



Hong Kong Law

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## EXCHANGE UPDATES GUIDANCE ON IPO LISTING DOCUMENT DISCLOSURE RELATING TO MATERIAL CHANGES AFTER TRADING RECORD PERIOD

### Introduction

The Hong Kong Stock Exchange (the **Exchange**) published two updated Guidance Letters on disclosure requirements for Hong Kong IPO listing documents on 23 January 2015:

- HKEx Guidance Letter HKEx-GL41-12 “Disclosure requirements for IPO cases – Disclosure of material changes in financial, operational and/or trading position after trading record period” (**GL41**); and
- HKEx Guidance Letter HKEx-GL27-12 “Simplification Series – Disclosure in listing documents for IPO cases – the ‘Summary and Highlights’ section” (**GL27**).

The updates to both Guidance Letters relate to disclosure in IPO prospectuses of material changes in financial, operational and/or trading position after the trading record period. GL41 also includes a new requirement that underwriting commissions must be included in the amount of listing expenses disclosed in the Summary and Highlights section.

Listing documents that do not follow the Exchange’s guidance letters may be considered not substantially complete as required under the Listing Rules. The Exchange may then return the listing application to the sponsor and publish the fact of the return naming the listing applicant and sponsor on the Exchange’s website. An 8-week moratorium applies before a new application can be submitted.

### GL41-12 Disclosure requirements for IPO cases – Disclosure of material changes in financial, operational and/or trading position after trading record period

#### *Relevant Listing Rules*

Main Board Rule 2.13 (GEM Rule 2.18) requires that information contained in a prospectus must be accurate and complete in all material respects and not be misleading or deceptive.

Paragraph 38 of Appendix 1A to the Main Board and GEM Rules requires listing documents to include a statement by the directors of any material adverse change in the financial or trading position of the group since the end of the period reported on in the accountants’ report, or an appropriate negative statement.

#### *The January Amendments*

Paragraph 4.2 of the Guidance Letter sets out non-exhaustive examples of adverse changes which would require disclosure if material in relation to the technological, market, economic, legal or operating environment in which an applicant operates.

The latest amendments revise paragraphs 4.3 and 4.4 as follows:

- Paragraph 4.3 now requires inclusion in the “Summary” section of the listing document of either qualitative or quantitative disclosure with commentary on how the adverse changes including but not limited to those set out in paragraph 4.2 affect the financial, operational and/ or trading position after the trading record period. Previously there was no indication of where in the listing document that information should be disclosed. Paragraph 4.3 now also specifies that such disclosure must enable investors to have a sense of the materiality of the adverse changes.
- Paragraph 4.3 already provides that where an applicant discloses quantitative information relating to its financial performance after the track record period other than net profit/loss (e.g. revenue, gross profit, etc.), this non-profit forecast financial information should be reviewed by the reporting accountants, and a statement must be included in the listing document that this information has been reviewed by the reporting accountants.

Paragraph 4.3 has been amended to provide that the disclosure of the comparative financial information to the non-profit forecast financial information is not compulsory. However, if an applicant chooses to disclose such information in its listing document, this should at least be reviewed by the applicant’s sponsor.

- Paragraph 4.4 has been revised to require that any material adverse changes are also highlighted in the “Risk Factors” and “Financial Information” sections of the listing document. These changes must be disclosed notwithstanding any mitigating factors which may reduce the potential impact of financial or operational loss to the applicant.

## **GL27-12 Disclosure in listing documents for IPO cases – the “Summary and Highlights” section**

### ***The January Amendments***

Attachment 1 to GL27 provides guidance on the information which is typically expected to be included in the “Summary and Highlights” section of listing documents. Attachment 1 has been revised to make it consistent with the new requirements under GL41 in relation to the disclosure of material adverse changes since the end of the track record period in the “Summary and Highlights” section.

A further change is a requirement to include underwriting commission in the total amount of listing expenses relating to an offer stated in the “Summary and Highlights” section.

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