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# AMENDMENTS TO THE GEM LISTING RULES

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## Chapter 1

### GENERAL

#### INTERPRETATION

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1.01 Throughout these Rules, the following terms, except where the context otherwise requires, have the following meanings:

...

**“controlling shareholder”**

...

any person who is or group of persons who are together entitled to exercise or control the exercise of 30% (or such other amount as may from time to time be specified in the Takeovers Code as being the level for triggering a mandatory general offer) or more of the voting power at general meetings of the issuer (*Note*) or who is or are in a position to control the composition of a majority of the board of directors of the issuer; or in the case of a PRC issuer, the meaning ascribed to that phrase by rule 25.10

*Note: Voting rights attaching to treasury shares are excluded.*

...

**“equity securities”**

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shares (including preference shares and treasury shares), convertible equity securities and options, warrants or similar rights to subscribe or purchase shares or convertible equity securities

...

**“listing document”**

...

a prospectus, circular or any equivalent document (including the composite document in relation to a scheme of arrangement and/or an introduction document) issued or proposed to be issued in connection with an application for listing, or a sale or transfer of treasury shares by an issuer (where applicable)

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**“substantial shareholder”**

in relation to a company means a person who is entitled to exercise, or control the exercise of, 10% or more of the voting power at any general meeting of the company (*Note 2*)

*Notes: (1) This definition is qualified in the case of connected transactions falling within rule 20.27.*

*(2) Voting rights attaching to treasury shares are excluded.*

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...

**“treasury shares”**

shares repurchased and held by an issuer in treasury, as authorised by the laws of the issuer’s place of incorporation and its articles of association or equivalent constitutional documents which, for the purpose of the Rules, include shares repurchased by an issuer and held or deposited in CCASS for sale on GEM

*Notes: (1) For the purpose of the Rules, a holder of treasury shares shall abstain from voting on matters that require shareholders’ approval under the Rules.*

*(2) Treasury shares may be held by an issuer’s subsidiary or an agent or nominee on behalf of the issuer or its subsidiary, if it is permitted by the laws of the issuer’s place of incorporation and its articles of association or equivalent constitutional documents. References to sales or transfers of treasury shares include sales or transfers by agents or nominees on behalf of the issuer or subsidiary of the issuer, as the case may be.*

...

## Chapter 2

### GENERAL

#### INTRODUCTION

...

## General principles

2.06 The GEM Listing Rules are designed to ensure that investors have and can maintain confidence in the market and in particular that:—

...

- (6) all new issues of equity securities, or sales or transfers of treasury shares, by a listed issuer are first offered to the existing shareholders by way of rights unless they have agreed otherwise.

In these last 4 respects, the GEM Listing Rules seek to secure for holders of securities, other than controlling interests, certain assurances and equality of treatment which their legal position might not otherwise provide.

...

## Chapter 5

### GENERAL

#### DIRECTORS, COMPANY SECRETARY, BOARD COMMITTEES, AUTHORISED REPRESENTATIVES AND CORPORATE GOVERNANCE MATTERS

##### Directors

...

##### *Independent non-executive directors*

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5.09 In assessing the independence of non-executive directors, the Exchange will take into account the following factors, none of which is necessarily conclusive. Independence is more likely to be questioned if the director:—

- (1) holds more than 1% of the number of issued shares (excluding treasury shares) of the issuer;

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## Chapter 6A

### GENERAL

#### SPONSORS, COMPLIANCE ADVISERS, OVERALL COORDINATORS AND OTHER CAPITAL MARKET INTERMEDIARIES

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#### Impartiality and independence of Sponsors

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6A.07 At least one Sponsor of a new applicant must be independent of it. The Sponsor is required to demonstrate to the Exchange its independence or lack of independence and give a statement as to independence to the Exchange as set out in Form A (published in Regulatory Forms).

A Sponsor is not independent if any of the following circumstances exist at any time from the date of submission of an application for listing on Form 5A up to the date of listing:-

- (1) the Sponsor group and any director or close associate of a director of the Sponsor collectively holds or will hold, directly or indirectly, more than 5% of the number of issued shares (excluding treasury shares) of the new applicant, except where that holding arises as a result of an underwriting obligation;

...

...

#### Compliance Adviser's obligations

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6A.23 During the Fixed Period, a listed issuer must consult with and, if necessary, seek advice from its Compliance Adviser on a timely basis in the following circumstances:

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- (2) where a transaction, which might be a notifiable or connected transaction, is contemplated including share issues, sales or transfers of treasury shares and share repurchases;

...

...

**Chapter 10**  
**EQUITY SECURITIES**  
**METHODS OF LISTING**

**General**

10.01 A new applicant may bring securities to listing by any of the following methods:—

- (1) an offer for subscription;
- (2) an offer for sale;
- (3) a placing;
- (4) an introduction; or
- (5) such other method as may be accepted by the Exchange.

10.02 A listed issuer may bring equity securities (whether or not a class already listed) to listing, or sell or transfer treasury shares by any of the following methods:—

- (1) an offer for subscription;
- (2) an offer for sale;
- (3) a placing;
- (4) a rights issue;
- (5) an open offer;
- (6) a capitalisation issue;
- (7) a consideration issue;
- (8) an exchange, substitution or conversion of securities; or
- (9) such other method as may be accepted by the Exchange.

The requirements set out in this Chapter shall apply, mutatis mutandis, to a sale or transfer of treasury shares.

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## Rights issue

...

- 10.29 If the proposed rights issue would increase either the number of issued shares (excluding treasury shares) or the market capitalisation of the issuer by more than 50% (on its own or when aggregated with any other rights issues or open offers announced by the issuer (i) within the 12 month period immediately preceding the announcement of the proposed rights issue or (ii) prior to such 12 month period where dealing in respect of the shares issued pursuant thereto commenced within such 12 month period, together with any bonus securities, warrants or other convertible securities (assuming full conversion) granted or to be granted to shareholders as part of such rights issues or open offers):—

...

...

### Restrictions on rights issues, open offers and specific mandate placings

- 10.44A A listed issuer may not undertake a rights issue, open offer or specific mandate placing that would result in a theoretical dilution effect of 25% or more (on its own or when aggregated with any other rights issues, open offers, and/or specific mandate placings announced by the issuer (i) within the 12 month period immediately preceding the announcement of the proposed issue or (ii) prior to such 12 month period where dealing in respect of the shares issued pursuant thereto commenced within such 12 month period, together with any bonus securities, warrants or other convertible securities (assuming full conversion) granted or to be granted to shareholders as part of such rights issues, open offers and/or specific mandate placings), unless the issuer can demonstrate that there are exceptional circumstances (for example, the issuer is in financial difficulties and the proposed issue forms part of the rescue proposal).

Notes: 1. *Theoretical dilution effect of an issue refers to the discount of the “theoretical diluted price” to the “benchmark price” of shares.*

- (a) *The “theoretical diluted price” means the sum of (i) the issuer’s total market capitalization (by reference to the “benchmark price” and the number of issued shares (excluding treasury shares) immediately before the issue) and (ii) the total funds raised and to be raised from the issue, divided by the total number of shares (excluding treasury shares) as enlarged by the issue.*

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**Chapter 11**  
**EQUITY SECURITIES**  
**QUALIFICATIONS FOR LISTING**

...

**Conditions relevant to the securities for which listing is sought**

...

11.23 There must be an open market in the securities for which listing is sought. This will normally mean that:—

...

(6) the expected total market capitalisation of a new applicant at the time of listing must be at least HK\$150,000,000 which shall be calculated on the basis of all issued shares (including the class of securities for which listing is sought and such other class(es) of securities, if any, that are either unlisted or listed on other regulated market(s), but excluding treasury shares) of the new applicant at the time of listing;

(7) subject to rule 11.23(10) below, at least 25% of the issuer's total number of issued shares (excluding treasury shares) must at all times be held by the public;

...

(9) where an issuer has one class of securities or more apart from the class of securities for which listing is sought, the total securities of the issuer held by the public (on all regulated market(s) including the Exchange) at the time of listing must be at least 25% of the issuer's total number of issued shares (excluding treasury shares). However, the class of securities for which listing is sought must not be less than 15% of the issuer's total number of issued shares (excluding treasury shares), having an expected market capitalisation at the time of listing of not less than HK\$45,000,000;

...

(11) notwithstanding the requirement that the minimum prescribed percentage of securities must at all times remain in public hands, the Exchange may consider granting a temporary waiver to an issuer which is the subject of a general offer under the Takeovers Code (including a privatisation offer), for a reasonable period after the close of the general offer to restore the percentage. The issuer must restore the minimum percentage of securities in public hands immediately after the expiration of the waiver, if granted.

Notes: ...

3 *The Exchange will also not recognise as a member of “the public”:*—

(a) *any person whose acquisition of securities has been financed directly or indirectly by a person referred to in note 2 above; or*

(b) *any person who is accustomed to taking instructions from a person referred to in note 2 above in relation to the acquisition, disposal, voting or other disposition of securities of the issuer registered in his name or otherwise held by him; and*

(c) *the issuer as the holder of legal or beneficial interests in treasury shares.*

...

...

## **Chapter 12**

### **EQUITY SECURITIES**

#### **APPLICATION PROCEDURES AND REQUIREMENTS**

##### **Introduction**

12.01 This Chapter sets out the procedures and requirements for applications for the listing of equity securities by new applicants and listed issuers, and the documentary requirements for selling or transferring treasury shares by listed issuers. The procedures and requirements are applicable to both new applicants and listed issuers except where otherwise stated.

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##### **Documentary Requirements – Applications for Listing, or Sales or Transfers of Treasury Shares by Listed Issuers**

12.26A Rules 12.26B to 12.27 set out the documentary requirements for applications for the listing of equity securities, or sales or transfers of treasury shares, by listed issuers.

*At the time of application for listing-Submission of listing application and/or draft listing document*



...

12.26BB In the case of a sale or transfer of treasury shares which is required to be supported by a listing document, the documents required under rule 12.26B, as applicable, must be lodged with the Exchange at least 10 clear business days before the date on which the issuer proposes to finalise the listing document for publication.

...

Before dealings commence, or completion of the sale or transfer of treasury shares

12.27 The following documents must be submitted to the Exchange before dealings commence, or in the case of a sale or transfer of treasury shares, before completion of the sale or transfer:—

...

(6) in the case of the placing by a listed issuer of a class of equity securities new to listing:

...

In the case of the placing ~~by a listed issuer~~ of a class of securities already listed and/or treasury shares by a listed issuer (other than a sale of treasury shares on the Exchange or any other stock exchange on which the issuer is listed), the Exchange may require the issuer to submit information on the placees for the purpose of establishing their independence (see also rule 17.30(7));

...

## Chapter 13

### EQUITY SECURITIES

#### RESTRICTIONS ON PURCHASE, DISPOSAL AND SUBSCRIPTION

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**Restrictions and notification requirements on issuers purchasing their own shares on a stock exchange**

...

*Procedures to be complied with*

...

13.08 The issuer must send to its shareholders an Explanatory Statement (at the same time as the notice of the relevant shareholders' meeting) containing all the information reasonably necessary to enable those shareholders to make an informed decision on whether to vote for or against the ordinary resolution to approve the purchase by the issuer of shares including the information set out below:—

...

(10) a statement giving the highest and lowest prices at which the relevant shares have traded on GEM during each of the previous twelve months;

~~(11) a prominent and legible disclaimer on the front cover of the circular in the form set out in rule 2.19; and~~

~~(112) a statement that neither the Explanatory Statement nor the proposed share repurchase has any unusual features;~~

(12) a statement of whether the issuer intends to cancel the repurchased shares following settlement of any such repurchase or hold them as treasury shares; and

(13) a prominent and legible disclaimer on the front cover of the circular in the form set out in rule 2.19.

...

13.09 The ordinary resolution proposed to shareholders to give the directors of the issuer a specific approval or general mandate to purchase shares must include the following:—

(1) the total number and description of the shares which the issuer is authorised to purchase, provided that the number of shares which the issuer is authorised to purchase on GEM or on another stock exchange recognised for this purpose by the Commission and the Exchange under the Code on Share Buy-backs, may not exceed 10 per cent of the number of issued shares (excluding treasury shares) of the issuer and the total number of warrants to subscribe for or purchase shares (or other relevant class of securities) authorised to be so purchased may not exceed 10 per cent of the warrants of the issuer (or such other relevant class of securities, as the case may be), in each case as at the date of the resolution granting the general mandate; and

...

...

13.10 The issuer must report the outcome of the general meeting called to consider the proposed purchases to the Exchange immediately following the meeting.

### *Dealing restrictions*

13.11 The following dealing restrictions must be adhered to:—

...

- (4) an issuer shall not purchase its shares on GEM at any time after inside information has come to its knowledge until the information is made publicly available. In particular, during the period of ~~4 month~~ 30 days immediately preceding the earlier of:
- (i) the date of the board meeting (as such date is first notified to the Exchange in accordance with rule 17.48) for the approval of the issuer's results for any year, half-year, ~~or quarterly year period~~ or any other interim period (whether or not required under the GEM Listing Rules); and
  - (ii) the deadline for the issuer to announce its results for any year or half-year under rule 18.49 or 18.78, or quarterly or any other interim period (whether or not required under the GEM Listing Rules),

and ending on the date of the results announcement, the issuer may not purchase its shares on GEM, unless the circumstances are exceptional;

...

### *Subsequent issues, or sales or transfers of treasury shares*

13.12 An issuer may not (i) make a new issue of shares, or a sale or transfer of any treasury shares; or (ii) announce a proposed new issue of shares, or a sale or transfer of any treasury shares, for a period of 30 days after any purchase by it of shares, whether on GEM or otherwise ~~(other than an issue of securities pursuant to the exercise of warrants, share options or similar instruments requiring the issuer to issue securities, which were outstanding prior to that purchase of its own securities)~~, without the prior approval of the Exchange.

Note: This rule will not apply to:

- (i) a new issue of shares, or a sale or transfer of treasury shares under a capitalisation issue;
- (ii) a grant of share awards or options under a share scheme that complies with Chapter 23 or a new issue of shares or a transfer of treasury shares upon vesting or exercise of share awards or options under the share scheme that complies with Chapter 23; and
- (iii) a new issue of shares or a transfer of treasury shares pursuant to

the exercise of warrants, share options or similar instruments requiring the issuer to issue shares or transfer treasury shares, which were outstanding prior to that purchase of its own shares.

Subsequent purchase of its own shares

13.12A An issuer may not purchase any of its own shares on GEM for a period of 30 days after any sale or transfer of any treasury shares on GEM, without the prior approval of the Exchange.

*Reporting requirements*

13.13 An issuer shall:—

- (1) submit for publication to the Exchange through HKEx-EPS not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following any day on which the issuer makes a purchase of shares (whether on GEM or otherwise);
  - (i) the total number of shares purchased by the issuer the previous day, the purchase price per share or the highest and lowest prices paid for such purchases, where relevant, and;
  - (ii) whether the purchased shares are cancelled following settlement of any such purchase or held as treasury shares, and where applicable, the reasons for any deviation from the intention statement previously disclosed by the issuer under rule 13.08(12); and
  - (iii) shall a confirmation that those purchases which were made on GEM were made in accordance with the GEM Listing Rules and that there have been no material changes to the particulars contained in the Explanatory Statement. In respect of purchases made on another stock exchange, the issuer's report must confirm that those purchases were made in accordance with the domestic rules applying to purchases on that other stock exchange.

Such reports shall be made on a return in such form and containing such information as the Exchange may from time to time prescribe. In the event that no shares are purchased on any particular day then no return need be made to the Exchange. The issuer should make arrangements with its brokers to ensure that they provide to the issuer in a timely fashion the necessary information to enable the issuer to make the report to the Exchange; and

- (2) include in its annual report and accounts a monthly breakdown of purchases of shares made during the financial year under review showing the number of shares purchased each month (whether on GEM or otherwise) and the purchase price per share or the highest and lowest price paid for all such purchases, where relevant, and the aggregate price

paid by the issuer for such purchases. The directors' report shall contain reference to the purchases made during the year and the directors' reasons for making such purchases.

#### *Status of purchased shares*

13.14 The shares repurchased by an issuer shall be held as treasury shares or cancelled. The listing of all shares which are held as treasury shares shall be retained. The issuer shall ensure that treasury shares are appropriately identified and segregated.

The listing of all shares which are purchased by an issuer (whether on GEM or otherwise) but not held as treasury shares shall, subject to applicable law, be automatically cancelled upon purchase and the issuer must apply for listing of any further issues of that type of shares in the normal way. The issuer shall ensure that the documents of title of these purchased shares are cancelled and destroyed as soon as reasonably practicable following settlement of any such purchase.

*Note: Overseas issuers with a dual listing are referred to rule 24.07 which may be relevant in this regard.*

#### **Treasury shares**

13.14A An issuer may sell treasury shares on GEM under a general mandate approved by shareholders in accordance with rule 17.41(2), subject to the following:

- (1) it shall not knowingly sell the shares to a core connected person and a core connected person shall not knowingly purchase the shares from the issuer, on GEM;
- (2) it shall procure that any broker appointed by the issuer to effect the sale of the shares shall disclose to the Exchange such information with respect to the sales made on behalf of the issuer as the Exchange may request; and
- (3) it shall not sell the shares on GEM at any time after inside information has come to its knowledge until the information is made publicly available. In particular, during the period of 30 days immediately preceding the earlier of:
  - (a) the date of the board meeting (as such date is first notified to the Exchange in accordance with rule 17.48) for the approval of the issuer's results for any year, half-year, quarterly or any other interim period (whether or not required under the GEM Listing Rules); and
  - (b) the deadline for the issuer to announce its results for any year or half-year under rule 18.49 or 18.78, or quarterly or any other interim period (whether or not required under the GEM Listing

Rules).

and ending on the date of the results announcement, the issuer may not sell treasury shares on GEM, unless the circumstances are exceptional.

13.14B An issuer shall:

- (1) submit for publication to the Exchange through HKEx-EPS not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following any day on which the issuer makes a sale of treasury shares on GEM or any other stock exchange on which the issuer is listed (“on-market sale of treasury shares”):
  - (a) the total number of treasury shares sold by the issuer the previous day;
  - (b) the selling price per share or the highest and lowest prices received for such sales, where relevant;
  - (c) the total funds raised; and
  - (d) where the treasury shares are sold under a general mandate granted to the directors by the shareholders in accordance with rule 17.41(2), details of the mandate.

Such reports shall be made on a return in such form and containing such information as the Exchange may from time to time prescribe. In the event that no treasury shares are sold on any particular day then no return need be made to the Exchange. The issuer should make arrangements with its brokers to ensure that they provide to the issuer in a timely fashion the necessary information to enable the issuer to make the report to the Exchange;

- (2) announce any on-market sale of treasury shares if it, individually or together with previous on-market sales of treasury shares in a 12-month period that have not yet been announced under rule 13.14B(2), amounts to 5% or more of the issuer’s number of issued shares (excluding treasury shares). The announcement must contain the following information relating to such sale(s) of treasury shares:
  - (a) the number, class and aggregate nominal value of the treasury shares sold;
  - (b) the total funds raised from such sale(s) with details of the use of proceeds;
  - (c) the selling price per share or the highest and lowest prices received for such sale(s), where relevant;

- (d) the reasons for making such sale(s);
- (e) where the treasury shares are sold under a general mandate granted to the directors by the shareholders in accordance with rule 17.41(2), details of the mandate; and
- (f) the total funds raised and a detailed breakdown and description of the funds raised on any issue of equity securities, and/or other sale or transfer of treasury shares in the 12 months immediately preceding the announcement, the use of such proceeds, the intended use of any amount not yet utilised and how the issuer has dealt with such amount; and
- (3) include in its annual report and accounts a monthly breakdown of on-market sales of treasury shares during the financial year under review showing the number of treasury shares sold each month and the selling price per share or the highest and lowest prices received for all such sales, where relevant, and the aggregate proceeds received by the issuer for such sales. The directors' report shall contain reference to the on-market sales of treasury shares made during the year, the total funds raised from such sales with details of the use of proceeds and the directors' reasons for making such sales.

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## **Chapter 14**

### **EQUITY SECURITIES**

#### **LISTING DOCUMENTS**

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#### **Definition**

- 14.03 A listing document is defined in rule 1.01 as a prospectus, circular or any equivalent document (including the composite document in relation to a scheme of arrangement and/or an introduction document) issued or proposed to be issued in connection with an application for listing, or a sale or transfer of treasury shares by a listed issuer. Issuers are recommended to consult the Exchange at the earliest opportunity if they are in any doubt as to whether a particular document constitutes a listing document as so defined.

...

#### **When required**

- 14.06 The methods of listing, or sale or transfer of treasury shares required by the

GEM Listing Rules to be supported by a listing document are:—

- (1) an offer for subscription;
- (2) an offer for sale;
- (3) a placing of securities of a class new to listing;
- (4) an introduction;
- (5) a rights issue;
- (6) an open offer;
- (7) a capitalisation issue (including in the form of a scrip dividend) or a bonus issue of warrants;
- (8) an exchange or substitution of securities (arising from consolidation or sub-division of shares or a reduction of share capital or otherwise but excluding a conversion of securities into securities of a class already listed); and
- (9) any deemed new listing under the GEM Listing Rules.

14.07 Other methods of listing, or sale or transfer of treasury shares are not, save as the Exchange may otherwise direct, required by the GEM Listing Rules to be supported by a listing document, but if a listing document is otherwise required or proposed to be issued it must comply with the relevant requirements of this Chapter.

## Contents

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14.09 In the case of an issuer some part of whose share capital is already listed on GEM, the listing document is required to include the following:—

...

- (5) subject to rule 14.13 and to the extent not included by virtue of the above, such particulars and information which, according to the particular nature of the issuer and the securities to be issued or sold or transferred out of treasury~~for which listing is sought~~, is necessary to enable an investor to make an informed assessment of:—
  - (a) the activities, profits and losses, assets and liabilities, financial position, management and prospects of the issuer; and
  - (b) the rights and trading arrangements attaching to such securities.



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## Chapter 17

### EQUITY SECURITIES

#### CONTINUING OBLIGATIONS

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##### General matters relevant to the issuer's securities

###### *Changes in issued shares – Next day disclosure return and monthly return*

- 17.27A (1) In addition and without prejudice to specific requirements contained elsewhere in the GEM Listing Rules, an issuer must, whenever there is a change in its issued shares or treasury shares as a result of or in connection with any of the events referred to in rule 17.27A(2), submit through HKEx-EPS, or such other means as the Exchange may from time to time prescribe, for publication on the Exchange's website a return in such form and containing such information as the Exchange may from time to time prescribe by not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day next following the relevant event.
- (2) The events referred to in rule 17.27A(1) are as follows:
- (a) any of the following:
- (i) placing;
  - (ii) consideration issue;
  - (iii) open offer;
  - (iv) rights issue;
  - (v) bonus issue;
  - (vi) scrip dividend;
  - (vii) sale of treasury shares on GEM or any other stock exchange on which the issuer is listed;
  - (viii) repurchase of shares or other securities;
  - ~~(viii)~~ exercise of an option under the issuer's share option scheme by any of its directors issue of new shares or transfer of treasury shares in respect of share awards or options granted to a director

of the issuer under a share scheme;

- (ix) exercise of an option (other than under ~~the issuer's a share option scheme~~) by ~~any of its directors~~ a director of the issuer;
- (xi) capital reorganisation; or
- (xii) change in issued shares or treasury shares not falling within any of the categories referred to in rule 17.27A(2)(a)(i) to (xi) or rule 17.27A(2)(b); and

(b) subject to rule 17.27A(3), any of the following:

- (i) ~~exercise of an option under a share option scheme other than by a director of the issuer~~ issue of new shares or transfer of treasury shares in respect of share awards or options granted to a participant (who is not a director of the issuer) under a share scheme;
- (ii) exercise of an option (other than under a share option scheme) not by a director of the issuer;
- (iii) exercise of a warrant;
- (iv) conversion of convertible securities; ~~or~~
- (v) redemption of shares or other securities; ~~;~~
- (vi) cancellation of repurchased or redeemed shares following settlement of any such repurchase or redemption; or
- (vii) cancellation of treasury shares.

(3) The disclosure obligation for an event in rule 17.27A(2)(b) only arises where:

- (a) the event, either individually or when aggregated with any other events described in that rule which have occurred since the listed issuer published its last monthly return under rule 17.27B or last return under this rule 17.27A (whichever is the later), results in a change of 5% or more of the listed issuer's issued shares (excluding treasury shares); or
- (b) an event in rule 17.27A(2)(a) has occurred and the event in rule 17.27A(2)(b) has not yet been disclosed in either a monthly return published under rule 17.27B or a return published under this rule 17.27A.

(4) For the purposes of rule 17.27A(3), the percentage change in the listed issuer's issued shares (excluding treasury shares) is to be calculated by

reference to the listed issuer's total number of issued shares (excluding treasury shares) as it was immediately before the earliest relevant event which has not been disclosed in a monthly return published under rule 17.27B or a return published under this rule 17.27A.

17.27B A listed issuer shall, by no later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the fifth business day next following the end of each calendar month, submit through HKEx-EPS, or such other means as the Exchange may from time to time prescribe, for publication on the Exchange's website a monthly return in relation to movements in the listed issuer's equity securities (including treasury shares), debt securities and any other securitised instruments, as applicable, during the period to which the monthly return relates, in such form and containing such information as the Exchange may from time to time prescribe (irrespective of whether there has been any change in the information provided in its previous monthly return). Such information includes, among other things, the number as at the close of such period of equity securities (including treasury shares), debt securities and any other securitised instruments, as applicable, issued, sold or transferred and which may be issued, sold or transferred pursuant to options, warrants, convertible securities or any other agreements or arrangements.

...

17.27C An issuer shall, in relation to each new issue of securities or sale or transfer of treasury shares reported in the next day disclosure return under rule 17.27A and the monthly return under rule 17.27B, confirm that (where applicable):

- (1) the issue of securities, or sale or transfer of treasury shares has been duly authorised by its board of directors and carried out in compliance with all applicable listing rules, laws and other regulatory requirements;
- (2) all money due to the listed issuer in respect of the issue of securities, or sale or transfer of treasury shares has been received by it;
- (3) all pre-conditions for listing imposed by the Rules under "Qualification of listing" have been fulfilled;
- (4) all (if any) conditions contained in the formal letter granting listing of and permission to deal in the securities have been fulfilled;
- (5) all the securities of each class are in all respects identical;

*Note: "Identical" means in this context:*

- (a) *the securities are of the same nominal value with the same amount called up or paid up;*
- (b) *they are entitled to dividend/interest at the same rate and for the same period, so that at the next ensuing distribution, the dividend/interest payable per unit will amount to exactly the same*

*sum (gross and net); and*

*(c) they carry the same rights as to unrestricted transfer, attendance and voting at meetings and rank pari passu in all other respects.*

- (6) all documents required by the Companies (Winding Up and Miscellaneous Provisions) Ordinance to be filed with the Registrar of Companies have been duly filed and that compliance has been made with all other legal requirements;
- (7) all the definitive documents of title have been delivered/are ready to be delivered/are being prepared and will be delivered in accordance with the terms of issue, sale or transfer;
- (8) completion has taken place of the purchase by the issuer of all property shown in the listing document to have been purchased or agreed to be purchased by it and the purchase consideration for all such property has been duly satisfied; and
- (9) the trust deed/deed poll relating to the debenture, loan stock, notes or bonds has been completed and executed, and particulars thereof, if so required by law, have been filed with the Registrar of Companies.

...

*No further issues of securities or sales or transfers of treasury shares within 6 months of listing*

17.29 No further shares or securities convertible into equity securities of a listed issuer (whether or not of a class already listed) may be issued or sold or transferred out of treasury or form the subject of any agreement to such an issue, or sale or transfer out of treasury within 6 months from the date on which securities of the listed issuer first commence dealing on GEM (whether or not such issue of shares or securities, or sale or transfer of treasury shares will be completed within 6 months from the commencement of dealing), except for:

- (1) the issue of shares, (the listing of which has been approved by the Exchange), or transfer of treasury shares pursuant to a share scheme under Chapter 23;

...

- (4) the issue of shares or securities, or sale or transfer of treasury shares pursuant to an agreement entered into before the commencement of dealing, the material terms of which have been disclosed in the listing document issued in connection with the initial public offering; and
- (5) any issue of shares or securities convertible into equity securities of a listed issuer (whether or not of a class already listed), or sale or transfer

of treasury shares which satisfies the following requirements:

- (a) the issue, sale or transfer is for the purpose of an acquisition of assets which would complement the listed issuer's business described in the listed issuer's initial listing document, and the acquisition does not constitute a major transaction, very substantial acquisition, reverse takeover or extreme transaction pursuant to rules 19.06(3), 19.06(5), 19.06B and 19.06C respectively;
- (b) the issue, sale or transfer does not result in a controlling shareholder of the listed issuer ceasing to be a controlling shareholder after the issue, sale or transfer and, in any event, must not result in a change in control of the listed issuer within the meaning of the Takeovers Code;
- (c) the issue, sale or transfer and any transaction related to it is made subject to the approval of shareholders with the following persons abstaining from voting: -
  - (i) any core connected person and its close associates; and
  - (ii) any shareholder who has a material interest in the issue, sale or transfer and/or the related transaction, other than an interest arising solely by virtue of a shareholding in the listed issuer; and
- (d) the circular in respect of the issue, sale or transfer and the related transaction which is despatched to the shareholders of the listed issuer must comply with the requirements of a circular as specified in Chapter 19 and contain such information as is necessary for the independent shareholders to make an informed judgement on the issue, sale or transfer and related transaction.

*Note: The circular must include:*

- (i) an opinion from an independent financial adviser acceptable to the Exchange stating whether, in the financial adviser's opinion, the terms of the proposed issue, sale or transfer and related transaction are fair and reasonable so far as the shareholders of the listed issuer (excluding any of the shareholders described in rule 17.29(5)(c)) are concerned;*
- (ii) a statement as to whether or not the listed issuer and its directors had any plan or intention to acquire the assets concerned before or at the time of the issue of the listed issuer's initial listing document;*
- (iii) the circumstances under which the opportunity to acquire the assets has arisen;*

- (iv) *the number of ~~new~~ shares or securities to be issued, sold or transferred and the dilution effect on shareholders;*
- (v) *information on the assets to be acquired including their value;*
- (vi) *an explanation as to how the issue or selling price for the ~~new~~ shares or securities was fixed;*
- (vii) *reasons for the acquisition and why it is important for the listed issuer to acquire the assets within six months of its listing;*
- (viii) *the effect of the acquisition on the listed issuer's business and prospects and on the statement of business objectives set out in the listed issuer's initial listing document;*
- (ix) *how the acquired assets would complement the listed issuer's business; and*
- (x) *details of the persons who would receive the ~~new~~ shares or securities and their connection, if any, with any core connected persons of the listed issuer.*
- (xi) *[Repealed 1 October 2013]*

*Notes: In exceptional circumstances, the Exchange may be prepared to waive the requirements of this rule, for example where the listed issuer raised, at the time of its initial public offering, less than the maximum amount stated in its listing document and so as to enable the listed issuer to raise the shortfall of such maximum amount.*

#### *Announcement of issues of securities*

17.29A References in rules 17.30, 17.30A and 17.31 to an allotment, issue, offer, placing or subscription of securities or shares shall include a sale or transfer of treasury shares and references to allottees shall include purchasers or transferees of treasury shares. Rule 17.30 does not apply to a sale of treasury shares on GEM or any other stock exchange on which the issuer is listed.

17.30 Where the directors agree to issue any securities for cash in accordance with rule 17.39 or 17.41, an issuer shall publish an announcement as soon as possible, but in any event not later than the time that is 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the next business day, containing the following information:—

...

- (2) the number, class and aggregate nominal value of the securities agreed to be issued;

*Note: If the issue involves (i) securities convertible into shares of the issuer or (ii) options, warrants or similar rights to subscribe for shares or such convertible securities, the announcement should also contain:*

- (a) *the conversion/subscription price and a summary of the provisions for adjustments of such price and/or number of shares to be issued and all other material terms of the convertible securities or warrants; ~~and~~*
- (b) *the maximum number of shares that could be issued upon exercise of the conversion/subscription rights; and*
- (c) *the issuer's intention, if any, to transfer treasury shares upon exercise of the conversion/subscription rights.*

...

...

#### *Pre-emptive rights*

...

17.39A References in rules 17.39 to 17.42E to an allotment, issue, grant, offer, placing, subscription or disposal of securities or shares shall include a sale or transfer of treasury shares listed on GEM and references to allottees shall include purchasers or transferees of such treasury shares.

...

17.41 No such consent as is referred to in rule 17.39 shall be required:—

- (1) for the allotment, issue or grant of such securities pursuant to an offer made to the shareholders of the issuer which excludes for that purpose (i) any holder of treasury shares; and/or (ii) any shareholder that is resident in a place outside Hong Kong provided the directors of the issuer consider such exclusion to be necessary or expedient on account either of the legal restrictions under the laws of the relevant place or the requirements of the relevant regulatory body or stock exchange in that place and, where appropriate, to holders of other equity securities of the issuer entitled to be offered them, pro rata (apart from fractional entitlements) to their existing holdings but subject to rule 10.29; or

...

- (2) if, but only to the extent that, the existing shareholders of the issuer have by ordinary resolution in general meeting given a general mandate to the directors of the issuer, either unconditionally or subject to such terms and conditions as may be specified in the resolution, to allot or issue such securities or to grant any offers, agreements or options which would or might require securities to be issued, allotted or disposed of, whether during the continuance of such mandate or thereafter, subject to a restriction that the aggregate number of securities allotted or agreed to be allotted must not exceed the aggregate of (i) 20% of the number of issued shares (excluding treasury shares) of the issuer as at the date of the resolution granting the general mandate (or in the case of a scheme of arrangement involving an introduction in the circumstances set out in rule 10.18(3), 20% of the number of issued shares (excluding treasury shares) of the issuer following implementation of the scheme) and (ii) the number of such securities repurchased by the issuer itself since the granting of the general mandate (up to a maximum number equivalent to 10% of the number of issued shares (excluding treasury shares) of the issuer as at the date of the resolution granting the repurchase mandate), provided that the existing shareholders of the issuer have by a separate ordinary resolution in general meeting given a general mandate to the directors of the issuer to add such repurchased securities to the 20% general mandate; or
- (3) issue of shares under a share scheme that complies with Chapter 23.

*Notes: 1. Other than where independent shareholders' approval has been obtained, an issue of securities to a connected person pursuant to a general mandate given under rule 17.41(2) is only permitted in the circumstances set out in rules 20.90 and 20.90B.*

...

...

17.42B In the case of a placing or open offer of securities for cash consideration, an issuer may not issue any securities pursuant to a general mandate given under rule 17.41(2) if the relevant price represents a discount of 20% or more to the benchmarked price of the securities, such benchmarked price being the higher of:

- (1) the closing price on the date of the relevant placing agreement or other agreement involving the proposed issue of securities under the general mandate; and
- (2) the average closing price in the 5 trading days immediately prior to the earlier of:
  - (a) the date of announcement of the placing or the proposed transaction or arrangement involving the proposed issue of securities under the



general mandate;

- (b) the date of the placing agreement or other agreement involving the proposed issue of securities under the general mandate; and
- (c) the date on which the placing or subscription or selling price is fixed,

unless the issuer can demonstrate that it is in a serious financial position and that the only way it can be saved is by an urgent rescue operation which involves the issue of ~~new~~ securities at a price representing a discount of 20% or more to the benchmarked price of the securities or that there are other exceptional circumstances. The issuer shall provide the Exchange with detailed information on the allottees to be issued with securities under the general mandate.

17.42BB In the case of a sale of treasury shares on GEM or any other stock exchange on which the issuer is listed, the reference to the benchmarked price in rule 17.42B shall be the higher of (a) the closing price on the trading day immediately prior to the sale; and (b) the average closing price in the 5 trading days immediately prior to the sale.

...

17.42E Where an issuer proposes to issue convertible securities or warrants, options or similar rights to subscribe for shares under rule 17.39, the circular to shareholders shall disclose the issuer's intention, if any, to use treasury shares to satisfy its obligation upon conversion or exercise of any of such convertible securities, warrants, options or similar rights.

...

## **Announcements, circulars and other documents**

### *Review of documents*

17.53 Subject to rule 17.53A, where an issuer is obliged to publish any announcements, circulars or other documents for the purposes of the GEM Listing Rules, the documents need not be submitted to the Exchange for review before they are issued unless the documents fall within rule 17.53(1) or (2).

...

Notes: ...

- 5. Where an announcement or advertisement of a new or further issue of securities, or a sale or transfer of treasury shares contains a profit forecast, the provisions of paragraph 29(2) of Appendix D1B will apply.

...

### *Independent financial advisers*

...

17.96 An independent financial adviser must be independent from any issuer for whom it acts. An independent financial adviser is not independent if any of the following circumstances exist as at the time (1) immediately after the independent financial adviser executes its engagement letter with the issuer; or (2) the independent financial adviser commences work as independent financial adviser to the issuer, whichever is earlier ("**IFA Obligation Commencement Time**"), and up to the end of its engagement:

(1) the IFA group and any director or close associate of a director of the independent financial adviser holds, directly or indirectly, in aggregate more than 5% of the number of issued shares (excluding treasury shares) of the issuer, another party to the transaction, or a close associate or core connected person of the issuer or another party to the transaction;

(1A) in the case of a connected transaction, the independent financial adviser holds more than 5% of the number of issued shares (excluding treasury shares) of an associate of another party to the transaction;

...

...

## **Chapter 18**

### **EQUITY SECURITIES**

#### **FINANCIAL INFORMATION**

...

#### *Information to accompany directors' report and annual financial statements*

18.07 The listed issuer shall include the disclosures required under the relevant accounting standards adopted and the information set out in rules 18.07A to 18.47 in its directors' report and annual financial statements. Unless stated to the contrary the financial information specified in these rules may be included outside the financial statements and will therefore be outside the scope of the auditors' report on the financial statements. The statement of profit or loss and other comprehensive income and statement of financial position set out in the financial statements must include at least the information set out in rule 18.50B. Banking companies (meaning banks, restricted licence banks and deposit-taking companies as defined in the Banking Ordinance) shall, in addition, comply with the Guideline on the Application of the Banking (Disclosure) Rules as issued by the Hong Kong Monetary Authority.

Notes: ...

4 An annual report shall contain the following information required under other parts of the GEM Listing Rules:

...

- (i) share schemes under rules 23.07 and 23.09; ~~and~~
- (j) provision of information in respect of code provisions E.1.5 (remuneration payable to members of senior management by band) and A.1.2 (discussion and analysis of group's performance) in Part 2 of Appendix C1 or provide the Considered Reasons and Explanation in respect of any deviation; and
- (k) a monthly breakdown of purchases of shares under rule 13.13(2) and a monthly breakdown of sales of treasury shares on the Exchange or any other stock exchange on which the issuer is listed under rule 13.14B(3).

...

...

18.14 Particulars of any purchase, sale or redemption by the listed issuer, or any of its subsidiaries, of its listed securities (including sale of treasury shares) during the financial year (analysed on a monthly basis), or an appropriate negative statement. Such statement must include the aggregate price paid or received by the listed issuer for such purchases, sales or redemptions and should distinguish between those securities purchased or sold:—

- (1) on the Exchange;
- (2) on another stock exchange;
- (3) by private arrangement; and
- (4) by way of a general offer; and

any such statement must also distinguish between those listed securities which are purchased by the listed issuer (separately distinguishing those shares which are cancelled and those which are held as treasury stockshares, if applicable) and those which are purchased by a subsidiary of the listed issuer. The directors' report shall contain references to the purchases made during the year and the directors' reasons for making such purchases (see rule 13.13(2)). The listed issuer should also disclose the number of treasury shares (if any) held by the issuer as at the year end date and their intended use.

...

18.32 In the case of any issue ~~for cash~~ of equity securities (including securities convertible into equity securities) or sale of treasury shares for cash (other than under a share scheme that complies with Chapter 23):—

- (1) the reasons for making the issue or sale;
- (2) the classes of equity securities issued or treasury shares sold;
- (3) as regards each class of equity securities, the number issued, and their aggregate nominal value, if any, and/or the number of treasury shares sold;
- (4) the issue price or selling price of each security, or the highest and lowest prices received, where relevant;
- (5) the net price to the listed issuer of each security;
- (6) the names of the allottees (or transferees), if less than 6 in number, and, in the case of 6 or more allottees (or transferees), details of such allottees (or transferees) in accordance with rule 10.12(4);
- (7) the market price of the securities concerned on a named date, being the date on which the terms of the issue or sale were fixed; and
- (8) the total funds raised from the issue or sale and details of the use of proceeds including:
  - (a) a detailed breakdown and description of the proceeds for each issue or sale and the purposes for which they are used during the financial year;
  - (b) if there is any amount not yet utilized, a detailed breakdown and description of the intended use of the proceeds for each issue or sale and the purposes for which they are used and the expected timeline; and
  - (c) whether the proceeds were used, or are proposed to be used, according to the intentions previously disclosed by the issuer, and the reasons for any material change or delay in the use of proceeds.

*Notes: 1 Issuers are recommended to present the above information in tabular format to show separately the amounts used and the purposes for which they are used, and compare each of the actual or intended uses against the intention and expected timeframe previously disclosed by the issuer.*

*2 In the case of any sale of treasury shares on GEM or any other stock exchange on which the issuer is listed, the issuer may disclose the information required in this rule on a monthly basis. The information required in sub-paragraphs*

(5), (6) and (7) may be omitted.

18.32A To the extent that there are proceeds brought forward from any issue of equity securities (including securities convertible into equity securities) or sale of treasury shares made in previous financial year(s) (other than under a share scheme that complies with Chapter 23), the listed issuer shall disclose the amount of proceeds brought forward and details of the use of such proceeds as set out in rule 18.32.

...

18.40 Additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—

...

- (5) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors own more than 5% of the number of issued shares (excluding treasury shares) of the listed issuer) in the suppliers or customers disclosed under (1) to (4) above or if there are no such interests a statement to that effect;

...

...

#### *Content of interim reports*

...

18.55A A listed issuer shall include in its interim report the information in relation to any issue ~~for cash~~ of equity securities (including securities convertible into equity securities) or sale of treasury shares for cash (other than under a share scheme that complies with Chapter 23) during the interim period as set out in rule 18.32, and where applicable, the information required under rule 18.32A.

...

## **Chapter 19**

### **EQUITY SECURITIES**

#### **NOTIFIABLE TRANSACTIONS**

...

## Classification

...

19.06 The transaction classification is made by using the percentage ratios set out in rule 19.07. The classifications are:—

- (1) share transaction — an acquisition of assets (excluding cash) by a listed issuer where the consideration includes securities for which listing will be sought and/or treasury shares to be transferred and where all percentage ratios are less than 5%;

...

...

### *Percentage ratios*

19.07 The percentage ratios are the figures, expressed as percentages resulting from each of the following calculations:—

...

- (5) Equity capital ratio — the number of shares to be issued and/or treasury shares to be transferred by the listed issuer as consideration divided by the total number of the listed issuer's issued shares (excluding treasury shares) immediately before the transaction.

*Notes: 1. The numerator includes shares that may be issued or transferred out of treasury upon conversion or exercise of any convertible securities or subscription rights to be issued or granted by the listed issuer as consideration.*

...

...

19.08 The table below summarises the classification and percentage ratios resulting from the calculations set out in rule 19.07. However, listed issuers should refer to the relevant rules for the specific requirements.

...

*Note: The equity capital ratio relates only to an acquisition (and not a disposal) by a listed issuer issuing new equity capital and/or transferring treasury shares.*

...

*Figures used in total assets, profits and revenue calculations*

...

19.18 The value of transactions, ~~or~~ issues of securities, or sales or transfers of treasury shares by the listed issuer in respect of which adequate information has already been published and made available to shareholders in accordance with the GEM Listing Rules and which have been completed must be included in the total assets of the listed issuer.

...

### **Notification, publication and shareholders' approval requirements**

19.33 The table below summarises the notification, publication and shareholders' approval requirements which will generally apply to each category of notifiable transaction. However, listed issuers should refer to the relevant rules for the specific requirements.

...

*Notes: 1 No shareholder approval is necessary if the consideration shares are issued or transferred out of treasury under a general mandate. However, if the shares are not issued or transferred out of treasury under a general mandate, the listed issuer is required, pursuant to rule 17.39, to obtain shareholders' approval in general meeting prior to the issue of new shares or transfer of treasury shares as of the consideration shares.*

...

...

### *Methods of approval*

19.44 Shareholders' approval for a major transaction shall be given by a majority vote at a general meeting of the shareholders of the issuer unless all the following conditions are met, in which case written shareholders' approval may, subject to rule 19.86, be accepted in lieu of holding a general meeting (Note 1):—

- (1) no shareholder is required to abstain from voting if the issuer were to convene a general meeting for the approval of the transaction; and
- (2) the written shareholders' approval has been obtained from a shareholder or a closely allied group of shareholders who together hold more than 50% of the voting rights at that general meeting (Note 2) to approve the transaction. Where a listed issuer discloses inside information to any shareholder in confidence to solicit the written shareholders' approval, the listed issuer must be satisfied that such shareholder is aware that he must not deal in the listed issuer's securities before such information has been made available to the public.

Notes:

1. References to shareholder(s) in this rule shall mean shareholder(s) other than a holder of treasury shares.

2. Voting rights attaching to treasury shares are excluded.

...

**Contents of announcements**

*All transactions*

19.58 The announcement of a share transaction, discloseable transaction, major transaction, very substantial disposal, very substantial acquisition, extreme transaction or reverse takeover must contain at least the following information:—

...

(5) the aggregate value of the consideration, how it is being or is to be satisfied and details of the terms of any arrangements for payment on a deferred basis. If the consideration includes securities for which listing will be sought and/or treasury shares, the listed issuer must also include the amounts and details of the securities being issued and/or transferred out of treasury;

...

...

*Share transaction announcements*

19.59 In addition to the information set out in rule 19.58, the announcement for a share transaction must contain at least the following information:—

(1) the amount and details of the securities being issued and/or transferred out of treasury including details of any restrictions which apply to the subsequent sale of such securities;

...

(5) in the case where securities will be issued, a statement that application has been or will be made to the Exchange for the listing of and permission to deal in the securities.

*Discloseable transaction, major transaction, very substantial disposal, very substantial acquisition, extreme transaction and reverse takeover announcements*



19.60 In addition to the information set out in rule 19.58, the announcement of a discloseable transaction, major transaction, very substantial disposal, very substantial acquisition, extreme transaction or reverse takeover must contain at least brief details of the following:—

...

- (4) if the transaction involves an issue of securities for which listing will be sought or a transfer of treasury shares, the announcement must also include:
  - (a) a statement that the announcement appears for information purposes only and does not constitute an invitation or offer to acquire, purchase or subscribe for the securities; and
  - (b) in the case where securities will be issued, a statement that application has been or will be made to the Exchange for the listing of and permission to deal in the securities;

...

...

*Major transaction circulars*

...

19.67 In addition to the requirements set out in rule 19.66, a circular issued in relation to an acquisition constituting a major transaction must contain:—

- (1) the information required under paragraphs 9 and 10 of Appendix D1B, if the acquisition involves securities for which listing will be sought;
- (2) the information required under paragraph 22(1) of Appendix D1B, if ~~new~~ shares are to be issued or transferred out of treasury as consideration;

...

...

*Contents of offer document*

19.81 The offer document must normally contain:—

...

- (3) a prominent and legible statement in the following form:

“The Stock Exchange of Hong Kong Limited (the “Exchange”) has stated that if, at the close of the offer, less than the minimum prescribed percentage applicable to the listed issuer, being [ ]% of the issued shares

(excluding treasury shares), are held by the public, or if the Exchange believes that:—

- a false market exists or may exist in the trading of the shares; or
- that there are insufficient shares in public hands to maintain an orderly market;

it will consider exercising its discretion to suspend dealings in the shares.

[[*The Offeror*] intends [*the listed issuer*] to remain listed on the Exchange. The directors of [*the Offeror*] and the new directors to be appointed to the Board of [*the listed issuer*] will jointly and severally undertake to the Exchange to take appropriate steps to ensure that sufficient public float exists in [*the listed issuer*]'s shares.]”

...

...

## Chapter 20

### EQUITY SECURITIES

#### CONNECTED TRANSACTIONS

...

#### What are connected transactions

...

20.22 “Transactions” include both capital and revenue nature transactions, whether or not conducted in the ordinary and usual course of business of the listed issuer’s group. This includes the following types of transactions:

...

- (6) issuing new securities, or selling or transferring treasury shares, of the listed issuer or its subsidiaries, including underwriting or sub-underwriting an issue of securities or a sale or transfer of treasury shares;

...

...

#### Shareholders’ approval

...

20.35 The Exchange may waive the general meeting requirement and accept a written shareholders' approval, subject to the conditions that (Note 1):

- (1) no shareholder of the listed issuer is required to abstain from voting if a general meeting is held to approve the transaction; and
- (2) the approval is given by a shareholder or a closely allied group of shareholders who (together) hold more than 50% of the voting rights in the general meeting (Note 2).

Notes:

1. References to shareholder(s) in this rule shall mean shareholder(s) other than a holder of treasury shares.
2. Voting rights attaching to treasury shares are excluded.

...

### **Exemptions**

20.71 Exemptions from the connected transaction requirements are available for the following types of transactions:

...

- (3) issues of new securities, or sales or transfers of treasury shares by the listed issuer or its subsidiary (rules 20.90 and 20.90B);

...

...

### **De minimis transactions**

20.74 This exemption applies to a connected transaction (other than an issue of new securities, or a sale or transfer of treasury shares by the listed issuer) conducted on normal commercial terms or better as follows:

- (1) The transaction is fully exempt if all the percentage ratios (other than the profits ratio) are:
  - (a) less than 0.1%;
  - (b) less than 1% and the transaction is a connected transaction only because it involves connected person(s) at the subsidiary level; or
  - (c) less than 5% and the total consideration (or in the case of any financial assistance, the total value of the financial assistance plus

any monetary advantage to the connected person or commonly held entity) is less than HK\$3,000,000.

- (2) The transaction is exempt from the circular (including independent financial advice) and shareholders' approval requirements if all the percentage ratios (other than the profits ratio) are:
  - (a) less than 5%; or
  - (b) less than 25% and the total consideration (or in the case of any financial assistance, the total value of the financial assistance plus any monetary advantage to the connected person or commonly held entity) is less than HK\$10,000,000.

...

**Issues of new securities, or sales or transfers of treasury shares by the listed issuer or its subsidiary**

20.90 An issue of new securities by a listed issuer or its subsidiary to a connected person is fully exempt if:

- (1) the connected person receives a pro rata entitlement to the issue as a shareholder;
- (2) the connected person subscribes for the securities in a rights issue or open offer:
  - (a) through excess application (see rule 10.31(1) or 10.42(1)); or
  - (b) [Repealed 3 July 2018]
- (3) the securities are issued to the connected person under:
  - (a) a share scheme that complies with Chapter 23; or
  - (b) a share scheme adopted by the listed issuer before its securities first start dealing on the Exchange, and where the Exchange has approved the listing of the securities to be issued under the scheme; or
- (4) the securities are issued under a "top-up placing and subscription" that meets the following conditions:
  - (a) the new securities are issued to the connected person:
    - (i) after it has reduced its holding in the same class of securities by placing them to third parties who are not its associates under a placing agreement; and

- (ii) within 14 days from the date of the placing agreement;
- (b) the number of new securities issued to the connected person does not exceed the number of securities placed by it; and
- (c) the new securities are issued at a price not less than the placing price. The placing price may be adjusted for the expenses of the placing.

*Note: An issue of new securities by a subsidiary of the listed issuer may be exempt as a de minimis transaction.*

20.90A References in rule 20.90 to an issue, offer, placing or subscription of securities shall include a sale or transfer of treasury shares.

20.90B A sale of treasury shares by a listed issuer to a connected person is fully exempt if it is made on GEM or any other stock exchange on which the issuer is listed, except where the connected person knowingly purchases the treasury shares from the listed issuer.

...

## Chapter 21

### EQUITY SECURITIES

#### OPTIONS, WARRANTS AND SIMILAR RIGHTS

...

21.02 All warrants must, prior to the issue or grant thereof, be approved by the Exchange, and in addition, where they are warrants to subscribe for equity securities (including treasury shares), by the shareholders in general meeting (unless they are issued by the directors under the authority of a general mandate granted to them by shareholders in accordance with rule 17.41(2)). In the absence of exceptional circumstances which would include, by way of example, a rescue reorganisation, the Exchange will only grant approval to the issue or grant of warrants to subscribe securities (including treasury shares) if the following requirements are complied with:—

- (1) the securities to be issued or transferred out of treasury by the issuer on exercise of the warrants must not, when aggregated with all other equity securities which remain to be issued or transferred out of treasury by the issuer on exercise of any other subscription rights, if all such rights were immediately exercised, whether or not such exercise is permissible, exceed 20 per cent of the number of issued shares (excluding treasury shares) of the issuer at the time such warrants are issued. Options granted under share option schemes which comply with Chapter 23 are excluded for the purpose of this limit.

...

...

21.03 The circular or notice to be sent to shareholders convening the requisite meeting under rule 21.02 must include at least the following information:—

- (1) the maximum number of securities which could be issued or transferred out of treasury on exercise of the warrants;

...

...

## **Chapter 23**

### **EQUITY SECURITIES**

#### **SHARE SCHEMES**

##### **Application of Chapter 23**

23.01 ...

- (4) In this Chapter 23, references to new shares or new securities include treasury shares, and references to the issue of shares or securities include the transfer of treasury shares listed on GEM.

...

##### **Share schemes involving issue of new shares by listed issuers**

###### **Adoption of a new scheme**

23.02 ...

- (2) The scheme document itself does not need to be circulated to shareholders of the listed issuer. However, if the scheme document is not so circulated, it must be published on the Exchange's website and the issuer's own website for a period of not less than 14 days before the date of the general meeting and made available for inspection at the general meeting and the terms of the shareholders' resolution must approve the scheme as described in the circular to the shareholders of the listed issuer. The circular must include the following information:

...

- (d) a statement in the form set out in paragraph 2 of Appendix D1B; ~~and~~

(e) a statement of the issuer's intention to use treasury shares for the scheme, where applicable; and

(ef) any additional information requested by the Exchange.

...

...

### Terms of the scheme

23.03 The scheme document must include the following provisions and/or provisions as to the following (as the case may be):—

...

(3) the total number of shares which may be issued in respect of all options and awards to be granted under the scheme and any other schemes (the **scheme mandate limit**), together with the percentage of the issued shares (excluding treasury shares) that it represents at the date of approval of the scheme; ...

...

...

...

### Scheme mandate limit and service provider sublimit

23.03B (1) The scheme mandate limit must not exceed 10% of the relevant class of shares of the listed issuer in issue (excluding treasury shares) as at the date of approval of the scheme (alternatively, in respect of a scheme of a new applicant that will become effective only upon its separate listing, the 10% limit may be calculated by reference to the relevant class of shares of the applicant in issue (excluding treasury shares) as at the date of its listing).

...

23.03C ...

(2) The total number of shares which may be issued in respect of all options and awards to be granted under all of the schemes of the listed issuer under the scheme mandate as "refreshed" must not exceed 10% of the relevant class of shares in issue (excluding treasury shares) as at the date of approval of the refreshed scheme mandate. The listed issuer must send a circular to its shareholders containing the number of options and awards that were already granted under the existing scheme mandate

limit and the existing service provider sublimit (if any), and the reason for the “refreshment”.

...

### **Limit on granting options or awards to individual participants**

- 23.03D (1) Where any grant of options or awards to a participant would result in the shares issued and to be issued in respect of all options and awards granted to such person (excluding any options and awards lapsed in accordance with the terms of the scheme) in the 12-month period up to and including the date of such grant representing in aggregate over 1% of the relevant class of shares of the listed issuer in issue (excluding treasury shares) (the **1% individual limit**), such grant must be separately approved by shareholders of the listed issuer in general meeting with such participant and his/her close associates (or associates if the participant is a connected person) abstaining from voting. The listed issuer must send a circular to the shareholders.

...

...

### **Granting options or awards to a director, chief executive or substantial shareholder of a listed issuer, or any of their respective associates**

23.04 ...

- (2) Where any grant of awards (excluding grant of options) to a director (other than an independent non-executive director) or chief executive of the issuer, or any of their associates would result in the shares issued and to be issued in respect of all awards granted (excluding any awards lapsed in accordance with the terms of the scheme) to such person in the 12-month period up to and including the date of such grant, representing in aggregate over 0.1% of the relevant class of shares in issue (excluding treasury shares), such further grant of awards must be approved by shareholders of the listed issuer in general meeting in the manner set out in rule 23.04(4).
- (3) Where any grant of options or awards to an independent non-executive director or a substantial shareholder of the listed issuer, or any of their respective associates, would result in the shares issued and to be issued in respect of all options and awards granted (excluding any options and awards lapsed in accordance with the terms of the scheme) to such person in the 12-month period up to and including the date of such grant representing in aggregate over 0.1% of the relevant class of shares in issue (excluding treasury shares), such further grant of options or awards must be approved by shareholders of the listed issuer in general meeting



in the manner set out in rule 23.04(4).

...

...

### **Restriction on the time of grant of options or awards**

23.05 An issuer may not grant any options or awards after inside information has come to its knowledge until (and including) the trading day after it has announced the information. In particular, it may not grant any options or awards during the period commencing ~~one month~~ 30 days immediately before the earlier of:

- (1) the date of the board meeting (as such date is first notified to the Exchange under rule 17.48) for approving the issuer's results for any year, half-year, ~~or quarterly~~ year period or any other interim period (whether or not required under the GEM Listing Rules); and
- (2) the deadline for the issuer to announce its results for any year or half-year under rule 18.49 or 18.78, or quarterly or any other interim period (whether or not required under the GEM Listing Rules),

and ending on the date of the results announcement.

*Note: No option or awards may be granted during any period of delay in publishing a results announcement.*

...

### **Announcement on grant of options or awards**

23.06A ...

- (2) The disclosure must be made, on an individual basis, if the grantee is:

...

- (c) a related entity participant or service provider with options and awards granted and to be granted in any 12-month period exceeding 0.1% of the relevant class of shares in issue (excluding treasury shares).

...

...

### **Disclosure in annual report and interim report**

23.07 The listed issuer must disclose in its annual report and interim report the

following information in relation to options and awards granted and to be granted under its share scheme(s) to: (i) each of the directors, chief executive or substantial shareholders of the listed issuer, or their respective associates; (ii) each participant with options and awards granted and to be granted in excess of the 1% individual limit; (iii) each related entity participant or service provider with options and awards granted and to be granted in any 12-month period exceeding 0.1% of the relevant class of shares in issue (excluding treasury shares); and (iv) other employee participants, related entity participants and service providers by category:—

...

- (3) the number of shares that may be issued in respect of options and awards granted under all schemes of the issuer during the financial year/period divided by the weighted average number of shares of the relevant class in issue (excluding treasury shares) for the year/period.

...

23.09 The listed issuer must include in its annual report a summary of each share scheme setting out:

...

- (3) the total number of shares available for issue under the scheme together with the percentage of the issued shares (excluding treasury shares) that it represents as at the date of the annual report;

...

...

## Chapter 24

### EQUITY SECURITIES

#### OVERSEAS ISSUERS

...

#### Chapter 13 – Restrictions on Purchase

24.07 An overseas issuer may purchase its own shares (as defined in rule 13.06) on GEM and hold them as treasury shares in accordance with rules 13.03 to 13.14. ~~With regard to rule 13.14 concerning the status of shares purchased by an issuer, where the overseas issuer in question has a listing on another stock exchange the rules of (or laws in relation to) which permit treasury stock, the Exchange will be prepared to waive the requirement to cancel and destroy the documents of title of purchased shares, provided that the overseas issuer must~~

~~apply for the relisting of any such shares which are re-issued, as if it were a new issue of those shares.~~

...

**Chapter 25**  
**EQUITY SECURITIES**  
**ISSUERS INCORPORATED**  
**IN THE PEOPLE'S REPUBLIC OF CHINA**

...

**Chapter 11 – Qualifications for Listing**

...

25.07A Rule 11.23 is amended by adding the following provision to sub-paragraph (9):

Where a PRC issuer has shares apart from the H shares for which listing is sought, the total securities of the issuer held by the public (on all regulated market(s) including the Exchange) at the time of listing must be at least 25% of the issuer's total number of issued shares (excluding treasury shares). However, the issuer's H shares (for which listing is sought) must represent at least 15% of its total number of issued shares (excluding treasury shares), having an expected market capitalisation at the time of listing of not less than HK\$45,000,000.

...

25.10 Under rule 11.04, the Exchange requires a new applicant to make disclosure where it has a director, or controlling shareholder and, in relation only to the initial listing document, substantial shareholder (including the respective close associates of each) with a business or interest which competes or may compete with the business of the group. In this connection, in the case of a new applicant which is a PRC issuer, "controlling shareholder" means any shareholder or other person or group of persons together entitled to exercise, or control the exercise of 30% (or such other amount as may from time to time be specified in applicable PRC law as being the level for triggering a mandatory general offer or for otherwise establishing legal or management control over a business enterprise) or more of the voting power at general meetings of the new applicant (Note) or who is in a position to control the composition of the majority of the board of directors of the new applicant. For the purposes of this rule, the Exchange will normally not consider a PRC Governmental Body (as defined in rule 25.04) as a controlling shareholder of a PRC issuer.

Note: Voting rights attaching to treasury shares are excluded.

...

## Chapter 13 — Restrictions on Purchase, Disposal and Subscription

25.18 A PRC issuer may purchase its own shares on GEM and hold them as treasury shares in accordance with the provisions of this rule and rules 13.03 to 13.14. Although such provisions normally apply to a PRC issuer's equity securities which are listed on GEM and which are or are proposed to be purchased on GEM, when seeking shareholders' approval to make purchases of such securities on GEM or when reporting such purchases, a PRC issuer should provide information on the proposed or actual purchases of any or all of its equity securities, whether or not listed or traded on GEM. Therefore, in the case of a PRC issuer, rule 13.06 is amended and restated in its entirety to read as follows:

"For the purposes of rules 13.03 to 13.14, "shares" shall mean shares of all classes listed on GEM and securities listed on GEM which carry a right to subscribe or purchase shares of the PRC issuer, provided that references to "shares" in rules 13.08, ~~and 13.13~~ and 13.14B shall also include shares of all classes listed on any stock exchange and securities that are listed on any stock exchange which carry a right to subscribe or purchase shares of such PRC issuer, and provided further that the Exchange may waive the requirements of those rules in respect of any fixed participation shares which are, in the opinion of the Exchange, more analogous to debt securities than equity securities. References to purchases of shares include purchases by agents or nominees on behalf of the PRC issuer or subsidiary of the PRC issuer, as the case may be."

25.19 ...

- (3) For a PRC issuer, the reference to "10 per cent of the number of issued shares (excluding treasury shares) of the issuer" in rule 13.09(1) shall mean "10 per cent of the total number of issued H shares (excluding treasury shares) of the PRC issuer".

...

## Chapter 23 – Share Schemes

25.34D ...

25.34E For a PRC issuer, rule 23.01(4) is restated in its entirety as follows:

In this Chapter 23, references to new shares or new securities of a PRC issuer include its treasury shares listed on GEM, and references to the issue of shares or securities include the transfer of treasury shares listed on GEM.

25.34F For a PRC issuer, a share scheme funded by its treasury shares not listed on GEM is subject to rule 23.12. The transfer of treasury shares not listed on GEM to a connected person pursuant to such scheme may be exempt as a de minimis transaction under rule 20.74.

...

## A. Shareholder Protection and Constitutional Documents

### Appendix A1

#### CORE SHAREHOLDER PROTECTION STANDARDS

...

##### As regards Proceedings at General Meetings

14. ...

- (5) That members holding a minority stake in the total number of issued shares (excluding treasury shares) must be able to convene an extraordinary general meeting and add resolutions to a meeting agenda. The minimum stake required to do so must not be higher than 10% of the voting rights (Note), on a one vote per share basis, in the share capital (excluding treasury shares) of the issuer.

Note: Voting rights attaching to treasury shares are excluded.

##### As regards Variation of Rights

15. That a super-majority vote of the issuer's members of the class to which the rights are attached shall be required to approve a change to those rights.

Notes:

1. A "super-majority vote" means at least three-fourths of the voting rights of the members holding shares in that class present and voting in person or by proxy at a separate general meeting of members of the class where the quorum for such meeting shall be holders of at least one third of the issued shares (excluding treasury shares) of the class. This is unless it can be demonstrated that shareholder protection will not be compromised by a lower voting threshold (e.g. simple majority votes in favour of the relevant resolutions with a higher quorum requirement) and in such case a "super-majority vote" is deemed to be achieved.
2. For PRC issuers, the Exchange will consider a resolution passed by members representing at least two-thirds of the voting rights of the members who are present at the classified members' meeting and have voting rights to amend class rights as satisfying the threshold of a "super-majority".
3. Voting rights attaching to treasury shares are excluded.

##### As regards Amendment of Constitutional Documents

16. That a super-majority vote of the issuer’s members in a general meeting shall be required to approve changes to an issuer’s constitutional documents, however framed.

Notes:

1. *A “super-majority vote” means at least three-fourths of the total voting rights of the members present and voting in person or by proxy at the general meeting. This is unless it can be demonstrated that shareholder protection will not be compromised by a lower voting threshold (e.g. simple majority votes in favour of the relevant resolutions with a higher quorum requirement) and in such case a “super-majority vote” is deemed to be achieved.*
2. *For PRC issuers, the Exchange will consider a resolution passed by members representing at least two-thirds of the total voting rights of the members present and voting in person or by proxy at the meeting as satisfying the threshold of a “super-majority”.*
3. *Voting rights attaching to treasury shares are excluded.*

...

### **As regards Voluntary Winding Up**

21. A super-majority vote of the issuer’s members in a general meeting shall be required to approve a voluntary winding up of an issuer.

Notes:

1. *A “super-majority vote” means at least three-fourths of the total voting rights of the members present and voting in person or by proxy at the general meeting. This is unless it can be demonstrated that shareholder protection will not be compromised by a lower voting threshold (e.g. simple majority votes in favour of the relevant resolutions with a higher quorum requirement) and in such case a “super-majority vote” is deemed to be achieved.*
2. *For PRC issuers, the Exchange will consider a resolution passed by members representing at least two-thirds of the total voting rights of the members present and voting in person or by proxy at the meeting as satisfying the threshold of a “super-majority”.*
3. *Voting rights attaching to treasury shares are excluded.*

## **D. Document Content Requirements**

### **Appendix D1A**

#### **CONTENTS OF LISTING DOCUMENTS**

## Equity Securities

### In the case where listing is sought for equity securities of an issuer no part of whose share capital is already listed

...

#### Information about the issuer's capital

23. (1) The authorised share capital of the issuer, the amount issued or agreed to be issued, the amount paid up, the nominal value and a description of the shares.

(1A) Particulars of and the number of treasury shares held by the issuer or its subsidiary or through their agents or nominees.

...

...

#### General information about the group's activities

28. (1) ...

- (b) additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—

...

- (v) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors owns more than 5 per cent of the number of issued shares (excluding treasury shares) of the issuer) in the suppliers or customers disclosed under (i) to (iv) above or if there are no such interests a statement to that effect;

...

...

...

#### Additional information on PRC issuers

*(Paragraphs 57 to 68 apply to PRC issuers only)*

57. Where a public or private issue or placing of securities of the PRC issuer other than

H shares is being made simultaneously with the issue of H shares in Hong Kong or is proposed to be made as part of such PRC issuer's share issue plan which was approved at the inaugural meeting or any shareholders' meeting of the PRC issuer:—

...

- (7) information concerning each legal person or individual expected to hold shares other than H shares constituting 10 per cent or more of the issued share capital (excluding treasury shares) of the PRC issuer upon the completion of such issue or placing of shares other than H shares, and the number of shares other than H shares to be held by each such legal person or individual.

58. Where any securities of the PRC issuer are already issued and outstanding:—

...

- (4) information concerning each legal person or individual holding such securities constituting 10 per cent or more of the existing issued share capital (excluding treasury shares) of the PRC issuer, and the number of shares held by each such legal person or individual.

...

## **Appendix D1B**

### **CONTENTS OF LISTING DOCUMENTS**

#### **Equity Securities**

**In the case where listing is sought for equity securities of an issuer some part of whose share capital is already listed**

...

#### **Information about the issuer's capital**

22. (1) The authorised share capital of the issuer, the amount issued or agreed to be issued, the amount paid up, the nominal value and a description of the shares.

(1A) Particulars of and the number of treasury shares held by the issuer or its subsidiary or through their agents or nominees.

...

...



## General information about the group's activities

26. (1) ...

- (b) additional information in respect of major customers (meaning, other than in relation to consumer goods or services, the ultimate customer, and in relation to consumer goods or services the ultimate wholesaler or retailer as the case may be) and suppliers (meaning the ultimate supplier of items which are not of a capital nature) as follows:—

...

- (v) a statement of the interests of any of the directors; their close associates; or any shareholder (which to the knowledge of the directors owns more than 5 per cent of the number of issued shares (excluding treasury shares) of the issuer) in the suppliers or customers disclosed under (i) to (iv) above or if there are no such interests a statement to that effect;

...

...

...

## Additional information on PRC issuers

*(Paragraphs 44 and 47 apply to PRC issuers only)*

- 44. Where a public or private issue or placing of securities of the PRC issuer other than H shares is being made simultaneously with the issue of H shares in Hong Kong or is proposed to be made prior to the end of 3 months after the issue of the listing document in Hong Kong:—

...

- (5) information concerning each legal person or individual expected to hold shares other than H shares constituting 10 per cent or more of the issued share capital (excluding treasury shares) of the PRC issuer upon the completion of such issue or placing of shares other than H shares, and the number of shares other than H shares to be held by each such legal person or individual.

...