

**AMENDED AND RESTATED  
MEMORANDUM OF UNDERSTANDING  
GOVERNING LISTING MATTERS**

**Securities and Futures Commission**

**and**

**The Stock Exchange of Hong Kong Limited**

**6<sup>th</sup> March 2000**

## TABLE OF CONTENTS

<b>Section</b>	<b>Description</b>	<b>Page</b>
1	Status of Parties	1
2	Reasons for Memorandum of Understanding	1
3	Status of Memorandum of Understanding	4
4	SEHK's Obligations	6
5	SFC's Obligations	8
6	SFC Oversight	8
7	Future Policy Development	12
8	Miscellaneous	12

### Appendices

	<b>No.</b>
SFC Listing Related Functions	1
SEHK Listing Related Functions & Responsibilities	2
Rules Governing the Proceedings of the Listing Committee and the Listing Appeals Committee	3
SEHK Monthly Report to the SFC	4
Statutory Obligations for All Listed Companies and of the Listing Appeals Committee	5
SFC/SEHK Agreed Procedures	6

## **AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING**

**BETWEEN:** Securities and Futures Commission (the "**SFC**") of  
12<sup>th</sup> Floor, Edinburgh Tower, The Landmark,  
Central, Hong Kong of the first part;

**AND:** The Stock Exchange of Hong Kong Ltd (the "**SEHK**") of  
One and Two Exchange Square, Central, Hong Kong  
of the other part.

### **1. STATUS OF PARTIES**

- 1.1 The SFC is established by the Securities and Futures Commission Ordinance (Cap. 24) (the "**SFC Ordinance**") and has, among other things, the functions in relation to listing related matters set out in **Appendix 1**.
- 1.2 The SEHK is a company duly incorporated under the provisions of the Companies Ordinance (Cap.32) and is the Exchange Company recognized under the Stock Exchanges Unification Ordinance (Cap. 361) (the "**Unification Ordinance**") to have the exclusive right to establish, operate and maintain a stock market in Hong Kong known as the Unified Exchange.
- 1.3 The functions and responsibilities of the SEHK in relation to listing related matters are set out in **Appendix 2**.

### **2. REASONS FOR MEMORANDUM OF UNDERSTANDING**

- 2.1 (a) On 25 November 1991, the SFC and the SEHK entered into a *Memorandum of Understanding Governing Listing Matters* (the "**former MOU**") under which the SEHK became solely responsible for the day-to-day administration of "**all listing related matters**" with respect to the stock market in Hong Kong known as the Unified Exchange, excluding those matters falling within the SFC's listing related functions as set out in **Appendix 1**.
- (b) On 31 December 1991, pursuant to the Securities (Stock Exchange Listing)(Amendment) Rules 1991 (being subsidiary legislation L.N. 439 of 1991) certain provisions of the Securities (Stock Exchange Listing) Rules 1989, pursuant to which the SFC had prior thereto performed certain listing functions, were repealed to enable the SEHK to become solely responsible for the day-to-day administration of all listing related matters.

- (c) On 1 February 1993, pursuant to the Securities and Futures Commission (Transfer of Functions) Order (being subsidiary legislation L.N. 15 of 1993) the Governor in Council made an order transferring to the SEHK the SFC's functions under the Companies Ordinance and the SFC Ordinance of vetting prospectuses in relation to listed companies. Such transfer order remains in effect as at the date hereof and shall do so until varied or revoked by a further order of the Chief Executive of the Hong Kong Special Administrative Region in Council.
  
- 2.2 On the date hereof, the SEHK has become a wholly owned subsidiary of Hong Kong Exchanges and Clearing Limited. In this connection the SEHK has adopted a new constitution, inter alia providing for its governing body to be a board of directors (the "**Board**") instead of a *Council*, and has changed certain of its procedures for handling listing related matters. The principal changes to such procedures, each taking effect on the date hereof, provide for:
  - (a) an increase in the number of members of the Listing Committee and the abolition of alternate members; and
  - (b) the membership of the Listing Appeals Committee consisting of the Chairman and two other members of the board of Hong Kong Exchanges and Clearing Limited instead of members of the Board.
  
- 2.3 On the date hereof, the SEHK has revised certain of the *Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited* (the "**SEHK Listing Rules**") which revisions have taken effect immediately. Such revisions reflect (i) the changes to the procedures referred to in paragraph 2.2 above, (ii) certain other changes to the organisation and mode of operation of the SEHK resulting from the SEHK becoming a subsidiary of Hong Kong Exchanges and Clearing Limited (including those resulting from the separation of ownership of the SEHK from the right to trade on or through the markets operated by it), and (iii) provisions of the Exchanges and Clearing Houses (Merger) Ordinance (Ord. 12 of 2000). The SFC has on the date hereof pursuant to Section 35 of the Unification Ordinance approved the changes to the SEHK's constitution and the SEHK Listing Rules referred to above.
  
- 2.4 The SFC has agreed to the SEHK continuing to be solely responsible for the day-to-day administration of all listing related matters, subject to:
  - (a) the SEHK introducing and entrenching revised rules, requiring the prior approval of the SFC, relating to the composition, powers, functions and procedures of the Listing Appeals Committee, the Listing Committee (which term includes the Listing (Review) Committee (as defined in the SEHK Listing Rules)) and the Listing Division of the SEHK; and

- (b) the parties hereto entering into, continuing to observe the provisions of, and performing their respective obligations under, this *Amended and Restated Memorandum of Understanding Governing Listing Matters* (the "*Memorandum of Understanding*").
- 2.5 The parties acknowledge and agree that the entering into of this Memorandum of Understanding which relates exclusively to listing related matters, and the respective obligations arising hereunder, is in the interest of the market as a whole and in the public interest in that it will enable:
  - (a) the SEHK to continue to be the primary front-line regulatory organisation responsible for the day-to-day supervision and regulation of listed companies, their directors and controlling shareholders and market users generally in respect of all listing related matters, thereby reducing, so far as is reasonably practicable, duplication between the parties;
  - (b) the SFC to discharge more effectively its statutory obligation to supervise and monitor ("*oversee*") the SEHK, among other things, in the performance of its listing related functions and responsibilities to ensure, so far as reasonably practicable, that the SEHK discharges such functions and responsibilities impartially and effectively.
- 2.6 On the date hereof, the SEHK has adopted rules (being the revised SEHK Listing Rules and the revised *Rules Governing the Proceedings of the Listing Committee and the Listing Appeals Committee* (such latter Rules being the "*Procedural Rules*" attached in **Appendix 3**)), as referred to in paragraph 2.4(a) above, which have been approved by the SFC, and which are intended to ensure that:
  - (a) the Listing Committee will comprise a membership which will be broadly representative of the various securities industry groups with interests in the proper regulation of the stock market, namely brokers, listed companies and other market users, including merchant bankers, corporate finance lawyers and accountants, fund managers and other professionals who ordinarily give advice on listing matters. Such a composition, the method of appointment and removal of members of the Listing Committee and the procedures governing the Listing Committee are intended to ensure that the Listing Committee will maintain and enhance the integrity, independence, effectiveness and professionalism of the SEHK in the performance of its listing functions and responsibilities with respect to the Main Board (such expression where used in this Memorandum of Understanding having the meaning given in paragraph 8.5 below);
  - (b) the Board delegates all of its functions and powers in relation to all listing matters with respect to the Main Board to the Listing Committee, subject to the powers of review vested in the Listing Appeals Committee, in such a way that the Board will not exercise concurrent jurisdiction and will only

vary and/or revoke the delegation in exceptional circumstances and only after giving notice to the SFC and to the Listing Committee in accordance with paragraph 4.1(a) below, and require that the Listing Committee and the Listing Appeals Committee in discharging their respective functions and powers do so in the best interest of the market as a whole and in the public interest; and

- (c) as a matter of policy and in the interest of maintaining the integrity and independence of the SEHK's listing system and procedures, the Board will only exercise its overriding rights and powers in relation to any listing related matters, including its right to remove members of the Listing Committee, and the Listing Appeals Committee, in exceptional circumstances, and then only after having given the SFC and the Listing Committee 7 days prior written notice, or such shorter notice period as is reasonable in the circumstances, of its intention to do so.

### **3. STATUS OF MEMORANDUM OF UNDERSTANDING**

#### **3.1 The parties acknowledge and agree that:**

- (a) this Memorandum of Understanding is entered into by the parties in good faith and for the purpose of facilitating a co-operative working relationship between the parties whereby the SEHK is solely responsible for the day-to-day administration of all listing related matters and the SFC is able to effectively oversee the SEHK in the performance of such responsibilities;
- (b) in the interpretation of any of the provisions of this Memorandum of Understanding such provisions shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of this Memorandum of Understanding according to its true intent, meaning and spirit;
- (c) each of the parties shall:-
  - (i) maintain a good working relationship with the other with respect to all listing related matters;
  - (ii) co-operate with the other in complying with the provisions hereof; and
  - (iii) perform its obligations hereunder,fully, in good faith and to the best of its ability;

- (d) a failure or refusal on the part of the SEHK to comply fully with the provisions of, or to perform its obligations under, this Memorandum of Understanding in accordance with paragraph 3.1(c) above, such failure or refusal to be determined by the SFC, in its absolute discretion, shall be deemed to constitute a repudiation of this Memorandum of Understanding and the SFC may, in its absolute discretion, take any action it considers necessary or desirable, and in particular the SFC may:-
- (i) accept such repudiation and terminate this Memorandum of Understanding;
  - (ii) exercise its power under Section 14 of the Securities Ordinance and make rules as therein provided under which the SFC will play a role in the day-to-day regulation of listing related matters;
  - (iii) exercise its powers under Section 50 or Section 51 of the SFC Ordinance and issue a restriction notice or a suspension order;
  - (iv) exercise its power under Section 47 of the SFC Ordinance and request that the Chief Executive of the Hong Kong Special Administrative Region in Council order that the SFC resume all or any of the functions which have been transferred to the SEHK by a transfer order made by the SFC under that section;
  - (v) resume any functions or responsibilities of the SEHK as provided for by this Memorandum of Understanding; and
  - (vi) recommend to the Financial Secretary the enactment of legislation in relation to any listing related matter or any other matters to be administered by the SFC;
- (e) this Memorandum of Understanding is a public document and the contents may be disclosed and copies may be furnished by either party hereto to any third party without the consent of the other party hereto;
- (f) this Memorandum of Understanding shall not give rise to any rights, direct or indirect, on the part of third parties, nor shall such parties be entitled to require compliance by either the SFC or the SEHK with any of their respective obligations arising hereunder; and
- (g) nothing in this Memorandum of Understanding shall affect the rights of the SFC to exercise any of its powers or perform any of its functions under any of the relevant Ordinances (as defined in the SFC Ordinance).

#### 4. SEHK'S OBLIGATIONS

4.1 The SEHK hereby acknowledges and agrees that:

- (a) the Board has delegated to the Listing Committee, with the power to sub-delegate, all of the SEHK's functions and powers in respect of all listing matters in relation to the Main Board, subject to the powers of review vested in the Listing Appeals Committee, and has delegated to the Listing Appeals Committee those powers of review, and, as a matter of policy in the interest of the market as a whole and the public interest, the Board has delegated such functions and powers specifically on terms that:
  - (i) any variation or revocation of such delegation can be effected only by notice to the Listing Committee and the SFC;
  - (ii) unless and until such delegation has been varied or revoked in accordance with its terms, the Listing Committee shall have sole power and authority to act in relation to all listing matters to the exclusion of the Board and any other parties, subject only to the powers of review vested in the Listing Appeals Committee; and
  - (iii) upon variation or revocation of such delegation the Board shall have regard to the rights of any third party which may have been created in reliance upon an earlier exercise of such powers by the Listing Committee or the Listing Appeals Committee,

and, in any event, the SEHK hereby agrees that the Board will only:

- (A) vary or revoke the delegation;
- (B) exercise its overriding right and power (if any) to review, vary or supplement decisions of the Listing Committee, or the Listing Appeals Committee, or to remove any member therefrom; or
- (C) exercise any of its other functions and powers in respect of any listing related matter (other than its power to make or amend rules under the Unification Ordinance),

in exceptional circumstances and then only after having given the SFC and the Listing Committee 7 days prior written notice, or such shorter notice period as is reasonable in the circumstances, of the Board's intention to do so;

- (b) the Listing Committee is responsible, for and on behalf of the SEHK, for the primary regulation of the market in relation to all listing related

matters with respect to the Main Board and in discharging its regulatory responsibilities the Listing Committee shall act in the best interest of the market as a whole and in the public interest;

- (c) the Listing Committee shall be responsible for overseeing the activities of its sub-delegates to ensure, so far as reasonably practicable, that the integrity and independence of the SEHK's listing procedures and process, and the standards of professionalism exercised in relation thereto, are maintained at the highest levels, and, in so doing, the Listing Committee is specifically empowered to review, of its own volition, any decisions of its sub-delegates and to give directions to, and impose restrictions on, its sub-delegates in respect of the way in which they are to carry out their delegated authority;
- (d) the Board shall not amend the Procedural Rules without the prior written approval of the SFC; and
- (e) it shall continue to comply fully with the provisions of, and to perform each of its obligations under, this Memorandum of Understanding in accordance with paragraph 3.1(c), unless and until terminated pursuant to paragraphs 3.1(d) or 8.4 hereof.

4.2 The SEHK further acknowledges and agrees that, as part of its responsibilities as the day-to-day administrator of all listing related matters, it shall :

- (a) ensure, so far as reasonably practicable, the due and proper observance by listed companies, their directors and controlling shareholders, sponsors, authorized representatives and any other market users of the provisions of the SEHK Listing Rules and of any obligations imposed on such persons thereunder;
- (b) support in principle the concept of establishing and maintaining a public file equivalent to those found in other international markets on all listed companies and to conduct a detailed feasibility study to determine whether it is viable, and if so, to establish and maintain a public database containing a complete and up-to-date record of all such public information received by the SEHK regarding each listed company, its management and substantial shareholders;
- (c) maintain a suitable financial statements review programme with a view to encouraging high standards of financial disclosure and detecting instances of improper financial disclosure. (At the present time this is satisfied by the review of listed company financial statements which is carried on through participation in the Professional Standards Monitoring Committee of the Hong Kong Society of Accountants and the use of the disclosure checklists by members of staff of the Listing Division of the SEHK and

the review of annual accounts performed by the Accounts Review Unit of the Listing Division of the SEHK);

- (d) maintain an adequate number of members of staff of the Listing Division of the SEHK with an adequate level of professionalism and experience commensurate with their respective responsibilities and the overall responsibilities of the Listing Division of the SEHK;
- (e) maintain proper files, records and systems of all transactions and other matters processed by the Listing Division, the Listing Committee and the Listing Appeals Committee of the SEHK; and
- (f) develop and maintain adequate procedural guidelines, checklists and reporting mechanisms for members of staff of the Listing Division of the SEHK to assist them in the administration of the SEHK Listing Rules and their other respective functions, powers and responsibilities.

## **5. SFC'S OBLIGATIONS**

- 5.1 The SFC hereby acknowledges and agrees that the powers of the SFC under paragraphs 3.1(d) and 6.3(c) hereof shall be exercised by a meeting of the SFC and shall not be delegable, save that in the first instance an Executive Director of the SFC may decide to refer the matter to the SFC and thereupon he shall give to the SEHK written notice of his intention to do so and setting out the reasons therefore, and the SEHK may make representations in writing to the SFC in respect of such matter, and may also attend the meeting of the SFC to make any oral representations in respect of such matter, provided that where such matter requires urgent consideration by the SFC, then any written representations which the SEHK may wish to make must be submitted to the SFC before any deadline set by the Executive Director of the SFC.

## **6. SFC OVERSIGHT**

- 6.1 The SEHK acknowledges and agrees that the SFC is responsible, among other things, for overseeing the SEHK in the performance of its listing related responsibilities and, to this end, the SEHK acknowledges and agrees that:

- (a) Monthly Report:

the Listing Division of the SEHK shall prepare a monthly report for the SFC, in the form attached in **Appendix 4** (or in such other form as may be agreed), and containing such information as would enable the SFC to understand fully the activities of the SEHK in relation to its listing responsibilities for the month in question. The monthly report shall have

annexed to it a copy of all Listing Committee agendas (without attachments) and minutes in relation to all meetings held in the month to which the report relates, together with any written reasons for a decision made by the Listing Division, Chief Executive or Listing Committee under the provisions of the SEHK Listing Rules given in that month. The monthly report, together with the attachments thereto, shall be provided to the SFC on or before the 15th day of the month next following the month to which the report relates;

(b) Specific Reports:

in furtherance of the SFC's power pursuant to Section 48(2) of the SFC Ordinance, by which the SFC may by written notice require the SEHK to supply it with such information as it may reasonably require for the performance of its functions under the relevant Ordinances, the SEHK shall comply with any such request by supplying such information as soon as possible, and in any event within 14 days, after the giving of the written notice by the SFC. The SFC has agreed that, in an effort to avoid undue duplication of responsibility and to facilitate the efficient operation of the SEHK's and the SFC's responsibilities, in the case of any transaction governed by the SEHK Listing Rules, the SFC will endeavour to ensure that it will not, except in exceptional circumstances, give a written notice pursuant to Section 48(2) of the SFC Ordinance until after the Listing Division, the Chief Executive or the Listing Committee, as the case may be, has made any ruling or decision (whether interim or final), in relation to the matter the subject of the written notice;

(c) SFC Audits:

the SEHK shall co-operate to the fullest extent with the SFC in all future audits or reviews of the listing functions of the SEHK to be conducted by the SFC from time to time and provide SFC officers involved in such audits or reviews reasonable access during normal business hours to the SEHK's premises, personnel and all Listing Committee and Listing Division files, papers, correspondence, minutes and any other documentation whatsoever in its possession or power in relation to the SEHK's listing functions and to make copies thereof available to SFC officers involved in the audit or review. The SFC has agreed to give the SEHK 14 days notice of the commencement of any audit or review and 24 hours notice of any interview required by the SFC with any member of staff of the Listing Division. The audit and review cycle which applies immediately prior to the date hereof will be unaffected by the entering into of this Memorandum of Understanding and they will continue to take place at twelve monthly intervals;

(d) Forwarding of Documents:

the Listing Division of the SEHK shall forward to the Corporate Finance Division of the SFC, at least once in every 7 day period :

- (i) three copies of any listing document issued by a new applicant or a listed issuer;
- (ii) three copies of each of the documents referred to in paragraph 21(1) of the Listing Agreements set out in Parts A and B of Appendix 7 of the SEHK Listing Rules and each of the corresponding paragraphs in the listing agreements set out in Parts C, D, E, F, G and H thereof received by the SEHK;
- (iii) three copies of any press notice published in the newspapers in accordance with the requirements of Rules 14.08(1)(b), 14.13(1)(b), 14.21(2), 14.23(2) and 14.25 of the SEHK Listing Rules;
- (iv) three copies of any other announcement or advertisement published in the newspapers by a new applicant or a listed issuer; and
- (v) one copy of each signed listing agreement received by the SEHK,

since the SEHK last forwarded documents to the SFC in accordance with this paragraph;

(e) Practice/Guidance Notes:

the SEHK shall forward to the SFC for its approval or otherwise, pursuant to the provisions of the Unification Ordinance, any practice note, guidance note or any other rule or requirement published by the SEHK intended to have mandatory effect or to be of general application in relation to or in connection with the performance of any of the SEHK's listing functions, powers or procedures (i.e. which constitutes a rule change) and the SEHK shall, in relation to any such rule change, forward a draft copy thereof to the SFC for comment prior to approval by the SEHK and shall not publish, rely upon or impose on any person any such rules until they have been approved in writing by the SFC;

(f) Listing Committee Appointments:

the Board shall not appoint any person to be a member of the Listing Committee under the categories referred to in Rules 2A.17(1), (2) and (3) of the SEHK Listing Rules if, following full consultation between the members of the Listing Nominating Committee pursuant to Rule 2A.21 of

such rules, the SFC has objected in writing to the appointment of any such person; and

(g) Referrals to Listing Committee:

the Listing Committee of the SEHK shall, if so requested by the SFC, consider or review any matter, including a previous decision of the Listing Division, the Chief Executive or the Listing Committee itself, provided that such request must be in writing setting out the reasons therefor and must be signed by the Executive Director of the Corporate Finance Division of the SFC, after having first consulted with and obtained the prior agreement of the Chairman of the SFC.

6.2 The parties acknowledge and agree that representatives from the Corporate Finance Division of the SFC and representatives from the Listing Division of the SEHK shall meet every month, such meetings to be known as the "*SEHK-SFC (Listing) Liaison Committee Meetings*", to discuss:

- (a) matters arising out of the minutes of the previous meeting;
- (b) any matter arising out of the latest SEHK Monthly Report to the SFC prepared by the Listing Division in accordance with the provisions of paragraph 6.1(a) above;
- (c) matters relating to the regulation of listed companies, and oversight of the SEHK by the SFC in relation to listing related matters; and
- (d) any policy matters or other matters, including proposed rule changes, relating to any of the listing functions and responsibilities of the SEHK or the SFC,

and that proper minutes shall be kept of such meetings.

6.3 Generally, and apart from observing all of the specific provisions of this Memorandum of Understanding, the SEHK hereby acknowledges and agrees that it shall:

- (a) use its best efforts to keep the SFC informed, as soon as reasonably practicable, of any applications, transactions or policy matters of a novel or potentially controversial or sensitive nature, or which are likely to involve any public policy implications, or which may affect the integrity and reputation of the market, and the SEHK may, to the extent that it considers it necessary or desirable, consult with the SFC in respect of the conduct of any such matter or in relation to any other matter whatsoever;

- (b) inform the SFC of any application for listing by a new applicant or by a listed issuer which involves the listing of an issuer or business or type of security which the Executive Director - Listing or the Chairman of the Listing Committee reasonably believes is likely to involve any public policy implications; and
- (c) not list any securities if the SFC has requested in writing the SEHK not to list such securities on the grounds of public policy.

## 7. FUTURE POLICY DEVELOPMENT

7.1 The parties each agree:

- (a) to work together to consider introducing a series of statutory obligations for all listed companies in Hong Kong governing at least those areas identified in **Appendix 5** (the "*agreed areas*") which are agreed would enhance investor protection;
- (b) to consult in the preparation and to the issue of a public consultation document with respect to the policy referred to in paragraph 7.1(a) above, to be issued either by the parties jointly, or by the SFC (in which case the SEHK will support such policy at least to the extent of the agreed areas);
- (c) to consider introducing measures to enhance the ability of the SEHK or the SFC to ensure compliance by directors, financial advisers and sponsors with the SEHK Listing Rules and other investor protection requirements relating to listed companies;
- (d) to consider a policy of introducing measures, statutory or otherwise, designed to set minimum standards and encourage enhanced professional standards and practices of financial advisers in Hong Kong; and
- (e) to adopt the procedures outlined in **Appendix 6** to govern their respective roles in the administration of takeover related matters, share repurchases (other than On-market share repurchases) and the listing of authorised investment vehicles.

## 8. MISCELLANEOUS

8.1 This Memorandum of Understanding has effect from the date hereof and supersedes and replaces the former MOU, which shall have no further effect.

- 8.2 The parties agree to keep the operation of this Memorandum of Understanding under review and to consult with a view to improving its operation and resolving any matters.
- 8.3 This Memorandum of Understanding may be amended at any time by written agreement between the parties.
- 8.4 Subject to paragraph 3.1(d) above, this Memorandum of Understanding shall remain in full force and effect unless and until the parties agree in writing to terminate the whole or any part hereof.
- 8.5 (a) In 1999, the SEHK established the Growth Enterprise Market ("**GEM**"). GEM is operated as an alternative market to the stock market operated by the SEHK prior to that date (the "**Main Board**") within the Unified Exchange. The SEHK has adopted the *Rules Governing the Listing of Securities on the Growth Enterprise Market of the Stock Exchange of Hong Kong Limited* (the "**GEM Listing Rules**"). The GEM Listing Rules apply only to matters relating to securities and issuers with securities listed on GEM.
- (b) In February 2000, the SFC and the SEHK entered into an *Addendum to Memorandum of Understanding Governing Listing Matters* (the "**former Addendum**") to allow the SEHK to become solely responsible for the day-to-day administration of listing related matters in relation to GEM and to enable the SFC to be better able to oversee the SEHK in the performance of its listing functions and responsibilities in relation to GEM. The former Addendum related exclusively to listing related matters in relation to GEM.
- (c) On the date hereof, the SFC and the SEHK have entered into a new Addendum entitled "*Amended and Restated Addendum to Memorandum of Understanding Governing Listing Matters*" (the "**Addendum**") to reflect the matters referred to in paragraphs 2.2 and 2.3 above. The Addendum, which takes effect on the date hereof, supersedes and replaces the former Addendum, which shall have no further effect.

DATED this 6th day of March 2000

**SIGNED FOR AND ON BEHALF OF THE** )  
**SECURITIES AND FUTURES COMMISSION** )  
BY *MR ANDREW SHENG* )  
authorised so to do by resolution of the Securities and )  
Futures Commission on the date hereof )



**SIGNED FOR AND ON BEHALF OF THE STOCK** )  
**EXCHANGE OF HONG KONG LIMITED** )  
BY *MR. ALEC TSI* )  
authorised so to do by resolution of the Board of The )  
Stock Exchange of Hong Kong Limited on the date )  
hereof )



## SFC LISTING RELATED FUNCTIONS

The SFC has the following functions in relation to listing related matters:

- (a) to administer certain statutory requirements including those under the Securities and Futures Commission Ordinance (Cap. 24), the Securities Ordinance (Cap. 333), the Protection of Investors Ordinance (Cap. 335), the Stock Exchanges Unification Ordinance (Cap. 361), the Securities (Disclosure of Interests) Ordinance (Cap. 396), the Companies Ordinance (Cap. 32) and the Securities (Insider Dealing) Ordinance (Cap. 395) and the Exchanges and Clearing Houses (Merger) Ordinance (Ord. 12 of 2000), (collectively referred to as the "**relevant Ordinances**") and the rules and regulations made thereunder, to ensure full disclosure to and fair treatment of public shareholders and investors;
- (b) to take all reasonable steps to safeguard the interests of persons dealing in securities;
- (c) to supervise and monitor the activities of the SEHK, among other things, to ensure that it discharges its regulatory responsibilities in relation to all listing related matters in a professional and impartial manner;
- (d) to review and provide policy advice on the system of regulation of listed companies and other public companies;
- (e) to consider and suggest reforms of the law relating to securities;
- (f) to promote and develop self-regulation by market bodies in the securities industry;
- (g) to encourage the development of the securities market in Hong Kong and the increased use of such market by investors in Hong Kong and elsewhere;
- (h) to administer the *Hong Kong Code on Takeovers and Mergers* and the *Hong Kong Code on Share Repurchases* to ensure that there is adequate and timely disclosure of information to, and equality of treatment of, shareholders in relation to takeovers, mergers and share repurchases;
- (i) to administer the *Hong Kong Code on Unit Trusts and Mutual Funds* which establishes guidelines for the authorization of collective investment schemes;
- (j) to investigate alleged breaches of the provisions of the Codes referred to in (h) and (i) above and the relevant Ordinances referred to in (a) above; and

- (k) to co-operate with and assist the SEHK and other regulatory organizations or authorities in Hong Kong or elsewhere that are concerned with securities or with the affairs of corporations.

**SEHK LISTING RELATED FUNCTIONS & RESPONSIBILITIES**

The SEHK has the following listing related functions and responsibilities:

- (a) to establish a stock exchange and to provide, regulate and maintain facilities for conducting the business thereof;
- (b) to provide and operate a stock market and to promote and protect the interests of all members of the public having dealings on the SEHK or with members thereof;
- (c) to provide and promote a fair, orderly and efficient market for the trading of securities;
- (d) to establish and promulgate rules prescribing listing requirements for the quotation of securities on, and in respect of such other matters as are necessary or desirable for the proper and efficient operation and management of, the stock market;
- (e) to administer the SEHK Listing Rules and the GEM Listing Rules published by the SEHK fairly and in accordance with the general principles set out in Chapter 2 of the respective Rules and having regard to the best interest of each market and Hong Kong's stock market as a whole and in the public interest;
- (f) to ensure, so far as reasonably practicable, that persons administering the SEHK Listing Rules and the GEM Listing Rules are independent, professional and competent;
- (g) to establish a Listing Committee (with respect to the Main Board) and a GEM Listing Committee (with respect to GEM) comprising a membership broadly representative of the various industry groups with interests in the proper regulation of each market and of Hong Kong's stock market as a whole and with expertise in listing and corporate finance related matters to discharge all of the SEHK's listing functions and powers in relation to the Main Board and GEM impartially, independently and professionally; and
- (h) to establish fair and clear procedural rules governing the manner in which the SEHK will discharge all its listing functions and responsibilities.

**RULES GOVERNING THE PROCEEDINGS OF THE LISTING  
COMMITTEE AND THE LISTING APPEALS COMMITTEE**

**RULES GOVERNING THE PROCEEDINGS OF  
THE LISTING COMMITTEE**

(the "*Procedural Rules*")

In accordance with paragraph 2.6 of the Amended and Restated Memorandum of Understanding Governing Listing Matters dated 6<sup>th</sup> March 2000, the Board has pursuant to the Articles of Association of the Exchange approved the following Rules for the regulation of the internal proceedings of the Listing Committee. These Rules have also been approved by the Securities and Futures Commission under Section 35 of the Stock Exchanges Unification Ordinance, and any subsequent changes to these Rules must be approved in writing by the Securities and Futures Commission. These Rules take effect on 6<sup>th</sup> March 2000 and replace the former procedural rules having the same name.

**1. Definitions**

1.1 In these Rules the following terms, save where the context otherwise requires, have the following meanings:

"*Board*" means the directors of the Exchange elected or appointed in accordance with the Articles of Association of the Exchange and, where the context so permits, any committee or sub-committee thereof;

"*business day*" means any day on which the Exchange is open for the business of dealing in securities;

"*Chief Executive*" means the person occupying the position of Chief Executive of the Exchange from time to time by whatever name such position is called;

"*Commission*" means the Securities and Futures Commission established under section 3 of the Securities and Futures Commission Ordinance;

"*Exchange*" means The Stock Exchange of Hong Kong Limited;

"*listing*" means the grant of a listing of and permission to deal in securities on the Exchange;

"*Listing Committee*" means the listing sub-committee of the Board appointed to discharge all of the Board's functions and power in respect of all listing matters

relating to the Main Board of the Exchange, subject to the powers of review vested in the Listing Appeals Committee referred to in the SEHK Listing Rules;

**"listing document"** means a prospectus, a circular and any equivalent document (including a scheme of arrangement and introduction document) issued or proposed to be issued in connection with an application for listing;

**"Listing (Review) Committee"** means the Listing Committee acting in its capacity to review its own decisions, as provided in the SEHK Listing Rules; and references in these Rules to the "Listing Committee" shall, unless the context otherwise requires, include the Listing (Review) Committee;

**"meeting"** means a meeting of the relevant members convened to discharge any function of the Listing Committee and includes any meeting which may alternatively be described as a hearing or proceeding or which uses another expression to describe any such function;

**"member"** means a member of the Listing Committee;

**"Secretary"** means the person referred to in Rule 12.1 of these Rules; and

**"SEHK Listing Rules"** means the Rules Governing the Listing of Securities on the Exchange.

- 1.2 Where the context so permits or requires, words importing the singular number include the plural and vice versa and words importing the masculine gender include the feminine and neuter genders and vice versa.

## **2. Listing Committee Meetings**

- 2.1 Subject to these Rules, the Listing Committee may meet for the despatch of business, adjourn and otherwise regulate its meetings in such manner as it thinks fit.
- 2.2 The Listing Committee shall normally meet for the despatch of business on Thursday of each week at 4.30 p.m. In addition, the Secretary may convene a further weekly meeting of the Listing Committee where it is considered necessary. Such additional weekly meetings will normally be held on a Tuesday at 4.30 p.m. Provided that in the event of such meetings falling on a public holiday or otherwise, the meeting will be postponed to the next business day.
- 2.3 In the event of an emergency, the Secretary may convene additional meetings of the Listing Committee as and when necessary.

- 2.4 For the purpose of assigning members to attend meetings, the Secretary shall divide all members, other than the Chief Executive and the Chairman and Deputy Chairman of the Listing Committee, into two pools: "*Pool I*" and "*Pool II*". Each member in Pool I will be paired with another member of similar background in Pool II.
- 2.5 The Secretary shall prepare a schedule of meetings and send it to all members once every two months. The schedule will contain two lists setting out the members who are assigned to attend Listing Committee meetings during the forthcoming two months period: the "*Preferred List*" and the "*Back-up List*". The Preferred List specifies the members who will be called on to attend a particular meeting (the "*Preferred Members*"). Members in the Preferred List may be drawn either from Pool I or Pool II. The Back-up List specifies the members who will be called on to attend a meeting if a Preferred Member is not able to attend the meeting concerned (each member on such list being a "*Corresponding Member*"). Subject to Rule 2.6, a member will be on the Preferred List once every two meetings.
- 2.6 The Chairman and Deputy Chairman of the Listing Committee and the Chief Executive will be called to attend every meeting and their names will be included in the Preferred List for every meeting.
- 2.7 The Secretary shall only call on a Corresponding Member to attend a meeting if the Preferred Member named in the Preferred List indicates to the Secretary that he will not be able to attend the meeting. A Corresponding Member with respect to a particular meeting shall not attend that meeting unless he is called upon by the Secretary to do so. Accordingly, if a Preferred Member is not able to attend a meeting, he must notify the Secretary that he will not be available to attend as soon as possible.

### **3. Notice of Meetings**

- 3.1 Every member shall be entitled to receive notice of every meeting of the Listing Committee and shall provide the Secretary with an address in Hong Kong at which notices may be served on him.
- 3.2 The Secretary shall inform members of a meeting either in writing or by telephone. Normally written notice of the meeting will be delivered by hand to the address provided to the Secretary three clear business days before the proposed meeting.
- 3.3 A notice of meeting shall specify the place, the day and the hour of the meeting and the general nature of any business to be considered. In the case of new listing matters and most policy matters, the notice shall normally also include a report and/or paper to be prepared by the Listing Division and in the case of a new listing a copy of the relevant listing document.

3.4 Notice shall be deemed to have been served on a member upon the despatch of any notice properly carrying the address of the member provided pursuant to Rule 3.1.

3.5 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at the meeting.

#### **4. Quorum**

4.1 No business shall be transacted at any meeting unless a quorum of members is present at the time when the meeting proceeds to business and continues to be present until the conclusion of the meeting; save as herein otherwise provided five members present in person shall be a quorum.

4.2 If the Chief Executive is present at a meeting of the Listing Committee he may be counted in the quorum for the meeting (including a meeting at which the Listing Committee is determining a matter in the first instance) except that he shall not be counted in the quorum for any meeting at which a decision of his, the Listing Division or the Listing Committee is under review. The Chief Executive may attend meetings of the Listing Committee convened for such purpose and put forward his views (if any) on the matter under review but he shall not thereafter be entitled to participate in the deliberations of the Listing Committee or to vote on such matters.

4.3 A meeting of the members of the Listing Committee at which a quorum is present shall be competent to exercise all the powers and discretions then vested in the Listing Committee.

#### **5. Convenor of Meetings**

5.1 The Listing Committee shall have a convenor and a deputy convenor who shall both be nominated by the Listing Nominating Committee referred to in the SEHK Listing Rules and shall be appointed by the Board. The convenor shall be the Chairman, and the deputy convenor shall be the Deputy Chairman, of the Listing Committee.

#### **6. Proceedings at Meetings**

6.1 The Chairman of the Listing Committee shall preside as Chairman of every meeting of the Listing Committee, or if there is no such Chairman, or if he shall not be present within 5 minutes after the time appointed for the holding of the

meeting or has declared a conflict of interest in a matter to be considered or has otherwise informed the Secretary of his intention not to attend the meeting, the Deputy Chairman of the Listing Committee shall preside as chairman or, in his absence, the members present shall elect one of their number to be chairman of the meeting.

- 6.2 If within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to such other day and at such other time and place as the Secretary may determine.
- 6.3 The chairman of a meeting of the Listing Committee may, with the consent of the relevant meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. It shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 6.4 Where the Listing Committee is considering an application for listing from a new applicant the Listing Committee should normally invite the new applicant to make itself available to attend the meeting, but the Listing Committee need not invite the new applicant into the meeting unless it wishes to directly question the new applicant. If the new applicant is invited to make itself available to attend, the new applicant may be accompanied by its sponsor and/or proposed authorised representatives.
- 6.5 Where a ruling of the Listing Division, including a decision of the Listing Division to reject an application for listing or a proposed sponsor, is under review by a meeting of the Listing Committee, or where a decision is subject to further review by the Listing Committee, in accordance with the SEHK Listing Rules, the issuer shall have the right to attend the meeting, to make submissions and to be accompanied by its sponsor and/or authorised representatives, financial adviser, legal adviser and auditors and a sponsor or authorised representative may be accompanied by his legal adviser. In such review cases the Listing Committee shall ensure that the Listing Division provides the parties with copies of any papers to be presented by it at the meeting, in advance of the review meeting.

## **7. Votes of Members**

- 7.1 Every member shall be entitled to one vote provided that at any meeting of the Listing Committee at which a decision of the Chief Executive, the Listing Division or the Listing Committee is under review, the Chief Executive, even when he is present as a member of the relevant Listing Committee shall not be entitled to vote nor be entitled to participate in the deliberations, but he may attend the meeting and put forward his views (if any) on the matter under review.

- 7.2 Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman of the meeting shall be entitled to a second or casting vote.
- 7.3 Any member who is unable to attend a meeting may convey his views and opinions to the meeting (either verbally or in writing) through the Chairman of the Listing Committee or the Secretary, but such views shall not be binding on members who attend the meeting and shall not be counted in any voting by the persons present at the meeting.
- 7.4 Any resolution or decision duly passed at a meeting shall not be discussed or commented on by any member in public, irrespective of whether they were present at the meeting where such resolution or decision was made, except to the extent that the Chairman may publicly justify or defend the decision in any way he sees fit.
- 7.5 A resolution in writing signed by more than half of all the members of the Listing Committee shall be as valid and effective as if the resolution had been passed at a meeting duly convened and constituted provided that reasonable endeavours have been made to seek the approval from all the members.

## **8. Review Procedures**

- 8.1 At any meeting held to review an earlier decision of the Listing Committee, all of the members present at the second meeting must be persons who were not present at the first meeting.
- 8.2 Where the Listing Committee rejects an application for listing by a new applicant or endorses, modifies or varies a Listing Division decision to reject such an application it must, if requested, give its reasons in writing within the period specified in, and in accordance with, the SEHK Listing Rules; and subject to the SEHK Listing Rules, the new applicant must be given the right to have that decision referred for review.
- 8.3 Where the Listing Committee:-
- (a) reviews a decision of the Listing Division in respect of:
    - (i) the rejection of a sponsor under rule 3.01;
    - (ii) the termination of an authorised representative under rule 3.05;

- (iii) the rejection of an application to lift a suspension of dealings in the securities of an issuer where the suspension has been in place for more than 30 consecutive days;
  - (iv) the rejection of an application for a suspension of dealings in the securities of an issuer; or
  - (v) a decision to direct the resumption of dealings,
- and endorses, modifies or varies the ruling of the Listing Division;

- (b) upholds the rejection of an application for listing by a new applicant on the second review, solely on the grounds that the issuer or its business is not suitable for listing;
- (c) decides to cancel the listing of a listed issuer; or
- (d) imposes sanctions against any persons in accordance with the SEHK Listing Rules,

the Listing Committee must, if requested, give its reasons in writing within the period specified in, and in accordance with the provisions of, the SEHK Listing Rules; and, subject to the SEHK Listing Rules, the person against whom the relevant decision is made shall be given the right to have that ruling referred for review.

- 8.4 Upon the receipt of the written request for a review of any decision of the Listing Division or the Listing Committee, the Listing Committee or the Listing (Review) Committee, as the case may be, will convene a hearing to review the matter in accordance with the procedures as prescribed by the Secretary; provided that when the Listing Committee or Listing (Review) Committee considers that it is necessary to resolve an issue urgently, it may stipulate such time as may be necessary within which the relevant party should be informed as to the date for the review hearing. In particular, following a decision to cancel the listing of a listed issuer, the Listing Committee shall set down a detailed review procedure, including time limits for submitting documents, on a case by case basis.
- 8.5 In any meeting constituting a formal hearing or formal proceedings before the Listing Committee or the Listing (Review) Committee, the party who is the subject of such hearing or proceedings shall have the right to attend the meeting, to make submissions and to be accompanied by such persons, in each case as provided in the SEHK Listing Rules.
- 8.6 The Listing Committee may in its sole discretion decide to review fully a decision of the Listing Division or itself, having regard to the rights of any third party which may have been created in reliance upon the earlier decision, at the request

of a person (other than an issuer, its sponsor and authorised representatives) who is aggrieved by any such decision.

- 8.7 The Listing Committee shall, if so requested by the Commission, consider or review any matter, including a previous decision of the Listing Division, the Chief Executive or the Listing Committee itself, provided that such request must be in writing setting out the reasons therefor, and must be signed by the Executive Director of the Corporate Finance Division of the Commission, after having first consulted with and obtained the prior agreement of the Chairman of the Commission.

## **9. Minutes of Meetings**

- 9.1 The Secretary shall cause proper minutes of meetings of the Listing Committee and all business dealt with thereat to be kept in English or Chinese.
- 9.2 In finalising the minutes of a meeting the Secretary shall have regard to any comments made by the members if such members were present at the meeting.
- 9.3 The proposed minutes recording a meeting shall be circulated by the Secretary in draft form to all members, whether they were present at the meeting or not, for approval at a subsequent meeting of the Listing Committee.
- 9.4 The minutes of any meeting shall, if approved by the members and signed by the chairman of such meeting or by the presiding chairman, be prima facie evidence of the facts and decisions stated therein.

## **10. Conflicts of Interest**

- 10.1 A member who is in any way, whether directly or indirectly, materially interested in a matter to be discussed at a meeting must declare any such material interest to the Secretary prior to the meeting or to those present at the meeting and, whenever appropriate and practicable, return all relevant papers to the Secretary as soon as he becomes aware of the conflict. If the member attends the meeting at which the matter is to be considered he must leave the meeting immediately when such matter comes up for discussion and only return after it has been dealt with.
- 10.2 A member who is in any way materially interested in a proposed matter may not vote in respect of any such matter in which he is so interested, and if he shall do so his vote shall not be counted, nor shall he be counted for the quorum present at the meeting, for the purposes of the item in which he has a material interest.
- 10.3 The Secretary shall record all conflicts of interests so declared by a member in the relevant minutes.

**11. Spokesperson for Listing Matters**

- 11.1 The Chairman of the Listing Committee shall be the spokesperson for all listing matters in relation to the Main Board within the Exchange and, subject to the SEHK Listing Rules shall be the person to whom all enquiries or comments should normally be directed.

**12. The Secretary**

- 12.1 The Listing Committee shall have a secretary who shall be the person occupying the position of the Executive Director - Listing from time to time, by whatever name such position is called.
- 12.2 The Secretary shall be responsible for preparing the agenda, giving notice and taking minutes of every meeting in accordance with these rules.

**13. Bona fide Acts of Members**

- 13.1 All bona fide acts of a member carried out pursuant to any resolution passed at a meeting of the Listing Committee and any decisions of the Listing Committee shall, as regards all persons dealing in good faith with the Exchange, notwithstanding that it be subsequently discovered that there was some defect in the convening of or the proceedings of the meeting at which such resolution or decision was passed, be deemed to be valid as if such meeting had been duly constituted and the proceedings thereat had been carried out in accordance with these Rules.

**15. Conflicts between these Rules and the SEHK Listing Rules**

- 15.1 If there is any inconsistency between these Rules and the SEHK Listing Rules, the SEHK Listing Rules shall prevail.

RULES GOVERNING THE PROCEEDINGS OF THE  
LISTING APPEALS COMMITTEE

(the "*Procedural Rules*")

In accordance with paragraph 2.6 of the Amended and Restated Memorandum of Understanding Governing Listing Matters dated 6<sup>th</sup> March 2000, the following Rules have been approved by the Board pursuant to the Articles of Association of the Exchange for the regulation of the internal proceedings of the Listing Appeals Committee in so far as they relate to the Main Board market of the Exchange. These Rules have also been approved by the Securities and Futures Commission under Section 35 of the Stock Exchanges Unification Ordinance, and any subsequent changes to these Rules must be approved in writing by the Securities and Futures Commission. These Rules take effect on 6<sup>th</sup> March 2000 and replace the former procedural rules having the same name.

**1. Definitions**

1.1 In these Rules the following terms, save where the context otherwise requires, have the following meanings:

"*Board*" means the directors of the Exchange elected or appointed in accordance with the Articles of Association of the Exchange and, where the context so permits, any committee or sub-committee thereof;

"*Chief Executive*" means the person occupying the position of Chief Executive of the Exchange from time to time by whatever name such position is called;

"*Exchange*" means The Stock Exchange of Hong Kong Limited;

"*Listing Appeals Committee*" means the listing appeals sub-committee of the Board by whatever name it may be called from time to time;

"*Listing Committee*" means the listing sub-committee of the board appointed to discharge all the Board's functions and powers in respect of all listing matters relating to the Main Board of the Exchange, subject to the powers of review vested in the Listing Appeals Committee; and which expression includes the Listing (Review) Committee as defined in the SEHK Listing Rules;

"*meeting*" means a meeting of the relevant members convened to discharge any function of the Listing Appeals Committee and includes any meeting which may alternatively be described as a hearing or proceeding or which uses another expression to describe any such function;

"*member*" means a member of the Listing Appeals Committee;

"*SEHK Listing Rules*" means the Rules Governing the Listing of Securities on the Exchange; and

"*Secretary*" means the person referred to in Rule 9.1 of these Rules.

- 1.2 Where the context so permits or requires, words importing the singular number include the plural and vice versa and words importing the masculine gender include the feminine and neuter genders and vice versa.

## **2. Listing Appeals Committee Meetings**

- 2.1 Subject to these Rules, the Listing Appeals Committee may meet for the despatch of business, adjourn and otherwise regulate its meetings in such manner as it thinks fit.

## **3. Notice of Meetings**

- 3.1 A member may be informed verbally of the time, place and agenda of a meeting.

## **4. Quorum**

- 4.1 No business shall be transacted at any meeting unless a quorum of members is present at the time when the meeting proceeds to business and continues to be present until the conclusion of the meeting; save as herein otherwise provided three members present in person shall be a quorum.
- 4.2 A meeting of the members of the Listing Appeals Committee at which a quorum is present shall be competent to exercise all the powers and discretions then vested in the Listing Appeals Committee.

## **5. Votes of Members**

- 5.1 Every member shall be entitled to one vote and questions arising at any meeting shall be determined by a majority of votes of the members present.
- 5.2 A resolution in writing signed by all the members of the Listing Appeals Committee shall be as valid and effective as if the resolution had been passed at a meeting duly convened and constituted.

## **6. Review Procedures**

- 6.1 Where a ruling of the Listing Committee is under review by the Listing Appeals Committee the Listing Appeals Committee shall ensure that the Listing Division provides the parties with copies of any papers to be presented by it at the meeting, in advance of the review meeting.
- 6.2 In any meeting constituting a formal hearing or formal proceedings before the Listing Appeals Committee, the party who is the subject of such hearing or proceedings shall have the right to attend the meeting, to make submissions and to be accompanied by such persons, in each case as provided in the SEHK Listing Rules.

## **7. Minutes of Meetings**

- 7.1 The Secretary shall cause proper minutes of meetings of the Listing Appeals Committee and all business dealt with thereat to be kept in English or Chinese.
- 7.2 The proposed minutes recording a meeting shall be circulated by the Secretary in draft form to all members for approval at a subsequent meeting of the Listing Appeals Committee.
- 7.3 The minutes of any meeting shall, if approved by the members and signed by the chairman of such meeting or by the presiding chairman, be prima facie evidence of the facts and decisions stated therein.

## **8. Conflicts of Interest**

- 8.1 A member who is in any way, whether directly or indirectly, materially interested in a matter to be discussed at a meeting (otherwise than as a member of the board of directors of Hong Kong Exchanges and Clearing Limited and, where applicable, of the Board) must declare any such material interest to the Secretary prior to the meeting or to those present at the meeting and return all relevant papers to the Secretary as soon as he becomes aware of the conflict. If the member attends the meeting at which the matter is to be considered he must leave the meeting immediately when such matter comes up for discussion and only return after it has been dealt with.
- 8.2 A member who is in any way materially interested in a proposed matter (otherwise than as a member of the board of directors of Hong Kong Exchanges and Clearing Limited and, where applicable, of the Board) may not vote in respect of any such matter in which he is so interested, and if he shall do so his vote shall not be counted, nor shall he be counted in the quorum present at the meeting, for the purposes of the item in which he has a material interest.

- 8.3 The Secretary shall record all conflicts of interests so declared by a member in the relevant minutes.

**9. The Secretary**

- 9.1 When considering matters relating to the Main Board market of the Exchange, the Listing Appeals Committee shall have a secretary who shall be the person occupying the position of the Executive Director - Listing from time to time, by whatever name called.
- 9.2 The Secretary shall be responsible for preparing the agenda, giving notice and taking minutes of every meeting in accordance with these rules.

**10. Bona fide Acts of Members**

- 10.1 All bona fide acts of a member carried out pursuant to any resolution passed at a meeting of the Listing Appeals Committee and any decisions of the Listing Appeals Committee shall, as regards all persons dealing in good faith with the Exchange, notwithstanding that it be subsequently discovered that there was some defect in the convening of or the proceedings of the meeting at which such resolution or decision was passed, be deemed to be valid as if such meeting had been duly constituted and the proceedings thereat had been carried out in accordance with these Rules.

**11. Conflicts between these Rules and the SEHK Listing Rules**

- 11.1 If there is any inconsistency between these Rules and the SEHK Listing Rules, the SEHK Listing Rules shall prevail.

**SEHK MONTHLY REPORT TO THE SFC**

for the month of \_\_\_\_\_ 20

1. The following information (where known to the SEHK) in respect of any new applicant which has submitted an advance booking form to, or which has made an informal preliminary enquiry with, the SEHK :

(a) Name of New Applicant/Issuer:

(b) Number type of Security :

(c) Method of Listing :  
(e.g. offer for sale/  
placing/introduction/etc.)

(d) Whether the particular  
type of security has  
previously been listed  
on the SEHK

(i)

Never

(ii)

Less than  
20 issues

(iii)

More than  
20 issues

If (i) or (ii), please  
give details :

(e) Whether the nature of the  
new applicant's business(es)  
involves an activity which  
has not previously been  
carried on by any listed  
issuer, and, if so, a brief  
description thereof :

- (f) If the new applicant is seeking a primary listing, specify its country of incorporation :
- (i) Hong Kong  
(ii) Bermuda  
(iii) Cayman Islands  
(iv) Cook Islands  
(v) Other, please specify:
- (g) The date dealings are expected to commence on :

2. Name of all listed issuers in respect of which listing was applied for/granted of further/new securities including the date, number and type of securities, method of listing and the date on which dealings are expected to commence :

<u>Name</u>	<u>Date Listing Applied for/Granted</u>	<u>Number &amp; type of Security</u>	<u>Method of Listing</u>	<u>Dealings to Commence on</u>
-------------	---	--------------------------------------	--------------------------	--------------------------------

3. Name of any new applicant and/or listed issuer whose application or preliminary enquiry was rejected and brief reason therefor :

<u>Name of New Applicant/Issuer</u>	<u>Reasons for Rejection</u>
-------------------------------------	------------------------------

4. Brief details of any policy issues arising and the manner in which such issues were dealt with (e.g. policy paper prepared for Listing Committee/Listing Committee paper delivered and Listing Committee decision made/proposed consultation/proposed practice/guidance note/executive decision taken).

5. Brief details of any transaction of a novel, difficult complex or potentially controversial nature, or one which is likely to involve any public policy implications and the way such issue is proposed to be or was resolved.
6. Details of any application or transaction in which a financial adviser, sponsor, authorised representative, auditor or other expert was considered not acceptable to the SEHK and the name of such expert and the reasons therefor.
7. Brief details of any waivers granted and/or rejected in relation to the SEHK Listing Rules governing connected transactions.
8. The name of the listed company and other parties involved in any transaction falling under the SEHK Listing Rules relating to very substantial acquisitions.
9. Brief details of any request to review a decision of the Listing Division, Chief Executive or Listing Committee.
10. Brief details of any request by an aggrieved person for the Listing Committee to review, of its own volition, any decision of the Listing Division or the Chief Executive.

**STATUTORY OBLIGATIONS FOR ALL LISTED COMPANIES**

(the "*agreed areas*")

(i) **Listing Document**

A requirement that all listing documents, circulars and announcements contained full, true and plain disclosure. Based on Section 146 of the Financial Services Act 1986 of the United Kingdom ("*FSA(UK)*");

(ii) **Supplementary Information**

A requirement to publish details of any significant changes arising after the issue of a listing document, circular or announcement, unless the SFC agrees otherwise. Based on Section 147 of the FSA(UK); and

(iii) **Accounts**

A requirement that annual accounts must present a true and fair view and be prepared in accordance with the accounting policies and/or standards declared by the directors; and

(iv) **Liability of Advisers**

A new provision that advisers and sponsors may also be liable for misleading or incomplete documents, based on Section 150 of the FSA(UK); and

(v) **Penalties**

Penalties for breaches of any such statutory provisions be provided so as to be consistent with the Companies Ordinance.

## SFC/SEHK AGREED PROCEDURES

### 1. Takeovers and Share Repurchases other than On-market share repurchases

- (a) Subject to sub paragraph (d) below, the SEHK will pass all its comments on any document submitted to the SEHK for approval which relates to a takeover or merger covered by the Hong Kong Code on Takeovers and Mergers or which relates to a share repurchase, other than an On-market share repurchase, covered by the Hong Kong Code on Share Repurchases, to the SFC and not directly to the listed issuer concerned (or its advisers). The SFC agrees to pass on any such comments to the listed issuer concerned (or its advisers) and, where requested, shall notify the relevant person that those comments have been made by the SEHK.
- (b) The SFC agrees to discuss the SEHK's proposed comments on such draft documents with the SEHK. This may result in the SEHK retracting or modifying a proposed comment.
- (c) The SFC agrees not alter or agree a compromise in respect of any comment raised by the SEHK without the SEHK's approval and also agrees to ensure that the SEHK's comments are taken into account by the listed issuer unless otherwise agreed by the SEHK.
- (d) The SEHK will make comments directly to a listed issuer or its advisers in the following circumstances:
  - (i) when requested to do so by the SFC;
  - (ii) when the SFC does not agree with the SEHK's comment or cannot agree a compromise with the SEHK and therefore refuses to make the comment to the relevant listed issuer/or its advisers; and
  - (iii) in exceptional circumstances when the SEHK deems it necessary, in which circumstances the SEHK agrees to give notice to the SFC of its intention to comment directly to the listed issuer (or its advisers).

### 2. Authorised Investment Vehicles

- (a) Where a unit trust or mutual fund applies for a listing of its units or redeemable shares on the SEHK in conjunction with an application to the

SFC for authorisation pursuant to Section 15 of the Securities Ordinance then:

- (i) subject to sub paragraph (iv) below, the SEHK will pass all its comments on any document submitted to the SEHK for approval which relates to the unit trust or mutual fund to the SFC and not directly to the unit trust or mutual fund concerned (or its advisers). The SFC agrees to pass on any such comments to the unit trust or mutual fund concerned (or its advisers) and, where requested, shall notify the relevant person that those comments have been made by the SEHK.
  - (ii) The SFC agrees to discuss the SEHK's proposed comments on such draft documents with the SEHK. This may result in the SEHK retracting or modifying a proposed comment.
  - (iii) The SFC agrees not alter or agree a compromise in respect of any comments raised by the SEHK without the SEHK's approval and also agrees to ensure that the SEHK's comments are taken into account by the unit trust or mutual fund unless otherwise agreed by the SEHK.
  - (iv) The SEHK will make comments directly to a listed issuer or its advisers in the following circumstances:
    - (A) when requested to do so by the SFC;
    - (B) when the SFC does not agree with the SEHK's comment or cannot agree a compromise with the SEHK and therefore refuses to make the comment to the relevant listed issuer/or its advisers; and
    - (C) in exceptional circumstances when the SEHK deems it necessary, in which circumstances the SEHK agrees to give notice to the SFC of its intention to comment directly to the listed issuer (or its advisers).
- (b) Where a unit trust or mutual fund which has already been authorised by the SFC pursuant to Section 15 of the Securities Ordinance, subsequently applies for a listing of its units or redeemable shares on the SEHK, the SEHK agrees to consult with the SFC, prior to granting or refusing to grant such a listing, to confirm that the unit trust or mutual fund is still authorised and to discuss any concerns that the SEHK may have regarding the unit trust or mutual fund. SFC agrees that it will issue a letter to the unit trust or mutual fund confirming that it has been and still is duly so

authorised so as to enable it to comply with Rule 20.15(5) of the SEHK's Listing Rules.

- (c) Where the SEHK receives an application for listing of units or redeemable shares in a unit trust or mutual fund which has not been authorised by the SFC pursuant to Section 15 of the Securities Ordinance and does not intend to obtain such authorisation prior to listing, the SEHK agrees that it will consult with the SFC to ensure that the SFC is not of the opinion that the unit trust or mutual fund should be so authorised.