

CHAPTER 10

DEPOSITARY RECEIPTS

Contents

This chapter sets out the conditions for listing and the information which is required to be included in the listing document for depositary receipts, including the requirements for unsponsored issues, which are covered in the section entitled 'Modifications, exceptions, and additions – unsponsored issues'. All applicants for listing of depositary receipts must also comply, unless otherwise agreed by the Exchange, with the provisions of Section I of the listing rules (in the case of unsponsored depositary receipts, substituting "applicant" for "issuer" in relation to the obligations specified, where applicable). The main headings of this chapter 10 are:

- 10.1 conditions for listing
- 10.21 contents of listing document
- 10.83 modifications, exceptions and additions – unsponsored issues
- 10.98 continuing obligations - unsponsored issues
- 10.104 continuing obligations - sponsored issues

CONDITIONS FOR LISTING

Issuer

- 10.1 When an application is made to list depositary receipts, the issuer for the purposes of these listing rules will be the issuer of the relevant underlying shares. The issuer must be either:
 - (a) a domestic issuer whose shares are listed on the Exchange; or
 - (b) an overseas company acceptable to the Exchange.

Financial information

- 10.2 The issuer must have published or filed annual financial statements which:
 - (a) are in respect of a period ended not more than eighteen months before the date of the listing document and which cover at least three financial years;
 - (b) have been prepared in accordance with the issuer's national laws; and
 - (c) have been independently audited.
- 10.3 In certain exceptional circumstances, the Exchange may accept financial statements covering a shorter period.

Nature and duration of business activities

- 10.4 The issuer must be carrying on as its main activity, either by itself or through one or more of its subsidiary undertakings, an independent business which is revenue earning and must have done so for at least the period covered by the financial statements required by the paragraph above.
- 10.5 The directors of the issuer must collectively have appropriate expertise and experience for the management of its business.

Validity

- 10.6 The underlying shares must:
- (a) conform with the law of the issuer's place of incorporation;
 - (b) be duly authorised in accordance with the requirements of the issuer's constitution; and
 - (c) have any necessary statutory or other consents.
- 10.7 The depositary receipts for which listing is sought must:
- (a) conform with the law of the depositary's place of incorporation;
 - (b) be duly authorised in accordance with the requirements of the depositary's constitution;
 - (c) have any necessary statutory or other consents; and
 - (d) be valid under the law which is expressed to govern the document giving effect to the depositary receipts.

Transferability

- 10.8 The depositary receipts for which listing is sought must be freely transferable except to the extent that any restrictions on transferability are approved by the Exchange.

Market capitalisation

- 10.9 Except where depositary receipts of the same class are already listed, the expected aggregate market value of all depositary receipts to be listed must be at least US\$1,000,000.

Sufficiently liquid market

- 10.10 Where an application for listing has been made for a class of depositary receipts, twenty five per cent. of that class must be in the hands of the public at all times. For the purposes of this rule, "the public" shall mean persons who are not directors or substantial shareholders of the issuer, or directors of a substantial shareholder of the issuer, or an associate or any of them.

- 10.11 The Exchange may accept a lower market capitalisation or percentage in public hands if it determines that the market in the depositary receipts will still be sufficiently liquid and will still operate properly.
- 10.12 If the percentage of a class of depositary receipts in the hands of the public falls below twenty five per cent. or such lower percentage as may have been agreed by the Exchange, the Exchange may suspend or cancel the listing. The Exchange will allow a reasonable time to restore the percentage, unless this is precluded by the need to maintain the smooth operation of the market or to protect investors.

Whole class to be listed

- 10.13 Where an application for listing is made for any class of depositary receipts:
- (a) if none of the depositary receipts of that class are already listed, the application must relate to the depositary receipts of that class, whether already issued or proposed to be issued; and
 - (b) if some of the depositary receipts of that class are already listed, the application must relate to all further depositary receipts of that class.

Clearing and settlement

- 10.14 The depositary receipts must be eligible for deposit in Euroclear, Cedel or The Depository Trust Company or some other clearing and settlement system acceptable to the Exchange.

The depositary

- 10.15 The depositary must be a suitably authorised and regulated financial institution acceptable to the Exchange.
- 10.16 The depositary must hold on trust (or under equivalent arrangements) for the sole benefit of the holders of the depositary receipts, all rights pertaining to the shares and all money and benefits that it may receive in respect of them, subject only to payment of the remuneration and proper expenses of the depositary. Subject as hereinafter provided in rule 10.17, none of the shares nor any such rights, money or benefits may be, or be liable to be treated as assets of the depositary under the law (including insolvency law) of the place of its incorporation, the place of incorporation of the issuer or the place of administration of the trust or other arrangement under which the shares are held.
- 10.17 The Exchange will permit the depositary to receive cash distributions from the issuer without segregating such distributions from other cash amounts held by the depositary, provided that the documentation constituting the depositary receipts provides that the depositary will distribute such amounts to investors as soon as practicable.

Custodian

- 10.18 Where a custodian is appointed, that custodian must be acceptable to the Exchange.

Obligations of the depository

- 10.19 The depository receipts must not impose obligations on the depository other than to the extent necessary for the protection of rights to and the transmission of entitlements of the underlying shares.

Legal opinions

- 10.20 The issuer must provide to the Exchange a satisfactory legal opinion from suitable counsel practising in the issuer's country of incorporation, in a form satisfactory to the Exchange, which includes an opinion that at the time of the listing the issuer has the capacity to apply to list depository receipts and that any issue of underlying shares and the establishment of the depository receipt facility is in compliance with its constitution and all applicable local laws and regulations and any listing rules and that all actions, consents, registrations, and filings to be taken, obtained or made by the issuer under such laws have been taken or obtained. The Exchange may also require such further evidence (including legal opinions) in respect of the depository and the depository arrangements as it deems necessary.

CONTENTS OF LISTING DOCUMENT

The issuer and its advisers

- 10.21 On the cover page of the listing document:
- (a) the official name and jurisdiction of incorporation of the issuer;
 - (b) the name, number and class of the depository receipts being offered and the issue price, if applicable; and
 - (c) the name of the arranger, underwriters or other distributors of the issue, if applicable.
- 10.22 On the inside cover page of the listing document, declarations and statements in the following form:
- (a) This listing document includes information given in compliance with the listing rules of the Cayman Islands Stock Exchange. The issuer accepts full responsibility for the accuracy of the information contained in the listing document and confirms, having made reasonable enquiry, that to the best of its knowledge and belief there are no facts the omission of which would make any statement within the listing document misleading. The Cayman Islands Stock Exchange takes no responsibility for the contents of this document, makes no representations as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss arising from or in reliance upon any part of this document.
 - (b) The depository receipts are securities of a specialist nature and should normally only be bought and traded by investors who are particularly knowledgeable in investment matters.

- (c) Application has been made to the Exchange for the depository receipts to be admitted to the official list.
- 10.23 On the inside back page of the listing document:
- (a) the registered or principal office of the issuer; and
 - (b) the names and addresses of the issuer's attorneys, auditors, depository, custodian, underwriters, arrangers or other distributors and paying agent (if any).

Investment considerations

- 10.24 An explanation of any matter of significance to investors relating to the issue of the depository receipts for which listing is sought, the issuer and the issuer's country of incorporation. Any such explanation should be given appropriate prominence, depending on the nature of the matter concerned and its significance to investors.

The shares represented by the depository receipts

- 10.25 The information to be given in rules 10.26 to 10.38 must relate to all the shares to be represented by the depository receipts which are the subject of the listing and any shares which are to be marketed or made available to the public in conjunction with the application.
- 10.26 A statement of the resolutions, authorisations and approvals by virtue of which the shares have been or will be created and/or issued.
- 10.27 The number of shares which have been or will be created and/or issued if predetermined, and the minimum sale price for such shares.
- 10.28 A summary of the rights attaching to the shares, and in particular the extent of the voting rights, pre-emption rights, entitlement to share in any profits and, in the event of liquidation, in any surplus and any other special rights. Where there is or is to be more than one class of shares of the issuer in issue, like details must be given for each class.
- 10.29 The fixed date(s) on which entitlements to dividends arise.
- 10.30 The time limits after which entitlements to dividends lapse and an indication of the person in whose favour the lapse operates.
- 10.31 A statement regarding tax on the income from the shares withheld at source in the country of origin.
- 10.32 A statement as to whether the issuer assumes responsibility for the withholding of tax at source.
- 10.33 Arrangements for the transfer of the shares and any restrictions on their free transferability.

- 10.34 Any stock exchanges on which the shares are listed and an indication of the closing price of the shares as derived from the official publication of the relevant exchange for the first business day in each of the six months immediately preceding the date of the listing document.
- 10.35 Where a listing of shares on another stock exchange is to be sought by the issuer, details of that stock exchange.
- 10.36 The names and addresses of the issuer's registrars and any transfer agents.
- 10.37 Where shares are being issued at the same time as the admission of the depositary receipts to listing, the following information concerning the terms and conditions of the issue:
- (a) a statement of any right of pre-emption of shareholders exercisable in respect of any shares to be represented by the depositary receipts;
 - (b) the total number of shares being offered or privately placed (where applicable) by category;
 - (c) if a public or private issue or placing is being made simultaneously on the markets of two or more countries and if a tranche is being reserved for certain of these, details of any such issue, placing or tranche;
 - (d) the issue price, the issue premium and the amount of any expenses specifically charged to any subscriber or purchaser;
 - (e) the methods of payment of the issue price, particularly as regards the paying-up of shares which are not fully paid;
 - (f) the procedure for the exercise of any right of pre-emption, the transferability of subscription rights and treatment of subscription rights not exercised;
 - (g) the period during which the issue will remain open and the names of the receiving agents;
 - (h) the methods of and time limits for delivery of the shares;
 - (i) the names, addresses and descriptions of the persons underwriting the issue and the amount of any portion not covered;
 - (j) an estimate of the overall expenses relating to the issue payable by the issuer and the estimated net proceeds of the issue and the intended application of such proceeds;
 - (k) if known, the dates on which the underlying shares will be admitted to listing (if applicable) and on which dealings will commence; and
 - (l) details of the dealing and settlement arrangements for the shares.

- 10.38 If the shares have not been admitted to listing but are dealt in on another regulated, regularly operating, recognised open market, an indication of such market.

Litigation or material claims

- 10.39 Particulars of any litigation, or claims of material importance pending or threatened against the issuer or any member of the issuer's group, or an appropriate negative statement.

Financial information about the issuer

- 10.40 The financial information about the issuer and its group must be set out in the form of a comparative table, together with any interim financial statements published subsequently.

- 10.41 The comparative table must include the following financial information, which must be extracted without material adjustment from the latest audited annual financial statements, which must be in respect of a period ended not more than eighteen months before the date of the listing document and which covers at least three financial years (or any shorter period agreed by the Exchange):

- (a) income statement;
- (b) balance sheet;
- (c) cash flow statement;
- (d) accounting policies; and
- (e) notes to the accounts for the last financial year.

The comparative table must be presented in a form consistent with that which would be adopted in the issuer's annual financial statements having regard to the accounting standards, policies and legislation applicable to such financial statements unless the Exchange otherwise agrees.

- 10.42 The full text and date of the auditors' report accompanying the last financial statements. If the auditors' report is qualified or includes any emphasis of matter, such qualifications or emphasis of matter must also be reproduced in full and the reasons given. Where inclusion of the full text of the auditors' report in the listing document is prohibited without the auditors' consent it will be sufficient to include the names and addresses of the auditors' and a statement that the audit was unqualified.
- 10.43 The financial information need not be prepared on a consolidated basis if the issuer has in the past always presented financial statements on another basis. If the issuer prepares both own and consolidated annual financial statements, the issuer may include either form or both, provided that the form which is not included does not provide any significant additional information.

- 10.44 The Exchange may enquire as to whether the accounting principles which have been applied are consistent with International Accounting Standards, the standing of the auditors within the accounting profession of the country where they practise, and whether the audit has been carried out in accordance with International Standards on Auditing. An explanation of any significant departures from International Accounting Standards or International Standards on Auditing may be required to be included in the listing document.
- 10.45 Where a profit forecast appears in the listing document, a statement of the principal assumptions upon which it is based, whether it is audited or unaudited and the date at which the profit forecast was prepared.

Capitalisation and indebtedness

- 10.46 A summary of the provisions of the issuer's memorandum and articles of association regarding changes to its share capital.
- 10.47 The amount of the issuer's authorised and issued share capital and the amount of any share capital agreed to be issued, the number and classes of the shares of which it is composed with details of their principal characteristics. If any part of the issued share capital is still to be paid up, a statement of the number, or total nominal value, and the type of the shares not yet fully paid up, broken down, where applicable, according to the extent to which they have been paid up.
- 10.48 Where the issuer has authorised but unissued share capital or is committed to increase its share capital, an indication of:
- (a) the amount of such authorised but unissued share capital or capital increase and, where appropriate, the duration of the authorisation;
 - (b) the categories of any persons having preferential subscription rights for such additional portions of share capital; and
 - (c) the terms and arrangements for the issue of shares corresponding to such portions.
- 10.49 An indebtedness statement as at the most recent practicable date (which must be stated) of the following, if material:
- (a) the total amount of any debt securities of the issuer issued and outstanding, and authorised or otherwise created but unissued, and term loans, distinguishing between guaranteed, unguaranteed, secured (whether the security is provided by the issuer or by third parties) and unsecured loans;
 - (b) the total amount of all other borrowings or indebtedness in the nature of borrowings of the issuer including bank overdrafts, liabilities under acceptances (other than normal trade bills), acceptance credits or hire purchase commitments, distinguishing between guaranteed, unguaranteed, secured and unsecured borrowing and debt, all mortgages and charges of the issuer; and
 - (c) the total amount of any contingent liabilities or guarantees of the issuer.

- 10.50 As a general rule, no account should be taken of liabilities or guarantees between undertakings of the same group.
- 10.51 A statement by the directors of any material adverse change in the financial or trading position of the issuer or the group since the end of the period reported on in the auditors' report, or an appropriate negative statement.
- 10.52 Compliance with rules 10.47 and 10.49 may take the form of a combined capitalisation and indebtedness statement as at the most recent practicable date (which must be stated), accompanied by particulars of any material change since that date, or an appropriate negative statement.

The group's activities

- 10.53 A description of the group's principal activities, including details of the main categories of products sold or services performed.
- 10.54 A description of the group covering the issuer's position within the group and, if a subsidiary, the names and number of shares held, directly or indirectly, by each holding company of the issuer.

Management

- 10.55 The full names, addresses and functions in the issuer of every director or proposed director.
- 10.56 Where disclosure of such information is required by any stock exchange upon which the issuer is listed or by the laws of the issuer's country of incorporation, a statement showing the total interest of the directors in the issuer together with any options in the share capital.

Major shareholders

- 10.57 To the extent that such disclosure is required by the stock exchange upon which the issuer is listed or by the laws of the issuer's country of incorporation details of:
- (a) the interests of any director of the issuer in its share capital;
 - (b) each person who is, directly or indirectly, interested in five per cent. or more of the share capital of the issuer; and
 - (c) the amount of each director or person's interest in such share capital, together with particulars of any options in respect of further share capital.

Information about the depository

- 10.58 The name, registered office and principal administrative establishment (if different from the registered office) of the depository.
- 10.59 The date and country of incorporation of the depository.

- 10.60 The legislation under which the depositary operates and legal form which it has adopted under that legislation.
- 10.61 A summary of the contents of the deposit agreement including the date, parties, duration, and any indemnities or restrictions on the liability of the depositary. The summary should also include a statement as to how the terms of the deposit agreement may be varied and a description of how such agreement may be terminated.

The depositary receipts

- 10.62 If applicable, the minimum sale price of the depositary receipts, if such price is fixed.
- 10.63 A summary of the material terms and conditions of the depositary receipts and the deposit agreement, including the information set out below.
- 10.64 The provisions relating to the exercise of and benefit from the rights attaching to the underlying shares, in particular the notification of voting rights, the conditions on which the depositary may exercise such rights, and the procedures applied by the depositary to obtain the instructions of the holders of the depositary receipts and the right to participate in any distribution.
- 10.65 The provisions which enable a holder of depositary receipts to request the withdrawal of the deposited property and the procedure for conversion of the depositary receipts into the deposited shares.
- 10.66 The amount of the commissions and costs to be borne by a holder of depositary receipts in connection with:
- (a) the issue of the depositary receipts;
 - (b) the receipt and payment of any cash dividend or other distribution in respect of the deposited shares;
 - (c) the creation of additional depositary receipts;
 - (d) the exchange of the depositary receipts for deposited shares upon the withdrawal of the deposited property; and
 - (e) the issue and delivery of replacement depositary receipts.
- 10.67 Details of the procedures which will be applied by the depositary whenever it receives cash, shares or any other distribution in respect of the deposited property.
- 10.68 Details of the circumstances in which the issue of depositary receipts or the withdrawal of deposited property may be suspended.
- 10.69 Details of the procedures which may be applied by the depositary if and whenever the issuer announces its intention to offer or invite the holders of the deposited shares to subscribe or acquire further shares.

- 10.70 The procedures which may be applied by the depositary in the conversion of foreign currency.
- 10.71 The procedures which will be applied by the depositary upon any change in the nominal or par value, sub-division, consolidation or other reclassification of the deposited shares or upon any reduction of capital or upon any reorganisation, merger or consolidation of the issuer.
- 10.72 The procedures for the issue and delivery of replacement depositary receipts.
- 10.73 Arrangements for the transfer of the depositary receipts and any restrictions on their free transferability.
- 10.74 Details of the dealing and settlement arrangements for the depositary receipts.
- 10.75 The names of any stock exchanges where admission to listing for the depositary receipts is, or is intended to be sought and the date on which the depositary receipts will be admitted to listing, if known.
- 10.76 Details of where the issuer's audited annual financial statements and any interim financial statements will be made available to the holders of the depositary receipts.
- 10.77 An indication of the arrangements with regard to any taxes and charges to be borne by the holders of the depositary receipts and levied in countries where the depositary receipts are issued.
- 10.78 An indication of the legislation under which the depositary receipts have been created (if applicable) and of the courts competent in the event of litigation.
- 10.79 Details of the procedures regarding the pre-release of depositary receipts and lending of deposited shares.

Material contracts

- 10.80 To the extent not already disclosed in the listing document, a summary of the principal contents of all material contracts entered into by the issuer pertaining to the issue of the depositary receipts, including particulars of the dates, parties and a summary of the terms and conditions of such contracts.

Conditionality

- 10.81 If the issue of depositary receipts may be cancelled at any time prior to the document of title being issued, and therefore the grant of the listing may not become effective, this must be made clear in the listing document. The subscription or underwriting agreement must make the obligations thereunder conditional upon the depositary receipts being admitted to listing.

Documents for inspection

10.82 A statement that for a reasonable period (being not less than 14 days from the date of the listing document) at a named place in the Cayman Islands, or such other place as the Exchange may agree, the following documents (translated into English where the documents are in another language) may be inspected without charge:

- (a) the constitutional documents of the issuer;
- (b) the issuer's most recent audited financial statements and any subsequent interim financial statements; and
- (c) the deposit agreement, any paying agency agreement, if applicable, and any other material contracts pertaining to the issue.

MODIFICATIONS, EXCEPTIONS AND ADDITIONS - UNSPONSORED ISSUES

General

10.83 In the case of an unsponsored issue, the following modifications, exceptions and additions shall apply. As an over-riding principle, the Exchange must be satisfied that investors will be able to obtain the necessary information to form an opinion regarding the value of the relevant underlying shares. Applicants are advised to contact the Exchange at an early stage to discuss this requirement so as to establish what conditions will be imposed by the Exchange.

CONDITIONS FOR LISTING

The underlying shares

10.84 The Exchange will require the underlying shares represented by the depository receipts, to be listed on the Exchange or another stock exchange acceptable to it.

The applicant

10.85 The requirements of rule 10.20 shall not apply. The applicant for the listing of an unsponsored issue (which in the case of an initial application for any unsponsored issue will be the entity arranging the initial deposit of shares with the depository, and in the case of any subsequent applications will be the depository or the entity making the subsequent deposit of shares), must if so required by the Exchange, provide a legal opinion (or legal opinions) in form and content satisfactory to the Exchange. Any legal opinion may be required by the Exchange, inter alia, to confirm:

- (a) that the listing of the depository receipts is not in breach of any law or regulation in the country of incorporation of the issuer, or the applicant for listing;

- (b) that all necessary exchange control, tax, securities laws and any other regulatory consents have been obtained in the country of incorporation of the issuer and of the applicant; and
- (c) that, subject as provided in rule 10.17, none of the shares represented by the depositary receipts nor any rights, money or other benefits attributable to such shares may be or be liable to be treated as assets of the depositary under the law (including insolvency law) of the place or places of incorporation of the depositary and the issuer.

The depositary

- 10.86 The depositary must agree to observe the continuing obligations with respect to unsponsored issues as set out in rules 10.98 to 10.102 below and to execute and perform the undertaking in favour of the Exchange, in the form set out in appendix 3B. The continuing obligations contained in Chapter 2 and the remaining parts of Chapter 10, shall not apply.
- 10.87 The depositary must agree in the deposit agreement (or its equivalent) to distribute to investors copies of all information relating to the issuer and the issuer's group which it or its nominee receives from the issuer in its capacity as a shareholder in the issuer. In particular (but without limitation) the depositary must undertake in such agreement to inform investors of shareholder meetings of the issuer and to distribute copies of any notices, reports or other communications received from the issuer giving information on:
- (a) the allocation and distribution of dividends; and
 - (b) the issue of new shares, including arrangements for the allotment, subscription, renunciation, conversion or exchange of shares.
- 10.88 The requirements of rules 10.1 to 10.6 and 10.9 to 10.13 shall not apply.

CONTENTS OF LISTING DOCUMENT

- 10.89 The requirements of rule 10.22(a) shall not apply but a declaration in the following form should be included on the inside cover page of the listing document:

This listing document includes information given in compliance with the listing rules of the Cayman Islands Stock Exchange. The applicant has extracted such information from publicly available sources and to the best of its knowledge and belief such information has been accurately reproduced in the listing document but such information has not been independently verified or checked [or, if applicable, the extent to which it has been so verified or checked]. The Cayman Islands Stock Exchange takes no responsibility for the contents of this document, makes no representations as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss arising from or in reliance upon any part of this document.

- 10.90 The requirements of rules 10.23(b) insofar as it relates to the issuer, 10.26 to 10.33, 10.35 to 10.57, 10.80, and 10.82 (a) shall not apply to an unsponsored issue.
- 10.91 The applicant must ensure that the listing document contains the latest published annual financial statements and any subsequently published interim financial statements of the issuer.
- 10.92 All information contained in the listing document must be derived from publicly available information, which for the purposes of an unsponsored issue shall mean:
- (a) information which has been published in or on any internationally recognised published or electronic news source, regardless of whether the reader or user thereof pays a fee to obtain such information;
 - (b) information disclosed by the issuer of the underlying shares pursuant to the requirements of the issuer's national law, any stock exchange on which the underlying shares are listed, or the rules of any regulatory body to which the issuer is subject; and
 - (c) information in the secondary market or otherwise within the public domain.
- 10.93 Where the latest published annual financial statements and any subsequently published interim financial statements of the issuer included in the listing document have not been prepared in accordance with International Accounting Standards, or the audit has not been carried out in accordance with International Standards on Auditing, then the listing document must contain a summary of the principal differences between the accounting and auditing standards used and International Accounting Standards and International Standards on Auditing.

Risk factors

- 10.94 Statements in a prominent position, in the following form (where applicable):
- (a) Prior to the issue of the depositary receipts there has been no public market for the depositary receipts. An application has been made to list the depositary receipts on the Cayman Islands Stock Exchange. There can be no assurance that any trading market will develop for the depositary receipts.
 - (b) Information in the listing document relating to the issuer has been derived from publicly available sources but has not been provided by the issuer of the shares. The applicant has extracted such information from such publicly available sources and to the best of its knowledge and belief, such information has been accurately reproduced in the listing document. However, such information has not been independently verified or checked or, if applicable, the extent to which it has been so verified or checked.
 - (c) The most recent audited financial statements and interim financial statements have been appended to this listing document. However, there can be no assurance that the financial condition or results of operations of the issuer have not changed in a material adverse manner since the date to which such financial statements were prepared.

- (d) The issuer is not a party to the offer and sale of the depository receipts or the arrangements pursuant to which the depository receipts may be converted into the deposited shares. Accordingly, the issuer is under no contractual obligation to furnish the depository with reports or other information relating to such shares for the benefit of investors.
- (e) The information published by the issuer and distributed by the depository to the holders of depository receipts may not be made available in the English language.
- (f) The necessary principles that have been applied in the annual audited and interim financial statements of the issuer are not consistent with International Accounting Standards and/or International Standards on Auditing. A summary of the principle differences between the principles applied in producing the issuer's financial statements and those of the International Accounting Standards and/or International Standards on Auditing is provided herein.

Application for listing

- 10.95 The requirements of rule 2.17 shall not apply. The listing document must be formally approved by the Exchange before publication. Such approval will only be given if the Exchange considers that the information in the listing document complies with its requirements. Before formal approval is given, the applicant for listing of an unsponsored issue must file with the Exchange the documents set out below together with the applicable listing fees calculated in accordance with the principles set out in the fees appendix to these listing rules:
- (a) two copies of the listing document in final form;
 - (b) an application for admission to listing, in the form set out in appendix 1D;
 - (c) a declaration by the applicant, in the form set out in appendix 2C;
 - (d) an undertaking by the depository, in the form set out in appendix 3B; and
 - (e) such other documents as may be required by the Exchange.

Supporting documents

- 10.96 The requirements of rule 2.18 shall not apply. The Exchange may at any time before or after the admission to listing require the applicant to provide to the Exchange a copy of any of the following, where applicable:
- (a) the deposit agreement or its equivalent;
 - (b) any reports, letters, valuations, statements by experts, contracts or other documents referred to in the listing document; and
 - (c) any temporary and/or definitive document of title.
- 10.97 The applicant must retain copies of such documents while the depository receipts remain listed so that it can comply with any such request from the Exchange.

CONTINUING OBLIGATIONS – UNSPONSORED ISSUES

- 10.98 As a condition of being granted and maintaining a listing, the depositary must observe the continuing obligations with respect to unsponsored issues which are set out below. The continuing obligations contained in chapters 2 and in chapter 10 for sponsored issues shall not apply.
- 10.99 When further shares of the same class are to be deposited with the depositary under the same facility, the depositary will notify the Exchange of the creation of the new depositary receipts and any modification in the rights attaching thereto. The Exchange may list such depositary receipts without requiring a listing document to be prepared in connection with the listing application. A listing document is not required if a further issue of depositary receipts of a class already listed is made in exchange for shares provided the nominal value of the issuer's share capital is not increased by more than twenty per cent. as a result.
- 10.100 The depositary must notify the Exchange of any termination of its appointment and must give holders of the depositary receipts notice of such termination as provided by the deposit agreement. The notification must contain the information referred to in rule 10.116 below. The replacement depositary receipts must satisfy the applicable conditions for listing set out in this chapter.
- 10.101 The depositary must notify the Exchange of any modification in the rights of the depositary receipts or any shares into which the listed depositary receipts are exchangeable, to the extent that it becomes aware of the same. In such circumstances, the Exchange may require a new application for listing of such modified depositary receipts or may cancel the listing thereof.
- 10.102 If requested by the Exchange, the depositary must (subject to it or its nominee receiving or otherwise being able to obtain the same) deliver to the Exchange six copies of the issuer's annual financial statements, the auditors' report thereon, any interim financial statements, all circulars, notices of meetings, forms of proxy, and other similar documents as soon as possible after they have been received or obtained by the depositary (or its nominee) in its capacity as a shareholder of the issuer.

The Exchange

- 10.103 The Exchange may at any time make a public announcement with respect to any information delivered to it by the depositary or the issuer of the deposited shares.

CONTINUING OBLIGATIONS – SPONSORED ISSUES

Save as otherwise expressly provided, as a condition of being granted and maintaining a listing on the Exchange, the issuer must observe the continuing obligations set out in chapter 2 and below.

New Developments

10.104 The issuer must notify the Exchange of any new developments which are not public knowledge and which may reasonably be expected to affect materially the market activity in and the price of the listed depositary receipts.

Equality of treatment

10.105 The issuer must ensure equal treatment of all holders of its listed depositary receipts or underlying shares.

Changes in rights

10.106 The issuer must notify the Exchange of any modification in the rights of the listed depositary receipts or any shares into which the listed depositary receipts are exchangeable. In such circumstances, the Exchange may require a new application for listing of such modified depositary receipts.

Dividends

10.107 The issuer must notify the Exchange of any decision to pay any dividend or to make any other distribution on the underlying shares or any failure to pay any such dividend or distribution on those shares.

Annual financial statements

10.108 The issuer must publish audited annual financial statements within six months of the end of the financial period to which they relate. Such financial statements must be prepared in accordance with its national law. If the issuer prepares both own and consolidated financial statements it may publish either form or both provided that the form which is not published does not contain any significant additional information. If the annual audited financial statements do not give a true and fair view of the state of affairs at the end of the financial year or the profit or loss of the issuer or the group, the Exchange may require additional information to be included therein.

Interim report

10.109 The issuer must publish interim financial statements on its activities and profit or loss within four months of the end of the period to which they relate. Such interim financial statements must be prepared in accordance with its national law. Where the figures in any interim financial statements have not been audited, a statement to that effect must be included.

Availability of annual and interim financial statements

10.110 A place in the Cayman Islands, or such other place as the Exchange may agree, at which copies of the issuer's annual financial statements and the auditors' report thereon and any interim financial statements may be obtained without charge must be notified to the Exchange immediately following their publication.

Communication with shareholders

10.111 The issuer must ensure that all the necessary facilities and information are available to enable shareholders to exercise their rights. In particular it must:

- (a) inform shareholders of meetings which they are entitled to attend;
- (b) enable the shareholders to exercise their right to vote, where applicable; and
- (c) publish notices or distribute circulars giving information on:
 - (i) the allocation and payment of dividends; and
 - (ii) the issue of new shares, including arrangements for the allotment, subscription, renunciation, conversion or exchange of the shares.

Further issues

10.112 A listing document is not required if a further issue of depository receipts of a class already listed is made in exchange for shares provided the nominal value of the issuer's share capital has not increased by more than twenty per cent. as a result.

10.113 When further depository receipts of the same class are to be issued, the issuer must make an application for listing for such further depository receipts not more than one year after their issue or when they become freely negotiable (whichever is earlier).

Annual listing fee

10.114 An issuer must pay the annual fee for listing, calculated in accordance with the Exchange's scale of fees set out in the appendix to these listing rules as soon as such payment becomes due.

Certificates in public hands

10.115 An issuer must inform the Exchange in writing, without delay, when it becomes aware that the proportion of any class of listed depository receipts in the hands of the public has fallen below twenty-five per cent. of the total number of issued depository receipts of that class or, where applicable, such lower percentage as the Exchange may have agreed.

Change of depository

10.116 Any change of depository must be notified to the Exchange. The notification must contain the information with respect to the depository specified in rules 10.58 to 10.60 to this chapter. The replacement depository must satisfy the applicable conditions for listing set out in this chapter.

Directors

10.117 Any changes in the issuer's directors must be notified to the Exchange.

General nature of business

10.118 Any decision to change the general nature or the character of the group must be notified to the Exchange.

Interests in depository receipts

10.119 The issuer must notify the Exchange of any material change in the interests of the directors or substantial shareholders in the depository receipts which have been communicated to the issuer in accordance with the laws of the issuer's country of incorporation or the rules of the stock exchange upon which the issuer is listed.

Equivalent information

10.120 The issuer must ensure that copies of all documents required to be filed and information required to be notified to any exchange on which its shares are listed are promptly made available to the Exchange.

Distribution of other documents

10.121 The issuer must send to the Exchange at the same time as they are issued to shareholders, six copies of all circulars, notices of meetings, forms of proxy, annual financial statements, interim reports, announcements or other similar documents issued by the issuer in compliance with the requirements of any other stock exchange on which its shares are listed or any competent authority or equivalent regulatory authority which regulates it. Unless otherwise agreed by the Exchange, such documents must be in the English language or accompanied by an English translation certified by a party acceptable to the Exchange.

Exception

10.122 Where, in the opinion of the issuer, disclosure of any matter required by the listing rules would be unduly detrimental to the issuer, the issuer may apply for a waiver from the relevant requirements. The information, together with a statement of the reasons why the issuer believes the information should not be disclosed at that time, must be provided to the Exchange on a strictly confidential basis. The Exchange may at any time order that an announcement be delivered to it for dissemination.