

HKEX GUIDANCE LETTER

HKEX-GL91 -18 (February 2018)

Subject	Reallocation of shares from placing tranche to the public subscription tranche in an initial public offer
Listing Rules	Practice Note 18 of the Main Board Listing Rules (“PN 18”) Practice Note 6 of the GEM Listing Rules (“GR PN 6”)¹
Related Publications	HKEX-GL90 -18 (February 2018) – Pricing Flexibility for Initial Public Offerings (“IPO”) HKEX-GL85-16 – Placing to connected clients, and existing shareholders or their close associates, under the Rules HKEX-LD60-1, HKEX-LD60-2 - PN 18 Waiver applications
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Important note: *This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You may consult the Listing Department on a confidential basis for an interpretation of the Listing Rules or this letter.*

1. Purpose

- 1.1 Although at times an IPO may be well-received by investors under the public subscription tranche, the Exchange would like to ensure that investors under this tranche are not unfairly treated by being unfairly allocated with shares when demand in the placing tranche is weak resulting in it being undersubscribed.
- 1.2 This guidance aims to better protect investors who subscribe for shares under the public subscription tranche by limiting the extent such investors are allocated shares which are not taken up by institutional and professional investors for whatever reasons.
- 1.3 This guidance specifies the circumstances under which an IPO listing applicant may (i) reallocate shares from the placing tranche to the public subscription tranche (a “**Placing Tranche Reallocation**”) other than pursuant to PN18 / GR PN6 or a modified PN18 / modified GR PN6

¹ Effective 15 February 2018

which has been agreed with the Exchange² or (ii) over-allocate shares to the public subscription tranche (“**Public Tranche Over-allocation**”).

2. Relevant Listing Rules and Interpretations

- 2.1 Main Board Listing Rule 2.03 / GEM Listing Rule 2.06 requires that, among other things, the issue and marketing of securities be conducted in a fair and orderly manner.
- 2.2 While paragraph 4.2 of PN18 / paragraph 4 of GR PN6 has clear minimum provisions for allocation to the public subscription tranche when the oversubscription in the public subscription tranche is 15 times or above, there is no provision for allocation in other circumstances including if the oversubscription in the public subscription tranche is less than 15 times.
- 2.3 Paragraph 4.3 of PN18 / paragraph 5 of GR PN6 states that where the listing applicant has granted the underwriters an over-allotment option, any shares issued pursuant to its exercise may be divided between the public subscription tranche and placing tranche at the discretion of the underwriters. The extent of any over-allocation of shares is required to be limited to the size of the over-allotment option³ or offer size allotment option.
- 2.4 Listing Decisions HKEX-LD60-1 and HKEX-LD60-2 set out the circumstances under which the Exchange had considered granting a PN 18 waiver.

3. Guidance

- 3.1 The maximum total number of shares that may be allocated to the public subscription tranche (“**Allocation Cap**”) following a Placing Tranche Reallocation and a Public Tranche Over-allocation (if any) is the lesser of:
 - (i) not more than double the initial allocation to the public subscription tranche⁴; and
 - (ii) not more than 30% of the total offered shares⁵.

² An applicant can apply to the Exchange for a different clawback mechanism from PN18 / GR PN6. Where a waiver is granted by the Exchange, full disclosure must be made in the prospectus.

³ Pursuant to Listing Decision HKEX-LD26-3, an over-allotment option is typically not more than 15% of the initial offer size.

⁴ If the initial allocation of shares to the public subscription tranche is 10% of the total offer, the maximum reallocation will be 10%, resulting in 20% of the total offer allocated to the public subscription tranche.

⁵ If the initial allocation of shares to the public subscription tranche is 20% of the total offer, the maximum of reallocation from the placing tranche will be 10%, resulting in 30% of the total offer allocated to the public subscription tranche.

- 3.2 If the IPO includes an offer price range, the final offer price must be fixed at the bottom end of the indicative offer price range or the downward adjusted final price in accordance with HKEX-GL90-2018–Pricing Flexibility for Initial Public Offerings.
- 3.3 The Allocation Cap is applicable to circumstances when (i) the placing tranche before any reallocation is undersubscribed; or (ii) when the placing tranche is fully subscribed or oversubscribed and the public subscription tranche is oversubscribed by less than 15 times or, as applicable, by less than such other number which may trigger a clawback as agreed with the Exchange (i.e. a modified PN 18 / GR PN6 as agreed with the Exchange applies). Please refer to the Attachment for the application of the Allocation Cap in different scenarios.
- 3.4 Disclosure requirements:
- (a) *the prospectus, application form and formal notice must include:*
- (i) (where any such right is reserved) the right to make a Placing Tranche Reallocation and/or a Public Subscription Tranche Over-allocation, and
 - (ii) the maximum amount of the Allocation Cap (by number of shares and as a percentage of the total offering);
- (b) *if there is a Placing Tranche Reallocation and/or a Public Subscription Tranche Over-allocation, the allotment results must include:*
- (i) the number of shares and percentage of the total offering reallocated and/or over-allocated;
 - (ii) the total number of shares in the public subscription tranche before and after the Placing Tranche Reallocation and/or Public Subscription Tranche Over-allocation; and
 - (iii) confirmation by the sponsor(s) and each of the directors of the listing applicant that the Allocation Cap has not been exceeded.

4. Other Related Matters

Consent or grant of a waiver to take up unsubscribed shares in the placing tranche

- 4.1 As long as all relevant Listing Rules⁶, this Guidance Letter and Guidance Letter HKEX-GL85-16⁷ are complied with, the lead broker or any distributors may take up unsubscribed shares from the placing tranche for its/their own account and/or place such unsubscribed shares to connected clients, connected persons and/or existing shareholders of the listing applicant and their respective close associates to reach a 100% IPO subscription rate. Parties are, however, reminded that a consent or grant of a waiver, as the case may be, must nevertheless be obtained from the Exchange for the placing of shares to such persons and such consent or waiver will be considered based on the specific facts and circumstances of the applicant.

Over-allocation of shares to the placing tranche

- 4.2 Over-allocation of shares to the placing tranche is allowed only if the number of shares in the placing tranche available for allocation is insufficient to satisfy the demand in the placing tranche (i.e. there is excess demand for shares under the placing tranche)⁸. When determining whether there is excess demand for shares in the placing tranche, no consideration can be given to any excess demand resulting from shares taken up by the lead broker or any distributors; or placed to their connected clients, connected persons and/or existing shareholders of the listing applicant and their respective close associates unless consent under Guidance Letter HKEX-GL85-16 has been obtained (see paragraph 4.1 above). On the other hand, consideration can be given to excess demand resulting from a Placing Tranche Reallocation⁹.

*** End ***

⁶ Including for example, paragraph 5(2) of Appendix 6 to Main Board Listing Rules (Note 2 to Rule 10.12(4) of the GEM Rules) which prohibits allocations to directors or existing shareholders of the applicant or their close associates unless certain requirements are met.

⁷ Guidance Letter HKEX-GL85-16 sets out guidance on the circumstances under which the Exchange will consent to placing under paragraphs 5(1) and (2) of Appendix 6 of the Main Board Listing Rules.

⁸ If the initial allocation of shares to the placing tranche is 90% of the total offer, and the demand in the placing tranche is greater than 90%.

⁹ If the initial allocation of shares to the placing tranche and the demand in the placing tranche is 90% of the total offer, and a Placing Tranche Reallocation of 10% occurs as allowed under this Guidance Letter, an over-allocation of shares to the placing tranche of 10% is allowed.

Application of the Allocation Cap

		<i>Public offer tranche</i>		
		<i>(A) Undersubscribed</i>	<i>(B) 100% subscription or oversubscribed <15 times</i>	<i>(C) Oversubscribed by 15 times or more</i>
<i>Placing tranche</i>	<i>(1) Undersubscribed</i>	IPO cannot proceed unless fully underwritten by underwriters	Allocation Cap applies (PN18/ GR PN6 cannot be triggered because Placing tranche is undersubscribed)	
	<i>(2) 100% subscription or Oversubscribed</i>	Allocation Cap not triggered	Allocation Cap applies unless a modified PN18/ GR PN6 clawback < 15 times previously agreed with the Exchange is triggered (Note)	PN18/ GR PN6 clawback or a modified PN18/ GR PN6 clawback applies

Note: Listing decisions HKEX-LD60-1 and HKEX-LD60-2.