

## **Frequently Asked Questions Series 24 (Released on 26 July 2013, last updated on 7 December 2018)**

### **Listing Rule changes to complement the Securities and Futures Commission's New Sponsor Regulation effective on 1 October 2013**

#### **Status of "Frequently Asked Questions"**

The following frequently asked questions (FAQs) are designed to assist applicants and professional advisers including sponsors to understand and comply with the Listing Rule changes to complement the Securities and Futures Commission's ("**Commission**") new sponsor regulation effective on 1 October 2013, particularly in situations not explicitly set out in the Listing Rules or where further clarification may be desirable.

You should refer to the Listing Rules themselves together with the relevant Guidance Letters and, if necessary, seek advice from qualified professional advisers. The FAQs are not substitutes for the Listing Rules. If there is any discrepancy between the FAQs and the Listing Rules, the Listing Rules prevail. Defined terms used herein have the same meaning as ascribed to them in the relevant rules and guidance, unless stated otherwise.

In formulating our "*responses*", we may have assumed certain underlying facts, selectively summarised the Listing Rules or concentrated on one particular aspect of the question. They are not definitive and do not apply to all cases where the scenario may at first appear similar. In any given case, regard must be given to all the relevant facts and circumstances.

The Listing Department may be consulted on a confidential basis. Contact the Listing Department at the earliest opportunity with any queries.

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No.	Relevant Rules and Guidance	Query	Response
<b>General</b>			
1.	Main Board – Rule 12.01A and 12.01B GEM – Rule 16.01A and 16.01B	Where there are revisions to an Application Proof, is an applicant required to publish the subsequent proofs of listing documents on the Exchange’s website?	An applicant is only required to publish (i) its Application Proof, which is the draft listing document submitted with a listing application form, (ii) its PHIP, and (iii) the final listing document on the Exchange’s website. <b>(Updated on 13 July 2018)</b>
2.	Main Board – Rules 9.03(3) and 9.11(1) GEM – Rules 12.09(1) and 12.22(1) Guidance Letter HKEX-GL55-13	What are the “ <i>other relevant documents</i> ”/ “ <i>other documents</i> ” referred to in the Listing Rules that should be submitted and included in the CD –ROMs at the same time of filing a listing application?	Apart from the Application Proof, “ <i>other documents</i> ” are documents referred in items 3 to 7 of Attachment I and items 3 to 14 of Attachment II in Guidance Letter HKEX-GL55-13, where applicable. <b>(Updated on 13 July 2018)</b>
3.	Main Board – Rules 3A.02A(1) and 3A.02B(1) GEM – Rules 6A.02A(1) and 6A.02B(1)	What is the date of the sponsor’s formal appointment referred to in the Listing Rules?	The date of the sponsor’s formal appointment shall be the date of the engagement letter, provided that if the Exchange considers that a sponsor has <b>not</b> notified the Exchange in writing of its appointment as soon as practicable as required under Main Board Rule 3A.02A(1)/ GEM Rule 6A.02A(1), it may treat the date of the notification as the date of the sponsor’s formal appointment when determining whether the two month requirement under Main Board Rule 3A.02B(1)/ GEM Rule 6A.02B(1) has been met. The Exchange normally expects notification within five business days from the date of the engagement letter. <b>(Updated on 7 November 2013)</b>

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No.	Relevant Rules and Guidance	Query	Response
3A.	Main Board – Rule 3A.02A(2) GEM – Rule 6A.02A(2)	Is a sponsor required to inform the Exchange in writing upon the expiry of its engagement? What if its engagement terminates prior to the filing of a listing application or after the listing application lapses?	Yes. Pursuant to Main Board Rule 3A.02A(2)/ GEM Rule 6A.02A(2), a sponsor should notify the Exchange in writing when it ceases to act as the sponsor of an applicant, whether as a result of termination or expiry of a sponsor’s engagement, and regardless of whether there is a live listing application.  <b>(Added on 7 December 2018)</b>
<b><i>Pre-IPO enquires</i></b>			
4.	N/A	What is the Exchange’s policy on pre-IPO enquires?	The Exchange will only consider pre-IPO enquires which are novel and specific.  Sponsors cannot shift their responsibility to ensure that an Application Proof is substantially complete to the Exchange or the Commission by abusing the pre-IPO enquiry process. The pre-IPO enquiry process should not be taken as a means to get a listing document vetted before an application is submitted.  Any such enquiries will not be considered. Sponsors and advisors are advised to follow the guidance in the relevant Listing Decisions and Guidance Letters issued by the Exchange from time to time. Pre-IPO enquires on a no-name basis will also not be considered.

***Waiver from publication of Application Proof***

<p>5.</p>	<p>Main Board – Paragraph 19 to Practice Note 22                  GEM – Paragraph 18 to Practice Note 5                  Guidance Letter HKEX-GL57-13</p>	<p>For spin-offs/ dual listings/ deemed new listings (reverse takeover)/ transfer application (for those who are not Eligible Issuers<sup>1</sup> or Eligible Issuers that had changed their principal businesses and/ or controlling shareholders since GEM listing), are the applicants required to follow the Listing Rule changes to complement the Commission’s new sponsor regulation effective on 1 October 2013, including the eight weeks moratorium for Returned Applications, and publication of Application Proofs on the Exchange’s website?</p>	<p>Applicants are subject to the rule requirements including the eight weeks moratorium for Returned Applications. Unless a waiver is granted, the applicants are required to publish their Application Proofs on the Exchange’s website. Please refer to the relevant Listing Rules and Guidance Letter HKEX-GL57-13.  <b><i>(Updated on 13 July 2018)</i></b></p>
<p>6.</p>	<p>Main Board – Paragraph 19 to Practice Note 22                  GEM – Paragraph 18 to Practice Note 5                  Guidance Letter HKEX-GL57-13</p>	<p>Under what circumstances will the Exchange consider a waiver from the publication requirements of the Application Proof?</p>	<p>The Exchange or the Commission may waive or modify the publication requirements based on the facts and circumstances of the applicant. Applicants are encouraged to consult the Exchange at an early stage if they envisage any difficulties in complying with the requirements.                  In the case of a spin-off from an overseas listed parent, HKEX-GL57-13 paragraph A.12 sets out some of the factors which the Exchange or the Commission (as the case may be) will take into account when considering a waiver from the publication requirements but these factors are not meant to be exhaustive and applicants are encouraged to consult the Exchange at an early stage.</p>

<sup>1</sup> As defined in Main Board Rule 9A.01A

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<b>Complaints/ allegations received</b>			
7.	Main Board – Rule 9.08(2) GEM – Rule 12.10(2) Guidance Letter HKEX-GL57-13	If there are complaints/ allegations in media reports made against an applicant after its Application Proof/ PHIP is published on the Exchange’s website, can the applicant respond to the complaints/ allegations?	An applicant at its own discretion may publish a statement on the Exchange’s website stating that no reliance should be placed on any media reports relating to its published Application Proof/ PHIP as permitted under the Listing Rules. This statement does not need to be vetted by the Exchange before they are published but a copy should be submitted to the Exchange before its publication.  A template of the statement has been included in Guidance Letter HKEX-GL57-13. However, other statements that do not comply with the Listing Rules will require the Exchange’s approval before its publication. <b>(Updated on 13 July 2018)</b>
<b>Vetting process</b>			
8.	Main Board – Rules 9.03(2), 9.11(17c), 9.11(18) GEM – Rules 12.12, 12.23(6)	When the Exchange considers that a listing application is ready to be presented to the Listing Committee/ GEM Listing Approval Group for consideration, how will the sponsor be informed?	When a listing application is ready to be presented to the Listing Committee/ GEM Listing Approval Group for consideration, the sponsor will receive a “ <i>Notice to hearing</i> ” letter from the Exchange whereby the sponsor and the applicant should timely submit all relevant documents as required under the Listing Rules to enable the Exchange to process listing applications efficiently.
9.	N/A	How long does it take for a listing application to be presented to the Listing Committee/ GEM Listing Approval Group for consideration?	The timeframe may vary depending on, among other things, the quality of the Application Proof, the time required for the sponsor to respond to the regulators’ comments, the quality of the sponsor’s responses, and the number of application being processed by the regulators at the relevant time.

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			In the case of an applicant which is a mineral company under Chapter 18 of the Listing Rules/ Chapter 18A of the GEM Listing Rules, in addition to the factors stated above, the timeframe will also depend on the quality of the Competent Person's Report. The independent consultants on the panel to assist the Exchange in the review of the Competent Person's Reports have agreed to endeavour to meet the timeline set forth by the Exchange, but there may be cases where some delay may occur (e.g. due to the quality of the Competent Person's Report). <b>(Updated on 13 July 2018)</b>
<b>Logistical arrangement – posting on the Exchange's website</b>			
10.	Main Board – Paragraphs 6 to 8 to Practice Note 22 GEM – Paragraph 5 to 7 to Practice Note 5 Guidance Letter HKEX-GL57-13	What is the Exchange's expected wording of the confirmation from an applicant's legal adviser in relation to the redactions of an Application Proof and a PHIP for publication of these documents?	The Exchange expects the legal confirmation to follow the wording set out in paragraph 7 to Main Board Practice Note 22/ paragraph 6 to GEM Practice Note 5.
11.	Main Board – Paragraph 21 to Practice Note 22 GEM – Paragraph 20 to Practice Note 5 Guidance Letter HKEX-GL57-13	Once an Application Proof is published on the Exchange's website, will it be removed if an applicant's application is subsequently returned?	An applicant's Application Proof will be removed from the Exchange's website upon completion of all the review procedures for the return decision or the time for invoking such review has lapsed.  All information relating to the applicant originally under the "Active" status mark on the Exchange's website will be removed, and the Exchange's website will only publish the name of the applicant and its sponsor, and the date of the return.
12.	Main Board – Paragraph 21 to	Will the details of a Returned Application be	The name of the applicant and its sponsor, and the date

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	Practice Note 22 GEM – Paragraph 20 to Practice Note 5 Guidance Letter HKEX-GL57-13	removed from the Exchange’s website when the application is re-submitted subsequently?	of the return will not be removed from the Exchange’s website even if the application is subsequently re-submitted.
13.	Main Board – Rule 9.03(3) GEM – Rule 12.09(3)	For Returned Applications, when will the eight weeks moratorium start?	The eight weeks moratorium starts from the date of the return letter.
14.	Main Board – Paragraph 12 to Practice Note 22 GEM – Paragraph 11 to Practice Note 5 Guidance Letter HKEX-GL57-13	Should the sponsor and the applicant address all comments of the Exchange before the PHIP can be submitted for publication? How will an applicant know if all comments have been addressed?	An applicant’s directors should form their own view to conclude that the material comments raised by the Exchange have been addressed before a PHIP is published on the Exchange’s website.
15.	Guidance Letter HKEX-GL56-13	Whether the amount of sponsor’s fees is required to be disclosed in a listing document?	The total amount of sponsor fees paid and payable should be disclosed in the listing document according to the Commission’s Consultation Conclusions on the regulation of IPO sponsors.  <b><i>(Added on 3 September 2013)</i></b>
16.	Main Board – Paragraph 12 to Practice Note 22 GEM – Paragraph 11 to Practice Note 5	If an applicant does not intend to book build or distribute a red herring prospectus before it publishes its prospectus, is it still required to publish a PHIP?	An applicant is still required to publish a PHIP as the Rules require a PHIP to be published at the earliest practicable time upon receiving:-  (i) a post hearing letter with a request for posting a PHIP from the Exchange (or an approval in principle with a request for posting a PHIP from the Commission in the case of a CIS applicant who is required to publish a PHIP); and

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			<p>(ii) the directors conclude that the material comments of the Exchange or the Commission (as the case may be) have been addressed.</p> <p>This requirement is applicable to all listing applicants and certain CIS applications, irrespective of whether their applications involve a public offer, distribution of red-herring prospectus or book-building.</p> <p><b><i>(Added on 3 September 2013)</i></b></p>
17.	<p>Main Board – Paragraph 12 to Practice Note 22</p> <p>GEM – Paragraph 11 to Practice Note 5</p>	<p>When an applicant resubmits a listing application, is it necessary to mark-up the Application Proof against:-</p> <ul style="list-style-type: none"> <li>• the last Application Proof that was published on the Exchange’s website; or</li> <li>• the last draft listing document that was submitted to the Exchange for vetting?</li> </ul>	<p>For publication purposes, any new Application Proof submitted for publication purpose on Exchange’s website (that is submitted through the Exchange’s ESS) does not need to be marked-up against the last Application Proof that was published on the Exchange’s website.</p> <p>For vetting purposes, upon re-submission of a listing application (e.g. upon lapse of the last listing application), the Application Proof that accompanies the application form (Form A1/ Form 5A) should be marked-up against the latest draft listing document to enable the Exchange’s vetting team to identify the changes made.</p> <p><b><i>(Added on 3 September 2013)</i></b></p>