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# Property Valuation Requirements For Mining Companies' IPOs

## 1. Introduction

New streamlined property valuation disclosure requirements for new applicants’ listing documents came into effect on 1 January 2012 with the implementation of the Companies Ordinance (Exemption of Companies and Prospectuses from Compliance with Provisions) (Amendment) Notice 2011 and amendments to the Main Board and GEM Listing Rules of the Hong Kong Stock Exchange (the **Exchange**). A copy of our newsletter on the new requirements can be viewed by clicking [here](/newsletters/hklaw/en/2012/139/nl-hklaw-20120104-139.html). The purpose of this newsletter is to highlight the property valuation requirements applicable on a new listing of a mining company under Chapter 18 of the Main Board Rules or Chapter 18A of the GEM Rules. References in this newsletter are to the Main Board Rules, although the same amendments have been made to the GEM Rules.

## 2. Property Interests Ancillary To Mining Activities

Separate valuation is not required for property interests which are ancillary to mining activities if the listing document includes a valuation that encompasses the natural resources **and** the ancillary property interests as a business or as an operating entity (New Rule 5.01C). The valuation must be conducted by a Competent Evaluator (as defined in Chapter 18). Rule 5.01C provides as follows:

“Rules 5.01A and 5.01B (except rules 5.01B(c) and 5.01B(d)) do not apply to property interests ancillary to the exploration for and/or extraction of Natural Resources (as defined in Chapter 18) if the listing document includes a valuation that encompasses these Natural Resources and ancillary property interests, and together have been valued as a business or as an operating entity by a Competent Evaluator (as defined in Chapter 18).

Note: Rules 5.01A(b) and 5.01B(b) to (d) apply to property interests ancillary to the exploration for and/or extraction of Natural Resources if the listing document does not include a valuation of all the ancillary property interests conducted by a Competent Evaluator.”

The Exchange/SFC noted in their joint consultation conclusions on the changes to the property valuation requirements that there are two general methods of valuation of natural resources, being:

1. business or project valuation which normally includes valuation of the resources and their ancillary properties; and
2. valuation of natural resources or licences only.

The Exchange/SFC stated further that the value of natural resources will also depend on their ancillary properties and infrastructures for operations, and that a valuation of natural resources alone may not give meaningful information if ancillary properties and infrastructures are excluded. Mining activities should therefore be viewed as an operating entity.

Accordingly, separate valuation of ancillary properties is not required only if a mine has been valued as a business or an operating entity (including ancillary properties). However, if only the resources or licences have been valued, a separate valuation of ancillary properties will still be required.

### Valuation to be conducted by a Competent Evaluator

The valuation must be carried out by a “Competent Evaluator” as defined in Chapter 18, the requirements for which include:

1. Minimum of 10 years’ general mining experience;
2. Minimum of 5 years’ experience in assessment and/or valuation of mineral assets or securities;
3. Professional qualification, and membership of a relevant professional organisation, in a country considered by the Exchange to have satisfactory arrangements with the SFC for mutual assistance and exchange of information (by way of the IOSCO Multilateral MOU or other bi-lateral agreement); and
4. Possession of all necessary licences.

It should be noted that there is no requirement under Chapter 18 for a valuation of mining resources or reserves to be included in a listing document (the requirement is for a Competent Person’s Report on the extent of resources and/or reserves). However, if there is no valuation by a “Competent Evaluator” in a listing document, separate property valuations will be required unless individual properties are otherwise exempt from the valuation requirement.

## 3. Property Interests With A Carrying Amount Below 15% Of Total Assets

A property interest which is part of a listing applicant’s non-property activities (essentially business activities not involving property development and investment) is not subject to the property valuation requirements if its carrying amount (the amount at which it is recognised in the most recent audited consolidated balance sheet of the group included in the listing document (after deduction of accumulated depreciation and impairment losses) is less than 15% of the listing applicant’s total assets as shown in the latest audited consolidated financial statements in the accountants’ report included in the listing document.

Any property interest with a carrying amount of 15% or more of the applicant’s total assets must be valued and the full text of the valuation report must be included in the listing document. The listing document must also contain a statement that, except for the property interests in the valuation reports, no single property interest that forms part of the applicant’s non-property activities has a carrying amount of 15% or more of total assets.

As regards operating leases, valuations are not required since under current accounting standards, rental payments under operating leases are treated from a lessee’s point of view as expenses. The carrying amount in the balance sheet is therefore zero and so an operating lease, as a property interest with a carrying amount below 15% of total assets, will not require valuation. A sponsor is however required to conduct due diligence and if a leased property is determined to be “material”, information will be required to be disclosed in the listing document under Rule 5.10 (see section 5 below). Operating leases that are not material property interests are required to be disclosed in an overview section (see section 4 below).

## 4. Overview Of Properties Not Subject To Property Valuation

If valuations of properties are not required (either because: (i) the prospectus includes a Competent Evaluator’s valuation of the mine as a business or as an operating entity (including ancillary properties); or (ii) any individual property is exempt because its carrying amount is below 15% of total assets), the properties must still be covered in an “overview” section under Rule 5.01B(c). The overview should include the number, approximate size range and uses of relevant properties, how they are held, and a general description of the properties’ location.

## 5. Disclosure Of Information On Material Properties

There is also an obligation under Rule 5.10 to disclose relevant information on “material properties” (which could include a property the subject of an operating lease). Consideration should be given as to whether any particular property is “material”. In a series of [FAQs](http://www.hkex.com.hk/eng/rulesreg/listrules/listrulesfaq/Documents/FAQ_15.pdf) ([see archive](FAQ_15.pdf)) , the Exchange provides, by way of guidance only, the following non-exhaustive list of factors that may suggest materiality: (i) if the property interest (individually or in aggregate) is used for a reportable segment of the applicant and contributes a significant portion of revenue; (ii) if there are any encumbrances on the property or its use that may, at any time, directly or indirectly impact the operations of the applicant’s reportable segment; (iii) if there are any defects relating to the property or its operations that may have major impact on the applicant’s business or operations, e.g. breach of environmental regulations or title defects; or (iv) if there is re-development potential for the property that may affect the applicant’s financial position. Finally, the Listing Rules include a general disclosure obligation requiring a listing document to include sufficient particulars and information necessary to enable an investor to make an informed decision, which may in some circumstances require greater disclosure than is provided for under the property valuation requirements in Chapter 5 of the Listing Rules.

This note is intended as a summary only of the property valuation requirements for a mining company seeking a listing on the Hong Kong Stock Exchange. It does not constitute legal advice and specific advice should be sought in relation to any particular situation.

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