

August 2019

Restrictions on Highly Dilutive Capital Raising Activities and other Ancillary Amendments

1. With effect from 3 July 2018, The Hong Kong Exchanges and Clearing Limited (the “**Exchange**”) introduced new rules to regulate highly dilutive capital raising activities as proposed in its consultation paper on capital raisings by listed issuersⁱ released in September 2017.
2. On 4 May 2018, the Exchange published its conclusionsⁱⁱ to the consultation. The Exchange noted strong support for its proposals and decided to implement them with minor modifications. The table below summarises the key changes to the Listing Rules:

Proposals	Adopted or not
<i>Highly dilutive capital raisings</i>	
<p>Prohibit rights issue, open offer and specific mandate placings (on a 12-month cumulative basis) that would result in a value dilution of 25% or more (“material value dilution issue”ⁱⁱⁱ).</p> <p>The Exchange may withhold approval for, or impose additional requirements on, a non-material value dilution issue if it considers the issue is inconsistent with any of the general principles contained in rule 2.03^{iv}.</p>	<p>Adopted</p> <p>Notes:</p> <ul style="list-style-type: none">● The new rules also prohibit bonus securities, warrants or other convertible securities granted or to be granted as part of any relevant offers or placing.● Unless there are exceptional circumstances on the listed issuer such as financial difficulty.

Restrictions on Highly Dilutive Capital Raising Activities and other Ancillary Amendments

<i>Rights issues and open offers</i>	
<p>The requirement that all rights issues and open offers must be fully underwritten is removed.</p> <p>If an offer is to be underwritten, only independent Type 1 licensed corporations, or controlling or substantial shareholders of the issuer, may be appointed as underwriters.</p> <p>To dispose of unsubscribed securities, all offers must include either (i) excess application arrangements or (ii) compensatory arrangements, any premium arising from the disposal is paid to the non-subscribing members.</p> <p>If the controlling or substantial shareholders will be appointed as underwriters, the issuers must adopt compensatory arrangements.</p> <p>The connected transaction exemption for underwriting and sub-underwriting of offers by connected persons is removed.</p> <p>If an issuer adopts excess application arrangements, the directors must disregard any excess applications made by the controlling shareholders and their associates in excess of the offer size minus their pro-rata entitlements.</p>	Adopted

Restrictions on Highly Dilutive Capital Raising Activities and other Ancillary Amendments

<i>Use of the general mandate to conduct open offers, or issue warrants or convertible securities</i>	
<p>All open offers must be approved by independent minority shareholders at a general meeting, unless the offer will be made under the authority of a general mandate.</p>	<p>Adopted</p> <p>Notes:</p> <ul style="list-style-type: none"> ● The controlling shareholders (or where there are no controlling shareholders, the directors and chief executive) cannot vote in favour of the resolution. ● The issuer needs to appoint an independent financial adviser to opine on the terms of the offer. ● The restriction of a maximum discount of 20% for the placing of securities of cash consideration will apply to an open offer.
<i>Placing of warrants or convertible securities under general mandate</i>	
<p>Placing of warrants, options or similar rights to subscribe for new shares of the listed issuer under a general mandate is disallowed.</p>	<p>Adopted</p> <p>Note:</p> <ul style="list-style-type: none"> ● The use of general mandate for the placing of convertible securities is permitted if the initial conversion price is not lower than the benchmarked price (as defined in Rule 13.36(5) of the Listing Rules^v) of the shares at the time of placing.

Restrictions on Highly Dilutive Capital Raising Activities and other Ancillary Amendments

<i>Disclosure of the use of proceeds</i>	
<p>Details of the use of proceeds from all equity fundraisings must be disclosed in both annual and interim reports of the listed issuers.</p>	<p>Adopted</p> <p>Notes:</p> <ul style="list-style-type: none"> ● A detailed breakdown and description of the use of proceeds for different purposes during the financial year or period. ● If there is any amount not yet utilised, a detailed breakdown (by different purposes) and description of the intended use of the proceeds and the expected timeline. ● Whether the proceeds are used, or are proposed to be used, according to the intentions previously disclosed by the listed issuers, and the reasons for any material change or delay in the use of proceeds.
<i>Subdivisions or bonus issues of shares</i>	
<p>The theoretical share price (after adjustment) of the shares of an issuer who proposes a share subdivision or bonus issue of shares must be higher than a minimum price (HK\$1) for a period of six months before the announcement of the subdivision or bonus issue (Rule 13.64A of the Listing Rules^{vi}).</p>	<p>Adopted</p>

Restrictions on Highly Dilutive Capital Raising Activities and other Ancillary Amendments

For enquiries, please contact:

Dennis Fong & Co., Solicitors *(in Association with Links Law Offices)*

Dennis Fong

Partner

Tel: +852 2592 1978

Email: dennis.fong@llinkslaw.com.hk

Bosco Leung

Counsel

Tel: +852 2592 1978

Email: bosco.leung@llinkslaw.com.hk

-
- ⁱ <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/September-2017-Consultation-Paper-on-Capital-Raisings-by-Listed-Issuers/Consultation-paper/cp2017092.pdf>
- ⁱⁱ [https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/September-2017-Consultation-Paper-on-Capital-Raisings-by-Listed-Issuers/Conclusions-\(May-2018\)/cp2017092cc.pdf](https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/September-2017-Consultation-Paper-on-Capital-Raisings-by-Listed-Issuers/Conclusions-(May-2018)/cp2017092cc.pdf)
- ⁱⁱⁱ please refer to the Exchange's FAQ no. 26-2018 - Questions on calculation of value dilution
- ^{iv} https://en-rules.hkex.com.hk/sites/default/files/net_file_store/new_rulebooks/c/o/consol_mb.pdf
- ^v *ibid*
- ^{vi} *ibid*