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Exchange Provides Information on New Listing Applications received since the New Sponsor Regulation Took Effect on 1 October 2013

The Stock Exchange of Hong Kong Limited (the Exchange), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (HKEx), provides the following information on the new listing applications it has received since the Securities and Futures Commission's (SFC) new regulation on sponsors became effective on 1 October 2013, to assist sponsors and other market participants in understanding its related rule changes and streamlined regulatory commenting process.

As of 31 January 2014, the Exchange had completed the Initial 3-day Check¹ for 18 new listing applications², of which 16 were Main Board applications and two were Growth Enterprise Market (GEM) applications.

The Exchange has accepted 14 applications for detailed vetting based on the Initial 3-day Check, and returned four applications which failed the Initial 3-day Check.

Deficiencies noted in Initial 3-day Check

Between the four applications which failed the Initial 3-day Check, the following deficiencies were noted:

- failure to follow Guidance Letter HKEx-GL6-09A³ in that the applicant filed its listing application before the end of its trading record period and did not provide nine-month financials for its latest financial year end;
- insufficient information to assess whether the applicant satisfies the ownership continuity and control requirement under Main Board Listing Rule 8.05(1)(c) of which guidance was previously provided in a pre-IPO enquiry;
- insufficient information to assess whether the applicant satisfies the minimum profit requirement under Main Board Listing Rule 8.05(1)(a);
- failure to submit a reply to the outstanding comments on the applicant's compliance with the minimum cash flow requirement under GEM Listing Rule 11.12A(1) raised by the Exchange during the last application⁴;
- failure to provide Liquidity Disclosure⁵ to a date no more than two months before the date of the Application Proof;
- failure to disclose the controlling shareholder's conviction;
- insufficient disclosure on the proposed issuance of corporate bonds of which guidance was previously provided in a pre-IPO enquiry; and
- insufficient disclosure on the performance of the applicant's business to be listed.

Deficiencies noted in qualitative assessment

Two cases passed the Initial 3-day Check but failed the subsequent qualitative assessment and were returned because the disclosure of information in the Application Proof was not substantially complete in all material respects as required under Main Board Listing Rule 9.03(3)/ GEM Listing Rule 12.09(1) to enable a reasonable investor to make a fully-informed investment decision. The deficiencies included:

- insufficient disclosure on the applicant's business model, non-compliance incidents, use of proceeds and hedging policy;
- insufficient information to enable investors to assess the extent of the applicant's reliance on a major customer;
- insufficient information to enable investors to assess the impact of certain disputes and complaints, suitability of directors under GEM Listing Rules 5.01 and 5.02 and sustainability of the applicant's business; and
- insufficient information to assess whether the applicant satisfies the management continuity requirement under GEM Listing Rule 11.12A(3).

Accelerated review request

One sponsor requested an accelerated review⁶ of the decision to return a case. The return decision was upheld by the Listing Committee.

Regulatory commenting process

The purpose of the new streamlined process is to enhance the quality of disclosure in the Application Proof of the issuer and to

The purpose of the new sponsor regulation is to enhance the quality of disclosure in the Application Proof thereby shortening the vetting process.

The Exchange has committed to streamlining the vetting process and pledged that the Initial 3-day Check will be completed within T⁷+3, a case receipt acknowledgement/ return letter will be issued within T+4, and a first comment letter will be issued within T+10. The Exchange had met the performance pledges for the 18 new listing applications under the new sponsor regime and had closely worked with the SFC. In addition, with the submission of "substantially complete" Application Proofs under the new sponsor regime, the average number of comments per application has been reduced substantially compared to the previous vetting regime, and the average vetting time taken by the Exchange from the date of listing application to the Listing Committee hearing has also decreased substantially compared to the previous vetting regime.

"While the number of listing applications under the new sponsor regime is small at present, the relatively high return rate (33.3 per cent) indicates that some market participants are still not familiar with the requirements for a "substantially complete" Application Proof", said David Graham, HKEx's Chief Regulatory Officer and Head of Listing. "The reputational and other consequences will become more severe for companies and sponsors as we move to the publication regime from 1 April 2014, so we urge listing applicants, sponsors and other market participants to follow the relevant guidance letters we have issued and market participants should consult the Exchange at an early stage on any novel or unusual issues. We will provide a further update to the market on the reasons for returned listing applications in due course and guidance on the application of Listing Rules where appropriate."

Review on effectiveness of the Initial 3-day Check

To enable market practitioners to familiarise themselves with all related requirements and procedures before the publication regime is implemented, the Exchange put in place certain transitional arrangements, including the Initial 3-day Check, from 1 October 2013 to 30 September 2014 (Transitional Period).

As stated in the Exchange's announcement of 23 July 2013, the Exchange and the SFC will review the effectiveness of the Initial 3-day Check during the first six-months of the Transitional Period to see if the arrangement should continue for the remainder of or after the Transitional Period. The SFC's prior consent is required for any decision to remove or continue the Initial 3-day Check after the first six months of the Transitional Period. The effectiveness review is underway and the Exchange will inform the market of the result shortly.

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- 1 The Exchange performs an initial 3-day check of all Application Proofs according to a prescribed 3-day checklist in Guidance Letter HKEx-GL56-13. Failure to include the matters under the 3-day checklist may lead to a listing application being returned. Since it is an initial check, only limited qualitative assessment will be carried out. Application Proof is defined in Chapter 1 of the Listing Rules as: in the case of a new applicant, a draft listing document that is required to be substantially complete and is submitted to the Exchange together with a listing application form for listing its equity securities under Chapter 9 of the Main Board Listing Rules/ Chapter 12 of the GEM Listing Rules; in the case of a new collective investment scheme applicant with a listing agent appointed which is required to discharge the functions equivalent to those of a sponsor, a draft listing document that is submitted to the Securities and Futures Commission together with an application for authorisation of the collective investment scheme for the purpose of listing its interests on the Exchange.
 - 2 Exclude applications for transfer of listing from GEM to Main Board under Chapter 9A of the Main Board Listing Rules and listing of a collective investment scheme under Chapter 20 of the Main Board Listing Rules.
 - 3 Paragraph 4.2(b)(ii) of Guidance Letter HKEx-GL6-09A states that an applicant that is not yet able to include the financial information for the most recent financial year in an audited or advanced form in its first Application Proof must include with its listing application financial information for a stub period of at least nine months and comparative information, and the related Management Discussion and Analysis. Paragraph 5.2 of HKEx-GL6-09A further states that the earliest time a company can file its application is after the end of the three-year trading record period.
 - 4 Paragraph 3.6(iv) of Guidance Letter HKEx-GL56-13 states that all outstanding comments from the Exchange should be addressed when an applicant refiles its listing application.
 - 5 Liquidity Disclosure is defined in Guidance Letter HKEx-GL38-12 as a new applicant's indebtedness, liquidity, financial resources and capital structure, if material, as at the most recent practicable date required under paragraph 32 of Appendix 1A to the Main Board and GEM Listing Rules.
 - 6 The accelerated review procedure is set out in Chapter 2B of the Main Board Listing Rules/ Chapter 4 of the GEM Listing Rules.
 - 7 T refers to the date of receipt of listing application form A1/5A.

Ends