

## Chapter 13

### EQUITY SECURITIES

#### CONTINUING OBLIGATIONS

### ~~Appendix 7~~

#### ~~Listing Agreement~~

##### ~~Part A~~

~~Type of Security: Equity~~

~~Type of Issuer: Incorporated or otherwise established in Hong Kong~~

~~The following is the text of the Listing Agreement (“Agreement”) denoted in bold type, each paragraph being followed (where appropriate) by notes denoted in italics on its interpretation and application.~~

~~This Agreement is entered into between .....  
(the “Issuer”) and THE STOCK EXCHANGE OF HONG KONG LIMITED (the “Exchange”) whereby the Issuer undertakes to the Exchange to perform the covenants set out hereunder fully and in good faith (each such covenant to be read and construed in accordance with and subject to the related notes from time to time appearing in the Exchange Listing Rules).~~

#### PRELIMINARY

13.01 An issuer shall comply (and undertakes pursuant to its application for listing (Form A1 of Appendix 5), once any of its securities have been admitted to listing, to comply) with the Exchange Listing Rules from time to time in force.

13.02 This Chapter sets out certain of the continuing obligations which an issuer is required to observe once any of its securities have been admitted to listing. Additional continuing obligations are set out in the following Chapters:

Chapter 3 - Sponsors, Authorised Representatives and Directors

Chapter 4 - Accountants' Reports and Pro Forma Financial Information

Chapter 6 - Suspension, Cancellation and Withdrawal of Listing

Chapter 8 - Qualifications for Listing

Chapter 10 - Restrictions on Purchase and Subscription

Chapter 11 - Listing Documents

Chapter 12 - Publication Requirements

Chapter 14 - Notifiable Transactions

Chapter 14A - Connected Transactions

Appendix 16 - Disclosure of Financial Information.

Additional and alternative requirements relating to continuing obligations are set out in Chapters 18, 19, 19A, 20 and 21 dealing with mineral companies, overseas issuers, issuers incorporated in the People's Republic of China, authorised Collective Investment Schemes and investment companies.

The continuing obligations applicable to issuers having debt securities in issue are set out in the listing agreement set out in Parts C, D and E of Appendix 7.

13.03 The continuing obligations set out in this Chapter are primarily designed to ensure the maintenance of a fair and orderly market in securities and that all users of the market have simultaneous access to the same information. Failure by an issuer to comply with any applicable continuing obligation may result in the Exchange taking disciplinary action in addition to its power to suspend or cancel a listing.

13.04 The directors of an issuer are collectively and individually responsible for ensuring the issuer's full compliance with the Exchange Listing Rules.

## **DISCLOSURE**

### **Introduction**

13.05 The continuing obligations relating to disclosure set out in this Chapter are designed to ensure the immediate release of information in the circumstances referred to in rule 13.09. The guiding principle is that information which is expected to be price-sensitive should be released immediately it is the subject of a decision. Until that point is reached, it is imperative that the strictest security within the issuer and its advisers is observed.

13.06 Without prejudice to the generality of rule 13.09, this Chapter identifies specific circumstances in which an issuer is obliged to disclose information to the holders of its securities and the public.

*Note : The specific circumstances identified in this Chapter are not alternatives to the general disclosure obligation set out in rule 13.09 and do not in any way detract from the issuer's responsibilities under rule 13.09.*

13.07 In adhering to the continuing obligations relating to disclosure set out in this Chapter, the directors of an issuer must seek to ensure that dealings do not take place between parties one of whom does not have price-sensitive information which is in the possession of the other.

13.08 In order to maintain high standards of disclosure, the Exchange may require the publication of further information by and impose additional requirements on an issuer when it considers that circumstances so justify, but will allow representations by the issuer before imposing any such requirements on it which are not imposed on issuers generally. The issuer must comply with such requirements and, if it fails to do so, the Exchange may (where such requirements relate to the publication of information) itself publish the information when such information is available to the Exchange. Conversely, the Exchange may waive, modify or not require compliance with the terms of any specific obligations set out in this Chapter to suit the circumstances of a particular case, but may require the issuer concerned to enter into an agreement or undertaking, in that event, as a condition of such dispensation.

### General obligation of disclosure

#### **INTERPRETATION**

~~1. (1) In this Agreement, unless the context otherwise requires:—~~

~~“Exchange Listing Rules” means the rules governing the listing of securities on the Exchange contained in the book entitled “Rules Governing the Listing of Securities” published by the Exchange as amended from time to time in accordance with the Exchange Listing Rules;~~

~~“financial year” means the period in respect of which any profit and loss account of a company laid or to be laid before it in general meeting is made up, whether that period is a year or not;~~

~~“group” means the Issuer and its subsidiaries, if any; and~~

~~“principal activity” in relation to a company and its subsidiaries means an activity which achieved profits or losses numerically equivalent to 10 per cent. or more of the consolidated profit or loss of the group.~~

~~(2) In this Agreement, unless the context otherwise requires, terms used which are defined or interpreted in the Exchange Listing Rules shall have the same meaning as in the Exchange Listing Rules.~~

~~(3) Where this Agreement requires anything to be sent by any person in Hong Kong to any person outside Hong Kong and vice versa such thing shall be sent, where practicable, by airmail.~~

~~(4) Any notice to be given under this Agreement shall be in writing and any notice to the holder of a bearer security may be given by being published in the newspapers.~~

~~2-13.09~~ (1) Generally and apart from compliance with all the specific requirements in this Chapter, ~~an issuer~~~~the Issuer~~ shall :-

(1) keep the Exchange, members of the ~~Issuer~~~~issuer~~ and other holders of its listed securities informed as soon as reasonably practicable of any information relating to the group (including information on any major new developments in the group's sphere of activity which is not public knowledge) which:—

- (a) is necessary to enable them and the public to appraise the position of the group; ~~or~~
- (b) is necessary to avoid the establishment of a false market in its securities; ~~and/or~~
- (c) might be reasonably expected materially to affect market activity in and the price of its securities. ~~;- and~~

~~Notes : 1~~ ~~2.1~~ — Information should not be divulged outside the ~~Issuer~~~~issuer~~ and its advisers in such a way as to place in a privileged dealing position any person or class or category of persons. Information should not be released in such a way that Exchange transactions may be entered into at prices which do not reflect the latest available information. Without in any way derogating from these principles, companies may, in appropriate circumstances, give advance information in strict confidence to persons with whom negotiations are taking place with a view to the making of a contract or the raising of finance, e.g. to prospective underwriters of an issue of securities or providers of funds on loan. In any such case the persons receiving such information will be expected not to deal in the ~~Issuer~~~~issuer~~'s securities until the information has been released.

~~2.~~ ~~2.2~~ — When developments are on hand which are likely to have a significant effect on market activity in or the price of any listed securities, **it is the direct responsibility of the directors to ensure that such information is kept strictly confidential** until a formal announcement is made. To this end the directors must ensure that the strictest security is observed within the ~~Issuer~~~~issuer~~ and its advisers and if at any time it is felt that the necessary degree of security cannot be maintained or that security may have been breached, an announcement should be made. In the case of an approach which may lead to an offer for all or part of the listed securities of the ~~Issuer~~~~issuer~~, unless security by all parties can be assured, a warning announcement should be issued indicating that the ~~Issuer~~~~issuer~~ is in discussions which may lead to an offer for those securities. The lack of a warning announcement in some situations may lead to the establishment of a false market. In merger and takeover transactions, particularly where no warning announcement has been issued, a temporary suspension of dealings will normally be required where negotiations have reached a point at which an offeree company is reasonably confident that an offer will be made for its shares or where negotiations or discussions are extended to embrace more than a small group of people.

~~3. 2.3~~ The ~~Issuer~~ issuer may be obliged (by statute or otherwise) to impart information to a third party. If such information thereby enters the public domain and is of a price-sensitive nature, it should be simultaneously released to the market.

~~4. 2.4~~ The question of timing of the release of an announcement to the market is crucial, having regard to its possible effect on the market price of the ~~Issuer~~ issuer's listed securities. The overriding principle is that information which is expected to be price-sensitive should be announced immediately it is the subject of a decision. Failure to follow this principle may result in the Exchange imposing a temporary suspension of dealings.

~~2.5~~ ~~References in this Agreement to informing the Exchange mean delivery of the relevant information to the Exchange in the manner determined by the Exchange from time to time and promulgated by way of a practice note to the Exchange Listing Rules.~~

~~5. 2.6~~ Any obligation to inform holders of the ~~Issuer~~ issuer's securities or the public will be satisfied by the information being published in the newspapers except where this ~~Agreement~~ Chapter requires some other form of notification. Certain such announcements must first have been reviewed by the Exchange in accordance with ~~paragraph rule 13.5220 of this Agreement.~~

~~6.2.7~~ Where it is proposed to announce at any meeting of holders of listed securities information which might affect the market price of the ~~Issuer~~ issuer's securities, arrangements should be made for the release of that information to the market simultaneously or immediately after the meeting.

~~7. 2.8~~ If the directors consider that disclosure of information to the public might prejudice the ~~Issuer~~ issuer's business interests, the Exchange must be consulted as soon as possible.

~~8. 2.9~~ Information should be released before the stage when it needs to be made available outside the directors, employees and advisers necessarily concerned. The date of the requisite board meeting should be fixed with this consideration in mind; if a suitable date cannot be fixed, it may be necessary for the board to delegate its power of approval to a committee so that the appropriate announcement can be made at the proper time.

~~9. 2.10~~ If, during the profit forecast period, an event occurs which, had it been known at the time the profit forecast was made, would have caused any of the assumptions upon which the forecast is based to have been materially different, the issuer shall notify shareholders promptly of the occurrence of such event. In any such announcement the issuer shall give an indication of its view of the likely impact of that event on the profit forecast.

~~10. 2.11~~ If:—

- (i) income or loss generated by some activity outside the ordinary and usual course of its business; and

- (ii) which income or loss was not disclosed as anticipated in the document in which the profit forecast was contained,

contributes materially in the calculation of the profits for the period to which the profit forecast related, then this information must be disclosed to shareholders, including an indication of the level to which such unusual activity has contributed to the profit achieved.

A disclosure obligation arises as soon as the issuer becomes aware that it is likely that the contribution in the calculation of profits made or to be made by income or loss generated or to be generated as aforesaid will be material.

~~11.2.12~~ The ~~Issuer~~ issuer must notify the Exchange, members of the ~~Issuer~~ issuer and other holder of its listed securities without delay where:-

- (i) to the knowledge of the directors there is major market upheaval in the industries, countries or regions where the ~~Issuer~~ issuer has significant operations or transactions, or significant changes in exchange rates of currencies that are key to its operations; or
- (ii) to the knowledge of the directors there is such a change in the ~~Issuer~~ issuer's financial condition or in the performance of its business or in the ~~Issuer~~ issuer's expectation of its performance that knowledge of the change is likely to lead to substantial movement in the price of its listed securities; or
- (iii) the ~~Issuer~~ issuer has committed significant resources to an activity which is non-core business and this has not previously been disclosed.

It is the responsibility of the directors of the ~~Issuer~~ issuer to determine what information is material in the context of the ~~Issuer~~ issuer's business, operations and financial performance. The materiality of information varies from one issuer to another according to the size of its financial performance, assets and capitalisation, the nature of its operation and other factors. An event that is "significant" or "major" in the context of a smaller issuer's business and affairs is often not material to a large issuer. The directors of the ~~Issuer~~ issuer are in the best position to determine materiality. The Exchange recognises that decisions on disclosure require careful subjective judgements, and encourages issuers to consult the Exchange when in doubt as to whether disclosure should be made.

- (2) ~~ensure that, if~~ securities of the ~~Issuer~~ issuer are also listed on other stock exchanges, the Exchange ~~is~~ must be simultaneously informed of any information released to any of such other exchanges and the issuer must ensure that such information is released to the market in Hong Kong at the same time as it is released to the other markets.;

Note : 2.13 This includes any information released by a subsidiary of the ~~Issuer~~ issuer to another stock exchange on which that subsidiary is

listed or another market, if that information is discloseable by the ~~Issuer~~ issuer under this ~~Agreement~~ Chapter.

~~(3) comply with the Exchange Listing Rules in force from time to time.~~

### **Response to enquiries**

~~39.13.10~~ ~~The issuer~~ An issuer shall respond promptly to any enquiries made of the ~~Issuer~~ issuer by the Exchange concerning unusual movements in the price or trading volume of its listed securities or any other matters by giving such relevant information as is available to the ~~Issuer~~ issuer or, if appropriate, by issuing a statement to the effect that the ~~Issuer~~ issuer is not aware of any matter or development that is or may be relevant to the unusual price movement or trading volume of its listed securities and shall also respond promptly to any other enquiries made of the ~~Issuer~~ issuer by the Exchange.

~~39.1~~ Notes : 1. *If the enquiry relates to unusual movements in the price or trading volume of securities and the directors of the ~~Issuer~~ issuer are aware of any matter that might have relevance to such movements, an announcement clarifying the situation should be issued. If it is not possible to make such an announcement, for example because negotiations may have reached a delicate stage, a temporary suspension of dealings in the ~~Issuer's~~ issuer's securities may be necessary.*

~~39.22.~~ *If the directors of the ~~Issuer~~ issuer are not aware of any matter that might have relevance to such movements (and only in such circumstances) the issuer should issue an announcement in the following form:—*

*“This statement is made at the request of The Stock Exchange of Hong Kong Limited.*

*We have noted the recent increases/decreases in the price of the [shares/warrants] of the Company and wish to state that we are not aware of any reasons for such [increases/decreases].*

*We also confirm that there are no negotiations or agreements relating to intended acquisitions or realisations which are discloseable under ~~paragraph 3 of the Listing Agreement~~ rule 13.23, neither is the Board aware of any matter discloseable under the general obligation imposed by ~~paragraph 2 of the Listing Agreement~~ rule 13.09, which is or may be of a price-sensitive nature.*

*Made by the order of [ ] the Board of the directors of which individually and jointly accept responsibility for the accuracy of this statement.”*

## GENERAL MATTERS RELEVANT TO THE ISSUER'S BUSINESS

13.11 (1) Without prejudice to any obligation to disclose information pursuant to rule 13.09 and without limiting the scope of that rule, rules 13.12 to 13.19 set out specific instances that give rise to a disclosure obligation on the part of an issuer.

*Note : Issuers are reminded that transactions and financing arrangements of the sort referred to in rules 13.12 to 13.19 may also be subject to the requirements of Chapter 14 and/or Chapter 14A.*

(2) For the purposes of rules 13.12 to 13.19,

(a) the expression "affiliated company" refers to a company which, in accordance with Hong Kong Financial Reporting Standards, is recorded using the equity method of accounting in an entity's financial statements. This includes associated companies and jointly controlled entities as defined in those standards;

(b) references to net assets are to the aggregate of capital and reserves (excluding minority interests and intangibles) shown in the issuer's latest published audited consolidated financial statements; the expression "percentage ratios" shall have the meaning set out in rule 14.04(9) and the percentage ratios shall apply to the requirements under rules 13.12 to 13.19 to the extent applicable;

(c) the expression "relevant advance to an entity" refers to the aggregate of amounts due from and all guarantees given on behalf of:

(i) an entity;

(ii) the entity's controlling shareholder;

(iii) the entity's subsidiaries; and

(iv) the entity's affiliated companies; and

(d) the expression "general disclosure obligation" refers to the obligation imposed by rule 13.09 on issuers to keep the Exchange, members of the issuer and other holders of its listed securities informed as soon as reasonably practicable of any information relating to the group which meets the conditions set out in that rule.

(3) The disclosure obligation arising under this Chapter and other applicable provisions of the Exchange Listing Rules to inform holders of the issuer's securities or the public will be satisfied by the information being published in the newspapers.

(4) No disclosure is necessary under rules 13.12 to 13.19 where the indebtedness or financial assistance arises from a transaction which was approved by shareholders provided that information equivalent to that specified in rules 13.15 or 13.16, as applicable, was included in the circular to shareholders of the issuer.

- (5) If the directors consider that the disclosures pursuant to rules 13.12 to 13.19 might prejudice the issuer's business interests, the Exchange must be consulted as soon as possible.

#### **Situations for disclosure**

- 13.12 The issues set out in rules 13.13 to 13.19 should be viewed on a group basis, including those arising either from a direct relationship or indirectly through subsidiaries and affiliated companies.

#### **Advance to an entity**

- 13.13 A general disclosure obligation will arise where any of the percentage ratios of the relevant advance to an entity exceeds 8%. For the avoidance of doubt, an advance to a subsidiary of the issuer will not be regarded as an advance to an entity.

- 13.14 A general disclosure obligation will arise where the relevant advance to an entity increases from that previously disclosed under rule 13.13, under this rule, or under rule 13.20 and any of the percentage ratios for the amount of the increase since the previous disclosure is 3% or more.

- 13.15 Where a general disclosure obligation arises under rules 13.13 or 13.14 above issuers shall disclose details of the relevant advance to an entity including details of the balances, the nature of events or transactions giving rise to the amounts, the identity of the debtor group, interest rate, repayment terms and collateral.

#### **Financial assistance and guarantees to affiliated companies of an issuer**

- 13.16 A general disclosure obligation will arise where any of the percentage ratios of the financial assistance to affiliated companies of an issuer, and guarantees given for facilities granted to affiliated companies of an issuer together in aggregate exceeds 8%. In these circumstances the information to be disclosed is:

- (1) analysis by company of the amount of financial assistance given to, committed capital injection to, and guarantees given for facilities granted to affiliated companies;
- (2) terms of the financial assistance, including interest rate, method of repayment, maturity date, and the security therefor, if any;
- (3) source of funding for the committed capital injection; and
- (4) banking facilities utilised by affiliated companies which are guaranteed by the issuer.

### **Pledging of shares by the controlling shareholder**

13.17 A general disclosure obligation will arise where the controlling shareholder of the issuer has pledged its interest in shares of the issuer to secure debts of the issuer or to secure guarantees or other support of obligations of the issuer. The following details are to be disclosed:

- (1) the number and class of shares being pledged;
- (2) the amounts of debts, guarantees or other support for which the pledge is made; and
- (3) any other details that are considered necessary for an understanding of the arrangements.

### **Loan agreements with covenants relating to specific performance of the controlling shareholder**

13.18 A general disclosure obligation will arise where an issuer (or any of its subsidiaries) enters into a loan agreement that includes a condition imposing specific performance obligations on any controlling shareholder (e.g. a requirement to maintain a specified minimum holding in the share capital of the issuer) and breach of such obligation will cause a default in respect of loans that are significant to the operations of the issuer. The information to be disclosed in these circumstances is:

- (1) the aggregate level of the facilities that may be affected by such breach;
- (2) the life of the facility; and
- (3) the specific performance obligation imposed on any controlling shareholder.

### **Breach of loan agreement by an issuer**

13.19 A general disclosure obligation will arise when there is a breach of the terms of loan agreements by the issuer, for loans that are significant to the operations of the issuer, such that the lenders may demand immediate repayment of the loans and where the lenders have not issued a waiver in respect of the breach.

### **Continuing disclosure requirements**

13.20 Where the circumstances giving rise to a disclosure under rule 13.13 continue to exist at the issuer's interim period end or annual financial year end, the information specified under rule 13.15, as at the interim period end or year end, shall be included in the interim or annual report.

13.21 Where an obligation arises under rules 13.17, 13.18 or 13.19, the disclosures required by these rules should be included in subsequent interim and annual reports for so long as circumstances giving rise to the obligation continue to exist.

13.22 Where the circumstances giving rise to a disclosure under rule 13.16 continue to exist at the issuer's interim period end or annual financial year end, the issuer's

interim or annual report shall include a proforma combined balance sheet of affiliated companies as at the latest practicable date. The proforma combined balance sheet of affiliated companies should include significant balance sheet classifications and state the attributable interest of the issuer in the affiliated companies. In cases where it is not practicable to prepare the proforma combined balance sheet of affiliated companies, the Exchange on application from the issuer may consider to accept, as an alternative, a statement of the indebtedness, contingent liabilities and capital commitments as at the end of the period reported on by affiliated companies.

### **Notifiable transactions, connected transactions, takeovers and share repurchases**

~~13.23~~ ~~3.~~ (1) ~~The Issuer~~An issuer shall disclose details of acquisitions and realisations of assets and other transactions as required by ~~the Chapters 14 and 14A on "Notifiable Transactions" in the Exchange Listing Rules~~ and, where applicable, shall circularise holders of its listed securities with details thereof and obtain their approval thereto.

(2) ~~\_\_\_\_\_~~ The ~~Issuer~~issuer shall comply with the Takeovers ~~s~~ Code and the Code on Share Repurchases~~s Code~~.

*Notes : ~~13.4~~ Where the consideration under an offer includes securities for which listing ~~is~~ being or is to be sought, the offer document(s) will constitute a listing document. Whether the consideration under an offer comprises cash or securities (or a combination of both), drafts of all documents to be issued in connection with takeovers, mergers or offers must be submitted to the Exchange for review in accordance with ~~paragraph~~rule 13.5220.*

~~2~~ ~~3.2~~ ~~\_\_\_\_\_~~ The Exchange will pass its comments on any draft document submitted to it for approval that relates to a matter covered by the Takeovers ~~s~~ Code and Code on Share Repurchases directly to the party that submits the draft document (or its advisers). The Exchange will at the same time provide a copy of such comments to the Commission.

### **Sufficient operations**

~~38-13.24~~ ~~\_\_\_\_\_~~ ~~The Issuer~~An issuer shall carry out, directly or indirectly, a sufficient level of operations or have tangible assets of sufficient value and/or intangible assets for which a sufficient potential value can be demonstrated to the Exchange to warrant the continued listing of the ~~Issuer~~issuer's securities.

### **Winding-up and liquidation**

~~47-13.25~~ (1) ~~The Issuer~~An issuer shall inform the Exchange on the happening of any of the following events as soon as the same shall come to the attention of the ~~Issuer~~issuer:—

- (a) the appointment of a receiver or manager either by any court having jurisdiction or under the terms of a debenture or any application to any court having jurisdiction for the appointment of a receiver or manager, or equivalent action in the country of incorporation or other establishment, in

respect of the business or any part of the business of the ~~Issuer~~ issuer or the property of the ~~Issuer~~ issuer, its holding company or any major subsidiary;

- (b) the presentation of any winding-up petition, or equivalent application in the country of incorporation or other establishment, or the making of any winding-up order or the appointment of a provisional liquidator, or equivalent action in the country of incorporation or other establishment, against or in respect of the ~~Issuer~~ issuer, its holding company or any major subsidiary;
  - (c) the passing of any resolution by the ~~Issuer~~ issuer, its holding company or any major subsidiary that it be wound-up by way of members' or creditors' voluntary winding-up, or equivalent action in the country of incorporation or other establishment;
  - (d) the entry into possession of or the sale by any mortgagee of a portion of the ~~Issuer's~~ issuer's assets where the aggregate value of the total assets or the aggregate amount of profits or revenue attributable to such assets represents more than 5% under any of the percentage ratios as defined under rule 14.04(9) which in aggregate value represents an amount in excess of 15 per cent. of the consolidated net tangible assets of the group; or
  - (e) the making of any final judgment, declaration or order by any court or tribunal of competent jurisdiction whether on appeal or at first instance which is not subject to any or further appeal, which may adversely affect the ~~Issuer's~~ issuer's enjoyment of any portion of its assets where the aggregate value of the total assets or the aggregate amount of profits or revenue attributable to such assets represents more than 5% under any of the percentage ratios as defined under rule 14.04(9) which in aggregate value represents an amount in excess of 15 per cent. of the consolidated net tangible assets of the group.
- (2) For the purposes of rules 13.25(1)(a), (b) and (c) above, a "major subsidiary" means a subsidiary where the value of its total assets, profits or revenue represents 5% or more under any of the percentage ratios as defined under rule 14.04(9) representing 15 per cent. or more of the consolidated net tangible assets or pre-tax trading profits of the group. For the purpose of this rule 13.25(2), 100% of that subsidiary's total assets, profits or revenue (as the case may be) or, where that subsidiary itself has subsidiaries, the consolidated total assets, profits or revenue (as the case may be) of that subsidiary is to be compared to the total assets, profits or revenue (as the case may be) shown in the issuer's latest published audited consolidated financial statements irrespective of the interest held in the subsidiary.

~~17.1~~Notes: 1. In the circumstances referred to in ~~Note 2.8~~ Note 7 to rule 13.09(1), the Exchange may be prepared to give a dispensation from the requirement to make the information public. However, the Exchange must be informed in any event.

2. The issuer must at all times also have regard to its general disclosure obligation under rule 13.09.

## GENERAL MATERS RELEVANT TO THE ISSUER'S SECURITIES

### Subsequent listing

~~34.13.26~~ (1) ~~The Issuer~~An issuer shall apply for the listing of any further securities which are of the same class as securities already listed, prior to their issue, and shall not issue such securities unless it has applied for the listing of those securities.

~~(2) A PRC issuer shall not apply for the listing of any of its foreign shares on a PRC stock exchange unless the Exchange is satisfied that the relative rights of the holders of overseas listed foreign shares are adequately protected.~~

### **Changes in the terms of convertible securities**

~~13.27 4.~~ ~~The Issuer~~An issuer shall, if the issue of new securities by it or the purchase by it of its listed securities will result in a change in the terms of conversion of any of its convertible securities or in the terms of the exercise of any of its options, warrants or similar rights, publish in the newspapers an announcement as to the effect of any such change wherever practicable, prior to the new issue and, if not so practicable, as soon as possible thereafter.

### Issue of securities under a general mandate

~~7.13.28~~ On the next business day following the date on which the directors agree to issue securities for cash under the authority of a general mandate granted to them by the shareholders in accordance with ~~paragraph 19(2)(b) rule 13.36(2)(b), the Issuer~~an issuer shall publish in the newspapers an announcement containing the following information:—

- (1) the name of the ~~Issuer~~issuer;
- (2) the number, class and aggregate nominal value of the securities agreed to be issued;
- (3) the total funds to be raised and the proposed use of the proceeds;
- (4) the issue price of each security;
- (5) the net price to the ~~Issuer~~issuer of each security;
- (6) the reasons for making the issue;
- (7) the names of the allottees, if less than six in number and, in the case of six or more allottees, a brief generic description of them. The Exchange reserves the right to require submission of such further information (on an electronic spreadsheet or such other format as it may request) on the allottees as it may consider necessary for the purpose of establishing their independence, including without limitation details of beneficial ownership; and
- (8) the market price of the securities concerned on a named date, being the date on which the terms of the issue were fixed; and

(9) the total funds raised and a detailed breakdown and description of the funds raised on any issue of equity securities in the 12 months immediately preceding the announcement of the proposed issue of securities, the use of such proceeds, the intended use of any amount not yet utilised and how the issuer has dealt with such amount.

13.29 Where the securities are issued at a discount of 20% or more to the benchmarked price set out in rule 13.36(5), the issuer shall publish a separate announcement in the newspapers on the business day immediately following the day on which the relevant agreement involving the proposed issue of securities is signed. The announcement must disclose, among other things, the following information:

(1) where there are less than 10 allottees, the name of each allottee (or, if applicable, the name of its beneficial owners) and a confirmation of its independence from the issuer; and

(2) where there are 10 or more allottees, the name of each allottee (or, if applicable, the name of its beneficial owners) subscribing 5% or more of the securities issued and a generic description of all other allottees, and a confirmation of their independence from the issuer. When calculating the 5% limit, the number of securities subscribed by each allottee, its holding company and any of their subsidiaries must be aggregated.

#### **Basis of allotment**

45.13.30 ~~The Issuer~~An issuer shall inform the Exchange of the basis of allotment of securities offered to the public for subscription or sale or an open offer and of the results of any rights issue and, if applicable, of the basis of any acceptance of excess applications, not later than the morning of the business day next after the allotment letters or other relevant documents of title are posted.

45.1Note : *The Exchange should also be informed of any extension of time granted for the currency of temporary documents of title.*

#### **Purchase of securities**

46.13.31 (1) ~~The Issuer~~An issuer shall inform the Exchange as soon as possible after any purchase, sale, drawing or redemption by the ~~Issuer~~issuer, or any member of the group, of its listed securities (whether on the Exchange or otherwise) and the ~~Issuer~~issuer hereby authorises the Exchange to disseminate such information to such persons and in such manner as the Exchange may think fit.

(2) A PRC issuer shall not issue any redeemable shares unless the Exchange is satisfied that the relative rights of the holders of overseas listed foreign shares are adequately protected.

46.1Notes : *1. Purchases by the ~~Issuer~~issuer of its own securities (whether on the Exchange or otherwise) must be notified to the Exchange by not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following dealing. The information given should include the number of securities purchased and the purchase price per security or the*

highest and lowest prices paid, where relevant.

~~46.22.~~ Issuers may only purchase their own securities on the Exchange in accordance with the provisions of rule 10.06 (which is, in the case of an overseas issuer, subject to rule 19.43 if the issuer's primary listing is or is to be on another stock exchange; and in the case of a PRC issuer, amended by the provisions of Chapter 19A) of the Exchange Listing Rules.

### **Minimum prescribed public holdings and other listings**

~~48.13.32~~ (1) Issuers shall maintain the minimum percentage of listed securities as prescribed by rule 8.08 at all times in public hands. An issuer shall inform the Exchange immediately:—

- (a) if it becomes aware that the number of listed securities which are in the hands of the public has fallen below the relevant prescribed minimum percentage; and
  - (b) if any part of the securities of the issuer or any of its subsidiaries becomes listed or dealt in on any other stock exchange, stating which stock exchange.
- (2) Once the ~~issuer~~ issuer becomes aware that the number of listed securities in the hands of the public has fallen below the relevant prescribed minimum percentage the ~~issuer~~ issuer shall take steps to ensure compliance at the earliest possible moment.

Notes : (1) The prescribed minimum percentage is determined by the Exchange at the time of listing under rule 8.08(1).

(2) The lower percentage of securities in public hands that the Exchange may at its discretion grant to eligible issuers under rule 8.08(1)(d) may only be granted at the time of listing and will not be open for application post listing notwithstanding an issuer may after listing attain a market capitalisation of over HK\$10,000,000,000.

(3) If the percentage falls below the minimum, the Exchange reserves the right to require suspension of trading in an issuer's securities until appropriate steps have been taken to restore the minimum percentage of securities in public hands. In this connection, the Exchange will normally require suspension of trading in an issuer's securities where the percentage of its public float falls below 15% (or 10% in the case of an issuer that has been granted a lower percentage of public float under rule 8.08(1)(d) at the time of listing).

(4) Where the percentage has fallen below the minimum, the Exchange may refrain from suspension if the Exchange is satisfied that there remains an open market in the securities and either:

- (a) the shortfall in the prescribed percentage arose purely from an increased or newly acquired holding of the listed securities by a person who is, or after such acquisition becomes, a connected person only because he is a substantial shareholder of the issuer and/or any of its subsidiaries. Such substantial shareholder must not be a controlling shareholder or single

largest shareholder of the issuer. He must also be independent of the issuer, directors and any other substantial shareholders of the issuer and must not be a director of the issuer. If the substantial shareholder has any representative on the board of directors of the issuer, he must demonstrate that such representation is on a non-executive basis. In general, the Exchange would expect this to apply to holdings of the listed securities by institutional investors with a wide spread of investments other than in the listed securities concerned. Holdings of the listed securities by venture capital funds which have been involved in the management of the issuer before and/or after listing would not qualify. It is the responsibility of the issuer to provide sufficient information to the Exchange to demonstrate the independence of such substantial shareholder and to inform the Exchange of any change in circumstances which would affect his independence as soon as it becomes aware of such change; or

(b) the issuer and the controlling shareholder(s) or single largest shareholder undertake to the Exchange to take appropriate steps to ensure restoration of the minimum percentage of securities to public hands within a specified period which is acceptable to the Exchange.

(5) At any time when the percentage of securities in public hands is less than the required minimum, and the Exchange has permitted trading in the securities to continue, the Exchange will monitor closely all trading in the securities to ensure that a false market does not develop and may suspend the securities if there is any unusual price movement.

13.33 Notwithstanding the requirement that the prescribed minimum percentage of securities must at all times remain in public hands, the Exchange may consider granting a temporary waiver to an issuer which is the subject of a general offer under the Takeovers Code (including a privatisation offer), for a reasonable period after the close of the general offer to restore the percentage. The issuer must restore the minimum percentage of securities in public hands immediately after the expiration of the waiver, if granted.

13.34 Where the Exchange has reason to believe that there is a lack of genuine open market in the securities of an issuer, or that the securities of an issuer may be concentrated in the hands of a few shareholders to the detriment or without the knowledge of the investing public, the issuer must forthwith upon request by the Exchange:

(a) publish an announcement in the newspapers to inform the public that its securities may not have a genuine market or its shareholding may have been concentrated in the hands of a few shareholders; and remind the public to exercise caution when dealing in its securities; and

(b) conduct an investigation under section 329 of the Securities and Futures Ordinance and publish in the newspaper the findings of the investigation.

13.35 An issuer shall include in its annual report a statement of sufficiency of public float. The statement should be based on information that is publicly available to the issuer and within the knowledge of its directors as at the latest practicable date prior to the issue of the annual report.

### Pre-emptive rights

- ~~49.13.36~~ (1) (a) Except in the circumstances mentioned in rule 13.36(2), the directors of the ~~Issuer~~issuer (other than a PRC issuer, to which the provisions of rule 19A.38 apply) shall obtain the consent of shareholders in general meeting prior to:—
- (i) allotting, issuing or granting:—
    - (A) shares;
    - (B) securities convertible into shares; or
    - (C) options, warrants or similar rights to subscribe for any shares or such convertible securities; and
  - (ii) any major subsidiary of the ~~Issuer~~issuer making any such allotment, issue or grant so as materially to dilute the percentage equity interest of the issuer and its shareholders in such subsidiary.

~~49.1~~Notes : 1. *Importance is attached to the principle that a shareholder should be able to protect his proportion of the total equity by having the opportunity to subscribe for any new issue of equity securities. Accordingly, unless shareholders otherwise permit, all issues of equity securities by the ~~Issuer~~issuer must be offered to the existing shareholders (and, where appropriate, to holders of other equity securities of the ~~Issuer~~issuer entitled to be offered them) pro rata to their existing holdings, and only to the extent that the securities offered are not taken up by such persons may they be allotted or issued to other persons or otherwise than pro rata to their existing holdings. This principle may be waived by the shareholders themselves on a general basis, but only within the limits of ~~paragraphs 19(2) and (3)~~rules 13.36(2) and (3).*

~~49.22.~~ *The restriction in rule 13.36(1)(a)(ii) does not apply if the subsidiary is itself listed because it is then bound by rule 13.36(1)(a). The ~~Issuer~~issuer should normally ensure that its equity interests in a major subsidiary are not materially diluted through any new issue by such subsidiary of equity capital or securities having an equity element without the consent of the ~~Issuer's~~issuer's shareholders. In the case of a rights issue, if the ~~Issuer~~issuer does not propose to take up its rights, an arrangement may be made for rights to be offered to the ~~Issuer's~~issuer's shareholders so that they can thus avoid a material dilution in their percentage equity interests.*

3. For the purposes of rule 13.36(1)(a)(ii), a “major subsidiary” has the same meaning as in rule 13.25(2).

4. Dilution in a subsidiary is taken to be material where:

(a) the subsidiary will cease to be consolidated in the accounts of the issuer following an allotment of new shares; or

(b) any of the percentage ratios under rule 14.04(9) is 5% or more.

5. The Exchange may be prepared to grant a waiver from treating dilution in a subsidiary referred to in Note 4 to rule 13.36(1)(a)(ii) as a material dilution in the subsidiary where:

(a) the subsidiary is itself a listed issuer; and

(b) an allotment of shares is made in connection with a scrip dividend scheme where the issuer (or the relevant member of the issuer's group) has elected to receive a cash alternative which results in the issuer (or the relevant member of the issuer's group) ceasing to hold a majority interest in the subsidiary.

For such a waiver to be granted, it will be necessary for the issuer to demonstrate that the reduction in interest is unintentional, temporary in nature, and that the issuer will, within a reasonable period of time, restore its majority holding in the subsidiary.

- (b) Notwithstanding ~~sub-paragraph 19~~rule 13.36(2)(b), the directors of the ~~Issuer~~issuer (other than a PRC issuer, to which the provisions of rule 19A.38 apply) shall obtain the consent of the shareholders in general meeting prior to allotting any voting shares if such allotment would effectively alter the control of the issuer.
- (2) No such consent as is referred to in ~~paragraph 19~~rule 13.36(1)(a) shall be required:—
- (a) for the allotment, issue or grant of such securities pursuant to an offer made to the shareholders of the ~~Issuer~~issuer which, ~~excluding~~ for that purpose any shareholder ~~who~~that is resident in a place outside Hong Kong provided the directors of the issuer consider such exclusion to be necessary or expedient on account either of the legal restrictions under the laws of the relevant place or the requirements of the relevant regulatory body or stock exchange in that placewhere such offer is not permitted under the law of that place and, where appropriate, to holders of other equity securities of the ~~Issuer~~issuer entitled to be offered them, pro rata (apart from fractional entitlements) to their existing holdings; or

Notes: 1. The issuer must make enquiry regarding the legal restrictions under the laws of the relevant place and the requirements of the relevant regulatory body or stock exchange and may only exclude such overseas shareholders on the basis that, having made such enquiry, it would be necessary or expedient to do so.

2. If any shareholders that are resident outside Hong Kong are excluded from an offer of securities pursuant to rule 13.36(2)(a), the issuer shall include an explanation for the exclusion in the relevant circular or document containing the offer of securities. Issuers shall ensure that the circular or offer document is delivered to such shareholders for their information subject to compliance with the relevant local laws, regulations and requirements.

- (b) if, but only to the extent that, the existing shareholders of the ~~Issuer~~ issuer have by ordinary resolution in general meeting given a general mandate to the directors of the ~~Issuer~~ issuer, either unconditionally or subject to such terms and conditions as may be specified in the resolution, to allot or issue such securities or to grant any offers, agreements or options which would or might require securities to be issued, allotted or disposed of, whether during the continuance of such mandate or thereafter, subject to a restriction that the aggregate number of securities allotted or agreed to be allotted must not exceed the aggregate of ~~twenty per cent.~~ 20% of the existing issued share capital of the ~~Issuer~~ issuer (or in the case of a scheme of arrangement involving an introduction in the circumstances set out in rule 7.14(3), 20% of the issued share capital of an overseas issuer following the implementation of such scheme) plus the number of such securities repurchased by the ~~Issuer~~ issuer itself since the granting of the general mandate (up to a maximum number equivalent to ~~ten per cent.~~ 10% of the existing issued share capital of the ~~Issuer~~ issuer), provided that the existing shareholders of the ~~Issuer~~ issuer have by a separate ordinary resolution in general meeting given a general mandate to the directors of the ~~Issuer~~ issuer to add such repurchased securities to the ~~twenty per cent.~~ 20% general mandate.

Notes : 1. Other than where independent shareholders' approval has been obtained, an issue of securities to a connected person pursuant to a general mandate given under rule 13.36(2)(b) is only permitted in the circumstances set out in rule 14A.31(3).

2. An overseas issuer does not have to comply with rule 13.36 if its primary listing is or is to be on another stock exchange and it is not subject to any other statutory or other requirement giving pre-emptive rights to shareholders over further issues of share capital.

- (3) A general mandate given under ~~sub-paragraph 19~~ rule 13.36(2)(b) shall only continue in force until:—
- (a) the conclusion of the first annual general meeting of the ~~Issuer~~ issuer following the passing of the resolution at which time it shall lapse unless, by ordinary resolution passed at that meeting, the mandate is renewed, either unconditionally or subject to conditions; or
- (b) revoked or varied by ordinary resolution of the shareholders in general meeting,

whichever occurs first.

~~(4) For the purposes of sub-paragraph 19(1)(a)(ii), a “major subsidiary” has the same meaning as in paragraph 17(2).~~

~~19.3 An issue of securities for cash to a connected person pursuant to a general mandate given under sub-paragraph 19(2)(b) is only permitted in the circumstances set out in rule 14.24(6) of the Exchange Listing Rules.~~

(4) Where the issuer has obtained a general mandate from its shareholders pursuant to rule 13.36(2)(b), any refreshments of the general mandate before the next annual general meeting shall be subject to the following provisions:

(a) any controlling shareholders and their associates or, where there are no controlling shareholders, directors (excluding independent non-executive directors) and the chief executive of the issuer and their respective associates shall abstain from voting in favour;

(b) the Exchange reserves the right to require the following parties to abstain from voting in favour of the relevant resolution at the general meeting:

(i) any parties who were controlling shareholders of the issuer at the time the decision to seek a refreshment of the mandate was made or approved by the board, and their associates; or

(ii) where there were no such controlling shareholders, directors (excluding independent non-executive directors) and the chief executive of the issuer at the time the decision to seek a refreshment of the mandate was made or approved by the board, and their respective associates;

(c) the issuer must comply with the requirements set out in rules 13.39(4), (5), (6) and (7), 13.40, 13.41 and 13.42;

(d) the relevant circular to shareholders must contain information relating to the issuer's history of refreshments of mandate since the last annual general meeting, the amount of proceeds raised from the utilisation of such mandate, the use of such proceeds, the intended use of any amount not yet utilised and how the issuer has dealt with such amount. The circular must also contain information required under rule 2.17; and

(e) where the issuer offers or issues securities to its shareholders pro rata to their existing holdings (including where overseas shareholders are excluded for legal or regulatory reasons), it will not be necessary for the issuer to comply with rules 13.36(4)(a), (b) or (c) in order for it to refresh its general mandate immediately thereafter such that the amount in percentage terms of the unused part of the general mandate upon refreshment is the same as the unused part of the general mandate immediately before the issue of securities. In such cases, it need only obtain approval from its shareholders and comply with rule 13.36(4)(d).

(5) In the case of a placing of securities for cash consideration, the issuer may not issue any securities pursuant to a general mandate given under rule 13.36(2)(b) if the relevant price represents a discount of 20% or more to the

benchmarked price of the securities, such benchmarked price being the higher of:

- (a) the closing price on the date of the relevant placing agreement or other agreement involving the proposed issue of securities under the general mandate; and
  
- (b) the average closing price in the 5 trading days immediately prior to the earlier of:
  - (i) the date of announcement of the placing or the proposed transaction or arrangement involving the proposed issue of securities under the general mandate;
  
  - (ii) the date of the placing agreement or other agreement involving the proposed issue of securities under the general mandate; and
  
  - (iii) the date on which the placing or subscription price is fixed.

unless the issuer can satisfy the Exchange that it is in a serious financial position and that the only way it can be saved is by an urgent rescue operation which involves the issue of new securities at a price representing a discount of 20% or more to the benchmarked price of the securities or that there are other exceptional circumstances. The issuer shall provide the Exchange with detailed information on the allottees to be issued with securities under the general mandate.

### **Closure of books**

~~5. The Issuer shall notify the Exchange in writing and publish in the newspapers a notice of the closure of its transfer books or register of members at least 14 days before such closure. In cases where there is an alteration of book closing dates, the Issuer shall, at least six days before the closure, notify the Exchange in writing and give further notice by way of publication in the newspapers. If, however, there are exceptional circumstances (e.g. a typhoon) that render the giving of such notification to the Exchange and publication of the notice impossible, the Issuer shall comply with the requirements as soon as practicable.~~

~~5.1 See Practice Note 8 for emergency share registration arrangements during a typhoon and/or a black rainstorm warning.~~

### **MEETINGS**

#### **Notice of AGM**

~~13.37 6. The Issuer~~An issuer shall ensure that notice of every annual general meeting is published in the newspapers. Such notice must be of a size of not less than 8 centimetres by 10 centimetres (three inches by four inches approximately) and must be so published on at least one business day.

### Proxy forms

35.13.38 An issuer shall send with the notice convening a meeting of holders of listed securities to all persons entitled to vote at the meeting proxy forms, with provision for two-way voting on all resolutions intended to be proposed thereat.

35.4Notes : 1. *The object of the requirement relating to proxy forms is to ensure that holders have adequate opportunity to express their views on all resolutions intended to be proposed such as the adoption of the annual accounts and re-election of directors (and, in the case of a PRC issuer, supervisors).*

35.22. *Provided two-way proxy forms are made available, the printing and postal arrangements are matters entirely at the discretion of the issuer. The proxy form must state that if it is returned without an indication as to how the proxy shall vote on any particular matter the proxy will exercise his discretion as to whether he votes and if so how. The proxy form must state that a shareholder is entitled to appoint a proxy of his own choice and must provide a space for the name of such proxy.*

3. *The proxy form must be submitted for publication on the Exchange's website in accordance with rule 2.07C.*

### Meetings of Shareholders

40.13.39 (1) ~~A company~~An issuer proposing to solicit proxies or votes in connection with any general meeting of the ~~company~~issuer may only use for such purpose previously published information which remains accurate and is not misleading at the time it is quoted.

(2) Shareholders must not be put under pressure to vote or abstain from voting at any general meeting and, where their votes are solicited, must be encouraged to consult their professional advisers.

(3) If the Chairman of the meeting and/or the directors individually or collectively hold proxies in respect of shares holding ~~five percent~~5% or more of the total voting rights at a particular meeting, and if on a show of hands a meeting votes in the opposite manner to that instructed in those proxies, the Chairman and/or the directors and the Chairman holding proxies as aforesaid collectively shall demand a poll; provided that if it is apparent from the total proxies held that a vote taken on a poll will not reverse the vote taken on a show of hands (because the votes represented by those proxies exceed 50%, 75% or any other relevant percentage, as the case may be, of the total issued share entitled to vote on the resolution in question,) then the directors and/or the Chairman shall not be required to demand a poll.

(4) Any vote of shareholders taken at a general meeting to approve the following transactions or arrangements must be taken on a poll:

(a) connected transactions pursuant to Chapter 14A;

(b) transactions that are subject to independent shareholders' approval pursuant to the Exchange Listing Rules;

Note: "Independent shareholders" means any shareholders other than controlling shareholders of the issuer and their associates or, where there are no controlling shareholders, any shareholders other than directors (excluding independent non-executive directors) and the chief executive of the issuer and their respective associates.

- (c) granting of options to a substantial shareholder or an independent non-executive director of the issuer, or any of their respective associates, as required under rule 17.04(1); and
  - (d) any other transactions in which a shareholder has a material interest and is therefore required to abstain from voting at the general meeting.
- (5) If voting at a general meeting is taken on a poll, the issuer shall announce the results of the poll (including (i) the total number of shares entitling the holder to attend and vote for or against the resolution at the meeting, (ii) the total number of shares entitling the holder to attend and vote only against the resolution at the meeting, (iii) the number of shares represented by votes for and against the relevant resolution) by way of an announcement which is published in the newspapers on the business day following the meeting. The issuer shall appoint its auditors, share registrar or external accountants who are qualified to serve as auditors for the issuer as scrutineer for the vote-taking and state the identity of the scrutineer in the announcement. The issuer shall confirm in the announcement whether or not any parties that have stated their intention in the circular to vote against the relevant resolution or to abstain have done so at the general meeting.
- (6) In relation to any transactions or arrangements referred to in rules 13.39 (4)(a) and 13.39(4)(b) or spin-off proposals that are subject to approval of the shareholders of the issuer pursuant to paragraph 3 (e) of Practice Note 15 of the Exchange Listing Rules,
- (a) the issuer shall establish an independent board committee (which shall consist only of independent non-executive directors) to advise shareholders as to whether the terms of the relevant transaction or arrangement are fair and reasonable and whether such a transaction or arrangement is in the interests of the issuer and its shareholders as a whole and to advise shareholders on how to vote, taking into account the recommendations of the independent financial adviser appointed under rule 13.39(6)(b);
  - (b) the issuer shall appoint an independent financial adviser acceptable to the Exchange to make recommendations to the independent board committee and the shareholders as to whether the terms of the relevant transaction or arrangement are fair and reasonable and whether such a transaction or arrangement is in the interests of the issuer and its shareholders as a whole and to advise shareholders on how to vote; and
  - (c) the independent board committee shall not consist of any independent non-executive directors who have a material interest in the relevant transaction or arrangement. The independent board committee may consist of only one independent non-executive director if all other independent non-executive directors have a material interest in the relevant transaction or arrangement. If all the independent non-executive directors have a material interest in the relevant transaction or

arrangement, no independent board committee can be formed. In that event, the independent financial adviser shall make its recommendation to the shareholders only in the manner prescribed under rule 13.39(7)(b).

(7) In relation to any transaction or arrangement referred to in rules 13.39(4)(a) and 13.39(4)(b) or spin-off proposals that are subject to approval of the shareholders of the issuer pursuant to paragraph 3 (e) of Practice Note 15 of the Exchange Listing Rules, the circular to shareholders must contain at least:

(a) if applicable, a separate letter from the independent board committee advising shareholders as to whether the terms of the relevant transaction or arrangement are fair and reasonable and whether such a transaction or arrangement is in the interests of the issuer and its shareholders as a whole and advising shareholders on how to vote, taking into account the recommendations of the independent financial adviser; and

(b) a separate letter from the independent financial adviser containing its recommendation to the independent board committee and shareholders (or, if applicable, to the shareholders only) as to whether the terms of the relevant transaction or arrangement are fair and reasonable and whether such a transaction or arrangement is in the interests of the issuer and its shareholders as a whole and advising shareholders on how to vote. Such letter must set out the reasons for and the key assumptions made and factors taken into consideration in forming that opinion.

13.40 . Parties that are required to abstain from voting in favour at the general meeting pursuant to rules 6.12(1), 6.13, 7.19(6)(a), 7.19(7), 7.19(8), 7.24(5)(a), 7.24(6), 7.24(7), 13.36(4)(a), 13.36(4)(b), 14.90(2), 14.91(1) and 17.04(1) may vote against the resolution at the general meeting of the issuer provided that their intention to do so has been stated in the relevant listing document or circular to shareholders. Any such party may change his mind as to whether to abstain or vote against the resolution, in which case the issuer must, if it becomes aware of the change before the date of the general meeting, immediately despatch a circular to its shareholders or publish an announcement in the newspapers notifying its shareholders of the change and, if known, the reason for such change. Where the circular is despatched or the announcement is published less than 14 days before the date originally scheduled for the general meeting, the meeting must be adjourned before considering the relevant resolution to a date that is at least 14 days from the date of despatch or publication by the chairman or, if that is not permitted by the issuer's constitutional documents, by resolution to that effect.

13.41 Where under rules 13.40 or 13.73, a meeting is required to be adjourned by resolution, all shareholders are permitted to vote on that resolution. Any shareholders who would have been required to abstain from voting on any resolution that was to be proposed shall vote in favour of the resolution to adjourn the meeting.

13.42 The issuer must have an appropriate procedure in place to record that any parties that must abstain or have stated their intention to vote against the relevant resolution in the listing document, circular or announcement have done so at the general meeting.

### Board meetings

~~12.13.43~~ ~~The Issuer~~ An issuer shall inform the Exchange at least seven clear business days in advance of the date fixed for any board meeting at which the declaration, recommendation or payment of a dividend is expected to be decided or at which any announcement of the profits or losses for any year, half-year or other period is to be approved for publication.

### Voting of directors at board meetings

13.44 Subject to the exceptions set out in Note 1 to Appendix 3, a director of the issuer shall not vote on any board resolution approving any contract or arrangement or any other proposal in which he or any of his associates has a material interest nor shall he be counted in the quorum present at the meeting.

### After board meetings

~~13.13.45~~ ~~The Issuer~~ An issuer shall inform the Exchange immediately after approval by or on behalf of the board of:—

- (1) any decision to declare, recommend or pay any dividend or to make any other distribution on its listed securities and the rate and amount thereof;
- (2) any decision not to declare, recommend or pay any dividend which would otherwise have been expected to have been declared, recommended or paid in due course;
- (3) any preliminary announcement of profits or losses for any year, half-year or other period;

~~13.1~~ Notes : 1. *The timing of board meetings is a matter for the convenience and judgement of individual boards, but the Exchange should be informed of decisions on dividends and results either between 12:30 and 1:30 p.m. or after the market closes at 4:00 p.m. This will enable the Exchange to release the information outside of trading hours on the Exchange's website and any other electronic news dissemination system operated by the Exchange from time to time. The directors are reminded that it is their direct responsibility to ensure that such information is kept strictly confidential until the announcement is made. In the case of a preliminary announcement of results the information delivered to the Exchange should include at least the information specified in ~~paragraph 11-~~ rule 13.49. The announcement of the decision and/or the preliminary announcement of results should then be published in the newspapers on the morning of the next business day. By following this procedure, ~~the Issuer~~ an issuer will have taken appropriate steps to ensure that no dealings take place in which one party is in possession of information of which the other is not. Each transaction in the market will thus take place in the light of all information from the moment that such information is released to the market.*

~~13.22.~~ Issuers are reminded that Note 8 to rule 13.09(1) Notes 2.9 and 13.1 and Note 1 above are also applicable to a preliminary

*announcement of results for a full year. As soon as possible after draft accounts have been agreed with the auditors, those accounts, adjusted to reflect any dividend decision, should be approved, in view of their price-sensitive nature, as the basis of a preliminary announcement of results for the full year.*

- (4) any proposed change in the capital structure, including any redemption of its listed securities; and

~~13.3~~Note : *Once a decision has been made to submit any such proposal to the board, no dealings in any of the relevant securities should be effected by or on behalf of the ~~Issuer~~ issuer or any of its subsidiaries until the proposal has been announced or abandoned.*

- (5) any decision to change the general character or nature of the business of the ~~Issuer~~ or group.

~~13.4~~Note : *In discharging the obligations as set out in this ~~paragraph 13~~ rule 13.45, regard should be had to ~~Note 2.5~~ rule 13.79, and in particular to the Exchange's requirements from time to time in respect of the communication of information of an urgent nature.*

#### **~~Issue of securities under a general mandate~~**

~~7. — On the next business day following the date on which the directors agree to issue securities for cash under the authority of a general mandate granted to them by the shareholders in accordance with paragraph 19(2)(b) the Issuer shall publish in the newspapers an announcement containing the following information:—~~

- ~~(1) the name of the Issuer;~~
- ~~(2) the number, class and aggregate nominal value of the securities agreed to be issued;~~
- ~~(3) the proposed use of the proceeds;~~
- ~~(4) the issue price of each security;~~
- ~~(5) the net price to the Issuer of each security;~~
- ~~(6) the reasons for making the issue;~~
- ~~(7) the names of the allottees, if less than six in number and, in the case of six or more allottees, a brief generic description of them; and~~
- ~~(8) the market price of the securities concerned on a named date, being the date on which the terms of the issue were fixed.~~

## DISCLOSURE OF FINANCIAL INFORMATION

### ANNUAL ACCOUNTS

#### **Distribution of directors' annual report and annual accounts**

13.46 8.—(1) ~~The Issuer~~In the case of an issuer (other than an overseas issuer and a PRC issuer): -

(a) Such issuer shall send to:—

(a) every member of the ~~Issuer~~issuer; and

(b) every other holder of its listed securities (not being bearer securities),

a copy of either ~~(iA)~~ its annual report including its annual accounts and, where the ~~Issuer~~issuer prepares group accounts within the meaning of section 124(1) of the Companies Ordinance, the group accounts, together with a copy of the auditors' report thereon, or ~~(iiB)~~ its summary financial report not less than 21 days before the date of the ~~Issuer~~issuer's annual general meeting and in any event not more than four months after the end of the financial year to which they relate. The ~~Issuer~~issuer may send a copy of its summary financial report to a member and a holder of its listed securities in place of a copy of its annual report and accounts, provided that it complies with the relevant provisions set out in section 141 of the Companies Ordinance and in the Companies (Summary Financial Reports of Listed Companies) Regulation.

~~Note: The requirement for accounts to be despatched within four months of the year end shall be obligatory in respect of annual reports for accounting periods ending on or after 1st July, 2000. However, issuers are encouraged to make efforts to comply with the requirement after the coming into force of the provision, if this is practically possible. Annual reports for accounting periods ending before 1st July, 2000 are required to be despatched not more than five months after the date upon which the financial period ended.~~

~~(2b)~~ Nothing in ~~paragraph rule 813.46(1)(a)~~ shall require ~~the~~ ~~Issuer~~issuer to send any of the documents referred to therein to:—

~~(a)~~ a person of whose address the ~~Issuer~~issuer is unaware; or

~~(b)~~ more than one of the joint holders of any of its listed securities.

Notes : 1. 8.1—The directors' report, auditors' report, annual accounts and, where applicable, summary financial report must be in the English language and must be accompanied by a Chinese translation. In respect of overseas members, it shall be sufficient for the ~~Issuer~~issuer to mail an English language version of either (i) its directors' report, auditors' report and annual accounts or (ii) its summary financial report if such documents contain a prominent statement in both English and Chinese to the effect that a Chinese translation is available

from the ~~Issuer~~ issuer, on request.

~~2. 8.2~~ Section 122 of the Companies Ordinance requires the annual accounts of a Hong Kong issuer which are laid before the issuer at its annual general meeting to be made up to a date falling not more than 6 months before the date of the meeting.

~~3. 8.3~~ The Exchange may at its discretion suspend dealings in or cancel the listing of the securities of the Issuer if it falls into arrears in the issue of its directors' report and accounts. If ~~the~~ issuer issuer has significant interests outside Hong Kong it may apply for an extension of the six month period. However, attention is drawn to section 122 (1B) of the Companies Ordinance which requires any extension of the time limit to be approved by the High Court.

~~4. 8.4~~ The ~~An~~ issuer issuer must send 25 copies of each of the English language version and the Chinese language version of the directors' report, annual accounts and, where applicable, the summary financial report to the Exchange at the same time as they are sent to holders of the ~~Issuer~~ issuer's listed securities with registered addresses in Hong Kong (see ~~paragraph rule 2413.54~~).

(2) In the case of an overseas issuer or a PRC issuer: -

(a) Such issuer shall send to:-

(i) every member of the issuer; and

(ii) every other holder of its listed securities (not being bearer securities).

a copy of either (A) its annual report including its annual accounts and, where the issuer prepares group accounts, its group accounts, together with a copy of the auditors' report thereon or (B) its summary financial report, not less than 21 days before the date of the issuer's annual general meeting and in any event not more than four months after the end of the financial year to which they relate. The issuer may send a copy of its summary financial report to a member and a holder of its listed securities in place of a copy of its annual report and accounts, provided that it complies with provisions no less onerous than the relevant provisions set out in section 141 of the Companies Ordinance and in the Companies (Summary Financial Reports of Listed Companies) Regulation for listed issuers incorporated in Hong Kong.

(b) An issuer shall make up its annual accounts to a date falling not more than 6 months before the date of its annual general meeting.

(c) Nothing in rule 13.46(2)(a) shall require an issuer to send any of the documents referred to therein to:—

(i) a person of whose address the issuer is unaware; or

(ii) more than one of the joint holders of any of its listed securities.

Notes: 1. If an issuer's primary listing is or is to be on the Exchange the annual report, annual accounts, auditors' report and, where applicable, summary financial report must be in the English language and must be accompanied by a Chinese translation. In respect of overseas members, it shall be sufficient for the issuer to mail an English language version of its annual report, annual accounts, auditors' report and, where applicable, summary financial report if such documents contain a prominent statement in both English and Chinese to the effect that a Chinese translation is available from the issuer, on request. If the issuer's primary listing is or is to be on another stock exchange such documents must be in the English language or be accompanied by a certified English translation.

2. If an issuer has significant interests outside Hong Kong it may apply for an extension of the six month period.

3. An issuer must send 25 copies of each of the English language version and the Chinese language version of the annual report and accounts and, where applicable, the summary financial report to the Exchange at the same time as they are sent to holders of the issuer's listed securities with registered addresses in Hong Kong (see rule 13.54).

## **DISCLOSURE OF FINANCIAL INFORMATION**

### **Annual Reports**

13.47 ~~9.~~ ~~The Issuer~~An issuer's annual report must comply with the provisions set out in Appendix 16 ~~to the Listing Rules~~ in relation to annual reports. The ~~Issuer~~issuer's summary financial report must comply with the provisions set out in the Companies (Summary Financial Reports of Listed Companies) Regulation.

Note : 9.1 ~~Issuers' attention is drawn to paragraphs 6 to 35 and 50 inclusive of Appendix 16.~~

### **Interim Reports**

13.48 ~~40.~~(1) In respect of the first six months of each financial year of ~~the Issuer~~an issuer unless that financial year is of six months or less, the ~~Issuer~~issuer shall send to the persons listed in ~~paragraph rule 8~~13.46(1), either (i) an interim report, or (ii) a summary interim report not later than three months after the end of that period of six months. The issuer may send a copy of its summary interim report to a member and a holder of its listed securities in place of a copy of its interim report, provided that such summary interim report complies with the relevant provisions of the Companies (Summary Financial Reports of Listed Companies) Regulation governing summary financial reports.

(2) The interim report must comply with the provisions set out in Appendix 16 ~~to the Listing Rules~~ in relation to interim reports. The summary interim report must comply with the provisions set out in Appendix 16 in relation to summary interim reports.

~~Note :10.1~~ Issuers' attention is drawn to paragraphs 37 to 44 and 51 inclusive of Appendix 16.

- (3) The ~~Issuer~~ issuer must send 25 copies of each of the English language version and the Chinese language version of the interim report and, where applicable, its summary interim report to the Exchange at the same time as it is sent to the holders of the ~~Issuer~~ issuer's listed securities with registered addresses in Hong Kong.

~~Note :10.2~~ See paragraph rule 13.5421.

### **Preliminary Announcements of Results - Full Financial Year**

#### **Full Financial Year**

~~13.49~~ ~~41~~ (1) ~~The Issuer~~ An issuer shall publish in the newspapers its preliminary results in respect of each financial year, the next business day after approval by or on behalf of the board and in any event not later than four months after the date upon which the financial period ended.

- (2) The preliminary announcement shall be based on the ~~Issuer~~ issuer's audited financial statements for the financial year which shall have been agreed with the auditors.

- (3) (i) Where an ~~Issuer~~ issuer is unable to make an announcement of its preliminary results based on its ~~audited~~ financial statements in accordance with ~~paragraph rules 41~~ 13.49(1) and ~~41~~ 13.49(2) ~~above~~, it must make an announcement within four months after the end of the financial year containing at least the following information:-

(a) a full explanation for its inability to make an announcement based on ~~audited~~ financial statements which have been agreed with the auditors. Where there are uncertainties arising from the lack of supporting evidence or relating to the valuation of assets or liabilities, sufficient information to allow investors to determine the significance of the assets or liabilities;

(b) the expected date of announcement of the ~~audited~~ financial results for the financial year which shall have been agreed with the auditors;

(c) so far as the information is available, results for the financial year based on ~~unaudited~~ financial results which have yet to be agreed with the auditors. Where possible, those results must have been reviewed by the ~~Issuer~~ issuer's audit committee ~~or the Issuer's auditors (if an audit committee has not been formed)~~. In the event that the audit committee ~~(or the auditors, as the case may be)~~ disagreed with an accounting treatment which had been adopted or the particulars published in accordance with ~~sub-paragraph rule 13.49~~ 13.49(3)(i)(a) ~~above~~, full details of such disagreement; and

- (ii) Where an ~~Issuer~~ issuer makes an announcement in accordance with ~~sub-paragraph rule 13.49~~ 13.49(3)-(i) ~~above~~, then:

(a) the ~~Issuer~~ issuer will be required to comply with the requirements set

out in ~~paragraph rule 41.13.49(2) above~~, as soon as the audited financial results for the financial year have been agreed with the auditors are available; and

(b) where the ~~audited~~ financial results for the financial year which have been agreed by the auditors differ materially from ~~unaudited the~~ financial results published by the ~~issuer~~ issuer in accordance with ~~sub-paragraph rule 41.13.49(3)(i)(c) above~~, full particulars of, and reasons for, the difference must be set out in the preliminary announcement of ~~audited such agreed results for the financial year~~.

(4) The preliminary announcement of results (made in accordance with ~~paragraph rule 41.13.49(2) or 41.13.49(3) above~~) must comply with the provisions set out in Appendix 16 ~~to the Listing Rules~~ in relation to preliminary announcements of results for the full financial year.

*Note : ~~41.1~~ Issuers' attention is drawn to paragraphs 45 and 45A of Appendix 16.*

(5) The ~~issuer~~ issuer must supply the Exchange immediately on publication with the names of the relevant newspapers and the date of publication.

#### **Preliminary Announcements of Results - First Half of The Financial Year**

(6) The ~~issuer~~ issuer shall publish in the newspapers a preliminary announcement in respect of its results for the first six months of each financial year unless that financial year is of six months or less, the next business day after approval by or on behalf of the board and in any event not later than three months after the end of that period of six months. In circumstances where the ~~issuer~~ issuer is unable to make such an announcement, the ~~issuer~~ issuer must make an announcement within three months after the end of that period of six months containing:-

- (i) a full explanation for its inability to make an announcement based on unaudited financial statements; and
- (ii) the expected date of announcement of the unaudited results for the first half of the financial year.

(7) The preliminary announcement of interim results must comply with the provisions set out in Appendix 16 ~~to the Listing Rules~~ in relation to preliminary announcements of interim results.

*Note : ~~41.2~~ Issuers' attention is drawn to paragraph 46 of Appendix 16.*

(8) The ~~issuer~~ issuer must supply the Exchange immediately on publication with the names of the relevant newspapers and the date of publication.

#### **Suspension on Failure to Publish Timely Financial Information**

13.50 Without prejudice to the generality of rules 13.46, 13.47, 13.48 and 13.49, the Exchange will normally require suspension of trading in an issuer's securities if an issuer fails to publish periodic financial information in accordance with the Exchange Listing Rules. The suspension will normally remain in force until the

issuer publishes in the newspapers the requisite financial information.

Note: This rule will become effective on 1 January 2005.

## **NOTIFICATION**

### **Board meetings**

~~12. The Issuer shall inform the Exchange at least seven clear business days in advance of the date fixed for any board meeting at which the declaration, recommendation or payment of a dividend is expected to be decided or at which any announcement of the profits or losses for any year, half-year or other period is to be approved for publication.~~

### **After board meetings**

~~13. The Issuer shall inform the Exchange immediately after approval by or on behalf of the board of:—~~

~~(1) any decision to declare, recommend or pay any dividend or to make any other distribution on its listed securities and the rate and amount thereof;~~

~~(2) any decision not to declare, recommend or pay any dividend which would otherwise have been expected to have been declared, recommended or paid in due course;~~

~~(3) any preliminary announcement of profits or losses for any year, half-year or other period;~~

~~13.1 The timing of board meetings is a matter for the convenience and judgement of individual boards, but the Exchange should be informed of decisions on dividends and results either between 12:30 and 1:30 p.m. or after the market closes at 4:00 p.m. This will enable the Exchange to release the information outside of trading hours on the Exchange's website and any other electronic news dissemination system operated by the Exchange from time to time. The directors are reminded that it is their direct responsibility to ensure that such information is kept strictly confidential until the announcement is made. In the case of a preliminary announcement of results the information delivered to the Exchange should include at least the information specified in paragraph 11. The announcement of the decision and/or the preliminary announcement of results should then be published in the newspapers on the morning of the next business day. By following this procedure, an Issuer will have taken appropriate steps to ensure that no dealings take place in which one party is in possession of information of which the other is not. Each transaction in the market will thus take place in the light of all information from the moment that such information is released to the market.~~

~~13.2 Issuers are reminded that Notes 2.9 and 13.1 are also applicable to a preliminary announcement of results for a full year. As soon as possible after draft accounts have been agreed with the auditors, those accounts, adjusted to reflect any dividend decision, should~~

~~be approved, in view of their price-sensitive nature, as the basis of a preliminary announcement of results for the full year.~~

~~(4) any proposed change in the capital structure, including any redemption of its listed securities; and~~

~~13.3—Once a decision has been made to submit any such proposal to the board, no dealings in any of the relevant securities should be effected by or on behalf of the Issuer or any of its subsidiaries until the proposal has been announced or abandoned.~~

~~(5) any decision to change the general character or nature of the business of the Issuer or group.~~

~~13.4 In discharging the obligations as set out in this paragraph 13, regard should be had to Note 2.5, and in particular to the Exchange's requirements from time to time in respect of the communication of information of an urgent nature.~~

### Changes

~~13.5144.~~ The Issuer~~An issuer~~ shall inform the Exchange immediately of any decision made and publish an announcement in the newspapers as soon as practicable in regard to:—

(1) any proposed alteration of the ~~Issuer~~issuer's memorandum or articles of association or equivalent documents, and in the case of a PRC issuer, any proposed request by the PRC issuer to a PRC competent authority to waive or otherwise modify any provision of the Regulations;

Notes :1. 14.1—Changes to articles of association or equivalent documents must conform with the requirements of Appendix 3 and, if relevant, Appendix 13 to the Exchange Listing Rules.

2. An issuer shall not at any time permit or cause any amendment to be made to its memorandum or articles of association or bye-laws which would cause the same to cease to comply with the provisions of Appendix 3 or Section 1 of Part A or Part B (where appropriate) of Appendix 13.

(2) any changes in its directorate or supervisory committee, and shall procure that each new director or supervisor or member of its governing body shall sign and lodge with the Exchange as soon as practicable after their appointment a declaration and undertaking in the form set out in Form B, H or I, where applicable in Appendix 5 to the Exchange Listing Rules;

Note :14.2 Where a new director or supervisor is appointed or the resignation or re-designation of a director or supervisor takes effect, the Exchange must ~~should~~ be informed immediately thereafter. The ~~Issuer~~issuer must should simultaneously make arrangements to ensure that an announcement of the appointment, or resignation or re-designation of the director or supervisor is published in the newspapers as soon as practicable~~made public by means of a press release or such other method as the Issuer thinks fit.~~ The issuer shall include the following details of any newly appointed or re-designated director or supervisor

in the announcement of his appointment or re-designation:-

- (a) the full name (which should normally be the same as that stated in the declaration and undertaking of the director or supervisor in the form set out in Form B, H or I in Appendix 5) and age;
- (b) positions held with the issuer and other members of the issuer's group;
- (c) previous experience including other directorships held in listed public companies in the last three years and other major appointments and qualifications;
- (d) length or proposed length of service with the issuer;
- (e) relationships with any directors, senior management or substantial or controlling shareholders of the issuer, or an appropriate negative statement;
- (f) his interests in shares of the issuer within the meaning of Part XV of the Securities and Futures Ordinance, or an appropriate negative statement;
- (g) amount of the director's or supervisor's emoluments specified in his service contract and the basis of determining the director's or supervisor's emoluments (including any bonus payments, whether fixed or discretionary in nature); and
- (h) any other matters that need to be brought to the attention of holders of securities of the issuer.

The issuer shall also disclose in the announcement of resignation of a director or supervisor the reasons given by the director or supervisor for his resignation (including, but not limited to, any information relating to his disagreement with the board and a statement as to whether or not there are any matters that need to be brought to the attention of holders of securities of the issuer).

\_\_\_\_\_ The Exchange ~~must~~ should be informed of any important change in the holding of an executive office.

- (3) any change in the rights attaching to any class of listed securities and any change in the rights attaching to any shares into which any listed debt securities are convertible or exchangeable; ~~and~~
- (4) any change in its auditors or financial year end, the reason(s) for the change and any other matters that need to be brought to the attention of holders of securities of the issuer (including, but not limited to, information set out in the outgoing auditors' confirmation in relation to the change in auditors); and

Note: The issuer must state in the announcement whether the outgoing auditors have provided a confirmation that there are no matters that need to be brought to the attention of holders of securities of the issuer. If no such confirmation has been provided, the announcement must state the reason for this.

~~(54) any change in its secretary, auditors or registered address or where applicable, agent for the service of process in Hong Kong or registered office or registered place of business in Hong Kong.~~

~~14. Note 3: *The new secretary must fulfil the requirements of rule 8.17 of the Exchange Listing Rules.*~~

#### **Basis of allotment**

~~15. The Issuer shall inform the Exchange of the basis of allotment of securities offered to the public for subscription or sale or an open offer and of the results of any rights issue and, if applicable, of the basis of any acceptance of excess applications, not later than the morning of the business day next after the allotment letters or other relevant documents of title are posted.~~

~~15.1 *The Exchange should also be informed of any extension of time granted for the currency of temporary documents of title.*~~

#### **Purchase of securities**

~~16. The Issuer shall inform the Exchange as soon as possible after any purchase, sale, drawing or redemption by the Issuer, or any member of the group, of its listed securities (whether on the Exchange or otherwise) and the Issuer hereby authorises the Exchange to disseminate such information to such persons and in such manner as the Exchange may think fit.~~

~~16.1 *Purchases by the Issuer of its own securities (whether on the Exchange or otherwise) must be notified to the Exchange by not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following dealing. The information given should include the number of securities purchased and the purchase price per security or the highest and lowest prices paid, where relevant.*~~

~~16.2 *Issuers may only purchase their own securities on the Exchange in accordance with the provisions of rule 10.06 of the Exchange Listing Rules.*~~

#### **Winding-up and liquidation**

~~17. (1) The Issuer shall inform the Exchange on the happening of any of the following events as soon as the same shall come to the attention of the Issuer:—~~

~~(a) the appointment of a receiver or manager either by any court having jurisdiction or under the terms of a debenture or any application to any court having~~

~~— jurisdiction for the appointment of a receiver or manager, or equivalent action in the country of incorporation or other establishment, in respect of the business or any part of the business of the Issuer or the property of the Issuer, its holding company or any major subsidiary;~~

~~(b) the presentation of any winding-up petition, or equivalent application in the country of incorporation or other establishment, or the making of any winding-up order or the appointment of a provisional liquidator, or equivalent action in the country of incorporation or other establishment, against or in respect of the Issuer, its holding company or any major~~

subsidiary;

- ~~(c) the passing of any resolution by the Issuer, its holding company or any major subsidiary that it be wound-up by way of members' or creditors' voluntary winding-up, or equivalent action in the country of incorporation or other establishment;~~
  - ~~(d) the entry into possession of or the sale by any mortgagee of a portion of the Issuer's assets which in aggregate value represents an amount in excess of 15 per cent. of the consolidated net tangible assets of the group; or~~
  - ~~(e) the making of any final judgment, declaration or order by any court or tribunal of competent jurisdiction whether on appeal or at first instance which is not subject to any or further appeal, which may adversely affect the Issuer's enjoyment of any portion of its assets which in aggregate value represents an amount in excess of 15 per cent. of the consolidated net tangible assets of the group.~~
- ~~(2) For the purposes of (1) above, a "major subsidiary" means a subsidiary representing 15 per cent. or more of the consolidated net tangible assets or pre-tax trading profits of the group.~~

~~17.1 In the circumstances referred to in Note 2.8, the Exchange may be prepared to give a dispensation from the requirement to make the information public. However, the Exchange must be informed in any event.~~

#### **Minimum prescribed public holdings and other listings**

- ~~18. (1) The issuer shall inform the Exchange immediately:—~~
- ~~(a) if it becomes aware that the number of listed securities which are in the hands of the public has fallen below the relevant prescribed minimum percentage; and~~
  - ~~(b) if any part of the securities of the Issuer or any of its subsidiaries becomes listed or dealt in on any other stock exchange, stating which stock exchange.~~
- ~~(2) Once the Issuer becomes aware that the number of listed securities in the hands of the public has fallen below the relevant prescribed minimum percentage the Issuer shall take steps to ensure compliance at the earliest possible moment.~~

~~18.1 The prescribed minimum percentage is determined by the Exchange at the time of listing under rule 8.08 of the Exchange Listing Rules.~~

#### **PRE-EMPTIVE RIGHTS**

- ~~19. (1) (a) Except in the circumstances mentioned in paragraph 19 (2), the directors of the Issuer shall obtain the consent of shareholders in general meeting prior to:—~~
- ~~(i) allotting, issuing or granting:—~~

- ~~(A) shares;~~
  - ~~(B) securities convertible into shares; or~~
  - ~~(C) options, warrants or similar rights to subscribe for any shares or such convertible securities; and~~
- ~~(ii) any major subsidiary of the Issuer making any such allotment, issue or grant so as materially to dilute the percentage equity interest of the Issuer and its shareholders in such subsidiary.~~

~~19.1 — Importance is attached to the principle that a shareholder should be able to protect his proportion of the total equity by having the opportunity to subscribe for any new issue of equity securities. Accordingly, unless shareholders otherwise permit, all issues of equity securities by the Issuer must be offered to the existing shareholders (and, where appropriate, to holders of other equity securities of the Issuer entitled to be offered them) pro rata to their existing holdings, and only to the extent that the securities offered are not taken up by such persons may they be allotted or issued to other persons or otherwise than pro rata to their existing holdings. This principle may be waived by the shareholders themselves on a general basis, but only within the limits of paragraphs 19(2) and (3).~~

~~19.2 — The restriction in sub-paragraph 19(1)(a)(ii) does not apply if the subsidiary is itself listed because it is then bound by sub-paragraph 19(1)(a). The Issuer should normally ensure that its equity interests in a major subsidiary are not materially diluted through any new issue by such subsidiary of equity capital or securities having an equity element without the consent of the Issuer's shareholders. In the case of a rights issue, if the Issuer does not propose to take up its rights, an arrangement may be made for rights to be offered to the Issuer's shareholders so that they can thus avoid a material dilution in their percentage equity interests.~~

~~(b) Notwithstanding sub-paragraph 19(2)(b), the directors of the Issuer shall obtain the consent of the shareholders in general meeting prior to allotting any voting shares if such allotment would effectively alter the control of the Issuer.~~

~~(2) No such consent as is referred to in paragraph 19(1)(a) shall be required: —~~

~~(a) for the allotment, issue or grant of such securities pursuant to an offer made to the shareholders of the Issuer, excluding for that purpose any shareholder who is resident in a place where such offer is not permitted under the law of that place and, where appropriate, to holders of other equity securities of the Issuer entitled to be offered them, pro rata (apart from fractional entitlements) to their existing holdings; or~~

~~(b) ——— if, but only to the extent that, the existing shareholders of the Issuer have by ordinary resolution in general meeting given a general mandate to the directors of~~

~~the Issuer, either unconditionally or subject to such terms and conditions as may be specified in the resolution, to allot or issue such securities or to grant any offers, agreements or options which would or might require securities to be issued, allotted or disposed of, whether during the continuance of such mandate or thereafter, subject to a restriction that the aggregate number of securities allotted or agreed to be allotted must not exceed the aggregate of twenty per cent. of the existing issued share capital of the Issuer plus the number of such securities repurchased by the Issuer itself since the granting of the general mandate (up to a maximum number equivalent to ten per cent. of the existing issued share capital of the Issuer), provided that the existing shareholders of the Issuer have by a separate ordinary resolution in general meeting given a general mandate to the directors of the Issuer to add such repurchased securities to the twenty per cent. general mandate.~~

~~(3) A general mandate given under sub-paragraph 19(2)(b) shall only continue in force until:—~~

~~(a) the conclusion of the first annual general meeting of the Issuer following the passing of the resolution at which time it shall lapse unless, by ordinary resolution passed at that meeting, the mandate is renewed, either unconditionally or subject to conditions; or~~

~~(b) revoked or varied by ordinary resolution of the shareholders in general meeting,~~

~~whichever occurs first.~~

~~(4) For the purposes of sub-paragraph 19(1)(a)(ii), a “major subsidiary” has the same meaning as in paragraph 17(2).~~

~~19.3 An issue of securities for cash to a connected person pursuant to a general mandate given under sub-paragraph 19(2)(b) is only permitted in the circumstances set out in rule 14.24(6) of the Exchange Listing Rules.~~

## **ANNOUNCEMENTS, CIRCULARS AND OTHER DOCUMENTS**

### **Review of documents**

~~2013.52-~~ In addition to the specific requirements set out in the Exchange Listing Rules, ~~the Issuer~~an issuer shall:—

- (1) submit to the Exchange copies of drafts, for review before they are issued, of any announcements or advertisements relating to the issue of new or further securities (other than pursuant to a capitalisation issue or a scrip dividend scheme) or any announcements or advertisements the subject matter of which may involve a change in or relate to or affect arrangements regarding trading in its listed securities (including a suspension of dealings);
- (2) submit to the Exchange copies of drafts, for review before they are issued, of any documents issued in connection with takeovers, mergers or offers;
- (3) submit to the Exchange copies of drafts for review before they are issued, of any proposed amendment to its memorandum or articles of association or equivalent documents; and
- (4) not issue any of such documents until the Exchange has confirmed to the

~~Issuer/issuer~~ that it has no further comments thereon.

Notes : 1. 20.1—Four copies of each document are required, which should be submitted in sufficient time for review and, if necessary, re-submission prior to final printing.

2.20.2 In the case of documents issued in connection with takeovers, mergers or offers covered by the Takeovers Code, the Exchange will pass its comments on the document and, if appropriate, its confirmation that it has no further comments thereon in writing to the Commission who will notify the ~~Issuer/issuer~~ of any such comments and the Exchange's confirmation that it has no further comments thereon. The ~~Issuer/issuer~~ should ensure that the Commission furnishes it with a copy of the Exchange's letter confirming that it has no further comments thereon.

3.20.3 It is not necessary to submit a draft of an interim report or preliminary announcement of results so long as it conforms with Appendix 16 unless it contains any information falling within paragraph rule 2013.52(1).

4.20.4 Changes to articles of association or equivalent documents must conform with the requirements of Appendix 3 and, if applicable, the additional requirements set out in Appendix 13.

5. 20.5—The Exchange reserves the right to require an ~~Issuer/issuer~~ to issue a further announcement or document, particularly if the original announcement or document was not required by ~~this Agreement or~~ the Exchange Listing Rules to be reviewed by the Exchange, or if the original announcement or document is misleading or is likely to create a false or misinformed market.

6.20.6 Where an announcement or advertisement of a new or further issue of securities contains a profit forecast, the provisions of rules 14.61 and 14.62 ~~15 of the Exchange Listing Rules~~ will apply.

7. 20.7—Every announcement or advertisement which has been reviewed by the Exchange in accordance with the provisions of paragraph rule 2013.52(1) must contain on the front cover or on the top of the announcement or advertisement a prominent and legible disclaimer statement as follows:—

*“The Stock Exchange of Hong Kong Limited takes no responsibility for the contents of this advertisement/announcement, makes no representation as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this advertisement/announcement.”*

20A-13.53 The ~~Issuer/issuer~~ hereby authorises the Exchange to file “applications” (as defined in section 2 of the ~~Securities and Futures (Stock Market Listing) Statutory Rules~~) and those corporate disclosure materials within the meaning of sections 7(1) and (2) of the ~~Securities and Futures (Stock Market Listing) Statutory Rules~~ received by the Exchange with the Commission pursuant to sections 5(2) and 7(3)

of the ~~Securities and Futures (Stock Market Listing) Statutory~~ Rules respectively. Applications and relevant corporate disclosure materials shall be filed with the Exchange in such manner and number of copies as the Exchange may from time to time prescribe. The authorisation aforementioned shall not be altered or revoked in any way unless prior written approval has been obtained from the Exchange and the Exchange shall have the absolute discretion to grant such approval. In addition, the ~~Issuer~~ undertakes to execute such documents in favour of the Exchange perfecting the above authorisation as the Exchange may require.

#### Forwarding of documents, circulars, etc.

~~21.13.54.~~ ~~The Issuer~~ An issuer (other than a unit trust, mutual fund, open-ended investment company or other collective investment scheme authorised Collective Investment Schemes) shall forward to the Exchange:—

- (1) 25 copies of each of the English language version and the Chinese language version of:
  - (a) all circulars to holders of securities;
  - (b) ~~the directors' annual~~ report and ~~its annual~~ accounts and, where applicable, its summary financial report; and
  - (c) the interim report and, where applicable, its summary interim report,

at the same time as they are despatched to holders of the ~~Issuer~~'s listed securities with registered addresses in Hong Kong;

~~21.4~~ *Note* :—Wherever practicable the ~~Issuer~~ should provide the Exchange with such reasonable number of additional copies of these documents as the Exchange may request.

- (2) seven copies of documents relating to takeovers, mergers and offers, notices of meetings, forms of proxy, notices by advertisement to holders of its bearer securities, reports, announcements or other similar documents at the same time as they are issued; and
- (3) eight certified copies of all resolutions of the ~~Issuer~~ including resolutions concerning any of the matters set out in ~~paragraph rule 19.13.36~~, other than resolutions concerning any other routine business at an annual general meeting, within 15 days after they are passed.

~~Note~~ : ~~21.2~~ Copies of announcements issued by the ~~Issuer~~ must be delivered to the Exchange no later than its issue to any other party outside the ~~Issuer~~ or its immediate advisers.

~~21.3 Issuers who are unit trusts or mutual funds not subject to part G of this Appendix or open-ended investment companies or other collective investment schemes may satisfy this section by forwarding 10 certified copies of the documents set out herein to the Exchange and a certified electronic copy thereof (in an industry standard format to be specified from time to time by the Exchange) for publication on the Exchange's website.~~

### Circulars to holders of securities

~~22~~13.55- (1) In the event of a circular being issued to the holders of any of the ~~Issuer~~issuer's securities, the ~~Issuer~~issuer shall issue a copy or summary of such circular to the holders of all its other securities (not being bearer securities) unless the contents of such circular are of no material concern to such other holders.

~~22-4~~Note : *Where there is a class of listed securities in bearer form, it may be sufficient to publish in the newspapers an advertisement referring to the circular and giving an address or addresses from which copies can be obtained.*

(2) All circulars sent to holders of the ~~Issuer~~issuer's securities (and where an issuer's primary listing is or is to be on the Exchange, all circulars sent to holders of the issuer's securities on the Hong Kong register) must be in the English language and be accompanied by a Chinese translation. In respect of overseas members, it shall be sufficient for the ~~Issuer~~issuer to mail an English language version of the circular if it contains a prominent statement in both English and Chinese to the effect that a Chinese translation of the circular is available from the ~~Issuer~~issuer, on request. If the issuer's primary listing is or is to be on another stock exchange all circulars sent to holders of the issuer's securities must be in the English language or be accomplished by a certified translation.

(3) The issuer shall disclose in each circular to shareholders convening a general meeting the procedure by which shareholders may demand a poll pursuant to its constitutional documents.

### Corporate Communications to Non Registered Holders of Securities

~~22A~~13.56- ~~The Issuer~~An issuer shall, as soon as practicable following a request to HKSCC and at the expense of the ~~Issuer~~issuer send to any Non Registered Holder (by means permitted by the Exchange Listing Rules) copies of any corporate communications.

For the purposes of this ~~paragraph~~rule, "Non Registered Holder" shall mean:-

- (i) such person or company whose listed securities are held in CCASS; and
- (ii) who has notified the issuer from time to time through HKSCC that such person or company wishes to receive corporate communications.

### Increases in capital

~~23~~13.57- Where an increase in authorised capital is proposed, the directors must state in the explanatory circular or other document accompanying the notice of meeting whether they have any present intention of issuing any part of that capital.

## TRADING AND SETTLEMENT

### Certification of transfers

~~2413.58.~~ ~~The Issuer~~An issuer shall:—

- (1) certify transfers against certificates or temporary documents and return them by the seventh day after the date of receipt; and
- (2) split and return renounceable documents by the third business day after the date of receipt.

~~24.1~~Note:—*Documents of title lodged for registration of probate should be returned with the minimum of delay, and, if possible, on the next business day following receipt.*

### Registration services

~~2513.59.~~ ~~—~~(1) ~~The Issuer~~An issuer (or its registrar) must provide a standard securities registration service in accordance with ~~paragraphrule 13.2660~~(1). The ~~Issuer~~issuer (or its registrar) may, but shall not be obliged to, provide an optional securities registration service in accordance with ~~paragraphrule 2613.60~~(2) and/or an expedited securities registration service in accordance with ~~paragraphrule 2613.60~~(3). The ~~Issuer~~issuer (or its registrar) must also provide a bulk securities registration service in accordance with ~~paragraphrule 2613.60~~(4) and a certificate replacement service in accordance with ~~paragraphrule 2613.60~~(5). Subject to ~~sub-paragraphrule 13.59~~-(2)-below, the ~~Issuer~~issuer shall ensure that where the ~~Issuer~~issuer (or its registrar) charges a fee for registering transfers or cancelling, splitting, consolidating or issuing definitive certificates relating to the ~~Issuer~~issuer's listed securities, such fee must not exceed, in total, the applicable amounts prescribed in ~~paragraphrule 2613.60~~.

- (2) The ~~Issuer~~issuer shall ensure that where the ~~Issuer~~issuer (or its registrar) charges a fee for registering other documents relating to or affecting the title to the ~~Issuer~~issuer's listed securities (e.g. probate, letters of administration, certificates of death or marriage, powers of attorney or other instruments or memoranda and articles of association in respect of a new corporate holder) or for marking or noting documents, such fee must not exceed HK\$5 per item per register:

~~25.1~~Note — ~~—~~“per item” shall be defined to mean each of such other documents submitted for registration.

- (3) It is the responsibility of an ~~Issuer~~issuer whose registrar is in breach of any of the above provisions or the provisions of ~~paragraphrules 24, 26 or 2713.58, 13.60 or 13.61~~ of this Agreement to report such breach to the Exchange as soon as it becomes aware of the breach and the Exchange reserves the right to communicate such information to the Commission.
- (4) Save as provided above or in ~~paragraphrule 13.2660~~ the ~~Issuer~~issuer shall not and shall use all reasonable endeavour to ensure that neither ~~it nor~~ its registrar nor other agents will charge holders or transferees any other fees for any dealings with them in connection with the transfer or transmission of its listed securities.

Note: In the case of a PRC issuer, the requirements of rule 13.59 shall apply only to registration of its securities listed on the Exchange.

**Issue of certificates, registration and other fees**

- ~~2613.60-~~ (1) (a) Standard securities registration service: ~~The Issuer~~An issuer shall (or shall procure that its registrar shall) issue definitive certificates arising out of a registration of transfer or the cancelling, splitting, consolidating or issuing (otherwise than pursuant to ~~paragraph rule 2613.60~~rule 2613.60(5)) of certificates within:—
- (i) 10 business days of the date of expiration of any right of renunciation; or
  - (ii) 10 business days of the receipt of properly executed transfer or other relevant documents or the relevant certificates.
- (b) The fee for registration pursuant to the standard securities registration service shall not exceed, in total, the higher of the following:—
- (i) HK\$2.50 multiplied by the number of certificates issued; or
  - (ii) HK\$2.50 multiplied by the number of certificates cancelled.
- (2) (a) Optional securities registration service: The ~~Issuer~~issuer (or its registrar) may, but shall not be obliged to, provide an optional securities registration service under which definitive certificates are required to be issued within:—
- (i) 6 business days of the date of expiration of any right of renunciation; or
  - (ii) 6 business days of the receipt of properly executed transfer or other relevant documents or the relevant certificates.
- (b) The fee for registration pursuant to the optional securities registration service shall not exceed, in total, the higher of the following:—
- (i) HK\$3.00 multiplied by the number of certificates issued; or
  - (ii) HK\$3.00 multiplied by the number of certificates cancelled.
- (c) If the ~~Issuer~~issuer (or its registrar) fails to effect any registration within the period of 6 business days specified in ~~sub-paragraph rule 13.60-(2)~~sub-paragraph rule 13.60-(2)(a) ~~above~~, the fee for such registration shall be that determined in accordance with ~~paragraph rule 2613.60~~rule 2613.60(1)(b).
- (3) (a) Expedited securities registration service: The ~~Issuer~~issuer (or its registrar) may, but shall not be obliged to, provide an expedited securities registration service under which definitive certificates are required to be issued within:—
- (i) 3 business days of the date of expiration of any right of renunciation; or
  - (ii) 3 business days of the receipt of properly executed transfer or other

relevant documents or the relevant certificates.

- (b) The fee for registration pursuant to the expedited securities registration service shall not exceed, in total, the higher of the following:
    - (i) HK\$20.00 multiplied by the number of certificates issued; or
    - (ii) HK\$20.00 multiplied by the number of certificates cancelled.
  - (c) If the ~~Issuer~~ issuer (or its registrar) fails to effect any registration within the period of 3 business days specified in ~~sub-paragraph rule 13.60-(3)(a) above~~, the registration shall be performed free of charge.
- (4) (a) Bulk securities registration service: The ~~Issuer~~ issuer shall (or shall procure that its registrar shall) provide a bulk securities registration service, for transfers of listed securities representing 2,000 or more board lots of the ~~Issuer~~ issuer's listed securities where the securities are being transferred from the name of a single holder into the name of another or the same single holder. Certificates shall be issued pursuant to the bulk securities registration service within 6 business days of the receipt of properly executed transfers or other relevant documents or the relevant certificates.
- (b) The fee for registration pursuant to the bulk securities registration service shall not exceed, in total, the higher of the following:—
    - (i) HK\$2.00 multiplied by the number of certificates issued; or
    - (ii) HK\$2.00 multiplied by the number of certificates cancelled.
- (5) Certificate replacement service: The ~~Issuer~~ issuer shall (or shall procure that its registrar shall) provide a certificate replacement service. The fee for replacing certificates:—
- (a) representing securities with a market value of HK\$20,000 or less (at the time the request for replacement is made) for a person named on the register shall not exceed HK\$200.00, plus the costs incurred by the ~~Issuer~~ issuer (or its registrar) in publishing the required public notice; or
  - (b) either:
    - (i) representing securities with a market value of more than HK\$20,000 (at the time the request for replacement is made); or
    - (ii) for a person not named on the register (irrespective of the market value of the securities concerned);
- shall not exceed HK\$400.00, plus the costs incurred by the ~~Issuer~~ issuer (or its registrar) in publishing the required public notice.
- (6) For the purposes of this ~~paragraph rule 2613.60~~ only:—
- (a) the expression “business day” shall exclude Saturdays, Sundays and public holidays in Hong Kong; and
  - (b) in computing any period of business days, such period shall be inclusive

of the business day on which the relevant transfers, certificates or other documents were received (or, if such documents were not received on a business day, the business day next following their receipt) and of the business day on which the relevant certificates were delivered or otherwise made available.

Note: In the case of a PRC issuer, the requirements of rule 13.60 shall apply only to registration of its securities listed on the Exchange.

- (7) References in ~~paragraph~~rules 2513.59 and 2613.60 to the ~~Issuer~~issuer's registrar providing a service, or to the ~~Issuer~~issuer procuring that its registrar shall provide a service, shall not relieve the ~~Issuer~~issuer of any obligations in respect of any acts or omissions of its registrar.

#### Designated accounts

~~2713.61~~. ~~The Issuer~~An issuer shall, if requested by holders of securities, arrange for designated accounts.

#### Registration arrangements

~~2813.62~~. In connection with ~~paragraph~~rules 24, ~~25~~, ~~26~~13.58, 13.59, 13.60 and 2713.61 if the ~~Issuer~~issuer does not maintain its own registration department, appropriate arrangements must be made with the registrars to ensure compliance with the provisions of such ~~paragraph~~rules.

#### Bearer warrants

~~29.13.63~~ Where share warrants to bearer have been issued or the articles of association or equivalent documents of the ~~Issuer~~issuer authorise the issue of share warrants to bearer but none have yet been issued, the ~~Issuer~~issuer shall:—

- (1) issue such warrants in exchange for registered share certificates (and vice versa) within 14 days of the deposit of the share certificates (or warrants); and
- (2) certify transfers against the deposit of warrants within 14 days of receipt.

#### Trading limits

~~3013.64~~. Where the market price of the securities of the ~~Issuer~~issuer approaches the extremities of HK\$0.01 or HK\$9,995.00, the Exchange reserves the right to require the ~~Issuer~~issuer either to change the trading method or to proceed with a consolidation or splitting of its securities.

#### Change in Board Lot Size

~~3413.65~~. In the event of any amendment to ~~the an issuer's~~ capital structure (such as a consolidation of shares) or any amendment to the board lot size, the Exchange reserves the right to request that adequate arrangements are made to enable resulting odd lot holders either to dispose of their odd lots or to round them up to a board lot. It may be appropriate for the ~~Issuer~~issuer to appoint a broker as its agent to match the sales and purchases of odd lots or for the major shareholder itself or by its agent to stand in the market to buy or sell odd lot securities. The particular circumstances of an ~~Issuer~~issuer may dictate the method by which odd lot holders are to be accommodated and issuers are urged to consult the Exchange at the earliest opportunity to agree the appropriate trading method.

### **Closure of books**

~~5-13.66~~ ~~The Issuer~~ An issuer shall notify the Exchange in writing and publish in the newspapers a notice of the closure of its transfer books or register of members in respect of securities listed in Hong Kong at least 14 days before such closure. In cases where there is an alteration of book closing dates, the ~~Issuer~~ issuer shall, at least six days before the closure, notify the Exchange in writing and give further notice by way of publication in the newspapers. If, however, there are exceptional circumstances (e.g. a typhoon) that render the giving of such notification to the Exchange and publication of the notice impossible, the ~~Issuer~~ issuer shall comply with the requirements as soon as practicable.

~~5.4~~ Note : See Practice Note 8 for emergency share registration arrangements during a typhoon and/or a black rainstorm warning.

## **GENERAL**

### **Directors' dealings**

~~32-13.67~~ ~~The Issuer~~ An issuer shall adopt rules governing dealings by directors in listed securities of the ~~Issuer~~ issuer on terms no less exacting than those of the ~~Model Code~~ Model Code set out in Appendix 10 issued by the Exchange. The Model Code sets out the standard which the Exchange requires the issuer and its directors to meet and any breach of such required standard will be a breach of the Exchange Listing Rules. The issuer may adopt its own code on terms no less exacting than those set out in the Model Code. Any breach of its own code will not be a breach of the Exchange Listing Rules unless it is also a breach of the required standard under the Model Code.

~~32.1~~ The terms of the model code are set out in Appendix 10 to the Exchange Listing Rules.

### **Directors' service contracts**

~~33-13.68~~ ~~The Issuer~~ An issuer shall ~~procure that no service contract of ten years or longer duration shall be granted by the Issuer~~ procure that no service contract of ten years or longer duration shall be granted by the issuer or any of its subsidiaries to any director or proposed director of the issuer or to any director or proposed director of any subsidiary without obtain the prior approval of ~~its~~ the shareholders of the ~~Issuer~~ issuer in a general meeting (at which the relevant director and his associates shall ~~did~~ not vote on the matter) for any service contract to be granted by the issuer or any of its subsidiaries to any director or proposed director of the issuer or to any director or proposed director of any of its subsidiaries which:-

- (a) is for a duration that may exceed three years; or
- (b) in order to entitle the issuer to terminate the contract, expressly requires the issuer to give a period of notice of more than one year or to pay compensation or make other payments equivalent to more than one year's emoluments.

The remuneration committee of the issuer (if any and provided that such committee has a majority of independent non-executive directors) or an independent board committee shall form a view in respect of service contracts that require

shareholders' approval and advise shareholders (other than shareholders who are directors with a material interest in the service contracts and their associates) as to whether the terms are fair and reasonable, advise whether such contracts are in the interests of the issuer and its shareholders as a whole and advise shareholders on how to vote. An independent non-executive director who has a material interest in any such contracts shall not sit on the independent board committee.

33.4**Note :** *A contract is relevant whether or not reduced to writing. A service contract is relevant whether granted by the ~~Issuer~~issuer or any of its subsidiaries. A service contract not for a fixed period is to be regarded as running at least until the earliest date on which it can lawfully be determined by the employing company without payment of compensation (other than statutory compensation). Where an arrangement exists under which a director can require the ~~Issuer~~issuer or any of its subsidiaries to enter into a further service contract with him, the arrangement will be regarded as a provision for extending the period of his existing service contract and taken into account in determining its duration.*

13.69 Directors' service contracts entered into by the issuer or any of its subsidiaries in accordance with the Exchange Listing Rules on or before 31 January, 2004 are exempt from the shareholders' approval requirement under rule 13.68. Upon any variation as to duration or payment on termination or any other material terms of the directors' service contracts or renewal of any such directors' service contracts, the issuer must comply in full with the requirements set out in rule 13.68 in respect of the service contracts effected after such variation or renewal. Pursuant to paragraph 14A of Appendix 16, the issuer must include particulars of any service contracts that are exempt under this rule in its annual reports during the term of any such service contracts.

### **Subsequent listing**

~~34. The Issuer shall apply for the listing of any further securities which are of the same class as securities already listed, prior to their issue, and shall not issue such securities unless it has applied for the listing of those securities.~~

### **Proxy forms**

~~35. The Issuer shall send with the notice convening a meeting of holders of listed securities to all persons entitled to vote at the meeting proxy forms, with provision for two-way voting on all resolutions intended to be proposed thereat.~~

~~35.1 The object of the requirement relating to proxy forms is to ensure that holders have adequate opportunity to express their views on all resolutions intended to be proposed such as the adoption of the annual accounts and re-election of directors.~~

~~35.2 Provided two-way proxy forms are made available, the printing and postal arrangements are matters entirely at the discretion of the Issuer. The proxy form must state that if it is returned without an indication as to how the proxy shall vote on any particular matter the proxy will exercise his discretion as to whether he votes and if so how. The proxy form must state that a shareholder is entitled to appoint a~~

~~proxy of his own choice and must provide a space for the name of such proxy.~~

### **Nomination of directors**

13.70 The issuer shall publish an announcement in the newspapers or issue a supplementary circular upon receipt of a notice from a shareholder to propose a person for election as a director at the general meeting where such notice is received by the issuer after publication of the notice of meeting. The issuer shall include particulars of the proposed director in the announcement or supplementary circular.

*Note: The issuer must assess whether or not it is necessary to adjourn the meeting of the election to give shareholders at least 14 days to consider the relevant information disclosed in the announcement or supplementary circular.*

### **Notices to overseas members**

~~36.13.71~~ ~~The Issuer~~An issuer shall send notices to all holders of its listed securities whether or not their registered address is in Hong Kong.

13.72 Any notice to be given by an issuer under this Chapter shall be in writing and any notice to the holder of a bearer security may be given by being published in the newspapers.

13.73 In addition to any direction of the court, the issuer shall ensure that notice of every meeting of its shareholders or its creditors concerning the issuer (e.g. for winding up petitions, schemes of arrangement or capital reduction) is published by way of an announcement in the newspapers on the same day as it is given to those entitled to receive it. The issuer shall despatch a circular to its shareholders at the same time as (or before) the issuer gives notice of the general meeting to approve the transaction referred to in the circular. The issuer shall provide its shareholders with any material information on the subject matter to be considered at a general meeting that comes to the directors' attention after the circular is issued. The issuer must provide the information either in a supplementary circular or by way of an announcement in the newspapers not less than 14 days before the date of the relevant general meeting to consider the subject matter. The meeting must be adjourned before considering the relevant resolution to ensure compliance with this 14-day period requirement by the chairman or, if that is not permitted by the issuer's constitutional documents, by resolution to that effect (see also rule 13.41).

*Note: The issuer must assess the scale of revisions or updating required and materiality of the new information, revisions or updating required that has come to its attention since publication of the circular when deciding whether to issue a revised or supplementary circular or an announcement in the newspapers. Where the revisions or updating required are significant, the issuer must consider carefully whether it would be better to publish a revised or supplementary circular rather than provide particulars of the changes in an announcement. The issuer should not overwhelm or confuse investors with lengthy announcements describing changes to information contained in the original circular.*

13.74 The issuer shall also disclose the details required under rule 13.51(2) (see Note to rule 13.51(2)) of any directors proposed to be re-elected or proposed new director in the notice or accompanying circular to its shareholders of the relevant general

meeting, if such re-election or appointment is subject to shareholders' approval at that relevant general meeting (including, but not limited to, an annual general meeting).

### **Equality of treatment**

~~37.13.75~~ The Issuer~~An issuer~~ shall ensure equality of treatment for all holders of securities of the same class who are in the same position (except, in the case of a PRC issuer, to the extent otherwise provided in the PRC issuer's articles of association).

### **Use of Airmail**

13.76 Where this Chapter requires anything to be sent by any person in Hong Kong to any person outside Hong Kong and vice versa, such thing shall be sent, where practicable, by airmail or an equivalent service that is no slower.

### **Sufficient operations**

~~38.~~ ~~The Issuer shall carry out, directly or indirectly, a sufficient level of operations or have tangible assets of sufficient value and/or intangible assets for which a sufficient potential value can be demonstrated to the Exchange to warrant the continued listing of the Issuer's securities.~~

### **Response to enquiries**

~~39.~~ ~~The Issuer shall respond promptly to any enquiries made of the Issuer by the Exchange concerning unusual movements in the price or trading volume of its listed securities or any other matters by giving such relevant information as is available to the Issuer or, if appropriate, by issuing a statement to the effect that the Issuer is not aware of any matter or development that is or may be relevant to the unusual price movement or trading volume of its listed securities and shall also respond promptly to any other enquiries made of the Issuer by the Exchange.~~

~~39.1~~ ~~If the enquiry relates to unusual movements in the price or trading volume of securities and the directors of the Issuer are aware of any matter that might have relevance to such movements, an announcement clarifying the situation should be issued. If it is not possible to make such an announcement, for example because negotiations may have reached a delicate stage, a temporary suspension of dealings in the Issuer's securities may be necessary.~~

~~39.2~~ ~~If the directors of the Issuer are not aware of any matter that might have relevance to such movements (and only in such circumstances) the Issuer should issue an announcement in the following form:—~~

~~"This statement is made at the request of The Stock Exchange of Hong Kong Limited.~~

~~We have noted the recent increases/decreases in the price of the [shares/warrants] of the Company and wish to state that we are not aware of any reasons for such [increases/decreases].~~

~~We also confirm that there are no negotiations or agreements relating to intended acquisitions or realisations which are discloseable under paragraph 3 of the Listing Agreement, neither is the Board aware of any matter discloseable under the general obligation imposed by paragraph 2 of the Listing Agreement, which is or may be of a price-sensitive nature.~~

~~Made by the order of [ ] the Board of the directors of which individually and jointly accept responsibility for the accuracy of this statement."~~

### **Meetings of Shareholders**

- ~~40. (1) A company proposing to solicit proxies or votes in connection with any general meeting of the company may only use for such purpose previously published information which remains accurate and is not misleading at the time it is quoted.~~
- ~~(2) Shareholders must not be put under pressure to vote or abstain from voting at any general meeting and, where their votes are solicited, must be encouraged to consult their professional advisers.~~
- ~~(3) If the Chairman of the meeting and/or the directors individually or collectively hold proxies in respect of shares holding five percent or more of the total voting rights at a particular meeting, and if on a show of hands a meeting votes in the opposite manner to that instructed in those proxies, the Chairman and/or the directors and the Chairman holding proxies as aforesaid collectively shall demand a poll; provided that if it is apparent from the total proxies held that a vote taken on a poll will not reverse the vote taken on a show of hands (because the votes represented by those proxies exceed 50%, 75% or any other relevant percentage, as the case may be, of the total issued share entitled to vote on the resolution in question,) then the directors and/or the Chairman shall not be required to demand a poll.~~

### **Variation**

- ~~41. (1) The Exchange shall be entitled to require the publication of further information by and impose additional requirements on the Issuer where it considers that circumstances so justify, but will allow representations by the Issuer before imposing any such requirements on it which are not imposed on listed issuers generally.~~

~~41.1 See Note 20.5.~~

- ~~(2) The Exchange shall be entitled, subject to the consent of the Commission, to revise the terms of this Agreement and the related notes generally, and the Issuer agrees that it will comply with any such revision and will, if so required, enter into a new listing agreement in the revised form by way of confirmation.~~

### **Law**

- ~~42. This Agreement is governed by and shall be construed in accordance with the laws of Hong Kong and the Issuer hereby submits to the jurisdiction of the courts of Hong Kong.~~

### Directors' contact information

~~43.13.77~~ ~~The Issuer~~An issuer shall inform the Exchange as soon as reasonably practicable of any change(s) in the contact information, including address(es) and telephone number(s), of its directors (and, in the case of a PRC issuer, supervisors).

~~44.13.78~~ If and when requested by the Exchange, ~~the Issuer~~an issuer shall use its best endeavours to assist the Exchange to locate the whereabouts of any director (or, in the case of a PRC issuer, supervisor) who has since resigned from his directorship in the ~~Issuer~~issuer.

### Communication with the Exchange

~~13.79~~ References in this Chapter, Chapter 14 and Chapter 14A to informing the Exchange mean delivery of the relevant information to the Exchange in the manner determined by the Exchange from time to time and promulgated by way of a practice note to the Exchange Listing Rules.

~~IN WITNESS WHEREOF the parties hereto have hereunto set their hands this~~  
day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
~~for and on behalf of the~~  
~~Issuer as authorised thereto~~  
~~by resolution of the board of~~  
~~directors dated \_\_\_\_\_~~

\_\_\_\_\_  
for and on behalf of the Exchange