
**Introduction to the
Listing of H Shares of PRC Companies on the
Stock Exchange of Hong Kong Limited (“the Main Board”)**

*based on the rules Governing the Listing of Securities
promulgated by The Stock Exchange of Hong Kong Limited*

CHARLTONS
易周律師行
Solicitors

Hong Kong

Shanghai

Beijing

Yangon

www.charltonslaw.com

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I INTRODUCTION

1. General

H shares is the popular term for the listing of Chinese companies' shares on the Hong Kong Stock Exchange (the "**Exchange**"). The first H shares were listed on the Exchange in 1993. As at 31 December 2013, 178 H share companies were listed on the Main Board and the Growth Enterprise Market ("**GEM**") of the Exchange. All of these companies are joint stock limited companies incorporated in the PRC. Such companies are different from the so-called red chip companies incorporated in Hong Kong or in an offshore jurisdiction with major assets in the PRC which are controlled by PRC government entities or individuals.

The Main Board caters for established companies with a profitable operating track record or able to meet alternative financial standards to the profit requirement. The Main Board is designed to give these companies an opportunity to raise further funds from the market in order to finance future growth. Unlike GEM, which caters for growth companies and has lower admission criteria, the Main Board is considered to offer investors better security for their investments.

Subject to the requirements of the Listing Rules, companies incorporated in Hong Kong, the PRC, the Cayman Islands and Bermuda may be listed on the Main Board. This paper will focus on the listing of a PRC company (the "**PRC issuer**") on the Main Board.

2. Benefits of Listing

There are many reasons for listing on the Exchange, but specifically in relation to Chinese companies, the following reasons should be borne in mind:

- access to international funds, as Hong Kong has no foreign exchange controls, is a regional and international financial centre, and is a base for some of the world's most successful fund managers;
- active post-listing trading which facilitates subsequent fund-raising. This is attributable to an active interest in, and more in-depth understanding of the China market due to geographical and cultural proximity, a high concentration of analysts focused on China and the existence of a separate Hang Seng Chinese Enterprise Index;
- securing the interest and confidence of international investors who are familiar with the standards of regulation in Hong Kong;
- enhanced profile and reputation through participation in an international financial centre located in the financial hub of the Asia Pacific region; and
- positive pressure on the management of Chinese issuers to appreciate and follow international standards in terms of transparency and protection of minority shareholders.

3. Legal and Regulatory System

The legal system in the PRC, unlike that in Hong Kong, is not based on a common law system. The Chinese Company Law, effective from 1st July 1994 and as amended with effect from 1 January 2006, is also different from the company law in Hong Kong. To resolve the differences, the Exchange and the SFC liaised with the Chinese authorities, and as a result, the Special Regulations on the Overseas Offering and Listing of Shares by Joint Stock Limited Companies (the “**Special Regulations**”) were promulgated on 4th August 1994, and the Mandatory Provisions for Companies Listing Overseas (the “**Mandatory Provisions**”) on 27th August 1994.

The Special Regulations and the Mandatory Provisions are applicable to Chinese companies seeking listings overseas. In particular, the latter enhance basic shareholder protection under a Chinese company's Articles of Association, to a similar standard to that provided under Hong Kong company law. The Mandatory Provisions include provisions relating to the rights of shareholders, directors' fiduciary duties, corporate governance matters, financial disclosures, situations requiring a separate vote by holders of overseas listed foreign shares, and a mechanism for resolving disputes by arbitration.

PRC companies issuing shares in Hong Kong are subject not only to relevant Chinese laws and regulations, but also to Hong Kong applicable laws and non-statutory codes. These include:

- The Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the “**Listing Rules**”);
- the Companies Ordinance and Securities and Futures Ordinance; and
- the Code on Takeovers and Mergers and the Code on Share Repurchases

The Listing Rules are as applicable to Chinese issuers as they are to Hong Kong and overseas incorporated issuers. However, in view of the existence of two separate markets (domestic and foreign) for the securities of Chinese issuers, and the differences between the Chinese and Hong Kong legal systems, some additional requirements, modifications and exceptions are set out in Chapter 19A of the Main Board Listing Rules specifically designed for Chinese issuers. H Shares can be subscribed for and traded in other currencies in addition to Hong Kong dollars.

II QUALIFICATIONS FOR MAIN BOARD LISTING

Chapter 8 of the Main Board Listing Rules sets out the basic requirements that must be met before any initial listing of equity securities on the Hong Kong Stock Exchange. Chapter 19A contains additional requirements, modifications and exceptions to those requirements which apply to PRC incorporated companies seeking a primary listing on the Main Board. Chapter 18 sets out further modifications applicable to mineral companies.

1. Main Requirements for Main Board Listing

The main requirements to be met for Main Board listing are summarised below. The Exchange retains an absolute discretion to accept or reject applications for listing and

compliance with the relevant conditions will not automatically ensure that a listing will be granted. In addition, the Exchange reserves the right, in its absolute discretion, to refuse the listing of a PRC issuer if it believes that it is not in the public interest to list the securities (Rule 19A.13(1)). The following requirements are not exhaustive and the Exchange may impose additional requirements in any particular case.

1.1 Incorporation

The PRC issuer must be duly incorporated as a joint stock limited company in the PRC (Rule 19A.03(1)).

1.2 Suitability for Listing

The PRC issuer and its business must, in the opinion of the Exchange, be suitable for listing (Rule 8.04). This means, for example, that the nature of the PRC issuer's business and its management must be in keeping with the standards of integrity which the Exchange endeavours to uphold and that there will be sufficient public interest in the business of the PRC issuer and in its shares.

Rule 8.05C states that the Exchange will not normally regard as suitable for listing a company or its group (other than an investment company) whose assets consist wholly or substantially of cash or short-dated securities, except where the issuer or group is solely or mainly engaged in the securities brokerage business. Otherwise, the Listing Rules do not specify what constitutes suitability for listing and each case is determined on its own facts. However, Exchange guidance letter HKEx-GL68-13 provides guidance on factors taken into account by the Exchange in determining suitability including sustainability of the business; excessive reliance on a parent group, connected persons or a major customer; and the suitability of the company's directors (including shadow directors).

1.3 Trading Record, Management and Ownership Continuity and Financial Tests

For Main Board listing, the PRC issuer must have an adequate trading record under substantially the same management and ownership and meet one of the following three financial tests:

- the Profit Test;
- the Market Capitalisation/Revenue/Cash Flow Test; or
- the Market Capitalisation/Revenue Test.

The Profit Test (Rule 8.05(1))

In the three financial years immediately preceding the listing, the group must have achieved certain profit figures. The profits, in respect of the most recent year, must be not less than HK\$20 million and, in respect of the two preceding years, the profits must be, in aggregate, not less than HK\$30 million. Such profit should exclude any income or loss of the issuer (or its group) generated by activities outside the ordinary and usual course of its business. In addition,

there should be management continuity for at least the three preceding financial years and ownership continuity and control for at least the most recent audited financial year.

The Market Capitalisation/Revenue/Cash Flow Test (Rule 8.05(2))

The Market Capitalisation/Revenue/Cash Flow Test applies to listing applicants with a market capitalisation of at least HK\$2 billion at the time of listing, revenue of at least HK\$500 million for the most recent audited financial year and a positive cash flow from operating activities carried out by listing applicants or their groups, that are to be listed of at least HK\$100 million in aggregate for the 3 preceding financial years. Listing applicants under this test are also required to have a trading record period of not less than 3 financial years, management continuity for at least the 3 preceding financial years and ownership continuity and control for at least the most recent audited financial year.

The Market Capitalisation/Revenue Test (Rule 8.05(3))

The Market Capitalisation/Revenue Test applies to listing applicants with a market capitalisation of at least HK\$4 billion at the time of listing and revenue of at least HK\$500 million for the most recent audited financial year.

Applicants are also required to have:

- (i) a trading record of not less than 3 financial years;
- (ii) management continuity for at least the 3 preceding financial years; and
- (iii) ownership continuity and control for at least the most recent audited financial year.

Listing applicants proposing to list under the Market Capitalisation/Revenue Test only will be granted a waiver of the full 3-financial-year trading record under substantially the same management requirement if such listing applicants are able to demonstrate to the satisfaction of the Exchange, that their directors and management have sufficient and satisfactory experience of at least 3 years in the line of business and industry of the listing applicant and management continuity for the most recent audited financial year (Rule 8.05A).

Calculation of Revenue

For both the Market Capitalisation/Revenue/Cash Flow Test and the Market Capitalisation/ Revenue Test, only revenue arising from the applicant's principal activities and not items of revenue or gains arising incidentally will be recognised.

Revenue from "book transactions" is disregarded.

Shorter Trading Record Requirement/Variation of Financial Standards (Rule 8.05B)

The Exchange may accept a shorter trading record requirement and/or may vary or waive the profit or other financial standards requirements of Rule 8.05 for:

- (i) mineral companies to which Chapter 18 applies (see section 2.5 below);
- (ii) newly formed “project” companies, for example a company formed to construct a major infrastructure project. “Infrastructure projects” are projects which create the basic physical structures or foundations for the delivery of essential public goods and services that are necessary for the economic development of a territory or country. Examples include the construction of roads, bridges, tunnels, railways, mass transit railway systems, water and sewage systems, power plants, telecommunications systems, seaports and airports. The conditions to be met for qualification as an infrastructure project are set out at Rule 8.05B. These include a requirement that the substantial shareholders and management of the project company have the necessary experience, technical expertise, track record and financial strength to carry out the project(s) to completion and to operate it/them thereafter. In particular, the directors and management must have sufficient and satisfactory experience of at least 3 years in the line of business and industry of the new applicant, details of which must be disclosed in the listing document; or
- (iii) in exceptional circumstances where the PRC issuer or its group has a trading record of at least 2 financial years if the Exchange is satisfied that the listing of the PRC issuer is desirable in the interests of the issuer and investors and that investors have the necessary information to arrive at an informed judgement concerning the PRC issuer and the securities for which listing is sought. In such cases the Exchange should be consulted at an early stage and additional conditions will be imposed.

1.4 Accountants’ Report

The PRC issuer must include in its listing document an accountants’ report prepared in accordance with Chapter 4 of the Listing Rules. The accountants’ report may be prepared by a PRC accounting firm which has been approved by the PRC Ministry of Finance and the China Securities Regulatory Commission to act as reporting accountants and/or auditors for PRC incorporated companies listed in Hong Kong. A list of the approved PRC accounting firms is available on the website of the Hong Kong Stock Exchange at <http://www.hkex.com.hk/eng/rulesreg/listrules/listsptop/afmlist.htm>. The reporting accountants must additionally be independent of the PRC issuer to the same extent as is required of an auditor under the Companies Ordinance and in accordance with the Hong Kong Society of Accountants’ requirements on independence.

The accountants’ report must cover the 3 financial years immediately preceding the listing and the latest financial period reported on must not have ended more than 6 months before the date of the listing document. The financial history of results and balance sheets included in the accountants’ report must have been prepared in accordance with either Hong Kong Financial Reporting Standards, International Financial Reporting Standards or China Accounting Standards for

Business Enterprises (“CASBE”) if the PRC listing applicant has adopted CASBE for the preparation of its annual financial statements (Rule 4.11).

1.5 Public Float (Rule 8.08)

There must be an open market in the securities for which listing is sought. In general, this means that, if there are no other existing securities other than the H shares, not less than 25% of the H shares must be held by the public (Rule 8.08(1)(a)), i.e. owned by persons who are not “connected persons” of the issuer or persons whose acquisition of securities has been financed by a connected person or who are accustomed to take instructions from a connected person in relation to their shares (Rule 8.24). “Connected persons” of a PRC issuer include directors, supervisors, chief executives or substantial shareholders (i.e. holders of 10% of the voting power at general meetings) of the PRC issuer or any of its subsidiaries or an associate of any of them (Rule 1.01). In addition, the expected market capitalisation at the time of listing of the H shares held by the public must be at least HK\$50 million (Rule 8.09(1)).

Where a PRC listing applicant has more than one class of securities apart from the H shares, the total securities of the PRC issuer held by the public (on all regulated markets including the Exchange) at the time of listing must be at least 25% of the PRC issuer’s total issued share capital. However, the H shares must not be less than 15% of the PRC issuer’s total issued share capital, having an expected market capitalisation at the time of listing of not less than HK\$50 million (Rule 8.08(1)(b)).

Determination of Market Capitalisation at Time of Listing

The expected market capitalisation at the time of listing is calculated on the basis of all issued share capital of the issuer including not only the class to be listed on the Exchange but also any other classes of securities of the issuer that are either unlisted or listed on other regulated markets at the time of listing (Rule 1.01).

The expected issue price of the securities to be listed on the Exchange is used in determining the market value of other classes of securities which are unlisted or listed on other regulated markets (Rule 8.09A). Accordingly, in the case of an H share issuer which also has A share listings, the expected issue price of the H shares will also be applied to the A shares and any unlisted shares in determining the PRC issuer’s market capitalisation at the time of listing.

Exchange’s Discretion to Accept Lower Public Float (Rule 8.08(1)(d))

For large companies, with an expected market capitalisation at the time of listing in excess of HK\$10 billion, the percentage required to be in public hands, may, at the Exchange's discretion, be lower than 25% (but not lower than 15%) provided that:

- (i) the Exchange is satisfied that the number of securities and their distribution will enable the market to operate properly with a lower percentage;

- (ii) the issuer makes appropriate disclosure of the lower prescribed percentage of public float in the listing document;
- (iii) the issuer confirms the sufficiency of public float in successive annual reports after listing; and
- (iv) a sufficient proportion (to be agreed in advance with the Exchange) of any securities to be marketed contemporaneously in and outside Hong Kong, must normally be offered in Hong Kong.

This public float waiver is available only on initial listing. It cannot be applied for post-listing if the issuer subsequently satisfies the HK\$10 billion market capitalisation requirement.

Other Public Float Requirements

In addition, not more than 50% of the securities in public hands at the time of listing can be beneficially owned by the 3 largest public shareholders (Rule 8.08(3)).

The minimum prescribed percentage of securities must remain in public hands at all times (Rule 13.32). A confirmation of the sufficiency of the public float must also be included in issuers' annual reports after listing (Rule 13.35).

The Exchange will normally require suspension of trading in an issuer's securities where its public float falls below 15% (or 10% in the case of issuers granted a lower public float under Rule 8.08(1)(d)). If the percentage falls below the minimum, the Exchange has the right to suspend trading until appropriate steps have been taken to restore the minimum percentage of securities in public hands.

If the Exchange is satisfied that, even though the percentage has fallen below the minimum, there remains an open market in the securities, the Exchange may refrain from suspension either:

- (i) if the shortfall in the prescribed percentage arose purely from an increased or newly acquired holding of the listed securities by a person (who the Exchange expects to be an institutional investor with a wide spread of investments other than in the listed securities) who is, or after such acquisition becomes, a connected person only because he is a substantial shareholder of the issuer and/or any of its subsidiaries. Such substantial shareholder must not be the controlling or single largest shareholder of the issuer. He must also be independent of the issuer, its directors and its other substantial shareholders and must not be a director of the issuer; or
- (ii) against receipt of an undertaking from the issuer and the controlling shareholder(s) or single largest shareholder to take appropriate steps to ensure restoration of the minimum percentage of securities to public hands within a specified period (Rule 13.32(4)).

1.6 Minimum Number of Shareholders at Time of Listing (Rule 8.08(2))

Securities new to listing must have an adequate spread of shareholders. The number will depend on the size and nature of the issue, but there must be a minimum of 300 holders.

1.7 Market Capitalisation (Rule 8.09)

The expected market capitalisation at the time of listing of a PRC issuer must be at least HK\$200 million. If a PRC issuer is listing under the Market Capitalisation/Revenue/Cash Flow Test or Market Capitalisation/Revenue Test it must have an expected market capitalisation at the time of listing of HK\$2 billion or HK\$4 billion, respectively.

Further issues of securities of a class already listed are not subject to this limit, and, in exceptional cases, a lower expected initial market capitalisation may be acceptable, although the Exchange will have to be satisfied as to the marketability of the securities.

As noted above, the term “market capitalisation” has been defined to refer to the entire size of a listing applicant, which would include both the H shares to be listed on the Exchange and other class(es), if any, that are either unlisted or listed on other regulated markets of a listing applicant at the time of listing. The expected issue price of the H shares is used in determining the market value of unlisted securities or securities listed on other regulated markets.

1.8 Working Capital Sufficiency (Rule 8.21A)

A listing applicant must include a working capital statement in the listing document. In making the statement, the applicant must be satisfied after due and careful enquiry that it and its subsidiary undertakings have sufficient working capital for the group’s present requirements, that is for at least the next 12 months from the date of publication of the listing document. Applicants whose business is wholly or substantially the provision of financial services and whose solvency and capital adequacy are subject to prudential supervision by another regulatory body are not required to comply with this provision. The applicant’s sponsor must provide written confirmation to the Exchange that:

- (i) it has obtained written confirmation from the listing applicant as to the sufficiency of the working capital available to the group for at least 12 months from the date of the listing document; and
- (ii) it is satisfied that this confirmation has been given after due and careful enquiry by the applicant and that the persons or institutions providing finance have stated in writing that the financing facilities exist.

1.9 Mandatory Provisions for Articles of Association

The mandatory provisions which must be incorporated in an issuer's Articles of Association, (as set out in Appendix 3 of the Main Board Listing Rules) are designed to provide a sufficient level of shareholder protection. Additional requirements for PRC issuers include, among others:

- provisions to reflect the different nature of domestic shares and overseas listed foreign shares (including H shares) and the different rights of their respective holders (Rule 19A.01(3)); and
- the appointment of a receiving agent in Hong Kong who will receive from the issuer, and hold, pending payment, in trust for H shareholders, dividends declared and other moneys owing in respect of the H shares (Rule 19A.51).

1.10 Competing Business

The Main Board Rules allow competing businesses of an applicant's directors and controlling shareholders provided that full disclosure is made at the time of listing and, in the case of the directors, on an on-going basis in the issuer's annual reports. The Exchange may also require the appointment of a sufficient number of INEDs to ensure that the interests of the general body of shareholders are adequately represented. 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 or who is in a position to control the composition of a 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 19A.04) as a "controlling shareholder" of a PRC issuer (Rule 19A.14).

1.11 Arbitration (Rule 19A.01(3))

Disputes involving holders of H shares arising from the issuer's Articles of Association, or from any rights or obligations conferred or imposed by the Company Law of the PRC or other relevant laws and regulations concerning the PRC issuer's affairs, must be settled by way of arbitration. The dispute may be heard, at the option of the claimant, in either Hong Kong or the PRC.

1.12 Service Agent (Rule 19A.13(2))

The issuer must appoint, and maintain throughout the period its securities are listed on the Exchange the appointment of, a person authorised to accept service of process and notices on its behalf in Hong Kong. The Exchange must be notified of such appointment, any termination of such appointment, and details of the appointee.

1.13 Share Register (Rule 19A.13(3)(a))

PRC issuers must maintain a register for their H shares in Hong Kong. Any rectification of such register will fall under the jurisdiction of the Hong Kong courts.

Section 341 of the Companies Ordinance defines a "place of business" as including a "share transfer or share registration office". By maintaining a share register in Hong Kong, the PRC issuer will be deemed to have established a

place of business in Hong Kong. The PRC issuer must therefore register with the Companies Registry within one month of establishing the Hong Kong share register as required by section 333 of that Ordinance.

1.14 Free Transferability (Rule 8.13)

The securities for which listing is sought must be freely transferable. There must be no restrictions on the transfer of the securities, either under PRC law or under the PRC issuer's constitutional documents. Nor must any other approvals or authorisations be required before transfers may be effected. To facilitate transferability, the securities must be accepted by Hong Kong Securities Clearing Company Limited ("HKSCC") as eligible for deposit, clearance and settlement in the Central Clearing and Settlements System ("CCASS") (Rule 8.13A).

1.15 Sponsor

A new applicant seeking a listing of equity securities on the Main Board must appoint one or more sponsors to assist with its listing application (Rule 3A.02). Only firms licensed by the SFC to advise on corporate finance which are permitted to undertake sponsor work may be appointed to advise on a new applicant's listing. If only one sponsor is appointed, that sponsor must be independent from the applicant in accordance with the independence test set out at Rule 3A.07. Where there are two or more sponsors, at least one sponsor must be independent and the listing document must disclose whether each sponsor is independent in accordance with the Rule 3A.07 test. In addition, one sponsor must be designated as the primary channel of communication with the Exchange (Rule 3A.10(1)). Each sponsor is responsible for ensuring that the sponsor's obligations under the Listing Rules are discharged (Rule 3A.10(3)).

Each sponsor is required to undertake to the Exchange to, *inter alia* comply with the Listing Rules, ensure the accuracy of information provided to the Exchange, cooperate in any listing investigation and declare its independence from the issuer (or describe the circumstances that give rise to its lack of independence) (Rule 3A.03 and Appendix 17). In addition, between the date of the Listing Committee hearing of the application and the date of issue of the listing document, all sponsors must submit to the Exchange a Sponsor's Declaration giving specific confirmations as to the applicant's compliance with the conditions for listing, the sufficiency and accuracy of information in the prospectus and the adequacy of the applicant's systems and its directors' experience and understanding of the Listing Rules to ensure the applicant's compliance with the Listing Rules post-listing (Rule 3A.13 and Appendix 19). Sponsors are required to conduct reasonable due diligence inquiries in order to put themselves in a position to give the Sponsor's Declaration (Rule 3A.11(2)). The typical due diligence steps expected of sponsors of initial listing applications are set out in Practice Note 21. The Exchange expects sponsors to document their due diligence planning and significant deviations from their plans.

A sponsor's main responsibilities are:

- (i) to be closely involved in the preparation of the listing documents;

- (ii) to conduct reasonable due diligence inquiries having regard to Practice Note 21 to put itself in a position to be able to give the Sponsor's Declaration required by Rule 3A.13;
- (iii) to submit the application for listing and all supporting documents on behalf of the applicant;
- (iv) to ensure that there is no unauthorised publication or leakage of publicity material or price sensitive information about a new applicant prior to the hearing of the Listing Committee;
- (v) to use reasonable endeavours to address all matters raised by the Exchange in connection with the listing application;
- (vi) to accompany the applicant to any meetings with the Exchange unless otherwise requested by the Exchange; and
- (vii) to comply with the terms of the sponsor's undertaking and statement of independence to the Exchange pursuant to Rule 3A.03 (Rule 3A.11).

A PRC issuer and its directors are required to assist the sponsor in the performance of its role and to ensure that its substantial shareholders and associates also assist the sponsor. The sponsor should be given access to all persons and information relevant to the performance of its duties (Rule 3A.05).

1.16 Compliance Adviser

A PRC issuer is required to retain a compliance adviser for the period commencing on the date of listing and ending on the publication of its financial results for the first full financial year after listing (Rule 3A.19). A compliance adviser must be either a corporation licensed or an authorised institution registered to advise on corporate finance matters under the Securities and Futures Ordinance. Its SFC licence or registration must also permit it to conduct sponsor work. A compliance adviser must act impartially but is not required to be independent of the issuer. An issuer is not obliged to appoint as its compliance adviser the same firm that acted as the sponsor of its initial public offering.

Issuers are required to consult with, and if necessary, seek advice from their compliance advisers on a timely basis in the following 4 situations:

- (i) before publication of any regulatory announcement, circular or financial report;
- (ii) where a notifiable or connected transaction is contemplated;
- (iii) where the issuer proposes to use the IPO proceeds differently from the manner detailed in the listing document or where the issuer's business activities, developments or results deviate from any forecast, estimate or other information in the listing document; and
- (iv) where the Exchange makes an inquiry of the issuer under Rule 13.10

regarding unusual movements in the price or trading volume of its securities (Rule 3A.23).

The Exchange may also require an issuer to appoint a compliance adviser at any other time after the first full financial year after listing, for example if the issuer has breached the Listing Rules (Rule 3A.20). In this case the Exchange will specify the period of appointment and the circumstances in which the compliance adviser must be consulted.

A compliance adviser to a PRC issuer is additionally required to inform the issuer on a timely basis of any amendment or supplement to the Listing Rules and any change to Hong Kong's laws, regulations or codes which apply to the issuer. The compliance adviser is further required to advise the PRC issuer on continuing compliance with the Listing Rules and applicable laws and regulations (Rule 19A.06(3)). Where the PRC issuer's authorised representatives are expected to be frequently outside Hong Kong, the compliance adviser must act as the issuer's principal channel of communication with the Exchange (Rule 19A.06(4)).

1.17 Management Presence

A new applicant applying for a listing on the Exchange must have sufficient management presence in Hong Kong. This will normally mean that at least two of its executive directors must be ordinarily resident in Hong Kong (Rule 8.12). This requirement applies to PRC issuers, except as otherwise permitted by the Exchange at its discretion (Rule 19A.15). Where a new applicant wishes to apply for a waiver from this requirement it must make a written submission to the Exchange. In exercising such discretion, the Exchange will have regard to, among other considerations, the new applicant's arrangements for maintaining regular communication with the Exchange, including but not limited to, retaining a compliance adviser and ensuring that its authorised representatives are readily contactable by the Exchange.

1.18 Authorised Representatives

Every issuer must appoint 2 authorised representatives to act at all times as the issuer's principal channel of communication with the Exchange (Rule 3.05). The authorised representatives must be either 2 directors or a director and the company secretary unless the Exchange, in exceptional circumstances, agrees otherwise. The responsibilities of an authorised representative include:

- (i) at all times (particularly prior to commencement of trading in the morning) being the principal channel of communication between the Exchange and the listed issuer and supplying the Exchange with his contact details (including home and office telephone and facsimile numbers);
- (ii) to ensure that whenever he is outside Hong Kong suitable alternates are appointed, available and known to the Exchange and to give the Exchange their contact details in writing.

1.19 Directors

Directors of listed companies are expected to fulfil fiduciary duties and duties of skill, care and diligence to a standard established by Hong Kong law (Rule 3.08). Directors must satisfy the required levels of skill, care and diligence. Delegating functions is permissible but does not absolve the directors from their responsibilities or from applying the required levels of skill, care and diligence. Directors do not satisfy these required levels if they pay attention to the issuer's affairs only at formal meetings. At a minimum, they must take an active interest in the issuer's affairs and obtain a general understanding of its business. They must follow up anything untoward that comes to their attention. Each director and supervisor of a PRC issuer must satisfy the Exchange that he has the character, experience and integrity and is able to demonstrate a standard of competence commensurate with his position as director or supervisor of a listed company (Rule 3.09).

1.20 Independent Non-Executive Directors ('INEDs')

The board of directors is required to include a minimum of 3 INEDs, at least one of whom has appropriate professional qualifications or accounting or related financial management expertise (Rule 3.10). Rule 3.10A additionally requires at least one-third of an issuer's board to be INEDs. Rule 3.13 contains guidelines for the determination of an INED's independence.

INEDs are required to provide the Exchange with written confirmation of their independence in accordance with those guidelines at the time of submission of their declaration and undertaking. They must also provide annual confirmations of their independence to the listed issuer.

Every INED must satisfy the Exchange that he has the character, integrity, independence and experience to fulfil his role effectively (Rule 3.12). INEDs of PRC issuers must additionally be able to demonstrate an acceptable standard of competence and adequate commercial or professional experience to ensure that the interests of the general body of shareholders will be adequately expressed. In addition, at least one INED of a PRC issuer must be ordinarily resident in Hong Kong (Rule 19A.18(1)).

1.21 Company Secretary (Rule 3.28)

A person will be qualified to act as company secretary if by virtue of his/ her academic or professional qualifications or relevant experience he/ she is, in the opinion of the Exchange, capable of discharging the functions of a company secretary.

The academic or professional qualifications which the Exchange considers acceptable are membership of The Hong Kong Institute of Chartered Secretaries and being a Hong Kong solicitor, barrister or certified public accountant. In assessing "relevant experience", the Exchange will take into account overseas professional qualifications.

The company secretary of H share issuer is no longer required to be resident in Hong Kong.

1.22 Audit Committee (Rule 3.21)

The establishment of an audit committee is a compulsory requirement for Main Board issuers. The committee must be made up of non-executive directors only, the majority of which must be INEDs of the listed issuer. The committee must have a minimum of 3 members, at least one of whom must be an INED with appropriate professional qualifications or accounting or related financial management expertise. The committee must be chaired by an INED.

If an issuer fails to establish an audit committee or at any time fails to meet the requirements as to its constitution under Rule 3.21, it must immediately inform the Exchange and publish an announcement containing the relevant details and reasons. The issuer must then comply with the Rules' requirements for audit committees within the following three months.

1.23 Remuneration Committee (Rule 3.25)

An issuer is also required to establish a remuneration committee chaired by an INED and comprising a majority of INEDs (Rule 3.25). The board of directors is required to approve and provide written terms of reference for the remuneration committee to clearly establish its authority and duties (Rule 3.26).

An issuer must immediately publish an announcement containing the relevant details and reasons in the event that it fails to comply with any requirements under Rule 3.25 and Rule 3.26. The issuer must then comply with the Rules' requirements for remuneration committees within the following three months.

2. Additional Requirements for Mineral Companies

2.1 Definition of Mineral Company

Chapter 18 of the Listing Rules sets out specific requirements for Mineral Companies, which are defined as:

- existing listed issuers that complete a transaction involving the acquisition of mineral or petroleum assets, where any percentage ratio under Rule 14.07 is 25% or more; or
- new listing applicants whose Major Activities (whether directly or through a subsidiary company) include exploration for, and/or extraction of, natural resources such as minerals or petroleum. A Major Activity is one representing 25% or more of the total assets, gross revenue or operating expenses of the applicant and its subsidiaries.

2.2 Portfolio of Indicated Resources or Contingent Resources

A new applicant Mineral Company is required to have at least a portfolio of Indicated Resources (in the case of minerals) or Contingent Resources (in the case of petroleum) that are identifiable under one of the accepted reporting standards and substantiated in the report of an independent expert (a "**Competent Person**"). The definition of Indicated Resources is based on the one in the 2004 edition of the Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves ("**JORC Code**"). The definition of Contingent Resources is based on the one in the Petroleum Resources Management System of September 2007 ("**PRMS**"). The portfolio is also

required to be meaningful and of sufficient substance to justify a listing. We have been told informally that this requirement will be satisfied in the case of a Main Board listing applicant if the HK\$200 million market capitalization requirement will be met at the time of listing. Early stage exploration companies are thus not eligible for listing.

2.3 Rights of Active Participation

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

- (i) 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. This will normally be interpreted as an interest of more than 50%. Companies must also disclose full details of their exploration and/or extraction rights; or
- (ii) adequate rights arising under arrangements acceptable to the Exchange, which give it sufficient influence in decisions over the exploration for and/or extraction of the resources. Arrangements which may be acceptable include joint ventures, production sharing contracts or specific government mandates. The Exchange has stated that it will adopt a purposive approach to determining what is appropriate in specific circumstances and places the onus on applicants to demonstrate the adequacy of their rights and sufficiency of influence.

2.4 Working Capital Requirement

A new applicant Mineral Company must be able to demonstrate that it has sufficient working capital for 125% of the group's requirements for the next 12 months including general, administrative and operating costs, property holding costs and the cost of any proposed exploration and/or development (Rule 18.03(4)).

2.5 Waiver of Financial Tests

A new applicant Mineral Company that cannot satisfy the profit test, the market capitalisation/revenue/cash flow test or the market capitalisation/revenue test of Main Board Rule 8.05, may be accepted for listing if it establishes to the Exchange's satisfaction that its directors and senior management, taken together, have a minimum of 5 years' experience relevant to the exploration and/or extraction activity that the Mineral Company is pursuing (Rule 18.04). Details of such experience must be included in the applicant's listing document. A pre-production stage company seeking a waiver under Rule 18.04 will need to show a clear path to commercial production. The Exchange expects most companies seeking a Rule 18.04 waiver to be at the development stage, although companies which are in production are not necessarily precluded as they may have junior assets which are yet to be developed. Companies that are in production will however need to be able to show a clear path to profitability in order to be accepted for listing under Rule 18.04.

III THE LISTING EXERCISE

1. Preliminary Review

There is usually a time lag between the initial decision to seek a listing being made by the issuer and the time when the issuer is ready to begin the listing process. Even at this early stage, the packaging of the issuer and its business is of importance, as there is a need to attract the interest of potential sponsors. Discussions will be held with potential sponsors to determine their interest. Even at this early time, the issuer may also hold discussions relating to pricing.

At this stage the solicitors and auditors who are involved, together with the PRC issuer, should begin the review process. This will involve an assessment of the business structure and finances of the PRC issuer, its strengths and weaknesses, its available resources (manpower, skill, capital reserves) as well as the markets in which it operates. The future objectives and plans of the PRC issuer should be discussed, as should the use to which any proceeds of the listing will be put.

The method of listing should also be decided upon. There are two commonly used methods for listing H shares:

- an offer for subscription, which is an offer to the public by an issuer of its own securities for subscription and must be supported by a listing document and be fully underwritten; and
- a placing, which is the obtaining of subscriptions for or the sale of securities by an issuer or intermediary primarily from or to persons selected or approved by the issuer or intermediary. The Exchange will not permit a new applicant to be listed by this method if there is likely to be significant public demand for the securities. Again, a listing document must be produced.

2. Main Steps

If the preliminary review is favourable to the listing of the PRC issuer, i.e., the financial standards have been met and there are no major accounting issues, the next steps in the case of an offer for subscription (i.e. an IPO) are as follows:

- formal appointment of one or more sponsors, which will involve the signing of a mandate letter(s). Each sponsor must submit to the Exchange the Sponsor's Undertaking and Statement of Independence required by Rule 3A.03 in the form of Appendix 17 along with the listing application. If a sponsor is appointed after that date, the Undertaking and Statement of Independence should be submitted on the earlier of the sponsor agreeing its terms of engagement and its commencing work for the applicant. If there is more than one sponsor, the Exchange must be advised as to which of them has been designated as the primary channel of communication with the Exchange. It is the sponsor who is responsible for lodging the formal application for listing and all supporting documents, and so it is imperative to appoint one at as early a stage as possible. Reporting accountants and solicitors will also be formally appointed at around this time. A draft timetable will be prepared for consideration by all parties involved;
- group reorganisation;

- valuation of the PRC issuer’s properties, plant and machinery;
- preparation of a report on title to the properties of the PRC issuer. The Exchange will expect the issuer to have long-term title certificates for its owned PRC properties;

making arrangements with HKSCC regarding admission of the securities of the PRC issuer for trading and settlement in CCASS upon listing;

- preparation of the Application Proof of the listing document, which will involve numerous drafting meetings with all the parties

The Application Proof is required to be published on the website of the Exchange.¹ The information contained in the Application Proof, the Form A1 and other documents submitted with Form A1 is required to be substantially complete, except for information that, by its nature, can only be finalised and included at a later date. If the Exchange does not consider the information to be substantially complete, it will return the listing application and all other documents to the sponsor. If an application is returned, the Exchange will publish on its website the names of the listing applicant and its sponsor(s) and the date of its decision to return the listing application (“**Return Decision**”).² It will also refund the initial listing fee unless it returns the listing application after issuing its first comment letter, in which case the initial listing fee will be forfeited. The applicant can resubmit the Form A1 and a new Application Proof, but cannot do so until 8 weeks after the date of the Return Decision.

The Listing Division’s decision to return a listing application on the ground that the listing application is not “substantially complete” can be reviewed by the Listing Committee. If the Listing Committee endorses the decision of the Listing Division to return the listing application on the ground that the listing application is not “substantially complete”, the decision of the Listing Committee can be reviewed by the Listing (Review) Committee. The decision of the Listing (Review) Committee on the review is conclusive and binding on the listing applicant and the sponsor;

- verification of the contents of the Application Proof for accuracy and completeness;
- preparation and negotiation of the underwriting agreement and agreement among underwriters;
- submission of the Form A1 containing a draft timetable to the Exchange, together with:
 - a sponsor’s confirmation that the listing applicant has submitted the Application Proof for publication on the Exchange’s website in accordance with Rule 12.01A;³

¹ This requirement has been suspended until 1 April 2014 (paragraph 9 (b) of Practice Note 22).

² These arrangements are suspended until 1 April 2014 (paragraph 9 (b) of Practice Note 22).

³ The requirement to publish Application Proof has been suspended until 1 April 2014 (paragraph 9(b) of Practice Note 22).

- copies of an Application Proof (in such numbers as the Exchange may require), and 2 CD-ROMs containing the Application Proof and other documents as the Exchange may require;
- an undertaking and statement of independence in the form of Appendix 17 to the Listing Rules from each sponsor to the listing applicant;
- a compliance adviser's undertaking in the form of Appendix 20 to the Listing Rules;
- final or advanced drafts of all requests for waiver from the requirements of the Listing Rules and the provisions of the Companies Ordinance from the sponsor and the directors/proposed directors;
- a written confirmation signed by each director/supervisor that the information in the Application Proof is accurate and complete in all material respects and is not misleading or deceptive;
- a written confirmation and undertaking signed by each director/supervisor and proposed director/supervisor of the listing applicant confirming that the Application Proof contains the biographical details of such director/supervisor required by Rule 13.51(2) and that those details are complete and accurate, that any changes to these details which occur before dealings commence will be reported to the Exchange as soon as practicable and to lodge a further declaration and undertaking (in the form of Form H or Form I in Appendix 5 to the Listing Rules) as soon as practicable after issue of the prospectus;
- an advanced draft of any statement of adjustments relating to the accountants' report included in the Application Proof;
- in the case of the listing of depositary receipts, a draft deposit agreement and a specimen certificate for the depositary receipts, and a legal opinion from legal advisers in the jurisdictions which governs the deposit agreement confirming:
 - (a) that the deposit agreement (taken by itself or together with any deed poll conferring certain rights on holders of depositary receipts) creates valid and binding rights and obligations between the issuer, depositary and the holders of the depositary receipts in accordance with its terms; and
 - (b) addressing any other matters as the Exchange may have previously requested;
- where the Application Proof contains a profit forecast, a final or advanced draft of the board's profit forecast memorandum covering the same period of the profit forecast contained in the Application Proof and cash flow forecast memorandum covering at least 12 months from the expected date of publication of the listing document setting out the principal assumptions, accounting policies and calculations for the forecasts;

- where the Application Proof does not contain a profit forecast, a final or advanced draft of the board's profit forecast memorandum covering the period up to the forthcoming financial year end date after the date of listing and cash flow memorandum covering at least 12 months from the expected date of publication of the listing document setting out the principal assumptions, accounting policies and calculations for the forecasts;
- a certified copy of the new applicant's certificate of incorporation or equivalent document;
- an advanced draft of a letter from the sponsor confirming that it is satisfied that the statement in the Application Proof as to the sufficiency of working capital has been made by the directors after due and careful enquiry;
- completed checklists on:
 - (i) additional information to be submitted with Form A1 (M104);
 - (ii) basic qualifications (Form M105);
 - (iii) basic requirements for contents of listing document (Form 106);
 - (iv) rules on valuation of and information on properties (Form 107); and
 - (v) rules on accountants' report (Form M108);
- payment of the initial listing fee; and
- any other document required by the Exchange.

These documents must be submitted at least two months after the date of formal appointment of the last sponsor to be appointed (normally the date of the engagement letter). The Listing Committee is formally responsible for considering an application for listing. It is important that the information contained in the Application Proof is substantially complete; otherwise the Exchange may return the listing application. Any subsequent change in the timetable must be agreed in advance with the Exchange;

- At least **4 clear business days** before the expected hearing date, submission to the Exchange of:
 - copies of the final proof of the prospectus (in such numbers as the Exchange may require) and 2 CD-ROMs containing the same proof;
 - a confirmation from the new applicant's legal advisers that the applicant's articles of association are not inconsistent with the Listing Rules and the laws of the applicant's place of incorporation or establishment;
 - unless previously provided, all executed requests for waiver from the requirements of the Listing Rules and the Companies Ordinance;

- in the case of the listing of depositary receipts, a certified copy of the signed deposit agreement;
- for an investment company under Chapter 21 of the Listing Rules:
 - (i) a formal application for listing on Form C3Z in Appendix 5 to the Listing Rules; and
 - (ii) a written submission from the sponsor where there is to be restricted marketing that (a) there is not likely to be significant public demand for the securities of the investment company and (b) adequate arrangements have been made to ensure that the securities of the investment company will not be permitted to be marketed to the public under Rules 21.14(1) and 21.14(3);
- completed checklist on the new listing particulars (Form M201); and
- a certified copy of the document issued by the China Securities Regulatory Commission or other PRC competent authority expressly approving the PRC issuer's listing on the Exchange;
- When the Exchange sends out its post hearing letter after the Listing Committee hearing, assuming that a further hearing is not required, it will also require the applicant to post on the Exchange's website a Post Hearing Information Pack ("PHIP") (i.e. a near final proof of the prospectus). The PHIP must be submitted as soon as practicable and no later than the earlier of: (i) the first distribution of the "red herring" prospectus to institutional investors; and (ii) the first meeting with institutional investors for book building purposes (irrespective of whether or not a "red herring" prospectus is distributed);
- Issue of "red herring" prospectus and roadshow;
- **before bulk-printing of the prospectus**, submission of the following:
 - a final proof of the formal notice;
 - a final proof of the application form to subscribe or purchase the securities for which listing is sought;
 - a final letter from the sponsor confirming that it is satisfied that the directors' statement of sufficiency of working capital in the listing document has been made after due and careful enquiry and that persons or institutions providing finance have stated in writing that such facilities exist;
 - a final copy of all draft documents submitted to the Exchange in support of the application for listing;
 - a signed and certified true copy of the undertakings from the listing applicant's controlling shareholder in relation to pledged/charged securities, as required under note 3 to Rule 10.07;

- if the listing applicant has been given a mandate to make share repurchases, (a) a confirmation from the applicant that the explanatory statement required to be sent to the listing applicant's shareholders contains the information required under Rule 10.06(1)(b) and that neither the explanatory statement nor the proposed share repurchase has unusual features; and (b) an undertaking from the listing applicant's directors to the Exchange under Rule 10.06(1)(b)(vi);
 - a signed from confirmation from a legal adviser that the prospectus duly complies with relevant Companies Ordinance requirements;
 - notification to the Exchange in writing if the listing applicant will not adopt the standard transfer form;
 - a sponsor's confirmation that the applicant has submitted the PHIP for publication on the Exchange's website in accordance with Rule 12.01B; and
 - before noon on the day when the sponsor would like to obtain the Exchange's clearance for bulk-printing the listing document, a confirmation from the listing applicant or the sponsor that the listing document covers (both English and Chinese versions) meet the principles set out in Guidance Letter HKEx-GL13-09 – Prospectus Covers;
- **As soon as practicable after the hearing of the listing application but on or before the date of issue of the prospectus**, submission of:
 - a copy of the English and Chinese language versions of the prospectus and the application form. The copy of the prospectus must be dated and signed by all the directors and proposed directors and the secretary of the issuer. Where the prospectus is signed by an agent, a certified copy of the authorisation or power of attorney must be provided;
 - one copy of the formal notice;
 - a copy of the written notification from the HKSCC stating the securities will be eligible for deposit, clearance and settlement in CCASS;
 - every written undertaking and confirmation from the listing applicant, its shareholders and/or other relevant parties to the Exchange referred to in the prospectus;
 - the original signed sponsor declaration in the form of Appendix 19 to the Listing Rules; and
 - **By no later than 11 a.m. on the intended date of authorisation of the prospectus**, submission to the Exchange of:
 - an application for authorisation for registration of the prospectus under the Companies Ordinance;

- 2 printed copies of the prospectus certified by 2 members of the applicant's governing body or their agents authorized in writing as having been approved by resolution of the applicant's governing body and attaching the documents stipulated by the Companies Ordinance; and
- in respect of the Chinese or English translation of the prospectus, a certificate from the translator certifying that the translation is true and accurate and a certificate issued by the sponsor as to the competency of the translator;
- Hong Kong underwriting documents signed;
- Public offer opens and closes;
- As soon as practicable **after the issue of the prospectus but before dealings commence**, submission to the Exchange of:
 - a certified copy of the new applicant's resolution(s) in general meeting (if any) authorising the issue of the securities to be listed;
 - a certified copy of the resolutions of the board of directors or other governing body authorising the issue and allotment of the securities, the making of the listing application, the making of arrangements for the securities to be admitted to CCASS, the signing of the listing agreement and approving and authorising the issue of the prospectus;
 - a signed sponsor's declaration (in the form set out in Form E of Appendix 5 to the Listing Rules);
 - a declaration signed by a director and the secretary of the new applicant (in the form set out in Form F of Appendix 5 to the Listing Rules) together with any annual listing fee which is payable;
 - a written declaration and undertaking, in the form set out in Form H/I of Appendix 5 to the Listing Rules, duly signed by each director/supervisor and proposed director/supervisor of the new applicant;
 - a ready-to-publish electronic copy each of the prospectus and any application forms (each page of the application forms should bear a "SAMPLE" watermark); and
 - electronic file of the allotment results (where the offering is proposed to raise HKD 1.5 billion or more, a "Search by Identity Card" function must be included.

3. Requirement for Bulk Printing of Prospectus

Under the Exchange's "Mixed Media Offer" ("MMO") framework, it is not necessary to print a large quantity of printed prospectuses for distribution at points where printed application forms are distributed.

On an IPO, an issuer may distribute printed application forms for shares without the associated printed listing document, subject to the satisfaction of the conditions set out in Section 9A of the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) Notice (Cap 32 sub leg L).

In summary, the conditions for making an MMO are as follows:

1. the issuer must publish an announcement declaring its intention to make an MMO, during the five business days prior to the commencement of the offer period which:
 - (i) contains information about the proposed public offer of the issuer's shares;
 - (ii) states that the issuer will rely on the class exemption to allow it to issue paper application forms together with the e-prospectus;
 - (iii) advises where the e-prospectus will be accessible on the issuer's and the Exchange's websites and provide instructions on how to access and download it throughout the offer period;
 - (iv) states that printed copies of the prospectus will be made available for collection at specified locations, free of charge upon request, and that at least three copies of the paper prospectus will be available for inspection wherever paper application forms are available; and
 - (v) contains particulars of these specified locations;
2. the issuer must make available copies of the paper prospectus for collection at specified locations free of charge, upon request by any member of the public, throughout the offer period, and in addition there should be at least three copies of the paper prospectus available for inspection, wherever paper application forms are made available during the offer period;
3. the e-prospectus must be available on the websites of the issuer and the Exchange throughout the offer period in a form that is reasonably tamper resistant and not password protected.

The e-prospectus should be easily accessible from the issuer's home page or from a subsequent page directly accessible from the issuer's homepage. Notice must also be given upon access to the e-prospectus on the issuer's website that the offer is made solely on the basis of the information in the prospectus. The e-prospectus should be viewable, downloadable, printable and capable of being saved in its entirety, whether in one or several files, by the public free of charge, from the websites of both the issuer and the Exchange;

4. the e-prospectus and paper prospectus must be identical and the e-prospectus must state prominently where copies of the paper prospectus are available for collection; and
5. the paper application form must state in a prominent place:

- (i) that the e-prospectus is displayed on the websites of the issuer and the Exchange and is accessible and downloadable from those sites;
- (ii) the addresses of the websites of the issuer and the Exchange and the place on the site where the e-prospectus is located and instructions on how to access it;
- (iii) that copies of the paper prospectus are available at specified locations, free of charge, upon request;
- (iv) the locations at which copies of the paper prospectus are available;
- (v) that 3 copies of the paper prospectus are available for inspection wherever paper application forms are distributed; and
- (vi) that prospective investors should read the prospectus prior to submitting an application.

4. Timing

There are a number of factors that must be considered in deciding when to take a PRC issuer to the market. Aside from the various technical issues that must be addressed before the Exchange will allow the listing, the major factor is the market conditions prevailing at the time of the scheduled float. Investors are always keen to see growth potential in the foreseeable future, as well as being able to demonstrate a steady and sustained past growth.

5. Language

All documents furnished by a PRC issuer, including accounts, which are in a language other than English, must be accompanied by a certified English translation. Where the documents to be offered for public inspection in Hong Kong are not in the English language, certified English translations must be available for inspection. In some cases, the Exchange may require other additional documents to be offered for inspection.

6. Pricing

This will be determined by agreement between the issuer, its major shareholders, the sponsor and underwriters. The main objective of listing is to raise a large capital sum and so in setting the issue price, the PRC issuer will wish to generate as much cash as possible from the listing. The other side of the equation is that although the underwriters will also want to maximise the return to the PRC issuer, they will bear the risk if the issue price is too high, meaning that the issue will in all likelihood be under-subscribed and the underwriters will then have to take up the surplus securities under their underwriting commitment. It is therefore essential for all parties involved to strike the right balance. In deciding on the price, the following factors are usually taken into account:

- the past earnings record of the PRC issuer and its forecasted profits;
- the strength and depth of the PRC issuer's management;

- the likely perception by the market of the PRC issuer's future prospects, taking into account any profit forecast made;
- the prevailing P/E ratio of and interest in other companies in the same market sector;
- the strength of the market at the time of listing; and
- the success and nature of other recent issues.

7. Expenses

Listing is always an expensive exercise due to its time-consuming nature and the number of parties involved. The main expenses are as follows:

- Underwriters' commission;
- Sponsor's advisory and documentation fee;
- professional fees and expenses of the legal advisers;
- professional fees and expenses of the reporting accountants;
- professional fees and expenses of the property valuers;
- costs of translators and printers;
- PR fees and related expenses;
- fees of receiving bankers;
- fees of share registrars; and
- the initial listing fee of the Exchange and transaction levy.

8. Mineral Companies

The above application procedures and requirements apply equally to the listing of mining and natural resource companies. There are, however, additional requirements as to the contents of the prospectus of a new applicant whose activities include to a material extent exploration for natural resources. These additional contents requirements for the prospectus include:

8.1 Competent Persons' Reports

A new applicant Mineral Company must include in its listing document a report on its resources and reserves prepared by a Competent Person. A Competent Person is required to have a minimum of 5 years' relevant experience and must be professionally qualified, and 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 (by way of the IOSCO Multilateral MOU or other bilateral agreement acceptable to the Exchange). The Competent Person must take

overall responsibility for the report and must be independent of the listing applicant, its directors, senior management and advisers. The independence test is that the Competent Person must:

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

The Competent Person's Report must have an effective date less than 6 months before the date of the listing document and the applicant's listing document must include a statement that no material changes have occurred since the date of the Competent Person's Report. If there are material changes, these must be prominently disclosed. The statement of no material changes may be made either by the Competent Person or the listing applicant.

8.2 Reporting Standards

A Competent Person's Report for mineral resources and reserves must be prepared in accordance with:

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

A Competent Person's Report for Petroleum Resources and Reserves must be prepared in accordance with the Petroleum Resources Management System published by the Society of Petroleum Engineers, American Association of Petroleum Geologists, World Petroleum Council, and Society of Petroleum Evaluation Engineers in March 2007, as amended from time to time (PRMS).

The Exchange may allow presentation of reserves in accordance with other reporting standards, but will require reconciliation to one of the accepted Reporting Standards.

8.3 Valuations

The Listing Rules do not require a valuation report to be provided at the IPO stage. Valuation reports must however be included in the circular to shareholders where mineral or petroleum assets are acquired as part of a Major Acquisition (or above) (Main Board Rule 18.09(3)).

Where a valuation is prepared it must be prepared by a Competent Evaluator. In addition to meeting the requirements for a Competent Person, a 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.

Valuations must be prepared in accordance with one of the following Codes:

- The Standards and Guidelines for Valuation of Mineral Properties endorsed by the Canadian Institute of Mining, Metallurgy and Petroleum, February 2003 (final version) as amended from time to time (CIMVAL);
- The South African Code for the Reporting of Mineral Asset Valuation (2008 edition) as amended from time to time (the SAMVAL Code); or
- The Code for the Technical Assessment and Valuation of Mineral and Petroleum Assets and Securities for Independent Expert Reports (2005 edition), as prepared by the VALMIN Committee, a joint committee of The Australasian Institute of Geoscientists and the Mineral Industry Consultants Association as amended from time to time (the VALMIN Code).

8.4 Additional Disclosures for Pre-production Stage Companies

A listing applicant which has not yet commenced production will be required to disclose in its listing document its plans to proceed to production with indicative dates and costs. These plans must be supported by a Scoping Study which is defined as a “preliminary evaluation of a mineral project, including an assessment of the economic viability of mineral resources ... [and which] should include forecast production schedules and cost estimates based on data under which the resources can be identified.” The Scoping Study must be substantiated by the opinion of a Competent Person ((Main Board Rule 18.07).

If exploration or extraction rights have not yet been obtained, any risks relevant to obtaining these rights must be prominently disclosed in the listing document.

If a Mineral Company is involved in the exploration for or extraction of resources, it must prominently disclose to investors that its resources may not ultimately be extracted at a profit.

8.5 Additional Disclosures for Production Stage Companies

Mineral companies that have commenced production must disclose an estimate of the operating cash cost per appropriate unit for the minerals and/or petroleum produced (Main Board Rule 18.06). Applicants are required to set out the components of the following cash operating costs separately by category: (i) workforce employment; (ii) consumables; (iii) fuel, electricity,

water and other services; (iv) on and off-site administration; (v) environmental protection and monitoring; (vi) transportation of workforce; (vii) product marketing and transport; (viii) non-income taxes, royalties and other governmental charges; and (ix) contingency allowances.

8.6 Requirements for Statements of Resources/Reserves

Presentation of data

Data on resources and/or reserves presented in a listing document, a Competent Person's Report, a 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 of mineral resources/reserves

Estimates of mineral reserves are required to be supported at least by a pre-feasibility study and 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. All assumptions must be clearly stated. Valuations for Inferred Resources are not permitted.

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.

For forecast valuations of reserves and profit forecasts, sensitivity analyses to higher and lower prices should be supplied and all assumptions must be clearly disclosed.

Requirements for statements of petroleum resources/reserves

Appendix 25 to the Main Board Listing Rules sets out the information that must be included in a Competent Person's Report for Mineral Companies involved in the exploration for and/or extraction of petroleum resources and reserves (Main Board Rule 18.20).

The information disclosed on mineral resources, reserves and/or exploration results must be disclosed either under PRMS as modified by Chapter 18 or under any other code which the Exchange accepts as providing a comparable standard of disclosure and sufficient assessment of the underlying assets.

The following additional requirements apply:

- if estimates of reserves are disclosed, the method and reason for choice of estimation must be disclosed (i.e. deterministic or probabilistic methods, as defined in PRMS). Where the probabilistic method is used, the underlying confidence levels applied must be stated;
- if the net present values (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 (including a reflection of the weighted average cost of capital or minimum acceptable rate of return that applies to the entity at the time of evaluation) or a fixed discount rate of 10%;
- Proved Reserves and Proved plus Probable Reserves must be analysed separately and principal assumptions (including prices, costs, exchange rates and effective date) and the basis of the methodology should be clearly stated; and
- if the NPVs attributable to Reserves are disclosed, they must be presented using a forecast price as a base case or using a constant price as a base case. The bases for the forecast case must be disclosed. The constant price is defined as the unweighted arithmetic average of the closing price on the first day of each month within the 12 months before the end of the reporting period, unless prices are defined by contractual arrangements. The basis on which the forecast price is considered reasonable must be disclosed and Mineral Companies must comply with Rule 18.30(5) regarding the provision of sensitivity analyses;
- if estimated volumes of Contingent 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; 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.

8.7 Additional Disclosure Requirements

Other matters which are required to be disclosed in the listing document include the following:

- the nature and extent of the company's prospecting, exploration, exploitation, land use and mining rights and a description of the properties to which those rights attach, including the duration and other principal terms and conditions of the concessions and any necessary licences and consents. Details of material rights to be obtained must also be disclosed;
- a statement of any legal claims or proceedings that may have an influence on the company's rights to explore or mine;

- a statement of specific and general risks which should be prepared having regard to new Guidance Note 7 to the Main Board Rules on suggested risk assessment;
- if relevant and material to the Mineral Company's business operations, information on the following:
 - project risks arising from environmental, social, and health and safety issues;
 - any non-governmental organisation impact on sustainability of mineral and/or exploration projects;
 - compliance with host country laws, regulations and permits, and payments made to host country governments in respect of tax, royalties and other significant payments on a country by country basis;
 - sufficient funding plans for remediation, rehabilitation and, closure and removal of facilities in a sustainable manner;
 - environmental liabilities of its projects or properties;
 - its historical experience of dealing with host country laws and practices, including management of differences between national and local practice;
 - its historical experience of dealing with concerns of local governments and communities on the sites of its mines, exploration properties, and relevant management arrangements; and
 - any claims that may exist over the land on which exploration or mining activity is being carried out, including any ancestral or native claims.

8.8 Disclaimers and Indemnities

A Competent Person's Report or Valuation Report may contain disclaimers of sections or topics outside their scope of expertise in which the Competent Person or Competent Evaluator relied upon other experts' opinions. Disclaimers cannot however apply to the report in its entirety.

Such reports must also prominently disclose details of all indemnities provided by the issuer. Indemnities for reliance placed on information provided by the issuer and third party experts are generally acceptable. Indemnities for fraud and gross negligence are generally unacceptable.

IV RESTRICTIONS FOLLOWING NEW LISTING

1. Moratorium on Disposal of Shares by Controlling Shareholders (Rule 10.07)

The Listing Rules contain restrictions on the disposal of securities by controlling shareholders following a company's new listing. Any person shown to be a controlling shareholder by the company's listing document must not:

- (i) dispose of, or enter into any agreement to dispose of or otherwise create any options, rights, interests or encumbrances in respect of, any of the shares which the listing document shows to be beneficially owned by him during the period commencing on the date by reference to which disclosure of the shareholding of the controlling shareholder is made in the listing document and ending on the date which is 6 months from the date on which dealings in the applicant's securities commence on the Exchange; or
- (ii) dispose of, or enter into any agreement to dispose of or otherwise create any options, rights, interests or encumbrances in respect of, any of the shares which the listing document shows to be beneficially owned by him if, such disposal or the exercise or enforcement of such options, rights, interests or encumbrances, would result in him ceasing to be a controlling shareholder in the period of 6 months commencing on the date on which the period referred to in (i) above expires.

Offers for sale contained in a listing document are not subject to the above restrictions.

A controlling shareholder is allowed to purchase additional shares and to dispose of such shares during the relevant periods, provided that the minimum public shareholding requirement with respect to the issuer's shares can be met.

2. No further Issues of Shares within 6 Months of Listing (Rule 10.08)

The Listing Rules prohibit further issues of shares or securities convertible into shares of a listed issuer or the entering into of any agreement for such an issue within 6 months from the date on which dealings in the issuer's shares commence on the Exchange (whether or not such issue of shares or securities will be completed within 6 months from the commencement of dealings). There are exceptions for:

- (i) the issue of shares pursuant to a share option scheme under Chapter 17 of the Listing Rules;
- (ii) the exercise of conversion rights attaching to warrants issued as part of the IPO;
- (iii) any capitalisation issue, capital reduction or consolidation or sub-division of shares;
- (iv) the issue of shares or securities pursuant to an agreement entered into before the commencement of dealing and disclosed in the issuer's listing document; and
- (v) the issue of shares or securities to be traded on the Main Board by a listed issuer that has successfully transferred its listing from GEM.

3. Restriction on Fundamental Change in the Nature of Business (Rules 14.89 to 14.91)

In the 12 months following listing, an issuer may not effect any acquisition, disposal or other transaction or arrangement (or series thereof) which would result in a fundamental change in the principal business activities of the listed issuer as described in its listing document. The Exchange may however grant a waiver from this restriction if the circumstances are exceptional and the transaction is approved by a resolution of the issuer's independent shareholders (any controlling shareholder, or if none, any chief executive or directors (other than independent non-executive directors), and their associates must abstain from voting in favour). Shareholders with a material interest in the transaction must also abstain from voting.




January 2014



This note is provided for information purposes only and does not constitute legal advice. Specific advice should be sought in relation to any particular situation. This note has been prepared based on the laws and regulations in force at the date of this note which may be subsequently amended, modified, re-enacted, restated or replaced.

APPENDIX I




Listing Process for Main Board


The following chart summarises the process for a listing application for shares on the Main Board:

Process
<p>Appointment of Sponsors</p> <ul style="list-style-type: none"> ▪ Appointment of a sponsor at least 2 months before submission of an application and to notify the Exchange

<p>Submission of the Listing Application</p> <p>(no Chinese AP-Publication before 1st April 2014)</p> <ul style="list-style-type: none"> ▪ Submit listing application Form A1, Application Proof (AP) and all other relevant documents under Main Board Listing Rules 9.10A(1) ▪ Information must be substantially complete

<p>3-Day Check</p> <p>(From 1 October 2013 - 30 September 2014)</p> <ul style="list-style-type: none"> ▪ From 1 October 2013 to 30 September 2014, the Exchange will conduct an initial check ("3-Day Check") with limited qualitative assessment on all AP-Vetting based on the prescribed checklist in Table B of Guidance letter HKEx-GL56-13 ("3-Day Checklist")


Accepted	Returned
	
<p style="text-align: center;">Detailed Vetting</p> <p>Qualitative assessment</p> <ul style="list-style-type: none"> ▪ Eligibility 	<p style="text-align: center;">Accelerated review process</p> <ul style="list-style-type: none"> ▪ Available for reviewing the Listing Division's decision to return a listing application ▪ Applicant and sponsor(s) has the

<ul style="list-style-type: none"> ▪ Suitability ▪ Sustainability ▪ Compliance with Listing Rules, Companies Ordinance and Securities and Futures Ordinance ▪ Material disclosure deficiencies <p>Application may still be returned by SFC or HKEx for not being substantially complete</p> <p>Timing of Comments</p> <ul style="list-style-type: none"> ▪ First round of comments - within 10 business days from receipt of application ▪ Second and further rounds of comments (if any) within 10 business days from receipt of reply to previous comment letter ▪ Expect replies from sponsor to be full and complete, otherwise the Exchange will not start to vet (e.g. will not accept replies such as “to be provided in due course”)(except updated financial information under Guidance Letter GL6-09A) ▪ Competent person’s report is reviewed by an external mining consultant selected from a panel. Although nearly all consultants agreed to the streamlined process, there may be cases where some delay may be expected <p>Expected Hearing Timetable</p> <p>Depending on the sponsor’s response time and quality of response</p> <ul style="list-style-type: none"> ▪ Assumes sponsor takes 5 business days to respond to each of the two rounds of comments, an application can be presented to the Listing Committee in around 40 business days from the date of listing application ▪ In the case where only one round of comment is raised and sponsor takes 5 business days to respond, an application can be brought to the Listing Committee in around 25 business days <p><i>From 1 April 2014 - Publication of AP-Publication</i></p>	<p>right to have a Listing Division's decision to return an application ("Return Decision") and Listing Committee's decision that endorses the Return Decision reviewed</p> <p>Two levels of review:</p> <ul style="list-style-type: none"> ▪ a review of the Return Decision by the Listing Committee ▪ a review of a Listing Committee's decision endorsing a Return Decision by the Listing (Review) Committee
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Hearing	8 weeks moratorium (after any accelerated review process)
	
Post-Hearing Information Pack (PHIP)	

<ul style="list-style-type: none"> Please view the Guidance on logistical arrangements for publication of Application Proofs, Post Hearing Information Packs and related materials on the Exchange's website for listing applicants 	
	
<p>Dealing of Shares Commences</p>	