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# HKEx Proposes Modification Of The Black Out Period Extension And Moderates Position On Quarterly Reporting

## Introduction

The Stock Exchange of Hong Kong Limited (the Exchange) published a press release on 12 February 2009 setting out the revised proposals of its Listing Committee regarding the controversial extension of the black out period on directors' dealings which is due to come into effect on 1 April 2009.

According to the press release, the Listing Committee remains of the view that, given the current disclosure framework, the existing one month black out period, "is insufficient to bolster investor confidence by reducing suspicions of abuse by company insiders of information that they might have or might be thought to have leading up to a results announcement."

At its meeting on 12 February, the Listing Committee also considered a number of measures for enhancing the current disclosure regime which are set out in the press release and are summarised below. The full text of the press release can be viewed on the [Exchange's website](http://www.hkex.com.hk/news/hkexnews/090212news.htm).

## Revised Proposal For The Black Out Period Extension

The modified proposal which the Listing Committee will put forward to the SFC for its consideration is that:

* The black out period for annual results should be extended from one month to 60 days with effect from 1 April 2009;
* There should be no change to the 30 day black out period for interim results; and
* Listed issuers should be required to give prior notification to the Listing Division of the commencement of any black out period relating to the publication of results. This latter proposal is intended to assist the Listing Division in monitoring the revised black out arrangements.

As under the current listing rules, where an issuer's relevant financial results are published earlier than the 60 or 30 day period end, the black out period ends on the date of publication of the results.

The text of the proposed rule revisions is set out in the Annex to this newsletter.

## Proposed Disclosure Regime Enhancements

### Statutory Requirement for Disclosure of Price Sensitive Information

The Listing Committee would like to see the early implementation of a statutory obligation to disclose price sensitive information. This would need to be supported by a proportionate range of sanctions in order to act as a serious deterrent to non-compliance. The Listing Committee regards such a statutory obligation as a crucial component of a properly functioning disclosure regime.

In the meantime, the Exchange will work with the SFC to consult on amendments to improve the existing formulation of the disclosure of price sensitive information rule in the Listing Rules (Main Board Rule 13.09 and GEM Rule 17.10).

### Quarterly Reporting

The Listing Committee considers that mandatory quarterly reporting is desirable as a means of ensuring the regular flow of timely information as to issuers' financial performance and position. However, the Listing Committee apparently views quarterly reporting as a "long term goal". This would appear to represent a shift in the Listing Committee's position. The latest Status Report on New Product and Market Development Initiatives published as part of the Exchange's January 2009 newsletter cited the Listing Committee as supporting mandatory quarterly reporting and referred to proposals for the introduction of quarterly reporting requirements from the end of 2011.

As an interim enhancement, the Exchange will consult stakeholders on the alternatives to quarterly financial reporting.

### Implementation of Mandatory Electronic Submission of Disclosure of Interest Notices

The Listing Committee supports early implementation of the SFC's proposals to require electronic submission of all disclosure of interests notices under Part XV of the Securities and Futures Ordinance as set out in its April 2008 "Consultation Conclusions on the Proposal to Make Electronic Submission of Disclosure of Interests Notices Mandatory". The Listing Committee considers that this could address concerns as to the possible abuse of the current filing requirements and, if thought appropriate, provide a platform for shortening the applicable reporting deadlines at a future date.

### Enhanced Monitoring of Directors' Dealings

To support the SFC in its continued efforts to take action in respect of insider dealing, the Listing Committee has directed the Listing Division to implement immediately an enhanced programme of monitoring directors' dealings with the aim of increasing confidence that suspicious dealings are subjected to close regulatory scrutiny.

*The purpose of this newsletter is to provide a summary only of the Listing Committee's proposals in relation to the modification of the black out period extension and measures for the enhancement of Hong Kong's disclosure regime as set out in the Exchange's press release of 12 February 2009. Specific advice should be sought in relation to any particular situation.*

## Annex - The Text Of The Proposed Listing Rule Revisions As Attached To The Exchange's Press Release Of 12 February 2009

### Draft Rule Amendments for Main Board

#### Rule A.3 of Appendix 10

3.(a) A director must not deal in any securities of the listed issuer on any day on which its financial results are published and:

1. during the period of 60 days immediately preceding the publication date of the annual results or, if shorter, the period from the end of the relevant financial year up to the publication date of the results; and
2. during the period of 30 days immediately preceding the publication date of the quarterly results (if any) and half-year results or, if shorter, the period from the end of the relevant quarterly or half-year period up to the publication date of the results.

unless the circumstances are exceptional, for example, where a pressing financial commitment has to be met as described in section C below. In any event, the director must comply with the procedure in rules B.8 and B.9 of this code.

(b) The listed issuer must notify the Exchange in advance of the commencement of each period during which directors are not allowed to deal under rule A.3(a).

*Note: Directors should note that the period during which they are not allowed to deal under rule A.3 will cover any period of delay in the publication of a results announcement.*

#### Draft Rule Amendments for GEM

5.56. (a) A director must not deal in any securities of the listed issuer on any day on which its financial results are published and:

1. during the period of 60 days immediately preceding the publication date of the annual results or, if shorter, the period from the end of the relevant financial year up to the publication date of the results; and
2. during the period of 30 days immediately preceding the publication date of the quarterly results and half-year results or, if shorter, the period from the end of the relevant quarterly or half-year period up to the publication date of the results,

unless the circumstances are exceptional, for example, where a pressing financial commitment has to be met as described in rule 5.67. In any event, the director must comply with the procedure in rules 5.61 and 5.62.

(b) The listed issuer must notify the Exchange in advance of the commencement of each period during which directors are not allowed to deal under rule 5.56(a).

*Note: Directors should note that the period during which they are not allowed to deal under rule 5.56 will cover any period of delay in the publication of a results announcement.*

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