

Chapter 6

General

Suspension, Cancellation and withdrawal of listing

- 6.01 Listing is always granted subject to the condition that where the Exchange considers it necessary for the protection of the investor or the maintenance of an orderly market, it may at any time suspend dealings in any securities or cancel the listing of any securities in such circumstances and subject to such conditions as it thinks fit, whether requested by the issuer or not. The Exchange may also do so where:—
- (1) an issuer fails, in a manner which the Exchange considers material, to comply with the Exchange Listing Rules ~~or its Listing Agreement~~; or
 - (2) the Exchange considers there are insufficient securities in the hands of the public (see rule 8.08(1)); or
 - (3) the Exchange considers that the issuer does not have a sufficient level of operations or sufficient assets to warrant the continued listing of the issuer's securities (see ~~rule 13.24 clause 38 of the Listing Agreement set out in Parts A and B of Appendix 7~~); or
 - (4) the Exchange considers that the issuer or its business is no longer suitable for listing.

Suspension

- 6.02 Any request for suspension must be made to the Exchange by the issuer or the issuer's authorised representative or financial adviser and must be supported by the specific reasons which the issuer wishes the Exchange to take into account in the Exchange's determination whether or not trading in the issuer's securities should be suspended.

Note: (1) Recourse to suspension should only be made where necessary in the interests of all parties. In many cases, the issue of an announcement by the issuer is preferable to the fettering of the proper functioning of the market by inappropriate or unwarranted suspension. Unless the Exchange considers that the reasons given in support of a suspension request warrant such action, it will expect a clarifying announcement to be issued instead. Failure by an issuer to do so may result in a public statement of criticism by the Exchange directed at the issuer. The Exchange does not feel it necessary or appropriate to suspend dealings following the publication of an announcement in the press, simply on the grounds of allowing that information to circulate through the market.

- (2) See Practice Note 11

- 6.03 The burden shall be on the issuer requesting a suspension of trading in its securities to satisfy the Exchange that a suspension would be appropriate.

Note : (1) The Exchange is under an obligation to maintain a orderly and fair market for the trading of all Exchange listed securities and listed securities should

be continuously traded save in exceptional circumstances.

- 6.04 Where dealings have been suspended, the procedure for lifting the suspension will depend on the circumstances and the Exchange reserves the right to impose such conditions as it considers appropriate. The issuer will normally be required to announce the reason for the suspension and, where appropriate, the anticipated timing of the lifting of the suspension. In some cases (for example a temporary suspension pending an announcement) the suspension will be lifted as soon as possible after the announcement is made. In other cases (for example those in rules ~~14.07 and~~ 14.8435) the suspension will be continued until any relevant requirements have been met. The continuation of a suspension for a prolonged period without the issuer taking adequate action to obtain restoration of listing may lead to the Exchange cancelling the listing.

Note : (1) See Practice Note 11

- 6.05 The duration of any suspension should be for the shortest possible period. It is the responsibility of the issuer of securities suspended from trading to ensure that trading in its securities resumes as soon as practicable following the publication of an appropriate announcement or when the specific reasons given by the issuer in support of its request for a suspension of trading in its securities, pursuant to Rule 6.02, no longer apply.

Note : (1) The Exchange is under an obligation to maintain a orderly and fair market for the trading of all Exchange listed securities and listed securities should be continuously traded save in exceptional circumstances

- (2) The Exchange considers that the continuation of any suspension beyond such period as is absolutely necessary denies reasonable access to the market and prevents its proper functioning.

- 6.06 Where trading has been suspended the issuer of the relevant securities shall notify the Exchange of :

- (1) any change in circumstances affecting the reasons provided to the Exchange in support of the suspension pursuant to Rule 6.02; and
- (2) any additional reasons which the issuer wishes the Exchange to take into account in the Exchange's determination whether or not the suspension of dealing in the issuer's securities should be continued.

Note : (1) It is the responsibility of the issuer of the suspended securities to provide the Exchange with all relevant information, which is within the knowledge of issuer, to enable the Exchange to take an informed decision whether or not the suspension of trading in that issuer's securities continues to be appropriate.

- 6.07 The Exchange shall have the power to direct the resumption of trading of suspended securities. In particular the Exchange may :

- (1) require a listed issuer to publish an announcement, in such terms and within such period as the Exchange shall in its discretion direct, notifying the resumption of trading in the issuer's suspended securities, following the publication of which the Exchange may direct resumption of trading; and/or
- (2) direct a resumption of trading following the publication of an announcement by the Exchange notifying the resumption of trading in the suspended securities.

- 6.08 The power conferred upon the Exchange by Rule 6.07 shall not be exercised without first giving the issuer of the suspended securities the opportunity of being heard in accordance with Rule 2B.07(6). At any hearing in connection with a direction pursuant to Rule 6.07, the burden shall be on the issuer opposing the resumption of trading in its securities to satisfy the Exchange that a continued suspension would be appropriate.
- Note : (1) The Exchange is under an obligation to maintain a orderly and fair market for the trading of all Exchange listed securities and listed securities should be continuously traded save in exceptional circumstances.
- (2) The Exchange considers that the continuation of any suspension beyond such period as is absolutely necessary denies reasonable access to the market and prevents its proper functioning.
- (3) See Practice Note 11.
- 6.09 The power conferred upon the Exchange by Rule 6.07 shall be exercised without prejudice to the ability of the Exchange to pursue such other remedies as may be available to it under the Listing Rules.
- 6.10 There may be cases where a listing is cancelled without a suspension intervening. Where the Exchange considers that an issuer or its business is no longer suitable for listing it will publish an announcement naming the issuer and specifying the period within which the issuer must have remedied those matters which have rendered it unsuitable for listing. Where appropriate the Exchange will suspend dealings in the securities of the issuer. If the issuer fails to remedy those matters within the period set out in the announcement the Exchange will cancel the listing. Any proposals to remedy those matters will be treated as if they were an application for listing from a new applicant for all purposes and the issuer will be required (inter alia) to issue a listing document which contains all of the specific items of information set out in Part A of Appendix 1 ~~and~~ pay the initial listing fee ~~and execute a new Listing Agreement~~.

Withdrawal

- 6.11 ~~Subject to rule 6.15, A~~an issuer whose primary listing is on the Exchange and which has an alternative listing on another regulated, regularly operating, open stock exchange recognised for this purposes by the Exchange, may not voluntarily withdraw its listing on the Exchange unless:—
- (1) the prior approval of shareholders has been obtained by way of an ordinary resolution passed at a duly convened meeting of the shareholders of the issuer;
 - (2) the prior approval of holders of any other class of listed securities, if applicable, has been obtained; and
 - (3) the issuer has given its shareholders and holders of any other class of listed securities, if applicable, at least three months notice of the proposed withdrawal of the listing. This minimum notice period must run from the date on which the shareholders approve the voluntary withdrawal of listing and such notice must include details of how to transfer securities to and trade those securities on the alternative market.

In deciding whether an alternative listing is acceptable the Exchange must be satisfied that the alternative market is open and readily accessible by Hong Kong investors. A market to which access by Hong Kong investors is restricted (for example, by foreign exchange controls) will not be acceptable.

6.12 Subject to rule 6.15, if the issuer has no such alternative listing, the issuer may not voluntarily withdraw its listing on the Exchange without the permission of the Exchange unless:—

- (1) the issuer has obtained the prior approval of its shareholders and holders of any other class of listed securities, if applicable, at a duly convened meeting of shareholders and a separate meeting of holders of any other class of listed securities, if applicable, at which ~~the directors, chief executive and~~ any controlling shareholders ~~or~~ and their respective associates shall abstain from voting in favour. 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. The issuer must disclose the information required under rule 2.17 in the circular to shareholders;
- ~~(2)~~ the approval of withdrawal of the listing referred to in rule 6.12(1) must be given by at least 75% of the votes attaching to any class of listed securities held by holders, do not vote and, at the shareholders meeting, a majority in number representing three-fourths in value of the shareholders present and voting either in person or by proxy at the meeting vote in favour; and. For the purpose of determining the percentage, the listed securities held by directors, the chief executive and any controlling shareholders or their respective associates that vote against the resolution at the meeting are to be included;
- ~~(3)~~ the number of votes cast against the resolution is not more than 10% of the votes attaching to any class of listed securities held by holders permitted under rule 6.12(1) to vote in person or by proxy at the meeting. For the purpose of determining the percentage, the listed securities held by directors, the chief executive and any controlling shareholders or their respective associates that vote against the resolution at the meeting are to be included; and
- ~~(24)~~ the shareholders and holders of any other class of listed securities, if applicable, other than the directors (excluding independent non-executive directors), chief executive and controlling shareholders, are offered a reasonable cash alternative or other reasonable alternative.

~~6.13~~ In relation to any withdrawal of listing under rule 6.12, the Exchange reserves the right to require the following parties to abstain from voting in favour of the relevant resolution at the meeting:

- ~~(1)~~ any parties who were controlling shareholders of the issuer at the time the decision for the transaction or arrangement involving the withdrawal of listing was made or approved by the board, and their associates; and
- ~~(2)~~ 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 for the transaction or arrangement involving the withdrawal of listing was made or approved by the board, and their respective associates.

The issuer must disclose the information required under rule 2.17 in the circular to shareholders.

6.14 In relation to any withdrawal of listing under rule 6.12, the issuer must comply with the requirements under rules 13.39(4), (5), (6) and (7), 13.40, 13.41 and 13.42.

6.15 An issuer may voluntarily withdraw its listing on the Exchange, irrespective of whether it has an alternative listing or not, if:-

(1) after a general offer a right to compulsory acquisition is exercised pursuant to applicable laws and regulations (the requirements of which are, where the issuer is not a company incorporated in Hong Kong, at least as onerous as those applicable if it were) resulting in the acquisition of all the listed securities of the issuer; or

(2) the issuer is privatised by way of a scheme of arrangement or capital reorganisation which is governed by the Takeovers Code and all the relevant requirements, including the shareholders' approval requirements, under the Takeovers Code have been complied with,

and, in either case, it has given its shareholders notice of the proposed withdrawal of the listing by way of an announcement published in the newspapers and the intention not to retain the issuer's listing on the Exchange has been stated in a circular to shareholders.

6.16 An issuer whose primary listing is on another stock exchange and which has a secondary listing on the Exchange may not voluntarily withdraw its secondary listing on the Exchange unless:

(1) it has complied with all relevant laws, regulations and listing rules of the jurisdiction in which it has its primary listing, as well as all relevant laws and regulations of its jurisdiction of incorporation, in relation to its proposed delisting from the Exchange; and

(2) it has given its shareholders at least three months' prior notice of the proposed withdrawal of the listing by way of an announcement published in the newspapers.