

Appendix 4

Trust Deeds or Other Documents Securing or Constituting Debt Securities

The provisions of this appendix do not apply to debt issues to professional investors only. If there is a trustee:—

- (i) one of the trustees or the sole trustee must be a trust corporation which must have no interest in or relationship to the issuer which might conflict with the position of trustee; and
- (ii) in the event of the office of trustee becoming vacant, a new trustee must be approved by an extraordinary resolution of the holders of the relevant class of debt securities unless such holders have a general power to remove any trustee and appoint another trustee in his place.

Trust deeds or other corresponding documents must contain provisions to the following effect:—

As regards Redemption

- 1. (1) That where power is reserved to purchase a debt security:—
 - (a) purchases not made through the market or by tender shall be limited to a maximum price; and
 - (b) if purchases are by tender, tenders shall be available to all holders of the debt securities alike.
- (2) That where the outstanding amount of a debt security subject to redemption by drawings is not less than HK\$2,000,000 the lots into which the issue is to be divided for the purpose of a drawing may, if required, be of not more than HK\$1,000 but otherwise must be of not more than HK\$100.
- (3) That where a debt security is repayable on a particular date the year of redemption must be indicated by inclusion in the title of the debt security; that where a debt security may be repaid within a fixed period that period must be indicated in the title by the inclusion of the first and last years of the period; and that where a debt security will be irredeemable that debt security must be described as such.

As regards Conversion Rights

- 2. (1) That during the existence of conversion rights:—
 - (a) unless provision is made for appropriate adjustment of the conversion rights, the issuer must be precluded from effecting any reduction of capital involving repayment of capital or reduction of uncalled liability;
 - (b) the creation of a new class of equity share capital shall be prohibited or restricted within specified limits referred to in the terms of issue;
 - (c) unless provision is made for appropriate adjustment of the conversion, the issuer must be precluded from effecting any capitalisation of profits or reserves save in respect of shares issued in lieu of dividends;
 - (d) the granting of conversion rights into or of options to subscribe for equity capital shall be prohibited or restricted within specified limits;

- (e) if the issuer makes or gives to its shareholders any offer or right in relation to securities of the issuer or any other issuer (other than in relation to shares, issued in lieu of dividend) then the issuer must at the same time make or give to the holders of the convertible debt securities the like offer or right on the appropriate basis having regard to their conversion rights;
 - (f) in the event of voluntary liquidation (except for the purpose of reconstruction or amalgamation on terms previously approved by the trustees or by an extraordinary resolution of the holders) the holders of the convertible debt securities must, for a limited period, have rights equivalent to conversion;
 - (g) the issuer shall maintain at all time sufficient unissued capital to cover all outstanding conversion rights;
 - (h) where provision is made enabling the issuer at its option to repay or convert the debt security if a specified proportion of the debt security has been converted, such right shall apply to the whole of the debt security outstanding and shall only be exercisable if notice of intention of such exercise is given within 1 month after the expiry of those conversion rights which were at the holders' option;
 - (i) all necessary allotments of shares consequent upon a conversion must be effected not later than 14 days after the last date for lodging notices of conversion; and
 - (j) the following must be prohibited or restricted in the terms of issue (unless sanctioned by an extraordinary resolution passed at a separate class meeting of the holders of the securities):
 - (i) any purchase by the company of its own shares; and
 - (ii) the creation or issue of any new class of equity share capital;
- (2) That holders of the debt security must be given not less than 4 nor more than 6 weeks' notice in writing prior to the end of each conversion period reminding them of the conversion right then arising or current and stating the relative basis of conversion (after taking into account any required adjustments).
- (3) That the designation of any convertible debt security must include the word "convertible" until the expiration of conversion rights, whereupon that word must cease to form part of the designation.

As regards Meetings and Voting Rights

3. (1) That not less than 21 days' notice must be given of a meeting for the purpose of passing an extraordinary resolution.
- (2) That a meeting of holders of the debt securities must be called on a requisition in writing signed by holders of at least one-tenth of the nominal amount of the debt securities for the time being outstanding.
- (3) That the quorum for a meeting (other than an adjourned meeting) for the purpose of passing an extraordinary resolution shall be the holders of a clear majority of the outstanding principal amount of the debt securities.
- (4) That the necessary majority for passing an extraordinary resolution shall be not less than three-fourths of the persons voting thereat on a show of hands and if a poll is demanded then not less than three quarters of the votes given on such a poll.

- (5) That on a poll, each holder of debt securities must be entitled to at least one vote in respect of each of those amounts held by him which represents the lowest denomination in which such debt securities can be transferred.
- (6) That a proxy need not be a holder of the debt securities.

As regards Transfer

4. That transfers and other documents relating to or affecting the title to any debt securities shall be registered and where any fee or fees is/are charged, such fee or fees shall not exceed the maximum fees prescribed by the Exchange from time to time in the GEM Listing Rules.

As regards Definitive Certificates

5. (1) That the fee for a new certificate issued to replace one that has been worn out, lost or destroyed shall not exceed the maximum fee prescribed by the Exchange from time to time in the GEM Listing Rules and that where a holder of securities other than bearer securities has sold part of his holding, he must be entitled to a certificate for the balance without charge.
- (2) That on any partial repayment of the amount due on the debt security, unless a new document is issued, a note of such payment shall be enfaced (not endorsed) on the document.

As regards Security

6. (1) Debt securities which constitute an unsecured liability must be designated as "Unsecured".
- (2) That the designation in a trust deed of debt securities must not include the word "Mortgage" unless they are fully secured by a specific mortgage or charge.

As regards Unclaimed Interest

7. Where power is taken in the trust deed to forfeit unclaimed interest, that power must not be exercisable until 6 years or more after the due date of payment of the interest to be forfeited.

Register

8. The closing of the register must be discretionary.

Amendments

9. A circular to holders of debt securities in connection with proposed amendments to a trust deed must:
 - (a) include an explanation of the effect of the proposed amendments;
 - (b) include either the full terms of the proposed amendments, or a statement that they will be:
 - (i) published on the Exchange's website and the issuer's own website from the date of the despatch of the circular until the close of the relevant general meeting; and
 - (ii) made available for inspection at the place of the general meeting for at least 15 minutes prior to and during the meeting; and
 - (c) comply with other applicable requirements.