

Chapter 27

DEBT SECURITIES

QUALIFICATIONS FOR LISTING

Preliminary

27.01 This Chapter does not apply to debt issues to professional investors only. It sets out the basic conditions which have to be met as a pre-requisite to the listing of debt securities.

27.02 Issuers are reminded:—

- (1) that these requirements are not exhaustive and that the Exchange may impose additional conditions in a particular case; and
- (2) that the Exchange retains an absolute discretion to accept or reject applications for listing and that compliance with the relevant conditions may not of itself ensure suitability for listing.

Prospective issuers are therefore encouraged to contact the Exchange to seek informal and confidential guidance as to the eligibility of a proposed issue for listing at the earliest possible opportunity.

Basic conditions

27.03 No issuer may list its debt securities on GEM unless its equity securities, or the equity securities of its holding company, are already listed on GEM or will be listed on GEM at the same time as the issuer's debt securities.

27.04 Chapter 6A does not apply to initial listings of debt securities. However:—

- (1) where a new applicant (or holding company of the new applicant), that seeks a listing of debt securities on GEM, seeks such listing at the same time as seeking to list its (or its holding company's) equity securities on GEM, then the Sponsor appointed by the new applicant pursuant to rule 6A.02 (or another Sponsor firm specifically appointed for the purpose) must advise the new applicant in connection with the issue and listing of the debt securities;
- (2) a new applicant (or holding company of the new applicant) seeking a listing of debt securities on GEM in circumstances other than those described in paragraph (1) above, must appoint a financial adviser, acceptable to the Exchange, to advise the new applicant in connection with the issue and listing of the debt securities.

27.04A In exercising its discretion under rule 27.04 to determine whether a financial adviser is acceptable, the Exchange may have regard to paragraphs (3) to (7) of the test of independence set out in rule 6A.07 as those paragraphs would apply to the relationships between the financial adviser and the issuer.

27.05 The issuer and the guarantor, in the case of a guaranteed issue, must each be duly incorporated or otherwise established under the laws of the place where it is incorporated or otherwise established and must be in conformity with those laws and its memorandum and articles of association or equivalent documents.

- 27.06 The issuer and the guarantor, in the case of a guaranteed issue, must have each produced audited accounts in accordance with its national law covering at least the 2 financial years preceding the application for listing.
- 27.07 In the case of a new applicant, the latest financial period reported on by the reporting accountants (see Chapter 7) must not have ended more than 6 months before the date of the listing document.
- 27.08 The nominal amount of each class of debt securities for which listing is sought must be at least HK\$30,000,000. Issues of debt securities which are or are to be uniform in all respects with debt securities of a class already listed are not subject to this limit.
- Notes: 1 In exceptional cases, a lower minimum nominal amount may be acceptable where the Exchange is satisfied as to marketability.*
- 2 In the case of options, warrants or similar rights to subscribe or purchase debt securities, the same limit will apply as would apply to the underlying debt securities to be subscribed or purchased.*
- 27.09 The debt securities for which listing is sought must be freely transferable.
- 27.10 The issue and listing of the debt securities for which listing is sought must be in conformity with the law of the place where the issuer is incorporated or otherwise established and in conformity with the issuer's memorandum and articles of association or equivalent documents and all authorisations needed for their creation and issue under such law or documents must have been duly given. The same applies, mutatis mutandis, to the giving of any related guarantee by a guarantor.
- 27.11 Debt securities to which options, warrants or similar rights to subscribe or purchase equity securities or debt securities are attached must also comply with the requirements applicable to such options, warrants or similar rights (see Chapter 33 as appropriate).
- 27.12 The issuer must maintain a paying agent at an address in Hong Kong until the date on which no debt security is outstanding unless the issuer performs that function itself.
- 27.13 In the case of registered securities (other than those transferable by endorsement and delivery), provision must be made for a register of holders to be maintained in Hong Kong, or such other place as the Exchange may agree and for transfers to be registered locally. The Exchange may, however, consider an alternative proposal for registering transfers for Hong Kong holders in exceptional circumstances.

Stabilisation

- 27.14 Any activities or transactions carried out prior to the commencement of dealings with a view to stabilising or maintaining the market price of the debt securities at levels other than those which might otherwise prevail must only be effected in accordance with all applicable statutory provisions or regulations. If any such activities or transactions are not effected in accordance with such provisions or regulations the application for listing will be rejected by the Exchange.

Guarantors and guaranteed issues

- 27.15 Where listing is sought for debt securities of an issuer guaranteed or secured by another legal person not being its holding company, the guarantor will be required to comply with the GEM Listing Rules to the same extent as if such guarantor were the issuer of the relevant debt securities. In particular:—

- (1) a listing document issued in relation to a guaranteed issue must contain the same information regarding the guarantor as that regarding the issuer, so that, where appropriate, references in paragraphs of Part C of Appendix 1 to “issuer” should be read as applying equally to the guarantor; and
 - (2) a guarantor will be required to undertake (in the prescribed form set out in Appendix 5C, amended as appropriate so as to apply to the guarantor) to comply with the GEM Listing Rules applicable to issuers of debt securities, save for any that are stated not to apply.
- 27.16 The relevant guarantee must be issued in conformity with the law of the place where the guarantor is incorporated or otherwise established and in conformity with the guarantor’s memorandum and articles of association or equivalent documents and all authorisations needed for its issue under such law or documents must have been duly given.
- 27.17 The matters to be included or reported on under rules 7.03 and 7.04, if applicable, must be extended to the guarantor and its subsidiaries as well as the issuer.