FAQs – GEM Listing Rules – Appendix 1B

**Question:**
How will the requirements to disclose nominal value of shares and authorised share capital in listing documents or listing application forms be satisfied by issuers without either of them?

**Answer:**
The listing document or application form should disclose that the issuer does not have an authorised share capital and/or nominal value of shares in its share capital, and disclose the share capital structure it has instead, e.g. how many shares it has issued, including shares fully paid and yet to be fully paid.

*FAQ Series 26, FAQ No. 4*

**LR reference:** Main Board Rules App 1A (paras 15(2)(c) and 23(1)); App 1B (para 22(1)); App 1C (para 36); App 1E (paras 23(1) and 49(2)(c)); App 1F (para 18(1)); App 5 Forms / GEM Rules App 1A (para 23(1); App 1B (para 22(1))); App 1C (para 36); App 5 Forms

*Released on 21/2/2014*

**Question:**
Will there be any change in what is meant in the Rules by “fully paid” and “partly paid” shares for Hong Kong-incorporated issuers after the New Companies Ordinance becomes effective?

**Answer:**
When the New Companies Ordinance becomes effective, “fully paid” will mean that the shareholder to whom shares are issued has paid the full consideration which was agreed to be paid for those shares, i.e., the issue price (and not that the shareholder has paid the full nominal value of those shares, as is the case under the existing Companies Ordinance). "Partly paid" will mean that the full issue price has not been paid.

*FAQ Series 26, FAQ No. 7*

**LR reference:** Main Board Rules 7.28, 8.11, 8.13, 10.06 (1)(a)(i); App 1A (paras 15(2)(d), 23(1) and 26); App 1B (paras 22(1) and 24); App 1C (para 34); App 1E (paras 23(1), 26 and 49(2)(d)); App 1F (paras 18(1) and 20); App 2A (para 4(3)); App 3 (para 1(2)); App 5 Forms / GEM Rules 10.45, 11.25, 11.27, 13.07(1); App 1A (paras 23(1) and 26); App 1B (paras 22(1) and 24); App 1C (para 34); App 2A (para 4(3)); App 3 (para 1(2)); App 5 Forms

*Released on 21/2/2014*
Question:

A listed issuer is preparing its circular in respect of a proposed major acquisition.

Rule 14.66(10) / GEM Rule 19.66(11) requires the listed issuer’s circular to contain a statement of indebtedness of the group as at the most recent practicable date pursuant to paragraph 28 of Appendix 1B to the Main Board Rules/ GEM Rules. Can the listed issuer refer to the indebtedness position of the group disclosed in its latest published audited accounts or interim report?

Answer:

The rule requires the listed issuer to provide up-to-date indebtedness statement of its group in the circular for shareholders’ consideration. The Listing Division ordinarily requires the indebtedness statement to be dated not more than 8 weeks before the circular is issued, which follows the guidance set out in our letter of 21 July 2008 to market practitioners in relation to the disclosure of indebtedness statements in listing documents of new applicants. Depending on the despatch date of the circular, the year / period end date for the listed issuer’s latest published accounts or interim report may not be regarded as the most recent practicable date.

Further, the listed issuer should note that according to Note 2 to Appendix 1B to the Main Board Rules/ GEM Rules, reference to the "group" under paragraph 28 of Appendix 1B is to be construed as including any company which will become a subsidiary of the listed issuer by reason of an acquisition which has been agreed or proposed since the date to which the latest audited accounts of the listed issuer have been made up.

FAQ Series 7, FAQ No. 25
LR reference: Main Board Rules 14.66(10), Appendix 1B Paragraph 28 / GEM Rules 19.66(11), Appendix 1B Paragraph 28
Released on 28/11/2008 (Updated on 30/9/2009)

Question:

Listco proposes to acquire a target company which will become its subsidiary. This is a major transaction. In the circular, should Listco disclose the indebtedness statement of its group and the target company (i) on a combined basis or (ii) separately?

Answer:
Both methods are acceptable.

FAQ Series 11, FAQ No. 12
LR reference: Main Board Rules Appendix 1B Paragraph 28 / GEM Rules Appendix 1B Paragraph 28
Released on 20/5/2010

Question:
A listed issuer proposes to acquire a target company, which constitutes a notifiable transaction. The listed issuer has prepared a valuation of the target company using the discounted cashflow method, which is regarded as a profit forecast under Main Board Rule 14.61/ GEM Rule 19.61.

Is the listed issuer required to disclose such valuation in its announcement and circular for the notifiable transaction and comply with Main Board Rule 14.62/ GEM Rule 19.62 and paragraph 29(2) of Appendix 1B to the Main Board Rules/ GEM Rules?

Answer:
Under the Listing Rules, there is no specific requirement for the listed issuer to disclose the profit forecast for the target company to be acquired. However, the listed issuer must observe the general disclosure principle under Main Board Rule 2.13/ GEM Rule 17.56. For example, where the valuation of the target company was a primary factor in forming the basis for the consideration or other material terms of the transaction, disclosure of the valuation would need to be made in the relevant announcement and circular.

Where a notifiable transaction announcement / circular contains a profit forecast in respect of the listed issuer or a company which is/ is proposed to become, one of its subsidiaries, the listed issuer is required to comply with Main Board Rule 14.62 / GEM Rule 19.62 and paragraph 29(2) of Appendix 1B to the Main Board Rules/ GEM Rules (as the case may be).

FAQ Series 7, FAQ No. 21
Released on 28/11/2008 (Updated on 30/9/2009)

Question:
A listed issuer proposes to acquire a revenue generating asset, which constitutes a notifiable transaction. There is a valuation of such asset prepared using the discounted cashflow method, which is regarded as a
profit forecast under Main Board Rule 14.61/ GEM Rule 19.61.

Will the listed issuer be required to comply with the formal reporting requirements under Main Board Rule 14.62/ GEM Rule 19.62 if it discloses the valuation of the revenue generating asset in its announcement issued under the notifiable transaction rules?

**Answer:**

Under Main Board Rule 14.62 / GEM Rule 19.62, the formal reporting requirements apply where the announcement contains a profit forecast in respect of the listed issuer or a company which is/ is proposed to become, one of its subsidiaries.

In this case, while the profit forecast made in respect of the revenue generating asset may not fall within Main Board Rule 14.62 / GEM Rule 19.62, the listed issuer must ensure compliance with Main Board Rule 2.13 / GEM Rule 17.56 when its announcement contains profit forecast of the asset to be acquired, particularly where the assets are material to the listed issuer.

The listed issuer should also note that where the proposed acquisition constitutes a major transaction or above that requires a circular, it is required to comply with the formal reporting requirements in respect of the profit forecast of the asset contained in the circular pursuant to Paragraph 29(2) of Appendix 1B to the Main Board Rules / GEM Rules.

*FAQ Series 7, FAQ No. 22*


Released on 28/11/2008 (Updated on 30/9/2009)

**Question:**

Where a circular in relation to a notifiable transaction contains a profit forecast, paragraph 29(2) of Appendix 1B to the Main Board Rules / GEM Rules requires that the financial advisers must report that they have satisfied themselves that the forecast has been stated by the directors after due and careful enquiry and such report must be set out in the circular.

If no financial advisers have been appointed in connection with the notifiable transaction, can the directors of the listed issuer make their own confirmation that they have made the forecast after due and careful enquiry?
**Answer:**

In the case of a notifiable transaction, Main Board Rule 14.62(3) / GEM Rule 19.62(3) provides that where the announcement contains a profit forecast and no financial advisers have been appointed in connection with the transaction, the listed issuer may provide a letter from the board of directors confirming they have made the forecast after due and careful enquiry.

In the circumstances described, we may apply the principle of Main Board Rule 14.62(3) / GEM Rule 19.62(3) to the circular and accept the directors' confirmation for the purpose of Paragraph 29(2) of Appendix 1B. The listed issuer should consult the Exchange in advance in such circumstances.

*FAQ Series 7, FAQ No. 23*

*LR reference: Main Board Rules 14.66(2), Appendix 1B Paragraph 29(2) / GEM Rules 19.66(3), Appendix 1B Paragraph 29(2)*

*Released on 28/11/2008 (Updated on 30/9/2009)*

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**Question:**

Pursuant to Main Board Rules 14.66(10) and 14.68(1) / GEM Rules 19.66(11) and 19.68(1), a circular relating to a very substantial disposal must contain a statement by the listed issuer's directors on the sufficiency of working capital available to the group pursuant to paragraph 30 of Appendix 1B to the Main Board Rules / GEM Rules.

Where a listed issuer proposes to dispose of a subsidiary which constitutes a very substantial disposal, is it required to prepare the working capital statement on the group or the remaining group?

**Answer:**

Paragraph 30 of Appendix 1B to the Main Board Rules / GEM Rules requires a working capital statement on the group which includes the listed issuer and its subsidiaries including the subsidiary to be disposed of. Note to Appendix 1B does not qualify paragraph 30 to exclude the subsidiary to be disposed of.

*FAQ Series 7, FAQ No. 26*

*LR reference: Main Board Rules 14.66(10), Appendix 1B Paragraph 30 / GEM Rules 19.66(11), Appendix 1B Paragraph 30*

*Released on 28/11/2008 (Updated on 30/9/2009)*

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**Question:**
To incorporate information in a circular by reference to another published document, what should be disclosed?

**Answer:**

In addition to identifying the information to be incorporated by reference, the issuer should identify the published document with the document name and date, the relevant pages, and where shareholders can access the document (for example, the website address).

*FAQ Series 11, FAQ No. 13*

*LR reference: Main Board Rules Appendix 1B Paragraph 31(3) / GEM Rules Appendix 1B Paragraph 31(3)*

*Released on 20/5/2010*