



Hong Kong Law

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## EXCHANGE PUBLISHES NEW GUIDANCE ON PLACING SHARES TO CONNECTED CLIENTS FOR INDEPENDENT THIRD PARTIES

The Exchange has published guidance letter HKEx-GL75-14 which supersedes Listing Decision HKEx-LD54-13 which has been withdrawn. The guidance letter provides guidance in cases where a lead broker or distributors as defined under Appendix 6 of the Main Board Rules place shares of an applicant to their connected clients who in turn will hold such shares on behalf of independent third parties.

### The Superseded Listing Decision

In summary, the Exchange held that consent would be given by the Exchange for the allocation of shares to connected clients of distributors to hold such shares for independent third party investors subject to the conditions that:

- unless the global offering was not fully subscribed, the aggregate number of shares allocated to the connected clients by the distributors would not be more than 5% of the total number of shares allocated by such distributors;
- the shares would not be offered to the connected clients on a preferential basis; and
- details of the allocation to the connected clients, including the number of shares allocated, would be disclosed in the allocation announcement.

### Relevant Rules

Paragraph 5(1) of Appendix 6 of the Main Board Rules states that, without the prior written consent of the Exchange, no allocations will be permitted to “connected clients” of the lead broker or of any distributors.

Paragraph 13(7) of Appendix 6 of the Main Board Rules defines “connected clients” in relation to an exchange participant as any client of such member who is a company which is a member of the same group of companies as such exchange participant.

Paragraph 8 of Appendix 6 of the Main Board Rules is **no longer regarded as relevant** in the guidance letter.



## New Guidance

- Allocations of shares in an IPO to connected clients of the lead broker or of any distributors require the Exchange's prior written consent under Appendix 6 of the Main Board Rules (the **Placing Guidelines**);
- The lead broker or any distributors may, from time to time, allocate shares to their affiliated companies within the same group who will hold the shares on behalf of independent investors (who may be either cornerstone investors or ordinary placees in the placing tranche). For example, if shares are allocated to a connected client (including a discretionary fund or a qualified domestic institutional investor fund) of the lead broker or an underwriter who will hold the shares on behalf of independent investors;
- Although the connected clients only hold the shares on behalf of independent third parties, such proposed placing will technically still be an allocation of shares to connected clients under the Placing Guidelines and therefore would require the Exchange's prior written consent under the Placing Guidelines;
- The Exchange will ordinarily give its written consent under the Placing Guidelines for allocation of shares to connected clients of the lead broker or any distributors subject to the following conditions which may be modified if necessary:
  - the shares are held on behalf of independent third parties;
  - the sponsor(s) and the bookrunner(s) confirm that the shares will not be offered to the connected clients on a preferential basis or, for connected clients who will hold shares on behalf of a cornerstone investor, that material terms of the agreement with the relevant investor are substantially the same as other cornerstone investors participating in the offering; and
  - details of the allocation to the connected clients, including the name of the connected clients and their relationship with the lead broker or the distributor(s), the number and percentage of shares allocated to each connected client and the lock-up arrangement (if any), will be disclosed in the allotment result announcement.
- No consent will be given for allocation of shares to a connected client for its proprietary account unless under exceptional circumstances which will be considered on a case-by-case basis; and
- According to the guidance letter, **it is no longer a condition** that the aggregate number of shares allocated to the connected clients by the distributors should not be more than 5% of the total number of shares allocated by such distributors.

Allocation of shares is usually determined by the lead broker and distributors after the public offer is closed. The Exchange reminds sponsors and lead brokers that the relevant Listing Rules must be complied with and applications for written consent under the Placing Guidelines to allocate shares to connected clients should be made to the Exchange in a timely manner to avoid any unnecessary delay in an applicant's listing timetable.

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