

CHAPTER 5

LISTING AGENTS

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Appointment of a listing agent

- 5.1 Except in the case of specialist debt securities listed pursuant to chapter 8, depositary receipts listed under chapter 10, derivative warrants listed pursuant to chapter 11, corporate and sovereign debt securities listed pursuant to chapter 12, debt securities of specialist companies listed pursuant to chapter 14 and securities which are the subject of a secondary listing under chapter 7, a listing agent must be appointed in connection with any application for the listing of securities on the Exchange. The Exchange retains a discretion to require the appointment of an adviser acceptable to the Exchange and/or a listing agent with respect to applications for listing under chapters 8, 10, 11, 12 or 14.
- 5.2 Issuers of equity securities under chapter 6 which are not specialist companies must have and maintain a listing agent on an ongoing basis unless otherwise agreed by the Exchange. The listing agent will be expected to provide ongoing guidance to issuers regarding their compliance with continuing obligations and will act at all times as the issuer's principal channel of communication with the Exchange for all purposes. A listing agent must also be appointed to liaise with the Exchange whenever an issuer is required under chapter 6 to submit a shareholder circular for approval by the Exchange.
- 5.3 After a listing has been granted, an issuer must also have and maintain a listing agent if after a breach of these listing rules the Exchange notifies the issuer that the appointment of a listing agent is required to give advice on the application of the listing rules in order to continue the listing in force.
- 5.4 A listing agent undertakes to the Exchange to discharge certain responsibilities. If the listing agent fails to carry out these responsibilities, the Exchange may refer the matter to the listing committee or such other committee as the Council may designate which may impose sanctions on the listing agent.
- 5.5 Details of the application process for listing agents to be entered on the Exchange's register of listing agents may be obtained from the listing department of the Exchange.
- 5.6 Every issuer must advise the Exchange in writing (simultaneously providing a copy to the listing agent) of the resignation or dismissal of any listing agent. It must also, where a

listing agent is dismissed, inform the Exchange in writing immediately of the reason for the dismissal.

Qualifications

5.7 A listing agent must:

- (a) be a person who or which:
 - (i) holds an unrestricted mutual fund administrator's licence under the Mutual Funds Law (2015 Revision);
 - (ii) holds a licence under the Banks and Trust Companies Law (2013 Revision);
 - (iii) holds a licence under the Companies Management Law (2003) Revision;
 - (iv) holds a licence substantially equivalent to any of those set out in rules 5.7 (a) (i) to (iii) in a recognised jurisdiction; or
 - (v) practises as an attorney or an accountant, or firm of attorneys or accountants (including the overseas offices of any such firm), in the Cayman Islands or in a jurisdiction defined in chapter 1 as being a recognised jurisdiction;
- (b) meet the eligibility criteria set out below; and
- (c) be entered on the Exchange's register of listing agents, after having completed all the necessary application forms required by the Exchange, having been approved by the listing committee and having paid the necessary fee.

5.8 In the case of a listing agent appointed by an issuer listing equity or publishing a circular under chapter 6, the requirements of rule 5.7 (a) are varied so that the listing agent may (and where the issuer is not a specialist company must) be a suitably qualified corporate adviser as defined in chapter 1. Such corporate adviser may be based outside the Cayman Islands but must be sufficiently prepared to deal with the Exchange during its normal business hours. The corporate adviser must:

- (a) have acted on at least three equity securities listings on a recognised stock exchange during the last two years or employ staff who have experience of managing such transactions; and
- (b) have, as appropriate, regulatory authorisation to conduct its business.

Where the issuer is a specialist company any listing agent entered on the Exchange's register of listing agents may act on its behalf.

5.9 The eligibility criteria referred to in rule 5.7 are that listing agents must in the opinion of the Exchange:

- (a) as an overriding principle, be competent, fit and proper and have sufficient expertise to discharge the responsibilities of a listing agent and have and maintain a good reputation;
- (b) employ suitably qualified staff with relevant experience to undertake its activities as a listing agent;
- (c) maintain an active office with a sufficient number of staff there to ensure that it can discharge its responsibilities as a listing agent at all times;
- (d) not act as a listing agent for an organisation of which it is an associate or in which it otherwise has a material interest, except with the express permission of the Exchange after full disclosure of the relationship;
- (e) maintain a level of professional liability insurance or financial strength satisfactory to the Exchange;
- (f) immediately report to the Exchange any act or omission which causes the listing agent to fail to continue to meet the qualifications of a listing agent; and
- (g) on each anniversary of its admission to the register of listing agents maintained by the Exchange, confirm to the Exchange that it is still eligible to act as a listing agent.

5.10 Where the listing committee notifies an applicant to become a listing agent that it does not intend to recommend approval of the application, the applicant may appeal against the listing committee's decision to the Council or a committee designated by the Council using the same procedures as set forth in chapter 4. The decision of the Council or committee is final.

Responsibilities

5.11 The responsibilities of a listing agent set out in this rule are owed solely to the Exchange. Failure to carry out these responsibilities may result in the imposition of sanctions by the Exchange. These responsibilities are:

- (a) to ensure that the issuer and its directors are properly guided and advised on the application of the listing rules;
- (b) to complete the listing agent's declaration in the form set out in the appendices to these listing rules, and in particular to ensure that all the documents required by the listing rules to be included in the application for listing have been supplied to the Exchange, and that all other relevant requirements of the listing rules have been complied with;
- (c) to respond to and make all communications with the Exchange in an open and co-operative way;
- (d) to seek the Exchange's approval of listing documents; and

- (e) where applicable, to act as a contact point with the Exchange where an issuer has not appointed authorised representatives.

Appointment of an agent by a listing agent

- 5.12 A listing agent may, in its discretion, appoint an agent to discharge on its behalf all or any of its responsibilities, provided that the listing agent advises the Exchange in writing, and gains the Exchange's prior written approval, for the agent so appointed. Such an agent must have sufficient experience to be able to discharge properly the functions for which it has been appointed, final responsibility for which will remain with the listing agent.

Direct communication with the issuer

- 5.13 Notwithstanding the other rules of this chapter, in appropriate circumstances the Exchange is willing to communicate directly with the issuer, or with an adviser of the issuer other than the listing agent, to discuss either matters of principle, which may arise prior to the submission of draft documents, or the interpretation of the Exchange's requirements.
- 5.14 Where such a discussion takes place without the listing agent or its agent being involved, the issuer must ensure that the listing agent is informed in writing of the matters discussed as soon as practicable, and a copy of all such communications must be sent to the Exchange by the issuer at the same time.

Imposition of sanctions

- 5.15 If the Exchange considers that a listing agent has breached any of its responsibilities under the listing rules and considers it appropriate to impose any sanction it will refer the matter to the listing committee, save where the listing agent agrees to a private censure by the Exchange and the Exchange considers that to be the appropriate sanction.
- 5.16 If the listing committee finds that the listing agent has been in breach of its responsibilities under the listing rules, or no longer meets the qualifications to serve as a listing agent it may do one or more of the following:
- (a) censure the listing agent, and publish such censure; and
 - (b) remove the listing agent from the register of listing agents maintained by the Exchange and publish notice of its action.
- 5.17 Upon a referral under this section, the listing committee shall state the reasons for its decision in writing. Such a decision may be appealed to by the listing agent or the Exchange to the Council, or to a committee appointed by the Council, and will be heard by the Council or committee using the same procedures as set forth in chapter 4. The Council or committee shall state the reasons for its decision in writing and its decision is final and not subject to any further appeal.