

# **CHAPTER 4**

## **COUNCIL AND LISTING COMMITTEE**

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### **Delegation of powers by the Council**

- 4.1 The Council may delegate its powers and functions in respect of listing matters to the listing committee, the Chief Executive Officer of the Exchange and the staff of the Exchange, subject to the appeals procedures set out in this chapter. In the first instance all matters concerning these listing rules and an application for listing will be dealt with by the staff of the Exchange.

### **Listing committee**

- 4.2 The listing committee shall consist of at least six members and shall include the Chief Executive Officer of the Exchange. The remaining members shall be appointed by the Council. Of those other members, at least one shall be a representative of a listing agent and at least one shall be a representative of lawyers or accountants or other professional advisers who provide advice in connection with applications for listing on the Exchange. The Council shall appoint the chairman of the listing committee from among the listing committee's members. The Council may appoint alternates to stand in for a member of the listing committee who has a disclosable interest in any application coming before the listing committee.
- 4.3 All members of the listing committee shall retain their offices until the appointment of their successors.
- 4.4 The listing committee shall have the following functions which may be further delegated to the staff of the Exchange:
  - (a) to examine the eligibility and suitability of applications made to the Exchange for a listing and to approve or reject such applications;
  - (b) to apply, interpret, waive, derogate from and enforce these listing rules;
  - (c) to recommend changes to these listing rules (including the listing fees) to the Council;
  - (d) to decide on the suspension of trading on the Exchange or cancellation of a listing; and
  - (e) to recommend admission of persons as listing agents.

## **Meetings**

- 4.5 Meetings of the listing committee shall be held as often as may be considered necessary by the chairman and at such times and places as the chairman may determine. Meetings may be held by means of a conference telephone call and written resolutions signed by all the members of the listing committee are as valid and effective as if the resolution had been passed at a duly constituted meeting held in the Cayman Islands.
- 4.6 The quorum for a meeting of the listing committee shall be three members.
- 4.7 Each member of the listing committee present at a meeting shall have one vote.
- 4.8 Every question for decision at meetings of the listing committee shall be determined by a majority of votes of the members present and, in the event that voting is equally divided, the chairman of the meeting shall have a second and deciding vote.
- 4.9 The listing committee may act notwithstanding any vacancy among its members.

## **Disclosure of interests**

- 4.10 A member of the listing committee who has any direct or indirect personal or financial interest in any application coming before the listing committee shall on each and every such occasion declare his interest and thereafter, unless otherwise directed by the chairman of the meeting, shall withdraw from the meeting, take no further part in the proceedings of the listing committee in relation to that application or any vote in respect of it. A declaration, withdrawal or direction referred to in this rule shall be recorded in the minutes.
- 4.11 Without prejudice to the generality of the preceding rule, a member of the listing committee has an interest that must be disclosed if he is:
- (a) a director, officer, employee or substantial shareholder of the applicant or any associate of the applicant;
  - (b) a director, officer, employee, partner, or substantial shareholder of any of the applicant's listing agent, attorneys, accountants, auditors, mutual fund administrator, director, underwriter or their associates;
  - (c) a director, officer, employee, partner or substantial shareholder of a competitor of the applicant;
  - (d) a major customer or major supplier of the applicant;
  - (e) a material creditor or debtor of the applicant; or
  - (f) a landlord or a tenant of the applicant.
- 4.12 If a quorum cannot be formed in respect of an application due to the disclosure of interests, the application will be dealt with by the Council or such persons as the Council may designate.

## Confidentiality

- 4.13 No member of the listing committee shall disclose, except to the extent that its disclosure is strictly necessary for the proper discharge of his functions as a member of the listing committee, any information which is not generally known to the public and which has come to his knowledge in the performance of his functions as a member of the listing committee.

## Rejection of an application for listing

- 4.14 Rejection of an application for listing the listing committee, in its absolute discretion, may reject an application for the admission of securities to the Official List of the Exchange

- 4.15 Without limitation, the listing committee may reject an application for the admission of securities if it considers that:

- (a) the issuer and its business overall is not suitable for listing;
- (b) the issuer does not meet the conditions for listing;
- (c) the admission of the securities may be detrimental to the fair, orderly operations of the market;
- (d) the admission of the securities may be detrimental to the integrity and reputation of the market;
- (e) the admission of the securities may be detrimental to investor interest;
- (f) the issuer has a poor record of complying with its obligations under a listing regime;
- (g) the issuer does not have a sufficient level of operations or sufficient assets to warrant a listing of its securities.

- 4.16 A decision of the listing committee to:

- (a) reject an application for listing on the grounds of the issuer's suitability or the suitability of its business for listing;
- (b) reject an application by a listed issuer to lift a suspension of trading which has been in effect for more than thirty days;
- (c) cancel a listing; or
- (d) reject or disapprove an application for registration as a listing agent may be appealed to the Council or a duly appointed committee of the Council. The decision of the Council or committee in any such matter shall be final and binding on all parties and the Council or committee shall not be required to disclose the reason for its decision.

- 4.17 The decision of the Listing Committee in any matter shall be final and the Listing Committee shall not be required to disclose the reason for its decision.

## Appeals

- 4.18 Only final decisions of the Listing Committee relating to the following matters may be appealed to the Council:

- (a) rejection of an application for listing;
  - (b) rejection of an application to lift a suspension; and
  - (c) cancellation of listing.
- 4.18.1 In every appeal an appellant must give written notice of the appeal to the Exchange within ten days of the date of notification of the listing committee's decision. The Notice should set out the name of appellant, the final decision appealed against, the grounds of appeal and all material facts and shall have attached to it copies of all documents relevant to the appeal.
- 4.18.2 In making its determination, the Council or committee may confirm or reverse the Exchange's earlier decision or, in the case of a rejection of an application for listing, may approve the application subject to the applicant complying with such conditions as the Council or committee may see fit to impose. As part of any appeal the issuer shall be given an opportunity, by means of written representation to the Council or committee, to set out the grounds for its appeal.
- 4.18.3 Where the requirements for serving notice of an appeal are not met, the final decision of the listing committee shall be final and binding on all parties.
- 4.18.4 An appeal fee (as set out in the fee schedule on the Exchange's website which is subject to change from time to time) will be payable by the appellant for an appeal hearing to be conducted. Further charges may, at the absolute discretion of the Council be incurred for more complex or lengthy appeals.
- 4.18.5 Appeals should be conducted in private.
- 4.18.6 Any party may be legally represented.
- 4.18.7 A record of the appeal will be made, for the avoidance of doubt, it shall be sufficient for such record to be in a form of minutes.
- 4.18.8 In making its decision the Council may uphold or reverse the listing committee's final decision or, in the case of a rejection of an application for listing, may approve the application subject to the applicant complying with any conditions imposed by the Council.
- 4.18.9 Following the conclusion of the proceedings, the Council will notify the parties in writing of its decision and any further charges payable.