

The Stock Exchange of Hong Kong Limited

Practice Note 3

to the Rules Governing the Listing of Securities
(the “Exchange Listing Rules”)

Issued pursuant to rule 1.06 of the Exchange Listing Rules

THE TRADING RECORD OF THE MANAGEMENT OF A NEW APPLICANT

1. Definitions

Terms used in this Practice Note which are defined or interpreted in the Exchange Listing Rules shall have the same meaning as in the Exchange Listing Rules.

2. Introduction

Rule 8.05 sets out the basic conditions which have to be met as a pre-requisite to the listing of equity securities. One of those conditions is that a new applicant must have an adequate trading record under substantially the same management. This Practice Note is intended to give guidance on certain aspects of this condition and is not intended to be a general commentary on rule 8.05 in its entirety.

In all cases the trading record period of a new applicant must enable the Exchange and investors to make an informed assessment of the management's ability to manage the applicant's business and the likely performance of that business in the future. In order to make this assessment the applicant must be able to satisfy the Exchange that its main business or businesses, as at the time of listing, have normally been managed by substantially the same persons throughout the period of the qualifying trading record and that such persons are the management of the new applicant.

3. Early Consultation

The Exchange encourages potential new applicants which have made acquisitions during the qualifying trading record period, or which intend to make an acquisition prior to obtaining a listing, or where there has been a material change in the management or ownership of the applicant during that trading record period, to contact the Listing Division of the Exchange for confidential advice, before submitting a listing application.

The Exchange hopes that this Practice Note will prevent companies from incurring unnecessary expenditure when it is clear that they will not be able to meet the requirements set out in rule 8.05.

You are reminded that specific guidance on the interpretation of the Exchange Listing Rules cannot be given without full information.

4. Consideration of an Application by the Exchange

While a company is free to acquire or dispose of assets at any time, in some cases, it may be difficult for a new applicant to satisfy the Exchange that it meets the requirements of rule 8.05 where it has acquired a new business or businesses during the period of the qualifying trading record or where the companies comprising the group to be listed have been recently organised into a group.

In order to determine an applicant's suitability to listing in these circumstances, the Exchange will take into account the following factors:—

- (a) whether the new business forms a material part of the new applicant's business at the time of listing. The acquisition of a new business which forms a material part of the new applicant's business at the time of listing may result in the Exchange rejecting the application;
- (b) whether the new business is forecast to make a material contribution to the new applicant's profit forecast. A material contribution to forecast profits of a newly acquired business may result in the Exchange rejecting the application;
- (c) whether the new business is in a similar line to that of the new applicant's previous business activities and is part of the logical growth trend of the business;
- (d) whether the new applicant has retained the management of the new business and whether it can be demonstrated to the Exchange that continuity and synergy of the management necessary is provided;
- (e) the period of time which has elapsed since the completion of the acquisition. Management's ability to manage the enlarged business may not be able to be determined until a sufficient period of time has elapsed after completion of the acquisition; and
- (f) whether the new group has been formed solely for the purpose of satisfying the listing requirements or to enhance the apparent attractiveness of that group as a new applicant for listing.

The issue of materiality and compliance generally with rule 8.05 will be determined by the Exchange, in its sole discretion, having regard to all the relevant circumstances.

The Exchange emphasises that it retains an absolute discretion to accept or reject an application for listing and that compliance with the relevant conditions may not of itself ensure an applicant's suitability for listing.

5. Accountants' Report Evidencing the Trading Record

Rule 8.05 states that a new applicant must normally have an adequate trading record of not less than three years. In order for the Exchange to be satisfied that the trading record is acceptable, the Exchange will review the underlying audited accounts of the group companies and expects that the accountants' report on the results of a new applicant (or the consolidated results of a new applicant and its subsidiaries) which evidences the trading record, should not normally contain any qualifications in respect of the latest two financial periods which relate to a matter of significance to investors.

6. This amended Practice Note takes effect from 16th October, 1995.

Note: The applicant is taken to be a holding company together with all its subsidiaries and associated companies. The applicant must satisfy the Exchange that the management of the new applicant, as head of the group, has exercised overall and effective control of the main businesses operated through its subsidiaries throughout the qualifying trading record period.

Hong Kong, 16th October, 1995