



Part I: Proposals To Amend Property Valuation Requirements For Applicants

Proposals for all Applicants

1. Do you agree with the proposed disclosure guidance for material property interests in paragraph 61 of the Consultation Paper?

Yes

No

If your answer is “No”, please give reasons and alternative views.

Paragraph 58(a) - it would be helpful to provide further guidance as to what “significant” means in terms of percentage.

Query whether paragraphs 58(b) and (c) are relevant factors for considering whether a property interest is itself material - encumbrances and title defects relating to a property are more issues for disclosure if the property is material to the issuer, rather than affecting the materiality of a property interest. Disclosures of such matters are already included in paragraphs 61(e) to (g). Thus subparagraphs (b) and (c) should be removed from paragraph 58.

Paragraph 61(a) - disclosures on market analysis should be expressed to relate only to properties that are held for sale or investment.

Paragraph 61(i) – we suggest replacing “important” by “material” as the latter term has a more established meaning in law.

2. Do you agree that the proposed definition of property activities is appropriate?

Yes

No

If your answer is “No”, please give reasons and alternative views.

It is not entirely clear whether, under this definition, the holding for own use by an issuer of a property that has significant re-development potential would constitute “property activities”.

Should there be a timing reference to this e.g. at the date of the prospectus or circular or as at the latest audit date, as the purpose for holding a property may change over time?

3. Do you agree with the proposed definition of a property interest in paragraph 67 of the Consultation Paper?

Yes

No

If your answer is "No", please give reasons and alternative views.

4. Do you agree with the proposed guidance on what should be treated as a single property interest in paragraph 69 of the Consultation Paper?

Yes

No

If your answer is "No", please give reasons and alternative views.

Minor amendments as below, as the definition of "property" includes both land and buildings:

"(a) one or more units in the same building;
(b) one or more properties located at the same address or lot number;
(c) one or more properties comprising an integrated facility;
(d) one or more [buildingsproperties](#), structures or facilities comprising a property development project (even if there are different phases);
(e) one or more properties held for investment in one complex;
(f) one or more [buildingsproperties](#), structures or facilities located contiguous to each other or located on adjoining lots and used for the same or similar operational / business purpose; or
(g) project presented as a whole to the public as one project or forming a single operating entity."

In addition, guidelines should be issued on the application of such definitions, in particular, detailed explanation and examples of "integrated facilities", "same or similar operational/business purpose" and "a single operating entity".

5. In addition to the information mentioned in paragraph 74 of the Consultation Paper, is there any other information that should be disclosed in a valuation report that is not required at present by the Listing Rules? Also, is there any information that is no longer required to be disclosed in a valuation report?

Yes

No

If your answer is "Yes", please state.

6. Do you agree with the proposal to maintain the effective date at which the property was valued under Rule 5.07 at not more than 3 months before the date of the listing document?

Yes

No

If your answer is "No", please give reasons and alternative views.

If there has been no material change to the property valuation since the accounts date the issuer should be allowed flexibility in not conducting the exercise again to update the report to not more than 3 months prior to the listing document date. The position may be confirmed by a "no material change statement" by the issuer which is included in the prospectus.

7. Do you think that the prospectus law should retain requirements for property valuations in line with the proposals in this paper? Alternatively is it sufficient for the prospectus law to rely on the general disclosure obligation under the Companies Ordinance (CO)?

Yes

No

Please give reasons.

While the disclosure requirements for property valuations as set out in the prospectus law and the CO should mirror each other, we would recommend that the prospectus law retain such disclosure requirements. Although the listing applicants/issuers will be subject to the general disclosure obligation under both the CO and the Listing Rules, the inclusion of the disclosure requirements in the Listing Rules serves as easy and convenient reference for the listing applicants/issuers in order to make the required disclosure in the listing documents.

However, we also note certain inconsistencies between the disclosure requirements under the CO and the Listing Rules, details as set out in the answer to Q 25.

Proposals for Property Activities

8. Do you agree not to require property valuations and disclosing valuation information if the carrying amount of a property interest of an applicant's property activities is below a percentage of its total assets?

Yes

No

If your answer is "No", please give reasons and alternative views.

9. Do you agree not to require valuation of a property interest with carrying amount below 1% of total assets?

Yes

No

If your answer is "No", please give reasons and alternative views.

10. Do you agree that the total carrying amount of property interests that do not require valuation cannot exceed 10% of the applicant's total assets?

Yes

No

If your answer is "No", please give reasons and alternative views.

11. Do you agree that a listing document should include full text of valuation reports for all property interests that are required to be valued under property activities except where summary disclosure is allowed?

Yes

No

If your answer is "No", please give reasons and alternate views.

12. Do you agree to allow summary disclosure if the market value of a property interest as appraised by the valuer is less than 5% of the property interests that are required to be valued under property activities?

Yes

No

If your answer is "No", please give reasons and alternative views.

13. Do you agree with the form for summary disclosure of property interests in Appendix II of the Consultation Paper?

Yes

No

If your answer is "No", please give reasons and alternative views.

14. Do you agree that an applicant should be required to include an overview in the listing document describing all property interests not covered by a valuation report?

Yes

No

If your answer is "No", please give reasons and alternative views.

15. Do you agree that the proposed class exemption notice should apply to prospectus for unlisted companies as well as applicants?

Yes

No

If you answer is "No", please give reasons and alternate views.

16. Do you agree that the proposed class exemption notice in Appendix III of the Consultation Paper will implement the proposals for property activities?

Yes

No

If you answer is "No", please give reasons and alternate views.

17. Do you agree that the proposed Listing Rule amendments in Appendices IV.A and IV.B of the Consultation Paper will implement the proposals for property activities?

Yes

No

If your answer is "No", please give reasons and alternative views.

Proposals for Non-Property Activities

18. Do you agree that a full text of valuation report is required if the carrying amount of a property interest is or is above 15% of an applicant's total assets?

Yes

No

If your answer is "No", please give reasons and alternative views.

19. Do you agree that the 15% threshold should be calculated using:

(a) the carrying amount of a property interest; and

(b) total assets

reflected in the accountants' report of the applicant?

Yes

No

If your answer is "No", please give reasons and alternative views.

20. Do you agree with the proposed disclosure requirement for property interests in paragraph 98 of the Consultation Paper?

Yes

No

If your answer is "No", please give reasons and alternative views.

As all relevant property interests are required to be included in the valuation report, there is no added meaning to a negative statement in the prospectus. If the concern is that investors may not understand the scope of the valuation report, the report itself may refer to the scope of the valuation and the 15% threshold.

21. Do you agree that an applicant should be required to include an overview in the listing document describing all property interests not covered by a valuation report?

Yes

No

If your answer is "No", please give reasons and alternative views.

22. Do you agree that property interests ancillary to mining activities will not be required to be valued if the prospectus includes a valuation by an independent professionally qualified valuer of the associated mineral or petroleum assets or resources?

Yes

No

If your answer is "No", please give reasons and alternative views.

23. Do you agree that the proposed class exemption notice should apply to prospectus for unlisted companies as well as applicants?

Yes

No

If you answer is "No", please give reasons and alternate views.

24. Do you agree that that proposed class exemption notice in Appendix III of the Consultation Paper will implement the proposals for non-property activities?

Yes

No

If you answer is “No”, please give reasons and alternate views.

Suggest the following amendments:

1. Section 9B(3)(c): In respect of any summary Type B interest, the company must make the full text of the valuation report in respect of each such property interest available for inspection by the public at the same venue and for the same period that the material contracts and documents of the company are displayed for public inspection.

2. Definition of “property” should be consistent with the definition of property in Appendix IV, and should also include guidance on what should be treated as a single property interest as set out in paragraph 69.

3. Definitions of “exempt Type A interest” and “exempt Type B interest”

“**exempt Type A interest**” (獲豁免A類權益) means –

(a) any Type A interest which has a carrying value representing less than 15 per cent of the group’s total assets; or

~~(b) any mining property interest which has a carrying value representing less than 15 per cent of the group’s total assets;~~

~~(e)~~ any mining property interest which has a carrying value representing 15 per cent or more of the group’s total assets in circumstances where the prospectus contains a report from an independent qualified valuer regarding the value of the minerals or petroleum resources or assets associated with the mining property interest;

“**exempt Type B interest**” (獲豁免B類權益) means –

(a) in circumstances where the aggregate carrying value of all Type B interests with a carrying value of less than ~~one~~1 per cent of the group’s total assets does not exceed ~~ten~~10 percent of the group’s total assets, any Type B interest which has a carrying value of less than ~~one~~1 per cent of the group’s total assets; or

(b) in circumstances where the aggregate carrying value of all Type B interests with a carrying value of less than ~~one~~1 per cent of the group’s total assets exceeds ~~ten~~10 percent of the group’s total assets, only those Type B interests with lowest carrying values whose carrying values when added together do not exceed ~~ten~~10 percent of the group’s total assets;

25. Do you agree that the proposed Listing Rule amendments in Appendices IV.A and IV.B of the Consultation Paper will implement the proposals for non-property activities?

Yes

No

If your answer is “No”, please give reasons and alternative views.

As a general comment, the proposed amendments to the Listing Rules (as set out in Appendix IV.A and Appendix IV.B) should be consistent with the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011 (as set out in Appendix III). However, we also note certain inconsistencies between the disclosure requirements under the CO and the Listing Rules, e.g. the proposed Rule 5.01A of the Main Board Listing Rules requires disclosure of the valuation of property interests forming part of the guarantor’s property activities for debt securities offerings, which is different from the definition of “Type B interests” in Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011.

Also, proposed Rule 5.01C excludes the property valuation of mining properties if the listing documents includes a valuation by an independent professional qualified valuer, irrespective whether such properties form part of the property activities or not. We note that the definition of “exempt Type A interests” takes a different approach.

Further amendments as below:

5.01A A listing document issued by an applicant must include valuations of and information on property interests:

(a) that form part of its (or, for debt securities, the guarantor’s) property activities except for those with the lowest carrying amounts each with a carrying amount below 1% of its total assets. The total aggregate carrying amounts of property interests not valued must not exceed 10% of its total assets; and

(b) that do not form part of its property activities if the carrying amount of a property interest is or is above 15% of its total assets.

Part II: Proposals To Amend Property Valuation Requirements For Issuers

26. Do you agree with the proposed disclosure guidance for material property interests in paragraph 61 of the Consultation Paper?

Yes

No

If your answer is “No”, please give reasons and alternative views.

27. Do you agree that it is unnecessary to introduce different valuation requirements for acquisition or disposal of non-property activities and property activities for issuers?

Yes

No

If your answer is "No", please give reasons and alternative views.

The distinction in treatment of valuation requirements for property activities and non-property activities should be consistently applied to applicants as well as issuers as the distinction relates to the activities rather than the listing status of the applicant/issuer.

28. Do you agree with the proposal to remove valuation requirements if the company being acquired or disposed of is listed on the Exchange, except for a connected transaction (see paragraph 123 of the Consultation Paper)?

Yes

No

If your answer is "No", please give reasons and alternative views.

29. Do you agree that an overview of property interests not covered by a valuation report be disclosed in the circular?

Yes

No

If your answer is "No", please give reasons and alternative views.

30. Do you agree not to require property valuations and disclosing valuation information for acquisition or disposal of an unlisted company if the carrying amount of a property interest is below a percentage of the issuer's total assets?

Yes

No

If your answer is "No", please give reasons and alternative views.

31. Do you agree not to require valuation of property interest with carrying amount below 1% of the issuer's total assets?

Yes

No

If your answer is "No", please give reasons and alternative views.

32. Do you agree that the total carrying amount of property interests that do not require valuation cannot exceed 10% of the issuer's total assets?

Yes

No

If your answer is "No", please give reasons and alternative views.

33. Do you agree with the proposed definition of property interest in paragraph 67 of the Consultation Paper?

Yes

No

If your answer is "No", please give reasons and alternate views.

34. Do you agree with the proposed guidance on what should be treated as a single property interest in paragraph 69 of the Consultation Paper?

Yes

No

If your answer is "No", please give reasons and alternate views.

Please refer to answer to question 4 in Part I.

35. Do you agree that a circular should include full text of valuation reports for all property interests that are required to be valued except where summary disclosure is allowed?

Yes

No

If your answer is "No", please give reasons and alternate views.

36. Do you agree to allow summary disclosure if the market value of a property interest as appraised by the valuer is less than 5% of the property interests that are required to be valued?

Yes

No

If your answer is "No", please give reasons and alternative views.

37. Do you agree with the form for summary disclosure of property interests in Appendix II of the Consultation Paper?

Yes

No

If your answer is "No", please give reasons and alternative views.

38. Do you agree that an overview of property interests not covered by a valuation report be disclosed in the circular?

Yes

No

If your answer is "No", please give reasons and alternative views.

39. Do you agree that for an acquisition or disposal of an unlisted company, valuations will not be required for property interests ancillary to mining activities if the circular includes a valuation by an independent professionally qualified valuer of the associated mineral or petroleum assets or resources?

Yes

No

If your answer is "No", please give reasons and alternative views.

40. Do you agree with the proposal relating to a very substantial acquisition in paragraph 121 of the Consultation Paper?

Yes

No

If your answer is "No", please give reasons and alternative views.

41. Do you agree with the proposal to retain the existing valuation requirements for connected transactions?

Yes

No

If your answer is "No", please give reasons and alternative views.

42. Do you agree that valuation will continue to be required if the connected transaction involves an acquisition or disposal of a company listed on the Exchange?

Yes

No

If your answer is "No", please give reasons and alternative views.

43. Do you agree with the proposals relating to connected transactions in paragraph 125 of the Consultation Paper?

Yes

No

If your answer is “No”, please give reasons and alternative views.

44. In addition to the information mentioned in paragraph 74 of the Consultation Paper, is there any other information that should be disclosed in a valuation report that is not required at present by the Listing Rules? Also, is there any information that is no longer required to be disclosed in a valuation report?

Yes

No

If your answer is “Yes”, please state.

45. Do you agree with the proposal to maintain the effective date at which the property was valued under Rule 5.07? (Please note that the same question has been raised for applicants in question 6).

Yes

No

If your answer is “No”, please give reasons and alternative views.

46. Do you agree that the proposed Listing Rule amendments in Appendices IV.A and IV.B of the Consultation Paper will implement the proposals for issuers?

Yes

No

If your answer is “No”, please give reasons and alternative views.

To be consistent with the disclosure requirements applicable to listing applicants, suggest the below amendments to rule 5.02A:

5.02A Valuation of a property interest is not required if:

(a) it is acquired from the Hong Kong Government at a public auction or by sealed tender; or

(b) the company being acquired or disposed of is listed on the Exchange, except if it is a connected transaction; or

(c) the property interests in the company being acquired or disposed of is ancillary to the exploration for and/or extraction of Natural Resources (as defined in Chapter 18) ~~if and~~ the circular includes a valuation by an independent professionally qualified valuer of the Natural Resources; or

(d) the carrying amount of (i) a property interest being acquired or disposed of or (ii) the property interest in the company being acquired or disposed of is below

1% of the issuer's total assets. If the aggregate carrying amounts of such property interest in a transaction exceeds 10% of the issuer's total assets, this rule 5.02A only applies to the property interest with the lowest total carrying amount with an aggregate carrying amount of property interests not valued must not exceeding 10% of the issuer's total assets.

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Company and Financial Law Committee
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