
**LISTING OF DEBT SECURITIES FOR PROFESSIONAL
INVESTORS ON THE STOCK EXCHANGE OF HONG KONG
LIMITED**

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1. INTRODUCTION

Recent years have seen increasing numbers of debt securities listed on the Stock Exchange of Hong Kong Limited (**Exchange**). At the end of 2017, 1,047 debt securities were listed on the Exchange's Main Board, compared with just 169 at the end of 2010. Of those listed at the end of 2017, 79 were RMB-denominated bonds (or dim sum bonds). There were 316 new listings of debt securities in 2017 which raised HK\$1,190.7 billion. 8 of the newly listed debt securities were RMB bonds with an aggregate principal amount of RMB18 billion. September 2014 saw the first listing of an Islamic bond on the Exchange, issued by the Hong Kong Government.

There are two principal types of debt securities which can be listed on the Exchange: (i) debt securities which can be offered to public investors in a retail offering which are listed under Chapter 22 to Chapter 36 of the Main Board Listing Rules; and (ii) debt securities which can only be offered to professional investors which are listed under Chapter 37 of the Main Board Listing Rules.

The increase in the number of listings of debt securities in the last few years is due in part to a simplified regime for listing debt securities that are offered only to professional investors under Chapter 37 which came into effect in November 2011. The list of debt securities issued to professional investors only is available on the Exchange's website at http://www.hkex.com.hk/eng/prod/secprod/debt/professional_debt/list.htm. Another factor is the increasing number of RMB bonds issued in Hong Kong by foreign and Hong Kong issuers as well as Chinese issuers, which are increasingly being listed on the Exchange.

2. LISTING OF DEBT SECURITIES TO PROFESSIONAL INVESTORS ONLY

The key advantages of a Chapter 37 listing for issuers are the shorter timeframe for obtaining listing approval and the simplified disclosure requirements. The Main Board Listing Rules (**MBLR**) provide that the Exchange will advise a listing applicant on whether it and its debts securities are eligible for listing within 5 business days after receiving a listing application.¹ In practice, for routine applications, the Exchange will typically issue the listing approval letter or eligibility letter within one business day for issues by companies already listed on the Exchange, or within two business days for other issuers. As to the disclosure requirements, whereas publicly offered debt securities require the preparation of a prospectus complying with the detailed disclosure requirements of Schedule 3 to the Companies (Winding Up and Miscellaneous Provisions) Ordinance and Appendix 1Part C of the MBLR, debt securities offered only to professional investors which list under Chapter 37 do not require a prospectus. The listing application instead requires a listing document, which can be an offering circular or similar, which must contain the information that professional investors would customarily expect to be included (MBLR 37.29).

3. DEFINITION OF PROFESSIONAL INVESTOR

Under MBLR 37.58 a professional investor is:

- (a) In the case of a person in Hong Kong, a professional investor as defined in Part 1 of Schedule 1 to the Securities and Futures Ordinance (**SFO**) (excluding those prescribed under the Securities and Futures (Professional Investor) Rules such as high net worth individuals and companies); or
- (b) In the case of a person outside Hong Kong, a person to whom securities may be sold in accordance with a relevant exemption from public offer regulations in that jurisdiction.

The SFO's definition of professional investors is set out at Annex 1. There are broadly two types of

¹ Main Board MBLR 37.36.

profession investors: (i) those defined in Schedule 1 to the SFO who are institutional investors such as authorised financial institutions, regulated insurance companies, licensed investment intermediaries and authorised funds (**Type 1 Professionals**); and (ii) those defined under the Securities and Futures (Professional Investor) Rules which include high net worth individuals or corporations having investment portfolios of not less than certain prescribed amounts (**Type 2 Professionals**).

MBLR 37.58 excludes from the definition of professional investors those who qualify as professionals by virtue of the Securities and Futures (Professional Investor) Rules. This excludes high net-worth individuals and companies. However, the Exchange's guidance letter on debt issues to professionals² provides that the Exchange will grant waivers to the MBLR definition of professional investors so that professional debt issues can be marketed to Type 2 Professionals.

4. ELIGIBILITY REQUIREMENTS

(a) Eligible Issuers

An issuer can be:

- (i) a body corporate;
- (ii) a State (which includes any government, agency, authority, central bank, department, ministry or public or statutory person of, or of the government of, a state or any regional or local authority thereof);
- (iii) a Supranational (i.e. any institution or organization at a world or regional level specified as such by the Exchange); or
- (iv) a trust.

(b) Eligibility Requirements for Corporate Issuers

A corporate issuer will be qualified for listing if it has:

- (i) net assets of HKD\$100 million. This is not required for companies whose shares are listed either on the Exchange or another stock exchange, or for issuers which are Supranationals, State Corporations, or special purpose vehicles (**SPVs**) formed for listing asset-backed securities),³ and
- (ii) audited accounts for the 2 years before the listing application. This is not required for issuers whose shares are listed on the Exchange, or which are Supranationals, State Corporations, or SPVs formed for listing asset-backed securities.⁴

If a company does not meet these eligibility criteria, it can issue guaranteed debt securities if:

- (i) it is wholly owned by a State, a Supranational or a company that meets the eligibility criteria under paragraph (b) above;
- (ii) its owner guarantees its obligations; and
- (iii) it and its owner agree to comply with the MBLRs.

(c) Securities Eligible for Listing

² The Stock Exchange of Hong Kong Limited. "Update on issuance of debt securities to professional investors under Chapter 37 of the Main Board MBLRs" of 30 March 2012 which is available at <http://www.hkex.com.hk/eng/rulesreg/listrules/listletter/Documents/20120330.pdf>.

³ MBLR 37.05.

⁴ MBLR 37.06.

The debt securities must be freely transferable and have a minimum denomination of at least HK\$500,000 or an equivalent amount in foreign currency. This condition is aimed at limiting retail investors' access to the professional debt market.

(d) Convertible Securities

Convertible debt securities must be convertible into:

- (i) shares that are, or will be, listed on the Exchange or another stock exchange;
- (ii) depositary receipts that are, or will be, listed on the Exchange or another stock exchange;
or
- (iii) other assets that the Exchange has agreed in writing are acceptable.

If the debt securities are convertible into shares that have not yet been issued, the issue and listing of the shares must have been validly authorised.

Debt securities which are convertible into shares or depositary receipts must have a term providing for appropriate adjustments to the conversion terms on a change in the capital of the issuer of the shares into which the debt securities are convertible or of the shares underlying the depositary receipts into which the debt securities convert.

The Exchange treats debt securities with non-detachable warrants to subscribe for equity securities or other assets as convertible securities.

(e) Authorised Representatives

Two authorised representatives must be appointed by the issuer to communicate with the Exchange, but they do not have to be resident in Hong Kong (MBLR 37.54). The authorised representatives should generally be either two directors or a director and a company secretary of the issuer.

The issuer must notify any change of representative or to their contact details to the Exchange in a timely manner by completing the authorised representative form and sending it to debt@hkex.com.hk.

5. APPLICATION PROCEDURE

(a) Listing Document

In the case of debt issuance programmes, the MBLRs' requirements for listing documents apply to both the base listing document and the supplementary listing document for each issue under the programme.

Contents

The offering circular or other listing document must contain the information which the investors the securities will be offered to (i.e. professional investors) would expect it to contain (MBLR 37.29). It must also contain:

- (a) A disclaimer statement;⁵
- (b) A responsibility statement;⁶ and
- (c) A statement limiting its distribution to professional investors.

⁵ The form of the disclaimer statement required by MBLR 37.27 is set out in Annex C.

⁶ The responsibility statement required by MBLR 37.28 is set out in Annex C.

Language

The listing document must be in either English or Chinese.

(b) Application Documents

On application, a listing applicant must submit:

- (i) a completed application form in the form of MBLR Appendix 5, part C. Where the issue is guaranteed, the guarantor must also complete the application form;
- (ii) the one-off listing fee;
- (iii) the draft listing document and draft formal notice of listing;
- (iv) if the applicant is not listed on the Exchange, a copy of:
 - its memorandum and articles of association, certificate of incorporation or equivalent to show that it is validly incorporated or established;
 - its last published financial statements (unless the issue is guaranteed);
- (v) if the issue is guaranteed by a company that is not listed on the Exchange, a copy of the guarantor's:
 - memorandum and articles of association, certificate of incorporation or equivalent to show that it is validly incorporated or established;
 - last published financial statements;
- (vi) a copy of the shareholders' resolution authorising the issue of the securities (if any) and a copy of the board resolutions (or resolutions of its governing body) authorising the issue and allotment of the debt securities, the application for listing and the issue of the listing document;
- (vii) if the issue is guaranteed, a copy of the resolutions of the guarantor's governing body authorising the listing application and the issue of the listing document;
- (viii) if the issue is convertible into shares, a copy of the approvals authorising the issue and listing of those shares.

An issuer can submit drafts of the application form in (i) and the authorisations in (vi) and (vii) to allow the Exchange to consider whether the issuer and its debt securities are eligible for listing. The final resolutions and authorisations can then be submitted after the listing application but before listing.

(c) Processing Time

According to the Listing Rules, the Exchange will advise an issuer whether it and its securities are eligible for listing within five business days after receipt of the listing application (MBLR 37.36). The letter is valid for three months from the date of issue.

In practice, for applications that do not involve novel or unusual features, the Exchange will normally issue the listing approval or eligibility letter within one business day for a Hong Kong listed company or within two business days for other issuers.⁷ Issuers have the choice of obtaining confirmation of eligibility to list before applying for formal listing approval.⁸

(d) Listing Fees

⁷ The Stock Exchange of Hong Kong Limited. "Update on issuance of debt securities to professional investors under Chapter 37 of the Main Board MBLRs" of 30 March 2012 which is available at <http://www.hkex.com.hk/eng/rulesreg/listrules/listletter/Documents/20120330.pdf>.

⁸ Ibid. at footnote 3.

The listing fees for professional debt issues are amongst the lowest in the Asia Pacific region being capped at a range of HK\$\$7,000 to HK\$\$90,000 depending on issue size and tenor. The listing fee is a one-off payment: there are no annual fees.

6. DEBT PROGRAMMES

The Exchange may approve the listing of debt securities under a programme. The programme will be valid for one year from its publication date. The issuer must submit the pricing supplement for each issue under the programme before 2.00 pm on the business day before the listing is required to become effective. The pricing supplement cannot be issued until the Exchange has confirmed that it may be issued.

The Exchange will approve the listing of securities issued under an approved programme on the issuer:

- (a) notifying it of the final terms of each issue;
- (b) confirming the issue of the securities; and
- (c) paying the required listing fee.

7. ISSUERS' CONTINUING OBLIGATIONS

(a) Disclosure of Inside Information

Part XIVA of the SFO requires companies whose securities are listed on the Exchange to announce inside information as soon as reasonably practicable after it comes to the knowledge of the corporation (i.e. after the information has, or ought reasonably to have, come to the knowledge of an officer of the corporation in the course of performing functions as an officer of the corporation). Inside information is specific information that:

- (i) is about:
 - the corporation;
 - a shareholder or officer of the corporation; or
 - the listed securities of the corporation or their derivatives; and
- (ii) is not generally known to the persons who are accustomed or would be likely to deal in the listed securities of the corporation but would if generally known to them be likely to materially affect the price of the listed securities.

The SFC has published Guidelines on Disclosure of Inside Information to assist corporations to comply with the disclosure obligation. Inside information must be disclosed by way of publication of an announcement on the websites of the Exchange and the company.

(b) Disclosure of Information Necessary to Avoid a False Market

If it is the Exchange's view that there is, or is likely to be, a false market in a listed issuer's debt securities, the issuer must consult with the Exchange and then announce the information necessary to avoid a false market as soon as reasonably practicable thereafter (MBLR 37.47). If an issuer believes that there is likely to be a false market in its listed debt securities, it must contact the Exchange as soon as reasonably practicable.

(c) Other Disclosure Obligations

Issuers must also announce as soon as possible:

- (i) if aggregate redemptions or cancellations of the debt securities exceed 10% and every subsequent 5% interval of an issue; and
- (ii) any public disclosure made on another stock exchange about its debt securities (MBLR 37.48).

Where the equity securities of the issuer or guarantor are also listed, the relevant parties should assess whether an announcement published in respect of the equity securities has any relevance to the debt securities. Information which impacts debt securities should be published under the debt counter, using debt stock codes, in addition to the equity counter on the HKExnews website.

(d) Notification Requirements

An issuer must notify the Exchange if:

- (i) it proposes to replace the trustee for the bondholders or amend the trust deed;
- (ii) the terms of convertible debt securities are to be amended, unless that amendment occurs automatically in accordance with the terms of the debt securities;
- (iii) its debt securities are listed on another stock exchange;
- (iv) it repurchases or cancels all of an issue of its listed debt securities;
- (v) it redeems all of an issue of its listed debt securities prior to its maturity date; or
- (vi) all of an issue of convertible debt securities have been fully converted.

(e) Provision of Financial Statements

Corporate issuers must provide the Exchange with their annual accounts and any interim report when they are issued. An issuer is exempt from this requirement if its securities are guaranteed, in which case it must provide the Exchange with a copy of its guarantor’s annual accounts and interim report.

Issuers and guarantors are encouraged to submit electronic copies of financial accounts or to provide the link of the website to the Exchange if the financial accounts are published on a website. These should be sent by email to debt@hkex.com.hk.

(f) Circulars

Issuers must provide the Exchange with a copy of any circular that is sent to bondholders or to a trustee. If the circular is published on a website, the issuer can notify the Exchange when it is published on that site and need not send a printed copy.

(g) Guarantor’s Disclosure Obligations

The guarantor of listed debt securities must immediately announce any information which may have a material effect on its ability to meet its obligations under the debt securities.

8. DISCLOSURE OF INTERESTS OBLIGATIONS

(a) Disclosure Obligations

Under the disclosure of interests regime set out in Part XV of the SFO, the directors and chief executives (together “**directors**”) of companies whose shares are listed on the Exchange must disclose:

- (i) their interests and short positions in any shares of the listed company and its “associated

corporations” (i.e. holding and subsidiary companies and any company in which the listed company holds 20% or more of any class of its shares); and

- (ii) their interests in the debentures of the listed company and its associated corporations.

Substantial shareholders (i.e. those interested in 5% or more of the voting shares of a Hong Kong-listed company) must give notice of their interests and short positions in the voting shares of the listed company.

Generally, notices must be given to the Exchange and the listed company within three business days of the acquisition or change in the level of a relevant interest. Notice must be given on the prescribed forms which are available on the SFC’s website at <http://www.sfc.hk/web/EN/forms/disclosure-of-interests/forms-and-notes-for-filing-di-noti ce.html>.

(b) Exemption for Issuers of Listed Debt Securities

A company whose only Exchange-listed securities are debt securities which are not convertible into equity securities shares can apply for an exemption from the disclosure of interests obligations under section 309 of the SFO.

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This note is intended for information purposes only. Specific advice should be sought in relation to any particular situation.

ANNEX A
SUMMARY OF LISTING REQUIREMENTS

Eligibility Requirements	<ul style="list-style-type: none"> ➤ Net assets of at least HKD \$100 million ➤ Minimum denomination of at least HKD \$500,000 or equivalent foreign currency amount ➤ Audited accounts for 2 years
Content of Offering Circular	<ul style="list-style-type: none"> ➤ Contain information that professional investors would customarily expect to see ➤ Include HKEx disclaimer, issuer responsibility statement and selling restrictions limiting offers to professional investors only
Documents for submission to HKEx	
Application for Eligibility-To-List (Optional)	<ul style="list-style-type: none"> ➤ Confirmation of eligibility ➤ Specify any novel features ➤ Specify any waiver application
Formal Listing Application	<ul style="list-style-type: none"> ➤ Application form with supporting documents ➤ Advanced draft of listing document ➤ Draft formal notice of listing
Processing Time	<ul style="list-style-type: none"> ➤ One business day for listed issuer on HKEx⁹ ➤ Two business days for other issuers
Listing Fee	<p>HKD \$7,000 to HKD \$90,000 This is a one-off fee upon application for listing. There is no annual listing fee.</p>

⁹ Not applicable to applications that involve novel or unusual features.

ANNEX B
DEFINITION OF “PROFESSIONAL INVESTORS”

Type 1 Professionals

1. A recognised exchange company, recognised clearing house, recognised exchange controller or recognised investor compensation company, or a person authorised to provide automated trading services under Section 95(2) of the SFO.
2. An intermediary (i.e. a corporation licensed under the SFO to conduct any regulated activity), or a person carrying on the business of providing investment services which is regulated under the law of any place outside Hong Kong.
3. An authorised financial institution (i.e. a bank, restricted licence bank or deposit taking company authorised under the Banking Ordinance (Cap. 155 of Hong Kong), or a bank which is not an authorised financial institution but is regulated under the law of any place outside Hong Kong.
4. An insurer authorised under the Insurance Companies Ordinance (Cap. 41) of Hong Kong, or a person carrying on insurance business and regulated under the law of any place outside Hong Kong.
5. (i) A collective investment scheme authorised under Section 104 of the SFO; or
(ii) A scheme which is similarly constituted under the law of any place outside Hong Kong and, if it is regulated under the law of that place, is permitted to be operated under that law,
or a person who operates any such scheme.
6. A registered scheme as defined in Section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) of Hong Kong, or its constituent fund as defined in Section 2 of the Mandatory Provident Fund Schemes (General) Regulation, or a person who, in relation to any such registered scheme, is an approved trustee or service provider as defined in Section 2(1) of that ordinance, or who is an investment manager of any such registered scheme or constituent Fund.
7. (i) A registered scheme as defined in Section 2(1) of the Occupational Retirement Schemes Ordinance (Cap.426) of Hong Kong; or
(ii) An offshore scheme as defined in Section 2(1) of that ordinance which, if regulated under the law of the place where it is domiciled, is permitted to be operated under the law of such place,
or an administrator as defined in that ordinance of any such scheme.
8. A government (other than a municipal government authority), an institution which performs the functions of a central bank, or a multilateral agency.
9. A corporation which is:
 - (i) a wholly owned subsidiary of:
 - (A) an intermediary, or a person carrying on the business of providing investment services which is regulated under the law of any place outside Hong Kong; or
 - (B) an authorised financial institution, or a bank which is not an authorised financial institution but is regulated under the law of any place outside Hong Kong;

- (ii) a holding company which holds all the issued share capital of:
 - (A) an intermediary, or a person carrying on the business of providing investment services which is regulated under the law of any place outside Hong Kong; or
 - (B) an authorised financial institution, or a bank which is not an authorised financial institution but is regulated under the law of any place outside Hong Kong; or
- (iii) any other wholly owned subsidiary of a holding company referred to in sub-paragraph (ii).

Type 2 Professionals

10. A trust corporation holding assets on trust with a total value of not less than HK\$40 million or its foreign currency equivalent:
 - (i) as stated in the most recent audited financial statement prepared in respect of the trust corporation within 16 months before the relevant date;
 - (ii) as ascertained by referring to one or more audited financial statements, each being the most recent audited financial statement, prepared in respect of the trust or any of the trusts and within 16 months before the relevant date; or
 - (iii) as ascertained by referring to one or more custodian statements issued to the trust corporation in respect of the trust or any of the trusts within 12 months before the relevant date*.
11. An individual, either alone or with his spouse or children on a joint account, having a portfolio¹⁰ of not less than HK\$8 million or its foreign currency equivalent:
 - (i) as stated in a certificate issued by an auditor or a certified public accountant of the individual within 12 months before the relevant date; or
 - (ii) as ascertained by referring to one or more custodian statements issued to the individual (either alone or with the associate) within 12 months before the relevant date*.
12. A corporation or partnership having either:
 - (i) a portfolio of not less than HK\$8 million or its foreign currency equivalent; or
 - (ii) total assets of not less than HK\$40 million or its foreign currency equivalent, as ascertained by referring to:
 - (a) the most recent audited financial statement prepared in respect of the corporation or partnership (as the case may be) within 16 months before the relevant date; or
 - (b) one or more custodian statements issued to the corporation or partnership (as the case may be) within 12 months before the relevant date*; and
13. A corporation the sole business of which is to hold investments and which is wholly owned by one or more of the following persons: (i) a trust corporation that falls within the description in paragraph (10); (ii) an individual who, either alone or with associates on a joint account, falls within the description in paragraph (11); (iii) a corporation that falls within the description in paragraph (12); and (iv) a partnership that falls within the description in paragraph (12).

*** Note**

Firms may use methods that are appropriate in the circumstances to satisfy themselves that an investor within paragraphs 10, 11 and 12 above meets the relevant assets or portfolio threshold at the relevant

¹⁰ The term “portfolio” is defined as a portfolio of securities, money held by a custodian or a certificate of deposit issued by a Hong Kong authorised financial institution or a bank which is regulated in any other jurisdiction.

date¹¹ to qualify as a professional investor as an alternative to using the methods set out in those paragraphs. Firms should keep proper records of their assessment process so as to demonstrate that they have exercised professional judgement and have reached a reasonable conclusion that their clients meet the relevant thresholds.

¹¹ “Relevant date” for these purposes means in the case of any advertisement, invitation or document to enter an agreement to acquire or subscribe for securities, the date of issue of the advertisement, invitation or document (Section 2 of the Securities and Futures (Professional Investor) Rules).

ANNEX C

DISCLAIMER AND RESPONSIBILITY STATEMENT

Disclaimer statement

“ Hong Kong Exchanges and Clearing Limited and The Stock Exchange of Hong Kong Limited take no responsibility for the contents of this document, 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 content of this document.”

The disclaimer must be legible and appear on the front cover or inside cover of the listing document.

Responsibility statement

“This document includes particulars given in compliance with the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited for the purpose of giving information with regard to the issuer. The issuer accepts full responsibility for the accuracy of the information contained in this document and confirms, having made all reasonable enquires, that to the best of its knowledge and belief there are no other facts the omission of which would make any statement herein misleading.”