

Amendments to Listing Manual

Following a public consultation exercise, the Singapore Exchange (SGX) has announced changes to its rules with effect from 1 September 2006 to raise corporate governance standards and promote good regulatory standards. The changes include the following:

1. Foreign issuers must have at least 2 independent directors who are Singapore residents on a continuing basis. However, they need not have another resident director. They also need not have a Singapore resident executive or a compliance adviser as earlier proposed in the public consultation.
2. The said independent directors must not only be Singapore residents at listing but also on a continuing basis. Existing issuers have to comply with this rule by 1 January 2008.
3. Not included in the listing rules is the earlier proposal requiring an annual confirmation from the board and CEO on internal control matters, as this is already addressed in the revised Code of Corporate Governance introduced in 2005.

Significant changes to the listing rules that remain untouched from the initial proposals:

Enhancing Corporate Governance

1. The interim results must include a “negative assurance” confirmation from the board that, to the best of their knowledge, nothing has been brought to the attention of the Board of Directors that may render the financial results to be false or misleading.
2. A requirement for all listing applicants to confirm that they have obtained all necessary approvals, and complied with all laws and regulations, that would materially affect the business operations.

Extending the role of intermediaries

1. An increase in the sponsorship disclosure requirement (badging) for issue managers from one to two years;
2. The requirement of the appointment of a Compliance Adviser to facilitate the company’s transition to become a listed entity.
3. A requirement for the issue manager to confirm that the directors of an applicant have been informed of their obligations under the listing rules as well as the relevant Singapore Laws and regulations.

Other enhancements

1. An increase in the director’s awareness of listing obligations through on-going orientation programs. Issuers are required to announce the director’s prior experience or training in the prospectus or via SGXNet. Similar announcements on SGXNet are also required on an on-going basis for the appointment of new directors.
2. To improve transparency and disclosure by encouraging issuers to adopt best practices set out in the Operating and Financial Review (OFR) Guide. Issuers must follow the Guide when preparing the operating and financial reviews in their annual reports. This will be effective for all AGMs held on or after 1 January 2007.
3. The removal from the Listing Manual of information on the listing fees and other charges for the provision of listing-related services currently in Practice Note 1.1. This information will be posted on the SGX website.

A complete set of the listing rule amendments can be accessed from SGX's website at www.sgx.com.

Proposed amendments to the Singapore Code on Takeovers and Mergers

On 21 June 2006, the Singapore Securities Industry Council ("SIC") issued a consultation paper on proposed amendments to the Singapore Code of Take-overs and Mergers (the "Code") to keep pace with market innovations and international practices. The consultation closed on 28 July 2006.

Key proposals included the following:

- In the case of foreign corporations and business trusts listed on the Singapore Exchange ("SGX"), to apply the Code only to those with a primary listing in Singapore.
- Subject to certain conditions, to permit break fees where a cash sum will be payable by the offeree company to an offeror if certain specified events occur which have the effect of preventing the offer from proceeding or causing it to fail. Following the UK approach, break fees are limited to 1% of the value of the offeree company based on the offer price.
- To require offerors to settle acceptances tendered within 10 days.
- To increase the whitewash waiver validity period from 2 to 5 years, in response to market feedback that most convertible instruments and options have an exercise period of up to 5 years.
- To levy tiered fees for lodgement of offer documents and a flat fee of \$2000 for whitewash circulars, in line with the practice in the UK and Hong Kong.
- To apply the Code to real estate investment trusts ("REITS"). REITS may be structured as collective investment schemes or business trusts. The latter are already subject to the Code.
- To take into account exposure to options and derivatives when determining whether a person has triggered a mandatory bid obligation for an offeree company. Disclosure of interests in long derivatives during an offer period, and expanding the notion of "dealing" in securities during an offer period to include derivative transactions, are contemplated.

The amendments are to be welcomed as they bring Singapore's takeover practices in line with best practice.

Listing of Hedge Funds on the Singapore Exchange

Hedge funds can now be listed on a non-tradeable basis on SGX. Key benefits include greater visibility among institutional investors, simple application procedures, fast processing time and, not least, SGX's credibility as an internationally recognised exchange.

The hedge fund must appoint a sponsor to manage its listing application and to co-ordinate with the other professional advisers. A sponsor must either be an institution with a licence from the Monetary Authority of Singapore ("MAS") to conduct corporate finance activities in Singapore or a Singapore-based lawyer.

The key listing conditions are:

(a) The Fund

- Units may only be offered to institutions and/or accredited investors.
- A SGD-denominated fund must have a minimum asset size of at least S\$20 million. A fund denominated in a foreign currency must have a minimum asset size of at least US\$20 million.
- No trading in the units is permitted on the SGX.

(b) The Investment Manager

- Must demonstrate appropriate expertise and experience to manage the fund. The investment manager must have at least one principal with at least 5 years of relevant investment experience.

(c) The Prime Broker

Where the fund enters into transactions with or through a prime broker, the prime broker (or its parent company) must have (i) a credit rating of at least A for long-term debt from Moody's or Standard and Poor's and P-2 or A-1, respectively for short-term debt; and (ii) financial resources in excess of US\$200 million (or its equivalent in another currency).

(d) The fund should have in place an independent risk management function.

The fund must also comply with ongoing obligations relating to:

- Valuation – the net asset value per unit must be announced as soon as practicable after each month end, but in any event no later than seven business days. A fund must also immediately announce any material change relating to its operations.
- Financial statements – a fund must announce its financial statements for the first year and the full financial year within 45 days and 60 days respectively of the end of the periods to which they relate.

An initial fee of \$10,000 is payable for each listing application, while an annual fee of \$5000 is payable for each year of listing on the SGX.

The full listing requirements and procedures can be found at www.sgx.com/listings.

Competition Act – Block Exemption Orders

Competition law in Singapore received a boost when the Competition Act (the "Act") first took effect in January 2005. The Act is being implemented in stages, with the first phase being the establishment of the Competition Commission ("Commission") in January 2005. In January 2006, the key restrictions on cartel and monopolistic behaviour (contained in Sections 34 and 47 of the Act respectively) came into effect. The restriction on anti-competitive mergers found in Section 54 will only come into effect sometime in 2007.

The focus in Section 34 is on anti-competitive agreements. One key exemption to Section 34 is found in Section 41 of the Act. This excludes from the scope of Section 34 agreements contributing to improving production or distribution or promoting technical or economic progress, but which do not impose on the undertaking concerned restrictions which are not indispensable to the attainment of those objectives or afford the undertakings concerned the possibility of eliminating

competition in respect of a substantial part of the goods or services in question. The Commission has the discretion to treat any particular group of agreements as falling within Section 41 and may recommend to the Minister that a “block exemption” be granted for such agreements.

The first block exemption was granted by the Minister for Trade and Industry on 14 July 2006 in respect of liner shipping agreements relating to liner shipping services, subject to certain conditions. This was based on the Commission’s recommendation that the exemption would broadly align Singapore’s regulatory environment with that of major jurisdictions and also help to maintain Singapore’s position as a premier international maritime centre. The exemption takes effect retrospectively from 1 January 2006 and lasts for 5 years.

Competition law is in its infancy in Singapore and many companies have yet to realise the impact it may have on their operations. Companies would be well-advised to conduct a Competition Act “audit” of their activities for compliance with the Act.

Changes to CPF Properties Scheme

The Central Provident Fund ("CPF") Board has announced changes to its CPF Properties Scheme. Among the key changes are:

- CPF can now be used to buy residential properties with remaining leases of less than 60 years but at least 30 years, subject to certain conditions. Previously, this was not allowed.
- All non-related singles (unmarried, divorced or widowed) will be allowed to use CPF to jointly purchase their only residential properties. There is no age restriction. Previously, non-related singles were not allowed to do so.
- Previously, the CPF withdrawal rules for second and subsequent properties were the same as those for the first property. Members were allowed to use at least 100% of the valuation limit for each property without setting aside any cash in their CPF accounts. However, from 1 July 2006 onwards, members can only use their CPF savings to buy their second and subsequent properties provided they are able to set aside the Minimum Sum cash component. Use of CPF for second and subsequent properties is limited to the net amount of Ordinary Account savings in excess of the Minimum Sum cash component. Withdrawals for the second and subsequent properties are also subject to a Withdrawal Limit of 100% of the Valuation Limit for properties with at least 60 years of lease, and the applicable Withdrawal Limit for properties with more than 30 years but less than 60 years of lease. This policy applies to members already owning a property bought with their CPF savings before 1 July 2006 and wishing to buy another property with CPF from 1 July 2006. Members who own more than 1 property bought with CPF savings before 1 July 2006 will not be affected by the policy change unless they subsequently buy another property using their CPF savings.

Other News

New additions to the team

We are pleased to announce that Claire Tham has joined Corporate and Financial Services. Claire was formerly Senior Vice President of a major local listed bank, where she was also Assistant Company Secretary. She has extensive experience across all areas of banking, including consumer, corporate and private banking, trusts, custody and trade finance.

Viva Foundation for Children with Cancer

Viva Foundation for Children with Cancer was established in [May 2006] as a non-profit registered charity to help children with cancer. It has facilitated a memorandum of understanding signed on 30 May 2006 between St. Jude Children's Research Hospital in Memphis, Tennessee, USA, National University Hospital, National University of Singapore and Viva Foundation. Yeo-Leong & Peh LLC is pleased to announce it is the pro-bono counsel for Viva. Mrs Jennifer Yeo, Chair of the Board of Directors of Yeo-Leong & Peh LLC, is also secretary and director of Viva Foundation. More information on Viva can be found at the Viva website at <http://www.viva.sg>.

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