

The Stock Exchange of Hong Kong Limited

Practice Note 5

to the Rules Governing the Listing of Securities
(the “Exchange Listing Rules”)

Issued pursuant to rule 1.06 of the Exchange Listing Rules

DISCLOSURE OF INTERESTS INFORMATION

1. Definitions

Terms used in this Practice Note which are defined or interpreted in the Exchange Listing Rules shall have the same meaning as in the Exchange Listing Rules.

2. The requirements of the Exchange Listing Rules

Paragraphs 45 of Part A, 38 of Part B and 49 of Part C of Appendix 1 and paragraph 13 of Appendix 16 of the Exchange Listing Rules require issuers to disclose, in certain listing documents and annual and interim reports, details of substantial shareholders’ and certain other persons’ interests and short positions in the shares and underlying shares of the issuer and directors’ and chief executives’ interests and short positions in the shares, underlying shares and debentures of the issuer and any associated corporation, as recorded (or, in the case of a new listing, to be recorded) in the registers required to be kept under sections 336 and 352 of the Securities and Futures Ordinance (“SFO”), subject to certain stated exceptions or waivers that may be given by the Exchange. Certain circulars to shareholders may also be required to contain such information.

Note: The Exchange may consider an application for a waiver from strict compliance with Practice Note 5, paragraphs 41(4) and 45 of Appendix 1A and paragraphs 34 and 38 of Appendix 1B, paragraphs 41(4) and 45 of Appendix 1E, and paragraphs 30 and 34 of Appendix 1F (where applicable) for issuers with, or seeking, a secondary listing under Chapter 19C, on conditions that:—

- (a) *the Commission grants a certificate of exemption from strict compliance with Part XV of the SFO;*

- (b) *the issuer undertakes to file with the Exchange, as soon as practicable, any declaration of shareholding and securities transactions made to the overseas stock exchange by the directors, executive officers or substantial shareholders under relevant laws; and*
- (c) *the following is disclosed in present and future listing documents:*
 - (i) *in the same manner as required under the SFO, any such interests that were reported to and published by the overseas stock exchange under the relevant law; and*
 - (ii) *the relationship between its directors, officers, members of committees and their relationship to any controlling shareholder.*

3. Presentation of interests and short positions required to be disclosed under Part XV of the SFO

- 3.1 In order to provide shareholders and investors with more meaningful information, the Exchange requires that any statement showing the “interests” (both long and short positions) of substantial shareholders and certain other persons, directors and chief executives, whose interests are recorded in the registers required to be kept under sections 336 and 352 of the SFO must set out the details of their interests in accordance with this Practice Note. Statements disclosing interests and short positions in shares, underlying shares and debentures have to separately refer to three categories of persons, namely, directors and chief executives, substantial shareholders, and other persons who are required to disclose their interests pursuant to Part XV of the SFO.
- 3.2 Statements disclosing interests and short positions in shares, underlying shares and debentures should describe the capacity in which such interests and short positions are held and the nature of such interests and short positions as disclosed in the prescribed forms required to be used by substantial shareholders and certain other persons, and directors and chief executives, when giving notice pursuant to sections 324 and 347 of Part XV of the SFO. Where interests or short positions are attributable on account of holdings through corporations that are not wholly-owned by the person making disclosure, the percentage interests held by such person in such corporations should be disclosed.

3.3 For directors and chief executives, the statements should show details of the following matters as recorded in the register required to be kept under section 352 of the SFO:

- (1) aggregate long position in shares and (in respect of positions held pursuant to equity derivatives) underlying shares and in debentures of the issuer and its associated corporation(s) showing separately for each entity:
 - (a) interests in shares (other than pursuant to equity derivatives such as share options, warrants to subscribe or convertible bonds);
 - (b) interests in debentures; and
 - (c) interests under equity derivatives showing separately for listed and unlisted equity derivatives, interests in underlying shares of the entity pursuant to:
 - (i) physically settled equity derivatives;
 - (ii) cash settled equity derivatives;
 - (iii) other equity derivatives.

Notes:

- (1) *In the case of issuers and associated corporations, the statements should include the percentage which the aggregate long position in shares represents to the issued voting shares of the issuer or associated corporation.*
- (2) *A long position arises where a person is a party to an equity derivative, by virtue of which the person:*
 - (i) *has a right to take the underlying shares;*
 - (ii) *is under an obligation to take the underlying shares;*
 - (iii) *has a right to receive money if the price of the underlying shares increases; or*
 - (iv) *has a right to avoid or reduce a loss if the price of the underlying shares increases.*

- (3) *For (c)(i) above, in respect of options granted to directors or chief executives pursuant to share option schemes under Chapter 17 of the Exchange Listing Rules, the statements should show such details as are required to be disclosed under rule 17.07(1) of the Exchange Listing Rules.*
- (2) aggregate short position in shares and (in respect of positions held pursuant to equity derivatives) underlying shares and in debentures of the issuer and its associated corporation(s) showing separately for each entity:
- (a) short positions in respect of shares arising under a stock borrowing and lending agreement; and
 - (b) short positions under equity derivatives showing separately for listed and unlisted equity derivatives, interests in underlying shares of the entity pursuant to:
 - (i) physically settled equity derivatives;
 - (ii) cash settled equity derivatives; and
 - (iii) other equity derivatives.

Notes:

- (1) *In the case of issuers or associated corporations, the statements should include the percentage which the aggregate short position in shares represents to the issued voting shares of the issuer or associated corporation.*
- (2) *A short position arises:*
- (i) *where the person is the borrower of shares under a securities borrowing and lending agreement, or has an obligation to deliver the underlying shares to another person who has lent shares;*
 - (ii) *where the person is the holder, writer or issuer of any equity derivatives, by virtue of which the person –*
 - (a) *has a right to require another person to take the underlying shares of the equity derivatives;*
 - (b) *is under an obligation to deliver the underlying shares of the equity derivatives to another person;*
 - (c) *has a right to receive from another person money if the price of the underlying shares declines; or*
 - (d) *has a right to avoid a loss if the price of the underlying shares declines.*

3.4 For substantial shareholders, the statements should show details of the following matters as recorded in the register required to be kept under section 336 of the SFO:

- (1) aggregate long position in the shares and (in respect of positions held pursuant to equity derivatives) underlying shares of the issuer showing separately:
 - (a) interests in shares (other than pursuant to equity derivatives such as share options, warrants to subscribe or convertible bonds); and
 - (b) interests under equity derivatives showing separately for listed and unlisted equity derivatives, interests in underlying shares of the entity pursuant to:
 - (i) physically settled equity derivatives; and
 - (ii) cash settled equity derivatives.

Notes:

- (1) *The term “substantial shareholder” has the same meaning as defined in Chapter 1 of the Exchange Listing Rules.*
- (2) *The statements should include the percentage which the aggregate long position in shares represents to the issued voting shares of the issuer.*
- (3) *A long position arises where a person is a party to an equity derivative, by virtue of which the person:*
 - (i) has a right to take the underlying shares;*
 - (ii) is under an obligation to take the underlying shares;*
 - (iii) has a right to receive money if the price of the underlying shares increases; or*
 - (iv) has a right to avoid or reduce a loss if the price of the underlying shares increases.*
- (4) *For (b)(i) above, in respect of options granted to substantial shareholders pursuant to share option schemes under Chapter 17 of the Exchange Listing Rules, the statements should show such details as are required to be disclosed under rule 17.07(1) of the Exchange Listing Rules.*

- (2) aggregate short position in shares and (in respect of positions held pursuant to equity derivatives) underlying shares of the issuer showing separately:
 - (a) short positions in respect of shares arising under a stock borrowing and lending agreement; and
 - (b) short positions under equity derivatives showing separately for listed and unlisted equity derivatives, interests in underlying shares of the entity pursuant to:
 - (i) physically settled equity derivatives; and
 - (ii) cash settled equity derivatives.

Notes:

- (1) *The statements should include the percentage which the aggregate short position in shares represents to the issued voting shares of the issuer.*
 - (2) *A short position arises:*
 - (i) *where the person is the borrower of shares under a securities borrowing and lending agreement, or has an obligation to deliver the underlying shares to another person who has lent shares;*
 - (ii) *where the person is the holder, writer or issuer of any equity derivatives, by virtue of which the person –*
 - (a) *has a right to require another person to take the underlying shares of the equity derivatives;*
 - (b) *is under an obligation to deliver the underlying shares of the equity derivatives to another person;*
 - (c) *has a right to receive from another person money if the price of the underlying shares declines; or*
 - (d) *has a right to avoid a loss if the price of the underlying shares declines.*
- 3.5 For other persons whose interests are recorded (or, in the case of a new listing, are required to be recorded) in the register required to be kept under section 336 of the SFO, the statements should show details of the following matters as recorded in such register:
- (1) aggregate long position in the shares and (in respect of positions held pursuant to equity derivatives) underlying shares of the issuer showing separately:
 - (a) interests in shares (other than pursuant to equity derivatives such as share options, warrants to subscribe or convertible bonds); and

- (b) interests under equity derivatives showing separately for listed and unlisted equity derivatives, interests in underlying shares of the entity pursuant to:
 - (i) physically settled equity derivatives; and
 - (ii) cash settled equity derivatives.

Notes:

- (1) *The statements should include the percentage which the aggregate long position in shares represents to the issued voting shares of the issuer.*
 - (2) *A long position arises where a person is a party to an equity derivative, by virtue of which the person:*
 - (i) *has a right to take the underlying shares;*
 - (ii) *is under an obligation to take the underlying shares;*
 - (iii) *has a right to receive money if the price of the underlying shares increases; or*
 - (iv) *has a right to avoid or reduce a loss if the price of the underlying shares increases.*
- (2) aggregate short position in shares and (in respect of positions held pursuant to equity derivatives) underlying shares of the issuer showing separately:
- (a) short positions in respect of shares arising under a stock borrowing and lending agreement; and
 - (b) short positions under equity derivatives showing separately for listed and unlisted equity derivatives, interests in underlying shares of the entity pursuant to:
 - (i) physically settled equity derivatives; and
 - (ii) cash settled equity derivatives.

Notes:

- (1) *The statements should include the percentage which the aggregate short position in shares represents to the issued voting shares of the issuer.*
- (2) *A short position arises:*
 - (i) *where the person is the borrower of shares under a securities borrowing and lending agreement, or has an obligation to deliver the underlying shares to another person who has lent shares;*

- (ii) *where the person is the holder, writer or issuer of any equity derivatives, by virtue of which the person –*
 - (a) *has a right to require another person to take the underlying shares of the equity derivatives;*
 - (b) *is under an obligation to deliver the underlying shares of the equity derivatives to another person;*
 - (c) *has a right to receive from another person money if the price of the underlying shares declines; or*
 - (d) *has a right to avoid a loss if the price of the underlying shares declines.*

4. Duplication

Every statement showing the interests of directors, chief executives or other persons in a listing document or annual or interim report or circular to shareholders must clearly indicate the extent to which there is duplication between the interests of each director, chief executive or such other person.

5. Guidance

Issuers who are in any doubt as to the appropriate category in which an interest should be shown are encouraged to consult the Exchange for further guidance.

6. Effective Date

- 6.1 This Practice Note takes effect from 1 April 2003 and, subject to paragraph 6.2 below, replaces Practice Note 5 issued on 22 August 1991.
- 6.2 In respect of disclosure of interests made referable to a date or a period ending before 1 April 2003, such interests may be disclosed in accordance with Practice Note 5 issued on 22 August 1991.

Hong Kong, 1 April 2003