



Hong Kong

June 2017

SFC ISSUES STATEMENT ON LISTING OF INFRASTRUCTURE PROJECT COMPANIES

On 11 April 2017, the Securities and Futures Commission (SFC) issued a statement¹ which sets out factors the SFC will take into account when reviewing the proposed listing of infrastructure project companies in Hong Kong. The objective is to maintain the overall quality of the market whilst providing a pathway for infrastructure project companies to achieve a listing.

The SFC recognises that there is a high level of interest in the investment return potential of infrastructure projects based in developing markets. The SFC uses the Belt and Road Initiative as an example, which is a strategy by the Central Government to promote connectivity and long-term development in a region covering Asia, Africa and Europe. Development banks have pointed to the need to mobilize large pools of savings, including those in Asia, to close a significant infrastructure financing gap. Hong Kong is well positioned to facilitate infrastructure investment initiatives, such as the Belt and Road Initiative, through its capital markets.

Infrastructure project companies can give rise to special investment risks that reflect the nature of the project or its location. There would need to be prominent disclosure of such risks in the prospectus in any event, but the risks associated with such projects may be of such magnitude that they cannot be addressed by disclosure alone. On the other hand, if despite these risks, there exists sufficient risk mitigation factors, the

SFC will take this into account when reviewing the proposed listing. All infrastructure project companies seeking a listing in Hong Kong will be able to refer to these factors, which will be relevant for many Belt and Road infrastructure projects.

The statement sets out possible mitigating factors that the SFC will take into account when reviewing the proposed listing. To understand the relevant listing requirements, *the Securities and Futures (Stock Market Listing) Rules (Stock Market Listing Rules)*, *the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (SEHK)* and *the Rules Governing the Listing of Securities on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited (the Listing Rules)* should be referred to. The SFC statement is not a substitute for the Stock Market Listing Rules, the Listing Rules or such advice. Listing applicants are encouraged to consult at an early stage of any planned listing application where these factors may be relevant.

The factors that may mitigate the level of perceived risk sufficiently such that the SFC would be less likely to use its powers of objection include, for example:

- A large shareholding by a relevant Mainland state-owned enterprise, sovereign wealth fund, substantial listed company or substantial and globally-active institutional investor;
- A sizeable Mainland, Development or International Bank committed to providing ongoing project finance;

¹ SFC. Statement on the SFC's Approach to Certain Project Companies Seeking a Listing in Hong Kong and the Exercise of Powers under the Securities and Futures (Stock Market Listing) Rules. 11 April 2017. Available at <http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=17PR47>.

- A direct involvement or shareholding by the relevant state government;
 - The project is located in a jurisdiction that is a Multilateral Memorandum of Understanding of the International Organization of Securities Commissions (IOSCO MMOU) signatory, or if this is not the case, there is sufficient comfort that the SFC can obtain relevant public and non-public information about the activities of the company in the jurisdictions in which it operates. This comfort could be based on a bilateral memorandum of understanding between the SFC and the overseas securities regulator; on whether the listed holding company is incorporated in Hong Kong; on whether books and records are kept in Hong Kong, or on whether there are Hong Kong resident director(s).
- a) comply with the rules and requirements of the SEHK (except to the extent that compliance is waived or not required by the SEHK);
 - b) comply with any provisions of law applicable; and
 - c) contain such particulars and information which, having regard to the particular nature of the applicant and the securities, is necessary to enable an investor to make an informed assessment of the activities, assets and liabilities and financial position, of the applicant at the time of the application and its profits and losses and of the rights attaching to the securities.

This list of factors is not exclusive and other attributes may be proposed in substitution. The more of these factors are present the lower the perceived level of potential risk to the investing public. Listing applicants should also consider whether the requirements set out under the joint policy statement regarding the listing of overseas companies issued by the SFC and the SEHK in 2013 are applicable.

Pursuant to *Section 6(2)* of the Stock Market Listing Rules, the SFC may object to a listing application if it appears to the SFC that:

- a) the application does not comply with the basic requirements for listing set out under section 3 of the Stock Market Listing Rules;
- b) the application is false or misleading as to a material fact or is false or misleading through the omission of a material fact;
- c) the applicant (i) has failed to comply with the SFC's request for information under section 6(1) of the Stock Market Listing Rules or (ii) in purported compliance with such request, has furnished the SFC with information which is false or misleading in any material particular; or
- d) it would not be in the interest of the investing public or in the public interest for the securities to be listed.

Pursuant to *Section 3* of the Stock Market Listing Rules, a listing application must:

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