

WEBINAR SERIES:
**LISTING WEIGHTED VOTING RIGHTS,
PRE-REVENUE BIOTECH AND MINERAL COMPANIES
ON THE HKEX**

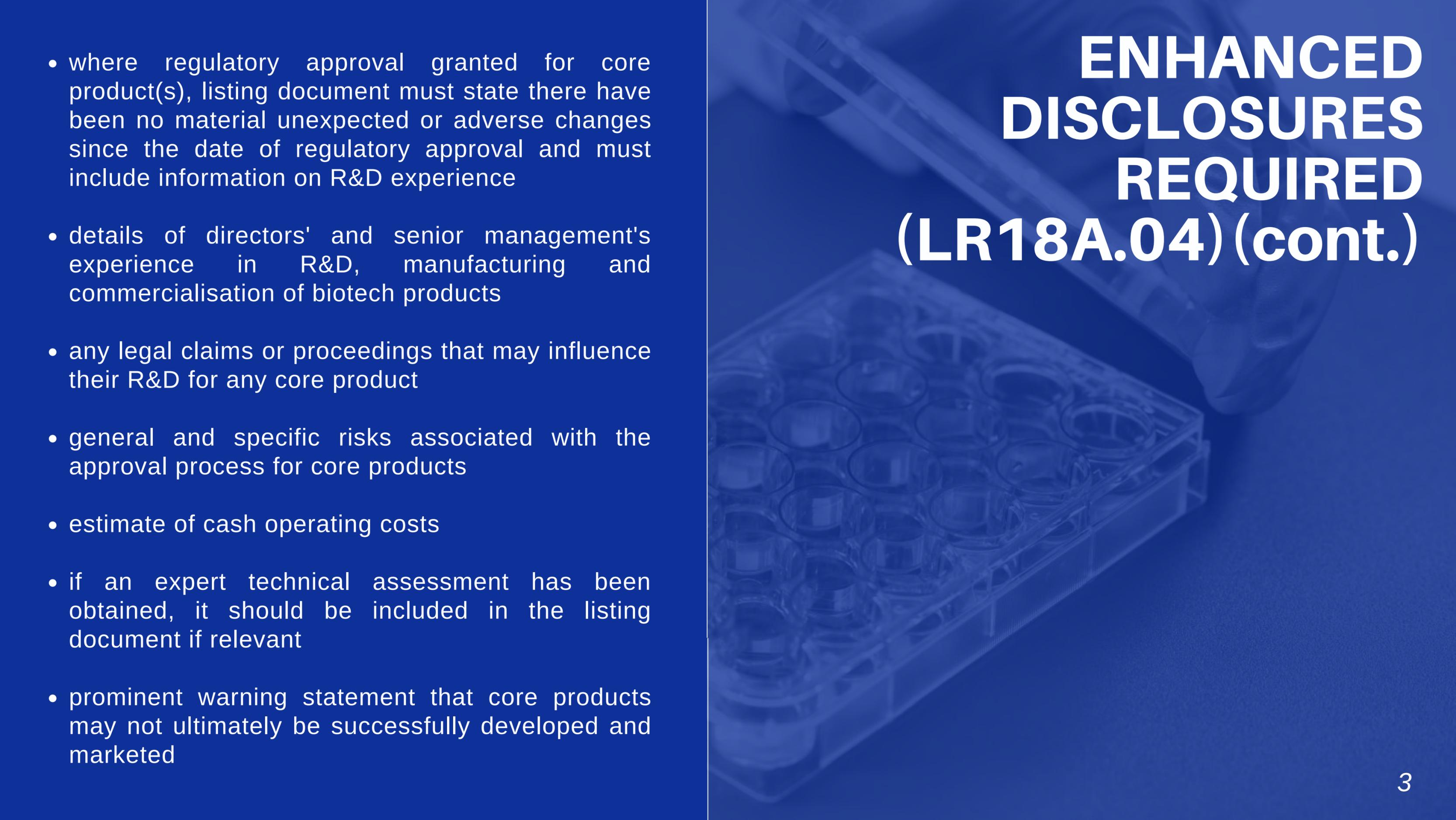
**PART III - HKEX: LISTING BIOTECH
COMPANIES (2ND SECTION) AND
MINERAL COMPANIES**

16 DECEMBER 2020

CHARLTONS
易周律師行

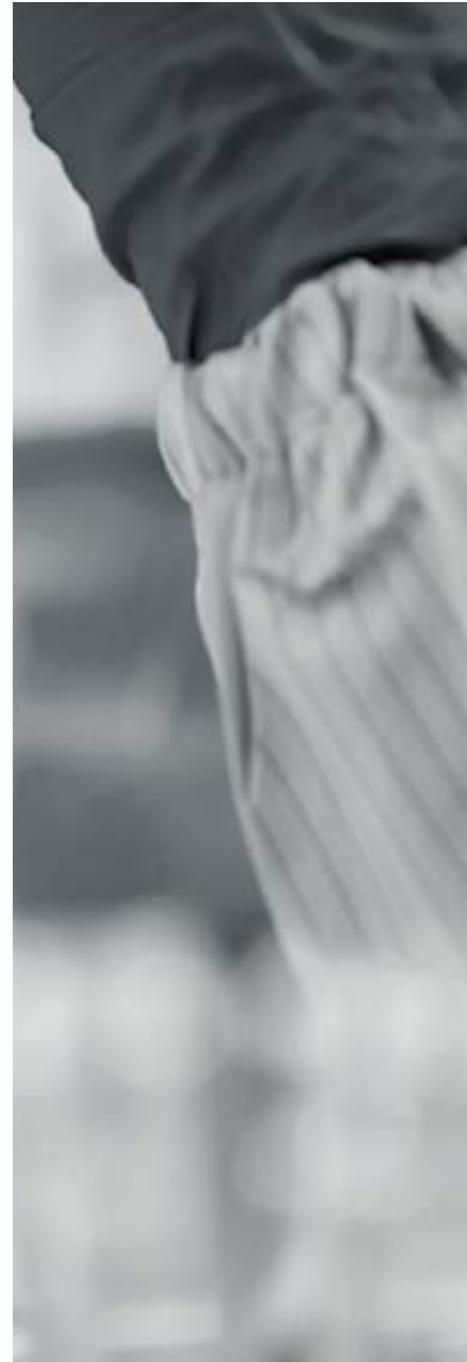
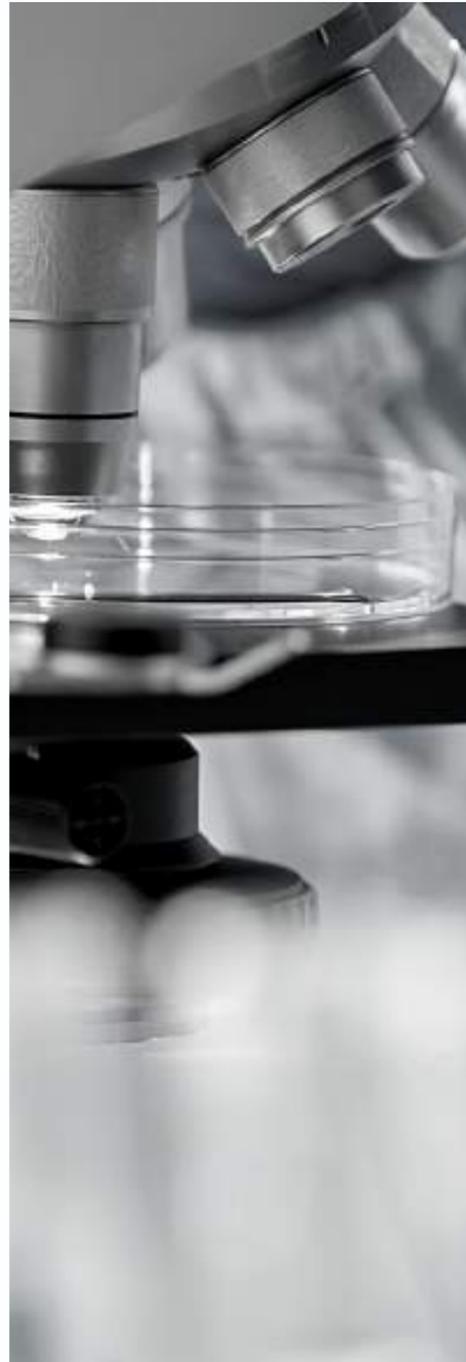
ENHANCED DISCLOSURES REQUIRED (LR18A.04)

- strategic objectives and details of core products
- stage of R&D for core products and timeframe to reach commercialisation
- all material safety data and description of immediate market opportunity for each core product and any potential increased market opportunity in the future
- details of patent(s) granted, registered and applied for
- material rights and obligations of the company under applicable licensing agreements (in the case of in-licensed products)



ENHANCED DISCLOSURES REQUIRED (LR18A.04) (cont.)

- where regulatory approval granted for core product(s), listing document must state there have been no material unexpected or adverse changes since the date of regulatory approval and must include information on R&D experience
- details of directors' and senior management's experience in R&D, manufacturing and commercialisation of biotech products
- any legal claims or proceedings that may influence their R&D for any core product
- general and specific risks associated with the approval process for core products
- estimate of cash operating costs
- if an expert technical assessment has been obtained, it should be included in the listing document if relevant
- prominent warning statement that core products may not ultimately be successfully developed and marketed



GL107-20

- HKEx expects the summary section's scientific description of the biotech technology and the key clinical data of its core products to be written in a manner retail investors should be able to understand without compromising scientific accuracy
- timetable for development of core products should avoid presenting favourable possibilities as more probable than likely
- details provided on required disclosure on the competition facing the listing applicant's core products and key pipeline products
- listing documents must state period of time during which the biotech company could remain viable with its existing cash balance with and without the IPO funds and indicate when it expects to raise its next round of financing

BIOTECH COMPANIES' CONTINUING OBLIGATIONS

01 | FINANCIAL REPORTING

- must include details of R&D for relevant period in annual and half year reports
- must include prominently disclosed warning that a core product may not ultimately be successfully developed and marketed

02 | SUFFICIENT OPERATIONS

- where HKEx considers a biotech company has insufficient operations and assets to warrant its continued listing as required by LR13.24 it can suspend dealings in its shares / cancel its listing
- HKEx can give up to 12 months to comply with LR13.24 after which listing will be cancelled if still in breach

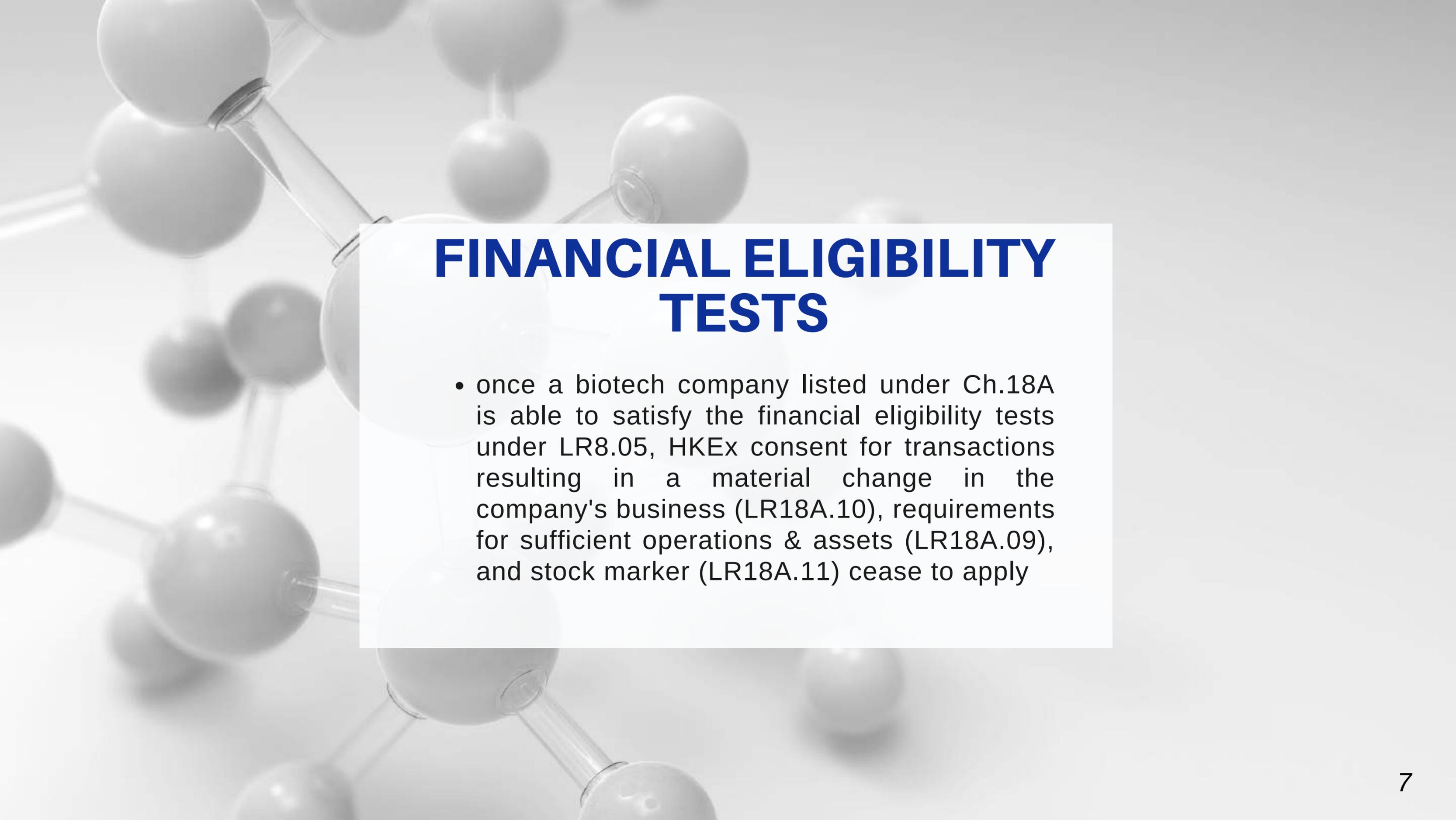
BIOTECH COMPANIES' CONTINUING OBLIGATIONS (cont.)

03 | FUNDAMENTAL CHANGE IN BUSINESS

- must obtain consent of HKEx for any acquisition, disposal or other transaction or arrangement that would result in a fundamental change to the company's principal business activities as described in its listing document (LR18A.10)

04 | STOCK MARKER

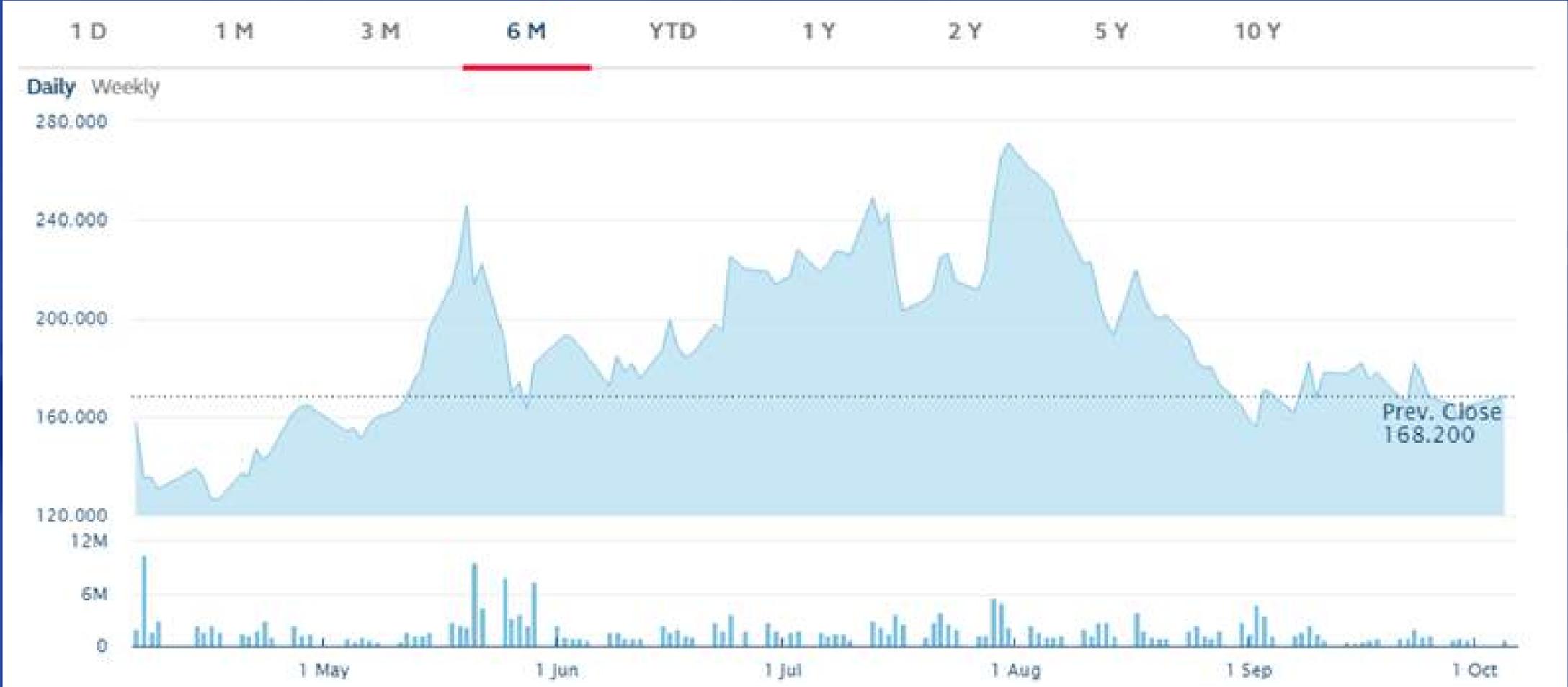
- stock names of listed biotech companies have the marker (B) at the end of their name (LR18A.11)



FINANCIAL ELIGIBILITY TESTS

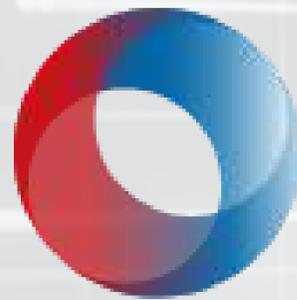
- once a biotech company listed under Ch.18A is able to satisfy the financial eligibility tests under LR8.05, HKEx consent for transactions resulting in a material change in the company's business (LR18A.10), requirements for sufficient operations & assets (LR18A.09), and stock market (LR18A.11) cease to apply

IMPACT OF COVID-19



CanSino stock performance (HKG:6185), source: HKEx

CES HK BIOTECHNOLOGY INDEX



中華交易服務

CHINA
EXCHANGES
SERVICES

LISTING MINERAL COMPANIES (CH.18)

69

energy companies listed on the Main Board of the HKEx with a total market cap. of HK\$635 billion

131

materials companies listed on the Main Board of the HKEx with a total market cap. of HK\$449 billion

MINERAL COMPANY LISTINGS ON THE HKEX



GLENCORE



MINERAL COMPANIES LISTINGS ON THE HKEX (CONT.)



HK\$5.4 bn

FSM HOLDINGS LIMITED

HK\$132 m



HK\$3.1 bn



HK\$3.9 bn





DEFINITION OF MINERAL COMPANIES

- new listing applicants whose Major Activity is the exploration for and/or extraction of natural resources; and
- existing listed issuers that complete a major transaction or above involving the acquisition of mineral or petroleum assets.

KEY LISTING CRITERIA

Main Board

GEM

	<i>Main Board</i>	<i>GEM</i>
<i>Operating history and management</i>	Trading record of not less than 3 FYs with: <ul style="list-style-type: none"> • Management continuity for at least the 3 preceding FYs; and • Ownership continuity and control for at least the most recent audited FY 	Trading record of not less than 2 full FYs with: <ul style="list-style-type: none"> • Substantially the same management for the 2 preceding FYs; and • Continuity of ownership and control for the preceding FY.
<i>Financial tests</i>	Fulfil one of the three financial criteria: <ul style="list-style-type: none"> • Profit test • Market cap / revenue test • Market cap / revenue test / cashflow test 	<ul style="list-style-type: none"> • Positive cashflow from operating activities of at least HK\$30m in aggregate for the 2 preceding FYs; and • Market cap of at least HK\$150m at the time of listing.
<i>Public float</i>	25% of total issued share capital must be held by the public at all times. Market cap of at least HK\$125m held by the public at the time of listing.	25% of total issued share capital must be held by the public at all times. Market cap of at least HK\$45m held by the public at the time of listing.
<i>Spread of shareholders</i>	Minimum of 300 shareholders	Minimum of 100 public shareholders
<i>Working capital</i>	Statement of sufficient working capital for at least 12 months from the date of the prospectus / how it proposes to provide the additional necessary working capital	

ADDITIONAL REQUIREMENTS

at least a portfolio of Indicated Resources (minerals) or Contingent Resources (petroleum) that are identifiable under one of the accepted reporting standards and substantiated in the report of an independent expert; and

the portfolio must be meaningful and of sufficient substance to justify a listing.

must be able to demonstrate that it has the right to actively participate in the exploration for and/or extraction of resources either through:

- control over a majority (by value) of the assets in which it has invested together with adequate rights over the exploration for and/or extraction of resources; or
- adequate rights arising under arrangements acceptable to the HKEx, which give it sufficient influence in decisions over the exploration for and/or extraction of the resources

WAIVER FROM MAIN BOARD FINANCIAL TESTS

A. Path to Commercial Production

01 |

must have conducted exploration and/or development activities on some or all of its mining assets during part or all of the track record period (Pre-Production Mining Assets);

02 |

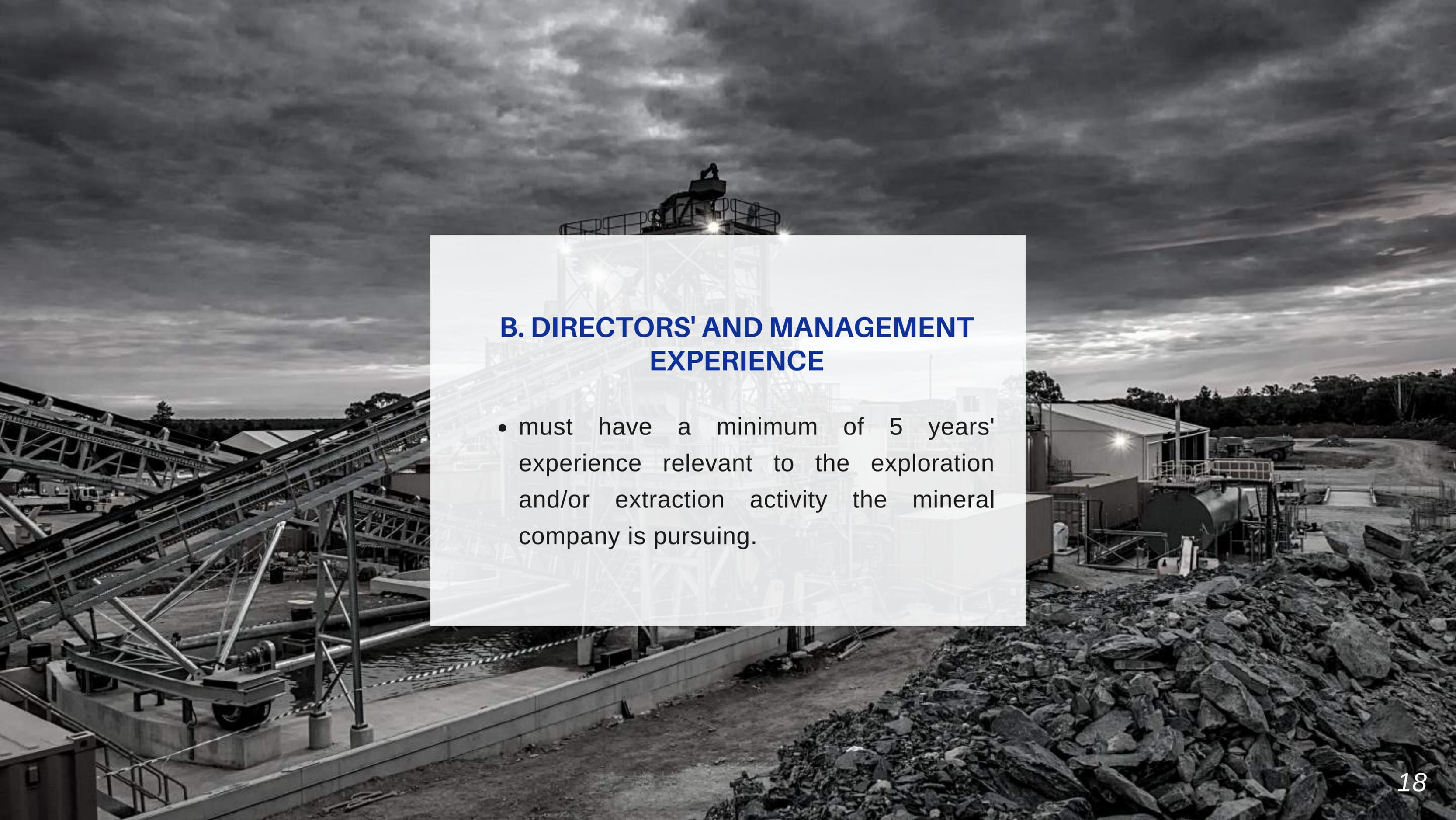
the pre-production mining assets must comprise a meaningful portfolio of the applicant's resources and reserves; and

03 |

present a detailed plan, with reasonable assumptions, to achieve profitable commercial production with respect to the pre-production mining assets.

ASSESSING THE FEASIBILITY OF THE PLAN

- the life of the mine with the Pre-Production Mining Assets and the project payback period;
- the development/production stage of the Pre-Production Mining Assets;
- the Competent Person's view on the adequacy and reasonableness of the applicant's mine plan, production schedule and/or pre-feasibility study;
- commodity price and demand for the applicant's products (e.g. binding commitments from existing / potential customers);
- an estimate of cash operating costs and cost of proposed exploration and/or development;
- feasibility of future fund raising (other than the IPO) required to bring the project to production; and
- the level of certainty as to whether the necessary mining permits and licences will be obtained.



B. DIRECTORS' AND MANAGEMENT EXPERIENCE

- must have a minimum of 5 years' experience relevant to the exploration and/or extraction activity the mineral company is pursuing.

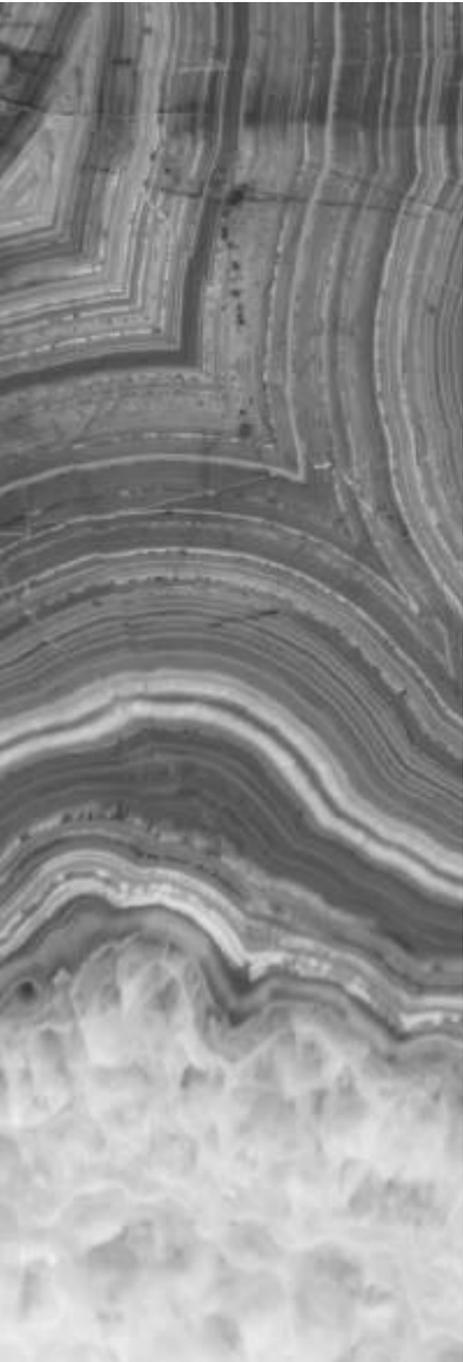
C. PRIMARY ACTIVITY

the company must demonstrate that its primary activity is the exploration for and/or extraction of natural resources.



WAIVER FROM GEM RULES' REQUIREMENT

- HKEx may waive the 2-year trading record requirement if satisfied that the directors and senior management have a minimum of 5 years' relevant experience.



COMPETENT PERSONS' REPORT (CPR)

- a new applicant mineral company must include in its listing document a report on its resources and reserves prepared by a Competent Person (MBLR18.05 (GEM Rule 18A.05(1))).
- the CPR must have an effective date less than 6 months before the date of the listing document and the listing document must include a statement that no material changes have occurred since the date of the CPR.
- if there are material changes, these must be prominently disclosed.

WAIVER TO EXCLUDE CERTAIN MINING ASSETS FROM CPR

waivers may be granted allowing listing applicants to exclude part of their mining assets from the CPR where:

- the excluded projects were not material to the applicant's portfolio of mineral / petroleum resources; and
- the applicant demonstrated that the necessary information for the preparation of a CPR was not available.



WHERE A WAIVER IS GRANTED, APPLICANTS MUST:

- **disclose relevant material information in the listing document in order for investors to assess the potential of the Excluded Projects and the likely benefit of the acquisitions;**
- **provide an update in the annual reports on the stage and development and the management's intention on the Excluded Projects to enable investors to understand the progress / development that was not previously reported on by a competent person; and**
- **prepare and publish a CPR in accordance with the relevant requirements when the relevant information becomes available.**



THE COMPETENT PERSON MUST:

- have a minimum of 5 years' relevant experience;
- be professionally qualified;
- be a member of a relevant professional organisation, in a jurisdiction whose statutory securities regulator has satisfactory arrangements with the SFC for mutual assistance and exchange of information;
- take overall responsibility for the report; and
- be independent of the listing applicant, its directors, senior management and advisers.

INDEPENDENCE TEST

- 1** have no economic or beneficial interest (present or contingent) in any of the assets being reported on;
- 2** not be remunerated with a fee dependent on the findings of the report;
- 3** in the case of an individual, not be an officer, employee or proposed officer of the company or any group, holding or associated company;
- 4** in the case of a firm, not be a group, holding or associated company of the company. Any of the firm's partners or officers must not be officers or proposed officers

REPORTING STANDARDS - CPR FOR MINERAL RESOURCES AND RESERVES

- the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves (JORC Code)
- the (Canadian) Standards of Disclosure for Mineral Projects, including Form 43-101F1 (NI 43-101)
- the South African Code for the Reporting of Exploration Results, Mineral Resources and Mineral Reserves (2007 edition) as amended from time to time (SAMREC Code)



REPORTING STANDARDS - CPR FOR PETROLEUM RESOURCES AND RESERVES

- must be prepared in accordance with the PRMS; or
- any other code which the HKEx is satisfied provides a comparable standard of disclosure and sufficient assessment of underlying assets. In this respect the HKEx will consider whether:
 - the alternative code is well recognised internationally and comparable to the requirements of Ch.18 of the Main Board Rules; and
 - why the applicant is adopting the code instead of PRMS.

VALUATIONS

- valuation reports must be included in the circular to shareholders where mineral or petroleum assets are acquired as part of a Major Acquisition (or above) (MBLR 18.09(3) / GEM Rule 18A.09(3))

COMPETENT EVALUATOR

- valuation must be prepared by a Competent Evaluator
- Competent Evaluator must have:
 - (i) at least 10 years' relevant mining or petroleum experience;
 - (ii) at least 5 years' relevant experience in the assessment and/or valuation of mineral or petroleum assets or securities; and
 - (iii) hold all necessary licences.

CODES

- Standards and Guidelines for Valuation of Mineral Properties endorsed by the Canadian Institute of Mining, Metallurgy and Petroleum, Feb 2003 (CIMVAL);
- South African Code for the Reporting of Mineral Asset Valuation (2008) (SAMVAL); or
- Code for the Technical Assessment and Valuation of Mineral and Petroleum Assets and Securities for Independent Expert Reports (2005) (VALMIN)

ADDITIONAL DISCLOSURES

PRE-PRODUCTION STAGE COMPANIES

- disclose plans to proceed with production with indicative dates and costs;
- support plans with a Scoping Study which is substantiated by the opinion of a Competent Person;
- risks to obtaining exploration / extraction rights (if not yet obtained); and
- prominently disclose that its resources may not ultimately be extracted at a profit, (if involved in the exploration for / extraction of resources).

PRODUCTION STAGE COMPANIES

- disclose an estimate of the operating cash cost per appropriate unit for minerals and/or petroleum produced; and
- set out components of cash operating costs by category.

REQUIREMENTS FOR STATEMENTS OF RESOURCES/RESERVES

Presentation of Data:

- data on resources and/or reserves presented in a listing document, CPR, Valuation Report or annual report, must be presented in tables in a manner readily understandable to a non-technical person;
- all assumptions must be clearly disclosed; and
- statements should include an estimate of volume, tonnage and grades.

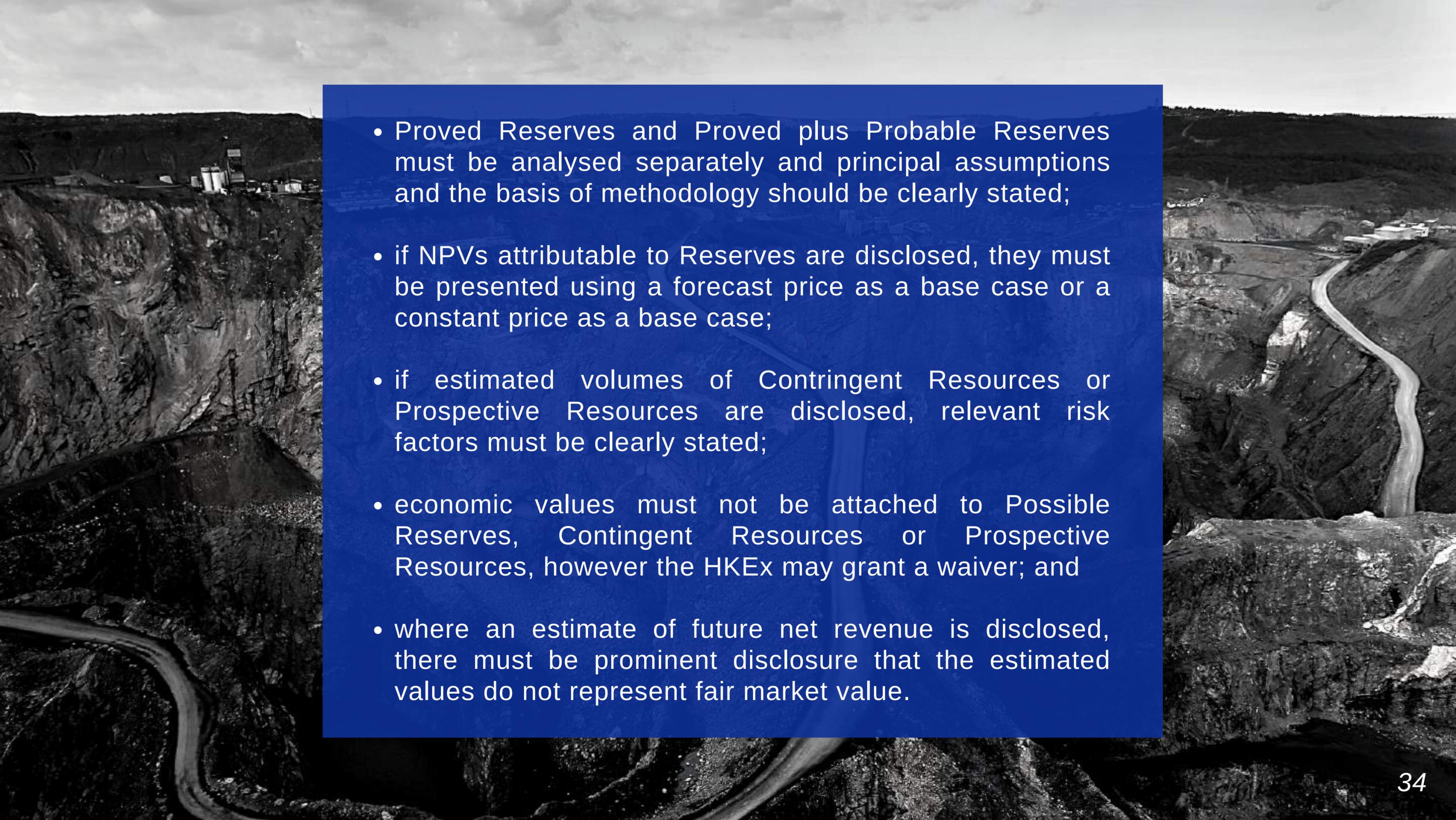


REQUIREMENTS FOR STATEMENTS - MINERAL RESOURCES / RESERVES

- estimates of mineral reserves must be supported at least by a pre-feasibility study;
- estimates of mineral resources and reserves must be disclosed separately;
- Indicated and Measured Resources must only be included in economic analyses if the basis on which they are considered to be economically extractable is explained and they are appropriately discounted for the probabilities of their conversion to mineral reserves;
- the methods used to determine commodity prices used in pre-feasibility studies, feasibility studies and valuations of Indicated Resources, Measured Resources and Reserves must be clearly explained together with all material assumptions and the basis on which those prices represent reasonable views;
- if a contract for future prices of mineral reserves exists, the contract price must be used; and
- for forecast valuations of reserves and profit forecasts, sensitivity analyses to higher and lower prices should be supplied and all assumptions clearly disclosed.

REQUIREMENTS FOR STATEMENTS - PETROLEUM RESOURCES/RESERVES

- if estimates of reserves are disclosed, the method and reason for choice of estimation must be disclosed;
- if the NPVs attributable to Proved Reserves and Proved plus Probable Reserves are disclosed, they should be presented on a post-tax basis at varying discount rates or a fixed discount rate of 10%;
- presentation of NPVs will be allowed on a pre-tax basis if:
 - (i) such disclosure is required or allowed under a widely adopted reporting standard; and
 - (ii) it is in line with disclosure made by comparable listed companies.

- 
- Proved Reserves and Proved plus Probable Reserves must be analysed separately and principal assumptions and the basis of methodology should be clearly stated;
 - if NPVs attributable to Reserves are disclosed, they must be presented using a forecast price as a base case or a constant price as a base case;
 - if estimated volumes of Contringent Resources or Prospective Resources are disclosed, relevant risk factors must be clearly stated;
 - economic values must not be attached to Possible Reserves, Contingent Resources or Prospective Resources, however the HKEx may grant a waiver; and
 - where an estimate of future net revenue is disclosed, there must be prominent disclosure that the estimated values do not represent fair market value.

ADDITIONAL DISCLOSURE REQUIREMENTS

- nature and extent of company's prospecting, exploration, exploitation, land use and mining rights and a description of properties to which those rights attach;
- statement of any legal claims or proceedings that have an influence on the company's rights to explore or mine;
- statement of specific and general risks;

ADDITIONAL DISCLOSURE REQUIREMENTS (CONT.)

if relevant and material to the company's business operations, the following:

- (i) project risks arising from environmental, social and health and safety issues;
- (ii) any non-governmental organisation impact on sustainability of mineral and/or exploration projects;
- (iii) compliance with host country laws, regulations and permits and payments made to host country governments;
- (iv) sufficient funding plans for remediation, rehabilitation and closure and removal of facilities in a sustainable manner;
- (v) environmental liabilities of its projects or properties;
- (vi) historical experience of dealing with concerns of local governments and communities on the sites of its mines, exploration projects and relevant management arrangements; and
- (vii) any claims that may exist over the land on which the exploration or mining activity is being carried out.

SPONSORS' OBLIGATIONS

Sponsor appointed to or by a new applicant Mineral Company must ensure that the Competent Person or Competent Evaluator meets the requirements of Main Board Ch.18/ GEM Ch.18A



DISCLAIMERS AND INDEMNITIES

- CPR or Valuation Report may contain disclaimers of sections or topics outside the Competent Person or Competent Evaluator's expertise.
- disclaimers cannot apply to the report in its entirety.
- reports must prominently disclose details of all indemnities provided by the issuer.

DISCLOSURE IN FINANCIAL REPORTS

- must include in half-yearly and annual reports details of exploration, development and mining production activities and summary of expenditure incurred on these activities during the period under review
- if there has been no exploration, development or production activity, this fact must be stated (MBLR 18.14/GEM Rule 18A.14)



PUBLICATION OF RESOURCES AND RESERVES IN ANNUAL REPORTS

- must provide an annual update of resources / reserves in their annual reports (MBLR 18.16 / GEM Rule 18A.16).
- annual updates may be prepared by the company's own internal experts.
- annual updates may be achieved by way of a no material change statement which can be prepared by internal management.

ACQUISITIONS AND DISPOSALS OF MINERAL OR PETROLEUM ASSETS

01 |

comply with the requirements for notifiable transactions of MB Ch.14 / GEM Ch.19 and, if relevant, MB Ch.14A / GEM Ch.20;

02 |

prepare a CPR on the resources / reserves being acquired / disposed of as part of the relevant transaction;

03 |

in the case of a major (or above) acquisition, produce a Valuation Report on the mineral / petroleum assets being acquired; and

04 |

comply with the requirements of MBLR 18.05(2) - 18.05(6) / GEM 18A.05(2) - 18A.05(6) in relation to the assets being acquired (MBLR 18.09 / GEM 18A.09).



MCQs



QUESTION 1

Which of the following would most likely not be considered a mineral company under Ch.18?

A. A company which is in the business of the extraction of natural resources, representing 50% of gross revenue.

B. A listed company which completes a major transaction involving the acquisition of petroleum assets.

C. A company whose major activity (through its subsidiaries) is the extraction of natural resources.



D. A company involved in processing and refining minerals.

QUESTION 2

With respect to the Rule 18.04 waiver from the Main Board financial tests, which of the following statements is false?



A. Companies which had all of their mining assets under production during the track record period will be eligible for the waiver.

B. The applicant must be able to demonstrate a clear path to commercial production.

C. The applicant's primary activity must be in the exploration for and/or extraction of natural resources.

D. The applicant's directors and senior management must have at least 5 years' experience in the exploration / extraction activity conducted by the applicant.



QUESTION 3

In which of the following scenarios would the Competent Person not be considered independent from the listing applicant?

A. The Competent Person is not remunerated.

B. The Competent Person is a director of an unrelated listed mineral company.



C. The Competent Person is a proposed director of the listing applicant.

D. The Competent Person does not have an economic or beneficial interest in any of the assets being reported on.

QUESTION 4

Which of the following is not a requirement in relation to valuations of mineral companies?

A. A valuation report must be prepared by a Competent Evaluator.



B. A valuation report must be provided at the IPO stage.

C. Valuation reports must be included in the circular to shareholders where mineral or petroleum assets are acquired as part of a major acquisition.

D. A competent evaluator must have at least 10 years' relevant mining or petroleum experience.





Q&A