

# Hong Kong Capital Markets Update

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## HKEX's Consultation Conclusion on Proposed Changes to Chapter 37 of the Main Board Listing Rules – Debt Issues to Professional Investors Only

On 21 August 2020, the Stock Exchange of Hong Kong Limited (the Exchange) published the [conclusion](#) of its consultation on proposed changes to Chapter 37 of the Main Board Listing Rules – Debt Issues to Professional Investors Only (Chapter 37 or Professional Debt Regime). The related Listing Rules amendments and the guidance on disclosures in listing documents and continuing obligations under Chapter 37 to take effect on 1 November 2020.

### Highlights

- The Exchange decided to adopt most of the proposals in the consultation paper with minor modifications.
- The Exchange also issued a guidance on disclosure in listing documents and continuing obligation under the Professional Debt Regime.
- The related Listing Rules amendments and the guidance to take effect on 1 November 2020.

### Background

On 6 December 2019, the Exchange published a consultation paper that sought comments on proposed changes to the Professional Debt Regime (for a summary of the consultation, please refer to our [Capital Market Update Issue 2019-08](#)).

The key focus of the Exchange proposed amendments to Chapter 37 is to balance the need of safeguarding investor protection while maintaining an effective and appropriate listing platform for the continued development of the bond market in Hong Kong in light of market developments.

The Exchange, after considering the comments from the respondents, decided to adopt most of the proposals in the consultation paper with minor modifications.

The Exchange also issued the “Guidance on Disclosures in Listing Documents and Continuing Obligations under Chapter 37 – Debt Issues to Professional Investors Only” that provides guidance on disclosure in listing documents and continuing obligation under the Professional Debt Regime. It is not intended to be exhaustive nor prescriptive as to the level and types of disclosures to be included in a listing document. Issuers are reminded of their responsibility to ensure that their listing documents contain information that are customarily expected by investors for making an informed investment decision.

The related Listing Rules amendments and the guidance on disclosures in listing documents and continuing obligations under Chapter 37 is to take effect on 1 November 2020.

## Key changes

The key changes to the Listing Rules in relation to the Professional Debt Regime are as follows:

- 1) Raising the existing issuer's minimum net assets requirement from HK\$100 million to HK\$1 billion;
- 2) Introducing a minimum issuance size of HK\$100 million;
- 3) Requiring issuers to state explicitly in the listing document the intended investor market in Hong Kong are professional investors only;
- 4) Requiring publication of listing documents on the Exchange's website on the listing date; and
- 5) Introducing other Listing Rules amendments to enhance the regulatory oversight over issuers and guarantors' in terms of their continuing obligations.

**Appendix 1** sets out a summary of the original proposals and the modifications after consultation.

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If you have any questions about the matters discussed in this publication, please feel free to contact the following capital markets partners and directors.

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## Appendix 1: Overview of proposed changes to Professional Debt Regime

The following table sets out a summary of the original proposed changes to Professional Debt Regime in the consultation paper and the modifications after the consultation.

Original proposals	Results	Modifications
Increasing the NAV Requirement from HK\$100 million to HK\$1 billion	Adopted	-
Maintaining the current Eligibility Exemption available for State corporations	Adopted with modification	Require Regional State corporations to comply with Issuer Eligibility Requirements
Introducing a minimum issuance size of HK\$100 million (or equivalent in other currencies) for Chapter 37 Debts	Adopted	-
Not applying the minimum issuance size of HK\$100 million (or equivalent in other currencies) to tap issuances	Adopted	-
Requiring issuers to state explicitly on the front cover of the listing document the intended investor market in Hong Kong (i.e. professional investors only) for its Chapter 37 Debts, in addition to the existing legend required under Listing Rule 37.31	Adopted	-
Requiring publication of listing documents for Chapter 37 Debts on the Exchange's website on the listing date	Adopted	-
Maintaining the Exchange's current disclosure and vetting approach in relation to listing documents for Chapter 37, notwithstanding that the intended investors would include high net worth ("HNW") Investors	Adopted	-
Whether there should be a different standard with specific disclosure requirements in respect of Chapter 37 Debts that are offered to HNW Investors, compared to those that are offered to Institutional Investors	Not adopted, no such different standard is considered necessary	-
Publishing disclosure guidance to the market on specified Special Features found in certain Chapter 37 Debts and other disclosure-related matters	Adopted	-
Codifying the PI Waiver by revising the definition of "professional investors" under Chapter 37 to include HNW Investors	Adopted with modification	Revise proposed Listing Rules amendments to reflect certain comments received

Original proposals	Results	Modifications
Allowing eligibility of a REIT Issuer (or a REIT Guarantor) to be assessed by reference to the REIT Assets and REIT Financials respectively, provided that it has recourse to the REIT Assets to satisfy the obligations under the relevant Chapter 37 Debts	Adopted with modification	Revise proposed Listing Rules amendments to clearly reflect the proposals
Allowing a REIT Issuer (or a REIT Guarantor) to be qualified as a Hong Kong listed company and therefore, be exempted from the Issuer Eligibility Requirements if the relevant REIT is listed on the Exchange	Adopted	-
Enhancing the continuing obligations of the issuer and guarantor under Chapter 37	Adopted with modification	Revise proposed Listing Rules amendments to reflect certain comments received
Replacing the existing requirements to submit copies of constitutional documents and resolutions as part of the listing application documents with a requirement to provide written confirmation by the issuer (or guarantor, as the case may be) in relation to its due incorporation, capacity and authorisation	Adopted with modification	Revise proposed Listing Rules amendments to reflect certain comments received
Replacing the existing requirement to submit last published financial statements with a new requirement for an issuer (or the guarantor that an issuer relies in fulfilling the Issuer Eligibility Requirements) to submit its audited financial statements to evidence its fulfilment of the Issuer Eligibility Requirements	Adopted	-
Not requiring issuer (or guarantor) to separately submit financial statements to the Exchange where the issuer (or the guarantor) is exempted from the Issuer Eligibility Requirements or where the required audited financial statements are disclosed in the listing document	Adopted	-
Amending Rule 37.26 to clarify that supplementary listing document includes a pricing supplement	Adopted with modification	Revise proposed Listing Rules amendments to reflect certain comments received
Making housekeeping changes to improve Listing Rules clarity and to correct any typographical errors	Adopted with modification	Revise proposed Listing Rules amendments to reflect certain comments received