

Consultation Conclusions

Proposed Amendments to Listing Rules  
relating to Share Schemes of Listed Issuers  
and Housekeeping Rule Amendment



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## DEFINITIONS

TERM	DEFINITION
<p><b>“1% Individual Limit”</b></p>	<p>The limit on Share Grants to an individual participant over any 12-month period, which, without shareholders’ approval, must not exceed 1% of the issued shares of the issuer (or, for a subsidiary scheme, its subsidiary)</p>
<p><b>“Advanced Mandate”</b></p>	<p>An advanced specific mandate approved by shareholders of an issuer for granting new shares under a share award scheme</p>
<p><b>“Connected Person”</b></p>	<p>A director, chief executive or substantial shareholder of the issuer or an associate of any of them</p>
<p><b>“Consultation Paper”</b></p>	<p>Consultation Paper on Proposed Amendments to Listing Rules relating to Share Schemes of Listed Issuers</p>
<p><b>“Employee Participants”</b></p>	<p>Directors and employees of the issuer or any of its subsidiaries (including persons who are granted shares or options under the scheme as an inducement to enter into employment contracts with these companies)</p>
<p><b>“Exchange”</b></p>	<p>The Stock Exchange of Hong Kong Limited, a wholly owned subsidiary of HKEX</p>
<p><b>“HKEX”</b></p>	<p>Hong Kong Exchanges and Clearing Limited</p>
<p><b>“INEDs”</b></p>	<p>Independent non-executive directors of the issuer</p>
<p><b>“Insignificant Subsidiary”</b></p>	<p>A subsidiary whose total assets, profits and revenue compared to that of the issuer group are less than:</p> <ul style="list-style-type: none"> <li>(a) 10% under the percentage ratios for each of the latest three financial years (or if less, the period since the incorporation or establishment of the subsidiary); or</li> <li>(b) 5% under the percentage ratios for the latest financial year</li> </ul>

TERM	DEFINITION
“Listing Rules” or “Rules”	The Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (Main Board unless otherwise stated)
“Principal Subsidiary”	A subsidiary whose revenue, profits or total assets accounted for 75% (or more) of that of the issuer under the percentage ratios in any of the latest three financial years
“Related Entity Participants”	Directors and employees of the holding companies, fellow subsidiaries or associated companies of the issuer
“Scheme Mandate Limit”	The limit on Share Grants under all Share Schemes of an issuer (or, for a subsidiary scheme, its subsidiary) approved by its shareholders, which must not exceed 10% of the issued shares of the issuer (or the subsidiary) at the date of the shareholders’ approval of the limit
“Service Providers”	Persons who provide services to the issuer group on a continuing and recurring basis in its ordinary and usual course of business which are in the interests of the long-term growth of the issuer group
“Service Provider Sublimit”	A sublimit under the Scheme Mandate Limit for Share Grants to Service Providers
“SFC”	Securities and Futures Commission
“Share Grants”	<p>In respect of an issuer’s Share Schemes, Share Grants refer to grants of share awards and/or options over new shares of the issuer</p> <p>In respect of a subsidiary’s Share Scheme, Share Grants refer to grants of share awards and/or options over new or existing shares of the subsidiary</p>
“Share Schemes”	Include share option schemes and share award schemes

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## **EXECUTIVE SUMMARY**

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### **Purpose**

1. This paper sets out conclusions to the consultation on the Exchange's proposals to amend the Listing Rules relating to Share Schemes of listed issuers.

### **Background**

2. The Exchange issued the Consultation Paper in October 2021 on its proposal to extend Chapter 17 of the Rules to also govern share award schemes. Chapter 17 currently provides a framework that governs share option schemes only.
3. The Exchange also proposed changes (i) to specific requirements in Chapter 17, such as the definition of eligible participants and the requirements for scheme mandate refreshments, to align them with the purpose of share schemes and (ii) to improve disclosure of grants of share options and share awards.

### **Market Feedback**

4. We received 58 non-duplicate responses<sup>1</sup> to the Consultation Paper from a broad range of respondents.
5. Respondents were generally supportive of our initiatives to provide a consistent regulatory framework to govern both share option schemes and share award schemes. All of our proposals received support from a majority of the respondents.
6. Comments on specific proposals were primarily related to the operational aspects of our proposals and the nature and level of disclosure proposed, which some respondents considered to be commercially sensitive or overly burdensome without providing shareholders with meaningful information.
7. Accordingly, we have modified our proposals with an aim to maintain our objectives of managing dilution on listed shares and providing informative disclosure while allowing issuers to establish schemes to best tailor to their individual needs to incentivize their employees and participants.

### **Major Changes Adopted**

8. Major modifications to specific proposals are highlighted below:

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<sup>1</sup> Three respondents submitted the same response. We have counted them as one response in our quantitative and qualitative analysis of the responses.

## **(i) Role of Remuneration Committee and INEDs**

9. We proposed to require the remuneration committee to approve matters related to the establishment and operation of Share Schemes that are considered unusual or require attention. This included: (i) approving matters relating to Share Grants to Service Providers and Related Entity Participants<sup>2</sup>; (ii) approving Share Grants where the terms deviate from Chapter 17 requirements (e.g. minimum vesting period, absence of performance targets and/or clawback mechanism); and (iii) approving Share Grants to Connected Persons.
10. Some respondents considered that it is not the remuneration committee's role to oversee the operation of the Share Schemes or the Share Grants to Employees Participants who are not directors or senior management or Service Providers. Some respondents also considered that the proposed change of the approving authority for grants to Connected Persons from INEDs (under current Rules) to the remuneration committee would weaken the oversight function, noting that remuneration committee's composition may include executive directors, and the definition of Connected Persons may be very wide and outside its remit.
11. We will revise our proposal, consistent with the remit of the remuneration committee<sup>3</sup>, to require it to approve matters related to senior management and directors only. The INEDs will continue to approve Share Grants to Connected Persons.

## **(ii) Vesting period**

12. We proposed that a minimum vesting period of 12 months is required for all Share Grants, unless a shorter vesting period is approved by the remuneration committee in respect of Share Grants made to Employee Participants specifically identified by the issuer.
13. Respondents considered that the length of the vesting period should depend on actual commercial needs of the issuer and different types of share schemes may apply different performance measures or criteria which may not necessarily be time based.
14. We agree that issuers should tailor the performance measures and retention policies based on their needs. We will modify the proposal to allow an issuer to provide in its scheme documents the circumstances where Share Grants may have a shorter vesting period for Employee Participants.

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<sup>2</sup> They include the criteria for admitting Service Providers as eligible participants into the scheme, the Service Provider Sublimit; and Share Grants to Service Providers and Related Entity Participants.

<sup>3</sup> Under the Corporate Governance Code, remuneration committee's terms of reference should include making recommendations to the board on the issuer's policy and structure for all directors' and senior management's remuneration; reviewing and approving their remuneration proposals; and the establishment of a formal and transparent procedure for developing remuneration policy.

### (iii) Share schemes of subsidiaries

15. Chapter 17 currently applies to subsidiary share option schemes “with appropriate modifications”. We proposed to also require share award schemes of subsidiaries to be subject to Chapter 17, with exemptions provided for schemes of Insignificant Subsidiaries.
16. There were considerable comments from respondents. Some respondents were of the view that, as any potential dilution would only occur at the subsidiary level instead of the listed issuer itself, subsidiaries’ share schemes should be governed by Chapter 14 (which applies to disposal or deemed disposal of equity interests in the subsidiary) and not by Chapter 17. Some respondents pointed to operational issues and considered it unduly onerous or impractical to apply the proposed requirements to share schemes of subsidiaries.
17. We will modify the proposal as follows:
- (a) We will apply Chapter 14 to address dilution of a subsidiary’s interest resulting from Share Grants under subsidiary share schemes (and Chapter 14A to Share Grants to connected persons). We will amend Chapter 14 to measure disposals (granting existing shares) or deemed disposals (granting new shares or options over new shares) based on the size of the scheme mandate sought.
- (b) Chapter 17 will apply only to share schemes of a Principal Subsidiary.

### Summary of Proposals Adopted

18. The proposals to be adopted are summarized in the table below:

Proposals		Way forward
<b>I. Share Schemes Funded by Issuance of New Shares of Listed Issuers</b>		
<b>A</b>	<b>Scope</b>  Extend Chapter 17 to govern all Share Schemes involving grants of share awards and grants of options over new shares of issuers	<b>Adopt</b> (see paragraph 38) (MB Rule 17.01 / GEM Rule 23.01)
<b>B</b>	<b>Eligible participants</b>  Define eligible participants of Share Schemes to include Employee Participants, Related Entity Participants and Service Providers  Require approval by the remuneration committee of Share Grants to Related Entity Participants and Service Providers	<b>Adopt, with minor changes to the definition of Service Providers</b> (see paragraph 46) (MB Rule 17.03A/ GEM Rule 23.03A)  <b>Not adopt</b> (see paragraphs 49 - 50)

Proposals	Way forward
<p><b>C</b>     <b>Scheme mandate</b></p> <p>Apply a Scheme Mandate Limit of not exceeding 10% of an issuer's issued shares to Share Grants under all Share Schemes of the issuer which may be refreshed by shareholders' approval once every three years, and require independent shareholders' approval for refreshment of scheme mandate within a three year period</p> <p>Require the issuer to set a Service Provider Sublimit within the Scheme Mandate Limit and disclose the basis for determining the sublimit in its circular to shareholders</p> <p>Remove the current Rule requirement that the number of outstanding options should not exceed 30% of the issued shares from time to time</p>	<p><b>Adopt</b> (see paragraph 59) (MB Rules 17.03(3), 17.03B(1) and 17.03C(1) / GEM Rules 23.03(3), 23.03B(1) and 23.03C(1))</p> <p><b>Adopt</b> (see paragraph 72) (MB Rules 17.03(3) and 17.03B(2) / GEM Rules 23.03(3) and 23.03B(2))</p> <p><b>Adopt</b> (see paragraph 65)</p>
<p><b>D</b>     <b>Minimum vesting period for Share Grants</b></p> <p>Require a minimum vesting period of 12 months, unless a shorter vesting period is approved by the remuneration committee in respect of Share Grants made to Employee Participants specifically identified by the issuer and the details of the grants should be disclosed in the grant announcement</p>	<p><b>Adopt, with modifications to (i) require the scheme document to set out the specific circumstances where the vesting period for Share Grants to Employee Participants can be shortened and (ii) require the board of directors (and the remuneration committee where the specific circumstances may apply to grants to directors and senior management) to explain why the arrangements are appropriate and how the grants align with the purpose of the scheme</b> (see paragraph 83) (Note to MB Rules 17.03(6) and 17.03F / Note to GEM Rules 23.03(6) and 23.03F)</p>
<p><b>E</b>     <b>Performance targets and clawback mechanism</b></p> <p>(i) Require disclosure of the performance targets (if any) and clawback mechanism (if any) for Share Grants in the scheme document and in grant announcements and if none, a negative statement</p> <p>(ii) Where Share Grants are made without performance targets and/or clawback mechanisms, require disclosure of an explanation by the remuneration committee as to why performance targets and/or a clawback mechanism is/are not necessary</p>	<p><b>Adopt, with modifications to require (i) qualitative disclosure of performance targets, if any, in the scheme document and grant announcement; and (ii) disclosure of remuneration committee's views on Share Grants to directors and senior management without performance targets and/or clawback mechanism in the grant announcement</b> (see paragraph 93) (MB Rules 17.03(7), 17.03(19) and 17.06B(8) / GEM Rules 23.03(7), 23.03(19) and 23.06B(8))</p>

Proposals		Way forward
<b>F</b>	<p><b>Exercise price or share grant price</b></p> <p>Retain the current restriction on the exercise price of share options. For grants of shares, we do not propose to impose a restriction on share grant price</p>	<p><b>Adopt</b> (see paragraph 98) (MB Rule 17.03E / GEM Rule 23.03E)</p>
<b>G</b>	<p><b>Limit on large Share Grants to individual participants</b></p> <p>Require approval by shareholders for Share Grants to an individual participant in excess of the 1% Individual Limit</p> <p><b>Limits on Share Grants to Connected Persons</b></p> <p>Require approval by the remuneration committee (instead of INEDs) for all Share Grants to a Connected Person</p> <p>Provide a de minimis exemption for grants of share awards to Connected Persons:</p> <ul style="list-style-type: none"> <li>- where the grantee is a director (other than an INED) or the chief executive of the issuer, require independent shareholders' approval for grants of share awards in excess of 0.1% of the issued shares of the issuer over any 12-month period</li> <li>- where the grantee is an INED or a substantial shareholder of the issuer, require independent shareholders' approval for Share Grants (including grants of share awards and share options) in excess of 0.1% of the issued shares of the issuer over any 12-month period</li> </ul> <p>Remove the HK\$5 million de minimis threshold for grants of share options to an INED or substantial shareholder of the issuer</p>	<p><b>Adopt</b> (see paragraph 107) (MB Rule 17.03D/ GEM Rule 23.03D)</p> <p><b>Not adopt</b> (such grants will continue to be approved by INEDs) (see paragraphs 113)</p> <p><b>Adopt</b> (see paragraph 124) (MB Rule 17.04/ GEM Rule 23.04)</p> <p><b>Adopt</b> (see paragraph 124)</p>
<b>H</b>	<p><b>Announcements of Share Grants</b></p> <p>Require disclosure of details of Share Grants by the issuer to the following participants to be made on an individual basis: (i) a Connected Person; (ii) a participant with Share Grants in excess of the 1% Individual Limit; (iii) a Related Entity Participant or Service Provider with Share Grants in excess of 0.1% of the issuer's issued shares over any 12-month period. Share Grants by the issuer to other participants may be disclosed in aggregate by category. The Exchange may require the issuer to submit a list of grantees and the movements of shares and options granted to each grantee from time to time</p> <p>Require disclosure of the number of shares available for future grant under the scheme mandate and the Service Provider Sublimit (if applicable)</p>	<p><b>Adopt, with modifications to (i) remove the disclosure requirement on duration of the service contract; and (ii) reflect the changes relating to remuneration committee's review for Share Grants to directors and senior management in relation to vesting period, performance targets and clawback mechanism as described above</b> (see paragraphs 133 to 135) (MB Rules 17.06A and 17.06B / GEM Rules 23.06A and 23.06B)</p> <p><b>Adopt</b> (see paragraphs 133 to 135) (MB Rule 17.06C / GEM Rule 23.06C)</p>

Proposals	Way forward
<p><b>I Disclosure in interim reports and annual reports</b></p> <p>Require disclosure of:</p> <ul style="list-style-type: none"> <li>- details of Share Grants to participants (following the classification described in Proposal (H)) and their movements during the reporting period</li> <li>- for options and awards granted during the reporting period, their fair value at the time of grant and the accounting policy adopted</li> <li>- the number of options and awards granted during the reporting period divided by the weighted average number of issued shares for the period</li> <li>- the number of shares that are available for grant under the scheme mandate (and the Service Provider Sublimit, if applicable) at the beginning and the end of the reporting period</li> <li>- a summary of each Share Scheme (for annual reports only)</li> </ul>	<p><b>Adopt</b> (see paragraph 140) (MB Rules 17.07 and 17.09 / GEM Rule 23.07 and 23.09)</p>
<p><b>J Disclosure of the work performed by the remuneration committee</b></p> <p>Require disclosure in the Corporate Governance Report of matters relating to Share Schemes reviewed and/or approved by the remuneration committee during the financial year</p>	<p><b>Adopt, with modifications to require disclosure of a summary of material matters only, and to provide that such disclosure may be made in the Remuneration Report or the Corporate Governance Report</b> (see paragraph 147) (MB Rule 17.07A / GEM Rule 23.07A)</p>
<p><b>K Approval for changes to terms of share award or option granted</b></p> <p>Modify the current requirement such that changes to the terms of share award or option granted must be approved by the remuneration committee and/or shareholders of the issuer if the initial grant of the award or option requires such approval</p>	<p><b>Adopt</b> (see paragraph 153) (Note 2 to MB Rule 17.03(18) and Note 1 to MB Rule 17.04(5) / Note 2 to GEM Rule 23.03(18) and Note 1 to GEM Rule 23.04(5))</p>
<p><b>L Transfer of share awards or options</b></p> <p>Provide a waiver for a transfer of share awards or options to a vehicle (including a trust or a private company) for the benefit of the grantee and his/her family members (e.g. for estate planning or tax planning purposes), provided that such transfer would continue to meet the purpose of the scheme and other requirements of Chapter 17</p>	<p><b>Adopt</b> (see paragraph 158) (Note to MB Rule 17.03(17) / GEM Rule 23.03(17))</p>

Proposals		Way forward
<b>M</b>	<p><b>Voting rights of unvested scheme shares</b></p> <p>Clarify that the trustee holding unvested shares of a Share Scheme shall abstain from voting on matters that require shareholders' approval under the Rules</p> <p>Require the issuer to disclose the number of unvested shares held by the trustee of its Share Scheme in its monthly returns</p>	<p><b>Adopt, with modifications to capture situations where unvested shares are held by trustee through special vehicles, and to provide exemption for circumstances where trustees are required by law to vote in accordance with the beneficial owner's direction</b> (see paragraph 165) (MB Rule 17.05A / GEM Rule 23.05A)</p> <p><b>Not adopt</b> (see paragraph 166)</p>
<b>II. Share Schemes Funded by Existing Shares of Listed Issuers</b>		
<b>N</b>	<p><b>Disclosure in grant announcements and financial reports</b></p> <p>Require disclosure of the terms of the scheme and details of the grants of existing shares consistent with that applicable to Share Schemes funded by issuance of new shares</p>	<p><b>Announcements - Not adopt</b> (see paragraph 171)</p> <p><b>Financial reports – Adopt with modifications to require disclosure of grants of existing shares to (i) directors on an individual basis; and (ii) five highest paid individuals in aggregate. Details of grants to other participants can be disclosed on an aggregated basis</b> (see paragraph 171) (MB Rule 17.01(1)(b) / GEM Rule 23.01(1)(b))</p>
<b>O</b>	<p><b>Voting rights of unvested scheme shares</b></p> <p>Clarify that the trustee holding unvested shares of a Share Scheme shall abstain from voting on matters that require shareholders' approval under the Rules</p> <p>Require the issuer to disclose the number of unvested shares held by the trustee of the scheme in its monthly returns</p>	<p><b>Adopt, with modifications to capture situations where unvested shares are held by trustee through special vehicles, and to provide exemption for circumstances where trustees are required by law to vote in accordance with the beneficial owner's direction</b> (see paragraph 175) (MB Rules 17.12 and 17.05A / GEM Rules 23.12 and 23.05A)</p> <p><b>Not adopt</b> (see paragraph 175)</p>

Proposals		Way forward
<b>III. Share Schemes of Subsidiaries of Listed Issuers</b>		
<b>P</b>	<b>Subsidiaries' share award schemes</b>  Extend Chapter 17 to govern subsidiaries' share award schemes that are funded by new or existing shares of the subsidiaries	<b>Adopt for Principal Subsidiaries only</b> (see paragraph 184) (MB Rules 17.13 to 17.15 / GEM Rules 23.13 to 23.15)
<b>Q</b>	<b>Share Schemes of Insignificant Subsidiaries</b>  For a Share Scheme of an Insignificant Subsidiary, exempt the adoption of the scheme and refreshment of scheme mandate from the shareholders' approval requirement under Chapter 17, if (i) they are approved by the remuneration committee of the issuer; (ii) the scheme complies with other requirements of Chapter 17; and (iii) the subsidiary is, and remains to be, an Insignificant Subsidiary	<b>Not adopt</b> (see paragraph 184)
<b>IV. Other Rules relating to Share Schemes</b>		
<b>R</b>	<b>Trust arrangements</b>  Clarify that Chapter 17 applies to Share Schemes involving grants of shares or options through trust or similar arrangements for the benefit of specified participants	<b>Adopt</b> (see paragraph 189) (MB Rule 17.01(1)(a) / GEM Rule 23.01(1)(a))
<b>S</b>	<b>Disclosure of fair value of options in circular relating to adoption of new share option scheme</b>  Remove the recommended disclosure requirement in the circular for the fair value of share options as if they have been granted prior to approval of the scheme	<b>Adopt</b> (see paragraph 193)
<b>T</b>	<b>Other proposed Rule amendments relating to Share Schemes</b>  Amend certain Rules currently applicable to share option schemes to also apply to share award schemes	<b>Adopt</b> (see paragraph 198) (MB Rules 3.13(2), 10.08(1), 13.52(1)(e)(ii), Paragraph 7 of Appendix 10 / GEM Rules 5.09(2), 17.29, 17.53(1)(e)(ii), 5.52(4)(i))

## Implementation

- The amended Rules have been approved by the Board of the Exchange and the SFC. They will become effective on 1 January 2023. Issuers may adopt the amended Rules for their Share Schemes before the effective date.

20. Transitional arrangements will be provided for existing Share Schemes that are valid as at the effective date of the proposed Rule amendments. In summary:
- (a) The new disclosure requirements<sup>4</sup> would take effect from 1 January 2023 for all existing Share Schemes as at the same date. Issuers may make Share Grants only to eligible participants defined under the amended Rules for financial years commencing on or after 1 January 2023.
  - (b) For share option schemes or share award schemes adopted by listed issuers before the effective date, the issuers may continue to make Share Grants to eligible participants (as defined in the amended Chapter 17) using their existing scheme mandates or Advanced Mandates. Issuers which have adopted share award schemes using general mandate may make Share Grants up to the date of the second annual general meeting after 1 January 2023.

### **Housekeeping Rule Amendment**

21. This paper also includes a housekeeping Rule amendment to align the requirements on payment date of subsequent issue fees by GEM issuers with those applicable to Main Board issuers. Such Rule amendment does not involve any change in policy direction, and will become effective on 1 October 2022.

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<sup>4</sup> Including announcements of grants of options or awards and disclosures in interim or annual reports published on or after the effective date.

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## CHAPTER 1: INTRODUCTION

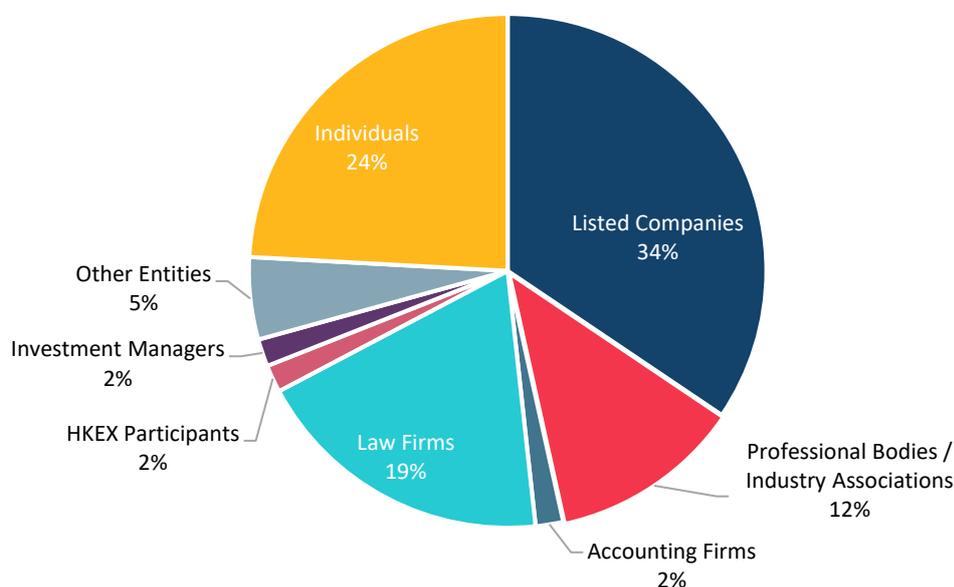
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### Background

22. On 29 October 2021, the Exchange published the Consultation Paper. The purpose of the Consultation Paper was to (i) consider amending Chapter 17 of the Rules to also govern share award schemes involving grants of new shares and (ii) propose changes to specific requirements in Chapter 17 to align them with the purpose of Share Schemes and to improve the disclosure. We also proposed additional disclosure requirements on Share Schemes funded by existing shares to align the disclosure requirements for all Share Schemes.
23. The consultation period ended on 31 December 2021.

### Number of responses and nature of respondents

24. We received 58 non-duplicate responses<sup>5</sup> to the Consultation Paper from a broad range of respondents. The responses can be grouped into broad categories as follows:



25. A list of the respondents (other than those who requested anonymity) is set out in **Appendix I**. Except for one respondent who requested the Exchange not to publish its submissions, the full text of all the submissions is available on the HKEX website<sup>6</sup>.

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<sup>5</sup> Three respondents submitted the same response. We have counted them as one response in our quantitative and qualitative analysis of the responses.

<sup>6</sup> Submissions received on the Consultation Paper can be accessed at: [https://www.hkex.com.hk/News/Market-Consultations/2016-to-Present/Responses July 2022?sc\\_lang=en](https://www.hkex.com.hk/News/Market-Consultations/2016-to-Present/Responses%20July%202022?sc_lang=en)

26. The Exchange used its best judgment to categorise the respondents using the most appropriate descriptions.

## **Methodology**

### **Qualitative analysis**

27. We performed a qualitative analysis so that we could properly consider the broad spectrum of respondents and their views. A qualitative analysis enabled the Exchange to give due weight to responses submitted on behalf of multiple persons or institutions and the underlying rationale for a respondent's position.

### **Quantitative analysis**

28. We also performed an analysis to determine the support, in purely numerical terms, for the proposals. The analysis is set out in **Appendix II**.
29. For the purpose of our quantitative analysis, we counted the number of responses received, not the number of respondents those submissions represented. For example, a submission by a professional body was counted as one response even though that body may represent many members.
30. In calculating the percentage of support for or against each proposal, we excluded those respondents who did not respond or did not indicate clearly a view to that proposal. For each question, at least 79% of respondents indicated clearly their views.

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## **CHAPTER 2: MARKET FEEDBACK AND CONCLUSIONS**

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### **Share Schemes Funded by Issuance of New Shares of Listed Issuers**

#### **A. Should Chapter 17 govern share award schemes funded by issue of new shares of listed issuers (Question 1)**

31. We proposed to extend Chapter 17 to also govern share award schemes involving grants of new shares of listed issuers.

#### **Comments received**

32. 88% of the respondents supported the proposal and 12% did not support it.
33. Respondents generally agreed with the rationale for the proposal set out in the Consultation Paper.
34. A few respondents disagreed with the proposal to extend the requirements under Chapter 17 to share award schemes as it would create additional compliance burden for issuers. They considered the current Rules to be adequate to protect shareholders from shareholding dilution arising from grants of share awards.
35. One respondent asked the Exchange to clarify, in circumstances where their proposed share issuance to incentivize a person did not meet the criteria of their Share Schemes (e.g. the person would not meet the criteria of eligible participants), whether issuers would have the flexibility to award new shares under a general or specific mandate from its shareholders after the implementation of new Rules.

#### **Our response and conclusion**

36. Respondents generally welcomed our initiative to amend Chapter 17 to provide a consistent regulatory framework for Share Schemes.
37. The new Chapter 17 will apply to all Share Schemes funded by an issue of new shares by listed issuers. Issuers may award new shares utilizing a general or specific mandate under Rule 13.36 if the share grants fall outside the scope of Chapter 17 (e.g. the grantees do not fall within the definition of eligible participants under Chapter 17).
38. Having considered the comments received, we will adopt the proposal.

#### **B. Eligible participants (Questions 2, 3 and 4)**

39. We proposed that eligible participants of Share Schemes shall include:
- (a) directors and employees of the issuer and its subsidiaries (including persons who are granted shares or options under the scheme as an

inducement to enter into employment contracts with these companies) (collectively, **Employee Participants**);

- (b) directors and employees of related entities (i.e. the holding companies, fellow subsidiaries or associated companies of the issuer) as approved by the issuer's remuneration committee (**Related Entity Participants**). The reasons for Share Grants to a Related Entity Participant must be clearly explained in the grant announcement; and
- (c) persons who provide services to the issuer group on a continuing and recurring basis in its ordinary and usual course of business which are material to the long term growth of the issuer group (**Service Providers**) as determined by the issuer's remuneration committee. The issuer must clearly identify the categories of Service Providers and the criteria for determining the person's eligibility in the scheme document.

Service Providers may include, for example, persons who work for the issuers as independent contractors but the continuity and frequency of their services are akin to those of employees, advisors to biotech companies, or consultants providing services on a contract basis for specific projects or in a locale where the issuer has no presence. For the avoidance of doubt, Service Providers should exclude financial advisors or placing agents providing fundraising or M&A services, or consultants providing professional services.

- 40. We also proposed that Share Grants to Related Entity Participants and Service Providers must be approved by the remuneration committee, with the reasons for the grants clearly explained in the grant announcements.

#### **Comments received**

- 41. The proposed definition of eligible participants of Share Schemes received support from a majority of respondents:
  - (a) Employee Participants – 94% of the respondents supported the proposal and 6% opposed it.
  - (b) Related Entity Participants – 81% of the respondents supported the proposal and 19% opposed it.
  - (c) Service Providers – 71% of the respondents supported the proposal and 29% opposed it.
- 42. Respondents that supported the proposals generally agreed that the proposed definition of eligible participants has captured the principal categories of persons that contribute to the long-term growth of issuers and is in line with the purpose of setting up Share Schemes.
- 43. Some opposing respondents considered that eligible participants should not include Service Providers given that the purpose of Share Schemes is primarily

to reward and incentivise the employees of issuers and not outside service providers. Some respondents also questioned whether Related Entity Participants should be included as eligible participants, given that an issuer generally does not have control over directors and employees of associated companies. Furthermore, their interests may not be aligned with the issuer's.

44. Some respondents made specific comments on the different categories of eligible participants:

*Definition of Employee Participants*

- (a) Some respondents suggested that the scope of Employee Participants should cover former employees to enable issuers to recognize their past contribution. Some also commented that issuers may engage former employees as advisers to benefit from their experience and expertise in the industry.
- (b) Some respondents asked the Exchange to clarify whether Employee Participants may include part-time employees. They noted growing trends by issuers (particularly new economy companies) to offer their employees flexibility in working hours and different forms of employment to attract and retain talents.

*Definition of Service Providers*

- (c) Some respondents considered the definition of Service Providers to be too narrow as it is limited to those whose services are "*material to the long term growth of the issuer group*". For example, where the services are provided to a subsidiary which is small relative to the size of the issuer, it may not meet the materiality standard under the definition.
- (d) Some respondents questioned why consultants providing professional services should be specifically excluded. They considered those consultants (e.g. IT professionals or legal counsel operating as "outsourced in-house counsel") to be independent contractors providing services akin to those of employees. Another respondent asked whether the definition should include auditors, legal advisers and valuers.

*Definition of Related Entity Participants*

- (e) Some respondents suggested extending the scope of Related Entity Participants to directors and employees of "investee companies" to provide issuers with greater flexibility. This would include any company in which an issuer holds an equity interest as an investment. Some respondents suggested a minimum shareholding of 5%.

45. Some respondents disagreed with the proposal to require the remuneration committee to approve Share Grants to Service Providers and Related Entity Participants. Some respondents considered that Service Providers and Related

Entity Participants should not be treated differently from other categories of eligible participants. Others also noted that the approval of Share Grants to non-employee participants was out of the remit of the remuneration committee. As the remuneration committee is not involved in day to day operations of the issuer, they may not have full grasp of the nature and scope of the work of non-employee participants and how they contribute to the issuer's growth. Therefore, it should not be the remuneration committee's role to approve Share Grants to these participants.

### **Our response and conclusion**

46. We note that a large majority of the respondents supported our proposed definition of eligible participants. We address below the specific comments raised by respondents:

#### *Definition of Employee Participants*

- (a) We do not consider it appropriate to include former employees as eligible Employee Participants as it is unclear how a former employee would contribute to the long term growth of an issuer. If a former employee is engaged as an adviser, he/she may qualify as a Service Provider.
- (b) Our proposal does not differentiate between full-time employees and part-time employees. Issuers may define the scope of Employee Participants for their Share Schemes to include part-time employees, depending on their remuneration policies.

#### *Definition of Service Providers*

- (c) We will revise the definition of Service Providers<sup>7</sup> to make clear in the note that professional advisors or experts who provide assurance, or are required to perform their services with impartiality and objectivity, are to be excluded from the definition of Service Providers. We also propose to remove the materiality reference:

*“persons who provide services to the issuer group in a continuing or recurring basis in its ordinary and usual course of business which are in the interests of ~~material to the long term growth of the issuer group as determined by the remuneration committee.~~”*

*Note: Service providers may include, for example, persons who work for the issuers as independent contractors where ~~but~~ the continuity and frequency of their services are akin to those of employees. For the avoidance of doubt, service providers ~~would not include~~ should exclude placing agents or financial advisers providing advisory*

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<sup>7</sup> Rule 17.03A(1)(c)

*services for fundraising, mergers or acquisition. They should also exclude professional service providers such as auditors or valuers who provide assurance, or are required to perform their services with impartiality and objectivity or consultants providing professional services to the issuer.”*

#### *Definition of Related Entity Participants*

- (d) We believe that the scope of eligible participants should be narrowly defined to avoid abuse of Share Schemes and accordingly, will not extend the definition to include directors and employees of “investee companies”.

#### *Role of remuneration committee*

47. As Share Schemes are generally used to incentivize employees and to align their interests with the issuer, we proposed that, as an additional safeguard, where the eligible participants included non-employees (i.e. Service Providers or Related Entities Participants), the remuneration committee would endorse the Share Grants and other related matters to these participants.
48. We note respondents’ comments that the remuneration committee is not the appropriate authority to approve Share Grants to Service Providers and Related Entity Participants. We concur that this responsibility is normally outside the remit of some remuneration committee<sup>8</sup>.
49. Accordingly, we will not adopt the proposal to require Shares Grants to Service Providers and Related Entity Participants and other related matters (e.g. Service Provider Sublimit) to be subject to approval by the remuneration committee). These matters will continue to be approved by the Board. Remuneration committee would be required to approve matters relating to Share Grants to the issuer’s directors and senior management only.
50. As safeguard, we will also modify the Rules to provide that where eligible participants of a scheme include Service Providers and Related Entity Participants, the Exchange may, upon establishment of the scheme, require the INEDs to provide their views in the circular on whether the inclusion of these participants aligns with the purpose of the scheme and the long term interests of the issuer and its shareholders<sup>9</sup>. As general guidance, this will include the views of the INEDs as to whether the proposed categories of Service Providers/ Related Entity Participants are in line with the issuer’s business needs or the industry norm and whether the criteria for the selection of eligible participants and the terms of the grants (such as vesting requirements and performance targets, if any) align with the purpose of the scheme. The Exchange may apply

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<sup>8</sup> Under the Corporate Governance Code, remuneration committee’s terms of reference should include making recommendations to the board on the issuer’s policy and structure for all directors’ and senior management’s remuneration; reviewing and approving their remuneration proposals; and the establishment of a formal and transparent procedure for developing remuneration policy.

<sup>9</sup> Note to Rule 17.02(2)(e)

this requirement having regard to, for example, the nature of the operations of the issuer and its relationship with Service Providers and Related Entity Participants, the history of Share Grants by the issuer to the Service Providers and Related Entity Participants, or other circumstances that suggest the share scheme may allow for substantial grant of shares or options to non-employees.

51. We will adopt the proposal with the modifications described in paragraphs 46, 49 and 50.

**C. Scheme mandate (Questions 5 to 8)**

**(i) Limit on scheme mandate (Questions 5 and 6)**

52. We proposed to apply a Scheme Mandate Limit of not exceeding 10% of an issuer's issued shares to all Share Schemes of the issuer. This mandate may be refreshed by shareholders once every three years.
53. We also proposed to allow additional refreshments within a three year period, subject to independent shareholders' approval. The issuer's controlling shareholder (or where there is no controlling shareholder, the executive directors, non-executive directors and chief executive) and their respective associates must abstain from voting on the relevant resolution.

**Comments received**

54. 78% of the respondents supported the proposal to allow refreshment of the scheme mandate once every three years by shareholders' approval and 22% opposed it. 70% of the respondents supported the proposed requirement on additional refreshments of scheme mandate and 30% opposed it.
55. Respondents in support of the proposal generally agreed that the proposal would provide additional protection for minority shareholders against excessive shareholding dilution, and was reasonable as there would be sufficient flexibility for issuers to obtain additional scheme mandate. They also noted that it is reasonable to have the scheme mandate refreshed once every three years.
56. Opposing respondents either considered the proposal to be too relaxed or too strict:
- (a) Some respondents considered that a limit of 10% over a three year period (or an average of 3.3% annually) is too high and unduly harmful to shareholders. Other respondents suggested that a new scheme mandate should be sought from shareholders annually, or independent shareholders should approve all refreshments of scheme mandate.
  - (b) Some respondents proposed relaxation of the proposal. Some suggested that shareholders (rather than independent shareholders) should be allowed to refresh the scheme mandate limit whenever necessary. Others suggested that the mandate limit should be increased to 20%, or alternatively, that issuers be allowed to seek shareholders' approval to

refresh the scheme mandate every one or two years (rather than every three years). Some respondents considered that for approvals of additional limits, controlling shareholders should be allowed to vote as their interests in these matters are no different from other shareholders of the issuer.

### **Our response and conclusion**

57. As stated in the Consultation Paper, we proposed to tighten the current Rule requirements for refreshments of scheme mandate, given that Share Grants under share award schemes are usually made at nil consideration and therefore, compared to share options, are more dilutive to shareholders. As the proposal is intended to protect minority shareholders by giving them the right to veto repeated refreshments of scheme mandate, we consider that the controlling shareholder, who is normally in a position to influence the board of directors, should abstain from voting on these matters.
58. As stated in our Consultation Paper, there may be circumstances where issuers make large Share Grants as part of their remuneration strategies to incentivize and retain talents. In these instances, we may consider granting waivers from the Scheme Mandate Limit, taking into account factors such as the necessity of the proposed mandate, the industry norms and the criteria for granting shares under the mandate.
59. We will adopt the proposal. In addition, we will clarify that independent shareholders' approval is not required for a proportionate increase of the Scheme Mandate Limit following a pre-emptive issue, provided that the unused part of the scheme mandate (as a percentage to the relevant class of shares in issue) upon refreshment is the same as that immediately before the pre-emptive issue<sup>10</sup>. We will also clarify that for WVR issuers, the Scheme Mandate Limit, the Service Provider Sublimit, the 1% Individual Limit, and the limits on Share Grants to Connected Persons under Proposal G and to Service Providers and Related Entity Participants under Proposal H refer to the total issued shares of the WVR issuer<sup>11</sup>.

#### **(ii) 30% limit on outstanding options (Question 7)**

60. We proposed to remove the current Rule requirement that the number of outstanding options should not exceed 30% of the issued shares from time to time.

### **Comments received**

61. 90% of the respondents supported the proposal and 10% opposed it.
62. Respondents generally agreed that the 30% limit on outstanding options is not

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<sup>10</sup> Rule 17.03C(1)(c). This provision is in line with the requirements for refreshment of general mandate under Rule 13.36(4)(e).

<sup>11</sup> Rule 17.10

necessary. They noted that the 10% Scheme Mandate Limit has imposed a stricter restriction on the number of options and awards that can be issued under a Share Scheme.

63. Opposing respondents suggested retaining the 30% as an additional safeguard against excessive dilution. One respondent suggested to further impose a 10% limit on all outstanding options and awards at any point in time having considered that issuers may have multiple share-based schemes.

#### **Our response and conclusion**

64. The current 30% limit on outstanding options does not serve to limit shareholding dilution resulting from Share Grants, rather, it limits the number of outstanding share options.
65. Having considered the comments received, we will adopt the proposal.

#### **(iii) Sublimit on Share Grants to Service Providers (Question 8)**

66. We proposed to require the issuer to set a Service Provider Sublimit. The circular must contain the basis for determining the sublimit and the remuneration committee's view on whether the sublimit is appropriate and reasonable. This sublimit must be separately voted on by shareholders.

#### **Comments received**

67. 71% of the respondents supported the proposal and 29% opposed it.
68. Opposing respondents considered that issuers should have the flexibility to make Share Grants to any eligible participants within the overall mandate limit. A Service Provider Sublimit is unnecessary as there are other proposed safeguards on Share Grants to Service Providers, including disclosure of large grants on an individual basis, approval of grants by remuneration committee and an overall dilution protection measure for Share Schemes.
69. A respondent asked whether Share Grants to Related Entity Participants should be subject to a similar scheme mandate sublimit.

#### **Our response and conclusion**

70. As explained in the Consultation Paper, the sublimit provides an additional safeguard against excessive dilution arising from Share Grants to Service Providers. The proposal would not unduly restrict these Share Grants as issuers may set a sublimit that best suits their circumstances and disclose the basis for such sublimit in the circulars.
71. We do not consider it necessary to extend the sublimit requirement to Related Entity Participants since by nature, they have a closer and continuing relationship with the issuer group. Issuers would still be required to disclose the reasons for Share Grants to Related Entity Participants in grant

announcements.

72. Having considered the above, we will adopt the proposal set out in paragraph 66. Following the modification to Proposal B as set out in paragraph 49, we *will not require* remuneration committee's approval on Share Grants to Service Providers (including Service Provider Sublimit) and reflect this in the Rules (see Rule 17.03B(2)).

**D. Minimum vesting period for Share Grants (Questions 9 and 10)**

73. We proposed to require a minimum vesting period of 12 months for Share Grants, unless a shorter vesting period is approved by the remuneration committee in respect of Share Grants made to Employee Participants specifically identified by the issuer with the reasons and details disclosed.

**Comments received**

74. 56% of the respondents supported the proposal to require a minimum vesting period of 12 months and 44% opposed it.
75. 67% of the respondents supported the proposal to allow a shorter vesting period for Share Grants to Employee Participants while 33% opposed it.
76. Respondents supporting the proposal considered that it is reasonable to set a vesting period for share awards or options, as it aligns with the purpose of Share Schemes to incentivize grantees to contribute to the issuer on a longer term basis. They also considered that a minimum period of 12 months is reasonable.
77. Some opposing respondents considered that a 12-month vesting period is too short to incentivise grantees to contribute to the long-term growth of the issuer, and considered a vesting period ranging between two and five years to be more appropriate.
78. Other opposing respondents disagreed with a 12-month minimum vesting period. They considered that the terms of grants and performance measures employed should depend on commercial needs and are not necessarily time based. Issuers should be allowed discretions to formulate their own talent recruitment and retention strategies and apply appropriate safeguard mechanisms through the terms of grants to achieve that outcome. For example, shares can be granted as a reward of past contribution of participants, as an issuer should have the flexibility to structure its compensation packages as partly paid by cash and partly met by share awards.
79. Opposing respondents also cited that other exchanges such as the US have no such requirements<sup>12</sup>. Further, market practices vary widely and there are many

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<sup>12</sup> In the UK, the Corporate Governance Code and Industry Guidelines recommend a three to five years vesting period for directors only. Singapore applies vesting of one to two years to share options only and the PRC requires vesting of 12 months.

instances where a strict 12-month vesting requirement would not work. For example:

- (a) Grants of “make-whole” share awards to new joiners to replace the share awards they forfeited when leaving the previous employer. Their vesting period would normally reflect the remainder of the vesting period on the forfeited awards that was left to run, which may be less than 12 months;
  - (b) Share Grants to a participant whose employment is terminated due to death or disability or occurrence of any out of control event. In those circumstances the vesting of share awards may accelerate;
  - (c) Share Grants with performance-based vesting conditions in lieu of time-based vesting criteria;
  - (d) Share Grants that are made in batches during a year for administrative and compliance reasons. They may include share awards that should have been granted earlier but had to wait for a subsequent batch. In such cases, the vesting periods may be shorter to reflect the time from which an award would have been granted; and
  - (e) Share Grants with a mixed or accelerated vesting schedule such as where the awards may vest evenly over a period of 12 months.
80. Some opposing respondents considered it burdensome for the remuneration committee to explain all Share Grants with a vesting period of less than 12 months. Others considered that reasons why a shorter vesting period is appropriate for Share Grants to individual Employee Participants may be commercially sensitive, and suggested that an explanation may be given in respect of a category of participants instead of each specifically identified participant.
81. Some respondents suggested that a shorter vesting period should also be allowed for Service Providers and Related Entity Participants provided it is approved by the remuneration committee.

### **Our response and conclusion**

82. We acknowledge respondents’ comments that issuers should have the discretion to tailor the terms of their Share Schemes to achieve their talent recruitment and retention strategies by setting an appropriate vesting period and other performance measures.
83. Accordingly, we will revise the proposal to allow the Board, at its discretion, to make Share Grants to Employee Participants with a shorter vesting period<sup>13</sup>, provided that:

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<sup>13</sup> Rule 17.03F

- (a) the scheme document sets out the specific circumstances where options or awards may be granted with a shorter vesting period. Any such arrangements must be clearly disclosed in the circular for the adoption of the scheme, with an explanation by the issuer's board of directors (and the remuneration committee where the arrangements may apply to grants of options or awards to the issuer's directors and senior management) as to why the arrangements are appropriate and how the grants of options or awards align with the purpose of the scheme. These disclosures will be subject to the Exchange's review as part of its pre-vetting process of the issuer's circular. As general guidance, paragraph 79 above sets out examples of circumstances where the Exchange would consider to be justifiable reasons; and
- (b) the grant announcement states the relevant circumstances that are specifically permitted by the scheme when a Share Grant is made with a shorter vesting period. Where the Share Grants are made to the issuer's directors and senior management, the remuneration committee's views on why a shorter vesting period is appropriate.

84. In response to a respondent's comment in paragraph 80 above, we clarify that Rule 17.06A(3) allows disclosure of Share Grants to Employee Participants with a shorter vesting period by category (and not on an individual basis) in the grant announcement<sup>14</sup>.

85. We do not consider it appropriate to allow a shorter vesting period for Share Grants to non-employee participants as grants to these categories of participants should be subject to greater safeguards.

**E. Performance targets and clawback mechanism (Questions 11(a) and 11(b))**

86. We proposed the following disclosure requirements relating to performance targets and clawback mechanism:

- (a) The scheme document must describe the clawback mechanism, if any. Where there is no clawback mechanism, a negative statement must be given. This is in addition to the existing Chapter 17 requirement that an issuer must provide in the scheme document a narrative description of the performance targets attached to Share Grants, if any, or a negative statement.
- (b) The grant announcement must contain (i) a narrative description of the performance targets attached to the Share Grants (including the target levels and performance-related measures, such as earnings per share or total shareholder return), the rationale for adopting these performance targets and the method for assessing whether they are satisfied, if any; and (ii) the clawback mechanism, if any.

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<sup>14</sup> Unless the grantees are required to be disclosed on an individual basis under other Rules, for example, grants to a Connected Person or an individual participant in excess of the 1% Individual Limit.

- (c) If Share Grants are made without performance targets and/or a clawback mechanism, the circular for approving the scheme and the grant announcement must contain the remuneration committee's views on why such terms is/are not necessary and how the grants serve the purpose of the scheme.

### **Comments received**

87. 58% of the respondents supported the proposal relating to disclosure of performance targets and 42% opposed it.
88. 65% of the respondents supported the proposal relating to disclosure of clawback mechanism and 35% opposed it.
89. Some respondents considered that the performance targets are commercially sensitive and should not be required to be disclosed. In particular, the target levels are often tied to financial and operational performance of the issuer which are confidential. Additionally, disclosure of such information would also reveal the issuers' hiring strategy and allow other competitors to poach their employees.
90. Some opposing respondents commented that it is not normal practice to always require such measures and mandating the disclosure would equate to such measures being baseline default position. In practice, performance targets and clawback mechanism are normally imposed on Share Grants to directors and senior management only and not other employees or service providers. There are also many instances where issuers do not set a performance target for various reasons: the purpose of the Share Grants may be for employee retention and not performance driven, or the performance target might be a pre-condition to the grant. Certain schemes, such as share participation plan, may not involve a performance target.
91. Others commented that it is unduly burdensome for the remuneration committee to approve and explain all Share Grants without performance targets or clawback mechanism.
92. One respondent was of the view that the Exchange should mandate (rather than simply require disclosure of) performance target and clawback mechanism in all cases. Another respondent suggested that if the performance targets are based on commercially sensitive information, issuers may make retrospective disclosure of their performance against stated targets.

### **Our response and conclusion**

93. The proposal is intended to enable shareholders to assess how the Share Grants serve to promote the interests of the issuers through more disclosure. Having considered the respondents' concerns about the disclosure of commercially sensitive information and the additional compliance burden on

issuers, we will adopt the proposal with modifications as follows:

- (a) The scheme document must include a description of the performance targets (which may be qualitative) attached to awards or options to be granted under the scheme, if any, and if none, a negative statement to that effect<sup>15</sup>. Such description may include a general description of target levels and performance related measures and the method for assessing how they are satisfied. In addition, where the issuer has established a clawback mechanism to recover or withhold the remuneration (which may include any awards or options to be granted) to any participants, the scheme document must include a description of the clawback mechanism or, if none, a negative statement to that effect<sup>16</sup>.
- (b) Issuers would be required to disclose in their grant announcements the performance targets (which may be qualitative) and clawback mechanisms attached to Share Grants, if any. Where Share Grants are made to any directors and senior management without performance targets and/or clawback mechanism, the grant announcement must disclose the remuneration committee's views on why they are not required and how the grants align with the purpose of the scheme<sup>17</sup>.

#### **F. Grant price for share awards (Question 12)**

- 94. For grants of new shares under share award schemes, we do not propose to impose a restriction on the share grant price. As regards share option schemes, we will retain the current restriction under Chapter 17 on the exercise price of share options which must not be less than the market price of the shares at the time of grant.

#### **Comments received**

- 95. 91% of the respondents supported the proposal and 9% opposed it.
- 96. Respondents generally agreed with the proposal as it is consistent with market practice.
- 97. Some respondents noted the different treatment between share options and share awards, and questioned whether share option exercise price should be allowed to be lower than the market price of the shares at the time of grant, or whether a minimum grant price for share awards should be imposed.

#### **Our response and conclusion**

- 98. We will adopt the proposal.

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<sup>15</sup> Rule 17.03(7)

<sup>16</sup> Rule 17.03(19)

<sup>17</sup> Rule 17.06B(8)

99. We note respondents' comments that other markets also have different minimum pricing requirements on share options and share awards<sup>18</sup>. While it is not part of the current proposals, we may revisit the requirements as part of our future policy review.

**G. Restrictions on large Share Grants to individual participants and Share Grants to Connected Persons (Questions 13 to 18)**

100. The following table summarises our current and proposed requirements for large Share Grants to an individual participant and Share Grants to an eligible participant who is a director, chief executive or substantial shareholder of the issuer or an associate of any of them (**Connected Person**), with changes marked up against the proposals set out in the Consultation Paper:

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<sup>18</sup> The UK listing rules restrict the option exercise price to be not lower than the prevailing market price of the shares unless shareholders' approval is obtained. Singapore and Malaysia allow a maximum discount of 20% and 10% to the prevailing market price respectively.

Grantee	Current Rules		Revised Proposals <sup>19</sup>
	Share option schemes <sup>20</sup>	Share award schemes <sup>21</sup>	For all Share Schemes
Individual grantee	<ul style="list-style-type: none"> <li>Shareholders' approval for grants of options in excess of 1% of issued shares<sup>22</sup> over a 12-month period</li> </ul>	<ul style="list-style-type: none"> <li>No specific limit (<i>share awards involving new shares are granted under general mandate or specific mandate</i>)</li> </ul>	<ul style="list-style-type: none"> <li>Shareholders' approval is required if the grants of share awards and share options in aggregate exceed 1% of issued shares over any 12-month period ("<b>1% Individual Limit</b>")</li> </ul>
Director (other than an INED), or chief executive	<ul style="list-style-type: none"> <li>Approval by INEDs</li> <li>Shareholders' approval is required if the grants of share options exceed 1% of issued shares over any 12-month period.</li> </ul>	<ul style="list-style-type: none"> <li>Shareholders' approval for <u>any</u> grant of share awards involving new shares</li> </ul>	<p>(a) Subject to (b), approval by the <u>INEDs remuneration committee</u></p> <p>(b) Independent shareholders' approval<sup>23</sup> is required if the grants of share awards will cause the share awards granted to exceed 0.1% of issued shares over any 12-month period</p> <p>Note: For the avoidance of doubt, shareholders' approval is required if the grants of share awards <u>and</u> share options in aggregate exceed the 1% Individual Limit.</p>
Eligible participant who is a substantial shareholder	<ul style="list-style-type: none"> <li>Approval by INEDs (excluding any INED who is the grantee)</li> </ul>		<p>(a) Subject to (b), approval by the <u>INEDs remuneration committee</u></p> <p>(b) Independent shareholders' approval<sup>26</sup> is required if the grants of share awards and share options in aggregate exceed 0.1% of issued shares over any 12-month period</p>
INED	<ul style="list-style-type: none"> <li>Independent shareholders' approval<sup>24</sup> for grants of options in excess of 0.1% of issued shares<sup>25</sup> and \$5 million over a 12-month period</li> </ul>		

<sup>19</sup> With changes marked up against the proposals set out in the Consultation Paper

<sup>20</sup> Rules 17.03(4), 17.04 and 14A.92

<sup>21</sup> Chapter 14A

<sup>22</sup> The percentage threshold is determined with reference to (i) the total number of shares issued and to be issued in respect of all options and share awards granted to the grantee in any 12-month period; and (ii) the number of shares of the issuer in issue at the time of the proposed grant.

<sup>23</sup> All core connected persons, the grantee and his/her associates must abstain from voting.

<sup>24</sup> See footnote 23

<sup>25</sup> See footnote 22

<sup>26</sup> See footnote 23

**(i) Large Share Grants to an individual participant (Question 13)**

101. We proposed to apply the 1% Individual Limit to both share options and awards. This means that shareholders' approval is required for Share Grants (including grants of share options and awards) to an individual participant in excess of the 1% Individual Limit over any 12-month period.

**Comments received**

102. 77% of the respondents supported the proposal and 23% did not support it.
103. Respondents generally supported the application of the 1% Individual Limit to both share options and share awards.
104. Some opposing respondents considered that issuers should have the flexibility to grant more than 1% of their issued shares to individuals who have significant contribution to the issuers. The proposed limit could be unduly restrictive to some issuers, especially those operating in industries where it is common practice to grant a larger amount of share awards to key personnel as long-term incentives. Other respondents suggested introducing a monetary threshold on Share Grants to avoid excessive pay to an individual, as 1% of issued shares may represent a significant amount for large cap issuers. There was also a suggestion to set up separate limits for share options and awards (e.g. a 1% limit on each of them) given their different nature, in particular, option grantees are required to pay an exercise price while award grantees are not.

**Our response and conclusion**

105. We acknowledge there may be circumstances where issuers make large Share Grants as part of their remuneration strategies to incentivise and retain talents. In this regard, we also explained in the Consultation Paper that we may consider granting waivers from the Scheme Mandate Limit or the 1% Individual Limit in those instances, taking into account factors such as the necessity of the proposed mandate, the industry norms and the criteria for granting shares under the mandate.
106. We do not propose to introduce a monetary threshold in addition to the 1% Individual Limit, as the purpose of this limit is to restrict excessive shareholding dilution (which is measured by percentage of total issued shares), rather than to limit a participant's remuneration through the Share Grant.
107. Having considered the comments received, we will adopt the proposal.

**(ii) Approval of Share Grants to Connected Persons by remuneration committee (Question 14)**

108. We proposed to require all Share Grants to Connected Persons be approved by the remuneration committee instead of INEDs.

## **Comments received**

109. 80% of the respondents supported the proposal and 20% opposed it.
110. Some respondents commented that the proposal is line with the role and function of remuneration committee to determine the issuer's policy on remuneration of directors and senior management.
111. However, a number of respondents considered that the approving authority should remain with INEDs. As remuneration committee normally consists of a majority of, but not all, INEDs, they considered that the proposal would weaken the existing independent review, particularly if the review is led and dominated by an executive director.
112. Other opposing respondents commented that the scope of Connected Persons is very wide and Share Grants to these persons may fall outside the remit of the remuneration committee.

## **Our response and conclusion**

113. We acknowledge the respondents' concerns set out in paragraphs 111 and 112 above. We also note comments raised by some respondents (see paragraph 119 below) about potential weakening of safeguards on grants of new shares to Connected Persons, in light of our proposal to provide a de minimis exemption of 0.1% on grants to Connected Persons. Accordingly, we decide not to adopt the proposal and will continue to require all Share Grants to Connected Persons to be approved by INEDs.

### **(iii) Limits on Share Grants to Connected Persons (Questions 15 to 18)**

114. We proposed to provide a de minimis exemption for grants of share awards to Connected Persons. Under the proposal, independent shareholders' approval is required for:
- (a) grants of share awards (involving new shares) to a director (other than an INED) or chief executive of the issuer in excess of 0.1% of the issued shares of the issuer over any 12-month period; or
  - (b) Share Grants (including grants of share awards and options) to an INED or substantial shareholder of the issuer in excess of 0.1% of issued shares of the issuer over any 12-month period;
  - (c) Share Grants (including grants of share awards and options) to a controlling shareholder of the issuer in excess of 0.1% of issued shares of the issuer over any 12-month period.
115. We also proposed to remove the HK\$5 million de minimis threshold for grants of options to an INED or substantial shareholder of the issuer.

## Comments received

116. The proposals received support from a majority of respondents:
- (a) Director (who is not an INED) or chief executive of the issuer – 90% of the respondents supported the proposal and 10% opposed it.
  - (b) INED or substantial shareholder of the issuer – 85% of the respondents supported the proposal and 15% opposed it.
  - (c) Controlling shareholder of the issuer – 77% of the respondents supported the proposal to and 23% opposed it.
  - (d) HK\$5 million de minimis threshold – 85% of the respondents supported the proposal to and 15% opposed it.
117. Respondents generally agreed with the rationale of the proposals set out in the Consultation Paper. They considered it appropriate to relax the independent shareholders' approval requirements for grants of share awards to Connected Persons where the shareholding dilution is not material.
118. Some respondents considered that the proposed 0.1% threshold for grants of share awards to a director (who is not an INED) or a chief executive is too low, as these grants in practice can be significant and form a material portion of an executive's remuneration. Some suggested that the Exchange increase the 0.1% threshold to 0.5% or 1%.
119. However, opposing respondents considered the proposal would weaken the existing safeguards for grants of new shares to Connected Persons. While the percentage threshold appears to be minimal, they considered that the share awards could be significant in monetary value for large issuers.
120. Some opposing respondents questioned the rationale for Share Grants to substantial shareholders and INEDs, and considered that Share Grants to substantial shareholders should be subject to independent shareholders' approval to avoid conflict of interest. Some also considered that that an issuer should not grant equity based remuneration with performance-related elements to INEDs to avoid compromising their independence, and the current recommended best practice under the Corporate Governance Code did not go far enough<sup>27</sup>.
121. Respondents generally agreed with our proposal to remove the HK\$5 million de minimis threshold for grants of share options to INEDs and substantial shareholders, however, some respondents suggested retaining the threshold to ensure any such Share Grants are made within a reasonable monetary value.

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<sup>27</sup> In January 2022, the Exchange introduced a new recommended best practice that an issuer generally should not grant equity based remuneration (e.g. share options or awards) with performance-related elements to INEDs.

122. One respondent asked the Exchange to clarify whether the limits under this Proposal G applied to Share Grants to persons connected at the subsidiary level.

#### **Our response and conclusion**

123. As stated in the Consultation Paper, the proposal seeks to strike a balance between protecting shareholders from excessive dilution and providing flexibility for issuers to structure the remuneration package of directors and chief executive with reference to the corporate goals and objectives of the issuers.
124. Having considered the comments received, we will adopt the proposed de minimis exemption for Share Grants to Connected Persons. We will also adopt the proposal to remove the HK\$5 million threshold for grants of share options as it cannot meaningfully reflect the extent of dilution on an issuer.
125. As to the question in paragraph 122, we clarify that under Rule 17.04, only connected persons at the listed issuer level would be subject to the limits on Share Grants to Connected Persons under this Proposal G.

#### **H. Announcements of Share Grants (Questions 19 and 20)**

126. We proposed to require disclosure of Share Grants by a listed issuer to the following persons on an individual basis (i) a Connected Person; (ii) a Related Entity Participant or Service Provider with Share Grants in excess of 0.1% of the issuer's issued shares over any 12-month period; and (iii) any other participant with Share Grants in excess of the 1% Individual Limit. Share Grants to other participants can be disclosed in aggregate by category. The Exchange may require the issuer to submit a list of grantees and the movements of shares and options granted to each grantee from time to time.
127. We proposed that the issuer's grant announcement must disclose:
- (a) A description of each of the categories of grantees. Where disclosure on an individual basis is required, the name of grantee (and if applicable, the name of its ultimate beneficial owner), the relationship between the grantee and the issuer group, and where the grantee is a Related Entity Participant or Service Provider, the nature of services provided to the issuer and for a Service Provider, the duration of the relevant service contract with the issuer;
  - (b) The date of grant, the number of options or awards granted, the exercise/grant price, the market price of the issuer's shares on that date, and for share options, the validity period;
  - (c) The vesting period. In the case of a Share Grant to an Employee Participant with a vesting period less than 12 months, the remuneration

committee's views on why such arrangement is appropriate and how the grant serves the purpose of the scheme (see also discussion in Proposal D);

- (d) A narrative description of the performance targets attached to the Share Grants (including the target levels and performance-related measures), the rationale for adopting these performance targets and the method for assessing whether they are satisfied. If the Share Grants are made without performance targets, the remuneration committee's views on why performance targets are not necessary and how the grants serve the purpose of the scheme (see also discussion in Proposal E);
  - (e) The clawback mechanism, or if none, the remuneration committee's views on why a clawback mechanism is not necessary and how the grants serve the purpose of the scheme (see also discussion in Proposal E);
  - (f) For any Share Grant to a Service Provider, a Related Entity Participant or a Connected Person, the reason for the grant and the remuneration committee's views on why it is appropriate to approve the grant, the factors that it took into account (for example, the issuer's business needs, remuneration policy and hiring practices) and how the grant serves the purpose of the scheme; and
  - (g) Arrangements, if any, made by the issuer or any of its subsidiaries to provide financial assistance to the grantee(s) to facilitate the purchase of shares under the scheme.
128. We also proposed that the grant announcement must contain the number of shares available for future grant under the scheme mandate and the Service Provider Sublimit (if applicable).

### **Comments received**

129. The proposals received support from a majority of respondents:
- (a) 78% of the respondents agreed with the proposal to require disclosure of Share Grants to a Related Entity Participant or Service Provider on an individual basis if the grants to such person exceed the 0.1% of the issued shares of the issuer, and 22% opposed it.
  - (b) 73% of the respondents supported the proposed disclosure requirement for the grant announcement, and 27% opposed it.
130. Respondents generally supported the proposal as it increases transparency of Share Grants to Service Providers and Related Entity Participants.
131. An opposing respondent suggested that all Share Grants to Service Providers or Related Entity Participants should be disclosed on an individual basis as

these grants are exceptional and should be made known to shareholders. Some respondents, however, considered that Share Grants to Service Providers and Related Entity Participants should be subject to the same 1% threshold for individual disclosure as other participants of Share Schemes. They considered the proposal onerous, particularly for tech companies that would normally grant a larger amount of shares to attract and incentivise talents.

132. Some respondents disagreed with the proposed disclosure requirements. Some disagreed with the requirement to disclose details of performance targets attached to Share Grants (see paragraph 89) as they considered such information to be commercially sensitive. Some respondents considered the disclosure of remuneration committee's view of all Share Grants to Service Providers and Related Entity Participants in grant announcements (see also paragraph 45) to be unduly onerous as the approval of these grants is outside the remit of remuneration committee. Some respondents considered that the duration of service contract of a Service Provider is not relevant to Share Grants, but could be commercially sensitive in some industries as it would reveal the operating business model of the company to its competitors and expose the company to the risk of its Service Provider being poached.

#### **Our response and conclusion**

133. As stated in the Consultation Paper, the requirement to disclose individual Share Grants to Service Providers and Related Entity Participants in excess of the 0.1% threshold provides an additional safeguard for large Share Grants to non-employee participant. We will adopt this proposal.
134. We note respondents' concerns about disclosing commercially sensitive information and will revise the proposal to:
- (a) remove the requirement for issuers to disclose the duration of service contacts of their Service Providers; and
  - (b) require qualitative disclosure of performance targets attached to Share Grants, rather than details of the performance target levels<sup>28</sup> (see also discussion under paragraph 93 in Proposal E).
135. Following our revision of remuneration committee's scope of work (see Proposals B, D and E), we will also modify the proposed disclosure requirements to align with our revised proposal in the grant announcement:
- (a) Where Share Grants are made to Service Providers or Related Entity Participants, the announcement must include the views of the board (rather than remuneration committee) as to why the grants are made and how they align with the purpose of the scheme<sup>29</sup> (see paragraph 49);

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<sup>28</sup> Rule 17.06B(8)(a)

<sup>29</sup> Rule 17.06B(9)

- (b) Where the vesting period for any Share Grants to Employee Participants is less than the minimum 12-month vesting requirement, the announcement must state the relevant circumstances that are specifically permitted by the scheme<sup>30</sup>. Where the Share Grants are made to the issuer's directors and senior management, the remuneration committee's views on why a shorter vesting period is appropriate (see paragraph 83(b)); and
- (c) Where Share Grants are made to directors and senior management without performance targets and/or clawback mechanism, the announcement must include the views of the remuneration committee on why they are not required and how the grants align with the purpose of the scheme<sup>31</sup> (see paragraph 93).

## **I. Disclosure in interim reports and annual reports (Question 21)**

136. We proposed that the issuer's interim report and annual report must disclose:
- (a) Details of all Share Grants by the issuer to (i) each participant (on an individual basis following the classification applied in grant announcement described in paragraph 126) and (ii) other participants on an aggregate basis by category, and their respective movements during the reporting period;
  - (b) For options and awards granted during the reporting period, their fair value at the time of grant and the accounting policy adopted;
  - (c) The number of options and awards granted under all Share Schemes during the reporting period divided by the weighted average number of issued shares for the period; and the number of shares that are available for grant under the scheme mandate (and the Service Provider Sublimit, if applicable) at the beginning and the end of the reporting period; and
  - (d) A summary of the terms of each scheme (for annual report only).

### **Comments received**

137. 85% of the respondents supported the proposal and 15% opposed it.
138. Some opposing respondents commented that the proposed disclosure requirements are onerous compared to other markets. For example, in the US, issuers are not required to disclose details and movements of grants by individual or category of participants, except for grants to directors and executives which form part of the executive compensation disclosure. On the other hand, a respondent suggested more disclosure on the details of Share Grants such as key performance indicators and clawback mechanism.

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<sup>30</sup> Rule 17.06B(7)

<sup>31</sup> Rule 17.06B(8)

## **Our response and conclusion**

139. The proposed disclosure is largely required for grants under share option schemes currently, and our proposal extends this disclosure requirement to grants under share award schemes.
140. We will adopt the proposal.

### **J. Disclosure of remuneration committee's work (Question 22)**

141. Under the proposals, the remuneration committee is required to review and/or approve the following matters:
- (a) matters involving non-Employee Participants, including the criteria for determining the categories of Service Providers that are eligible to participate in the scheme, the Service Provider Sublimit; and proposed Share Grants to Service Providers and Related Entity Participants (see Proposals B and C);
  - (b) proposed Share Grants to a Connected Person (see Proposal G)
  - (c) proposed Share Grants to a specified Employee Participant where the vesting period is less than 12 months or any participants where the performance targets and/or clawback mechanism are waived (see Proposals D and E);
  - (d) proposed changes to the terms of share award or option granted to a participant where the initial grant requires approval by the remuneration committee (see Proposal K); and
  - (e) proposed adoption of the Share Scheme and refreshment of scheme mandate by Insignificant Subsidiaries (see Proposal Q).
142. We proposed to require the issuer to disclose all matters relating to Share Schemes reviewed by the remuneration committee during the year in the Corporate Governance Report. The remuneration committee should clearly explain why it is appropriate to approve those matters, the factors that it took into account (for example, the issuer's business needs, remuneration policy and hiring practices) and how the Share Grants serve the purpose of the scheme. In respect of Share Grants to Service Providers, the remuneration committee must confirm in the issuer's annual report and interim report that the Service Provider provides services to the issuer group on a continuing and recurring basis in its ordinary and usual course of business in the relevant period which are material to the long term growth of the issuer group, such that it was determined to be eligible participant of the scheme.

### **Comments received**

143. 73% of the respondents agreed with the proposal and 27% opposed it.
144. Some respondents considered it overly burdensome to disclose all matters relating to Share Schemes that have been reviewed by remuneration committee during the year, or that they may reveal commercially sensitive information considered by the remuneration committee. They suggested the Exchange to require a summary of material matters considered by the remuneration committee only.
145. However, another respondent suggested that the remuneration committee should provide more detailed explanations, such as how the Share Grants would benefit the issuer and meet the objective of incentivising the grantees to contribute to the issuer, or other relevant information such as industry analysis, financial position of the issuer, the underlying key performance indicator and why these are considered reasonably challenging yet attainable.
146. A respondent suggested that the remuneration committee's work relating to Share Schemes should be disclosed in the issuer's Remuneration Report.

### **Our response and conclusion**

147. We agree that the remuneration committee should have the discretion to make the appropriate disclosure. We will modify the proposal to require disclosure of *a summary of material matters* relating to Share Schemes reviewed by remuneration committee during the year, and to allow such disclosures to be made in the issuer's Remuneration Report or the Corporate Governance Report.
148. We will also modify our proposed disclosure requirements to align with our proposal to require remuneration committee to approve matters relating to Share Grants to directors and senior management only (see Proposals B, D and E).

### **K. Approval for changes to terms of share award or option granted (Question 23)**

149. Currently, the Rule requires an issuer to seek shareholders' approval for any changes to the terms of options granted. We proposed to require changes to the terms of share awards or options that were granted to participants to be approved by the approving authority (which may include the board, the remuneration committee, the INEDs and/or shareholders) making the initial grant.

### **Comments received**

150. 79% of the respondents who commented supported the proposal and 21% opposed it.

151. Some respondents considered the proposal still too onerous and suggested the Exchange make further dispensations and allow all changes to be approved by the board or remuneration committee. On the other hand, one opposing respondent suggested the Exchange to retain the current Rule and require shareholders' approval for all changes to the terms of options or awards.
152. Some respondents suggested the Exchange to clarify that re-approval by the approving authority is not required if the changes to the terms are of an immaterial nature.

#### **Our response and conclusion**

153. As stated in the Consultation Paper, our proposal is intended to reduce compliance burden of issuers while not compromising investor protection. Having considered the comments received, we will adopt the proposal.

#### **L. Transfer of share awards or options (Question 24)**

154. We proposed that the Exchange may provide a waiver to allow a transfer of share awards or options to a vehicle (including a trust or a private company) for the benefit of the grantee and his/her family members (e.g. for estate planning or tax planning purposes), provided that such transfer would continue to meet the purpose of the scheme and other requirements of Chapter 17.

#### **Comments received**

155. 90% of the respondents supported the proposal and 10% opposed it.
156. While respondents generally supported the proposal, some sought clarification on the operation of the waiver, for example, whether the Exchange would impose restriction against any further transfers of the awards or options, or any changes in the beneficiaries of the trust.

#### **Our response and conclusion**

157. Under the proposal, as condition to the waiver, the issuer and the grantee must demonstrate that there are appropriate measures in place to ensure that after the transfer, the grants would continue to meet the purpose of the scheme and comply with other requirements of Chapter 17.
158. In view of the above, we will adopt the proposal.

#### **M. Voting rights of unvested scheme shares (Question 25)**

159. We proposed that the trustee holding unvested shares of a Share Scheme shall abstain from voting on matters under the Listing Rules. We also proposed that the issuer must disclose the number of unvested shares in monthly returns.

## Comments received

160. 82% of the respondents who commented supported the proposal and 18% opposed it.
161. Respondents supported the proposal as it would address the concerns about undue influence over the exercise of voting rights of unvested shares by management of the issuer.
162. Some opposing respondents noted that in some cases the trustees would be obligated to vote as a matter of legal requirement or market practice. For example, certain jurisdictions allow the trustees to take voting instructions from the beneficial owners of the shares (e.g. the share incentive plans in the UK and the employee stock ownership plans in the PRC).
163. Some respondents sought clarification that the voting restriction would apply to unvested shares held *directly and indirectly* by the trustee. This is because in practice, there are some trust structures where the unvested shares are held by the trustees through special purpose vehicles.
164. As regards the proposed disclosure requirement, some opposing respondents considered disclosing the number of unvested shares in monthly returns to be unduly burdensome and unnecessary, given that the voting rights of the unvested shares are already restricted. Alternatively, some suggested to impose certain minimum threshold for disclosure (e.g. 5% of the issuer's shares in issue).

## Our response and conclusion

165. We will adopt the proposal with modifications to address the respondents' comments set out in paragraphs 162 and 163. The revised Rule requirement<sup>32</sup> is as follows:
- “The trustee holding unvested shares of a Share Scheme, whether directly or indirectly, shall abstain from voting on matters that require shareholders' approval under the Rules, unless otherwise required by law to vote in accordance with the beneficial owner's direction and such a direction is given.”***
166. As regards the proposal to disclose unvested shares held by the trustee in monthly returns, we acknowledge respondents' concerns set out in paragraph 164 and will not adopt the proposal. In any event, under current Listing Rules the issuer is required to disclose in its poll results announcement the number of shares of holders that are required to abstain from voting at the general meeting<sup>33</sup>.

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<sup>32</sup> Rule 17.05A.

<sup>33</sup> See Rule 13.39(5).

## **II Share Schemes Funded by Existing Shares of Listed Issuers**

### **N. Disclosure in grant announcements and financial reports (Question 26)**

167. Under our proposal, share award schemes funded by existing shares are not subject to shareholders' approval as they do not involve issue of new shares. We proposed to require disclosure of the terms of these Share Schemes and share grants, consistent with requirements applicable to Share Schemes funded by new shares (see Proposals H and I).

#### **Comments received**

168. 76% of the respondents supported the proposal and 24% opposed it.
169. Some respondents disagreed, they considered that those share grants are no different from giving a cash bonus to a participant to purchase his or her own shares from the market and no disclosure would be required in that circumstance.
170. A respondent also considered the additional disclosure unnecessary as there are already requirements for disclosure of share awards to senior executives, for example, the disclosure of interests requirements under Part XV of the Securities and Futures Ordinance, and the annual report disclosure of the remuneration of directors and the five highest paid individuals under Appendix 16 to the Rules.

#### **Our response and conclusion**

171. We agree that the disclosure should be balanced and informative. We will adopt the proposal with the following modifications:
- (a) remove the requirement for announcement of share grants involving existing shares; and
  - (b) require disclosure in annual reports of grants of existing shares to (i) each director of the issuer on an individual basis; and (ii) the five highest paid individuals on an aggregated basis. Details of share grants to other participants can be disclosed on an aggregated basis<sup>34</sup>. This is in line with the requirements for disclosure of staff remuneration in Appendix 16 to the Rules. Currently Appendix 16 requires disclosure of the amount of any share-based compensation paid to the directors and employees during the reporting period. The proposal would require additional disclosure on the major terms of share grants (including vesting period and exercise/ grant price) and the movements of grants during the reporting period. The proposal would also extend the disclosure requirements to share grants to non-employee participants.

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<sup>34</sup> Rule 17.12(1)

## **O. Voting rights of unvested scheme shares (Question 27)**

172. We proposed that the trustee holding unvested shares of a Share Scheme shall abstain from voting on matters under the Listing Rules. We also proposed that the issuer must disclose the number of unvested shares in monthly returns. This is the same proposal applicable to Share Schemes funded by issuance of new shares (see Proposal M).

### **Comments received**

173. 82% of the respondents who commented supported the proposal and 18% opposed it.
174. Respondents provided similar comments given in respect of Proposal M (see paragraphs 161 to 164).

### **Our response and conclusion**

175. Please see our response and modified proposal in paragraphs 165 and 166 above.

## **III Share Schemes of Subsidiaries of Listed Issuers**

### **P. Should Chapter 17 govern share award schemes of subsidiaries (Question 28)**

### **Q. Share Schemes of Insignificant Subsidiaries (Question 29)**

176. We proposed to amend Chapter 17 to also govern share award schemes funded by new or existing shares of subsidiaries of listed issuers.
177. We also proposed to exempt an Insignificant Subsidiary from the shareholders' approval requirement under Chapter 17 (for the adoption of the scheme and the refreshment of scheme mandate) and require approval by the remuneration committee of the issuer instead. Insignificant Subsidiaries would still be subject to disclosure requirements under Chapter 17.

### **Comments received**

178. 69% of the respondents supported the proposal to extend Chapter 17 to govern share award schemes funded by new or existing shares of subsidiaries of listed issuers, and 31% opposed it.
179. 89% of the respondents supported the proposed exemption for Share Schemes of Insignificant Subsidiaries, and 11% opposed it.
180. We received significant comments on the proposal. Opposing respondents considered that Share Schemes of subsidiaries should be governed by Chapter

14 (which applies to disposals and deemed disposals of equity interests in subsidiaries) and not Chapter 17, as Share Grants under subsidiaries' schemes are effectively a disposal or a deemed disposal of interests in those subsidiaries by the issuer. They pointed out that Chapter 17 is intended to govern dilution of interest in the issuers' securities, and grants of subsidiaries' shares would not have such dilutive effect.

181. Some respondents questioned how Chapter 17 would operate for subsidiary Share Schemes. They pointed to operational issues and considered it unduly onerous or impractical to apply the proposed requirements to share schemes of subsidiaries, particularly for issuers with a large number of subsidiaries. For example:
- (a) It would be overly burdensome if the issuer's remuneration committee is required to approve Share Grants at the subsidiary level. A respondent suggested delegating the function to the subsidiary's remuneration committee who would have direct oversight of the intended participant population. Others noted that subsidiaries may not have their own remuneration committees.
  - (b) Some noted it was unclear whether shareholders' approval requirements in Chapter 17 would refer to the shareholders of the subsidiary or the issuer. They also considered that the Scheme Mandate Limit and the 1% Individual Limit should not apply, or a different threshold should be established, as the proposed limits may be overly restrictive if the subject subsidiary is small, at an incubation or developmental stage. There were other ambiguities when applying the limits, for example, where a subsidiary establishes a new class of non-voting shares for share scheme participants only, the mandate limit would not cater for this arrangement as it imposed a limit of 10% on each class of shares.
  - (c) Some questioned whether subsidiaries acquired with pre-existing schemes could be grandfathered. This would be an issue particularly for new economy companies that may make acquisition and have a large number of subsidiary schemes (particular for subsidiaries planning for initial listings).
  - (d) Some considered that disclosure of Share Grants and the terms of share schemes of each subsidiary would be onerous and not provide useful information to shareholders. They suggested providing an exemption from disclosure requirement, or requiring generic disclosure of the subsidiaries' schemes and their aggregate dilutive impact.
182. Some respondents submitted that Share Schemes of listed subsidiaries should be exempted from the Chapter 17 requirements as they would be in themselves governed by Chapter 17 (or the equivalent overseas requirements for overseas listed subsidiaries). Some respondents also noted that if the schemes involve grants of existing shares of the listed subsidiaries purchased from the market, there would be no dilution of interest in the subsidiaries.

## Our response and conclusion

183. We acknowledge respondents' comments about the rationale for applying Chapter 17 to govern share schemes of subsidiaries. We also note that if the effect of the subsidiary share schemes is a disposal (or deemed disposal) of the subsidiary's interest, it should be governed by the notifiable transaction rules in Chapter 14. This is consistent with treatments in other markets that govern subsidiary share schemes<sup>35</sup>.
184. In light of the above, we will modify the proposal as follows:
- (a) Other than the Principal Subsidiary as described in sub-paragraph (b) below, we will apply Chapter 14 to address dilution of subsidiary's interest resulting from Share Grants under subsidiary share schemes (and Chapter 14A to Share Grants to connected persons). This means that:
    - (i) any disposal (involving grants of existing shares of the subsidiary held by the issuer) and deemed disposals (involving grants of new shares or options over new shares by the subsidiary) would be subject to disclosure (if any percentage ratio based on the size of the scheme mandate is over 5%) and shareholders' approval (if any percentage ratio is over 25%) under Chapter 14<sup>36</sup>. Issuers will be required to disclose the major terms of the scheme in the announcements and/or shareholders' circulars; and
    - (ii) Share Grants to a connected person would be subject to disclosure and/or independent shareholders' approval<sup>37</sup> if the grants to such person in a 12-month period<sup>38</sup> exceed the de minimis thresholds<sup>39</sup> under Chapter 14A.
  - (b) The requirements of Chapter 17 would only apply to share schemes of a subsidiary whose revenue, profits or total assets accounted for 75% (or more) of that of the issuer under the percentage ratios in any of the latest three financial years (a **Principal Subsidiary**), and not other

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<sup>35</sup> While most major markets do not have rules applying to subsidiary share schemes, the UK, Singapore and Malaysia also govern subsidiaries' schemes. The UK listing rules govern major subsidiaries and require shareholders' approval on adoption of these schemes only. Malaysia only requires disclosure of principle scheme terms after adoption of schemes by subsidiaries, and Singapore exempts share schemes of listed subsidiaries and immaterial subsidiaries from the shareholders' approval requirement upon adoption of the schemes.

<sup>36</sup> Rule 14.32A

<sup>37</sup> Share Grants to a connected person at the subsidiary level are exempt from the independent shareholders' approval requirement under Rule 14A.101.

<sup>38</sup> Under Rule 14A.81 and 14A.82, we will aggregate Share Grants to the same connected person within a 12-month period.

<sup>39</sup> Under Rule 14A.76.

subsidiaries.<sup>40 41</sup> In addition, we will also modify the Scheme Mandate Limit, the Service Provider Sublimit, the 1% Individual Limit, and the limits on Share Grants to Connected Persons under Proposal G and to Service Providers and Related Entity Participants under Proposal H to refer to the total issued shares of the Principal Subsidiary<sup>42</sup>.

Given the significant size of the Principal Subsidiary to the issuer, Share Grants by the subsidiary would have a dilutive effect on the assets of the issuer, similar to Share Grant at the listed issuer level. Therefore, Chapter 17 should apply. This is regardless of whether the Principal Subsidiary is listed or not, as the share schemes of the Principal Subsidiary are not subject to the Chapters 14 and 14A requirements described in paragraph 184(a) above.

## **IV. Other Rules relating to Share Schemes**

### **R. Trust arrangements (Question 30)**

185. We proposed to make clear that Chapter 17 would apply to Share Schemes involving grants of new shares or options through trust or similar arrangements for the benefit of participants specifically identified by the issuer before the grants.

#### **Comments received**

186. 84% of the respondents supported the proposal and 16% opposed it.
187. Some respondents sought clarification on whether Share Schemes using limited liability partnership structures should be subject to Chapter 17, as they are often adopted by companies incorporated in the PRC.

#### **Our response and conclusion**

188. Our current proposal would apply to a limited liability partnership arrangement for the benefits of employees or other participants if it is analogous to a Share Scheme.
189. We will adopt the proposal.

### **S. Disclosure of fair value of options in circular relating to adoption of new share option scheme (Question 31)**

190. We proposed to remove the recommended disclosure on the fair value of

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<sup>40</sup> Rules 17.13 and 17.14.

<sup>41</sup> Where any calculation of the percentage ratio produces an anomalous result, the listed issuer may apply to the Exchange to disregard the calculation and/or apply other relevant indicators of size.

<sup>42</sup> Rule 17.15(1)

options in shareholders' circular for the approval of the scheme.

### **Comments received**

191. 87% of the respondents who commented supported the proposal and 13% opposed it.
192. Respondents generally agreed that the proposed disclosure of fair value of share options and awards in financial reports (see Proposal I) would provide more meaningful information for shareholders to assess the dilution impact of the grants on their interests in the issuers, while some opposing respondents considered that the information is slightly different and may be of value.

### **Our response and conclusion**

193. We will adopt the proposal.

## **T. Other proposed Rule amendments relating to Share Schemes (Question 32)**

194. We proposed to amend the following Rules currently applicable to share option schemes to also apply to share award schemes:
  - (a) Rule 3.13(2) – A director may still be considered independent if he/she receives shares or interests in securities from the issuer or its subsidiaries under share option schemes established in accordance with Chapter 17.
  - (b) Rule 10.08(1) – The restriction on further issue of shares by a listed issuer within six months from its new listing on the Exchange does not apply to issuance of shares, the listing of which has been granted by the Exchange, pursuant to a share option scheme under Chapter 17.
  - (c) Rule 13.52(1)(e)(ii) – An issuer should submit draft circulars for any matters relating to share option schemes required under Chapter 17 to the Exchange for review.
  - (d) Paragraph 7 of Appendix 10 – The dealing restriction on securities transactions under the Model Code does not apply to exercise of options that were granted before a period during which dealing is prohibited under the code at the exercise price pre-determined at the time of grant.

### **Comments received**

195. 85% of the respondents supported the proposal and 15% opposed it.
196. A respondent questioned why draft circulars relating to Share Schemes require pre-vetting by the Exchange as these circulars are less important compared to other documents such as IPO prospectuses and takeover documents.

## **Our response and conclusion**

197. The purpose of the proposals is to align the requirements applicable to Shares Schemes under other parts of the Rules. As to the question about pre-vetting of issuers' documents, we may consider this matter further as part of our future policy review.
198. We will adopt the proposal.

## **U. Transitional Arrangements**

199. In the Consultation Paper, we proposed the following transitional arrangements for existing Share Schemes (funded by issue of new shares of issuers) as at the effective date of the proposed Rule amendments:
- (a) For all existing Share Schemes, issuers would be required to comply with the new disclosure requirements from the effective date, including announcements of grants of shares or options under these schemes and disclosures in interim or annual reports published on or after the effective date.
- (b) For (i) share option schemes; and (ii) share award schemes with Advanced Mandates which are still valid as at the effective date:
- The issuer may continue to grant share awards or options only to eligible participants as defined in the amended Chapter 17 after the effective date, subject to the following:
  - As regards share option schemes – when the issuer refreshes the scheme mandate of its existing schemes, it must follow the amended Chapter 17 and where appropriate, amend the terms of its existing schemes.
  - As regards share award schemes with Advanced Mandates – no further refreshment of the scheme mandate is allowed.
- (c) For share award schemes involving grants of new shares under general mandate, the issuer may continue to grant share awards to eligible participants under the amended Chapter 17 up to the date of the first annual general meeting after the effective date. Thereafter, the issuer should amend the terms of the schemes to comply with the amended Chapter 17.

## **Comments received**

200. Some respondents suggested the Exchange to provide a longer grace period (e.g. three years) for existing share award schemes involving grants of new shares under general mandate to allow sufficient time for issuers to amend the terms of their scheme.

201. Some respondents sought guidance on the transitional arrangements for the existing share award schemes of subsidiaries. They suggested that subsidiaries may continue to grant share awards under existing schemes as long as the issuers comply with the new disclosure requirements from the effective date.

### **Our response**

#### *Share Schemes of Listed issuers involving issue of new shares*

202. In light of the respondents' comments and the operational issues issuers may need to deal with on implementation, we will extend the implementation of the new Rules as follows:
- (a) For disclosure in grant announcements, interim and annual reports, from the effective date (1 January 2023);
  - (b) Share Grants may only be made to eligible participants as defined in the amended Chapter 17 effective from the financial year commencing on or after 1 January 2023; and
  - (c) In relation to existing share award schemes involving grants of new shares under general mandate (paragraph 199(c)), the issuer may continue to grant share awards to eligible participants up to the earlier of (i) the second annual general meeting after 1 January 2023 or (ii) the adoption of new scheme mandate or amendments of the terms of any existing schemes to comply with the amended Chapter 17.
203. As set out in paragraph 199(b), the issuer must follow the amended Chapter 17 and where appropriate, amend the terms of its existing schemes when it refreshes the scheme mandate of its existing share option schemes. As regards existing share award schemes with Advanced Mandates, the issuer is not allowed to further refresh the scheme mandate.

#### *Share Schemes of Subsidiaries*

204. Further, we set out below the transitional arrangements for subsidiaries' schemes:
205. Under our revised proposal (see Proposal P) only the Principal Subsidiary of an issuer is subject to the requirements of Chapter 17. For the Principal Subsidiary, the transitional arrangement applicable to the issuer's existing share option schemes apply. However, for existing share award schemes, grants of share awards after the effective date must be subject to Chapter 14 (based on the size of the scheme mandate for future grants) and 14A. Further, the share options and awards may only be granted to eligible participants as defined in the amended Chapter 17.
206. For other subsidiaries of the issuer, they may continue to grant share options

under the scheme mandate of their share option schemes that have complied with the existing Chapter 17 (i.e. approved by shareholders). Grants of share awards or options after the effective date under any other existing or new share schemes of the subsidiaries must comply with Chapter 14 (based on the size of the scheme mandate for future grants) and/or Chapter 14A.

207. Detailed transitional arrangement is set out in the table below:

	Listed issuer		Principal Subsidiary		Other subsidiaries	
	Share option scheme	Share award scheme		Share option scheme	Share award scheme	Share option scheme/ Share award scheme
		With Advanced Mandate	Utilising general mandate			
Disclosure in:- - Announcement <sup>43</sup> - Interim Report <sup>44</sup> - Annual Report <sup>45</sup>	From effective date (1 January 2023)				<u>Share option scheme that has complied with existing Chapter 17</u> : The subsidiary may continue to grant share options under its scheme mandate	
Share Grants to eligible participants (amended definition) <sup>46</sup>	New definition of eligible participants applies for financial years commencing on or after 1 January 2023				<u>Other existing or new share schemes</u> : Grants of share awards or options must comply with Chapter 14 (based on the size of the scheme mandate for future grants) and/or Chapter 14A	
Scheme mandate <sup>47</sup>	Issuers may continue to make Share Grants using existing scheme mandate	Issuers may grant shares under general mandate until the <u>second</u> AGM after 1 January 2023	Same as listed issuer	Issuers must comply with Chapter 14 (based on the size of the scheme mandate for future grants) and/or Chapter 14A before making Share Grants		
Amendment of terms of scheme to comply with amended Chapter 17	On or before the refreshment of the scheme mandate limit/ expiry of scheme mandate above or adoption of new share scheme					

<sup>43</sup> See paragraphs 126 to 128 and 134 to 135, and Rules 17.06A, 17.06B and 17.06C.

<sup>44</sup> See paragraph 136 and Rules 17.07 and 17.09.

<sup>45</sup> See footnote 44

<sup>46</sup> See paragraphs 39 and 46 and Rule 17.03A.

<sup>47</sup> See paragraphs 52 and 53 and Rules 17.03B and 17.03C.

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## CHAPTER 3: HOUSEKEEPING RULE AMENDMENT

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### Alignment of requirements on payment date of subsequent issue fees

208. With effect from 5 August 2022, certain Rules will be amended to facilitate the payment of listing fee by way of electronic bank transfer as another means of payment<sup>48</sup>.
209. We propose to make a further housekeeping Rule amendment to align the requirements on payment date of subsequent issue fees by GEM issuers with those applicable to Main Board issuers. Currently, paragraph 1(3)(c) of Appendix 9 to the GEM Rule requires an issuer to pay any subsequent issue fees at the time of submission of the application form in accordance with GEM Rule 12.17. We propose to amend the Rule to align with the requirement under Main Board Rule<sup>49</sup> such that all issuers shall pay the subsequent listing fees within 7 days of receiving a debit note or, in any event if earlier, before dealings in the relevant securities commence.
210. The Rule amendment does not involve questions of policy, and will become effective on 1 October 2022.

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<sup>48</sup> See “Information Paper on Rule Amendments on Bookbuilding and Placing Activities in Equity Capital Market Transactions and Sponsor Coupling to Complement the SFC’s New Code of Conduct Provisions and Housekeeping Rule Amendments”

<sup>49</sup> Paragraph 4(4) of Appendix 8 to the Rules

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**APPENDIX I: LIST OF RESPONDENTS**

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<b>Accounting Firms (1 in total)</b>
1. KPMG
<b>HKEX Participants (1 in total)</b>
1. BOCI Securities Limited
<b>Investment Managers (1 in total)</b>
1. BlackRock Asset Management North Asia Limited
<b>Law Firms (11 in total)</b>
1. Clifford Chance
2. Davis Polk & Wardwell
3. Freshfields Bruckhaus Deringer
4. Gibson, Dunn & Crutcher
5. Jeffrey Mak Law Firm
6. Skadden Arps Slate Meagher & Flom
7. Slaughter and May
8. Simpson Thacher & Bartlett
9. Stevenson, Wong & Co.
10. Withers
11. 1 law firm that requested anonymity
<b>Listed Companies (22 in total)</b>
1. AAC Technologies Holdings Inc.
2. AIA Group Limited
3. Bii Biosciences
4. Cathy Pacific Airways Limited
5. China Tonghai International Financial Limited

6.	HSBC Holdings plc
7.	Link Asset Management Limited
8.	Meitu, Inc.
9.	Melco International Development Limited
10.	Seazen Group Limited
11.	Swire Pacific Limited
12.	Swire Properties Limited <sup>1</sup>
13-14.	2 anonymous listed companies
15-22.	8 listed companies that requested anonymity
<b>Professional Bodies / Industry Associations (7 in total)</b>	
1.	Professional Investor Association
2.	The Asian Corporate Governance Association
3.	The Chamber of Hong Kong Listed Companies
4.	The Hong Kong Chartered Governance Institute
5.	The Hong Kong Institute of Certified Public Accountants
6.	The Hong Kong Institute of Directors
7.	The Law Society of Hong Kong
<b>Other entities (3 in total)</b>	
1.	SWCS Corporate Services Group (Hong Kong) Limited
2.	上海信公科技集團股份有限公司
3.	1 entity that requested anonymity
<b>Individuals (14 in total)</b>	
1.	Oliver Tang

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<sup>1</sup> Swire Properties Limited's submission is identical to those of Cathay Pacific Airways Limited and Swire Pacific Limited, and the three submissions are therefore counted as one response.

2-14. 13 individuals that requested anonymity

*Remarks:*

1. *If the entire body of the response is identical, word-for-word, with the entire body of another response. It will be recorded as a “duplicate response” and it will not be counted for the purpose of a quantitative and qualitative analysis of the responses.*
2. *The total number of responses is calculated according to the number of submissions received and not the underlying members that they represent.*

## APPENDIX II: SUMMARY RESULT OF QUANTITATIVE ANALYSIS

Proposals in the Consultation Paper	Feedback		
	Agree	Disagree	Number of respondents <sup>51</sup>
<b>I. Share Schemes Funded by Issuance of New Shares of Listed Issuers</b>			
<b>(A) Should Chapter 17 govern share award schemes funded by issue of new shares of listed issuers</b>			
Q1. Do you agree with the proposal to amend Chapter 17 to also govern share award schemes involving the grant of new shares of listed issuers?	46 (88%)	6 (12%)	52 (90%)
<b>(B) Eligible participants</b>			
Q2. Do you agree with the proposed definition of eligible participants to include directors and employees of the issuer and its subsidiaries (including persons who are granted shares or options under the scheme as an inducement to enter into employment contracts with these companies)?	48 (94%)	3 (6%)	51 (88%)
Q3. Do you agree with the proposal that eligible participants shall include Service Providers, subject to additional disclosure and approval by the remuneration committee?	37 (71%)	15 (29%)	52 (90%)
Q4. Do you agree with the proposal that eligible participants shall include Related Entity Participants, subject to additional disclosure and approval by the remuneration committee?	42 (81%)	10 (19%)	52 (90%)
<b>(C) Scheme mandate</b>			
Q5. Do you agree with the proposal to allow the scheme mandate to be refreshed once every three years by obtaining shareholders' approval?	39 (78%)	11 (22%)	50 (86%)
Q6. Do you agree with the proposal to allow the scheme mandate to be refreshed within three years from the date of the last shareholders' approval by obtaining independent shareholders' approval?	35 (70%)	15 (30%)	50 (86%)

<sup>51</sup> Out of 58 non-duplicate responses. Respondents who did not respond or did not indicate clearly a view to a proposal were excluded.

Proposals in the Consultation Paper	Feedback		
	Agree	Disagree	Number of respondents <sup>51</sup>
Q7. Do you agree with the proposal to remove the 30% limit on outstanding options?	43 (90%)	5 (10%)	48 (83%)
Q8. Do you agree with the proposal to require a sublimit on Share Grants to Service Providers?	34 (71%)	14 (29%)	48 (83%)
<b>(D) Minimum vesting period for Share Grants</b>			
Q9. Do you agree with the proposal to require a minimum of 12-month vesting period?	28 (56%)	22 (44%)	50 (86%)
Q10. Do you agree with the proposal that Share Grants to Employee Participants specifically identified by the issuer may vest within a shorter period or immediately if they are approved by the remuneration committee with the reasons and details disclosed?	31 (67%)	15 (33%)	46 (79%)
<b>(E) Performance targets and clawback mechanism</b>			
Q11(a). Do you agree with the proposed disclosure requirements relating to performance targets	30 (58%)	22 (42%)	52 (90%)
Q11(b). Do you agree with the proposed disclosure requirements relating to clawback mechanism?	33 (65%)	18 (35%)	51 (88%)
<b>(F) Exercise price or share grant price</b>			
Q12. Do you agree that it is not necessary to impose a restriction on the grant price of shares under share award schemes?	43 (91%)	4 (9%)	47 (81%)
<b>(G) Restrictions on large Share Grants to individual participants and Share Grants to Connected Persons</b>			
Q13. Do you agree with the proposal to apply the 1% Individual Limit to Share Grants (including grants of shares awards and share options) to an individual participant?	37 (77%)	11 (23%)	48 (83%)
Q14. Do you agree with the proposal to require approval from the remuneration committee instead of INEDs for all Share Grants to Connected Persons?	39 (80%)	10 (20%)	49 (84%)

Proposals in the Consultation Paper	Feedback		
	Agree	Disagree	Number of respondents <sup>51</sup>
Q15. Do you agree with the proposal to relax the current shareholder approval requirement for grants of share awards to a director (who is not an INED) or a chief executive set out in paragraph 65 of the Consultation Paper?	44 (90%)	5 (10%)	49 (84%)
Q16. Do you agree with the proposal to also relax the current shareholder approval requirement for grants of share awards to an INED or substantial shareholder of the issuer set out in paragraph 68 of the Consultation Paper?	40 (85%)	7 (15%)	47 (81%)
Q17. Do you agree with the proposal to relax the current shareholder approval requirement for grants of share awards to a controlling shareholder of the issuer set out in paragraph 69 of the Consultation Paper?	36 (77%)	11 (23%)	47 (81%)
Q18. Do you agree with the proposal to remove the HK\$5 million de minimis threshold for grants of options to an INED or substantial shareholder of the issuer?	40 (85%)	7 (15%)	47 (81%)
<b>(H) Announcements of Share Grants</b>			
Q19. Do you agree with the proposals to require disclosure of Share Grants to Related Entity Participants or Service Providers on an individual basis if the grants to an individual Related Entity Participant or a Service Provider exceed 0.1% of the issuer's issued shares over any 12-month period?	40 (78%)	11 (22%)	51 (88%)
Q20. Do you agree with the proposed disclosure requirement for the grant announcement?	38 (73%)	14 (27%)	52 (90%)
<b>(I) Disclosure in interim reports and annual reports</b>			
Q21. Do you agree with the proposed disclosure requirements for Share Grants in an issuer's interim reports and annual reports?	44 (85%)	8 (15%)	52 (90%)
<b>(J) Disclosure of remuneration committee's work</b>			
Q22. Do you agree with the proposal to require disclosure of matters reviewed by the remuneration committee during the reporting period in the Corporate Governance Report?	37 (73%)	14 (27%)	51 (88%)

Proposals in the Consultation Paper	Feedback		
	Agree	Disagree	Number of respondents <sup>51</sup>
<b>(K) Approval for changes to terms of share award or option granted</b>			
Q23. Do you agree with the proposal to require changes to the terms of share award or option granted be approved by the remuneration committee and/or shareholders of the issuer if the initial grant of the award or option requires such approval?	38 (79%)	10 (21%)	48 (83%)
<b>(L) Transfer of share awards or options</b>			
Q24. Do you agree with the proposal to provide a waiver for a transfer of share awards or options granted under Share Schemes as described in paragraph 86 of the Consultation Paper?	44 (90%)	5 (10%)	49 (84%)
<b>(M) Voting rights of unvested scheme shares</b>			
Q25. Do you agree with the proposal to restrict the voting rights of unvested shares held by the trustee of a Share Scheme and require disclosure of the number of such unvested shares in monthly returns?	40 (82%)	9 (18%)	49 (84%)
<b>II. Share Schemes Funded by Existing Shares of Listed Issuers</b>			
<b>(N) Disclosure in grant announcements and financial reports</b>			
Q26. Do you agree with the proposed disclosure requirements for Share Schemes funded by existing shares of listed issuers?	38 (76%)	12 (24%)	50 (86%)
<b>(O) Voting rights of unvested scheme shares</b>			
Q27. Do you agree with the proposal to restrict the voting rights of unvested shares held by the trustee of a Share Scheme and require disclosure of the number of such unvested shares in monthly returns?	42 (82%)	9 (18%)	51 (88%)
<b>III. Share Schemes of Subsidiaries of Listed Issuers</b>			
<b>(P) Should Chapter 17 govern share award schemes of subsidiaries</b>			
Q28. Do you agree with our proposal to amend Chapter 17 to also govern share award schemes funded by new or existing shares of subsidiaries of listed issuers?	35 (69%)	16 (31%)	51 (88%)

Proposals in the Consultation Paper	Feedback		
	Agree	Disagree	Number of respondents <sup>51</sup>
<b>(Q) Share Schemes of Insignificant Subsidiaries</b>			
Q29. Do you agree with the proposed exemption for Share Schemes of Insignificant Subsidiaries?	42 (89%)	5 (11%)	47 (81%)
<b>IV. Other Rules relating to Share Schemes</b>			
<b>(R) Trust arrangements</b>			
Q30. Do you agree with our proposal to amend Chapter 17 to also govern Share Schemes involving grants of shares or options through trust or similar arrangements for the benefit of specified participants?	41 (84%)	8 (16%)	49 (84%)
<b>(S) Disclosure of fair value of options in circular relating to adoption of new share option scheme</b>			
Q31. Do you agree with our proposal to remove the recommended disclosure requirement for the fair value of options as if they have been granted prior to the approval of the scheme?	41 (87%)	6 (13%)	47 (81%)
<b>(T) Other proposed Rule amendments relating to Share Schemes</b>			
Q32. Do you agree with our proposals to amend the Rules described in paragraph 100 of the Consultation Paper?	40 (85%)	7 (15%)	47 (81%)

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## APPENDIX III: AMENDMENTS TO THE MAIN BOARD LISTING RULES

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### (A) Amendments to Chapter 17

#### Chapter 17

#### EQUITY SECURITIES

#### SHARE OPTION SCHEMES

##### Application of chapter 17

- 17.01 (1) ~~The following provisions apply, with appropriate modifications, to all~~ This chapter deals with:
- (a) ~~share schemes involving the grant by a listed issuer or any of its subsidiaries of options over (i) new shares or other new securities of the listed issuer; or (ii) any of its subsidiaries options over new shares of the listed issuer, to, or for the benefit of, specified participants of such schemes (which includes a grant of any such shares or options to a trust or similar arrangement for the benefit of a specified participant and, for the purpose of this chapter, "participant" includes any discretionary object of a participant which is a discretionary trust). (see rules 17.02 to 17.11);~~
- (b) share schemes of a listed issuer that are funded by existing shares of the issuer (see rule 17.12);
- (c) share schemes of a principal subsidiary of a listed issuer (see rules 17.13 to 17.15).
- (2) ~~Any arrangement involving the grant of options to participants over new shares or other new securities of a listed issuer or a principal subsidiary of the issuer any of its subsidiaries (including options over any such shares or securities) which, in the opinion of the Exchange, is analogous to a share option scheme as described in this rule 17.01 must comply with the requirements of this chapter.~~
- (32) Where the shares or other securities of the listed issuer or the principal subsidiary concerned are also listed on another stock exchange or GEM, the more onerous requirements shall prevail and be applied in the event of a conflict or inconsistency between the requirements of this chapter and the requirements of the other stock exchange or GEM.
- (3) ~~The term "grant" includes "offer", "issue" and any other term used by the scheme to describe the grant of options under it.~~
- (4) ~~Where there are two or more listed issuers within a group, each of the listed issuers must comply with the provisions of this chapter in respect of its schemes~~

Proposal  
(A)

Proposals  
(N), (O)

Proposal  
(P)

Proposals  
(A), (P)

Drafting  
changes  
(relevant  
requirements  
moved to  
new Rule  
17.01A)

Drafting  
changes  
(redundant)

and the schemes of any of its subsidiaries (whether the subsidiary concerned is listed on the Exchange or not). In particular, where the provisions require the scheme or any related matters to be approved by shareholders / independent non-executive directors of a listed issuer whose holding company is also listed on the Exchange, such scheme or matters must simultaneously be approved by the shareholders / independent non-executive directors of such listed issuer's holding company.

### **Definitions**

**17.01A** In this chapter, the following definitions apply:

<b><u>“1% individual limit”</u></b>	<u>has the meaning in rule 17.03D(1)</u>
<b><u>“award”</u></b>	<u>refers to shares granted or to be granted under a share award scheme</u>
<b><u>“eligible participant”</u></b>	<u>includes an employee participant, a service provider and a related entity participant</u>
<b><u>“employee participant”</u></b>	<u>has the meaning in rule 17.03A(1)</u>
<b><u>“grant”</u></b>	<u>includes “offer”, “issue” and any other term used by a share scheme to describe the grant of shares or options under the scheme</u>
<b><u>“principal subsidiary”</u></b>	<u>has the meaning in rule 17.14</u>
<b><u>“purchase price”</u></b>	<u>refers to the price payable by a grantee to purchase shares under a share award scheme</u>
<b><u>“related entity participant”</u></b>	<u>has the meaning in rule 17.03A(1)</u>
<b><u>“scheme mandate limit”</u></b>	<u>has the meaning in rule 17.03(3)</u>
<b><u>“senior manager”</u></b>	<u>refers to a senior manager disclosed in the issuer’s annual report as required under paragraph 12 to Appendix 16</u>
<b><u>“service provider”</u></b>	<u>has the meaning in rule 17.03A(1)</u>
<b><u>“service provider sublimit”</u></b>	<u>has the meaning in rule 17.03(3)</u>
<b><u>“schemes” or “share schemes”</u></b>	<u>include share option schemes and share award schemes</u>
<b><u>“share award scheme”</u></b>	<u>refers to a scheme involving the grant of shares by a listed issuer or its principal subsidiary (as the case may be)</u>
<b><u>“share option scheme”</u></b>	<u>refers to a scheme involving the grant of options over shares of a listed issuer or a principal subsidiary of the issuer (as the case may be)</u>

## Share schemes involving issue of new shares by listed issuers

### Adoption of a new scheme

17.02 (1) (a) The scheme of a listed issuer ~~or any of its subsidiaries~~ must be approved by shareholders of the listed issuer in general meeting. The listed issuer must publish ~~in accordance with rule 2.07C~~ an announcement on the outcome of the shareholders' meeting for the adoption of the scheme in the manner as set out in rule 13.39(5) as soon as possible, but in any event not later than the time that is 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following such meeting.

Drafting changes (relevant requirements already set out in Rule 13.39(5))

(b) A scheme adopted by a new applicant prior to its listing does not need to be approved by its shareholders after listing. However, all material the terms of the scheme must be clearly set out in the prospectus. Where the scheme does not comply with the provisions of this chapter, options and awards granted to, or for the benefit of, specified participants before listing may continue to be valid after listing (subject to the Exchange granting approval for listing of the new applicant's shares securities to be issued in respect of upon exercise of such options and awards) but no further options or awards may be granted under the scheme after listing. The new applicant must also disclose in the prospectus full details of all outstanding options and awards and their potential dilution effect on the shareholdings upon listing as well as the impact on the earnings per share arising from the issue of shares in respect exercise of such outstanding options or awards.

Proposal (A)

Notes: (1) *The Exchange reserves the right to review and consider these matters on a case-by-case basis.*

(2) *Where the new applicant is a principal subsidiary of a listed issuer, the scheme must comply with rules 17.13 to 17.15 ~~be approved by shareholders of the listed issuer in general meeting. The terms of the scheme must comply with the provisions of this chapter including, in particular, rule 17.03(9) (the basis of determination of the exercise price).~~*

(2) The scheme document itself does not need to be circulated to shareholders of the listed issuer. However, if the scheme document is not so circulated, it must be published on the Exchange's website and the issuer's own website for a period of not less than 14 days before the date of the general meeting and made available for inspection at the general meeting and the terms of the shareholders' resolution must approve the scheme as described in the summary circulated circular to the shareholders of the listed issuer. The circular must include the following information:

(a) the provisions described in rule 17.03;

(b) an explanation as to how the terms of the scheme, in particular, how the provisions described in rules 17.03(2), (6), (7), and (9) and (19), will serve align with the purpose of the scheme as set out in the scheme document;

Proposals (B), (E)

- (c) information relating to any directors of the listed issuer who are trustees of the scheme or have a direct or indirect interest in the trustees; and
- (d) a statement in the form set out in paragraph 2 of Appendix 1, Part B; and
- (e) any additional information requested by the Exchange.

Note: Where the scheme includes service providers and/or related entity participants as eligible participants, the Exchange may require the circular to include the views of the independent non-executive directors of the issuer on whether the inclusion of these participants aligns with the purpose of the scheme and the long term interests of the issuer and its shareholders. As general guidance, this will include the views of the independent non-executive directors as to whether the proposed categories of service providers/related entity participants are in line with the issuer's business needs or the industry norm and whether the criteria for the selection of eligible participants and the terms of the grants (such as vesting requirements and performance targets, if any) align with the purpose of the scheme. The Exchange may apply this requirement having regard to, for example, the nature of the operations of the issuer and its relationship with the service providers and related entity participants, the history of grants by the issuer to the service providers and related entity participants, or other circumstances that suggest the scheme may allow for substantial grants of options or awards to non-employee participants.

Proposal  
(B)

- ~~(3) Where the scheme involves options over listed securities, the listed issuer is encouraged to disclose in the circular the value of all options that can be granted under the scheme as if they had been granted at the latest practicable date prior to the approval of the scheme. Where the listed issuer considers that disclosure of value of options is not appropriate, it must state the reason for such non-disclosure in the circular. The listed issuer should use the Black-Scholes option pricing model, the binomial model or a comparable generally accepted methodology to calculate the value of options. The information described in (1), (2) and (4) in the note to rule 17.08 should also be disclosed. The latest practicable date should be taken as the measurement date.~~

Proposal  
(S)

- ~~(4) All circulars and announcements required under this chapter must contain on the front cover or inside front cover of the circular or at the top of the announcement (as the case may be) a prominent and legible disclaimer in the following terms:~~

~~"Hong Kong Exchanges and Clearing Limited and The Stock Exchange of Hong Kong Limited take no responsibility for the contents of this [circular/announcement], make no representation as to its accuracy or completeness and expressly disclaim any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this [circular/announcement]."~~

Drafting  
changes  
(relevant  
requirements  
already set  
out in Note 5  
to Rule  
13.52(2))

- ~~(35) The listed issuer must provide a summary of the terms of the scheme to all participants on joining the scheme (and a copy of the scheme document to any participant who requests such a copy). The listed issuer must provide to all~~

participants all details relating to changes in the terms of the scheme during the life of the scheme immediately upon such changes taking effect.

### Terms of the scheme

17.03 The scheme document must include the following provisions and/or provisions as to the following (as the case may be):

- (1) the purpose of the scheme;
- (2) the participants of the scheme and the basis of determining the eligibility of participants;

*Notes: (1) Listed issuers are reminded to seek legal advice on the prospectus requirements of the Companies (Winding Up and Miscellaneous Provisions) Ordinance, particularly where participation in the scheme is not restricted to executives and employees.*

*(2) See rule 17.03A for the requirements relating to participants of share schemes.*

- (3) the total number of shares securities which may be issued in respect of upon exercise of all options and awards to be granted under the scheme and any other schemes (the **scheme mandate limit**), together with the percentage of the issued shares that it represents at the date of approval of the scheme; and, where the participants of the scheme include service providers, the sublimit on the total number of shares that may be issued in respect of all options and awards to be granted to service providers (the **service provider sublimit**) within the scheme mandate limit;

Proposal  
(C)(ii)

*Note: See rules 17.03B and 17.03C for the requirements relating to the scheme mandate limit and the service provider sublimit.*

*Notes: ~~(1) The total number of securities which may be issued upon exercise of all options to be granted under the scheme and any other schemes must not in aggregate exceed 10% of the relevant class of securities of the listed issuer (or the subsidiary) in issue as at the date of approval of the scheme (alternatively, in respect of a scheme of a subsidiary that will become effective only upon its separate listing, the 10% limit may be calculated by reference to the relevant class of securities of the subsidiary in issue as at the date of its listing). Options lapsed in accordance with the terms of the scheme will not be counted for the purpose of calculating the 10% limit.~~*

Drafting  
changes  
(requirements  
in Note (1)  
moved to new  
Rules 17.03B  
and 17.03C)

*~~The listed issuer may seek approval by its shareholders in general meeting for "refreshing" the 10% limit under the scheme. However, the total number of securities which may be issued upon exercise of all options to be granted under all of the schemes of the listed issuer (or the subsidiary) under the limit as "refreshed" must not exceed 10% of the relevant class of securities in issue as at the date of approval of the limit. Options previously granted~~*

~~under the schemes (including those outstanding, cancelled, lapsed in accordance with the scheme or exercised options) will not be counted for the purpose of calculating the limit as "refreshed". The listed issuer must send a circular to its shareholders containing the information required under rule 17.02(2)(d) and the disclaimer required under rule 17.02(4).~~

~~A listed issuer may seek separate approval by its shareholders in general meeting for granting options beyond the 10% limit provided the options in excess of the limit are granted only to participants specifically identified by the listed issuer before such approval is sought. The listed issuer must send a circular to the shareholders containing a generic description of the specified participants who may be granted such options, the number and terms of the options to be granted, the purpose of granting options to the specified participants with an explanation as to how the terms of the options serve such purpose, the information required under rule 17.02(2)(d) and the disclaimer required under rule 17.02(4).~~

~~(2) The limit on the number of securities which may be issued upon exercise of all outstanding options granted and yet to be exercised under the scheme and any other schemes must not exceed 30% of the relevant class of securities of the listed issuer (or the subsidiary) in issue from time to time. No options may be granted under any schemes of the listed issuer (or the subsidiary) if this will result in the limit being exceeded.~~

Proposal  
(C)(i)

~~(3) If the listed issuer (or the subsidiary) conducts a share consolidation or subdivision after the 10% limit has been approved in general meeting, the maximum number of securities that may be issued upon exercise of all options to be granted under all of the schemes of the listed issuer (or the subsidiary) under the 10% limit as a percentage of the total number of issued shares at the date immediately before and after such consolidation or subdivision shall be the same.~~

Drafting  
changes  
(requirements  
in Note (3)  
moved to new  
Rule 17.03B

(4) the maximum entitlement of each participant under the scheme;

Note: See rule 17.03D for the limit on grants to individual participants.

~~Note: Unless approved by shareholders in the manner set out in this note to rule 17.03(4), the total number of securities issued and to be issued upon exercise of the options granted to each participant (including both exercised and outstanding options) in any 12-month period must not exceed 1% of the relevant class of securities of the listed issuer (or the subsidiary) in issue. Where any further grant of options to a participant would result in the securities issued and to be issued upon exercise of all options granted and to be granted to such person (including exercised, cancelled and outstanding options) in the 12-month period up to and including the date of such further grant representing in aggregate over 1% of the relevant class of securities in issue, such further grant must be separately approved by shareholders of the listed issuer in general~~

Drafting  
changes  
(requirements  
in the Note  
moved to new  
Rule 17.03D)

~~meeting with such participant and his close associates (or his associates if the participant is a connected person) abstaining from voting. The listed issuer must send a circular to the shareholders and the circular must disclose the identity of the participant, the number and terms of the options to be granted (and options previously granted to such participant), the information required under rule 17.02(2)(d) and the disclaimer required under rule 17.02(4). The number and terms (including the exercise price) of options to be granted to such participant must be fixed before shareholders' approval and the date of board meeting for proposing such further grant should be taken as the date of grant for the purpose of calculating the exercise price under note (1) to rule 17.03(9).~~

- (5) ~~the period within which the securities must be taken up under the~~ an option may be exercised by the grantee under the scheme, which must not be more than 10 years from the date of grant of the option;

Drafting changes

- (6) ~~the vesting period of options or awards to be granted under the scheme the minimum period, if any, for which an option must be held before it can be exercised;~~

Note: See rule 17.03F for the requirements on the vesting period.

Proposal (D)

- (7) ~~a description (which may be qualitative) of the performance targets, if any, attached to options or awards to be granted under the scheme that must be achieved before the options can be exercised or, if none, a negative statement to that effect. Such description may include a general description of the target levels and performance related measures and the method for assessing how they are satisfied;~~

Proposal (E)

- (8) the amount, if any, payable on application or acceptance of the option or award and the period within which payments or calls must or may be made or loans for such purposes must be repaid;

- (9) the basis of determination of the exercise price of options or the purchase price of shares awarded, if any;

Note: See rule 17.03E for the requirements on the exercise price of options.

~~Notes: (1) Subject to note (2) to rule 17.03(9), the exercise price must be at least the higher of: (i) the closing price of the securities as stated in the Exchange's daily quotations sheet on the date of grant, which must be a business day; and (ii) the average closing price of the securities as stated in the Exchange's daily quotations sheets for the five business days immediately preceding the date of grant. For the purpose of calculating the exercise price where an issuer has been listed for less than five business days, the new issue price shall be used as the closing price for any business day falling within the period before listing.~~

Drafting changes (requirements in Note (1) moved to a new Rule 17.03E

~~(2) Note (1) to rule 17.03(9) does not apply to a share option scheme of a subsidiary of the listed issuer if the subsidiary's securities are not listed on the Exchange. However, the scheme must provide~~

Drafting changes (requirements in Note (2) moved to a new Rule 17.15(2)

~~that the exercise price of options granted after the listed issuer has resolved to seek a separate listing of such subsidiary on the Exchange, GEM or an overseas stock exchange and up to the listing date of the subsidiary must be not lower than the new issue price (if any). In particular, any options granted during the period commencing six months before the lodgement of Form A1 (or its equivalent for listing on GEM or the overseas stock exchange) up to the listing date of the subsidiary are subject to this requirement. The scheme must therefore provide for any necessary adjustment of the exercise price of options granted during such period to not lower than the new issue price.~~

- (10) the voting, dividend, transfer and other rights, including those arising on a liquidation of the listed issuer, attaching to the shares securities—and (if appropriate) any such rights attaching to the options or awards themselves;
- (11) the life of the scheme, which must not be more than 10 years;
- (12) the circumstances under which options or awards will automatically lapse;
- (13) a provision for adjustment of the exercise or purchase price and/or the number of shares securities—subject to options or awards—~~already granted and to granted under~~ the scheme in the event of a capitalisation issue, rights issue, sub-division or consolidation of shares or reduction of capital;

*Note:* Any adjustments required under rule 17.03(13) must give a participant the same proportion of the equity capital, rounded to the nearest whole share, as that to which that person was previously entitled, but no such adjustments may be made to the extent that a share would be issued at less than its nominal value (if any). The issue of securities as consideration in a transaction may not be regarded as a circumstance requiring adjustment. In respect of any such adjustments, other than any made on a capitalisation issue, an independent financial adviser or the listed issuer's auditors must confirm to the directors in writing that the adjustments satisfy the requirements set out in this note.

- (14) a provision for the cancellation of options or awards granted ~~but not exercised~~;

*Note:* ~~Where a listed issuer cancels options or awards granted to a participant, and makes a new grant issues new ones to the same participant option holder, the issue of such new options such new grant may only be made under a scheme with available scheme mandate unissued options (excluding the cancelled options) within the limit approved by shareholders as mentioned referred to in rule 17.03B or rule 17.03C note (1) to rule 17.03(3). The options or awards cancelled will be regarded as utilised for the purpose of calculating the scheme mandate limit (and the service provider sublimit).~~

Drafting changes

- (15) ~~unless~~ the shares securities—subject to the scheme must be separately designated unless they are identical with other shares securities of the issuer in issue, a provision that they must be separately designated;
- (16) where there is a provision for termination of the operation of the scheme before

Drafting changes

the end of its life, a provision for the treatment of options or awards granted under the scheme but not yet exercised or in respect of which shares are not yet issued to the participants at the time of termination;

Note: Details of the options or awards granted, (including options exercised or outstanding, or shares issued and to be issued in respect of the awards granted) under the scheme and (if applicable) options or awards that become void or non-exercisable as a result of the termination must be disclosed in the circular to shareholders seeking approval of the first new scheme to be established or refreshment of scheme mandate limit under any existing scheme after such termination.

(17) transferability of options or awards; and

Note: Options or awards granted under the scheme must be personal to the respective grantee. No options or awards may be transferred or assigned. The Exchange may consider granting a waiver to allow a transfer to a vehicle (such as a trust or a private company) for the benefit of the participant and any family members of such participant (e.g. for estate planning or tax planning purposes) that would continue to meet the purpose of the scheme and comply with other requirements of this chapter. Where such waiver is granted, the Exchange shall require the issuer to disclose the beneficiaries of the trust or the ultimate beneficial owners of the transferee vehicle.

Proposal  
(L)

(18) the specific terms of the scheme that can be changed by directors or scheme administrators without the approval of shareholders of the listed issuer in general meeting; and-

Notes:

(1) Any alterations to the terms and conditions of a share scheme which are of a material nature or any alterations to the ~~The provisions relating to the matters set out in this rule 17.03 cannot be altered to the advantage of participants must be approved by without the prior approval of shareholders of the listed issuer in general meeting.~~

Move from  
note (2) to  
Rule  
17.03(18)

(2) ~~Any alterations to the terms and conditions of a share option scheme of a listed issuer or any of its subsidiaries which are of a material nature or any change to the terms of options or awards granted must be to a participant must be approved by the board, the remuneration committee, the independent non-executive directors and/or the shareholders of the listed issuer (as the case may be) if the initial grant of the options or awards was approved by the board, the remuneration committee, the independent non-executive directors and/or the shareholders of the listed issuer, (as the case may be). This requirement does not apply except where the alterations take effect automatically under the existing terms of the scheme.~~

Proposal  
(K)

(3) The amended terms of the scheme or the options or awards must still comply with the relevant requirements of this chapter 17.

(4) Any change to the authority of the directors or scheme administrators in

~~relation to any alteration to alter the terms of the scheme must be approved by shareholders of the listed issuer in general meeting.~~

- (19) where the listed issuer has established a clawback mechanism to recover or withhold the remuneration (which may include any options or awards granted) to any participants in the event of serious misconduct, a material misstatement in the issuer's financial statements or other circumstances, a description of the clawback mechanism or, if none, a negative statement to that effect.

Proposal  
(E)

### **Participants of the scheme**

17.03A (1) Participants of a scheme shall comprise one or more of the following:

- (a) directors and employees of the issuer or any of its subsidiaries (including persons who are granted options or awards under the scheme as an inducement to enter into employment contracts with these companies) (**employee participants**);
- (b) directors and employees of the holding companies, fellow subsidiaries or associated companies of the issuer (**related entity participants**); and
- (c) persons who provide services to the issuer group on a continuing or recurring basis in its ordinary and usual course of business which are in the interests of the long term growth of the issuer group (**service providers**).

Proposal  
(B)

*Note: Service providers may include, for example, persons who work for the issuer as independent contractors where the continuity and frequency of their services are akin to those of employees. For the avoidance of doubt, service providers should exclude placing agents or financial advisers providing advisory services for fundraising, mergers or acquisitions. They should also exclude professional service providers such as auditors or valuers who provide assurance, or are required to perform their services with impartiality and objectivity.*

- (2) The scheme document must clearly identify each category of service providers and the criteria for determining a person's eligibility under each category.

### **Scheme mandate limit and service provider sublimit**

17.03B (1) The scheme mandate limit must not exceed 10% of the relevant class of shares of the listed issuer in issue as at the date of approval of the scheme (alternatively, in respect of a scheme of a new applicant that will become effective only upon its separate listing, the 10% limit may be calculated by reference to the relevant class of shares of the applicant in issue as at the date of its listing).

Proposal  
(C)

- (2) Where the participants of the scheme include service providers, the service provider sublimit must be set within the scheme mandate limit and separately approved by shareholders of the issuer in general meeting. The circular must contain the basis for determining the service provider sublimit and an explanation as to why the service provider submit is appropriate and reasonable.

Proposal  
(C)

Notes: (1) Options or awards lapsed in accordance with the terms of the scheme will

not be regarded as utilised for the purpose of calculating the scheme mandate limit (and the service provider sublimit, if any).

(2) If the listed issuer conducts a share consolidation or subdivision after the scheme mandate limit or the service provider sublimit has been approved in general meeting, the maximum number of shares that may be issued in respect of all options and awards to be granted under all of the schemes of the listed issuer under the scheme mandate limit or the service provider sublimit as a percentage of the total number of issued shares at the date immediately before and after such consolidation or subdivision shall be the same, rounded to the nearest whole share.

17.03C (1) (a) The listed issuer may seek approval by its shareholders in general meeting for "refreshing" the scheme mandate limit (and the service provider sublimit, if any) under the scheme after three years from the date of shareholders' approval for the last refreshment (or the adoption of the scheme).

Proposal  
(C)

(b) Any "refreshment" within any three year period must be approved by shareholders of the issuer subject to the following provisions:

(i) any controlling shareholders and their associates (or if there is no controlling shareholder, directors (excluding independent non-executive directors) and the chief executive of the issuer and their respective associates) must abstain from voting in favour of the relevant resolution at the general meeting; and

(ii) the issuer must comply with the requirements under rules 13.39(6) and (7), 13.40, 13.41 and 13.42.

(c) The requirements under paragraphs (i) and (ii) of rule 17.03C(1)(b) do not apply if the refreshment is made immediately after an issue of securities by the issuer to its shareholders on a pro rata basis as set out in rule 13.36(2)(a) such that the unused part of the scheme mandate (as a percentage of the relevant class of shares in issue) upon refreshment is the same as the unused part of the scheme mandate immediately before the issue of securities, rounded to the nearest whole share.

(2) The total number of shares which may be issued in respect of all options and awards to be granted under all of the schemes of the listed issuer under the scheme mandate as "refreshed" must not exceed 10% of the relevant class of shares in issue as at the date of approval of the refreshed scheme mandate. The listed issuer must send a circular to its shareholders containing the number of options and awards that were already granted under the existing scheme mandate limit and the existing service provider sublimit (if any), and the reason for the "refreshment".

(3) A listed issuer may seek separate approval by its shareholders in general meeting for granting options or awards beyond the scheme mandate limit provided the options or awards in excess of the limit are granted only to participants specifically identified by the listed issuer before such approval is sought. The listed issuer must send a circular to the shareholders containing the name of each specified participant who may be granted such options or awards, the number and terms of the options or awards to be granted to each participant.

and the purpose of granting options or awards to the specified participants with an explanation as to how the terms of the options or awards serve such purpose. The number and terms of options or awards to be granted to such participant must be fixed before shareholders' approval. In respect of any options to be granted, the date of the board meeting for proposing such grant should be taken as the date of grant for the purpose of calculating the exercise price under rule 17.03E.

### **Limit on granting options or awards to individual participants**

- 17.03D (1) Where any grant of options or awards to a participant would result in the shares issued and to be issued in respect of all options and awards granted to such person (excluding any options and awards lapsed in accordance with the terms of the scheme) in the 12-month period up to and including the date of such grant representing in aggregate over 1% of the relevant class of shares of the listed issuer in issue (the **1% individual limit**), such grant must be separately approved by shareholders of the listed issuer in general meeting with such participant and his/her close associates (or associates if the participant is a connected person) abstaining from voting. The listed issuer must send a circular to the shareholders.
- (2) The circular must disclose the identity of the participant, the number and terms of the options or awards to be granted (and those previously granted to such participant in the 12-month period), the purpose of granting options or awards to the participant and an explanation as to how the terms of the options or awards serve such purpose. The number and terms of the options or awards to be granted to such participant must be fixed before shareholders' approval. In respect of any options to be granted, the date of the board meeting for proposing such further grant should be taken as the date of grant for the purpose of calculating the exercise price under rule 17.03E.

Proposal  
(G)

### **Exercise price of options**

- 17.03E The exercise price of options must be at least the higher of: (i) the closing price of the shares as stated in the Exchange's daily quotations sheet on the date of grant, which must be a business day; and (ii) the average closing price of the shares as stated in the Exchange's daily quotations sheets for the five business days immediately preceding the date of grant. For the purpose of calculating the exercise price where an issuer has been listed for less than five business days, the new issue price shall be used as the closing price for any business day falling within the period before listing.

Proposal  
(F)

*Note: Rule 17.03E does not apply to a share award scheme.*

### **Vesting period**

- 17.03F The vesting period for options or awards shall not be less than 12 months. Options or awards granted to employee participants may be subject to a shorter vesting period under specific circumstances as set out in the scheme document. Any such specific circumstances and an explanation by the issuer's board of directors (or the remuneration committee where the arrangements relate to grants of options or awards to the issuer's directors and/or senior managers) as to why the arrangements are appropriate and how the grants align with the purpose of the scheme must be clearly disclosed in the circular for the adoption of the scheme.

Proposal  
(D)

**Granting options or awards to a director, chief executive or substantial shareholder of a listed issuer, or any of their respective associates**

- 17.04 (1) ~~In addition to the shareholders' approval set out in note (1) to rule 17.03(3) and the note to rule 17.03(4), each~~ Any grant of options or awards to a director, chief executive or substantial shareholder of a listed issuer, or any of their respective associates, under a scheme of the listed issuer or any of its subsidiaries must comply with the requirements of this rule 17.04(1). Each grant of options to any of these persons must be approved by the independent non-executive directors of the listed issuer (excluding any independent non-executive director who is the grantee of the options or awards).

Proposal  
(G)

*Note: For an issuer with WVR structure, the Corporate Governance Committee must make a recommendation on any grants of options or awards to a director who is a beneficiary of weighted voting rights under rule 8A.30(4).*

- ~~(2)~~ Where any grant of awards (excluding grant of options) to a director (other than an independent non-executive director) or chief executive of the issuer, or any of their associates would result in the shares issued and to be issued in respect of all awards granted (excluding any awards lapsed in accordance with the terms of the scheme) to such person in the 12-month period up to and including the date of such grant, representing in aggregate over 0.1% of the relevant class of shares in issue, such further grant of awards must be approved by shareholders of the listed issuer in general meeting in the manner set out in rule 17.04(4).

- ~~(3)~~ Where any grant of options or awards to a substantial shareholder or an independent non-executive director or a substantial shareholder of the listed issuer, or any of their respective associates, would result in the shares securities issued and to be issued upon exercise in respect of all options and awards already granted and to be granted (excluding any options and awards lapsed in accordance with the terms of the scheme including options exercised, cancelled and outstanding) to such person in the 12-month period up to and including the date of such grant:

- ~~(a)~~ representing in aggregate over 0.1% of the relevant class of shares securities in issue; and
- ~~(b)~~ (where the securities are listed on the Exchange), having an aggregate value, based on the closing price of the securities at the date of each grant, in excess of HK\$5 million,

such further grant of options or awards must be approved by shareholders of the listed issuer in general meeting in the manner set out in rule 17.04(4).

*Note: See also the recommended best practice relating to the grant of options or awards to independent non-executive directors under E.1.9 of the Corporate Governance Code in Appendix 14 to the Rules.*

- ~~(4)~~ In the circumstances described in rule 17.04(2) or (3), the listed issuer must send a circular to the shareholders. The grantee, his/her associates and all core connected persons of the listed issuer must abstain from voting in favour at such general meeting. (2) ~~Listed issuers~~ The listed issuer must comply with the requirements under rules 13.40, 13.41 and 13.42.

~~(5)(3)~~ The circular must contain:

- (a) details of the number and terms ~~(including the exercise price)~~ of the options or awards to be granted to each participant, which must be fixed before the shareholders' meeting, ~~and~~ In respect of any options to be granted, the date of board meeting for proposing such further grant is to be taken as the date of grant for the purpose of calculating the exercise price under rule 17.03E note (1) to rule 17.03(9);

*Note: The description of the terms of the options or awards must include the information required under rules 17.03(5) to 17.03(10) and rule 17.03(19).*

- (b) ~~a recommendation from the views of the independent non-executive directors of the listed issuer (excluding any independent non-executive director who is the grantee of the options or awards) as to whether the terms of the grant are fair and reasonable and whether such grant is in the interests of the issuer and its shareholders as a whole, and their recommendation to the independent shareholders as to voting;~~
- (c) the information required under rules 17.02(2)(c) ~~and (d) and the disclaimer required under rule 17.02(4); and~~
- (d) the information required under rule 2.17.

Notes: (1) ~~Shareholders' approval as required under rule 17.04(1) is also required for any Any change in the terms of options or awards granted to a participant who is a director, chief executive or substantial shareholder or an independent non-executive director of the listed issuer, or any of their respective associates, must be approved by shareholders of the issuer in the manner as set out in rule 17.04(4) if the initial grant of the options or awards requires such approval (except where the changes take effect automatically under the existing terms of the scheme).~~

Proposal  
(K)

- (2) ~~The requirements for the grant granting of options to a director or chief executive of a listed issuer set out in this rules 17.04(1), (2) and (3) do not apply where the participant is only a proposed director or chief executive of the listed issuer.~~

#### **Restriction on the time of grant of options or awards**

17.05 An issuer may not grant any options or awards after inside information has come to its knowledge until (and including) the trading day after it has announced the information. In particular, it may not grant any options or awards during the period commencing one month immediately before the earlier of:

- (1) the date of the board meeting (as such date is first notified to the Exchange under the Listing Rules) for approving the issuer's results for any year, half-year, quarterly or any other interim period (whether or not required under the Listing Rules); and
- (2) the deadline for the issuer to announce its results for any year or half-year under

the Listing Rules, or quarterly or any other interim period (whether or not required under the Listing Rules),

and ending on the date of the results announcement.

*Note: No option or award may be granted during any period of delay in publishing a results announcement.*

### **Voting of unvested shares**

17.05A The trustee holding unvested shares of a share scheme, whether directly or indirectly, shall abstain from voting on matters that require shareholders' approval under the Listing Rules, unless otherwise required by law to vote in accordance with the beneficial owner's direction and such a direction is given.

Proposal  
(M)

### **Despatch of circular**

17.06 ~~The~~Any circular required under this chapter should be despatched to the shareholders no later than the date on which the listed issuer gives notice of the general meeting to approve the scheme or ~~related~~other matters as required under this chapter.

### **Announcement on grant of options or awards**

17.06A (1) As soon as possible upon the granting by the listed issuer of any options or awards under the scheme, the listed issuer must publish an announcement in accordance with rule 2.07C setting out the following details: in rule 17.06B.

Proposal  
(H)

(2) The disclosure must be made, on an individual basis, if the grantee is:

(a) a director, chief executive or substantial shareholder of the listed issuer, or an associate of any of them;

(b) a participant with options and awards granted and to be granted exceeding the 1% individual limit; or

(c) a related entity participant or service provider with options and awards granted and to be granted in any 12-month period exceeding 0.1% of the relevant class of shares in issue.

(3) Information relating to grants of options or awards to other grantees may be disclosed by category. The Exchange may require the issuer to submit a list of the grantees in the format it prescribed for the time being.

17.06B The announcement must set out the following details in a tabular format:

(1) the date of grant;

(2) (a) where disclosure on an individual basis is required, the name of the grantee (and where the grantee is not a natural person, the name of its ultimate beneficial owner) and the relationship between the grantee and the issuer. Where the grantee is a related entity participant or service provider, the nature of services provided to the issuer; or

Proposals  
(B), (H)

- (b) where disclosure on an individual basis is not required, a description of each of the categories of grantees;
- (3) the number of options or awards granted;
- (42) the exercise price of options or purchase price of awards granted;
- (54) the market price of the ~~its shares securities~~ on the date of grant;
- (5) ~~where any of the grantees is a director, chief executive or substantial shareholder of the listed issuer, or an associate of any of them, the names of such grantees and the number of options granted to each of them; and~~
- (6) the exercise period of the options ~~validity period of the options~~;
- (7) the vesting period of the options or awards. In the case of grants of options or awards to employee participants with a shorter vesting period as set out in rule 17.03F, the relevant circumstances that are specifically permitted by the scheme. Where the options or awards are granted to the issuer's directors and/or senior managers, the remuneration committee's views on why a shorter vesting period is appropriate;
- (8) a description (which may be qualitative) of the performance targets attached to the options or awards granted, if any, and the clawback mechanism for the issuer to recover or withhold any awards or options granted, if any. Where options or awards are granted to the issuer's directors and/or senior managers without performance targets and/or clawback mechanism, the views of the remuneration committee on why performance targets and/or a clawback mechanism is/are not necessary and how the grants align with the purpose of the scheme;
- (9) where options or awards are granted to a service provider or a related entity participant, the reasons for the grant and the views of the board how the grant aligns with the purpose of the scheme; and
- (10) arrangements, if any, for the issuer or any of its subsidiaries to provide financial assistance to the grantee(s) to facilitate the purchase of shares under the scheme.

Proposals  
(D), (H)

Proposals  
(E), (H)

Proposals  
(B), (H)

Note: The issuer must comply with Chapter 14A for providing financial assistance to any grantee who is a connected person.

17.06C The announcement must also disclose the number of shares available for future grant under the scheme mandate and the service provider sublimit (if applicable).

### **Disclosure in annual report and interim report requirements**

17.07 ~~In relation to each scheme of a listed issuer or any of its subsidiaries, the~~ The listed issuer must disclose in its annual report and interim report the following information in relation to options and awards granted and to be granted under its share scheme(s) to:

(i) each of the directors, chief executive or substantial shareholders of the listed issuer, or their respective associates; (ii) each participant with options and awards granted and to be granted in excess of the 1% individual limit; (iii) each related entity participant or service provider with options and awards granted and to be granted in any 12-month period exceeding 0.1% of the relevant class of shares in issue; ~~aggregate figures for~~

Proposal  
(I)

~~employees working under employment contracts that are regarded as "continuous contracts" for the purposes of the Employment Ordinance; (iv) aggregate figures for suppliers of goods or services; and (iv) all other employee participants, related entity participants and service providers by category as an aggregate whole:~~

(1) a table showing the following details of awards and options granted to each participant or category of participants:

(a) name of the grantee or a description of each of the categories of grantees;

(b1) particulars of the outstanding options and unvested awards at the beginning and at the end of the financial year/period, including the number of options and unvested awards, date of grant, vesting period, exercise period and exercise/purchase price;

(c2) particulars of the options and awards granted during the financial year/period, including (i) the number of options and awards, (ii) the date of grant, (iii) the vesting period, exercise period, exercise/purchase price and performance targets (if any), and (iv) (where the shares are for options over listed securities) the closing price of the shares securities immediately before the date on which the options or awards were granted, and (v) the fair value of options and awards at the date of grant and the accounting standard and policy adopted;

*Note: The listed issuer should calculate the fair value of options and awards in accordance with the accounting standards and policies adopted for preparing its financial statements and disclose the methodology and assumptions used, including but not limited to:*

(1) In the case of options, a description of the option pricing model and details of the significant assumptions and inputs used in that pricing model such as the expected volatility, expected dividends and the risk-free interest rate. The issuer should include an explanation of how these significant assumptions and inputs were determined.

(2) In the case of awards, a description of the basis for fair value measurement and information on whether and how the features of the awards (for example, the expected dividends) are incorporated into the measurement of fair value.

(d3) the number of options exercised and awards vested during the financial year/period with the exercise/purchase price and (where the shares are for options over listed securities) the weighted average closing price of the shares securities immediately before the dates on which the options or awards were exercised or vested;

(e4) the number of options and awards cancelled during the financial year/period together with the exercise/purchase price of the cancelled options and awards; and

(f5) the number of options and awards which lapsed in accordance with the terms of the scheme during the financial year/period.

(2) the number of options and awards available for grant under the scheme mandate and the service provider sublimit (if applicable) at the beginning and the end of the financial year/period; and

(3) the number of shares that may be issued in respect of options and awards granted under all schemes of the issuer during the financial year/period divided by the weighted average number of shares of the relevant class in issue for the year/period.

17.07A The listed issuer must disclose in its remuneration report or corporate governance report a summary of material matters relating to share schemes that were reviewed and/or approved by the remuneration committee during the financial year. For matters relating to any grants of options or awards to the issuer's directors and senior managers as set out in rule 17.03(F) and rules 17.06B(7) and (8), the remuneration committee must explain why it was appropriate to approve those matters, the factors that it took into account and how the grants align with the purpose of the scheme (including how the grants align the grantees' interests with those of the issuer and its shareholders).

Proposal  
(J)

17.08 ~~[Repealed 1 January 2023] In respect of options granted during the financial year/period over listed securities, the listed issuer is encouraged to disclose in its annual report and interim report the value of options granted to participants set out in (i) to (v) of rule 17.07 during the financial year/period, and the accounting policy adopted for the share options. Where the listed issuer considers that disclosure of value of options granted during the financial year/period is not appropriate, it must state the reason for such non-disclosure in its annual report or interim report.~~

Replaced  
by the  
proposed  
disclosure  
requirement  
under rule  
17.07(1)(c)

~~Note: In respect of the disclosure of value of options in annual report or interim report, the listed issuer should use the Black-Scholes option pricing model, the binomial model or a comparable generally accepted methodology to calculate the value of options. The listed issuer should also disclose, in the annual report or interim report, the following information:~~

~~(1) a description of the model and significant assumptions used to estimate the value of the option, taking into account factors such as risk-free interest rate, expected life, expected volatility and expected dividend, if applicable;~~

~~(i) Where the calculation of the value is referable to a risk-free interest rate, such rate should be the rate prevailing on debt securities issued by the state, such as the Exchange Fund Notes in the case of Hong Kong based entities.~~

~~(ii) The listed issuer should set out the expected volatility used in calculating the value, with an explanation of any deviations from the historical volatility of the securities. The listed issuer may choose the period of time that it considers appropriate for calculating such historical volatility. However, such period may not be less than one year or, where securities have been listed for less than one year from the date of commencement of dealings in such securities, such period is to be from the date of commencement of such dealings to the date of the calculation.~~

~~(iii) Expected dividends should be based on historical dividends, with an~~

~~explanation of any adjustments made for publicly available information indicating that future performance is reasonably expected to differ from past performance.~~

~~(2) the measurement date which should be the date on which the options were granted;~~

~~(3) the treatment of forfeiture prior to the expiry date; and~~

~~(4) a warning statement with regard to the subjectivity and uncertainty of the values of options to the effect that such values are subject to a number of assumptions and with regard to the limitation of the model.~~

17.09 The listed issuer must include in its annual report a summary of each share option scheme approved by its shareholders setting out:

Proposal  
(I)

- (1) the purpose of the scheme;
- (2) the participants of the scheme;
- (3) the total number of shares securities available for issue under the scheme together with the percentage of the issued shares that it represents as at the date of the annual report;
- (4) the maximum entitlement of each participant under the scheme;
- (5) the period within which the securities must be taken up under an option may be exercised by the grantee under the scheme;
- (6) the vesting period of options or awards granted under the scheme the minimum period, if any, for which an option must be held before it can be exercised;
- (7) the amount, if any, payable on application or acceptance of the option or award and the period within which payments or calls must or may be made or loans for such purposes must be repaid;
- (8) the basis of determining the exercise price of options granted or the purchase price of shares awarded, if any; and
- (9) the remaining life of the scheme.

### **Transitional arrangements**

#### **Other requirements**

17.10 ~~[Repealed 1 October 2020]~~ In respect of share schemes of a listed issuer with a WVR structure, the scheme mandate limit, the service provider sublimit, the 1% individual limit, the limits on grants to the issuer's directors, chief executive and substantial shareholders (and their respective associates) under rule 17.04 and the limit on grants to service providers and related entity participants under rule 17.06A(1)(c) are to be calculated with reference to the total number of issued shares of the issuer (including ordinary shares and shares that carry weighted voting rights).

17.11 Listed issuers must comply with the terms of their share option schemes in addition to the requirements of this chapter 17. A breach of any such terms or requirements will constitute a breach of the Exchange Listing Rules.

**Share schemes involving existing shares of listed issuers**

17.12 In respect of share scheme(s) of a listed issuer involving its existing shares:

(1) The issuer must disclose in its annual report:

(a) the information set out in rule 17.07(1) relating to grants of options and awards to (i) each director of the issuer; (ii) the five highest paid individuals during the financial year in aggregate; and (iii) other grantees in aggregate; and

(b) a summary of each share scheme as required under rule 17.09.

(2) Rule 17.05A applies to unvested shares held by the trustee of the scheme.

Proposal  
(N)

Proposal  
(O)

**Share schemes involving new or existing shares of a principal subsidiary of a listed issuer**

17.13 Rules 17.02 to 17.04 and rules 17.06 to 17.09, with appropriate modifications, apply to share schemes of a principal subsidiary of a listed issuer (whether they involve new shares issued by the subsidiary or existing shares of the subsidiary held by or for the issuer) as if they were share schemes of the issuer as described in rule 17.01(1).

Proposal  
(Q)

17.14 A “principal subsidiary” refers to a subsidiary whose revenue, profits or total assets accounted for 75% (or more) of that of the issuer under the percentage ratios in any of the latest three financial years.

17.15 The following modifications apply:

(1) The scheme mandate limit, the service provider sublimit, the 1% individual limit, the limits on grants to the issuer’s directors, chief executive and substantial shareholders (and their respective associates) under rule 17.04 and the limit on grants to service providers and related entity participants under rule 17.06A(1)(c) are to be calculated with reference to the total issued shares of the subsidiary.

(2) Rule 17.03E does not apply to share option schemes of the subsidiary if the subsidiary's shares are not listed on the Exchange. However, the scheme must provide that the exercise price of options granted after the listed issuer has resolved to seek a separate listing of such subsidiary on the Exchange, GEM or an overseas stock exchange and up to the listing date of the subsidiary must be not lower than the new issue price (if any). In particular, any options granted during the period commencing six months before the lodgement of Form A1 (or its equivalent for listing on GEM or the overseas stock exchange) up to the listing date of the subsidiary are subject to this requirement. The scheme must therefore provide for any necessary adjustment of the exercise price of options granted during such period to not lower than the new issue price.

Drafting  
changes  
(requirements  
moved from  
Note (2) to  
the original  
Rule 17.03(9))

**(B) Amendments to Other Chapters**

**Chapter 3**

**GENERAL**

**AUTHORISED REPRESENTATIVES, DIRECTORS, BOARD COMMITTEES  
AND COMPANY SECRETARY**

...

**Directors**

...

3.13 In assessing the independence of a non-executive director, the Exchange will take into account the following factors, none of which is necessarily conclusive. Independence is more likely to be questioned if the director:—

...

- (2) has received an interest in any securities of the listed issuer as a gift, or by means of other financial assistance, from a core connected person or the listed issuer itself. However, subject to Note 1 to rule 3.13(1), the director will still be considered independent if he receives shares or interests in securities from the listed issuer or its subsidiaries (but not from core connected persons) as part of his director's fee or pursuant to share option schemes established in accordance with Chapter 17;

Proposal  
(T)

...

**Chapter 7**

**EQUITY SECURITIES**

**METHODS OF LISTING**

...

**Other Methods**

7.34 Securities may also be brought to listing by:—

- (1) the exercise of options, warrants or similar rights to subscribe or purchase securities (see Chapter 15);
- (2) an issue of securities on exercise of options granted to or for the benefit of specified participants of share schemes ~~or executives and/or employees~~ (see

Proposal  
(A)

Chapter 17); or

- (3) such other methods as the Exchange may from time to time approve.

...

## **Chapter 8A**

### **EQUITY SECURITIES**

#### **WEIGHTED VOTING RIGHTS**

...

#### **Corporate Governance Committee**

##### ***Terms of reference***

8A.30 An issuer with a WVR structure must establish a Corporate Governance Committee with at least the terms of reference set out in code provision A.2.1 in Part 2 of Appendix 14 to these rules, and the following additional terms:

- (1) ...

...

- (4) to review and monitor the management of conflicts of interests and make a recommendation to the board on any matter where there is a potential conflict of interest between the issuer, a subsidiary of the issuer and/or shareholders of the issuer (consolidated as a group) on one hand and any beneficiary of weighted voting rights on the other;

*Note: This applies to any grants of options or awards to any beneficiary of weighted voting rights under a share scheme governed by chapter 17.*

Proposal  
(G)

...

...

## **Chapter 10**

### **EQUITY SECURITIES**

#### **RESTRICTIONS ON PURCHASE AND SUBSCRIPTION**

...

**No further issues of securities within 6 months of listing**

10.08 No further shares or securities convertible into equity securities of a listed issuer (whether or not of a class already listed) may be issued or form the subject of any agreement to such an issue within 6 months from the date on which securities of the listed issuer first commence dealing on the Exchange (whether or not such issue of shares or securities will be completed within 6 months from the commencement of dealing), except for:

- (1) the issue of shares, the listing of which has been approved by the Exchange, pursuant to a share ~~option~~-scheme under Chapter 17;
- (2) ...

Proposal  
(T)

...

## Chapter 13

### EQUITY SECURITIES

#### CONTINUING OBLIGATIONS

...

#### Changes in issued shares – next day disclosure return and monthly return

...

13.25B A listed issuer shall, by no later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the fifth business day next following the end of each calendar month, submit through HKEx-EPS, or such other means as the Exchange may from time to time prescribe, for publication on the Exchange's website, a monthly return in relation to movements in the listed issuer's equity securities, debt securities and any other securitised instruments, as applicable, during the period to which the monthly return relates, in such form and containing such information as the Exchange may from time to time prescribe (irrespective of whether there has been any change in the information provided in its previous monthly return). Such information includes, among other things, the number as at the close of such period of equity securities, debt securities and any other securitised instruments, as applicable, issued and which may be issued pursuant to options, warrants, convertible securities or any other agreements or arrangements.

*Notes: (1) The Exchange may consider an application...*

(a) ...

(b) ...

(c) ...

(2) The Exchange may require the issuer to submit a list of grantees and the

Proposal  
(H)

movements of shares and/or options granted to each of them under Chapter 17 in the format it prescribed from time to time.

...

### Issue of securities

13.28 ...

...

- (15) any other material information with regard to the issue (including any restrictions on the ability of the issuer to issue further securities or any restrictions on the ability of the allottees to dispose of shares issued to them or any restrictions on the ability of existing shareholders to dispose of their securities arising in connection with the allotment).

*Notes: (1) This rule does not apply to a grant of options or awards or issue of securities under a share ~~option~~ scheme which complies with Chapter 17. For these, the issuer must follow the announcement requirements under rules 17.06A, 17.06B and 17.06C.*

Proposal  
(H)

(2) ...

...

### Pre-emptive rights

13.36 (1) (a) Except in the circumstances mentioned in rule 13.36(2), ....

...

(2) No such consent as is referred to in rule 13.36(1)(a) shall be required: -

(a) ...

(b) ... to add such repurchased securities to the 20% general mandate; or

*Notes: ....*

(c) issue of shares under a share scheme that complies with chapter 17.

Proposal  
(A)

...

### Meetings of Shareholders

13.40 Parties that are required to abstain from voting in favour at the general meeting pursuant to rules 6.12(1), 6.13, 7.19(6)(a), 7.19(7), 7.19(8), 7.24(5)(a), 7.24(6), 7.24(7), 13.36(4)(a), 13.36(4)(b), 14.90(2), 14.91(1), 17.03C(1) and 17.04(4) may vote against the resolution at the general meeting of the issuer provided that their intention to do so has been stated in the relevant listing document or circular to shareholders. Any such party may change his mind as to whether to abstain or vote against the resolution, in

Proposal  
(C)

which case the issuer must, if it becomes aware of the change before the date of the general meeting, immediately despatch a circular to its shareholders or publish an announcement in accordance with rule 2.07C notifying its shareholders of the change and, if known, the reason for such change. Where the circular is despatched or the announcement is published less than 10 business days before the date originally scheduled for the general meeting, the meeting must be adjourned before considering the relevant resolution to a date that is at least 10 business days from the date of despatch or publication by the chairman or, if that is not permitted by the issuer's constitutional documents, by resolution to that effect.

...

## **ANNOUNCEMENTS, CIRCULARS AND OTHER DOCUMENTS**

### **Review of documents**

13.52 Subject to rule 13.52A, where an issuer is obliged to publish any announcements, circulars or other documents for the purposes of the Exchange Listing Rules, the documents need not be submitted to the Exchange for review before they are issued unless the documents fall within rule 13.52(1) or (2).

(1) The issuer shall submit to the Exchange drafts of the following documents for review before they are issued:

...

(e) circular to the issuer's shareholders seeking their approval of:

(i) ...

(ii) any matter relating to share option scheme required under Chapter 17 of the Exchange Listing Rules; or

Proposal (T)
-----------------

...

## **Chapter 14**

### **EQUITY SECURITIES**

#### **NOTIFIABLE TRANSACTIONS**

...

#### **Definitions**

14.04 For the purposes of this Chapter:—

(1) any reference to a "transaction" by a listed issuer:

...

(h) excludes a disposal or deemed disposal of interests in a principal subsidiary as a result of the grant of share options or share awards under a share scheme of the subsidiary that complies with Chapter 17.

Proposal  
(Q)

...

### Share schemes of subsidiaries

14.32A This rule applies to the disposal (or deemed disposal) of a listed issuer's interests in a subsidiary from the grant of new or existing shares of the subsidiary or options over any such shares under a share scheme (other than a share scheme of a principal subsidiary set out in rule 14.04(1)(h)).

Proposal  
(Q)

(1) When a subsidiary of a listed issuer adopts a share scheme (whether involving new shares issued by the subsidiary and/or existing shares of the subsidiary held by or for the issuer), the issuer must consider whether the disposal of interests in the subsidiary constitutes a notifiable transaction. The percentage ratios for the transaction classification are to be calculated based on the size of the scheme mandate (being the maximum number of shares of the subsidiary which may be issued or transferred in respect of awards and/or options to be granted under such mandate). If the subsidiary has more than one share scheme, the issuer shall aggregate the number of shares available for future grants under the scheme and other existing schemes for the purpose of calculating the percentage ratios.

*Note: If the validity period of the scheme mandate is less than 12 months, the issuer shall aggregate the scheme mandate with any other awards and options granted by the subsidiary within a 12-month period for the purpose of calculating the percentage ratios.*

(2) The announcement, circular and shareholders' approval requirements under this chapter apply to the disposal according to the transaction classification. In addition, the circular (or the announcement if a circular is not required) must contain the major terms of the share scheme.

(3) Rules 14.32A(1) and (2) also apply if the subsidiary proposes to increase or refresh the scheme mandate or to effect a material change to the terms of the scheme.

*Note: Rules 14.72 to 14.77 do not apply to options granted under a subsidiary's share scheme if the issuer has complied with the requirements of this rule.*

...

## Chapter 14A

### EQUITY SECURITIES

#### CONNECTED TRANSACTIONS

...

##### Issues of new securities by the listed issuer or its subsidiary

14A.92 An issue of new securities by a listed issuer or its subsidiary to a connected person is fully exempt if:

- (1) ...
- (2) ...
- (3) the securities are issued to the connected person under:
  - (a) a share ~~option~~-scheme that complies with Chapter 17; or
  - (b) a share ~~option~~-scheme adopted by the listed issuer before its securities first start dealing on the Exchange, and where the Exchange has approved the listing of the securities to be issued under the scheme; or

Proposal  
(G)

...

## Chapter 19A

### EQUITY SECURITIES

#### ISSUERS INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA

...

##### Chapter 17 — Share ~~Option~~ Schemes

19A.39C The Exchange may waive the exercise price requirement under ~~Note 4 to rule 17.03E(9)~~ for a share option scheme of a PRC issuer dually listed on the Exchange and a PRC stock exchange, provided that: (i) the scheme involves only shares listed on the PRC stock exchange; and (ii) the scheme contains provisions to ensure that the exercise price of the options is no less than the prevailing market price of the relevant shares on the PRC stock exchange at the time of grant of the options.

Amendment  
to the title of  
Chapter 17

...

# The Stock Exchange of Hong Kong Limited

## Practice Note 5

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

Issued pursuant to rule 1.06 of the Exchange Listing Rules

### DISCLOSURE OF INTERESTS INFORMATION

...

#### 3. Presentation of interests and short positions required to be disclosed under Part XV of the SFO

...

- 3.3 For directors and chief executives, the statements should show details of the following matters as recorded in the register required to be kept under section 352 of the SFO:

...

Notes:

(1) ...

(2) ...

(3) *For (c)(i) above, in respect of options granted to directors or chief executives pursuant to share option schemes under Chapter 17 of the Exchange Listing Rules, the statements should show such details as are required to be disclosed under rule 17.07(1)(b) of the Exchange Listing Rules.*

Amendment  
to Rule  
reference

...

- 3.4 For substantial shareholders, the statements should show details of the following matters as recorded in the register required to be kept under section 336 of the SFO:

...

Notes:

(1) ...

(2) ...

(3) ...

(4) *For (b)(i) above, in respect of options granted to substantial shareholders*

Amendment  
to Rule  
reference

*pursuant to share option schemes under Chapter 17 of the Exchange Listing Rules, the statements should show such details as are required to be disclosed under rule 17.07(1)(b) of the Exchange Listing Rules.*

...

## **Appendix 1**

### **Contents of Listing Documents**

#### **Part A**

#### **Equity Securities**

**In the case where listing is sought for equity securities of an issuer no part of whose share capital is already listed**

...

#### **General information about the group's activities**

28. ...

- (7) The number of people employed by the group and changes therein in the last financial year, if such changes are material in the context of the group, with, if possible a breakdown of persons employed by main category of activity. Details of the remuneration of employees, remuneration policies, bonus and share option schemes and training schemes should be provided where relevant.

Proposal (T)
-----------------

...

## Appendix 1

### Contents of Listing Documents

#### Part E

##### Depositary receipts

In the case where listing is sought for depositary receipts of an issuer no part of whose share capital is already listed

...

##### General information about the group's activities

...

28. ...

- (7) The number of people employed by the group and changes therein in the last financial year, if such changes are material in the context of the group, with, if possible a breakdown of persons employed by main category of activity. Details of the remuneration of employees, remuneration policies, bonus and share option schemes and training schemes should be provided where relevant.

Proposal (T)
-----------------

...

## Appendix 10

### Model Code for Securities Transactions by Directors of Listed Issuers

...

#### Interpretation

7. For the purpose of this code:

...

- (d) notwithstanding the definition of "dealing" in paragraph (a) above, the following dealings are not subject to the provisions of this code:

...

(vii) ... ; ~~and~~

(viii) dealing where the beneficial ownership is transferred from another party by operation of law-; and

(ix) acceptance or vesting of shares pursuant to the terms of share awards granted by a listed issuer before a period during which dealing is prohibited under this code at the purchase price, if any, fixed at the time of grant of the awards.

Proposal  
(T)

...

## Appendix 14

### CORPORATE GOVERNANCE CODE

...

#### PART 1 – MANDATORY DISCLOSURE REQUIREMENTS

...

##### E. BOARD COMMITTEES

The following information for each of the ..., remuneration committee, ..., and corporate governance functions:

...

(d) a summary of the work during the year, including:

...

(ii) for the remuneration committee, determining the policy for the remuneration of executive directors, assessing performance of executive directors, and approving the terms of executive directors' service contracts, and reviewing and/or approving matters relating to share schemes under chapter 17 (see rule 17.07A), performed by the remuneration committee. ...

Proposal  
(J)

...

#### PART 2 – PRINCIPLES OF GOOD CORPORATE GOVERNANCE, CODE PROVISIONS AND RECOMMENDED BEST PRACTICES

...

##### E. REMUNERATION

...

###### Code Provisions

...

E.1.2 The remuneration committee's terms of reference should include, as a minimum:-

...

(g) ...; ~~and~~

(h) ... remuneration-; and

(i) to review and/or approve matters relating to share schemes under Chapter 17 of the Rules.

Proposal  
(J)

...

...

## Appendix 16

### DISCLOSURE OF FINANCIAL INFORMATION

...

#### Information in annual reports

6. A listed issuer shall include the information as set out in paragraphs 8 to 34A in its annual report. Unless stated to the contrary the financial information specified in these paragraphs may be included outside the financial statements and will therefore be outside the scope of the auditors' report on the financial statements. Banking companies shall, in addition, comply with the Guideline on the Application of the Banking (Disclosure) Rules or other regulations in relation to the contents of annual report issued or specified from time to time by the Hong Kong Monetary Authority.

...

6.3 *An annual report shall contain the following information required under other parts of the Listing Rules:*

...

(j) *share ~~option~~ schemes under rules 17.07, ~~17.08~~ and 17.09;*

Proposals  
(I), (N)

...

32. A listed issuer shall include in its annual report a discussion and analysis of the group's performance during the financial year and the material factors underlying its results and financial position. It should emphasize trends and identify significant events or transactions during the financial year under review. As a minimum the directors of the listed issuer should comment on the following:-

...

Proposals  
(I), (N)

- (7) where applicable, details of the number and remuneration of employees, remuneration policies, bonus and share ~~option~~-schemes and training schemes;

...

40. A listed issuer shall include in its interim report:–

...

- (3) any supplementary information which is necessary for a reasonable appreciation of the interim results.

...

*40.3 An interim report shall contain the following information required under other parts of the Listing Rules:*

...

- (g) ~~share option~~-schemes under rules 17.07 and 17.08;

...

Proposal  
(l)

## Appendix 24

### Headline Categories

...

#### Schedule 1

#### Headline Categories for Announcements and Notices

...

#### Securities/Share Capital

Announcement pursuant to Code on Share Buy-backs  
Bonus Issue (Announcement Form)  
Capital Reorganisation  
Capitalisation Issue  
Change in Board Lot Size  
Change in Terms of Securities or Rights attaching to Securities  
Change of Dividend Payment Date  
Closure of Books or Change of Book Closure Period  
Consideration Issue  
Conversion of Securities  
Intention to Sell Shares of Untraceable Member  
Issue of Convertible Securities  
Issue of Debt Securities  
Issue of Preference Shares

Issue of Securities by Major Subsidiary  
Issue of Shares under a General Mandate  
Issue of Shares under a Specific Mandate  
Issue of Warrants  
Movements in Issued Share Capital  
Open Offer  
Placing  
Rights Issue  
Share ~~Option~~ Scheme  
Trading Arrangements (other than Change in Board Lot Size)

Amendment  
to the title of  
Chapter 17

...

## **Schedule 2** **Headline Categories for Circulars**

### **Securities/Share Capital**

Capitalisation Issue  
Change in Terms of Securities or Rights attaching to Securities  
Document issued pursuant to Code on Share Buy-backs  
Exchange or Substitution of Securities  
Explanatory Statement for Repurchase of Shares  
General Mandate  
Issue of Convertible Securities  
Issue of Debt Securities  
Issue of Preference Shares  
Issue of Securities by Major Subsidiary  
Issue of Securities within 6 Months of Listing  
Issue of Shares  
Issue of Warrants  
Open Offer  
Rights Issue  
Share ~~Option~~ Scheme

Amendment  
to the title of  
Chapter 17

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## APPENDIX IV: AMENDMENTS TO THE GEM LISTING RULES

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### (A) Amendments to Chapter 23

#### Chapter 23

#### EQUITY SECURITIES

#### SHARE OPTION SCHEMES

#### Application of Chapter 23

23.01	(1)	<p><del>The following provisions apply, with appropriate modifications, to all</del> <u>This Chapter deals with:</u></p> <p>(a) <del>share schemes involving the grant by a listed issuer or any of its subsidiaries of options over (i) new shares or other new securities of the listed issuer; or (ii) any of its subsidiaries options over new shares of the listed issuer, to, or for the benefit of, specified participants of such schemes (which includes a grant of any such shares or options to a trust or similar arrangement for the benefit of a specified participant and, for the purpose of this Chapter, "participant" includes any discretionary object of a participant which is a discretionary trust). (see rules 23.02 to 23.11);</del></p> <p>(b) <u>share schemes of a listed issuer that are funded by existing shares of the issuer (see rule 23.12);</u></p> <p>(c) <u>share schemes of a principal subsidiary of a listed issuer (see rules 23.13 to 23.15).</u></p>	Proposal (A)
		<p>(2) <del>Any arrangement involving the grant of options to participants over new shares or other new securities of a listed issuer or a principal subsidiary of the issuer any of its subsidiaries (including options over any such shares or securities) which, in the opinion of the Exchange, is analogous to a share option scheme as described in this rule 23.01 must comply with the requirements of this Chapter.</del></p>	Proposals (N), (O)
		<p>(3) <del>Where the shares or other securities of the listed issuer or the principal subsidiary concerned are also listed on another stock exchange or the Main Board, the more onerous requirements shall prevail and be applied in the event of a conflict or inconsistency between the requirements of this Chapter and the requirements of the other stock exchange or the Main Board.</del></p>	Proposal (P)
		<p>(4) <del>The term "grant" includes "offer", "issue" and any other term used by the scheme to describe the grant of options under it.</del></p>	Proposals (A), (P)
		<p>(5) <del>Where there are two or more listed issuers within a group, each of the listed issuers must comply with the provisions of this Chapter in respect of its schemes and the schemes of any of its subsidiaries (whether the subsidiary concerned is</del></p>	Drafting changes (relevant requirements moved to new Rule 23.01A)
		<p>(6) <del>Where there are two or more listed issuers within a group, each of the listed issuers must comply with the provisions of this Chapter in respect of its schemes and the schemes of any of its subsidiaries (whether the subsidiary concerned is</del></p>	Drafting changes (redundant)

~~listed on the Exchange or not). In particular, where the provisions require the scheme or any related matters to be approved by shareholders/ independent non-executive directors of a listed issuer whose holding company is also listed on the Exchange, such scheme or matters must simultaneously be approved by the shareholders/ independent non-executive directors of such listed issuer's holding company.~~

### **Definitions**

23.01A In this chapter, the following definitions apply:

<b><u>“1% individual limit”</u></b>	<u>has the meaning in rule 23.03D(1)</u>
<b><u>“award”</u></b>	<u>refers to shares granted or to be granted under a share award scheme</u>
<b><u>“eligible participant”</u></b>	<u>includes an employee participant, a service provider and a related entity participant</u>
<b><u>“employee participant”</u></b>	<u>has the meaning in rule 23.03A(1)</u>
<b><u>“grant”</u></b>	<u>includes “offer”, “issue” and any other term used by a share scheme to describe the grant of shares or options under the scheme</u>
<b><u>“principal subsidiary”</u></b>	<u>has the meaning in rule 23.14</u>
<b><u>“purchase price”</u></b>	<u>refers to the price payable by a grantee to purchase shares under a share award scheme</u>
<b><u>“related entity participant”</u></b>	<u>has the meaning in rule 23.03A(1)</u>
<b><u>“scheme mandate limit”</u></b>	<u>has the meaning in rule 23.03(3)</u>
<b><u>“senior manager”</u></b>	<u>refers to a senior manager disclosed in the issuer’s annual report as required under rule 18.39</u>
<b><u>“service provider”</u></b>	<u>has the meaning in rule 23.03A(1)</u>
<b><u>“service provider sublimit”</u></b>	<u>has the meaning in rule 23.03(3)</u>
<b><u>“schemes” or “share schemes”</u></b>	<u>include share option schemes and share award schemes</u>
<b><u>“share award scheme”</u></b>	<u>refers to a scheme involving the grant of shares by a listed issuer or its principal subsidiary (as the case may be)</u>
<b><u>“share option scheme”</u></b>	<u>refers to a scheme involving the grant of options over shares of a listed issuer or a principal subsidiary of the issuer (as the case may be)</u>

## Share schemes involving issue of new shares by listed issuers

### Adoption of a new scheme

23.02 (1) (a) The scheme of a listed issuer ~~or any of its subsidiaries~~ must be approved by shareholders of the listed issuer in general meeting. The listed issuer must publish an announcement on the outcome of the shareholders' meeting for the adoption of the scheme in the manner as set out in rule 17.47(5), ~~as soon as possible, but in any event not later than the time that is 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day following such meeting, in accordance with the publication requirements in Chapter 16.~~

Drafting changes (relevant requirements already set out in Rule 17.47(5))

(b) A scheme adopted by a new applicant prior to its listing does not need to be approved by its shareholders after listing. However, all material ~~the~~ terms of the scheme must be clearly set out in the prospectus. Where the scheme does not comply with the provisions of this Chapter, options and awards granted to, or for the benefit of, specified participants before listing may continue to be valid after listing (subject to the Exchange granting approval for listing of the new applicant's shares securities to be issued in respect of upon exercise of such options and awards) but no further options or awards may be granted under the scheme after listing. The new applicant must also disclose in the prospectus full details of all outstanding options and awards and their potential dilution effect on the shareholdings upon listing as well as the impact on the earnings per share arising from the issue of shares in respect ~~the exercise~~ of such outstanding options or awards.

Proposal (A)

*Notes: 1 The Exchange reserves the right to review and consider these matters on a case-by-case basis.*

*2 Where the new applicant is a principal subsidiary of a listed issuer, the scheme must comply with rules 23.13 to 23.15 ~~be approved by shareholders of the listed issuer in general meeting. The terms of the scheme must comply with the provisions of this Chapter including, in particular, rule 23.03(9) (the basis of determination of the exercise price).~~*

(2) The scheme document itself does not need to be circulated to shareholders of the listed issuer. However, if the scheme document is not so circulated, it must be published on the Exchange's website and the issuer's own website for a period of not less than 14 days before the date of the general meeting and made available for inspection at the general meeting and the terms of the shareholders' resolution must approve the scheme as described in the summary circulated circular to the shareholders of the listed issuer. The circular must include the following information:

- (a) the provisions described in rule 23.03;
- (b) an explanation as to how the terms of the scheme, in particular, how the provisions described in rules 23.03(2), (6), (7), ~~and (9)~~ and (19), will serve align with the purpose of the scheme as set out in the scheme document;
- (c) information relating to any directors of the listed issuer who are trustees of the scheme or have a direct or indirect interest in the trustees; ~~and~~

Proposals (B), (E)

- (d) a statement in the form set out in paragraph 2 of Appendix 1, Part B; and
- (e) any additional information requested by the Exchange.

Note: Where the scheme includes service providers and/or related entity participants as eligible participants, the Exchange may require the circular to include the views of the independent non-executive directors of the issuer on whether the inclusion of these participants aligns with the purpose of the scheme and the long term interests of the issuer and its shareholders. As general guidance, this will include the views of the independent non-executive directors as to whether the proposed categories of service providers/related entity participants are in line with the issuer's business needs or the industry norm and whether the criteria for the selection of eligible participants and the terms of the grants (such as vesting requirements and performance targets, if any) align with the purpose of the scheme. The Exchange may apply this requirement having regard to, for example, the nature of the operations of the issuer and its relationship with the service providers and related entity participants, the history of grants by the issuer to the service providers and related entity participants, or other circumstances that suggest the scheme may allow for substantial grants of options or awards to non-employee participants.

Proposal  
(B)

- ~~(3) Where the scheme involves options over listed securities, the listed issuer is encouraged to disclose in the circular the value of all options that can be granted under the scheme as if they had been granted at the latest practicable date prior to the approval of the scheme. Where the listed issuer considers that disclosure of the value of options is not appropriate, it must state the reason for such non-disclosure in the circular. The listed issuer should use the Black-Scholes option pricing model, the binomial model or a comparable generally accepted methodology to calculate the value of options. The information described in (1), (2) and (4) in the Note to rule 23.08 should also be disclosed. The latest practicable date should be taken as the measurement date.~~

Proposal  
(S)

- ~~(4) All circulars and announcements required under this Chapter must contain on the front cover or inside front cover of the circular or at the top of the announcement (as the case may be) a prominent and legible disclaimer in the following terms:~~

~~"Hong Kong Exchanges and Clearing Limited and The Stock Exchange of Hong Kong Limited take no responsibility for the contents of this [circular/announcement], make no representation as to its accuracy or completeness and expressly disclaim any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this [circular/announcement]."~~

Drafting  
changes  
(relevant  
requirements  
already set  
out in Note 5  
to Rule  
17.53(2))

- ~~(35) The listed issuer must provide a summary of the terms of the scheme to all participants on joining the scheme (and a copy of the scheme document to any participant who requests such a copy). The listed issuer must provide to all participants all details relating to changes in the terms of the scheme during the life of the scheme immediately upon such changes taking effect.~~

**Terms of the scheme**

23.03 The scheme document must include the following provisions and/or provisions as to

the following (as the case may be):—

- (1) the purpose of the scheme;
- (2) the participants of the scheme and the basis of determining the eligibility of participants;

*Notes: (1) Listed issuers are reminded to seek legal advice on the prospectus requirements of the Companies (Winding Up and Miscellaneous Provisions) Ordinance, particularly where participation in the scheme is not restricted to executives and employees.*

*(2) See rule 23.03A for the requirements relating to participants of share schemes.*

- (3) the total number of shares securities which may be issued in respect of ~~upon exercise of all options and awards to be granted under the scheme and any other schemes (the **scheme mandate limit**)~~, together with the percentage of the issued shares that it represents at the date of approval of the scheme; and, where the participants of the scheme include service providers, the sublimit on the total number of shares that may be issued in respect of all options and awards to be granted to service providers (the **service provider sublimit**) within the scheme mandate limit;

Proposal  
(C)(ii)

*Note: See rules 23.03B and 23.03C for the requirements relating to the scheme mandate limit and the service provider sublimit.*

*Notes: 1. ~~The total number of securities which may be issued upon exercise of all options to be granted under the scheme and any other schemes must not in aggregate exceed 10 per cent of the relevant class of securities of the listed issuer (or the subsidiary) in issue as at the date of approval of the scheme (alternatively, in respect of a scheme of a subsidiary that will become effective only upon its separate listing, the 10% limit may be calculated by reference to the relevant class of securities of the subsidiary in issue as at the date of its listing). Options lapsed in accordance with the terms of the scheme will not be counted for the purpose of calculating the 10% limit.~~*

Drafting  
changes  
(requirements  
in the notes  
moved to new  
Rules 23.03B  
and 23.03C)

*~~The listed issuer may seek approval by its shareholders in general meeting for “refreshing” the 10 per cent limit under the scheme. However, the total number of securities which may be issued upon exercise of all options to be granted under all of the schemes of the listed issuer (or the subsidiary) under the limit as “refreshed” must not exceed 10 per cent of the relevant class of securities in issue as at the date of approval of the limit. Options previously granted under the schemes (including those outstanding, cancelled, lapsed in accordance with the scheme or exercised options) will not be counted for the purpose of calculating the limit as “refreshed”. The listed issuer must send a circular to its shareholders containing the information required under rule 23.02(2)(d) and the disclaimer required under rule 23.02(4).~~*

~~A listed issuer may seek separate approval by its shareholders in general meeting for granting options beyond the 10 per cent limit provided the options in excess of the limit are granted only to participants specifically identified by the listed issuer before such approval is sought. The listed issuer must send a circular to the shareholders containing a generic description of the specified participants who may be granted such options, the number and terms of the options to be granted, the purpose of granting options to the specified participants with an explanation as to how the terms of the options serve such purpose, the information required under rule 23.02(2)(d) and the disclaimer required under rule 23.02(4).~~

~~2. The limit on the number of securities which may be issued upon exercise of all outstanding options granted and yet to be exercised under the scheme and any other schemes must not exceed 30 per cent of the relevant class of securities of the listed issuer (or the subsidiary) in issue from time to time. No options may be granted under any schemes of the listed issuer (or the subsidiary) if this will result in the limit being exceeded.~~

Proposal  
(C)(i)

~~3. If the listed issuer (or the subsidiary) conducts a share consolidation or subdivision after the 10% limit has been approved in general meeting, the maximum number of securities that may be issued upon exercise of all options to be granted under all of the schemes of the listed issuer (or the subsidiary) under the 10% limit as a percentage of the total number of issued shares at the date immediately before and after such consolidation or subdivision shall be the same.~~

Drafting  
changes  
(requirements  
in Note (3)  
moved to new  
Rule 23.03B)

(4) the maximum entitlement of each participant under the scheme;

Note: See rule 23.03D for the limit on grants to individual participants.

~~Note: Unless approved by shareholders in the manner set out in this Note to rule 23.03(4), the total number of securities issued and to be issued upon exercise of the options granted to each participant (including both exercised and outstanding options) in any 12-month period must not exceed 1 per cent of the relevant class of securities of the listed issuer (or the subsidiary) in issue. Where any further grant of options to a participant would result in the securities issued and to be issued upon exercise of all options granted and to be granted to such person (including exercised, cancelled and outstanding options) in the 12-month period up to and including the date of such further grant representing in aggregate over 1 per cent of the relevant class of securities in issue, such further grant must be separately approved by shareholders of the listed issuer in general meeting with such participant and his close associates (or his associates if the participant is a connected person) abstaining from voting. The listed issuer must send a circular to the shareholders and the circular must disclose the identity of the participant, the number and terms of the options to be granted (and options previously granted to such participant), the information required under rule 23.02(2)(d) and the disclaimer required under rule~~

Drafting  
changes  
(requirements  
in the note  
moved to a  
new Rule  
23.03D)

~~23.02(4). The number and terms (including the exercise price) of options to be granted to such participant must be fixed before shareholders' approval and the date of board meeting for proposing such further grant should be taken as the date of grant for the purpose of calculating the exercise price under Note 1 to rule 23.03(9).~~

(5) ~~the period within which the securities must be taken up under the~~ an option may be exercised by the grantee under the scheme, which must not be more than 10 years from the date of grant of the option;

Drafting changes

(6) ~~the vesting period of options or awards to be granted under the scheme the minimum period, if any, for which an option must be held before it can be exercised;~~

Notes: See rule 23.03F for the requirements on the vesting period.

Proposal (D)

(7) ~~a description (which may be qualitative) of the performance targets, if any, attached to options or awards to be granted under the scheme that must be achieved before the options can be exercised or, if none, a negative statement to that effect. Such description may include a general description of the target levels and performance related measures and the method for assessing how they are satisfied;~~

Proposal (E)

(8) the amount, if any, payable on application or acceptance of the option or award and the period within which payments or calls must or may be made or loans for such purposes must be repaid;

(9) the basis of determination of the exercise price of options or the purchase price of shares awarded, if any;

Note: See rule 23.03E for the requirements on the exercise price of options.

~~Notes: 1 Subject to Note 2 to rule 23.03(9), the exercise price must be at least the higher of: (i) the closing price of the securities as stated in the Exchange's daily quotations sheet on the date of grant, which must be a business day; and (ii) the average closing price of the securities as stated in the Exchange's daily quotations sheets for the five business days immediately preceding the date of grant. For the purpose of calculating the exercise price where an issuer has been listed for less than five business days, the new issue price shall be used as the closing price for any business day falling within the period before listing.~~

Drafting changes (requirements in the Note (1) moved to a new Rule 23.03E

~~2 Note (1) to rule 23.03(9) does not apply to a share option scheme of a subsidiary of the listed issuer if the subsidiary's securities are not listed on the Exchange. However, the scheme must provide that the exercise price of options granted after the listed issuer has resolved to seek a separate listing of such subsidiary on the Exchange, the Main Board or an overseas stock exchange and up to the listing date of the subsidiary must be not lower than the new issue price (if any). In particular, any options granted during the period commencing six months before the lodgement of Form 5A (or its equivalent for listing on the Main Board or the overseas stock exchange) up to the listing~~

Drafting changes (requirements in Note (2) moved to a new Rule 23.15(2)

~~date of the subsidiary are subject to this requirement. The scheme must therefore provide for any necessary adjustment of the exercise price of options granted during such period to not lower than the new issue price.~~

- (10) the voting, dividend, transfer and other rights, including those arising on a liquidation of the listed issuer, attaching to the shares securities and (if appropriate) any such rights attaching to the options or awards themselves;
- (11) the life of the scheme, which must not be more than 10 years;
- (12) the circumstances under which options or awards will automatically lapse;
- (13) a provision for adjustment of the exercise or purchase price and/or the number of shares securities subject to options or awards already granted and to granted under the scheme in the event of a capitalisation issue, rights issue, sub-division or consolidation of shares or reduction of capital;

*Note: Any adjustments required under rule 23.03(13) must give a participant the same proportion of the equity capital, rounded to the nearest whole share, as that to which that person was previously entitled, but no such adjustments may be made to the extent that a share would be issued at less than its nominal value (if any). The issue of securities as consideration in a transaction may not be regarded as a circumstance requiring adjustment. In respect of any such adjustments, other than any made on a capitalisation issue, an independent financial adviser or the listed issuer's auditors must confirm to the directors in writing that the adjustments satisfy the requirements set out in this note.*

- (14) a provision for the cancellation of options or awards granted ~~but not exercised~~;

*Note: Where a listed issuer cancels options or awards granted to a participant, and makes a new grant issues new ones to the same participant option holder, the issue of such new options such new grant may only be made under a scheme with available scheme mandate unissued options (excluding the cancelled options) within the limit approved by shareholders as mentioned referred to in rule 23.03B or rule 23.03C Note (1) to rule 23.03(3). The options or awards cancelled will be regarded as utilised for the purpose of calculating the scheme mandate limit (and the service provider sublimit).*

Drafting changes

- (15) ~~unless the shares securities subject to the scheme must be separately designated unless they are identical with other shares securities of the issuer in issue, a provision that they must be separately designated;~~

Drafting changes

- (16) where there is a provision for termination of the operation of the scheme before the end of its life, a provision for the treatment of options or awards granted under the scheme but not yet exercised or in respect of which shares are not yet issued to the participants at the time of termination;

*Note: Details of the options or awards granted, (including options exercised or outstanding, or shares issued and to be issued in respect of the awards granted) under the scheme and (if applicable) options or awards that*

become void or non-exercisable as a result of the termination must be disclosed in the circular to shareholders seeking approval of the first new scheme to be established or refreshment of scheme mandate limit under any existing scheme after such termination.

- (17) transferability of options or awards; ~~and~~

Note: Options or awards granted under the scheme must be personal to the respective grantee. No options or awards may be transferred or assigned. The Exchange may consider granting a waiver to allow a transfer to a vehicle (such as a trust or a private company) for the benefit of the participant and any family members of such participant (e.g. for estate planning or tax planning purposes) that would continue to meet the purpose of the scheme and comply with other requirements of this Chapter. Where such waiver is granted, the Exchange shall require the issuer to disclose the beneficiaries of the trust or the ultimate beneficial owners of the transferee vehicle.

Proposal  
(L)

- (18) the specific terms of the scheme that can be changed by directors or scheme administrators without the approval of shareholders of the listed issuer in general meeting; and-

Notes: 1 Any alterations to the terms and conditions of a share scheme which are of a material nature or any alterations to the provisions relating to the matters set out in this rule 23.03 cannot be altered to the advantage of participants must be approved by without the prior approval of shareholders of the listed issuer in general meeting.

Move from  
note (2) to  
Rule  
23.03(18)

2 ~~Any alterations to the terms and conditions of a share option scheme of a listed issuer or any of its subsidiaries which are of a material nature or any change to the terms of options or awards granted must be to a participant must be approved by the board, the remuneration committee, the independent non-executive directors and/or the shareholders of the listed issuer (as the case may be) if the initial grant of the options or awards was approved by the board, the remuneration committee, the independent non-executive directors and/or the shareholders of the listed issuer (as the case may be).~~ This requirement does not apply except where the alterations take effect automatically under the existing terms of the scheme.

Proposal  
(K)

3 The amended terms of the scheme or the options or awards must still comply with the relevant requirements of this Chapter 23.

4 Any change to the authority of the directors or scheme administrators in relation to any alteration to alter the terms of the scheme must be approved by shareholders of the listed issuer in general meeting.

- (19) where the listed issuer has established a clawback mechanism to recover or withhold the remuneration (which may include any options or awards granted) to any participants in the event of serious misconduct, a material misstatement

Proposal  
(E)

in the issuer's financial statements or other circumstances, a description of the clawback mechanism or, if none, a negative statement to that effect.

### **Participants of the scheme**

23.03A (1) Participants of a scheme shall comprise one or more of the following:

- (a) directors and employees of the issuer or any of its subsidiaries (including persons who are granted options or awards under the scheme as inducement to enter into employment contracts with these companies) (**employee participants**);
- (b) directors and employees of the holding companies, fellow subsidiaries or associated companies of the issuer (**related entities participants**); and
- (c) persons who provide services to the issuer group on a continuing or recurring basis in its ordinary and usual course of business which are in the interests of the long term growth of the issuer group (**service providers**).

Proposal  
(B)

*Note: Service providers may include, for example, persons who work for the issuer as independent contractors where the continuity and frequency of their services are akin to those of employees. For the avoidance of doubt, service providers should exclude placing agents or financial advisers providing advisory services for fundraising, mergers or acquisitions. They should also exclude professional service providers such as auditors or valuers who provide assurance, or are required to perform their services with impartiality and objectivity.*

- (2) The scheme document must clearly identify each category of service providers and the criteria for determining a person's eligibility under each category.

### **Scheme mandate limit and service provider sublimit**

23.03B (1) The scheme mandate limit must not exceed 10% of the relevant class of shares of the listed issuer in issue as at the date of approval of the scheme (alternatively, in respect of a scheme of a new applicant that will become effective only upon its separate listing, the 10% limit may be calculated by reference to the relevant class of shares of the applicant in issue as at the date of its listing).

Proposal  
(C)

- (2) Where the participants of the scheme include service providers, the service provider sublimit must be set within the scheme mandate limit and separately approved by shareholders of the issuer in general meeting. The circular must contain the basis for determining the service provider sublimit and an explanation as to why the service provider sublimit is appropriate and reasonable.

Proposal  
(C)

*Notes: 1 Options or awards lapsed in accordance with the terms of the scheme will not be regarded as utilised for the purpose of calculating the scheme mandate limit (and the service provider sublimit, if any).*

- 2 If the listed issuer conducts a share consolidation or subdivision after the scheme mandate limit or the service provider sublimit has been approved in general meeting, the maximum number of shares that*

may be issued in respect of all options and awards to be granted under all of the schemes of the listed issuer under the scheme mandate limit or the service provider sublimit as a percentage of the total number of issued shares at the date immediately before and after such consolidation or subdivision shall be the same, rounded to the nearest whole share.

Proposal  
(C)

- 23.03C (1) (a) The listed issuer may seek approval by its shareholders in general meeting for "refreshing" the scheme mandate limit (and the service provider sublimit, if any) under the scheme after three years from the date of shareholders' approval for the last refreshment (or the adoption of the scheme).
- (b) Any "refreshment" within any three year period must be approved by shareholders of the issuer subject to the following provisions:
- (i) any controlling shareholders and their associates (or if there is no controlling shareholder, directors (excluding independent non-executive directors) and the chief executive of the issuer and their respective associates) must abstain from voting in favour of the relevant resolution at the general meeting; and
  - (ii) the issuer must comply with the requirements under rules 17.47(6) and 17.47(7) and rules 17.47A, 17.47B and 17.47C.
- (c) The requirements under paragraphs (i) and (ii) of rule 23.03C(1)(b) do not apply if the refreshment is made immediately after an issue of securities by the issuer to its shareholders on a pro rata basis as set out in rule 17.41(1) such that the unused part of the scheme mandate (as a percentage of the relevant class of shares in issue) upon refreshment is the same as the unused part of the scheme mandate immediately before the issue of securities, rounded to the nearest whole share.
- (2) The total number of shares which may be issued in respect of all options and awards to be granted under all of the schemes of the listed issuer under the scheme mandate as "refreshed" must not exceed 10% of the relevant class of shares in issue as at the date of approval of the refreshed scheme mandate. The listed issuer must send a circular to its shareholders containing the number of options and awards that were already granted under the existing scheme mandate limit and the existing service provider sublimit (if any), and the reason for the "refreshment".
- (3) A listed issuer may seek separate approval by its shareholders in general meeting for granting options or awards beyond the scheme mandate limit provided the options or awards in excess of the limit are granted only to participants specifically identified by the listed issuer before such approval is sought. The listed issuer must send a circular to the shareholders containing the name of each specified participant who may be granted such options or awards, the number and terms of the options or awards to be granted to each participant, and the purpose of granting options or awards to the specified participants with an explanation as to how the terms of the options or awards serve such purpose. The number and terms of options or awards to be granted to such participant must be fixed before shareholders' approval. In respect of any options to be

granted, the date of the board meeting for proposing such grant should be taken as the date of grant for the purpose of calculating the exercise price under rule 23.03E.

### **Limit on granting options or awards to individual participants**

- 23.03D (1) Where any grant of options or awards to a participant would result in the shares issued and to be issued in respect of all options and awards granted to such person (excluding any options and awards lapsed in accordance with the terms of the scheme) in the 12-month period up to and including the date of such grant representing in aggregate over 1% of the relevant class of shares of the listed issuer in issue (the 1% **individual limit**), such grant must be separately approved by shareholders of the listed issuer in general meeting with such participant and his/her close associates (or associates if the participant is a connected person) abstaining from voting. The listed issuer must send a circular to the shareholders.
- (2) The circular must disclose the identity of the participant, the number and terms of the options or awards to be granted (and those previously granted to such participant in the 12-month period), the purpose of granting options or awards to the participant and an explanation as to how the terms of the options or awards serve such purpose. The number and terms of the options or awards to be granted to such participant must be fixed before shareholders' approval. In respect of any options to be granted, the date of the board meeting for proposing such further grant should be taken as the date of grant for the purpose of calculating the exercise price under rule 23.03E.

Proposal  
(G)

### **Exercise price of options**

23.03E The exercise price of options must be at least the higher of: (i) the closing price of the shares as stated in the Exchange's daily quotations sheet on the date of grant, which must be a business day; and (ii) the average closing price of the shares as stated in the Exchange's daily quotations sheets for the five business days immediately preceding the date of grant. For the purpose of calculating the exercise price where an issuer has been listed for less than five business days, the new issue price shall be used as the closing price for any business day falling within the period before listing.

Proposal  
(F)

Note: Rule 23.03E does not apply to a share award scheme.

### **Vesting period**

23.03F The vesting period for options or awards shall not be less than 12 months. Options or awards granted to employee participants may be subject to a shorter vesting period under specific circumstances as set out in the scheme document. Any such specific circumstances and an explanation by the issuer's board of directors (or the remuneration committee where the arrangements relate to grants of options or awards to the issuer's directors and/or senior managers) as to why the arrangements are appropriate and how the grants align with the purpose of the scheme must be clearly disclosed in the circular for the adoption of the scheme.

Proposal  
(D)

### **Granting options or awards to a director, chief executive or substantial shareholder of a listed issuer, or any of their respective associates**

23.04 (1) In addition to the shareholders' approval set out in Note 1 to rule 23.03(3) and the Note

Proposal  
(G)

~~to rule 23.03(4), each~~Any grant of options or awards to a director, chief executive or substantial shareholder of a listed issuer, or any of their respective associates, under a scheme of the listed issuer or any of its subsidiaries must comply with the requirements of this rule 23.04(1). Each grant of options to any of these persons must be approved by the independent non-executive directors of the listed issuer (excluding any independent non-executive director who is the grantee of the options or awards).

(2) Where any grant of awards (excluding grant of options) to a director (other than an independent non-executive director) or chief executive of the issuer, or any of their associates would result in the shares issued and to be issued in respect of all awards granted (excluding any awards lapsed in accordance with the terms of the scheme) to such person in the 12-month period up to and including the date of such grant, representing in aggregate over 0.1% of the relevant class of shares in issue, such further grant of awards must be approved by shareholders of the listed issuer in general meeting in the manner set out in rule 23.04(4).

(3) Where any grant of options or awards to a substantial shareholder or an independent non-executive director or a substantial shareholder of the listed issuer, or any of their respective associates, would result in the shares securities issued and to be issued upon exercise in respect of all options and awards already granted and to be granted (excluding any options and awards lapsed in accordance with the terms of the scheme including options exercised, cancelled and outstanding) to such person in the 12-month period up to and including the date of such grant:

(a) —representing in aggregate over 0.1% of the relevant class of shares securities in issue; and

(b) —(where the securities are listed on the Exchange), having an aggregate value, based on the closing price of the securities at the date of each grant, in excess of HK\$5 million,

such further grant of options or awards must be approved by shareholders of the listed issuer in general meeting in the manner set out in rule 23.04(4).

Note: See also the recommended practice relating to the grant of options or awards to independent non-executive directors under E.1.9 of the Corporate Governance Code in Appendix 15 to the Rules.

(4) In the circumstances described in rule 23.04(2) or (3), the The listed issuer must send a circular to the shareholders. The grantee, his/her associates and all core connected persons of the listed issuer must abstain from voting in favour at such general meeting.  
(2) — Listed issuers The listed issuer must comply with the requirements set out in rules 17.47A, 17.47B and 17.47C.

(5)(3) The circular must contain:

(a) details of the number and terms (including the exercise price) of the options or awards to be granted to each participant, which must be fixed before the shareholders' meeting, and In respect of any options to be granted, the date of the board meeting for proposing such further grant is to be taken as the date of grant for the purpose of calculating the exercise price under rule 23.03 ~~Note 1 to rule 23.03(9);~~

*Note: The description of the terms of the options or awards must include the information required under rules 23.03(5) to 23.03(10) and rule 23.03(19).*

- (b) ~~a recommendation from the views of the independent non-executive directors of the listed issuer (excluding any independent non-executive director who is the grantee of the options or awards) as to whether the terms of the grant are fair and reasonable and whether such grant is in the interests of the issuer and its shareholders as a whole, and their recommendation to the independent shareholders as to voting;~~
- (c) the information required under rules 23.02(2)(c) ~~and (d)~~ and the disclaimer required under rule 23.02(4); and
- (d) the information required under rule 2.28.

*Notes: 1 ~~Shareholders' approval as required under rule 23.04(1) is also required for any~~Any change in the terms of options or awards granted to a participant who is a director, chief executive or substantial shareholder or an independent non-executive director of the listed issuer, or any of their respective associates, must be approved by shareholders of the issuer in the manner as set out in rule 23.04(4) if the initial grant of the options or awards requires such approval (except where the changes take effect automatically under the existing terms of the scheme).*

Proposal  
(K)

*2 ~~The requirements for the grant granting of options to a director or chief executive of a listed issuer set out in this rules 23.04(1), (2) and (3) do not apply where the participant is only a proposed director or chief executive of the listed issuer.~~*

### **Restriction on the time of grant of options or awards**

23.05 An issuer may not grant any options or awards after inside information has come to its knowledge until (and including) the trading day after it has announced the information. In particular, it may not grant any options or awards during the period commencing one month immediately before the earlier of:

- (1) the date of the board meeting (as such date is first notified to the Exchange under rule 17.48) for approving the issuer's results for any year, half-year or quarter-year period or any other interim period (whether or not required under the GEM Listing Rules); and
- (2) the deadline for the issuer to announce its results for any year, half year or quarter-year period under rule 18.49, 18.78 or 18.79 or any other interim period (whether or not required under the GEM Listing Rules),

and ending on the date of the results announcement.

*Note: No option or award may be granted during any period of delay in publishing a results announcement.*

### **Voting of unvested shares**

23.05A The trustee holding unvested shares of a share scheme, whether directly or indirectly, shall abstain from voting on matters that require shareholders' approval under the GEM Listing

Proposal  
(M)

Rules, unless otherwise required by law to vote in accordance with the beneficial owner's direction and such a direction is given.

### **Despatch of circular**

23.06 ~~The~~Any circular required under this Chapter should be despatched to the shareholders no later than the date on which the listed issuer gives notice of the general meeting to approve the scheme or ~~related~~other matters as required under this Chapter.

### **Announcement on grant of options or awards**

23.06A (1) As soon as possible upon the granting by the listed issuer of any options or awards under the scheme, the listed issuer must publish an announcement ~~in accordance with the requirements of Chapter 16~~ setting out the following details: in rule 23.06B.

Proposal  
(H)

(2) The disclosure must be made, on an individual basis, if the grantee is:

(a) a director, chief executive or substantial shareholder of the listed issuer, or an associate of any of them;

(b) a participant with options and awards granted and to be granted exceeding the 1% individual limit; or

(c) a related entity participant or service provider with options and awards granted and to be granted in any 12-month period exceeding 0.1% of the relevant class of shares in issue.

(3) Information relating to grants of options or awards to other grantees may be disclosed by category. The Exchange may require the issuer to submit a list of the grantees in the format it prescribed for the time being.

23.06B The announcement must set out the following details in a tabular format:

(1) the date of grant;

(2) (a) where disclosure on an individual basis is required, the name of the grantee (and where the grantee is not a natural person, the name of its ultimate beneficial owner) and the relationship between the grantee and the issuer. Where the grantee is a related entity participant or service provider, the nature of services provided to the issuer; or

Proposals  
(B), (H)

(b) where disclosure on an individual basis is not required, a description of each of the categories of grantees;

(3) the number of options or awards granted;

~~(4)~~ the exercise price of options or purchase price of awards granted;

~~(5)~~ the market price of the shares ~~its securities~~ on the date of grant;

~~(6)~~ where any of the grantees is a director, chief executive or substantial shareholder of the listed issuer, or an associate of any of them, the names of such grantees and the number of options granted to each of them; and

- (6) the exercise period of the options validity period of the options;-
- (7) the vesting period of the options or awards. In the case of grants of options or awards to employee participants with a shorter vesting period as set out in rule 23.03F, the relevant circumstances that are specifically permitted by the scheme. Where the options or awards are granted to the issuer's directors and/or senior managers, the remuneration committee's views on why a shorter vesting period is appropriate;
- (8) a description (which may be qualitative) of the performance targets attached to the options or awards granted, if any, and the clawback mechanism for the issuer to recover or withhold any awards or options granted, if any. Where options or awards are granted to the issuer's directors and/or senior managers without performance targets and/or clawback mechanism, the views of the remuneration committee on why performance targets and/or a clawback mechanism is/are not necessary and how the grants align with the purpose of the scheme;
- (9) where options or awards are granted to a service provider or a related entity participant, the reasons for the grant and the views of the board how the grant aligns with the purpose of the scheme; and
- (10) arrangements, if any, for the issuer or any of its subsidiaries to provide financial assistance to the grantee(s) to facilitate the purchase of shares under the scheme.

Proposals  
(D), (H)

Proposals  
(E), (H)

Proposals  
(B), (H)

*Note: The issuer must comply with Chapter 20 for providing financial assistance to any grantee who is a connected person.*

23.06C The announcement must also disclose the number of shares available for future grant under the scheme mandate and the service provider sublimit (if applicable).

#### **Disclosure in annual report and interim report requirements**

23.07 In relation to each scheme of a listed issuer or any of its subsidiaries, the~~The~~ listed issuer must disclose in its annual report and half-year report the following information in relation to options and awards granted and to be granted under its share scheme(s) to: (i) each of the directors, chief executive or substantial shareholders of the listed issuer, or their respective associates; (ii) each participant with options and awards granted and to be granted in excess of the 1% individual limit; (iii) each related entity participant or service provider with options and awards granted and to be granted in any 12-month period exceeding 0.1% of the relevant class of shares in issue; aggregate figures for employees working under employment contracts that are regarded as "continuous contracts" for the purposes of the Employment Ordinance; (iv) aggregate figures for suppliers of goods or services; and (ivv) all other employee participants, related entity participants and service providers by category as an aggregate whole:—

Proposal  
(I)

- (1) a table showing the following details of awards and options granted to each participant or category of participants:
- (a) name of the grantee or a description of each of the categories of grantees;
- (b4) particulars of the outstanding options and unvested awards at the beginning and at the end of the financial year/ period, including the number of options and unvested awards, date of grant, vesting period, exercise period and

exercise/purchase price;

- (c2) particulars of the options and awards granted during the financial year/period, including (i) the number of options and awards, (ii) the date of grant, (iii) the vesting period, exercise period, and exercise/purchase price and performance targets (if any), and (iv) (where the shares are for options over-listed securities) the closing price of the shares securities immediately before the date on which the options or awards were granted, and (v) the fair value of options and awards at the date of grant and the accounting standard and policy adopted;

Note: The listed issuer should calculate the fair value of options and awards in accordance with the accounting standards and policies adopted for preparing its financial statements and disclose the methodology and assumptions used, including but not limited to:

(1) In the case of options, a description of the option pricing model and details of the significant assumptions and inputs used in that pricing model such as the expected volatility, expected dividends and the risk-free interest rate. The issuer should include an explanation of how these significant assumptions and inputs were determined.

(2) In the case of awards, a description of the basis for fair value measurement and information on whether and how the features of the awards (for example, the expected dividends) are incorporated into the measurement of fair value.

- (d3) the number of options exercised and awards vested during the financial year/period with the exercise/purchase price and (where the shares are for options over-listed securities) the weighted average closing price of the shares securities immediately before the date on which the options or awards were exercised or vested;
- (e4) the number of options and awards cancelled during the financial year/period together with the exercise/purchase price of the cancelled options and awards; and
- (f5) the number of options and awards which lapsed in accordance with the terms of the scheme during the financial year/period.
- (2) the number of options and awards available for grant under the scheme mandate and the service provider submit (if applicable) at the beginning and the end of the financial year/period; and
- (3) the number of shares that may be issued in respect of options and awards granted under all schemes of the issuer during the financial year/period divided by the weighted average number of shares of the relevant class in issue for the year/period.

23.07A The listed issuer must disclose in its remuneration report or corporate governance report a summary of material matters relating to share schemes that were reviewed and/or approved by the remuneration committee during the financial year. For matters relating to any grants of options or awards to the issuer's directors and senior managers as set out in rule 23.03(F) and rules 23.06B(7) and (8), the remuneration committee must explain why it was appropriate to approve those matters, the factors that it took into account and how the grants

Proposal  
(J)

align with the purpose of the scheme (including how the grants align the grantees' interests with those of the issuer and its shareholders).

23.08 ~~[Repealed 1 January 2023] In respect of options granted during the financial year/period over listed securities, the listed issuer is encouraged to disclose in its annual report and half-year report the value of options granted to participants set out in (i) to (v) of rule 23.07 during the financial year/period, and the accounting policy adopted for the share options. Where the listed issuer considers that disclosure of value of options granted during the financial year/period is not appropriate, it must state the reason for such non-disclosure in its annual report or half-year report.~~

Replaced  
by the  
proposed  
disclosure  
requirement  
under rule  
23.07(1)(c)

~~*Note: In respect of the disclosure of the value of options in annual report or half-year report, the listed issuer should use the Black-Scholes options pricing model, the binomial model or a comparable generally accepted methodology to calculate the value of options. The listed issuer should also disclose, in the annual report or half-year report, the following information:*~~

- ~~(1) a description of the model and significant assumptions used to estimate the value of the option, taking into account factors such as risk-free interest rate, expected life, expected volatility and expected dividend, if applicable;~~
  - ~~(i) Where the calculation of the value is referable to a risk-free interest rate, such rate should be the rate prevailing on debt securities issued by the state, such as the Exchange Fund Notes in the case of Hong Kong based entities.~~
  - ~~(ii) The listed issuer should set out the expected volatility used in calculating the value, with an explanation of any deviations from the historical volatility of the securities. The listed issuer may choose the period of time that it considers appropriate for calculating such historical volatility. However, such period may not be less than one year or, where securities have been listed for less than one year from the date of commencement of dealings in such securities, such period is to be from the date of commencement of such dealings to the date of the calculation.~~
  - ~~(iii) Expected dividends should be based on historical dividends, with an explanation of any adjustments made for publicly available information indicating that future performance is reasonably expected to differ from past performance.~~
- ~~(2) the measurement date which should be the date on which the options were granted;~~
- ~~(3) the treatment of forfeiture prior to the expiry date; and~~
- ~~(4) a warning statement with regard to the subjectivity and uncertainty of the values of options to the effect that such values are subject to a number of assumptions and with regard to the limitation of the model.~~

23.09 The listed issuer must include in its annual report a summary of each share option scheme approved by its shareholders setting out:

Proposal  
(1)

- (1) the purpose of the scheme;

- (2) the participants of the scheme;
- (3) the total number of shares securities available for issue under the scheme together with the percentage of the issued shares that it represents as at the date of the annual report;
- (4) the maximum entitlement of each participant under the scheme;
- (5) the period within which the securities must be taken up under an option may be exercised by the grantee under the scheme;
- (6) the vesting period of options or awards granted under the scheme the minimum period, if any, for which an option must be held before it can be exercised;
- (7) the amount, if any, payable on application or acceptance of the option or award and the period within which payments or calls must or may be made or loans for such purposes must be repaid;
- (8) the basis of determining the exercise price of options granted or the purchase price of shares awarded, if any; and
- (9) the remaining life of the scheme.

#### **Transitional arrangements**

#### **Other requirements**

23.10 [Repealed 1 October 2020]

23.11 Listed issuers must comply with the terms of their share ~~option~~ schemes in addition to the requirements of this Chapter 23. A breach of any such terms or requirements will constitute a breach of the GEM Listing Rules.

#### **Share schemes involving existing shares of listed issuers**

23.12 In respect of share scheme(s) of a listed issuer involving its existing shares:

(1) The issuer must disclose in its annual report:

(a) the information set out in rule 23.07(1) relating to grants of options and awards to (i) each director of the issuer; (ii) the five highest paid individuals during the financial year in aggregate; and (iii) other grantees in aggregate; and

(b) a summary of each share scheme as required under rule 23.09.

(2) Rule 23.05A applies to unvested shares held by the trustee of the scheme.

Proposal  
(N)

Proposal  
(O)

#### **Share schemes involving new or existing shares of a principal subsidiary of a listed issuer**

23.13 Rules 23.02 to 23.04 and rules 23.06 to 23.09, with appropriate modifications, apply to share schemes of a principal subsidiary of a listed issuer (whether they involve new shares issued by the subsidiary or existing shares of the subsidiary held by or for the issuer) as if they were

Proposal  
(Q)

share schemes of the issuer as described in rule 23.01(1).

23.14 A “principal subsidiary” refers to a subsidiary whose revenue, profits or total assets accounted for 75% (or more) of that of the issuer under the percentage ratios in any of the latest three financial years.

23.15 The following modifications apply:

(1) The scheme mandate limit, the service provider sublimit, the 1% individual limit, the limits on grants to the issuer’s directors, chief executive and substantial shareholders (and their respective associates) under rule 23.04 and the limit on grants to service providers and related entity participants under rule 23.06A(1)(c) are to be calculated with reference to the total issued shares of the subsidiary.

(2) Rule 23.03E does not apply to share option schemes of the subsidiary if the subsidiary’s shares are not listed on the Exchange. However, the scheme must provide that the exercise price of options granted after the listed issuer has resolved to seek a separate listing of such subsidiary on the Exchange, the Main Board or an overseas stock exchange and up to the listing date of the subsidiary must be not lower than the new issue price (if any). In particular, any options granted during the period commencing six months before the lodgement of Form 5A (or its equivalent for listing on the Main Board or the overseas stock exchange) up to the listing date of the subsidiary are subject to this requirement. The scheme must therefore provide for any necessary adjustment of the exercise price of options granted during such period to not lower than the new issue price.

Drafting changes (requirements moved from Note (2) to the original Rule 23.03(9))

## **(B) Amendments to Other Chapters**

### **Chapter 5**

#### **GENERAL**

##### **DIRECTORS, COMPANY SECRETARY, BOARD COMMITTEES, AUTHORISED REPRESENTATIVES AND CORPORATE GOVERNANCE MATTERS**

...

##### **Directors**

...

5.09 In assessing the independence of non-executive directors, the Exchange will take into account the following factors, none of which is necessarily conclusive. Independence is more likely to be questioned if the director:—

(2) has received an interest in any securities of the issuer as a gift, or by means of other financial assistance, from a core connected person or the issuer itself. However, subject to Note 1 to rule 5.09(1), the director will still be considered independent if he receives shares or interests in securities from the issuer or its subsidiaries (but not from core connected persons) as part of his director’s fee or pursuant to share

Proposal (T)

~~option~~ schemes established in accordance with Chapter 23;

...

### *Interpretation*

5.52 For the purpose of the required standard of dealings:

...

(4) notwithstanding the definition of “dealing” under rule 5.52(1), the following dealings are not subject to the required standard of dealings:

...

(g) ... ; ~~and~~

(h) dealing where the beneficial ownership is transferred from another party by operation of law-; and

(i) acceptance or vesting of shares pursuant to the terms of share awards granted by a listed issuer before a period during which dealing is prohibited under this code at the purchase price, if any, fixed at the time of grant of the awards.

Proposal (T)
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...

## **Chapter 17**

### **EQUITY SECURITIES**

#### **CONTINUING OBLIGATIONS**

...

#### **General matters relevant to the issuer’s securities**

##### *Changes in issued shares – Next day disclosure return and monthly return*

17.27B A listed issuer shall, by no later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the fifth business day next following the end of each calendar month, submit through HKEx-EPS, or such other means as the Exchange may from time to time prescribe, for publication on the Exchange’s website a monthly return in relation to movements in the listed issuer’s equity securities, debt securities and any other securitised instruments, as applicable, during the period to which the monthly return relates, in such form and containing such information as the Exchange may from time to time prescribe (irrespective of whether there has been any change in the information provided in its previous monthly return). Such information includes, among other things, the number as at the close of such period of equity securities, debt securities and any

other securitised instruments, as applicable, issued and which may be issued pursuant to options, warrants, convertible securities or any other agreements or arrangements.

Note: The Exchange may require the issuer to submit a list of grantees and the movements of shares and/or options granted to each of them under Chapter 23 in the format it prescribed from time to time.

Proposal  
(H)

...

*No further issues of securities within 6 months of listing*

17.29 No further shares or securities convertible into equity securities of a listed issuer (whether or not of a class already listed) may be issued or form the subject of any agreement to such an issue within 6 months from the date on which securities of the listed issuer first commence dealing on GEM (whether or not such issue of shares or securities will be completed within 6 months from the commencement of dealing), except for:

- (1) the issue of shares, the listing of which has been approved by the Exchange, pursuant to a share ~~option~~-scheme under Chapter 23;
- (2) ...

Proposal  
(T)

...

*Announcement of issues of securities*

17.30 ...  
...

- (15) any other material information with regard to the issue (including any restrictions on the ability of the issuer to issue further securities or any restrictions on the ability of the allottees to dispose of shares issued to them or any restrictions on the ability of existing shareholders to dispose of their securities arising in connection with the allotment).

*Notes: (1) This rule does not apply to a grant of options or awards or issue of securities under a share ~~option~~-scheme which complies with Chapter 23. For these, the issuer must follow the announcement requirements under rules 23.06A, 23.06B and 23.06C.*

Proposal  
(H)

- (2) ...

...

17.41 No such consent as is referred to in rule 17.39 shall be required:—

- (1) ...
- (2) ... to add such repurchased securities to the 20% general mandate; or

*Notes: ...*

(3) issue of shares under a share scheme that complies with Chapter 23.

Proposal  
(A)

...

## Meetings

### *Meetings of holders of securities*

17.47A Parties that are required to abstain from voting in favour at the general meeting pursuant to rules 9.20(1), 9.21, 10.29(1), 10.29A, 10.39(1), 10.39A, 17.42A(1), 17.42A(2), 19.89(2), 19.90(1), 23.03C(1), 23.04(4) may vote against the resolution at the general meeting of an issuer provided that their intention to do so has been stated in the relevant listing document or circular to shareholders. Any such party may change his mind as to whether to abstain or vote against the resolution, in which case the issuer must, if it becomes aware of the change before the date of the general meeting, immediately despatch a circular to its shareholders or publish an announcement notifying its shareholders of the change and, if known, the reason for such change. Where the circular is despatched or the announcement is published less than 10 business days before the date originally scheduled for the general meeting, the meeting must be adjourned before considering the relevant resolution to a date that is at least 10 business days from the date of despatch or publication by the chairman or, if that is not permitted by the issuer's constitutional documents, by resolution to that effect.

Proposal  
(C)

...

## Announcements, circulars and other documents

### *Review of documents*

17.53 Subject to rule 17.53A, where an issuer is obliged to publish any announcements, circulars or other documents for the purposes of the GEM Listing Rules, the documents need not be submitted to the Exchange for review before they are issued unless the documents fall within rule 17.53(1) or (2).

(1) The issuer shall submit to the Exchange drafts of the following documents for review before they are issued:

...

(e) circular to the issuer's shareholders seeking their approval of:

(i) ...

(ii) any matter relating to share ~~option~~-scheme required under Chapter 23 of the GEM Listing Rules; or

Proposal  
(T)

...

## Chapter 18

### EQUITY SECURITIES

#### FINANCIAL INFORMATION

...

*Information to accompany directors' report and annual financial statements*

- 18.07 The listed issuer shall include the disclosures required under the relevant accounting standards adopted and the information set out in rules 18.07A to 18.47 in its directors' report and annual financial statements. Unless stated to the contrary the financial information specified in these rules may be included outside the financial statements and will therefore be outside the scope of the auditors' report on the financial statements. The statement of profit or loss and other comprehensive income and statement of financial position set out in the financial statements must include at least the information set out in rule 18.50B. Banking companies (meaning banks, restricted licence banks and deposit-taking companies as defined in the Banking Ordinance) shall, in addition, comply with the Guideline on the Application of the Banking (Disclosure) Rules as issued by the Hong Kong Monetary Authority.

*Notes: 1 ...*

*4 An annual report shall contain the following information required under other parts of the GEM Listing Rules:*

...

*(i) share ~~option~~ schemes under rules 23.07, ~~23.08~~ and 23.09; and*

Proposals  
(I), (N)

...

- 18.17A For directors and chief executives, the statements should show details of the following matters as recorded in the register required to be kept under section 352 of the Securities and Futures Ordinance:

(1) ...

...

*Notes:*

(1) ...

(2) ...

(3) *For (c)(i) above, in respect of options granted to directors or chief executives pursuant to share option schemes under Chapter 23 of the GEM Listing Rules, the statements should show such details as are required to be disclosed under Rule 23.07(1)(b) of the GEM Listing Rules.*

Amendment  
to Rule  
reference

...

18.17B For substantial shareholders, the statements should show details of the following matters as recorded in the register required to be kept under section 336 of the Securities and Futures Ordinance:

(1) ...

...

*Notes:*

(1) ...

(2) ...

(3) *For (b)(i) above, in respect of options granted to substantial shareholders pursuant to share option schemes under Chapter 23 of the GEM Listing Rules, the statements should show such details as are required to be disclosed under Rule 23.07(1)(b) of the GEM Listing Rules.*

Amendment  
to Rule  
reference

...

18.41 A discussion and analysis of the group's performance during the year and the material factors underlying its results and financial position. It should emphasise trends and identify significant events or transactions during the year under review. As a minimum the directors of the listed issuer should comment on the following:—

...

(7) where applicable, details of the number and remuneration of employees, remuneration policies, bonus and share ~~option~~ schemes and training schemes;

Proposals  
(I), (N)

...

#### *Content of half-year reports*

18.55 Each half-year report shall contain the disclosures required under the relevant accounting standards adopted and the information set out below:

...

(9) the further information set out in rules 18.56 to 18.64.

*Notes: ...*

10 *A half-year report shall contain the following information required under other parts of the Listing Rules:*

...

(h) ~~share option schemes under rules 23.07 and 23.08.~~

Proposal  
(I)

...

## Chapter 19

### EQUITY SECURITIES

#### NOTIFIABLE TRANSACTIONS

...

19.04 For the purposes of this Chapter:—

(1) any reference to a “transaction” by a listed issuer:

...

(h) excludes a disposal or deemed disposal of interests in a principal subsidiary as a result of the grant of share options or share awards under a share scheme of the subsidiary that complies with Chapter 23.

Proposal  
(Q)

...

#### Share schemes of subsidiaries

19.32A This rule applies to the disposal (or deemed disposal) of a listed issuer’s interests in a subsidiary from the grant of new or existing shares of the subsidiary or options over any such shares under a share scheme (other than a share scheme of a principal subsidiary set out in rule 19.04(1)(h)).

Proposal  
(Q)

(1) When a subsidiary of a listed issuer adopts a share scheme (whether involving new shares issued by the subsidiary and/or existing shares of the subsidiary held by or for the issuer), the issuer must consider whether the disposal of interests in the subsidiary constitutes a notifiable transaction. The percentage ratios for the transaction classification are to be calculated based on the size of the scheme mandate (being the maximum number of shares of the subsidiary which may be issued or transferred in respect of awards and/or options to be granted under such mandate). If the subsidiary has more than one share scheme, the issuer shall aggregate the number of shares available for future grants under the scheme and other existing schemes for the purpose of calculating the percentage ratios.

Note: If the validity period of the scheme mandate is less than 12 months, the issuer shall aggregate the scheme mandate with any other awards and options granted by the subsidiary within a 12-month period for the purpose of calculating the percentage ratios.

(2) The announcement, circular and shareholders’ approval requirements under this chapter apply to the disposal according to the transaction classification. In addition, the circular (or the announcement if a circular is not required) must contain the major terms of the share scheme.

(3) Rules 19.32A(1) and (2) also apply if the subsidiary proposes to increase or refresh the scheme mandate or to effect a material change to the terms of the scheme.

Note: Rules 19.72 to 19.77 do not apply to options granted under a subsidiary's share scheme if the issuer has complied with the requirements of this rule.

...

## Chapter 20

### EQUITY SECURITIES

#### CONNECTED TRANSACTIONS

...

#### Issues of new securities by the listed issuer or its subsidiary

20.90 An issue of new securities by a listed issuer or its subsidiary to a connected person is fully exempt if:

- (1) ...
- (2) ...
- (3) the securities are issued to the connected person under:
  - (a) a share ~~option~~-scheme that complies with Chapter 23; or
  - (b) a share ~~option~~-scheme adopted by the listed issuer before its securities first start dealing on the Exchange, and where the Exchange has approved the listing of the securities to be issued under the scheme; or

Proposal  
(G)

...

## Chapter 25

### EQUITY SECURITIES

#### ISSUERS INCORPORATED IN THE PEOPLE'S REPUBLIC OF CHINA

...

#### Chapter 23 – Share ~~Option~~ Schemes

25.34D The Exchange may waive the exercise price requirement under ~~Note 1 to rule 23.03E(9)~~ for a share option scheme of a PRC issuer dually listed on the Exchange and a PRC stock exchange, provided that: (i) the scheme involves only shares listed on the PRC stock exchange; and (ii) the scheme contains provisions to ensure that the exercise price of the options is no less than the prevailing market price of the relevant shares on the PRC stock exchange at the time of grant of the options.

Amendment  
to the title of  
Chapter 23

...

## Appendix 1

### CONTENTS OF LISTING DOCUMENTS

#### Part A

##### Equity Securities

**In the case where listing is sought for equity securities of an issuer no part of whose share capital is already listed**

...

#### General information about the group's activities

28. ...

- (7) The number of people employed by the group and changes therein in the last 24 months, if such changes are material in the context of the group, with, if possible a breakdown of persons employed by main category of activity. Details of the remuneration of employees, remuneration policies, bonus and share option schemes and training schemes should be provided where relevant.

Proposal  
(T)

...

44. Details of any share option-schemes to which Chapter 23 applies.

...

## Appendix 1

### CONTENTS OF LISTING DOCUMENTS

#### Part B

##### Equity Securities

**In the case where listing is sought for equity securities of an issuer some part of whose share capital is already listed**

...

#### General information about the issuer, its advisers and the listing document

37. Details of any share option-schemes to which Chapter 23 applies.

Proposal  
(T)

...

# Appendix 15

## CORPORATE GOVERNANCE CODE

...

### Part 1 – Mandatory disclosure requirements

...

#### E. BOARD COMMITTEES

The following information for each of the ..., remuneration committee, ..., and corporate governance functions:

...

(d) a summary of the work during the year, including:

...

- (ii) for the remuneration committee, determining the policy for the remuneration of executive directors, assessing performance of executive directors, ~~and approving the terms of executive directors' service contracts, and reviewing and/or approving matters relating to share schemes under Chapter 23 (see rule 23.07A),~~ performed by the remuneration committee. ...

Proposal  
(J)

...

### PART 2 – PRINCIPLES OF GOOD CORPORATE GOVERNANCE, CODE PROVISIONS AND RECOMMENDED BEST PRACTICES

...

#### E. REMUNERATION

...

##### Code Provisions

...

E.1.2 The remuneration committee's terms of reference should include, as a minimum:-

...

(g) ...; ~~and~~

(h) ... remuneration-; and

(i) to review and/or approve matters relating to share schemes under Chapter 23 of the Rules.

Proposal  
(J)

...

## Appendix 17

### Headline Categories

...

#### Schedule 1

#### Headline Categories for Announcements and Notices

...

##### Securities/Share Capital

Announcement pursuant to Code on Share Buy-backs  
Bonus Issue (Announcement Form)  
Capital Reorganisation  
Capitalisation Issue  
Change in Board Lot Size  
Change in Terms of Securities or Rights attaching to Securities  
Change of Dividend Payment Date  
Closure of Books or Change of Book Closure Period  
Consideration Issue  
Conversion of Securities  
Intention to Sell Shares of Untraceable Member  
Issue of Convertible Securities  
Issue of Debt Securities  
Issue of Preference Shares  
Issue of Securities by Major Subsidiary  
Issue of Shares under a General Mandate  
Issue of Shares under a Specific Mandate  
Issue of Warrants  
Movements in Issued Share Capital  
Open Offer  
Placing  
Rights Issue  
Share Option Scheme  
Trading Arrangements (other than Change in Board Lot Size)

Amendment to the title of Chapter 23
--

#### Schedule 2

#### Headline Categories for Circulars

##### Securities/Share Capital

Capitalisation Issue  
Change in Terms of Securities or Rights attaching to Securities  
Document issued pursuant to Code on Share Buy-backs  
Exchange or Substitution of Securities  
Explanatory Statement for Repurchase of Shares  
General Mandate  
Issue of Convertible Securities

Issue of Debt Securities  
Issue of Preference Shares  
Issue of Securities by Major Subsidiary  
Issue of Securities within 6 Months of Listing  
Issue of Shares  
Issue of Warrants  
Open Offer  
Rights Issue  
Share Option Scheme

Amendment  
to the title of  
Chapter 23

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## APPENDIX V: HOUSEKEEPING RULE AMENDMENT

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### Amendment to GEM Listing Rules

#### Appendix 9

### LISTING FEES, LEVIES AND TRADING FEES ON NEW ISSUES AND BROKERAGE

...

1. **Equity Securities**

...

(3) **Subsequent Issue Fee**

...

- (c) An issuer shall pay any subsequent issue fees ~~at the time of submission of the application form in accordance with rule 12.17~~ within 7 days of receiving a debit note or, in any event if earlier, before dealings in the relevant securities commence.

...

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