for new applicants set out in Chapter 8 of the Listing Rules."* This is a principle based test.

6. Note 1 to Rule 14.06B sets out the factors that the Exchange will normally consider in assessing whether the acquisition or series of acquisitions is a reverse takeover under the principle based test, including:

   i) the size of the acquisition or series of acquisitions relative to the size of the issuer;
   ii) a fundamental change in the issuer's principal business;
   iii) the nature and scale of the issuer's business before the acquisition or series of acquisitions;
   iv) the quality of the acquisition targets;
   v) a change in control (as defined in the Takeovers Code) or de facto control of the listed issuer (other than at the level of the subsidiaries); and/or
   vi) other transactions or arrangements which, together with the acquisition or series of acquisitions, form a series of transactions or arrangements to list the acquisition targets.

ANALYSIS

7. In assessing the principle based test of Rule 14.06B, the Exchange will consider the six assessment factors and whether taken together, an acquisition would be considered an attempt to circumvent the new listing requirements and a means to achieve the listing of the acquisition targets.

8. In this case, the Proposed Acquisition was a disclosable transaction only to Company A based on historical financial figures of the Target Company. However, in assessing the impact of the Proposed Acquisition on Company A under the principle based test, the Exchange took into account future profitability of the Target Company and the nature and scale of Company A's existing business. The Exchange was concerned that the Proposed Acquisition would be an attempt to circumvent the new listing requirements having regard to the following:

   - *Size of the acquisition relative to the issuer* - Company A's existing business had a low level of operations. Based on the Target Company's business plan and financial forecast, its natural gas business would be significantly larger than the existing business of Company A in terms of revenue and profits.

   - *Fundamental change in the issuer's principal business* - The Target Company's natural gas business was different from, and unrelated to, Company A's existing business. The Proposed Acquisition would lead to a fundamental change in Company A's principal business given the significant size of the natural gas business.

   - *Quality of the acquisition target* - The Target Company had not generated any revenue before the Proposed Acquisition. It did not have a track record and could not meet the new listing requirements.

CONCLUSION

9. The Exchange informed Company A of its intention to rule the Proposed Acquisition as a reverse takeover under Rule 14.06B. Company A terminated the Proposed Acquisition.