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TECH NEWS

Hong Kong Listing Rule Amendments to the Delisting Framework

Tricor clients listed in Hong Kong are advised to take note of the following, as applicable.

From 1 August 2018 (“Effective Date”), Hong Kong Exchanges and Clearing Limited (“HKEX”) will adopt a more robust delisting policy and implement the relevant amendments to the Listing Rules (“Rule Amendments”).

The main purpose of the Rule Amendments is to facilitate the timely delisting of issuers that no longer meet the HKEX’s continuing listing criteria and to provide certainty to the market on the delisting process, so as to maintain the quality and reputation of Hong Kong’s securities market.

The delisting process under the amended Main Board (“MB”) Listing Rules and GEM Listing Rules will be substantially aligned. HKEX will be able to cancel the listing of a long suspended issuer upon the expiry of the remedial period (“Prescribed Remedial Period” or “Specific Remedial Period”, as set out below) if the issuer has not remedied the issues causing the suspension and re-complied with the relevant Listing Rules. This remedial period sets a deadline referenced to the resolution of the relevant issues and resumption of trading, as opposed to submission of a resumption proposal as in the current Listing Rules.

The Rule Amendments are set out in the conclusions from responses to its Consultation Paper on “Delisting and Other Rule Amendments” (the “Consultation Conclusions”) published by HKEX on 25 May 2018. HKEX also published “Guidance on long suspension and delisting” (GL95-18) on the same day to provide guidance to long suspended issuers on the operation of the amended delisting rules and guidance specific to certain types of suspension cases. Transitional arrangements will be provided for issuers whose securities are under a trading suspension immediately before the Effective Date.

The major Listing Rules governing the delisting of issuers on or after the Effective Date and the transitional arrangements are as follows:

<p>Delisting Criteria</p>	<ul style="list-style-type: none"> • Where HKEX considers that the issuer (<i>Notes 1 and 2</i>): <ul style="list-style-type: none"> - has failed to maintain sufficient public float; or - has failed to maintain sufficient operations or assets (<i>Note 3</i>); or - is no longer suitable for listing (<i>Note 4</i>). <p><i>MB Listing Rules: Rule 6.01 (revised)</i> <i>GEM Listing Rules: Rule 9.01 (no change), Rule 9.04 (revised), and Rule 9.14 (no change)</i></p>	<ul style="list-style-type: none"> • Where an issuer's securities have been continuously suspended from trading for a fixed period ("Prescribed Remedial Period") as follows (<i>Note 7</i>): <ul style="list-style-type: none"> - MB issuers <ul style="list-style-type: none"> - A continuous period of 18 months ("MB Prescribed Remedial Period") - GEM issuers <ul style="list-style-type: none"> - A continuous period of 12 months ("GEM Prescribed Remedial Period") <p><i>MB Listing Rules: Rule 6.01A(1) (new)</i> <i>GEM Listing Rules: Rule 9.14A(1) (new)</i></p>
<p>Delisting Process</p>	<ul style="list-style-type: none"> • HKEX may (<i>Note 5</i>): <ul style="list-style-type: none"> - publish an announcement naming the issuer and specifying the period ("Specific Remedial Period") (<i>Note 6</i>) within which the issuer must have remedied the relevant matters and resumed trading (as applicable); and delist the issuer if it fails to remedy those matters within the Specific Remedial Period; or - cancel the listing of the issuer's securities following HKEX's publication of an announcement notifying the cancellation of the listing. <p><i>MB Listing Rules: Rule 6.10 (revised)</i> <i>GEM Listing Rules: Rule 9.15 (revised)</i></p>	<ul style="list-style-type: none"> • HKEX may cancel the listing of the issuer's securities following HKEX's publication of an announcement notifying the cancellation of the listing. <p><i>MB Listing Rules: Rule 6.10A (new)</i> <i>GEM Listing Rules: Rule 9.15A (new)</i></p>
<p>Transitional Arrangements</p>	<ul style="list-style-type: none"> • Not applicable 	<ul style="list-style-type: none"> • Transitional arrangements will be provided for issuers whose securities are under a trading suspension immediately before the Effective Date (<i>Note 8</i>). <p><i>MB Listing Rules: Rule 6.01A(2) (new)</i> <i>GEM Listing Rules: Rule 9.14A(2) (new)</i></p>

Notes:

1. Rule 6.01 of the MB Listing Rules and Rule 9.04 of the GEM Listing Rules set out specific circumstances under which HKEX may delist an issuer. Apart from these three specified circumstances, Rule 9.04 of the GEM Listing Rules sets out other circumstances under which HKEX may cancel the listing of a GEM issuer.
2. The material/severe breach of the Listing Rules as a specific delisting criterion is removed. The relevant Rule Amendments clarify that the decisions about the cancellation of listings are to be made under the review procedures set out in Chapter 2B of the MB Listing Rules and Chapter 4 of the GEM Listing Rules, notwithstanding that the reasons for the cancellation include or amount to a breach of the Listing Rules by the issuer.
3. A new note setting out the characteristics of issuers that are unable to comply with the requirements of sufficient operations or assets is added to Rule 13.24 of the MB Listing Rules and Rule 17.26 of the GEM Listing Rules. Nevertheless, the Consultation Paper on *“Backdoor Listing, Continuing Listing Criteria and Other Rule Amendments”* issued by HKEX on 29 June 2018 is proposing to amend such note to make it clear that HKEX would use a qualitative approach to determine whether an issuer’s operations warrant the continued listing of its securities.
4. Along with the publication of the consultation paper as mentioned in Note 3, HKEX has published *“Guidance on listed issuer’s suitability for continued listing”* (GL96-18) to provide guidance on the general approach relating to HKEX’s assessment of the suitability of an issuer or its business for continued listing.
5. As stated in the guidance letter *“Guidance on long suspension and delisting”* (GL95-18), HKEX may delist an issuer immediately only in exceptional circumstances where the matters triggering the application of a delisting criterion are fundamental to the general principles for listing and are beyond remedy. This may happen, for example, where an issuer becomes no longer suitable for listing after its management and controlling shareholder are found by a court to have operated a fraudulent scheme to overstate its business and profits.
6. Rule 9.15 of the GEM Listing Rules provides that the Specific Remedial Period is a period ordinarily of 6 months. Rule 6.10 of the MB Listing Rules does not specify such period.
7. A new, separate, fixed-period delisting criterion (i.e. the Prescribed Remedial Period) is added to the MB Listing Rules and GEM Listing Rules respectively, pursuant to which HKEX will be able to delist an issuer after its continuous suspension for the said period.

8. The following transitional arrangements apply to issuers whose securities are under a trading suspension immediately before the Effective Date:

- **MB issuers**

- For issuers that have been placed in a delisting stage under Practice Note 17 (“PN 17”) (Note 9) before the Effective Date, PN 17 continues to apply.
- For issuers that are not subject to a decision to commence the procedures to cancel a listing and a notice period for delisting immediately before the Effective Date:
 - (i) the MB Prescribed Remedial Period commences immediately from the Effective Date if, as at the Effective Date, trading in the issuer’s securities has been continuously suspended for less than 12 months; or
 - (ii) the MB Prescribed Remedial Period commences 6 months before the Effective Date if, as at the Effective Date, trading in the issuer’s securities has been continuously suspended for 12 months or more.
- For issuers that are subject to a decision to commence the procedures to cancel a listing and a notice period for delisting immediately before the Effective Date, such decision and notice period continue to have effect on the relevant issuer. This is notwithstanding that the actual cancellation of listing has not taken place as at the Effective Date.

- **GEM issuers**

- For issuers whose securities have been suspended from dealings as at the Effective Date, the GEM Prescribed Remedial Period commences from the Effective Date.
- For issuers that are subject to a decision to commence the procedures to cancel a listing and a notice period for delisting immediately before the Effective Date, such decision and notice period continue to have effect on the relevant issuer. This is notwithstanding that the actual cancellation of listing has not taken place as at the Effective Date.

9. PN 17 “*Sufficiency of Operations and Delisting Procedures*” in the MB Listing Rules will be removed, subject to the transitional arrangements under which PN 17 will continue to apply to the relevant MB issuers as set out in Note 8.



This *TechNews* is not exhaustive and only highlights the major Rule Amendments. Please refer to HKEX’s press release “Exchange Publishes Conclusions from its Consultation on Delisting and Other Rule Amendments”, the Consultation Conclusions, the relevant amendments to the Main Board Listing Rules and GEM Listing Rules and the relevant guidance letters on the HKEX website.

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