



**SECURITIES AND  
FUTURES COMMISSION**  
證券及期貨事務監察委員會

## **Consultation Paper on Proposed Amendments to the Securities and Futures (Stock Market Listing) Rules**

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28 March 2025

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## Foreword

The Securities and Futures Commission (**SFC**) invites market participants and interested parties to submit written comments on the proposals discussed in this consultation paper or to comment on related matters that might have a significant impact upon the proposals by no later than 23 May 2025. Any person wishing to comment on the proposals on behalf of an organisation should provide details of the organisation whose views they represent.

**Please note that the names of the commentators and the contents of their submissions may be published on the SFC's website and in other documents to be published by the SFC. In this connection, please read the Personal Information Collection Statement attached to this consultation paper.**

**You may not wish the SFC to publish your name, submission or both. If this is the case, please state that you wish your name, submission or both to be withheld from publication when you make your submission.**

Written comments may be sent as follows:

By mail to:	The Securities and Futures Commission 54/F One Island East 18 Westlands Road Quarry Bay Hong Kong  Re: Consultation Paper on Proposed Amendments to the Securities and Futures (Stock Market Listing) Rules
By fax to:	(852) 2810-5385
By online submission at:	<a href="http://www.sfc.hk/edistributionWeb/gateway/EN/consultation/">http://www.sfc.hk/edistributionWeb/gateway/EN/consultation/</a>
By e-mail to:	<a href="mailto:SMLR.Review@sfc.hk">SMLR.Review@sfc.hk</a>

All submissions received before the end of the consultation period will be taken into account before the proposals are finalised and a consultation conclusions paper will be published in due course.

Securities and Futures Commission  
Hong Kong

28 March 2025

## Personal Information Collection Statement

1. This Personal Information Collection Statement (**PICS**) is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. The PICS sets out the purposes for which your Personal Data<sup>1</sup> will be used following collection, what you are agreeing to with respect to the SFC's use of your Personal Data and your rights under the Personal Data (Privacy) Ordinance (Cap. 486) (**PDPO**).

### Purpose of collection

2. The Personal Data provided in your submission to the SFC in response to this consultation paper may be used by the SFC for one or more of the following purposes:
  - (a) to administer the relevant provisions<sup>2</sup> and codes and guidelines published pursuant to the powers vested in the SFC;
  - (b) in performing the SFC's statutory functions under the relevant provisions;
  - (c) for research and statistical purposes; and
  - (d) for other purposes permitted by law.

### Transfer of personal data

3. Personal Data may be disclosed by the SFC to members of the public in Hong Kong and elsewhere as part of the public consultation on this consultation paper. The names of persons who submit comments on this consultation paper together with the whole or part of their submissions may be disclosed to members of the public. This will be done by publishing this information on the SFC's website and in documents to be published by the SFC during the consultation period or at its conclusion.

### Access to data

4. You have the right to request access to and correction of your Personal Data in accordance with the provisions of the PDPO. Your right of access includes the right to obtain a copy of your Personal Data provided in your submission on this consultation paper. The SFC has the right to charge a reasonable fee for processing any data access request.

### Retention

5. Personal Data provided to the SFC in response to this consultation paper will be retained for such period as may be necessary for the proper discharge of the SFC's functions.

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<sup>1</sup> Personal Data means personal data as defined in the Personal Data (Privacy) Ordinance (Cap. 486).

<sup>2</sup> The term "relevant provisions" is defined in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571) and refers to the provisions of that Ordinance together with certain provisions in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32), the Companies Ordinance (Cap. 622) and the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615).



## Enquiries

6. Any enquiries regarding the Personal Data provided in your submission on this consultation paper, or requests for access to Personal Data or correction of Personal Data, should be addressed in writing to:

The Data Privacy Officer  
The Securities and Futures Commission  
54/F One Island East  
18 Westlands Road  
Quarry Bay  
Hong Kong

7. A copy of the Privacy Policy Statement adopted by the SFC is available upon request.

## Proposed Amendments to the Securities and Futures (Stock Market Listing) Rules

### Executive summary

1. The SFC has completed a review of the Securities and Futures (Stock Market Listing) Rules (Cap. 571V) (**SMLR**). The review examined whether the existing rules equip the SFC with sufficient targeted tools seeking to ensure and encourage both listed issuers and listing applicants to make more transparent and accurate disclosures, as well as to address misconduct. This should provide broader investor protection, which boosts investor confidence and encourages investment.
2. The proposed amendments set out in this Consultation Paper primarily focus on addressing certain identified gaps and operational limitations in the SMLR and refining existing procedures. The major technical amendments include:
  - (a) an express provision for imposing continuing conditions on listing applicants – this will allow a listing application to proceed on condition that, after listing, the issuer would be required to observe or comply with certain obligations or undertakings that are imposed in conjunction with the listing;
  - (b) an express provision for imposing post-listing conditions on listed issuers – this will provide a less disruptive alternative action to a trading suspension;
  - (c) streamlining the procedures for resumption of dealings – this will enhance the efficient handling of resumption cases, which should lead to shorter suspension times in relevant cases; and
  - (d) a right for an issuer aggrieved by the SFC's decisions (for example, imposition of conditions, suspension of trading or refusal to resume trading) to seek a full merits review by the Securities and Futures Appeals Tribunal (**SFAT**) – this will provide an effective independent safeguard to ensure that the relevant regulatory decisions are made in a reasonable, proportionate and fair manner.
3. The SFC focuses on tackling the most serious and egregious behaviour, to prevent or reduce imminent financial harm to the investing public. Listed issuers that provide adequate, timely and complete information about their business activities and transactions, should find that their existing practices remain effective and relevant. The proposed amendments are therefore expected to have little to no impact on the majority of listed issuers.
4. The SFC invites comments on the proposals described in this Consultation Paper including the proposed amendments to the SMLR. A draft of the proposed amendments, marked up against the current version of the SMLR, is set out in **Appendix 1** to facilitate market comments.
5. After carefully considering the responses received, we will publish a conclusions paper. Revisions reflecting comments taken on board will be incorporated into the proposed amendments which will be subsequently tabled before the Legislative Council.

## SMLR: a tool to prevent or reduce imminent financial harm to investing public

6. The SMLR, which has been effective since 1 April 2003<sup>3</sup>, provides the SFC with tools to utilise against false or misleading corporate information disclosure and listings that would not be in the interests of the investing public or the public interest. The SMLR also reinforces the legal and regulatory regime for listing in addition to the non-statutory Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (**Listing Rules**) administered by The Stock Exchange of Hong Kong Limited (**Stock Exchange**). No amendments to Parts 2 to 3 and 5 of the SMLR have been made since 2003<sup>4</sup>.
7. The SFC and the Stock Exchange carry out their respective regulatory actions in relation to both initial public offering (**IPO**) and post-IPO activities. The SFC exercises its statutory powers of investigation, intervention and enforcement in cases involving fraud and other serious market misconduct under the Securities and Futures Ordinance (Cap. 571) (**SFO**) and its subsidiary legislation such as the SMLR. The SFC's principal objective is to safeguard the interests of investors, balanced against market efficiency. On the other hand, the Stock Exchange is the primary front-line regulator responsible for enforcing the Listing Rules and taking disciplinary actions relating to Listing Rules breaches.
8. Further, the SFC has, since 2017, adopted a front-loaded approach and exercised its powers under the SMLR to supplement traditional enforcement actions. The front-loaded approach aims to take earlier, more targeted intervention in the most serious cases<sup>5</sup> to prevent or reduce imminent financial harm to the investing public.<sup>6</sup> Front-loaded intervention under the SMLR is limited to circumstances where there is a clear indication that financial harm to the investing public is imminent as a result of suspected fraud or other serious misconduct. Where the financial harm has already occurred, the SFC will take appropriate enforcement action in accordance with existing practice against relevant parties under the SFO, which may also include actions under the SMLR.
9. Addressing fraud and other types of serious misconduct at an early stage can help minimise potential losses to investors. This indirectly improves market integrity and investor confidence. Reflecting on the SFC's experience both before and after 2017, our approach has been effective<sup>7</sup>. A substantial majority of the listing applications in which the SFC intervened did not proceed to listing. Where the concerns raised related

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<sup>3</sup> Made under section 36(1) of the Securities and Futures Ordinance (Cap. 571).

<sup>4</sup> Amendments to Parts 1 and 4 of the SMLR, which relates to "Approved Share Registrars", were proposed in the SFC's "[Consultation paper on proposed subsidiary legislation for implementing an uncertificated securities market in Hong Kong](#)" in March 2023. In July 2024, the SFC has decided to adopt the proposed amendments to Parts 1 and 4 of the SMLR. The amended SMLR was published in the Gazette on 14 February 2025 and laid on the table of the Legislative Council on 19 February 2025.

<sup>5</sup> These include, for example, conduct that is suspected to be fraudulent, deceptive or unfairly prejudicial to public shareholders.

<sup>6</sup> The powers under the SMLR enable the SFC to exercise its discretion to raise direct requisitions with a listing applicant and object to a listing application in the pre-listing stage, and to require the Stock Exchange to suspend or cancel the listing of any listed securities.

<sup>7</sup> However, it is important to note that this approach does not serve as a solution for every case of misconduct and is only complementary to our power of investigation and intervention.

to proposed post-IPO transactions, many were terminated or materially restructured to be more favourable for public investors<sup>8</sup>. In all of the terminated cases, the listed issuers or listing applicants concerned failed to provide plausible responses to the SFC's enquiries. During the seven years ended 31 March 2024, the approximate value of listing applications and corporate transactions that did not proceed (or that only proceeded after a material restructuring) was approximately HK\$48 billion. While not the entirety of this value would have been lost, it is generally indicative of the significant financial harm that the investing public might have sustained, but for our intervention.

## Recent development

10. In August 2023, the Government of the Hong Kong Special Administrative Region established the Task Force on Enhancing Stock Market Liquidity (**Task Force**) to comprehensively review factors affecting stock market liquidity and make improvement proposals to the Chief Executive. The Task Force put forward various enhancement recommendations, including formulating long-term measures to promote the sustainable development of the stock market.
11. In response to the Task Force's direction, the SFC has reviewed the SMLR, among other initiatives. The review examined whether the existing rules equip the SFC with sufficient targeted tools seeking to ensure and encourage both listed issuers and listing applicants to make more transparent and accurate disclosures, as well as to address misconduct. This should provide broader investor protection, which boosts investor confidence and encourages investment. A market perceived as ineffective in tackling serious misconduct or protecting investors is unattractive to investors, especially institutional and international investors.
12. On the other hand, based on the SFC's experience in administering the SMLR, there is room for enhancements to address certain identified gaps and operational limitations. Current provisions are unclear as to whether the only available intervention tools to address misconduct under the SMLR are limited to objecting to a listing application, suspending trading or cancelling the listing, as applicable. The lack of clarity leads to less flexibility to accommodate the particular facts and circumstances of individual issuers or applicants.
13. Clarifying the relevant provisions set out in the SMLR would enhance the efficiency and transparency of the process.

## Current practices, current provisions of the SMLR and our proposals

### A. IPO cases

#### *Current practice*

14. For IPO cases, the SFC reviews all listing applications with a view to determining whether an application gives rise to any concerns under the SMLR and/or the SFO and ensuring that the overall disclosure is sufficient to enable investors to understand the business of the listing applicant and make informed investment decisions.

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<sup>8</sup> For the seven financial years ended 31 March 2024, the SFC directly intervened in approximately 200 cases involving IPO and listed issuers through the actual or potential use of its powers under the SMLR. Around two-thirds of these cases were related to IPO, while one-third were related to listed issuers.



15. In vetting listing applications, the SFC may ask the applicant for more information if the SFC has concerns under the SMLR<sup>9</sup>. After considering the information provided by the applicant, if the SFC sees potential grounds for objection under section 6(2) of the SMLR<sup>10</sup>, it may ask the applicant for further information and clarification. The applicant would be given the opportunity to address the SFC's concerns and provide supporting documents or explanation.
16. If the applicant satisfactorily addresses the SFC's concerns, the SFC will indicate that it does not have any further comments on the application. On the other hand, if the applicant's response still fails to address the SFC's concerns, the SFC may object to the listing under section 6(2) of the SMLR.

#### *Current provisions*

17. As discussed in paragraph 16 above, section 6(2) of the SMLR empowers the SFC to object to a listing of securities on the Stock Exchange and section 6(3)(b) of the SMLR empowers the SFC to impose conditions on a listing application. However, section 6(3)(b) does not explicitly provide that the conditions imposed can continue to have effect after listing.
18. To illustrate, in one case, the members of former management of a listing applicant, who were also the major pre-IPO shareholders, were convicted of certain criminal offences relating to financial matters. Although they had ceased to be directors of the listing applicant and had undertaken not to exercise their rights to appoint directors, they could continue to exert significant influence over the company's existing management and operations after listing due to their relationships with the current executive directors and substantial shareholders of the company. Even if a condition was imposed under section 6(3)(b) to restrict members of the former management from participating in the company's affairs *prior to* listing, there was nothing to prevent the issuer from appointing them to the board *after* listing. In such a situation, a condition that continues to apply after listing would better enable regulatory intervention to address any integrity issues that may arise after the company is listed.

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<sup>9</sup> See section 6(1) of the SMLR.

<sup>10</sup> Section 6(2) of the SMLR provides that the SFC may object to any listing application if it appears to the SFC that:

- (a) the application does not comply with a requirement under section 3 of the SMLR, namely, (i) non-compliance with the Listing Rules except to the extent waived or not required; (ii) non-compliance with applicable law; or (iii) failure to contain such particulars and information which, having regard to the particular nature of the applicant and the securities, is necessary to enable an investor to make an informed assessment of the activities, assets and liabilities and financial position of the applicant at the time of the application and its profits and losses and of the rights attaching to the securities;
- (b) the application is false or misleading as to a material fact or is false or misleading through the omission of a material fact;
- (c) the applicant has failed to comply with a requirement to supply such further information as the SFC may reasonably require for the performance of its functions under the SMLR or, in purported compliance with the requirement has furnished the SFC with information which is false or misleading in any material particular; or
- (d) it would not be in the interest of the investing public or in the public interest for the securities to be listed.

19. Likewise, in a number of listing applications, certain concerns commonly found in cases subject to later SFC enforcement actions, are detected at the vetting stage. For example, where, along with other suspicious findings:
- (a) there is an apparent lack of a robust and bona fide share placement and price discovery process; and/or
  - (b) the commissions paid to underwriters and other placing intermediaries were unusually high relative to the total funds raised, resulting in listing costs representing an inexplicably high percentage of the total listing proceeds.
20. Based on our past experience, the suspicions noted in these listing applications often coincide with findings of other suspicious facts and misconduct that emerge subsequent to listing through investigation. For example, in a number of cases it was subsequently discovered, after listing, that a portion of the underwriting commission, listing proceeds or listing expenses, was used to partially finance arrangements intended to artificially satisfy the initial listing requirements under the Listing Rules regarding sufficient investor interest, minimum market capitalisation and adequate spread of shareholders, or to perpetrate ramp and dump schemes.
21. Due to the prevalence of such cases, the SFC and the Stock Exchange published a [Joint Statement on IPO-related Misconduct](#) in 2021 to outline the general approach to tackle regulatory issues noted in new listings. Corporate misconduct in these new listings could go under the radar after listing as no immediate and targeted disclosure is required until the first full audited financial statements are prepared. In such cases, public shareholders' money is already involved and their financial loss would be inevitable.

*Our proposal – express provision for continuing conditions which will be applicable upon and after listing (section 6(3)(b) in conjunction with new section 6(3B))*

22. In the example set out in paragraph 18, the applicant had the ability to control or significantly alter the position of not appointing members of former management with criminal records at its discretion after listing, but it could be too restrictive for the SFC to object to its listing on this basis alone. For these types of listing applications, an alternative course would be to require continuing disclosure and reporting on the suspicious matters after listing. This provides more transparency and public accountability, and allows investors to make sensible, informed decisions.
23. We propose to add a new section 6(3B) to the SMLR to clarify that the SFC may impose conditions on a listing applicant under section 6(3)(b). The conditions will be applicable upon and after listing to require enhanced disclosure where certain identified concerns warrant regulatory attention and intervention, but do not constitute statutory grounds for objection to listing. Where adopted, this would allow a listing application to proceed on condition that, after listing, the listed issuer would be required to observe or comply with certain obligations or undertakings imposed upon listing. A breach of any such condition after listing would enable the SFC to take actions against the issuer.
24. This would enable the SFC to utilise conditions in a tailored way to ensure better disclosures to public investors by the relevant listing applicant, thereby enabling a more disclosure-based approach towards vetting listing applications where appropriate. This may also reduce the vetting time for some listing applications. While the conditions are imposed to allow the listing application to proceed, any breaches of a condition subsequent to the commencement of trading of the listing applicant's shares would not

invalidate the listing approval granted by the Stock Exchange. Instead, the SFC would give the issuer an opportunity to explain or rectify its conduct.

25. The SFC expects that in the majority of the cases where it imposes continuing conditions, such conditions will be disclosure-based in nature. The following are examples of conditions that a listing applicant might be required to satisfy upon and after listing:
- (a) where there are concerns that undisclosed benefits may have been given, by the listing applicant or one or more of its controllers, to a capital market intermediary in connection with the proposed listing, the listing applicant and the relevant capital market intermediary would be required to confirm that no side agreement or arrangement has been or will be entered into by the parties (other than the agreement or arrangement set out in the placing or underwriting agreements and/or the prospectus);
  - (b) the listing applicant could be required to disclose details of any other subsequent transactions between the parties by way of timely announcements; and
  - (c) the listing applicant could also be required to disclose the confirmations and details of any other subsequent transactions between the parties in its annual report for the first full financial year after listing.
26. Similar to the SFC's current practice, if it is minded to impose continuing conditions on a listing applicant under section 6(3)(b)<sup>11</sup>, it will notify the listing applicant of its concerns and request the necessary information. The applicant would be given the opportunity to address the SFC's concerns. Consistent with any other administrative decision that the SFC makes, it is required to act reasonably and proportionately in exercising the powers under section 6(3)(b)<sup>12</sup> to impose continuing conditions on a listing applicant.
27. After adoption of the proposed changes, we will issue an explanatory note to provide the market with a better understanding of the circumstances where the SFC may exercise its power under section 6(3)(b)<sup>13</sup> of the SMLR. The draft explanatory note is set out in **Appendix 2** to facilitate market understanding of examples of the types of conditions that the SFC is minded to impose in various situations.

**Q1: Please comment on the proposal to allow for the imposition of continuing conditions on a listing applicant which will be applicable upon and after listing. Please state and provide reasons for your views.**

## **B. Withdrawal of an objection notice under section 6(2) of the SMLR**

### *Current provision and proposal*

28. As the SFC does not have the power to withdraw an objection notice issued under section 6(2), a listing applicant is currently required to make a fresh application for listing after it addresses the SFC's concerns set out in the objection notice.

<sup>11</sup> Section 6(3)(b) of the SMLR should be read in conjunction with the new section 6(3B).

<sup>12</sup> See footnote 11 above.

<sup>13</sup> See footnote 11 above.

29. We propose an amendment (*new section 6(2A)*) to allow the SFC to withdraw an objection notice issued under section 6(2) so that a listing applicant may proceed with its original listing application. This proposal should make the process more efficient and save costs for the listing applicant.

**Q2: Please comment on the proposal to allow for a withdrawal of an objection notice under section 6(2) of the SMLR. Please state and provide reasons for your views.**

### C. Post-IPO matters

#### *Current practice*

30. When the SFC identifies a proposed corporate transaction that may warrant early intervention based on one or more of the grounds set out in section 8(1)<sup>14</sup> of the SMLR, the SFC may request the listed issuer to address the SFC's preliminary concerns. This is usually accompanied by a request for records or documents and explanation or statement in respect of records or documents produced<sup>15</sup>. The listed issuer would be given the opportunity to address the SFC's concerns and provide supporting documents or explanation.
31. If the listed issuer satisfactorily addresses the SFC's concerns, the issuer may proceed with the transaction. On the other hand, if the listed issuer chooses to proceed with the transaction without adequately addressing the SFC's concerns, the SFC may intervene under the SMLR, including directing the Stock Exchange to suspend trading of the issuer's shares under section 8(1) of the SMLR.

#### *Current provision*

32. As mentioned above, when the situation warrants, the SFC may, under section 8(1) of the SMLR, direct the Stock Exchange to suspend trading in a particular security based on certain grounds, such as when the SFC considers that the public may be making investment decisions based on materially false, incomplete or misleading information or where it is necessary or expedient in the interest of maintaining an orderly and fair

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<sup>14</sup> Section 8(1) of the SMLR provides that the SFC may direct the Stock Exchange to suspend trading in an issuer's shares if it appears to the SFC that:

- (a) any materially false, incomplete or misleading information has been disclosed by the issuer;
- (b) it is necessary or expedient in the interest of maintaining an orderly and fair market;
- (c) it is in the interest of the investing public or in the public interest, or it is appropriate for the protection of investors generally or for the protection of investors in any listed securities; or
- (d) there has been a failure to comply with conditions imposed by the SFC.

<sup>15</sup> Section 179(1) of the SFO provides that the SFC may require the production of any records and documents where it appears to the SFC that there are circumstances suggesting:

- (a) the business of the corporation has been conducted (i) to defraud creditors, (ii) for any fraudulent or unlawful purpose; or (iii) in a manner oppressive to its shareholders;
- (b) the corporation was formed for any fraudulent or unlawful purpose;
- (c) persons involved in the corporation's listing have engaged, in relation to such process, in defalcation, fraud, misfeasance or other misconduct;
- (d) persons who managed the corporation have engaged, in relation to such management, in defalcation, fraud, misfeasance or other misconduct towards it or its shareholders; or
- (e) shareholders of the corporation have not been given all the information with respect to its affairs that they might reasonably expect.

market in securities<sup>16</sup>. One reason for imposing a trading suspension is to prevent potential investors from becoming victims of corporate misconduct.

33. A trading suspension is usually imposed only when regulators view it as necessary to protect the investing public from suffering imminent financial harm by investing in the problematic securities. A decision to suspend is not taken lightly and involves carefully weighing the conflicting interests of the investing public against those of existing public shareholders who have already invested in the securities. Regulators generally seek to keep the period of suspension to a minimum and permit trading in an issuer's securities to resume as soon as the issues or other concerns are resolved or addressed.

*Our proposal – imposing post-listing conditions on a listed issuer (new section 7A) as an alternative to suspension*

34. Our objective is to ensure that investors make informed decisions based on sufficient disclosure by listed issuers, whilst minimising market disruption caused by suspension. We propose that the new section 7A to the SMLR will enable the SFC to impose conditions on a listed issuer and such conditions must be complied with for dealings in the securities to continue. Where a listed issuer is suspected of misconduct, the proposed section 7A will provide the SFC with a less disruptive alternative action to suspension in appropriate cases by imposing conditions that require the listed issuer to make more transparent and complete disclosures to public investors. This enables a more disclosure-based regulatory approach, which gives an opportunity for the listed issuer to address concern(s) identified by the SFC and may in some cases enable an issuer to avoid a trading suspension.
35. We propose to specify in the new section 7A that the SFC will only impose post-listing condition(s) on a listed issuer if it appears to the SFC that any of the following grounds is met:
- (a) members, or any part of the members, of the issuer have not been provided with any particulars or information with respect to, or in connection with, the business or affairs of the issuer that is necessary to enable a member to make an informed decision on an investment in securities;
  - (b) the business or affairs of the issuer have been conducted in a manner involving misconduct, or dishonourable or improper practices, towards the issuer, its members or any part of its members; or
  - (c) it is in the interest of the investing public or in the public interest, or it is appropriate for the protection of investors generally or for the protection of investors in any securities listed on the Stock Exchange.
36. The SFC expects that in the majority of the cases where it imposes post-listing conditions, such conditions will be disclosure-based in nature. To illustrate, the SFC may impose a condition to mandate an independent valuation report when the SFC reasonably believes that a listed issuer has failed to disclose sufficient particulars and information of a proposed material transaction about its or the target's financial position or affairs and that insufficient due diligence has been conducted on a transaction. In addition, to facilitate shareholders in making an informed decision on an investment in the securities of the issuer, the SFC may request the issuer to include all the relevant information in a statement or circular.

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<sup>16</sup> Please refer to footnote 14 above for details.

37. Conditions may also be imposed in cases where the SFC has reasons to believe that there is serious problematic corporate behaviour<sup>17</sup>. For example, after listing, it was revealed that a listed issuer had entered into an investment agreement with a capital market intermediary involved in the listing. This agreement involved investing in a wealth management product issued by an affiliate of the intermediary, with the investment amount matching the total amount of placing proceeds raised by that intermediary. The investment was not disclosed in the prospectus and the use of the IPO proceeds did not align with the intended usage as disclosed in the prospectus. To ensure that investors make informed decisions based on sufficient disclosure by the listed issuer, the SFC may impose certain conditions, such as requiring the listed issuer and its board of directors to disclose the reasons and provide explanations for the investment decision, clarify why the investment was not disclosed in the prospectus as well as justify the divergence of the IPO proceeds from the intended usage as disclosed in the prospectus.
38. Another example would be where the SFC has concerns on the integrity and suitability of a major shareholder, as a result of recent events, such as a conviction for theft or any other financial crime. Depending on the facts and circumstances of the case, one possible condition that may be imposed is, for example, that the listed issuer could be required to make relevant disclosures (such as the criminal record of the individual in question) should it intend to appoint the individual as a board member or senior management immediately after listing so that the investors will have sufficient information to make an informed decision. Another possible condition is to require that the individual be prohibited from being in any way involved in that issuer's management, operations and affairs for a designated period.
39. Similar to our current practice, if the SFC identifies a proposed corporate transaction that may warrant early intervention, the issuer would be given the opportunity to address the SFC's concerns and provide supporting documents or records. The SFC will assess the issuer's response and consider whether the SFC's concerns are addressed. If the issuer fails to adequately address the SFC's concerns, the SFC may impose conditions on the issuer under section 7A(1) of the SMLR. We also propose that the decision to be made under the new section 7A(1) would be reviewable by the SFAT<sup>18</sup> (see paragraph 52 below).
40. After adopting the proposed changes, we propose to issue an explanatory note to provide the market with greater transparency and a better understanding of the circumstances where the SFC may exercise its power under the new section 7A of the SMLR. To facilitate market's understanding, the draft explanatory note is set out in **Appendix 2** to provide examples of the types of conditions that the SFC is minded to impose in various situations.

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<sup>17</sup> Under section 7A(1)(b), the SFC may impose post-listing conditions on a listed issuer even if its trading of securities is already suspended voluntarily or otherwise by the Stock Exchange. This would provide transparency to issuers about the regulatory concerns and the remedies (such as disclosure of information) expected from them.

<sup>18</sup> The SFAT is a review body established under the SFO. Under the SFO, the chairman of the SFAT is a judge. Its statutory purpose is to act as a safeguard to ensure that regulatory decisions made by relevant regulatory authorities, including the SFC, are reasonable and fair. It is empowered to make a range of orders under the SFO in relation to its review proceedings. For details, please refer to the SFAT's website at <https://www.sfat.gov.hk/>.

**Q3: Please comment on the following proposals:**

- (a) to add a new section 7A to the SMLR pursuant to which the SFC may impose conditions on a listed issuer; and
- (b) the grounds under which conditions could be imposed on a listed issuer under the new section 7A.

**Q4: Do you think that the explanatory note in Appendix 2 will help issuers and their advisors to understand the scope and purpose of the proposed amendments to the SMLR? Please provide any comments on the draft explanatory note in Appendix 2 to this Consultation Paper.**

#### **D. Amendment, revocation or imposition of conditions**

- 41. We propose to add new sections 6(3A)(a), 7A(3) and 9(2)(a) to allow the SFC to amend or revoke any conditions imposed by the SFC in relation to a listing application, post-listing matter and resumption of dealings, respectively. The SFC may also impose new conditions on listing applicants and listed issuers where the situation warrants<sup>19</sup>.
- 42. The discretion to amend, revoke or supplement an existing condition is necessary to ensure that any regulatory action taken can be appropriately modified to take account of any subsequent changes and developments. Issuers are encouraged to maintain a constant dialogue with the SFC where conditions are imposed to resolve all relevant concerns as soon as possible. All applications for a variation or revocation of any conditions imposed by the SFC should be made directly to the SFC in writing.

**Q5: Please comment on the proposals to add new sections 6(3A)(a), 7A(3) and 9(2)(a) to the SMLR pursuant to which the SFC may amend or revoke any conditions imposed by it and new sections 6(3A)(b) and 9(2)(b) to allow the SFC to impose new conditions. Please state and provide reasons for your views.**

#### **E. Requisition of information from listed issuers**

##### *Current provision*

- 43. Currently, section 6(1) of the SMLR empowers the SFC to require listing applicants to supply to the SFC information as it may reasonably require for performing its functions under the SMLR. However, the SFC can only exercise this power on a listing applicant or a listed issuer concerning a current listing application. For post-IPO matters, the SFC is currently using a similar power under section 179 of the SFO<sup>20</sup> to request specific records or documents.

<sup>19</sup> See sections 6(3A)(b), 7A(1) and 9(2)(b).

<sup>20</sup> See footnote 15 above.

*Our proposal – power to require listed issuers to provide information that the SFC may reasonably require for the performance of its functions (new section 7B)*

44. To enhance and maintain an effective and ongoing communication between listed issuers and the SFC, we propose introducing a new section 7B to the SMLR under which the SFC may require listed issuers to supply information to the SFC that it may reasonably require for performing its functions under the SMLR. By doing so, listed issuers would have opportunities to provide information, respond to the SFC's enquiries, explain or address any concerns or issues identified by the SFC before it decides on whether further regulatory action (including the imposition of conditions under the new section 7A(1)) should be taken.

**Q6: Please comment on the proposals to add a new section 7B to the SMLR under which the SFC may require listed issuers to supply information to the SFC that it may reasonably require for the performance of its functions. Please state and provide reasons for your views.**

## **F. Resumption of dealings<sup>21</sup>**

### *Current provisions*

45. Where a trading suspension is imposed by the SFC under section 8(1) of the SMLR, the current section 9(3) of the SMLR enables the SFC to permit dealings in the securities to recommence subject to such conditions as it may think fit to impose, or to direct the Stock Exchange to cancel the listing of the securities. The current section 9(6) of the SMLR requires such decision to be made by the SFC Board<sup>22</sup> in a meeting. Since 2012, the SFC has directed suspension of trading of securities under section 8 of the SMLR in a total of 31 cases. Among them, seven cases that had been presented to the SFC Board resumed trading afterwards. All of these cases entailed extensive procedures involving written representations or even oral representations at a hearing, as required under the current sections 9 and 10 of the SMLR. As a result, a substantial amount of time and resources are needed for a resumption application subsequent to a suspension.

### *Our proposal – simplify the procedures under the current sections 9 and 10*

46. In order to avoid undue delays to the resumption of dealings, we propose to streamline the procedures under the current sections 9 and 10.
47. In most cases contemplated under the simplified section 9 procedures, a listed issuer would be requested to address the SFC's concerns (e.g. through taking rectification or mitigation measures). Where these concerns are satisfactorily addressed, the responsible Division (usually the Corporate Finance Division or Enforcement Division) would be in a position to recommend to the SFC Board to permit the trading to resume

<sup>21</sup> For the purpose of this Consultation Paper, the terms "resumption of dealings" and "recommencement of dealings" are used interchangeably.

<sup>22</sup> Consisting of its members as specified in section 1 of Part 1 of Schedule 2 to the SFO, collectively referred to as the "SFC Board" in this Consultation Paper.



(with<sup>23</sup> or without conditions). Therefore, we propose revising section 9 to clarify that the SFC may, upon the listed issuer's request for resumption or of its own volition, initiate the resumption procedures and consider whether to withdraw the suspension direction it issued under section 8(1) or direct the Stock Exchange to cancel the listing of the suspended securities, as appropriate, or refuse a request for resumption made by the issuer.

48. Under the revised section 9, the SFC Board will review papers submitted by, and hear the case as presented by, the responsible Division on a resumption decision. To uphold procedural fairness, the revised section 9 will require that the listed issuer in question be given a "reasonable opportunity of being heard" before the SFC Board makes a decision to refuse to permit dealings in the securities, to recommence, or to cancel the listing of the securities. This is in line with other provisions of the SFO which require the SFC to give the relevant person a reasonable opportunity of being heard before making certain decisions.
49. Consistent with the objective to allow for more efficient resumption, we also propose to allow for the delegation of the power to make resumption decisions in the future<sup>24</sup>. Currently, section 9(6) of the SMLR does not allow the delegation of such power to a Division. All resumption decisions are therefore decided by the SFC Board. By removing this restriction, the SFC Board would remain the primary decision maker in all resumption decisions. However, for uncontroversial cases, the SFC Board *may* decide to delegate decisions (for example, to decide whether a specified objective condition for resumption has been met) to, for example, an Executive Director or an Executive Committee of the SFC. We believe that this proposed flexibility would enhance the efficient handling of resumption cases, which will lead to shorter suspension times in relevant cases.

**Q7: Please comment on the following proposals:**

- (a) amendments to sections 9 and 10 to (i) simplify and streamline the procedures for lifting a suspension (with or without conditions); and (ii) provide an issuer with a reasonable opportunity of being heard before the SFC makes a decision leading to the refusal of trading resumption or cancellation of listing; and**
- (b) removing the restriction under the current section 9(6) of the SMLR on non-delegability of the SFC's powers under section 9.**

**Please state and provide reasons for your views.**

<sup>23</sup> Please see paragraphs 41 and 42 about the amendment or revocation of conditions for resumption of dealings under the new section 9(2)(a) and the imposition of new conditions for resumption of dealings under the new section 9(2)(b).

<sup>24</sup> For the avoidance of doubt, any decisions that may be deemed detrimental to listed issuers (such as a decision to reject a resumption application) would typically be made by the SFC Board in order to uphold procedural fairness.

## **G. Review of SFC's decisions**

### *Current provisions*

50. Currently, the review of decisions made by the SFC under the SMLR would be raised through different procedures. For example, the decision to lift a suspension of trading (with or without conditions) would be made by the SFC Board under section 9(6), whilst a listing applicant would need to apply to the SFAT to review the SFC's decision to object to a listing application under section 6(2) or imposition of conditions to a listing under section 6(3)(b).

### *Our proposal – SFAT to assume the role of the review body for the SFC's decisions under the SMLR*

51. Where a listed issuer is aggrieved by the outcome of the SFC's decision to suspend trading in or cancel the listing of a particular security, a shift of further procedures to the SFAT enables the review process to conform with the majority of the SFC's decisions under the SFO. The SFC considers that the SFAT is a more appropriate review body as it provides an effective independent safeguard to ensure that regulatory decisions are reasonable, proportionate and fair and it brings transparency and independent guidance to the market. This would also align the review process of decisions made under different sections of the SMLR.
52. In addition to the SFC's decisions under the SMLR which are currently reviewable by the SFAT (see paragraph 53 below), we propose that an aggrieved listed issuer would be entitled to a full merits review by the SFAT of the following decisions made by the SFC:
- (a) the imposition of conditions by the SFC under the new section 7A(1);
  - (b) a direction to the Stock Exchange to suspend all dealings in securities of an issuer under section 8(1);
  - (c) the imposition of resumption conditions by the SFC under the new section 9(1)(a);
  - (d) a direction to the Stock Exchange to cancel the listing of the securities of an issuer under the new section 9(1)(c);
  - (e) a refusal to permit resumption of dealings in the securities of an issuer under the new section 9(1)(b); and
  - (f) an amendment or revocation of any condition under the new sections 6(3A)(a), 7A(3) and 9(2)(a), or the imposition of new conditions under the new sections 6(3A)(b) and 9(2)(b).
53. For completeness and clarity, the following are the SFC's decisions under the SMLR which are currently reviewable by the SFAT:
- (a) the objection to a listing application under section 6(2); and
  - (b) the imposition of conditions where the SFC does not object to the listing of any securities to which a listing application relates under section 6(3)(b).

54. A separate amendment of Schedule 8 to the SFO (which will be made by the Chief Executive in Council) would be required to add the relevant sections to the list of specified decisions falling within the jurisdiction of the SFAT.

**Q8: Please comment on the proposal for the SFAT to assume the role of the review body for the SFC's decisions under the SMLR as set out in paragraphs 52 and 53 above. Please state and provide reasons for your views.**

**H. Pre-emptive pro rata issuances and employee share option schemes under section 4 of the SMLR**

*Current provisions*

55. Under section 3 of the SMLR, a “listing application” refers to an application for the listing of any securities issued or to be issued by an applicant. This includes both new listing applications submitted by listing applicants and listing applications submitted by existing listed issuers. According to section 4 of the SMLR, some circumstances are excluded from the scope of a “listing application”, including:
- (a) listing of securities offered on a pre-emptive basis pro rata to existing holdings of shareholders (i.e., a pro rata rights issue or pro rata open offer)<sup>25</sup>; and
  - (b) listing of shares issued or allotted pursuant to the exercise of options granted to existing employees as part of their remuneration under an employee share option scheme<sup>26</sup>.
56. These circumstances were codified on the basis that pro rata share offers afford all shareholders an equal opportunity to subscribe for securities, and share option schemes, which are approved by shareholders, would pose less risks compared with other circumstances relating to issuance of shares.
57. However, in recent years, we noted a trend in which a number of majority-controlled companies carried out rights issues and open offers that appeared to be unfairly prejudicial to minority shareholders' interests. In these cases, the SFC's enquiries found that the terms of the proposed offers were highly dilutive and/or the listed issuers conducted fundraisings repeatedly over a relatively short period<sup>27</sup>, despite the fact that some of these rights issues lacked a demonstrable commercial rationale and a pressing funding need to justify such a high level of discount/dilution.
58. In the case of employee share options, the SFC's enquiries uncovered cases where the grantees of options exercised their options shortly after the grant even though the options were deeply out-of-the-money and the new shares were subsequently transferred to one or a few connected parties. It appears to the SFC that the share transfers were pre-arranged and the option grantees could have been nominees for possible warehousing of shares.

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<sup>25</sup> Section 4(b) of the SMLR

<sup>26</sup> Section 4(d) of the SMLR

<sup>27</sup> See the [Joint Statement](#) issued by the SFC and HKEX dated 9 December 2016.

*Our proposal – removal of circumstances under sections 4(b) and 4(d) of the SMLR*

59. In view of how the existing provisions are liable to abuse by corporate wrongdoers, we propose to remove the automatic exemptions set out in sections 4(b) and 4(d) of the SMLR for pre-emptive pro rata issuances and employee share option issuances. The SFC will have no reason to intervene in typical pre-emptive pro rata issuances and employee share option issuances. It will only exercise SMLR powers in the most egregious circumstances that undermine the interests of shareholders. We emphasise that the amendments would not require listed issuers to make any additional disclosures or take any additional actions beyond what they currently do. It will therefore result in no change for almost all issuers intending to carry out such a corporate action.
60. The SFC will only exercise the power to intervene, require information or, where appropriate, use other powers, to prevent or reduce imminent financial harm to the investing public in serious problematic cases. For example:
- (a) offers that fail to demonstrate a clear commercial rationale in the best interests of shareholders and lack a pressing funding need to justify the cost and effect of a rights issue (for example, an insignificant amount of net proceeds is raised as compared to its cash position) and a high level of dilution of the interests of non-subscribing minority shareholders; and
  - (b) grantees of employee share options exercised their options shortly after grant even though the options were deeply out-of-the-money and the new shares were subsequently transferred to connected parties.
61. The removal of the above automatic exemptions means that pre-emptive pro rata issuances and employees share option issuances would fall within the scope of a “listing application”. This would enable the SFC to intervene in serious problematic cases with the aim of safeguarding shareholders. It is anticipated that the removal will discourage questionable activities, including seriously dubious fund-raising transactions and highly abusive share option schemes.

**Q9: Please comment on the proposal to remove the circumstances relating to pre-emptive issuance pro rata to existing shareholders and exercise of options under employee share option schemes under sections 4(b) and 4(d) of the SMLR so that they would fall within the scope of a “listing application”? Please state and provide reasons for your views.**

**I. Other minor proposed amendments to the SMLR**

62. The proposed amendments to the SMLR are set out in **Appendix 1** to this paper. Other minor amendments are set out as follows:
- (a) the existing section 20 on transitional arrangement in respect of the repealed Securities (Stock Exchange Listing) Rules (Cap.333 sub. leg. C) is spent and will be repealed; and
  - (b) a new section 20A of the SMLR will be added which provides for transitional arrangements in respect of the exercise of any power or right under section 8(1), 9 or 10 of the SMLR as in force immediately before the commencement of amendments to the SMLR.

**Q10: Please provide comments on the proposed amendments to the SMLR in the indicative draft at Appendix 1 to this Consultation Paper.**

## Inviting comments

63. The following is a summary of the major proposals of this consultation:

- (a) to provide for the imposition of continuing conditions that will be applicable upon and after listing (section 6(3)(b) in conjunction with new section 6(3B));
- (b) to provide for the power to withdraw an objection notice under section 6(2) of the SMLR (new section 6(2A));
- (c) to provide for the imposition of post-listing conditions on a listed issuer (new section 7A(1));
- (d) to provide for the amendment or revocation of the conditions (new sections 6(3A)(a), 7A(3) and 9(2)(a)) and imposition of new conditions (new sections 6(3A)(b) and 9(2)(b));
- (e) to provide the power to require listed issuers to supply information to the SFC that it may reasonably require for the performance of its functions (new section 7B);
- (f) to simplify and streamline the procedures for lifting a suspension (with or without conditions) and to allow an issuer a reasonable opportunity of being heard before the SFC makes a decision leading to the refusal of trading resumption or cancellation of listing;
- (g) to provide a right to seek a full merits review by the SFAT for an issuer aggrieved by the SFC's decision (i) to direct the Stock Exchange to suspend trading; (ii) to impose resumption conditions; (iii) to refuse resumption of trading; (iv) to direct the Stock Exchange to cancel the listing of its securities; or (v) to impose conditions, amend or revoke any conditions imposed or impose new conditions; and
- (h) to remove the circumstances relating to pre-emptive issuance pro rata to existing shareholders and exercise of options under employee share option schemes under sections 4(b) and 4(d) of the SMLR so that they would fall within the scope of a "listing application".

64. The SFC invites comments on the above proposed amendments to the SMLR discussed in this Consultation Paper by no later than 23 May 2025.

65. Consultation conclusions will be published as soon as practicable after the end of the consultation period and after comments have been carefully considered. Subject to the results of this consultation, the SFC proposes to amend the SMLR and invite the Government to amend Schedule 8 to the SFO, both by subsidiary legislation which will be tabled before the Legislative Council. The SFC will work with the Government on implementing the necessary amendments to the legislation.

Indicative draft of amendments to the SMLR (Cap. 571V)

**Securities and Futures (Stock Market Listing) Rules**

(Cap. 571, section 36(1))

*(Enacting provision omitted—E.R. 2 of 2017)*

[1 April 2003] L.N. 12 of 2003  
*(Format changes—E.R. 2 of 2017)*

**Part 1**

**Preliminary**

1. *(Omitted as spent—E.R. 2 of 2017)*

2. **Interpretation**

In these Rules, unless the context otherwise requires—

**applicant** (申請人) means a corporation or other body which has submitted an application under section 3;

**application** (申請) means an application submitted under section 3 and all documents in support of or in connection with the application including any replacement of and amendment and supplement to the application;

**approved share registrar** (認可股份登記員) means a share registrar who is a member of an association of persons approved by the Commission under section 12;

**issuer** (發行人) means a corporation or other body the securities of which are listed, or proposed to be listed, on a recognized stock market;

**share registrar** (股份登記員) means any person who maintains in Hong Kong the register of members of a corporation the securities of which are listed, or proposed to be listed, on a recognized stock market.

## Part 2

### Stock Market Listing

#### 3. Requirements for listing applications

An application for the listing of any securities issued or to be issued by the applicant shall—

- (a) comply with the rules and requirements of the recognized exchange company to which the application is submitted (except to the extent that compliance is waived or not required by the recognized exchange company);
- (b) comply with any provision of law applicable; and
- (c) contain such particulars and information which, having regard to the particular nature of the applicant and the securities, is necessary to enable an investor to make an informed assessment of the activities, assets and liabilities and financial position, of the applicant at the time of the application and its profits and losses and of the rights attaching to the securities.

#### 4. Exemptions from sections 3 and 5

Sections 3 and 5 do not apply to the listing of any—

- (a) securities issued or allotted—
  - (i) by a capitalization issue pro rata (apart from fractional entitlements) to existing shareholders, whether or not they are shareholders whose addresses registered in the books of the corporation are in a place outside Hong Kong and to whom the securities are not actually issued or allotted because of restrictions imposed by legislation of that place; or
  - (ii) pursuant to a scrip dividend scheme which has been approved by the corporation in general meeting; **or**
- ~~(b) securities offered on a pre-emptive basis, pro rata (apart from fractional entitlements) to existing holdings, to holders of the relevant class of shares in the corporation, whether or not they are shareholders whose addresses registered in the books of the corporation are in a place outside Hong Kong and to whom the securities are not actually offered because of restrictions imposed by legislation of that place;~~
- (c) shares issued in substitution for shares listed on a recognized stock market, if the issue of the shares does not involve any increase in the issued share capital of the corporation.;
- ~~(d) shares issued or allotted pursuant to the exercise of options granted to existing employees as part of their remuneration under a scheme approved by the shareholders of the corporation in a general meeting.~~

#### 5. Copy of application to be filed with the Commission

- (1) An applicant shall file a copy of its application with the Commission within one business day after the day on which the application is submitted to a recognized exchange company.

- (2) An applicant is regarded as having complied with subsection (1) on the day it submits the application to a recognized exchange company if, prior to or at the time of submitting the application to the recognized exchange company, the applicant has authorized the recognized exchange company in writing to file the application with the Commission on its behalf.

## 6. Powers of the Commission to require further information and to object to listing

- (1) Subject to subsection (8), the Commission may, by notice to an applicant and a recognized exchange company given within 10 business days from the date the applicant files a copy of its application with the Commission (or if there is more than one such date, the latest date), require the applicant to supply to the Commission such further information as the Commission may reasonably require for the performance of its functions under these Rules.
- (2) The Commission may, within the period specified in subsection (6), by notice to an applicant and a recognized exchange company, object to a listing of any securities to which an application relates if it appears to the Commission that—
  - (a) the application does not comply with a requirement under section 3;
  - (b) the application is false or misleading as to a material fact or is false or misleading through the omission of a material fact;
  - (c) the applicant has failed to comply with a requirement under subsection (1) or, in purported compliance with the requirement has furnished the Commission with information which is false or misleading in any material particular; or
  - (d) it would not be in the interest of the investing public or in the public interest for the securities to be listed.
- (2A) Where the Commission has objected under subsection (2) to the listing of any securities to which an application relates, the Commission may, by notice to the applicant and the recognized exchange company, withdraw the objection.
- (3) The Commission may, within the period specified in subsection (6), notify an applicant and a recognized exchange company that—
  - (a) it does not object to the listing of any securities to which an application relates; or
  - (b) it does not object to the listing of any securities to which an application relates subject to such conditions as the Commission may think fit to impose.
- (3A) Where the Commission has given a notice under subsection (3)(b) in relation to an application, the Commission may, by notice to the applicant and the recognized exchange company—
  - (a) amend or revoke any condition imposed in respect of its no-objection to the listing; or
  - (b) impose any new conditions it thinks fit to impose in respect of the no-objection.
- (3B) For subsections (3) and (3A)—
  - (a) a condition imposed under subsection (3)(b) or (3A)(b) is not limited to one that must be complied with before, and may continue to apply after, the listing of the securities; but



- (b) no such condition may be imposed or amended under subsection (3A) after the listing of the securities.
- (4) A recognized exchange company may list the securities to which an application relates only if—
- (a) the Commission has not, within the period specified in subsection (6), given a notice in relation to the application under subsection (2) or (3)(b);
  - (b) the Commission has given a notice in relation to the application under subsection (3)(a); or
  - (c) ~~the conditions referred to in subsection (3)(b) in relation to the application have been complied with.~~ where the Commission has given a notice in relation to the application under subsection (2) or (3)(b)—
    - (i) if a notice is given under subsection (2)—the objection to which the notice relates has been withdrawn; and
    - (ii) if any condition is imposed under subsection (3)(b) or (3A)(b)—all such conditions have been complied with (or, in the case of continuing conditions, are being complied with) or revoked.
- (5) Where the Commission objects to a listing under subsection (2) ~~or~~, imposes any condition under subsection (3)(b) ~~or (3A)(b) or amends or revokes any condition under subsection (3A)(a)~~, the objection ~~or~~, imposition, amendment or revocation ~~shall~~ takes effect immediately.
- (6) The period specified for the purposes of subsections (2), (3) and (4) is 10 business days—
- (a) where the Commission has not given a notice under subsection (1) in relation to the application, from the date the applicant files a copy of the application with the Commission (or if there is more than one such date, the latest date); or
  - (b) where the Commission has given a notice under subsection (1) in relation to the application, from the date when the further information is supplied.
- (7) A notice given under subsection (2) shall be accompanied by a statement specifying the reasons for the objection.
- (8) The Commission shall not give any notice to an applicant under subsection (1) after—
- (a) it has given a notice in relation to the application under subsection (3)(a); or
  - (b) ~~the conditions referred to in subsection (3)(b) in relation to the application have been complied with.~~ if it has imposed any condition in relation to the application under subsection (3)(b) or (3A)(b), all such conditions have been complied with or revoked.

## 7. Copy of ongoing disclosure materials to be filed with the Commission

- (1) An issuer shall file with the Commission a copy of any announcement, statement, circular, or other document made or issued by it or on its behalf to the public or to a group of persons comprising members of the public (including its shareholders)—
- (a) under the rules and requirements of a recognized exchange company or any provision of law applicable; or

- (b) pursuant to the terms of any listing agreement between the issuer and a recognized exchange company under the rules of the recognized exchange company,  
within one business day following the day on which such announcement, statement, circular or other document is made or issued.
- (2) A person shall file with the Commission a copy of any announcement, statement, circular or other document made or issued by the person or on his behalf to the public or to a group of persons comprising members of the public (including holders of the securities of an issuer) under any codes published by the Commission under section 399(2)(a) and (b) of the Ordinance within one business day following the day on which such announcement, statement, circular or other document is made or issued.
- (3) An issuer or a person is regarded as having complied with subsection (1) or (2) if the issuer or the person has—
  - (a) filed with the recognized exchange company concerned; and
  - (b) authorized the recognized exchange company in writing to file with the Commission on behalf of the issuer or the person, as the case may be, a copy of the relevant announcement, statement, circular or other document.

#### **7A. Power to impose conditions while securities are listed**

- (1) Where any securities are listed and it appears to the Commission that any of the circumstances specified in subsection (2) exists, the Commission may, by notice to the recognized exchange company and the issuer of the securities, impose any conditions the Commission thinks fit to impose, being conditions that—
  - (a) must be complied with in order for dealings in the securities to continue; or
  - (b) where dealings in the securities have been suspended otherwise than in accordance with a direction of the Commission under section 8, must be complied with in order for dealings in the securities to recommence.
- (2) The circumstances specified for subsection (1) are that—
  - (a) members, or any part of the members, of the issuer have not been provided with any particulars or information with respect to, or in connection with, the business or affairs of the issuer that is necessary to enable a member to make an informed decision on an investment in the securities;
  - (b) the business or affairs of the issuer have been conducted in a manner involving any misconduct, or dishonourable or improper practice, towards the issuer, its members or any part of its members; or
  - (c) it is in the interest of the investing public or in the public interest, or it is appropriate for the protection of investors generally or for the protection of investors in any securities listed on a recognized stock market.
- (3) The Commission may, by notice to the recognized exchange company and the issuer of any securities in relation to which a condition is imposed under subsection (1), amend or revoke any such condition.
- (4) Where the Commission imposes any condition under subsection (1) or amends or revokes any condition under subsection (3), the imposition, amendment or revocation takes effect immediately.

## **7B. Power to require information while securities are listed**

The Commission may, by notice to the issuer of any securities that are listed, require the issuer to supply to the Commission any information the Commission reasonably requires for the performance of its functions under these Rules.

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## **Part 3**

### **Suspension of Dealings**

#### **8. Suspension of dealings in securities**

- (1) Where it appears to the Commission that—
- (a) any materially false, incomplete or misleading information has been included in any—
    - (i) document (including but not limited to any prospectus, circular, introduction document and document containing proposals for an arrangement or reconstruction of a corporation) issued in connection with a listing of securities on a recognized stock market; or
    - (ii) announcement, statement, circular or other document made or issued by or on behalf of an issuer in connection with its affairs;
  - (b) it is necessary or expedient in the interest of maintaining an orderly and fair market in securities traded through the facilities of a recognized exchange company on the recognized stock market it operates;
  - (c) it is in the interest of the investing public or in the public interest, or it is appropriate for the protection of investors generally or for the protection of investors in any securities listed on a recognized stock market; or
  - (d) there has been a failure to comply with any condition **or requirement** imposed by the Commission under section ~~9(3)(e)~~6(3)(b) or (3A)(b), 7A(1), 7B or 9(1)(a) or (2)(b),

the Commission may, by notice to the recognized exchange company, direct the recognized exchange company to suspend all dealings in any securities specified in the notice.

- (2) **Where the Commission gives a direction under subsection (1) to a recognized exchange company—**
- (a) **the direction takes effect immediately; and**
  - (b) **the ~~The~~ recognized exchange company ~~shall~~ must comply with ~~any notice given under subsection (1)~~ the direction without delay.**

#### **9. Powers of the Commission upon the suspension under this Part of dealings in any securities**

- ~~(1) An issuer which is aggrieved by a direction given by the Commission under section 8 may make representations in writing to the Commission and where an issuer makes such representations, the Commission shall notify the recognized exchange company.~~

- ~~(2) In respect of a direction given by the Commission under section 8, the recognized exchange company may make representations in writing to the Commission irrespective of whether representations in respect of that direction have been made by an issuer under subsection (1) and where the recognized exchange company makes such representations, the Commission shall notify the issuer.~~
- ~~(3) Where the Commission has—~~
- ~~(a) directed a recognized exchange company to suspend dealings in any securities under section 8(1); and~~
  - ~~(b) considered any—~~
    - ~~(i) representations made by the issuer under subsection (1);~~
    - ~~(ii) representations made by the recognized exchange company under subsection (2); and~~
    - ~~(iii) further representations made by the issuer or the recognized exchange company,~~
- ~~the Commission may, by notice to the recognized exchange company—~~
- ~~(c) permit dealings in the securities to recommence subject to such conditions as the Commission may think fit to impose, being conditions of the nature specified in subsection (4); or~~
  - ~~(d) direct the recognized exchange company to cancel the listing of the securities on a recognized stock market operated by it if the Commission—~~
    - ~~(i) is satisfied that there has been a failure to comply with any requirement in respect of listing set out in these Rules or in any other rules made under section 36 of the Ordinance; or~~
    - ~~(ii) considers that the cancellation of the listing is necessary to maintain an orderly market in Hong Kong,~~
- ~~and the recognized exchange company shall comply with the direction without delay.~~
- (1) Where the Commission has directed a recognized exchange company to suspend dealings in any securities under section 8(1), the Commission may—
- (a) by notice to the recognized exchange company, permit dealings in the securities to recommence, subject to any conditions the Commission thinks fit to impose, being conditions of the nature specified in subsection (3);
  - (b) subject to subsection (4), by notice to the issuer, refuse any request by the issuer for the Commission to permit dealings in the securities to recommence; or
  - (c) subject to subsections (4) and (5), by notice to the recognized exchange company, direct the recognized exchange company to cancel the listing of the securities on a recognized stock market operated by it.
- (2) Where the Commission has given a notice under subsection (1)(a) in relation to any securities, the Commission may, by notice to the recognized exchange company—
- (a) amend or revoke any condition imposed in respect of its permission for dealings in the securities to recommence; or

- (b) impose any new conditions it thinks fit to impose, being conditions of the nature specified in subsection (3), in respect of the permission.
- (43) The conditions which may be imposed under subsection ~~(3)(e)~~ (1)(a) or (2)(b) are—
- (a) where the Commission has given a direction under section 8(1)(a) or (d), conditions imposed with the object of ensuring, so far as is reasonably practicable, that the issuer remedies the default by reason of which the suspension of dealings was directed;
  - (b) where the Commission has given a direction under section 8(1)(b), such conditions as the Commission may consider necessary or expedient in the interest of maintaining an orderly and fair market in securities traded through the facilities of the recognized exchange company mentioned in that section;
  - (c) where the Commission has given a direction under section 8(1)(c), such conditions as the Commission may consider to be in the interest of the investing public or in the public interest, or to be appropriate for the protection of investors generally or for the protection of the investors mentioned in that section.
- (4) The Commission must not exercise a power under subsection (1)(b) or (c) in relation to any securities without giving the issuer a reasonable opportunity of being heard.
- (5) The Commission may give a direction under subsection (1)(c) to cancel the listing of securities only if the Commission—
- (a) is satisfied that there has been a failure to comply with any requirement in respect of listing set out in these Rules or in any other rules made under section 36 of the Ordinance; or
  - (b) considers that the cancellation of the listing is necessary to maintain an orderly market in Hong Kong.
- (6) Where the Commission imposes any condition under subsection (1)(a) or (2)(b), or amends or revokes any condition under subsection (2)(a)—
- (a) the imposition, amendment or revocation takes effect immediately; and
  - (b) the recognized exchange company may allow dealings in the securities in relation to which such condition is imposed to recommence only if all such conditions have been complied with or revoked.
- (7) Where the Commission refuses under subsection (1)(b) to permit dealings in any securities to recommence, the refusal takes effect immediately.
- (8) Where the Commission directs a recognized exchange company under subsection (1)(c) to cancel a listing, the recognized exchange company must, upon the taking effect of the direction, comply with the direction without delay.
- ~~(5) In subsection (3), **further representations** (進一步申述) means representations either in writing or orally or both in writing and orally as the issuer or the recognized exchange company may determine which are submitted within such reasonable time as the Commission may determine.~~
- ~~(6) The powers of the Commission under this section may only be exercised by a meeting of the Commission and are not delegable.~~

~~(7) A member of the Commission who made the decision in the exercise of the Commission's powers under section 8 shall not participate in the deliberations or voting of the Commission in the performance of its functions under this section as regards that exercise of the Commission's powers.~~

~~(8) Notwithstanding subsection (7), the member of the Commission referred to in that subsection may attend any meeting or proceeding of the Commission in the performance of its functions under this section as regards the exercise of the Commission's powers under section 8 and may make such explanations of his decision as he thinks necessary.~~

#### **10. Provisions supplementary to sections 8 and 9**

~~(1) At any hearing held by the Commission to receive oral representations made to it under section 9(3)(b)(iii), the issuer and the recognized exchange company each have the right to be represented by its counsel or solicitor.~~

~~(2) If representations are made under section 9(1) or (2) against a direction made under section 8(1) then, pending the decision of the Commission under section 9(3), all dealings in the securities concerned shall remain suspended.~~

#### **11. Restriction on re-listing**

No security the listing of which has been cancelled under ~~section 9(3)(d)~~ shall ~~section 9(1)(c)~~ **is to** be listed again on a recognized stock market except in accordance with Part 2.

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## **Part 4**

### **Approved Share Registrars**

#### **12. Approval of share registrars**

- (1) The Commission may approve an association of persons as an association each of whose members shall be an approved share registrar for the purposes of these Rules.
- (2) The Commission may cancel the approval of any association of persons approved under subsection (1).
- (3) The Commission shall maintain a list of associations of persons approved under subsection (1).

#### **13. Securities not to be listed where approved share registrar not employed**

No application made by a corporation to a recognized exchange company for the listing of any securities issued or to be issued by that applicant shall be approved by the recognized exchange company unless the applicant is an approved share registrar or employs an approved share registrar as its share registrar.

**14. Suspension of dealings on cessation of employment, etc. of approved share registrar**

- (1) Where—
  - (a) the securities of a corporation are listed on a recognized stock market; and
  - (b) the corporation ceases either to be an approved share registrar or to employ an approved share registrar as its share registrar,

the recognized exchange company shall give the corporation a notice of its intention to suspend dealings in the securities of the corporation unless, before the date specified in the notice, being 3 months after the date on which the recognized exchange company first learned of such cessation or 21 days from the date of the notice, whichever is the later, the corporation becomes an approved share registrar or employs an approved share registrar as its share registrar.
- (2) Where the corporation fails to comply with the requirement stated in the notice given under subsection (1), the recognized exchange company shall suspend dealings in the securities of the corporation.
- (3) The Commission may require a recognized exchange company to give notice under subsection (1) to a corporation which has ceased either to be an approved share registrar or to employ an approved share registrar as its share registrar if, in the opinion of the Commission, the recognized exchange company has failed or neglected to do so within a reasonable time, and the recognized exchange company shall comply with the requirement without delay.
- (4) A recognized exchange company which has suspended dealings in the securities of any corporation under subsection (2) shall permit the recommencement of dealings in those securities when it is satisfied that the corporation has become an approved share registrar or has employed an approved share registrar as its share registrar.

**15. Power to exempt**

- (1) The Commission may exempt all or any particular class of securities issued by a corporation specified in a notice under subsection (2) from all or any of the provisions of this Part.
- (2) An exemption granted under subsection (1) shall be notified by the Commission to the corporation specified in the notice and to the recognized exchange company which operates the recognized stock market on which the exempted class of securities is, or is proposed to be, listed.
- (3) The Commission may withdraw any exemption granted under subsection (1), and the withdrawal shall be notified in the same manner as an exemption is required to be notified under subsection (2).
- (4) Where an exemption in respect of any securities of a corporation has been withdrawn under subsection (3), the recognized exchange company shall suspend dealings in those securities unless—
  - (a) at the date of notification of the withdrawal, the corporation is an approved share registrar or employs an approved share registrar as its share registrar;  
or

- (b) within 3 months after the date of notification of the withdrawal, the corporation becomes an approved share registrar or employs an approved share registrar as its share registrar.

**16. Appeal against suspension**

- (1) Where a recognized exchange company suspends dealings in the securities of a corporation under section 14 or 15(4) the corporation may, within 21 days of the suspension, appeal in writing to the Commission against the suspension.
- (2) An appeal under subsection (1) shall be accompanied by such submissions in writing as the corporation wishes to make.
- (3) On any appeal under subsection (1), the Commission may—
  - (a) dismiss the appeal;
  - (b) direct the recognized exchange company to permit the recommencement of dealings in the securities; or
  - (c) direct the recognized exchange company to permit the recommencement of dealings in the securities subject to such conditions as the Commission thinks fit.

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**Part 5**

**Miscellaneous**

**17. Waiver of requirements of Parts 2 and 3**

The Commission may, by notice to an applicant or an issuer and a recognized exchange company, modify or waive, subject to such reasonable conditions as the Commission may think fit to impose, any requirement of Parts 2 and 3 where the Commission is of the opinion that—

- (a) the applicant or issuer, as the case may be, cannot comply with the requirement or it would be unreasonable or unduly burdensome for the applicant or issuer to do so;
- (b) the requirement has no relevance to the circumstances of the applicant or issuer, as the case may be; or
- (c) compliance with the requirement would be detrimental to the commercial interests of the applicant or issuer, as the case may be, or to the interests of the holders of its securities.

**18. Suspensions, etc. by a recognized exchange company to be notified to the Commission**

- (1) If a recognized exchange company intends to suspend dealings in any securities it shall, where reasonably practicable, inform the Commission of its intention prior to such suspension or, if not so practicable, inform the Commission of the suspension as soon as possible after the suspension.
- (2) If a recognized exchange company, after having suspended dealings in any securities, intends to permit dealings in the securities to recommence, it shall,



where reasonably practicable, inform the Commission of its intention to permit dealings to recommence or, if not so practicable, inform the Commission as soon as possible after permitting dealings to recommence.

- (3) A recognized exchange company shall not cancel the listing of any securities unless it gives the Commission at least 48 hours' notice of its intention to do so.
- (4) This section applies only to the suspension of dealings in any securities or the cancellation of dealings in any securities by a recognized exchange company other than in accordance with a direction of the Commission under section 8 or 9.

## 19. Notices, etc. to be in writing

Any notice or direction under these Rules shall be in writing.

## ~~20. Transitional~~

- ~~(1) Where—
  - ~~(a) before the commencement of these Rules, any power could have been, but was not, exercised under rule 9 or 10 of the Securities (Stock Exchange Listing) Rules (Cap. 333 sub. leg. C) which has been repealed under section 406 of the Ordinance (**the repealed Rules**); or~~
  - ~~(b) before such commencement any power has been exercised under any provision referred to in paragraph (a), and the exercise of the power would, but for the commencement, continue to have force and effect on or after such commencement,~~  
~~then—~~
  - ~~(c) (i) where paragraph (a) applies, the power may be exercised; or~~  
~~(ii) where paragraph (b) applies, the exercise of the power shall continue to have force and effect, as if the repealed Rules had not been repealed; and~~
  - ~~(d) the provisions of the repealed Rules shall continue to apply to the exercise of the power and to any matters relating thereto (including any right to make representations in respect of the exercise of the power under rule 9) as if the repealed Rules had not been repealed.~~~~
- ~~(2) Subject to subsection (3), where before the commencement of these Rules, an application is made under rule 3 of the repealed Rules and immediately before such commencement the application has not been approved, refused or withdrawn, the application shall upon such commencement be treated as an application under section 3 and the provisions of these Rules (except section 3) shall apply accordingly.~~
- ~~(3) Section 5 shall apply only to any part of an application submitted on or after the commencement of these Rules.~~

## 20A. Transitional

- (1) Subsection (2) applies if, before the commencement of the Securities and Futures (Stock Market Listing) (Amendment) Rules (**Amendment Rules**)—
  - (a) any power has been exercised by the Commission under section 8(1) of the pre-amended Rules in relation to any securities, and
  - (b) any power or right has been exercised under section 9 or 10 of the pre-amended Rules in relation to those securities and the exercise of the

power or right would, but for the commencement of the Amendment Rules, continue to have effect on or after such commencement.

- (2) In the circumstances under subsection (1)—
  - (a) anything that is in the process of being done in relation to the securities mentioned in that subsection under or by virtue of section 9 or 10 of the pre-amended Rules may be continued on or after the commencement of the Amendment Rules as if the section were not amended;
  - (b) the exercise of the power or right continues to have effect, as if the Amendment Rules had not been made; and
  - (c) the pre-amended Rules continue to apply to such exercise of power or right as if the Amendment Rules had not been made.
- (3) Subsection (4) applies if, before the commencement of the Amendment Rules—
  - (a) any power has been exercised by the Commission under section 8(1) of the pre-amended Rules in relation to any securities, and
  - (b) no power or right has been exercised under section 9 or 10 of the pre-amended Rules in relation to those securities.
- (4) In the circumstances under subsection (3)—
  - (a) the exercise of power under section 8(1) of the pre-amended Rules is to be treated as an exercise of power under section 8(1) of these Rules; and
  - (b) these Rules apply to such exercise of power.
- (5) In this section—

***pre-amended Rules*** (《原有規則》) means these Rules as in force immediately before the commencement of the Amendment Rules.



SECURITIES AND  
FUTURES COMMISSION  
證券及期貨事務監察委員會

## **Explanatory Note on the application of sections 6(3)(b) and 7A(1) of the Securities and Futures (Stock Market Listing) Rules**

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[Date]

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## 1. Introduction

- 1.1 The Securities and Futures (Stock Market Listing) Rules (Cap. 571V) (**SMLR**), which has been effective since 1 April 2003, provides the Securities and Futures Commission (**SFC**) with tools to utilise against false or misleading corporate information disclosure and listings that would not be in the interests of the investing public or the public interest. The SMLR also reinforces the legal and regulatory regime for listing in addition to the non-statutory Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (**Listing Rules**) administered by The Stock Exchange of Hong Kong Limited (**Stock Exchange**).
- 1.2 The amended SMLR, which became effective from [date], addresses identified gaps and operational limitations that limit the SFC's ability to prevent or reduce imminent financial harm to the investing public as a result of suspected fraud or other serious misconduct. Section 6(3)(b) (in conjunction with the new section 6(3B))<sup>1</sup> and the new section 7A(1) were introduced to enable the SFC to impose conditions on listing applicants and listed issuers respectively, which will in turn enhance the efficiency and transparency of the process.
- 1.3 This Explanatory Note provides examples and discusses issues in particular situations to explain the operation and interpretation of sections 6(3)(b) and 7A(1) of the SMLR. They do not have the force of law nor should they be relied upon as an authoritative legal opinion.

## 2. Regulatory approach

- 2.1 Investors play a crucial role in the financial markets. For investors to make informed investment decisions, it is essential for investors to have a clear understanding of the activities of listed issuers and the reasons behind their transactions. When listed issuers provide detailed disclosures and explanations about their business operations and transactions, it does not only boost investor confidence but also encourages investment. Providing accurate, timely and complete information enables investors to assess potential risks and returns associated with their investments.
- 2.2 However, not all listed issuers meet this standard of transparency and accuracy. A small number of listed issuers fail to provide adequate and complete information about their business activities and transactions, leaving investors uncertain about the true value of the issuer. This lack of clarity may create uncertainty and hesitation among potential investors. In addition, some instances of potential misconduct can be detrimental to shareholders. Such behaviour not only undermines investor confidence but can also lead to significant financial losses.
- 2.3 The SFC has, since 2017, adopted a front-loaded approach and exercised its powers under the SMLR to supplement traditional enforcement actions. The front-loaded approach aims to take earlier, more targeted intervention in the most serious cases to

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<sup>1</sup> Section 6(3)(b) is an existing provision under the SMLR which enables the SFC to impose such conditions as the SFC may think fit when it does not object to the listing of any securities to which an application relates. The new section 6(3B) was introduced to clarify the conditions that the SFC may impose under section 6(3)(b) is not limited to one that must be complied with before, and may continue to apply after, the listing of the securities. For the purpose of this Explanatory Note, where reference is made to section 6(3)(b) in relation to continuing conditions, it should be read in conjunction with section 6(3B).

prevent or reduce imminent financial harm to the investing public<sup>2</sup>. Addressing fraud and other serious misconduct at an early stage can help minimise potential losses to investors.

- 2.4 Front-loaded intervention is limited to circumstances where there is a clear indication of imminent financial harm to the investing public as a result of suspected fraud or other serious misconduct. Where the financial harm has already occurred, the SFC will take appropriate enforcement actions in accordance with existing practice against relevant parties under the Securities and Futures Ordinance (**SFO**), which may also include actions under the SMLR. Front-loaded intervention aims to prevent or reduce clear and imminent financial harm to the investing public and is not designed to function as punitive measures.
- 2.5 The SFC is committed to elevating the quality of Hong Kong's securities market and its listed issuers. The SMLR amendments are aimed at improving the quality of information provided by listing applicants and listed issuers and this will help boost investor confidence and encourage investment.

### 3. What are sections 6(3)(b) and 7A(1) of the SMLR about?

- 3.1 Section 6(3)(b) of the SMLR allows the SFC to impose pre-listing and/or continuing conditions on a listing application. While pre-listing conditions have to be complied with before listing, continuing conditions will be applicable upon and after listing. The SFC may impose continuing conditions where certain identified concerns warrant regulatory attention and intervention, but do not constitute statutory grounds for objection to listing.
- 3.2 Section 7A(1) of the SMLR allows the SFC to impose post-listing conditions on a listed issuer to ensure more transparent and accurate disclosures, whilst offering a less disruptive alternative to suspension of trading.
- 3.3 The conditions imposed will depend on the particular facts and circumstances of the individual listing applicant or listed issuer. In the majority of these cases, the conditions will be disclosure-based in nature and designed to ensure that issuers are required to disclose relevant information to enable investors to make an informed decision regarding the matters of concern.

#### IPO cases

- 3.4 For initial public offering (**IPO**) cases, the SFC reviews all listing applications with a view to determining whether an application gives rise to any concerns under the SMLR and/or the SFO and ensuring that the overall disclosure is sufficient to enable investors to understand the business of the listing applicant and to make informed investment decisions.

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<sup>2</sup> For the seven financial years ended 31 March 2024, the SFC directly intervened in approximately 200 cases involving IPO and listed issuers through the actual or potential use of its powers under the SMLR. Around two-thirds of these cases were related to IPO, while one-third were related to listed issuers.

- 3.5 If the SFC sees potential grounds for objection under section 6(2) of the SMLR but requires further clarification from the applicant or identifies any highly suspicious issues when vetting a listing application (for example, the listing application displays one or more of the features of problematic IPOs highlighted in the [Joint Statement on IPO-related Misconduct](#) issued by the Stock Exchange and the SFC on 20 May 2021), it will proactively engage with the listing applicant and its sponsor(s) and issue direct requisition letters under section 6(1) of the SMLR. These letters will set out the SFC's concerns on the listing application. If the listing applicant and its sponsor(s) fail to address the SFC's concerns satisfactorily, the SFC may exercise its discretion to object to the listing of securities on the Stock Exchange under section 6(2) of the SMLR.
- 3.6 In some cases, certain identified concerns warrant regulatory attention and intervention, but do not constitute statutory grounds for objection to listing. Besides, the matter of concern may be one that a corporate insider controls or could significantly alter at its discretion post-listing. For instance, if a former senior management and controlling shareholder with a criminal conviction has resigned and disposed of all shares in the listing applicant prior to listing in order to address the SFC's concerns regarding management's integrity, the applicant can later appoint the individual in question as a board member immediately after listing.
- 3.7 To address such a risk, the SFC could impose continuing conditions on the listing application under the amended section 6 of the SMLR. After listing, where the issuer intends to appoint the individual in question as senior management, it might be required to make relevant disclosures (such as the criminal record of the individual in question) so that investors will have sufficient information to make an informed decision. Another possible condition to require that the individual be prohibited from being in any way involved in that issuer's management, operations and affairs for a designated period.
- 3.8 This would enable the SFC to utilise conditions in a tailored way to ensure better disclosures to public investors by the listing applicant, thereby enabling a more disclosure-based approach towards vetting listing applications where appropriate. Any breaches of a continuing condition subsequent to the commencement of trading of the listing applicant's shares would not invalidate the listing approval granted by the Stock Exchange. Instead, such breaches would be dealt with initially by a warning in the form of a letter of concern (**LOC**) or letter of mindedness (**LOM**), which would afford the listed issuer an opportunity to explain or rectify its conduct. If the breach is maintained and cannot be mitigated, it may be necessary to impose a suspension of trading under section 8 of the SMLR.

### Post-IPO matters

- 3.9 For post-IPO matters, when the SFC identifies a proposed corporate transaction that may warrant early intervention, LOCs setting out the SFC's concerns, usually along with a request for information under section 7B of the SMLR<sup>3</sup> or a direction under

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<sup>3</sup> Under the new section 7B of the SMLR, the SFC may, by notice to the issuer of any securities that are listed, require the issuer to supply to the SFC any information the SFC reasonably requires for the performance of its functions under the SMLR.

section 179 of the SFO<sup>4</sup>, will be issued to the listed issuer so that the issuer would be given the opportunity to address the SFC's concerns. For example, where the consideration or valuation of an asset or target company in a proposed transaction is based on forecasts with no historical basis, or the net assets of the target company are minimal or negative, this is likely to give rise to initial concerns. After considering the listed issuer's responses and submissions, the SFC may be satisfied and no further action will be taken. If the concerns remain, but could be addressed by the listed issuer by way of enhanced disclosures, the SFC may require the listed issuer to disclose all relevant information for investors to make an informed decision by way of imposing conditions under section 7A(1) of the SMLR.

- 3.10 Section 7A(1) of the SMLR enables the SFC to take less disruptive alternative actions to suspension in appropriate cases by imposing conditions that require the listed issuer to make more transparent and accurate disclosures to public investors, without the need to direct a suspension of trading.

#### 4. What type of conditions may be imposed?

- 4.1 Sections 6(3)(b) and 7A(1) of the SMLR provide the SFC with more *targeted* tools designed to encourage more transparent and accurate disclosures.
- 4.2 The SFC expects that, in the majority of instances, the conditions imposed will be disclosure-based in nature, thereby enabling investors to make informed investment decisions.
- 4.3 While no specific grounds for imposing conditions on listing applicants are provided in section 6(3)(b), it is important to note that this power is not unfettered. Consistent with any other administrative decision that the SFC makes, it must act *reasonably and proportionately* in exercising the powers under section 6(3)(b) of the SMLR.
- 4.4 For post-IPO matters, we can only impose post-listing conditions on a listed issuer if it appears to the SFC that any of the following grounds is met:
- (a) members, or any part of the members, of the issuer have not been provided with any particulars or information with respect to, or in connection with, the business or affairs of the issuer that is necessary to enable a member to make an informed decision on an investment in securities;
  - (b) the business or affairs of the issuer have been conducted in a manner involving misconduct, or dishonourable or improper practices, towards the issuer, its members or any part of its members; or

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<sup>4</sup> Section 179(1) of the SFO provides that the SFC may require the production of any records and documents where it appears to the SFC that there are circumstances suggesting:

- (a) the business of the corporation has been conducted (i) to defraud creditors, (ii) for any fraudulent or unlawful purpose; or (iii) in a manner oppressive to its shareholders;
- (b) the corporation was formed for any fraudulent or unlawful purpose;
- (c) persons involved in the corporation's listing have engaged, in relation to such process, in defalcation, fraud, misfeasance or other misconduct;
- (d) persons who managed the corporation have engaged, in relation to such management, in defalcation, fraud, misfeasance or other misconduct towards it or its shareholders; or
- (e) shareholders of the corporation have not been given all the information with respect to its affairs that they might reasonably expect.



- (c) it is in the interest of the investing public or in the public interest, or it is appropriate for the protection of investors generally or for the protection of investors in any securities listed on the Stock Exchange.

4.5 If trading in a listed issuer's shares is suspended, the issuer remains under an obligation to make disclosures under Part XIVA of the SFO and under any applicable Listing Rules. In some circumstances, if the SFC notices any potential irregularities, even though the trading of securities of a listed issuer has already been suspended voluntarily by the issuer or otherwise by the Stock Exchange, the SFC may still require the listed issuer to make specific disclosures to public investors. This would provide more transparency and public accountability.

4.6 The following illustrative examples will provide the market with a clearer understanding of the SFC's regulatory approach to imposing conditions under sections 6(3)(b) and 7A(1) of the SMLR. It is important to note that the following scenarios are not specific cases, but are drawn from real events and intended to illustrate the various ways in which the SFC might impose conditions in certain situations.

	<b>Examples</b>	<b>Conditions that may be imposed</b>
<b><u>Continuing conditions for listing applications (section 6(3)(b) of the SMLR)</u></b>		
<i>Exhibits features of problematic IPOs highlighted in the <a href="#">Joint Statement on IPO-related Misconduct</a></i>		
(a)	<p>The listing applicant exhibits several features of problematic IPOs including:</p> <ul style="list-style-type: none"> <li>(i) its implied price-to-earnings ratios are significantly higher than those of comparable companies cited by the sponsor; and</li> <li>(ii) an unexceptionally high underwriting commission (for example, 10%) is proposed.</li> </ul> <p>There are concerns (i) that there may be side arrangements among the applicant and some capital market intermediaries to create investor interest in the business of the listing applicant and to enable the applicant to artificially satisfy the initial listing requirements, and (ii) as to whether there is sufficient genuine investor interest in the listing applicant and its securities.</p>	<p>Prior to listing, the listing applicant and the relevant capital market intermediary could be required to declare that no side agreement or arrangement has been or will be entered into by the parties other than the agreement or arrangement set out in the placing or underwriting agreements and/or the prospectus.</p> <p>The applicant could be required to disclose the details of any other subsequent transactions between the parties by way of timely announcements after listing.</p> <p>The applicant could also be required to disclose the confirmations, details of any other subsequent transactions between the parties and the usage of IPO proceeds in its annual report for the first full financial year after listing.</p>

	<b>Examples</b>	<b>Conditions that may be imposed</b>
		These continuing conditions will be imposed before listing and the applicant will be required to disclose them in the prospectus.
<i>Conduct or integrity issues that may arise after listing</i>		
(b)	While a former senior management with a criminal conviction had resigned and disposed of all of his/her shares in the listing applicant before or upon listing following the SFC's enquiries as part of the IPO vetting process, he/she is still the founder and family member of the current executive directors and substantial shareholders of the listing applicant.	<p>Prior to listing, the listing applicant and its directors could be required to disclose relevant information regarding the former senior management in the prospectus.</p> <p>After listing, if the issuer wishes to appoint the individual in question as a board director or senior management, it will be required to announce its intention and provide sufficient particulars (for example, the individual's criminal record).</p> <p>Another possible condition may be to require that individual cease to be a director and be prohibited from being in any way involved in that issuer's management, operations and affairs for a designated period.</p>
<b><u>Post-listing conditions (section 7A(1) of the SMLR)</u></b>		
<i>Placings without any genuine funding needs</i>		
(c)	While the terms of a placing proposed by the listed issuer complied with the requirements under the Listing Rules, a relatively insignificant amount was proposed to be raised (which was considerably less than one month's operating costs for the listed issuer) notwithstanding that such placing would lead to an enormous dilution to existing shareholders. The listed issuer failed to demonstrate any genuine funding needs and justify the cost and dilution effect of the placing on public shareholders.	<p>The listed issuer could be required to demonstrate genuine funding needs and justify the cost and dilution effect of the placing on public shareholders.</p> <p>In the most extreme circumstances, the SFC could object to the listing of shares<sup>5</sup>.</p>

<sup>5</sup> The SFC may object to listing of any listed issuers' follow-on securities under section 6 of the SMLR.

	<b>Examples</b>	<b>Conditions that may be imposed</b>
<i>Undisclosed benefits or irregularities surface shortly after IPO</i>		
(d)	After listing, it was revealed that the listed issuer had entered into an investment agreement with a capital market intermediary involved in the listing. This agreement involved investing in a wealth management product issued by an affiliate of the intermediary, with the investment amount matching the total amount of placing proceeds raised by that intermediary. The investment was not disclosed in the prospectus and the use of the IPO proceeds did not align with the intended usage as disclosed in the prospectus.	The listed issuer and the board of directors could be required to disclose the reasons and provide explanations for the investment decision, clarify why the investment was not disclosed in the prospectus as well as justify the divergence of the IPO proceeds from the intended usage as disclosed in the prospectus.
<i>Unreasonable consideration or valuations in proposed acquisitions</i>		
(e)	The consideration or valuations of the asset/target company in a proposed acquisition appear(s) unfounded or unjustifiable (for example, acquiring a shell company with no track record for a large sum of money, or the valuation of the target company is based on forecasts with no historical basis, or the target company is loss-making or the net assets of the target company are minimal or negative).	The listed issuer could be required to (i) obtain and disclose an independent professional valuation of the relevant asset/target company and (ii) disclose and demonstrate that its directors have carried out independent and sufficient investigation and due diligence in respect of the asset/target company with reference to the SFC's <a href="#">Statement on the Conduct and Duties of Directors when Considering Corporate Acquisitions or Disposals</a> dated 4 July 2019 and <a href="#">Guidance Note on Directors' Duties in the Context of Valuations in Corporate Transactions</a> dated 15 May 2017, and have adequately discharged their fiduciary duties in this regard.
<i>Unfair and unreasonable terms in corporate transactions</i>		
(f)	The listed issuer entered into a cooperation agreement with a connected entity to develop projects beyond its primary business focus. Pursuant to the agreement, the listed issuer was required to pay a significant sum to the entity for the operation of these projects, and yet it had no right to question how	The listed issuer could be required to disclose and demonstrate the commercial rationale of such transaction and explain why the terms of the agreement are regarded to be fair and reasonable and are in the best interests of the

	<b>Examples</b>	<b>Conditions that may be imposed</b>
	these funds would be utilised. Additionally, there was no safeguards in place to ensure that the listed issuer would receive any revenue generated from the projects.	shareholders.
<i>Insufficient due diligence on corporate transactions</i>		
(g)	The listed issuer proposed to acquire a target company engaged in property development business in Mainland China. However, it was discovered that the target company has not obtained any land use certificates necessary for its on-going projects, and the target company is facing multiple lawsuits seeking substantial financial claims against it.	The listed issuer could be required to provide additional details regarding the acquisition by way of announcements, including the timeline and costs associated with the target company for obtaining the land use certificates, the nature of the lawsuits, and the target company's plan for addressing these claims.
<i>Insufficient or incomplete disclosures of the issuer's affairs and financial position</i>		
(h)	Despite a major discrepancy between the listed issuer's internal financial records and actual bank balance concerning a substantial amount of bank balance, the issuer failed to provide information or explanation that caused the discrepancy.	The listed issuer could be required to publish an announcement that discloses sufficient particulars and information to enable investors to make an informed opinion with respect to its affairs and financial position, and such announcement should be reviewed by a financial adviser.
<i>Dubious loan transactions</i>		
(i)	The listed issuer has repeatedly granted loans to a third party without requiring any collaterals. These loans were offered either interest-free or at rates significantly lower than prevailing market rates. It is further noted that some of the earlier loans granted to the same borrower have been impaired. The listed issuer failed to provide detailed information regarding the background and financial position of the borrower, nor did it devise a plan for recovering the loans in the event of default.	The listed issuer could be required to disclose and demonstrate that there was clear commercial rationale behind such loan transactions, and its directors have conducted proper credit assessments and background checks on the borrower prior to granting the loans, and have properly discharged their fiduciary duties to safeguard the issuer's assets and act in the best interests of the issuer and its shareholders with reference to the <a href="#">Joint Statement of the SFC and the Accounting and Financial</a>

	Examples	Conditions that may be imposed
		<a href="#">Reporting Council in relation to Loans, Advances, Prepayments and Similar Arrangements Made by Listed Issuers</a> dated 13 July 2023.

## 5. Processes for imposing conditions on listing applicants and listed issuers

### IPO cases

- 5.1 For IPO cases, the SFC reviews all listing applications with a view to determining whether an application gives rise to any concerns under the SMLR and/or the SFO and ensuring that the overall disclosure is sufficient to enable investors to understand the business of the listing applicant and make informed investment decisions.
- 5.2 In vetting listing applications, the SFC seeks clarification by issuing comment letters via the Stock Exchange and, where appropriate, issue direct requisitions under section 6(1) of the SMLR. The SFC will cease to review and comment on a listing application once it determines that the case does not raise concerns under the SMLR.
- 5.3 If the SFC sees potential grounds for objection under section 6(2) of the SMLR<sup>6</sup>, it may ask the applicant for further information and clarification. It may issue a LOC notifying the applicant of the SFC's concerns in detail and request for the necessary information from the applicant.
- 5.4 If, after consideration of the applicant's submissions, the SFC forms a view that it is more likely than not that, given the known facts and circumstances, an objection would be raised under section 6(2) of the SMLR or pre-listing conditions, or continuing conditions would be imposed under section 6(3)(b) of the SMLR, it will promptly issue a LOM directly to the applicant. The LOM will set out the detailed reasons for the SFC's concerns. If the applicant's response to an LOM fails to

<sup>6</sup> Section 6(2) of the SMLR provides that the SFC may object to any listing applications if it appears to the SFC that:

- (a) the application does not comply with a requirement under section 3 of the SMLR, namely, (i) non-compliance with the Listing Rules except to the extent waived or not required; (ii) non-compliance with applicable law; or (iii) failure to contain such particulars and information which, having regard to the particular nature of the applicant and the securities, is necessary to enable an investor to make an informed assessment of the activities, assets and liabilities and financial position of the applicant at the time of the application and its profits and losses and of the rights attaching to the securities;
- (b) the application is false or misleading as to a material fact or is false or misleading through the omission of a material fact;
- (c) the applicant has failed to comply with a requirement to supply such further information as the SFC may reasonably require for the performance of its functions under the SMLR or, in purported compliance with the requirement has furnished the SFC with information which is false or misleading in any material particular; or
- (d) it would not be in the interest of the investing public or in the public interest for the securities to be listed.

address the SFC's concerns, the SFC will issue a final decision notice<sup>7</sup> under section 6(2) of the SMLR to object to the listing. On the other hand, if the applicant's response to an LOM is adequate and the SFC does not have any concerns under the SMLR at that stage, then the SFC will issue a "no comment" letter with or without pre-listing and/or continuing conditions to the applicant.

## Post-IPO matters

- 5.5 When the SFC identifies a proposed corporate matter that may warrant early intervention based on one or more of the grounds set out in section 7A(2) of the SMLR<sup>8</sup>, an "initial" LOC will be issued to the listed issuer, usually together with directions under section 7B of the SMLR or section 179 of the SFO to request records or documents and explanation or statement in respect of the records or documents produced. The "initial" LOC sets out the SFC's preliminary concerns based on the information disclosed publicly by the listed issuer, for example, by way of an announcement. The letter also formally notifies the listed issuer and the Stock Exchange that the SFC is considering the use of its powers under the SMLR if the issues noted in the letter are not resolved.
- 5.6 If the SFC's concerns about the proposed corporate matter were not adequately addressed, a second LOC will be issued to the issuer and copied to the Stock Exchange. This LOC will incorporate the findings of the directions under section 7B of the SMLR or section 179 of the SFO and restate the SFC's powers to intervene under the SMLR if the listed issuer proceeds with the transaction without satisfactorily addressing the SFC's concerns. The listed issuer may make further submissions to respond to the LOC.
- 5.7 However, if the listed issuer chooses to proceed with the transaction without adequately addressing the SFC's concerns, the SFC may intervene under the SMLR. The SFC may issue a "show cause letter" to the issuer setting out in detail the concerns behind the SFC's mindedness to impose conditions on the listed issuer and give the issuer an opportunity to respond. If the issuer's response does not adequately address the issues set out in the "show cause letter", the SFC may impose conditions on the listed issuer under section 7A(1) of the SMLR.

## 6. After imposition of a condition

- 6.1 For IPO cases, listing applicants would be required to disclose the conditions imposed by the SFC before the time of listing in prospectuses.
- 6.2 For post-IPO matters that may warrant the SFC's early intervention, including cases where the suspected misconduct is uncovered after an applicant is listed, it will, in appropriate cases, require the listed issuer to make specific disclosures by way of imposing conditions on the issuer in lieu of suspension of trading. Where the SFC requires the listed issuer to disclose all relevant information for investors to make an informed decision of the issuer by way of imposing conditions under section 7A(1) of the SMLR, the listed issuer is expected to disclose the condition(s) imposed by the SFC by way of an announcement. This announcement should also include the

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<sup>7</sup> A final decision notice is a specified decision under the SFO that is subject to review by the Securities and Futures Appeals Tribunal.

<sup>8</sup> For listed issuers' follow-on securities listing (such as listing of new shares in a placing), the SFC may intervene under section 6 of the SMLR. The process for imposing conditions or objection to listing will be similar to an IPO case outlined in paragraphs 5.1 to 5.4 above.

necessary disclosures required by the SFC, as well as the actions that the listed issuer must undertake in response to these conditions.

- 6.3 Issuers are encouraged to maintain a constant dialogue with the SFC where conditions are imposed to resolve all relevant concerns as soon as possible. Timely notification of fulfilment of any of the imposed conditions should be provided to the SFC in writing.
- 6.4 The SFC has a discretion to amend, revoke or supplement an existing condition to ensure that any regulatory action taken can be appropriately modified to take into account any subsequent changes and developments. All applications for a variation or revocation of any conditions imposed by the SFC should be made directly to the SFC in writing.

## **7. Right of review**

- 7.1 A listed issuer is entitled to a full merits review by the Securities and Futures Appeals Tribunal if it is aggrieved by the outcome of the SFC's decision to:
- (a) impose continuing conditions that will be applicable upon and after listing (section 6(3)(b) in conjunction with the new section 6(3B));
  - (b) impose post-listing conditions on a listed issuer (section 7A(1)); or
  - (c) amend or revoke any conditions (sections 6(3A)(a) and 7A(3)) and impose new conditions (section 6(3A)(b)).

## **8. Consequence of breaching a condition**

- 8.1 For IPO cases, while continuing conditions are imposed to allow a listing application to proceed, any breaches of a condition subsequent to the commencement of trading of the listing applicant's shares would not invalidate the listing approval granted by the Stock Exchange. Instead, such breaches would be dealt with initially by a warning in the form of a LOC or LOM which would afford the listed issuer an opportunity to explain or rectify its conduct within a specified period. Any failure to fulfil the condition imposed despite the SFC's warning may result in a suspension of trading under section 8 of the SMLR.
- 8.2 For post-IPO matters, listed issuers will similarly be given an opportunity to rectify a breach of a condition within a specified timeframe. Should the listed issuer fail to do so, the SFC may exercise its power to suspend trading under section 8 of the SMLR.