

Hong Kong Capital Markets Update

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Revised Guidance Letter on Financial Information Requirements for Listings to be Completed Shortly After the Latest Financial Year End

The Stock Exchange of Hong Kong Limited ("the Exchange") recently updated its Guidance Letter (GL) [25-11](#) in relation to the conditions for waivers from strict compliance with Main Board (MB) Listing Rule 4.04(1) and Growth Enterprise Market (GEM) Listing Rules 7.03(1) and 11.10 (together, the "Rules").

The Rules require a listing applicant to include in the accountants' report its consolidated results for each of the three financial years immediately preceding the issue of listing documents for a MB listing or two financial years for a GEM listing.

Listing applicants usually experience difficulties in producing audited financial information for the latest financial year if they intend to issue the prospectus shortly after their financial year end (i.e. January to March for MB listing applicants or January to February for GEM listing applicants). In GL25-11, the Exchange sets out the conditions for waivers (the "Waivers") from strict compliance with the Rules for listing applicants planning to list within the first three months (two months for GEM listing applicants) after their financial year end. A summary of the financial information requirements to meet the conditions for the Waivers set out in GL25-11 can be found at the end of this update.

In its September 2015 update to GL25-11, the Exchange consolidated the relevant guidance set out in the Listing Decision (LD) [91-1](#) relating to the Exchange's decision in the Waivers. In particular, the Exchange indicated in the updated guidance letter that it will not automatically grant a waiver and that the Exchange is also not likely to grant a waiver *"if there is a downward trend in an applicant's recent business performance to the extent that it may not meet the minimum profit requirement if such waiver is not granted."*

In other cases where a waiver is granted the Exchange can impose conditions on the disclosure in the listing document when there are material adverse changes in an applicant's performance (e.g. revenue, net profit and/or net profit margin), to ensure that there is reasonably sufficient information to

enable investors to have an informed assessment of the listing applicant absent an accountants' report that includes the financial results of its latest financial year. The enhanced disclosure could include a profit forecast, the reasons for and a qualitative analysis of the material adverse changes, and comment on whether the material adverse changes were one-off and not likely to recur in the future.

Listing applicants targeting to have their prospectuses issued shortly after the financial year end in reliance on the Waivers should ensure that all required conditions under the revised guidance letter can be met.

Our Observations

As many of the listing applicants adopt 31 December as their financial year end, those applicants who attempt to complete their listing shortly after their financial year end may find it difficult to obtain the Waivers if there has been a downward trend of business performance and the profits of the track record period including the year ending 31 December 2015 are not expected to meet the minimum requirement.

To illustrate, for a MB listing applicant with more than HK\$50 million in trading profits (i.e. the minimum requirement for a MB listing) for the three years ended 31 December 2014 but not for the three years ending 31 December 2015, the applicant may not be able to obtain a MB Rule 4.04(1) waiver from the Exchange if it is determined that there has been a downward trend in the applicant's recent business performance. The practical implication is that the listing applicant will likely not be able to fulfil the listing requirement, and therefore cannot complete the listing unless it can avoid the need for a MB Rule 4.04(1) waiver by having the prospectus issued before the current financial year end (i.e. 31 December 2015).

A summary of the relevant financial information requirements to meet the conditions for the Waivers as set out in GL25-11

	Main Board listing applicant		GEM listing applicant
Requirements	Prospectus issued within two months after latest year end (e.g. on or before 29 February 2016)	Prospectus issued in third month after latest year end (e.g. March 2016)	Prospectus issued within two months after latest year end (e.g. on or before 29 February 2016)
Track record period	Three financial years plus a stub period balance sheet and financial statements within six months from the date of the prospectus. <i>Example:</i> A track record period covering the three years ended 31 December 2012, 2013 and 2014, and the eight months ended 31 August 2015.	<i>Example:</i> A track record period covering the three years ended 31 December 2012, 2013 and 2014, and the nine months ended 30 September 2015.	Two financial years plus a stub period balance sheet and financial statements within six months from the date of the prospectus. <i>Example:</i> A track record period covering the two years ended 31 December 2013 and 2014, and the eight months ended 31 August 2015.
Financial information of the latest financial year (e.g. 31 December 2015)	Include a profit estimate for the last financial year (e.g. year ended 31 December 2015) or the justifications for not including it.	Disclose the financial information for the latest financial year (e.g. the year ended 31 December 2015) following the requirements for a preliminary result announcement and a commentary on the results.	Include a profit estimate for the last financial year (e.g. year ended 31 December 2015) or the justifications for not including it.
Listing on the Stock Exchange	Must list within three months from year end (e.g. 31 March 2016)		Must list within two months from year end (e.g. 29 February 2016)
Preliminary results announcement – Full year	Publish before the end of the third month after year end (e.g. 31 March 2016)	The Exchange will consider granting a waiver on a case-by-case basis if the preliminary results information is already included in the prospectus	Publish before the end of the third month after year end (e.g. 31 March 2016)
Annual report	Distribute before the end of the fourth month after year end (e.g. 30 April 2016)	Distribute before the end of the fourth month after year end (e.g. 30 April 2016)	Distribute before the end of the third month after year end (e.g. 31 March 2016)

If you have any questions about the matters discussed in this publication, please feel free to contact Paul Lau, Katharine Wong or Anthony Ho of our Capital Markets Advisory Group.

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