

HKEx Listing Decision on Calculation of Public Float

Quick Read

Hong Kong Exchanges and Clearing Limited (**HKEx**) published its listing decision “*HKEx-LD8-2011*” on 29 April 2011 to determine whether it is necessary for a listed issuer (**Listco A**) to include convertible preference shares as part of its total issued share capital in calculating the public float of its listed shares.

Background

Listco A proposed to enter into a transaction with a connected person for the acquisition of certain assets and proposed to issue convertible preference shares (**CPS**) as part of the consideration of the transaction.

The major terms of the CPS are summarised as follows:

- They would be non-redeemable;
- Each CPS would be convertible into one ordinary share of Listco A (subject to adjustments);
- On an “as converted” basis, the CPS holders would be entitled to dividends (if any) that would be payable to holders of ordinary shares;
- The CPS holders would not have any voting rights at Listco A’s general meetings, save as for resolutions to amend the rights of the CPS holders or to wind up Listco A;
- The CPS would not be listed although Listco A would apply to The Stock Exchange of Hong Kong

Limited (**SEHK**) for a listing of the ordinary shares to be issued upon conversion of any CPS; and

- The CPS holders would not be allowed to convert the CPS if it would result in the public float of the listed shares falling below the minimum level required (i.e. 25%) as prescribed in the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited.

Issue

The public float of Listco A’s listed shares exceeded 25% of its total issued share capital before the proposed transaction. However, it would fall below the 25% threshold if the CPS were to be counted as part of the total issued share capital.

The issue to be considered by the SEHK was whether Listco A should include the CPS as part of its total issued share capital for the purpose of calculating the public float of its listed shares.

Decision

The SEHK considered that the terms of the CPS were similar to debt securities. It was of the view that the public float would not be affected as a result of the issue of the CPS. Accordingly, Listco A was allowed to exclude the CPS as part of its total issued share capital for the purpose of calculating the public float of its listed shares.

Copies of the HKEx's listing decision can be downloaded via the link below:

<http://www.hkex.com.hk/eng/rulesreg/listrules/listdec/Documents/ld8-2011.pdf>

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