

HKEx Listing Decision on Share Option Exercise Price

Quick Read

Hong Kong Exchanges and Clearing Limited (**HKEx**) published its listing decision “*HKEx-LD9-2011*” on 29 April 2011 to determine whether The Stock Exchange of Hong Kong Limited (**SEHK**) should waive the requirement on the exercise price of share options for a share option scheme of a PRC listed issuer (**Listco B**) in relation to issue of new A shares.

Background

Listco B, which shares were also listed on a Mainland exchange, announced its proposals to (a) adopt a share option scheme (**Scheme**) involving issue of new A shares; and (b) grant share options under the Scheme (**Announcement**).

Both the Scheme and the granting of the share options were required to be approved by the relevant Mainland China regulatory authorities and shareholders and it would be effective from the date of the shareholders’ approval.

To comply with the relevant Mainland China legal requirement, Listco B should set the exercise price of the options based on the higher of (**PRC Price Fixing Mechanism**):

- The closing price of A Shares on the last trading day before the Announcement; and
- The average closing price of A shares during the last 30 trading days before the Announcement.

Issue

The PRC Price Fixing Mechanism was different from the requirement under Note (1) to Rule 17.03(9) of the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (**Note**). As stipulated in the Note, the exercise price of share options should be the higher of the share price on the date of grant of the share options and the 5- business day average of the share price before the date of grant (**Note Requirement**). The date of grant is the date on which the terms of the grant were fixed.

Listco B sought a waiver from the Note Requirement and the issue to be considered by the SEHK was whether to waive such requirement.

Decision

The SEHK decided to waive the Note Requirement based on the following rationale:

- The securities under the Scheme were A shares. The Scheme must comply with the relevant Mainland China law and be approved by the relevant Mainland China regulatory authorities.
- The exercise price determined under the PRC Price Fixing Mechanism reflected the market price of the A Shares at the time the terms of the grant were fixed. This was consistent with the principle of the Note.
- The Scheme was subject to shareholders’ approval.

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

<http://www.hkex.com.hk/eng/rulesreg/listrules/listdec/Documents/ld9-2011.pdf>

Contact Us

Jeckle Chiu, Partner

T: +852 2843 2245

E: jeckle.chiu@mayerbrownjmsm.com

Juliana Lee, Associate

T: +852 2843 2455

E: juliana.lee@mayerbrownjmsm.com

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