

HKEX GUIDANCE LETTER

HKEX-GL110-21 (March 2021) (Last updated in August 2022)

[Streamlined and incorporated into the Guide for New Listing Applicants in January 2024]

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| Subject | Pre-vetting for placing to connected clients in an initial public offering (“IPO”) |
| Listing Rules and Regulations | Main Board Rules 2.03(2) and (4) Paragraphs 5(1) and 13 of Appendix 6 to the Main Board Rules GEM Rules 2.06(2) and (4), 10.12(1A)(a), and note 2 of GEM Rule 10.12(4) Guidance Letter HKEX-GL85-16 https://en-rules.hkex.com.hk/rulebook/gl85-16 |
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Important note: *This letter does not override the Listing Rules and is not a substitute for advice from qualified professional advisers. If there is any conflict or inconsistency between this letter and the Listing Rules, the Listing Rules prevail. You may consult the Listing Division on a confidential basis for an interpretation of the Listing Rules or this letter.*

1. Purpose

- 1.1 Guidance Letter HKEX-GL85-16 (“**GL85-16**”) sets out requirements for overall coordinators, syndicate members (other than overall coordinators) and other distributors (collectively, “**Distributors**”) seeking prior written consent (the “**Consent**”) under paragraph 5(1) of Appendix 6 to the Main Board Rules (“**Placing Guidelines**”) (GEM Rule 10.12(1A)(a)) on placing securities of a listing applicant to their connected clients (as defined in paragraph 13 of the Placing Guidelines and note 2 of GEM Rule 10.12(4)) which in turn will hold such securities on behalf of independent third parties¹ (other than placing securities of a listing applicant to its existing shareholders or their close associates, which is covered by paragraphs 4.17 to 4.28 of GL85-16). **(Updated in August 2022)**
- 1.2 To avoid potential delay in the listing timetable and facilitate timely submission of Consent applications as mentioned in GL85-16, Distributors² are encouraged to submit the Consent applications (“**Pre-vetting Application**”) with all relevant information for the Exchange’s review after the publication of the listing applicant’s post-hearing

¹ In relation to a connected client who is an individual, an “independent third party” refers to any party other than (i) the connected client itself; and (ii) a close associate of the connected client. In relation to a connected client which is a company or partnership, an “independent third party” refers to any party other than (i) the connected client itself; (ii) any fellow subsidiary of the connected client; (iii) parties which can exert significant influence on the connected client (e.g. the third party is a director of the connected client); and (iv) parties on which the connected client can exert significant influence (e.g. the connected client holds 20% or more shareholdings in the third party).

² To facilitate the discharge of the obligation of each sponsor and overall coordinator to provide a declaration substantially as in Form E in Appendix 5 to the Main Board Rules (Form I in Appendix 7 to the GEM Rules) under Main Board Rule 9.11(36) (GEM Rule 12.26(8)), the Pre-Vetting Application may be submitted to the Exchange through the overall coordinators and copied to the sponsors. Where a Pre-Vetting Application is submitted by the Distributor to the Exchange directly, it should be copied to both the sponsor(s) and the overall coordinator(s) involved in the listing exercise. **(Updated in August 2022)**

information pack. This letter (i) elaborates on why Distributors are encouraged to submit a Pre-vetting Application for the Exchange's review; and (ii) provides guidance to Distributors on information required for pre-vetting in anticipation of potential placing of securities to connected clients, regardless of whether they are ultimately placed with any securities upon the final allocation of an IPO.

2. Relevant Listing Rules and Guidance Letter

- 2.1 Main Board Rules 2.03(2) and (4) (GEM Rules 2.06(2) and (4)) require the issue and marketing of securities to be conducted in a fair and orderly manner, and all holders of listed securities to be treated fairly and equally.
- 2.2 Paragraph 5(1) of the Placing Guidelines (GEM Rules 10.12(1A)(a)) states that no allocations will be permitted to "connected clients" of any Distributors without Consent.
- 2.3 Paragraph 13(7) of the Placing Guidelines (Note 2(g) of GEM Rule 10.12) states that "connected clients" in relation to an Exchange participant include any client of such member who is a company which is a member of the same group of companies as such Exchange participant.
- 2.4 GL85-16 provides guidance on placing to connected clients, existing shareholders and their close associates.

3. Guidance

- 3.1 To improve the efficiency of the IPO vetting process and avoid potential delay in the listing timetable³, a Distributor which intends to place securities of a listing applicant to its connected clients is encouraged to submit a Pre-vetting Application to the Exchange. Distributors can submit the Pre-vetting Application as soon as the post-hearing information pack of the listing applicant has been published on the Exchange's website.
- 3.2 The following information, most of which is required under GL85-16, should be included in the Pre-vetting Application submitted by the Distributor:
 - (i) the identities of the connected clients and the relationships between the Distributor and each of the connected clients (e.g. whether they are members of the same group of companies and/or are collective investment schemes managed by members of the same group of companies⁴);
 - (ii) where the connected client is a collective investment scheme which is not authorised by the Securities and Futures Commission or is expected to hold the securities on behalf of such a scheme, the background and details of the scheme

³ Early submission of information such as the identities of the connected clients means that the sponsors and/or the connected Distributors may also start preparing at an early stage any additional information requested by the regulators while the regulators are considering the Consent application.

⁴ The Exchange normally regards "members of the same group" as including, without limitation, subsidiaries, associates of 20% or more shareholding of the Distributor's holding companies, and other companies over which the Distributor and/or its subsidiaries, holding companies or fellow subsidiaries could individually or together directly or indirectly exert influence, e.g. by board representation.

such as (a) the types and values of assets under management; (b) whether the scheme is publicly marketed; (c) the scheme establishment date; (d) identities of the general partner(s) and 20 largest limited partners⁵ of the scheme where applicable; (e) the identity of the scheme administrator; and (f) the relationships amongst the scheme, the ultimate beneficial owner(s) of the limited partner(s), the controlling shareholder(s) of the listing applicant, and the listing applicant;

- (iii) where the connected client subscribes for securities on a non-discretionary basis on behalf of specific independent third parties in the client accounts, the identities of the ultimate beneficial owners of the securities or where applicable, details of the structured products under which the subscription by the connected client was made (e.g. OTC total return swaps); and
- (iv) the basis of seeking the Consent, which follows the principles and requirements under GL85-16, and the maximum amount of securities expected to be allocated to the connected client.

3.3 Save for certain information (e.g. number of securities allocated to the connected clients) and confirmations which are available only at later stages of the IPO process ("**Outstanding Information**"), all information stated in paragraph 3.2 above should be provided in the Pre-vetting Application.

3.4 The Exchange will issue a notification to the overall coordinator which may set out condition(s) as part of the Consent ("**Notification**") after reviewing the Pre-Vetting Application. The listing applicant and its overall coordinator will not be required to submit another application for Consent with respect to such connected client upon confirming the allocation of securities. The connected Distributor, the listing applicant, the sponsor(s), the overall coordinator(s) and the connected client (where applicable) should, as soon as possible, to avoid potential delay in the listing timetable: (**Updated in August 2022**)

- (i) provide the Outstanding Information to the Exchange (see Appendix for the confirmation templates);
- (ii) confirm to the Exchange that the information provided in the Pre-vetting Application remains valid; and
- (iii) satisfy any condition(s) set out in the Notification,

in order for the Exchange to grant the Consent.

3.5 Where there is any material change to the information submitted in the Pre-vetting Application, the new information must be timely submitted for the Exchange's consideration.

⁵ For a collective investment scheme with more than 20 limited partners, none of which holds 30% or more interest in the scheme, the identities of the limited partners of the scheme are normally not required to be provided in the Pre-vetting Application. Instead, the connected client is required to confirm that the scheme is widely held with no single limited partner holding 30% or more interest, and confirm that the limited partners are independent of the listing applicant, its controlling shareholders and the connected Distributor.

- 3.6 The allocation of securities to connected clients should be conducted only after the close of the public offer and Consent has been granted by the Exchange. For a connected Distributor that has not submitted a Pre-vetting Application but intends to place securities to its connected client(s), a Consent application should be made as soon as possible when all information is available to ensure the regulators will have sufficient time to review the information and avoid any delay to the listing timetable.
- 3.7 For the avoidance of doubt, there is no change in the current practice to apply for Consent in respect of placing securities to existing shareholders or their close associates. The Exchange will continue to consider granting Consent under paragraph 5(2) of the Placing Guidelines (GEM Rule 10.12(1A)(b)) and waiver from Main Board Rule 10.04 (GEM Rules 13.02(1)) on a case-by-case basis having regard to all relevant facts and circumstances disclosed in the waiver/Consent application and the prospectus, in particular, the details of the confirmations to be made pursuant to GL85-16.

Confirmation templates in support of the final allocations of securities to a connected client

Sponsor's confirmation

Pursuant to [paragraph 4.9 / paragraph 4.11] of the Guidance Letter HKEX-GL85-16 and paragraph 3.2 of the Guidance Letter HKEX-GL110-21, we hereby confirm to the Exchange that the securities are held on behalf of independent third parties and:

applicable if a connected client participates as a placee

- (i) based on (a) the discussions with the listing applicant, the connected Distributor and the overall coordinators; (b) the confirmations provided to the Exchange by the listing applicant, the connected Distributor, the overall coordinators and the connected client, and to the best of its knowledge and belief, it has no reason to believe that the connected client received any preferential treatment in the allocation of securities in the IPO as a placee by virtue of its relationship with the connected Distributor, and details of the allocation will be disclosed in the allotment results announcement. ***(Updated in August 2022)***

OR

applicable if a connected client participates as a cornerstone investor

- (ii) based on (a) the discussions with the listing applicant, the connected Distributor and the overall coordinators; (b) the confirmations provided to the Exchange by the listing applicant, the connected Distributor, the overall coordinators and the connected client, and to the best of its knowledge and belief, it has no reason to believe that the connected client received any preferential treatment in the allocation of securities in the IPO as a cornerstone investor by virtue of its relationship with the connected Distributor other than the preferential treatment of assured entitlement under a cornerstone investment following the principles set out in Guidance Letter HKEX-GL51-13, and details of the allocation will be disclosed in the listing document and the allotment results announcement. ***(Updated in August 2022)***

Listing Applicant's confirmation

Pursuant to [paragraph 4.9/ paragraph 4.11] of the Guidance Letter HKEX-GL85-16 and paragraph 3.2 of the Guidance Letter HKEX-GL110-21, we hereby confirm to the Exchange that:

applicable if a connected client participates as a placee

- (i) (a) no preferential treatment has been, nor will be, given to the connected client in any allocation in the placing tranche; [and]

OR

applicable if a connected client participates as a cornerstone investor

- (b) the cornerstone investment agreement with the connected client does not contain any material terms which are more favourable to the connected client than those in other cornerstone investment agreements; [and]
- (c) no preferential treatment has been, nor will be, given to the connected client other than the preferential treatment of assured entitlement under a cornerstone investment following the principles set out in Guidance Letter HKEX-GL51-13; [and]

applicable if a connected client is holding securities on behalf of independent third parties on a discretionary basis

- (ii) the connected Distributor has not participated, and will not participate, in the decision-making process or relevant discussions among the listing applicant, the overall coordinators and the underwriters as to whether shares will be allocated to the connected client (regardless of whether as a cornerstone investor or as a placee).
(Updated in August 2022)

Connected Client's confirmation

Pursuant to [paragraph 4.9/ paragraph 4.11] of the Guidance Letter HKEX-GL85-16 and paragraph 3.2 of the Guidance Letter HKEX-GL110-21, we hereby confirm to the Exchange that:

applicable if a connected client participates as a placee

- (i) to the best of our knowledge and belief, we have not received and will not receive any preferential treatment in the IPO allocation as a placee by virtue of our relationship with the connected Distributor.

OR

applicable if a connected client participates as a cornerstone investor

- (ii) to the best of our knowledge and belief, we have not received and will not receive any preferential treatment in the IPO allocation as a cornerstone investor by virtue of our relationship with the connected Distributor, other than the preferential treatment of assured entitlement under a cornerstone investment following the principles set out in the Guidance Letter HKEX-GL51-13.

Connected Distributor's confirmation

Pursuant to [paragraph 4.9/ paragraph 4.11] of the Guidance Letter HKEX-GL85-16 and paragraph 3.2 of the Guidance Letter HKEX-GL110-21, we hereby confirm to the Exchange that:

applicable if a connected client participates as a placee

- (i) (a) no preferential treatment has been, nor will be, given to the connected client in any allocation in the placing tranche; [and]

OR

applicable if a connected client participates as a cornerstone investor

- (b) no preferential treatment has been, nor will be, given to the connected client other than the preferential treatment of assured entitlement under a cornerstone investment following the principles set out in the Guidance Letter HKEX-GL51-13; [and]

applicable if a connected client is holding securities on behalf of independent third parties on a discretionary basis

- (ii) we have not participated, and will not participate, in the decision-making process or relevant discussions among the listing applicant, the overall coordinators and the underwriters as to whether shares will be allocated to the connected client (regardless of whether as a cornerstone investor or as a placee). **(Updated in August 2022)**

Overall coordinator's confirmation (Updated in August 2022)

Pursuant to [paragraph 4.9/ paragraph 4.11] of the Guidance Letter HKEX-GL85-16 and paragraph 3.2 of the Guidance Letter HKEX-GL110-21, we hereby confirm to the Exchange that:

applicable if a connected client participates as a placee

- (i) (a) no preferential treatment has been, nor will be, given to the connected client in any allocation in the placing tranche; [and]

OR

applicable if a connected client participates as a cornerstone investor

- (b) no preferential treatment has been, nor will be, given to the connected client other than the preferential treatment of assured entitlement under a cornerstone investment following the principles set out in the Guidance Letter HKEX-GL51-13; [and]

applicable if a connected client is holding securities on behalf of independent third parties on a discretionary basis

- (ii) the connected Distributor has not participated, and will not participate, in the decision-making process or relevant discussion among the listing applicant, the overall coordinators and the underwriters as to whether shares should be allocated to the connected client (regardless of whether as a cornerstone investor or as a placee). **(Updated in August 2022)**