

LEGISLATION UPDATE

SGX-ST LISTING MANUAL UNDERGOES REVISION

Changes to SGX-ST Listing Manual Take Effect on 3 December 2007

The Singapore Exchange Limited (the “**SGX**”) announced on 12 November 2007 that it will be making significant amendments to the listing rules (the “**Listing Rules**”) in the Listing Manual of the Singapore Exchange Securities Trading Limited (the “**Listing Manual**”). The changes are intended to improve transparency and market efficiency, shorten trading halts and clarify and promote accountability of listed companies. The changes take effect on **3 December 2007**.

The key amendments relate to:

- treasury shares;
- disclosure requirements for share option grants;
- stricter requirements for cash companies;
- suspension of trading;
- shareholder approval for change of auditors;
- a shortened minimum duration of trading halt;
- the applicable / inapplicable rules for Real Estate Investment Trusts (“**REITs**”) and Exchange Traded Funds (“**ETFs**”); and
- release of financial statements.

A brief summary of the key changes is set out below.

Treasury Shares

The Companies Act was amended in 2005 to provide that a company may, in certain circumstances, acquire its own shares. Such shares are referred to as “treasury shares” in the Companies Act.

The Listing Rules have now been amended to reflect the concept of treasury shares. Under the amended rules, treasury shares are excluded from references to “issued share capital” and “equity securities”. Treasury shares are also not taken into account for the purposes of calculating market capitalisation and public float. The rules in Chapter 8 of the Listing Manual relating to changes in capital will apply to the issue of shares out of the treasury and the issuer must submit to the SGX a confirmation of compliance with the provisions of Chapter 8. An immediate announcement is required of any sale, transfer, cancellation and/or use of treasury shares and the issuer’s annual report must document the number of treasury shares held and the percentage of such holding against the total number of the issuer’s issued shares excluding treasury shares.

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Disclosure of Share Option Grants

The SGX has introduced a new Rule 704(27) which requires issuers to immediately announce any grant of share options on the day that they are offered. They must also disclose details such as the date of grant, the exercise price of the options, the number of options granted, the market price of the shares on the date of grant and the validity period of the options.

Stricter Provisions for Cash Companies

Presently, when an issuer has disposed of its core business and its assets are substantially in the form of cash (a “**Cash Company**”), the Listing Rules permit it to remain listed for 12 months in this state, although trading in its shares will be suspended. The Cash Company may also apply to the SGX for an extension of the initial 12-month period.

Mandatory requirements and conditions for continued trading

Rule 1018(1) has been amended to require the Cash Company to place 90% of its cash and short-dated securities into an escrow account. These funds may be used for the payment of expenses incurred in a reverse takeover approved by shareholders and pro-rata distributions to shareholders; otherwise, the funds cannot be drawn down until the Cash Company acquires a business that is able to satisfy the SGX’s requirements for a new listing. The Cash Company must also submit to the SGX monthly valuations of its assets and updates on its utilisation of cash. It must also announce every quarter the milestones reached in obtaining a new business.

If the above is complied with, the SGX may permit continued trading in the Cash Company’s shares, subject to the provision of contractual undertakings from the Cash Company’s directors, controlling shareholders, chief executive officer and their associates to observe a moratorium on the transfer or disposal of all their interests (direct and indirect) in the shares of the Cash Company. The moratorium will commence on the date the shareholders approve the disposal of the business and terminate on the completion date of the acquisition of a new business that satisfies the SGX’s requirements for a new listing.

Delisting

The amended Rule 1018(2) states that the SGX will now delist a Cash Company that cannot meet the requirements for a new listing within 12 months from the date it became a Cash Company. The Cash Company may apply to the SGX for an extension of this initial 12-month period, but the extension will now be subject to a maximum of 6 months. The extension will also be subject to the Cash Company disclosing milestones to enable its investors to evaluate its progress in finding a new business. If it is unable to meet its milestones or find a new business within the extended time frame, the Cash Company will have to make a cash exit offer to its investors and delist within 6 months.

Suspension of Trading

Rule 1303(1) has been amended to provide that, in a takeover situation, the SGX will suspend trading in the shares of the issuer only at the close of the takeover offer, instead of at the point in time that the issuer fails to comply with the 10% free float requirement.

Rule 1303(3) has been amended to underscore and reinforce the principle that the SGX may suspend trading of the issuer's shares if the issuer is unable to continue as a going concern or is unable to demonstrate to the SGX and its shareholders that it is able to do so, including the situation where the issuer cannot reasonably assess its financial position and make sufficient disclosure to maintain an "informed market".

Change of Auditors

A new Rule 712(2) has been introduced to require issuers to obtain shareholder approval in a general meeting for a change in auditors. The draft notice of meeting must be sent to the SGX for review if it contains a resolution relating to a proposed change in auditors. The notice of meeting should contain the following information:

- confirmation from the outgoing auditors whether or not they are aware of any professional reasons why the new auditors should not accept appointment as auditors of the issuer (and, if so, the details thereof);
- confirmation from the issuer whether or not there were disagreements with the outgoing auditors on accounting treatments within the last 12 months (and, if so, the details thereof);
- confirmation from the issuer whether or not it is aware of any circumstances connected with the change of auditors that should be brought to the attention of the shareholders of the issuer; and
- the specific reasons for the change of auditors, including but not limited to, whether the outgoing auditors resigned, declined to stand for election or were dismissed.

Minimum Duration of Trading Halts Shortened

The SGX will shorten the minimum trading halt duration from 60 minutes to 30 minutes to minimise market disruption.

Rules Not Applicable to REITs and ETFs

As REITs and ETFs are already subject to the compliance requirements of the Code of Collective Investment Schemes issued by the Monetary Authority of Singapore, the SGX has waived certain Listing Rule requirements for these two categories of investment funds. To this effect, new sub-rules have been introduced to identify the Listing Rules which apply or do not apply to REITs and ETFs.

Provisions applicable to REITs

Under the new Rule 404(8), a REIT must comply with Chapters 2 and 4 of the Listing Manual on an application for the listing of a REIT and the acquisition of properties and assets of the REIT must be completed before the commencement of listing.

On a continuing listing basis, the REIT must comply with all Listing Rules applicable to equity securities (with necessary adaptations) except for Rule 748(1) and Rule 748(3), which provide for the announcement of an investment fund's net tangible assets per share or per unit at the end of

each week and the disclosure of certain mandatory information in an investment fund's annual report respectively. However, a REIT has to announce its net tangible assets per share or per unit on a quarterly basis via SGXNET and must comply with the disclosure requirements under the Property Fund Guidelines and the Code on Collective Investment Schemes.

Provisions inapplicable to ETFs

A new Rule 404(9) has been introduced to exempt an ETF from complying with the following rules and chapters of the Listing Manual:

- Rules 111 to 113 (relating to the appointment of an issue manager);
- Rules 404(1)(b) or 404(2)(b) (relating to the spread of holders; however, an ETF must appoint at least one Designated Market Maker);
- Rules 704(3), 704(15) – (17), 705(2), 707 to 711, 724 and 725 (relating to specific disclosure obligations);
- Rule 729 (relating to alteration of the issuer's articles of association; however, an ETF must notify unitholders via SGXNET of any alteration of the material provisions in its trust deed or other constituent documents);
- Chapter 8 (relating to the listing or issuance of additional equity securities or the adjustment of existing capital); and
- the provisions in Chapter 12 relating to annual reports (the provisions on shareholder circulars still have to be complied with).

Release of Financial Statements

The time frames for the announcement of an issuer's financial statements in Rule 705 have been restated for greater clarity.

Full-year financial statements

Full-year financial statements must be announced not later than 60 days after the end of the relevant financial period.

Interim financial statements

If the market capitalisation of the issuer: (a) exceeded S\$75 million as at 31 March 2003 or, if it was listed after 31 March 2003, at the time of listing based on the initial public offering issue price; or (b) is not less than S\$75 million on the last trading day of each calendar year commencing from 31 December 2006, the issuer has to announce its financial statements for each of the first 3 quarters of its financial year not later than 45 days after the end of each such quarter.

Otherwise, the issuer only needs to announce its first half financial statements not later than 45 days after the end of the relevant financial period.

References

Please click on the following links to see further details:

1. [Press Release issued by the SGX on 12 November 2007](#); and
2. [Full text of SGX-ST Listing Manual Amendments](#).

If you would like more information about the revisions to the Listing Rules or wish to discuss how it may potentially affect you or your business, please feel free to contact the corporate lawyers in Drew & Napier LLC (please refer to the Directors' Profiles on our website), or the following lawyers:

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