

HKEx GUIDANCE LETTER

HKEx-GL53-13 (April 2013) (Updated in July 2013) - effective for applications submitted on or after 1 October 2013

Subject	Liquidity arrangements for issuers seeking to list by introduction where the securities to be listed are already listed on another stock exchange
Listing Rules	Main Board Rule 2.03; GEM Rule 2.06
Related Publications	HKEx News Releases regarding precautionary measures by issuers listed by introduction dated 31 March 2010 and 18 May 2010 http://www.hkex.com.hk/eng/newsconsul/hkexnews/2010/1003312news.htm http://www.hkex.com.hk/eng/newsconsul/hkexnews/2010/100518news.htm HKEx-GL57-13 on Guidance on Logistical Arrangements for Publication of Application Proofs, Post Hearing Information Packs (“PHIPs”) and related materials on the Exchange’s Website for Listing Applicants
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Important note: *This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You may consult the Listing Division on a confidential basis for an interpretation of the Listing Rules, or this letter.*

1. Purpose and Application

- 1.1 This Letter seeks to provide issuers seeking to list by introduction guidance on arrangements to facilitate liquidity of their securities to meet demand on the Hong Kong market during the initial period of listing and to ensure that trading of these securities are conducted in a fair and orderly manner (Main Board Rule 2.03 and GEM Rule 2.06).
- 1.2 The liquidity arrangements outlined in this Letter apply to listings by introduction where the securities (including shares, depositary receipts and units under collective investment schemes) sought to be listed are already listed on another stock exchange, and the securities held by the existing holders need to be transferred to the issuer’s Hong Kong register before they can be traded in Hong Kong. For the avoidance of doubt, this Letter does not apply to a PRC company seeking to list H-shares on the Exchange by way of introduction upon converting its B shares into H shares.
- 1.3 The liquidity arrangements in this Letter are for reference only. The applicability of these arrangements will be based, among other things, on an issuer’s circumstances, its capital holding structure, availability of arbitrage opportunities between Hong Kong and the other market(s). Where appropriate, we may add to or modify the liquidity arrangements proposed. We encourage applicants to consult us early if they envisage any difficulties.

2. Background

- 2.1 To avoid a disorderly market developing from significant unfulfilled demand for an issuer's securities in Hong Kong upon and during the initial period after a listing by introduction, the Exchange, after consultation with the Securities and Futures Commission ("SFC"), issued two news releases on 31 March 2010 and 18 May 2010 highlighting liquidity arrangements that the Exchange considered acceptable for the cases concerned.
- 2.2 Since then, other issuers have adopted a variety of liquidity arrangements acceptable to the Exchange.

3. Liquidity Arrangements

- 3.1 An issuer and its sponsor must submit its proposed liquidity arrangements for vetting when it submits its listing application form (i.e. Form A1 or Form 5A).
- 3.2 An issuer and its sponsor should reasonably estimate the potential Hong Kong demand for the issuer's securities when designing its liquidity arrangements and demonstrate how the demand can be satisfied by adopting its proposed liquidity arrangements. The estimate may be based on the historical trading statistics of an issuer's securities in its overseas market and the expected increase in trading upon listing in Hong Kong.
- 3.3 A suitable designated period ("**Designated Period**") during which an issuer will facilitate liquidity for its securities in the Hong Kong market must be proposed. A Designated Period of one to three months commencing from the beginning of the pre-opening session (9:00 a.m.) on the first day of the introduction is usually accepted.
- 3.4 An issuer's liquidity measures are to ensure an adequate supply of securities in the Hong Kong market during the Designated Period. An issuer and its sponsor should take into consideration the following:
 - (a) **Batch removal services** - These refer to services to transfer existing securities from the overseas securities registers to their Hong Kong registers in pre-specified batch(es) before and during the Designated Period to satisfy the expected demand in Hong Kong.
 - (b) **Expedited removal services** - These refer to services to expedite transfer of existing securities from the overseas securities registers to their Hong Kong registers before and during Designated Period at no or reduced cost to the overseas securities holders. If an issuer does not consider expedited removal services effectively facilitate (due to minimal savings in time and/or cost) an adequate supply of an issuer's securities in Hong Kong during the Designated Period, these services may be dispensed with provided that the other measures adopted are sufficient.
 - (c) **Appointment of designated securities dealers ("**Designated Dealers**") to provide liquidity** - Appointment of Designated Dealers acceptable to the Exchange to undertake arbitrage, bridging and/or other trading activities to provide liquidity of the securities during the Designated Period. More than one Designated Dealer may be appointed. Where only one Designated Dealer is appointed, an alternate should be appointed.

- (d) **Investor education and announcements** – There should be adequate arrangements to inform the investing community in the Hong Kong and overseas markets of the securities transfer processes and the liquidity arrangements available in Hong Kong.

Appointment and Functions of Designated Dealer

- 3.5 Each Designated Dealer (including any alternate) must be a regulated entity acceptable to the Exchange. The Exchange will consider the dealer's experience in carrying out the functions mentioned below in Hong Kong and overseas when assessing suitability.
- 3.6 A Designated Dealer is expected to conduct arbitrage, bridging and other trading arrangements on a voluntary basis in good faith and on arm's length terms with a view to contributing towards liquidity to meet demand for the issuer's securities in Hong Kong. A Designated Dealer is not required to act as a Market Maker or Securities Market Maker (as defined in the Rules of the Exchange) and does not need to undertake to create or make a market in the securities on the Hong Kong market.
- 3.7 All arbitrage, bridging and trading activities conducted during the Designated Period must comply with all applicable laws and regulations, and reasons provided for the exemptions sought. For this purpose, a Designated Dealer must ensure:
- (a) the arbitrage, bridging and/or trading arrangements are within the circumstances under paragraph 2.3 of the SFC's Guidance Note on Short Selling Reporting and Stock Lending Record Keeping Requirements and are not regarded as short selling in breach of section 170 of the Securities and Futures Ordinance; or
 - (b) specific short-selling regulation exemptions from the Exchange (under the Rules of the Exchange, including but not limited to Rule 563D and the Eleventh Schedule of the Rules of the Exchange) have been obtained to permit it to conduct covered short selling, input short selling orders that may be below the best current ask price during the pre-opening and continuous trading sessions, and execute short sales of the securities when the opportunity arises during the Designated Period. A Designated Dealer is required to satisfy the conditions for short-selling imposed.
- 3.8 To facilitate liquidity of an issuer's securities during the Designated Period, a Designated Dealer should consider the following:
- (a) conduct arbitrage, bridging trades in line with market practice in the context of dual listed stocks during the Designated Period when:
 - (i) there is a concurrent availability of the securities on both the overseas and Hong Kong stock exchanges; and
 - (ii) there is a meaningful price differential (as determined by the Designated Dealer) to contribute towards trading liquidity;
 - (b) build a sufficient inventory of securities in Hong Kong to enable it to carry out arbitrage, bridging and/or trading activities during the Designated Period. This can be achieved through:

- (i) entering into stock borrowing arrangements with an existing holder(s) of the securities to borrow the securities listed on the overseas exchange and remove the borrowed securities to the Hong Kong register before the commencement of trading and during the Designated Period. This will require the Designated Dealer to close out its borrowed positions by purchasing securities from the overseas exchange or in the Hong Kong market or remove back to the overseas register any unutilised securities and transfer those securities back to the lender of the securities; and/or
- (ii) entering into a sale and repurchase agreement with an existing holder/s of the securities to build up a small inventory of the securities before the commencement of trading and during the Designated Period. In the precedents, we have seen agreements enabling the Designated Dealer to sell back or have a right to sell back to the selling holder at the same price as the securities were sold shortly after the Designated Period.

3.9 A Designated Dealer may need to continue to replenish its inventory when there is a demand during the Designated Period.

3.10 Administrative arrangements - The following is required prior to execution of any arbitrage, bridging and trading activities by a Designated Dealer:

- (a) set up designated broker identity number(s) for the sole purpose of conducting arbitrage trades, covered short-sale and other trades in Hong Kong during the Designated Period; and
- (b) conduct testing with the Exchange to confirm readiness for the Designated Dealer's activities.

Investor education

3.11 An issuer and its sponsor must ensure there is sufficient investor education in both the overseas and Hong Kong markets to provide details of the liquidity arrangements available in Hong Kong.

3.12 The investor education materials include:

- (a) analyst briefings at applicable local brokerage/research institutions;
- (b) *[deleted in July 2013]*;**
- (c) public announcements in the overseas and Hong Kong market (see paragraph 3.15); and
- (d) an issuer's Application Proof¹, Post Hearing Information Pack ("PHIP")² and listing document (see paragraph 3.14).

3.13 An issuer and its sponsor must ensure compliance with Main Board Rule 9.08 (GEM

¹ Defined in Rule 1.01 of the Main Board Rules and Rule 1.01 of the GEM Rules

² Defined in Rule 1.01 of the Main Board Rules and Rule 1.01 of the GEM Rules

Rule 12.10) and the codes of conduct³ issued by the SFC when conducting investor education activities in relation to liquidity arrangements.

Disclosure in Application Proofs, PHIPs and Listing Documents (Updated in July 2013)

- 3.14 A dedicated section of the Application Proof, PHIP and listing document should contain updated details of:
- (a) the removal process of securities from the overseas register to the Hong Kong register and vice versa including the time and costs involved during and after the Designated Period;
 - (b) special arrangements for batch and/or expedited removal services provided by the issuer during the Designated Period. These should include period of availability, time and cost saved compared to the normal process;
 - (c) arbitrage, bridging and/or trading arrangements provided by the Designated Dealers and their related benefits; and
 - (d) investor education to be performed by the issuer and the sponsor.
- 3.15 Contents, timing of publication and publication method of public announcements:

In the issuer's overseas market(s)

- (a) **Contents** - Details of the removal services (and related costs) provided by the issuer to facilitate the removal of securities from the issuer's overseas register(s) of the securities to the Hong Kong register.

Timing of Publication - As soon as practicable after the finalisation of the liquidity arrangements, but no later than the publication of the listing document in Hong Kong.

Publication Method - (i) publication on the overseas regulatory website or other media permitted by the relevant regulators in the overseas market(s); and/or (ii) publication on the issuer's website; and/or (iii) through corporate communication to the securities holders.

In Hong Kong

- (b) **Contents** – An Application Proof and a PHIP. *(Updated in July 2013)*

Timing of Publication – See paragraph 9 of Practice Note 22 of the Main Board Rules and paragraph 8 of Practice Note 5 of the GEM Rules on the prescribed time for publication as supplemented in paragraphs A.15 to A.17 of HKEx-GL57-13.

Publication Method - Publication on the Exchange's website.

³ For example the Code of Conduct for Persons Licenced by or Registered with the Securities and Future Commission and the Corporate Finance Adviser Code of Conduct.

- (c) **Contents** - Details of the available pool of securities at the time of listing to meet demand on the Hong Kong market. The pool should aggregate the number of transfers under the batch removal services and the inventory held by the Designated Dealers, and the designated broker identity number(s) for carrying out liquidity activities for the issuer.

Timing of Publication - As soon as practicable and in any event not later than one business day before the commencement of trading of the securities.

Publication Method - Publication on the Exchange's website and the issuer's website.

- (d) **Contents** - The closing price, trading volume and relevant historical trading data of the issuer's securities in the overseas market(s).

Timing of Publication - On each of the three business days before the commencement of trading of the securities.

Publication Method - Publication on the Exchange's website and the issuer's website.

- (e) **Contents** - Relevant developments and updates on the liquidity arrangements, e.g. update on the available pool of securities transferred to Hong Kong register under a staged removal process.

Timing of Publication - As soon as practicable after the completion of each stage of the share removal process after trading has commenced.

Publication Method - Publication on the Exchange's website and the issuer's website.

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