Responses to Comments on Consultation Paper

Regulation of Issue Managers

10 January 2020
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I Introduction

1 Background

1.1 On 29 November 2018, SGX issued a “Consultation Paper on Regulation of Issue Managers and Changes to Listings Review Process” ("Consultation"), to seek feedback on proposed amendments to the SGX-ST Listing Rules (Mainboard) ("Mainboard Rules") with regard to (i) the regulation of issue managers and (ii) change to the order of the listing review process. The Consultation closed on 28 December 2018.

1.2 This paper sets out SGX’s response to feedback received for the proposed change to the regulation of issue managers. SGX has separately issued the response to feedback received for the proposed change to the listing review process on 12 July 2019.

1.3 SGX has carefully considered all the comments received and further engaged stakeholders. Where appropriate, revisions have been made to the proposals to address the feedback received. The list of respondents can be found in Appendix 1 and the finalised amendments to the Mainboard Rules are set out in Appendix 2 and Appendix 3 respectively.

1.4 SGX would like to thank all respondents for providing comments to the Consultation.

1.5 Unless otherwise defined, capitalised terms used herein shall have the same meanings as ascribed to them in the Consultation.

II Comments Received and SGX’s Responses

1 Responsibilities of Issue Managers

<table>
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<tr>
<th>Question 1: Responsibilities of Issue Managers</th>
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<tbody>
<tr>
<td>Do you agree with the amendments to Mainboard Rules 111 and 112, and the introduction of Mainboard Rule 112B as proposed in Appendix 1? You may also propose other obligations which may be relevant to issue managers that SGX can consider for including into the Mainboard Rules. Please provide reasons for your views.</td>
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Comments Received

1.1 Respondents did not object to the proposed amendments to Mainboard Rules 111 and 112.

1.2 Majority of the respondents was generally supportive of the introduction of Mainboard Rule 112B (with the exception of Mainboard Rule 112B(2)(b) which required issue managers to, at minimum, comply with the due diligence guidelines issued by The Association of Banks in Singapore ("ABS Due Diligence Guidelines"). Respondents also provided feedback on certain requirements under Mainboard Rule 112B; where we have set out the key comments below.
One respondent sought clarification as to the additional duty expected of an issue manager in respect of the requirement to discharge its obligations with “skill”, and noted that such reference to “skill” might not be necessary in view that Mainboard Rule 111 states that the issue manager must have the necessary experience to discharge its professional duties.

Some respondents were of the view that (i) the requirement for information submitted to SGX be complete might not be achievable at the time of the submissions to SGX, as due diligence could be ongoing and the circumstances presented to SGX could change as matters progressed; (ii) as it would not be clear on the standard of “completeness” expected by SGX, reference could be taken from Sections 253 and 254 of the Securities and Futures Act (“SFA”) in respect of false or misleading statements or omissions from a prospectus instead; and (iii) materiality thresholds should be provided as it would be unduly onerous for issue managers to be responsible for immaterial inaccuracies.

One respondent suggested drafting amendments to replace the requirement of “complete” information with information submitted to SGX to contain all the information required to be included under the listing rules.

With respect to the proposal to require mandatory compliance with the ABS Due Diligence Guidelines as a minimum standard of due diligence, most respondents were not supportive and some were of the view that it was not appropriate to impose such a requirement, for the following reasons:

(i) The ABS Due Diligence Guidelines are not intended to have the force of law or to be legally binding, but serve as guidance on the broad framework and principles, and as a reference point for expected industry standards. In this regard, the ABS Due Diligence Guidelines make clear that it is difficult to provide a precise definition of due diligence, and thus the guidelines seek to only provide guidance on the broad framework and principles which issue managers should take into consideration when conducting their due diligence. Depending on the circumstances of the transaction, some of the guidelines might not be entirely appropriate.

(ii) The ABS Due Diligence Guidelines contain in various portions of the guidance, words such as “appropriate”, “own judgement”, “relevant” and “if necessary”, and thus involve a high level of subjectivity on the part of the issue managers. It would be for issue managers to determine whether the enquiries as listed in the ABS Due Diligence Guidelines are appropriate or relevant. In view of the broad discretion given to issue managers under the ABS Due Diligence Guidelines and the high level of subjectivity, confusion could arise as to what would be considered as a minimum standard of due diligence.

(iii) The scope and extent of appropriate due diligence vary between transactions, and it would not be possible for any due diligence guidelines to be applied as a standardised checklist without due and reasonable regard to the relevant context.

(iv) Compelling compliance with the ABS Due Diligence Guidelines as a minimum standard of due diligence would be unduly onerous for issue managers.
(v) The ABS Due Diligence Guidelines can be amended by the industry from time to time, and if compliance is effected in the form of a Listing Rule, the guidelines can be amended by the parties who are required to comply with them.

(vi) Failure to comply with the minimum standard as set out in Mainboard Rule 112B(2)(b) could attract statutory consequences for issue managers under the SFA as they would be considered to have breached the SFA for not adhering to the ABS Due Diligence Guidelines in their conduct of due diligence.

Other drafting suggestions proposed were for issue managers to have regard to ABS Due Diligence Guidelines instead of requiring strict compliance.

Mainboard Rule 112B(3)

1.7 Some respondents were of the view that this rule was not necessary as issue managers are obliged to respond to SGX’s comments and provide the information and/or confirmation required by SGX, in a timely manner and within the timeframe required by SGX to facilitate SGX’s review of the application. Requiring issue managers to meet such regulatory requirements would be unduly onerous as issue managers might in certain cases be unable to provide such information or confirmation and within such time due to factors outside of their control, thereby resulting in a potential listing rule breach.

1.8 Another respondent suggested that SGX provide clarity on the type and form of confirmations or information that would be required.

Mainboard Rule 112B(4)

1.9 Respondents proposed certain drafting suggestions to clarify that matters which are required to be brought to SGX’s attention in a timely manner refer to those which would be relevant or material to the listing application.

Mainboard Rule 112B(5)

1.10 One respondent highlighted that as issue managers may be large financial institutions which undergo changes in corporate structure from time to time, notification of such changes to SGX should be limited to those that would materially and adversely impact the listing application.

SGX’s Responses

Mainboard Rule 112B(1)

1.11 We consider “skill” to refer to technical competence displayed by issue managers in performing its role in advising listing applicants, and can be differentiated from the requirement under Mainboard Rule 111 which requires the issue manager to have the necessary experience to discharge its professional duties. The concept of “skill” is not new to the market and had been adopted under the Catalist Rules and international practices such as in the United Kingdom and Malaysia. Accordingly, SGX does not intend to make further amendments to this rule.
Mainboard Rule 112B(2)(a)(vi)

1.12 While we note respondents’ feedback that the requirement for information submitted to SGX is complete may not be achievable and it is not clear on the standard of “completeness” expected by SGX, we wish to emphasise that complete information includes that which is relevant and required under the listing rules as such standard is needed to allow for proper assessment by SGX of the matters identified in pre-consultation applications and listing applications. We have further clarified in the rule that confirmations submitted in their listing application(s) to SGX are similarly held to the same standard and such confirmations include those submitted as part of the Listing Admissions Pack.

1.13 With respect to a respondent’s suggestion to include a reference to a materiality threshold, we recognise that it would be unduly onerous for issue managers to be considered to have failed to comply with Mainboard Rule 112B(2)(a)(vi) in instances of “immaterial” inaccuracies or omissions of information. Therefore, we have adopted the feedback to include a materiality consideration, which is in line with international practices in the United Kingdom and Hong Kong.

Mainboard Rule 112B(2)(b)

1.14 We have carefully considered the feedback received with respect to the ABS Due Diligence Guidelines and have decided not to use the guidelines as the minimum standard for the conduct of due diligence. Nevertheless, we will incorporate the ABS Due Diligence Guidelines as part of the Listing Rules, by using the ABS Due Diligence Guidelines as a reference point for expected industry standards and guidance on the broad framework and principles which issue managers should consider when conducting their due diligence work. Accordingly, this rule will be amended to require issue managers to conduct adequate due diligence and to state that SGX will have regard to the ABS Due Diligence Guidelines when assessing the adequacy of due diligence conducted by issue managers.

Mainboard Rule 112B(3)

1.15 We note the feedback and will make amendments to include a reasonableness consideration to the rule.

Mainboard Rule 112B(4)

1.16 We will amend the rule to clarify that matters that are relevant to the listing application should be brought to SGX’s attention in a timely manner, as this will facilitate SGX’s review and ensure expeditious resolution of matters.

Mainboard Rule 112B(5)

1.17 This amendment is a requirement under the existing Mainboard Rule 111 and is proposed to be regrouped under the new Mainboard Rule 112B. Given the existing requirement and practices, we do not agree with the respondent’s suggestion to limit the notification of changes to the corporate structure of the issue manager to those that will materially and adversely impact the listing application. Issue managers are expected to inform SGX of any significant change to their corporate structure as such change could have an impact on their ability to carry out their role as issue managers for which SGX has granted accreditation.
2 Responsibilities of Issuer’s Directors and Executive Officers

Question 2: Responsibilities of Issuer’s Directors and Executive Officers

Do you agree with the amendments to Mainboard Rule 114 as proposed in Appendix 1?

Comments Received

2.1 Majority of respondents generally agreed with the amendments to Mainboard Rule 114, and provided the following feedback:

(i) Similar to the comments received on Mainboard Rule 112B(2)(a)(vi), some respondents sought clarification on the standard of “completeness” expected by SGX and suggested that reference could be taken from Sections 253 and 254 of the SFA in respect of false or misleading statements or omissions from a prospectus.

(ii) Some respondents suggested that it would be appropriate to include materiality, reasonableness and knowledge qualifiers in the rule.

(iii) One respondent commented that it was not appropriate and was unduly onerous for proposed directors and executive officers of an applicant to be responsible for pre-consultation and listing submissions submitted prior to their appointment, as they would not have legal capacity given that they have not been formally appointed. Persons who were already appointed at the time of submission should be responsible for the information submitted to SGX. In addition, the relevant material information from submissions to SGX would be disclosed in the prospectus and the directors and proposed directors named in the prospectus would have liability under the SFA for the final prospectus registered with the Monetary Authority of Singapore (“MAS”).

(iv) Some respondents were against extending application of Mainboard Rule 114 to pre-consultation applications, as due diligence could be ongoing and it would not be practical to subject pre-consultation applications to the same level of due diligence conducted by the time the listing application is submitted to SGX. As such, while the information that would be submitted to SGX at the time of the pre-consultation application should be accurate and not misleading to the extent possible, it may not be complete.

(v) Some respondents suggested that clarity could be provided in this rule that the listing applicants’ directors and executive officers should assist and facilitate issue managers in carrying out their due diligence obligations so as to enable issue managers to perform proper due diligence.

SGX’s Responses

2.2 In line with the proposed amendments to Mainboard Rule 112B(2)(a)(vi) to introduce a materiality qualifier for the completeness and accuracy of information and/or confirmations submitted to SGX, similar amendments would be incorporated in this rule. As mentioned in Paragraph 1.12 above, confirmations include those submitted as part of the Listing Admissions Pack.

2.3 While we acknowledge the feedback on having proposed directors and executive officers assume responsibility for pre-consultation and listing submissions, the proposed rule would enable SGX to retain the flexibility to hold proposed directors and executive officers responsible, where appropriate.
Nevertheless, we also wish to emphasise that it is not intended for proposed directors and executive officers to be held responsible for incomplete, inaccurate and/or misleading information in the event that it is established that they were not involved in the relevant matter nor responsible for providing such information.

2.4 We recognise the importance for the listing applicants, their directors and executive officers to partake a role in assisting and facilitating issue managers in conducting adequate due diligence in respect of the listing application. Therefore, we agree with the suggestions and will make the relevant amendments as suggested.

3 Independence of Issue Manager

Question 3: Independence of Issue Managers

Do you agree with the introduction of Mainboard Rule 112A as proposed in Appendix 1?

Comments Received

3.1 All of the respondents generally had no objections to the introduction of Mainboard Rule 112A.

3.2 Majority of the respondents disagreed with the introduction of Mainboard Rule 610(11), which required, among others, a statement on an issue manager’s compliance with Mainboard Rule 112A to be disclosed in the prospectus, offering memorandum or introductory document. Reasons provided for respondents’ objection to the introduction of the rule include:

(i) Such disclosure would not be necessary, as issue managers would already be subject to Mainboard Rule 112B(2)(a)(i) which requires Mainboard Rule 112A (relating to independence of IMs) to be complied with and issue managers would provide as part of the submission documents to SGX, a confirmation stating their independence in relation to the listing applicant.

(ii) It would not be appropriate and would be unduly onerous for issue managers to provide confirmations in an introductory/offering document which would attract statutory prospectus liability in Singapore (as well as other jurisdictions in which the offer would be made). As there are existing requirements under the Fifth Schedule to the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018 (“SFR”) with respect to disclosure in the prospectus of material relationships between the issuer and its underwriter, financial adviser, or consultant, it would be more appropriate and would be sufficient for such disclosures to be governed under the SFR.

(iii) Introduction of such requirement could (a) delay and add to the cost and burden of the IPO process, and (b) deter banks and financial institutions from taking on issue manager roles.
SGX’s Responses

3.3 Having considered (i) the feedback received on the potential hardship for issue managers to disclose the information required under the proposed Mainboard Rule 610(11) in the introductory/offering document; (ii) that issue managers are already required to comply with Mainboard Rule 112A and would provide a confirmation of their independence as part of the submission documents to SGX; and (ii) that there are existing requirements under the SFR for disclosure of material relationships between the listing applicants and market professionals, we agree for this amendment to be deleted in its entirety. In any case, where there are any issues in respect of the issue manager’s independence, SGX would require such issues to be resolved prior to listing.

Question 4: Threshold Limits in Determining Independence of an Issue Manager

Do you agree with the circumstantial factors and numerical threshold limits adopted to assess the independence of issue managers as proposed in Practice Note 2.1A in Appendix 1? You may also propose other assessment factors and/or limits that SGX should consider and provide reasons for your views.

Comments Received

3.4 A majority of the respondents supported the introduction of circumstantial factors and numerical threshold limits as guidance to assess the independence of issue managers. Respondents also provided drafting suggestions or sought further clarification on the guidance proposed in Practice Note 2.1A, as set out below.

Paragraph 2.1

3.5 One respondent sought clarification as to whether an independent issue manager could be considered non-independent subsequently as a result of an involuntary downsize of an offering at the later stage of the listing process, for instance due to market conditions after the issuance of approval-in-principle from SGX or during the roadshow process after the preliminary prospectus has been lodged.

Paragraph 2.1(i)

3.6 Another respondent suggested the inclusion of additional circumstances encompassing other business relationships between the issue manager group and the applicant and/or its subsidiaries that could affect an issue manager’s independence. Such circumstances include where the issue manager group is the auditor or reporting accountant of the listing applicant and/or its subsidiaries, or was the auditor or the reporting accountant of the listing applicant and/or its subsidiaries within three financial years prior to the admission of the listing applicant.

Paragraph 2.1(ii)

3.7 Some respondents suggested that the reference to the 20% threshold of net proceeds from the offering, should be applied with respect to gross proceeds raised instead as it would not be necessary to exclude commissions and other payable transaction fees and expenses. Moreover, there could be difficulties in determining the actual quantum of such commissions and other payable transaction fees and expenses at the time of submission of the listing application.
3.8 Some respondents proposed that the threshold for comparing the aggregate amounts of outstanding loans, available committed credit facilities and/or guarantees against the listing applicants total assets, be increased from 20% to 30% as such level is adopted by Hong Kong Stock Exchange in determining independence of Hong Kong sponsors. There were other comments that 30% was a common threshold adopted for the purpose of determining influence and control in relevant Singapore regulations such as the SFR and the mandatory general offer threshold under Singapore Code of Take-overs and Mergers (“Takeover Code”).

3.9 One respondent commented that in the event a loan is drawn down for the purpose of acquiring an asset, such asset should be included when calculating the applicant’s total assets or the valuation of assets so as to avoid a situation where the amount of loan would be included in the computation of the aggregate quantum of the loans, but the assets figure for the comparison base would not be correspondingly adjusted.

3.10 One respondent proposed that in the event that debt financing was provided to the listing applicant group for the purposes of acquisition of assets, and where such assets would form part of the portfolio of assets held by the listing applicant in connection with the initial public offering, the listing applicant’s pro forma total assets would be more appropriate for the purposes of the computation.

3.11 One respondent was of the view that the key consideration for conflicts is with respect to the issue manager’s interest in the listing applicant and/or its principal subsidiaries, and proposed to exclude controlling shareholders from the ambit of paragraph 2.1(iii). An issue manager having an interest in a controlling shareholder of the listing applicant, would not accord the issue manager with the ability to determine matters in the listing applicant and/or its principal subsidiaries, unless the issue manager has control over the controlling shareholder (e.g. through a majority shareholding interests, or the ability to control the board). In such event, the issue manager would have a deemed interest in the shares of the listing applicant held by the controlling shareholder and thus, would not be considered independent. Accordingly, it would not be necessary to include the issue manager’s interest in the controlling shareholder of the listing applicant, and it would suffice to limit the issue manager’s shareholding interest to the listing applicant and/or its principal subsidiaries.

3.12 Another respondent highlighted that while an issue manager group could as part of its ordinary course of treasury management and investment activities hold interests in listed equity securities, it is unlikely that the issue manager group will be accorded control, through arrangements or a 5% equity interest, over a listed controlling shareholder of the applicant. Therefore, the issue manager group having an equity interest in a listed controlling shareholder of the listing applicant is unlikely to materially affect the issue manager’s independence, and paragraph 2.1(iii) should exclude issue managers’ interests in listed controlling shareholders.

3.13 Respondents supported the exclusion of bridging loans granted for the purpose of the acquisition of assets from the references made to “loans” and “guarantees” in paragraphs 2.1(i) and 2.1(ii) of the Practice Note 2.1A, but with proposed modifications that the exclusion should be extended to (i)

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1 Hong Kong Stock Exchange Rule 3A.07(5) states that a sponsor is not independent if the aggregate of (a) amounts due to the sponsor group from the new applicant and its subsidiaries; and (b) all guarantees given by the sponsor group on behalf of the new applicant and its subsidiaries, exceeds 30% of the total assets of the new applicant.
companies, in addition to real estate investment trusts ("REITs") and business trusts ("BTs") for equitable treatment across the different listing vehicles; and (ii) cover all loans, and not limited to bridging loans.

3.14 One respondent sought clarity on the type of loans intended to be covered by the term “bridging loan” in view of the absence of a universal definition for such term.

Paragraph 2.4(i)(a)

3.15 Some respondents commented that the reference to exclusion of equity securities acquired by the issue manager group through the cornerstone tranche, should likewise be extended to equity securities that are:

(i) acquired by the issue manager group through the placement tranche;

(ii) held by the issue manager group on behalf of their client, where (a) risks involved in the investment would not be borne by the issue manager group; (b) the decision on the investment would be independently made by the clients; and (c) there are policies and procedures implemented by the issue manager group to manage conflicts of interests;

(iii) held by a fund management entity in the issue manager group on a non-discretionary basis such a managed account or managed fund; and

(iv) held by the issue manager group as a lender, in a market-making capacity and/or custodial capacity.

Paragraph 2.6

3.16 Some respondents were of the view that the examples of circumstances which an issue manager should consider as material in affecting its independence, should be deleted in entirety, as listing applicants and/or issue managers could consult SGX in the event of uncertainty. They also sought clarity on the scope and relevance of the proposed examples, and the relevant materiality thresholds considered by SGX in the examples.

SGX’s Responses

Paragraph 2.1

3.17 SGX would not consider an issue manager non-independent as a result of subsequent involuntary downsize of an offering at the tail-end of the listing process due to market conditions such as those described in Paragraph 3.5, as it is recognised that due diligence on the listing applicant would have been substantially completed by the issue manager at that juncture, hence such circumstance should not adversely affect the issue manager’s ability to properly perform its responsibilities. However, we wish to reiterate that up to the point of listing, issue managers are expected to have regard to Practice Note 2.1A of the Listing Rules with respect to their independence. Should SGX require, issue managers would need to demonstrate their assessment on independence as an issue manager to the satisfaction of SGX.

3.18 We do not consider it necessary to incorporate the suggested circumstances given that professional firms/institutions such as audit and accounting firms would generally have internal procedures and policies to ensure that potential conflicts of interests arising from various business relationships be mitigated before proceeding with a formal appointment or mandate to act for the applicant in the
role of an issue manager.

**Paragraph 2.1(i)**

3.19 We agree with the feedback to adopt gross proceeds as the relevant consideration in place of net proceeds. Such gross proceeds will refer to proceeds raised by the listing applicant as a result of the offering, including the cornerstone, placement and public tranches. Proceeds due to vendor(s) arising from the offering and to be received from the over-allocation of securities are excluded.

**Paragraph 2.1(ii)**

3.20 While we are of the view that the bases of referencing the 30% threshold under the SFR and the Takeover Code are not relevant for the purposes of our consideration of this requirement, we agree, having considered feedback, to revise the threshold to 30%. Such threshold has similarly been adopted in Hong Kong.

3.21 We have considered the feedback on the other proposals and incorporated amendments to address the potential situations highlighted.

**Paragraph 2.1(iii)**

3.22 We disagree with respondents’ suggestion to exclude controlling shareholders of the listing applicant including those which are listed. The intent is to include interests held by issue managers in direct controlling shareholders for consideration and there is no strong basis to exclude listed controlling shareholders. We are of the view that there is no hardship in complying with the proposed scope of this paragraph. Issue managers may consult SGX with an assessment of their independence from the listing applicant in the event such circumstance exists in a listing application.

**Paragraph 2.2**

3.23 We have considered the feedback to extend the exclusion of bridging loans to companies and observed that there is no specific market practice with respect to such bridging loans being taken by companies for the acquisition of assets for the purposes of the IPO and listing, unlike the practice for REITs and BTs. Hence, we are of the view that it would not be necessary to expand the scope of the exclusions to include companies. We are also of the view that it would not be appropriate to extend the exclusion to cover all loans, as the exclusion was intended to only apply to loans which are undertaken to facilitate the acquisition of assets for the purposes of the listing. Amendments will be made for clarity by replacing references to “bridging loan” with “short-term financing facilities that are granted for the sole purpose of acquisition of the assets for listing, where such facilities are repaid on or around the time of completion of the listing”.

**Paragraph 2.4(i)(a)**

3.24 We have considered the drafting suggestions and will make amendments to exclude interests in equity securities including those held by an investment unit/entity in the issue manager group on behalf of, and for the benefit of, its independent and discretionary clients, and those held in a custodial capacity on behalf of independent clients.

**Paragraph 2.6**

3.25 The intention of these non-exhaustive examples was to provide guidance on certain circumstances which could give rise to concerns on an issue manager’s independence. We note respondents’
concerns that such amendment afforded uncertainty in the absence of technical definitions and
delicacy thresholds for each example. In view of the feedback, we will delete the examples in
entirety from the Practice Note, and we have instead provided these examples below for
consideration as to situations which may materially affect an issue manager’s independence. We
further clarified below that the considerations for the materiality in fair value increase should be in
comparison to the quantum of fees received by the issue manager for its role as the issue manager.
Issue managers should consult and clarify with SGX in the event of uncertainty.

Non-exhaustive examples of circumstances that may materially affect an issue manager’s
independence include:

(i) where the amount of:-
   (a) outstanding loans and/or available committed credit facilities extended by the issue
       manager group or an associate of a director, chief executive officer or key officer of
       the issue manager, who are directly involved in the decision-making in respect of the
       new listing application and is also the controlling shareholder of the issue manager,
       to the applicant’s controlling shareholder(s) and/or its associates is material; and/or
   (b) guarantees granted by the issue manager group or an associate of a director, chief
       executive officer or key officer of the issue manager, who are directly involved in the
       decision-making in respect of the new listing application and is also the controlling
       shareholder of the issue manager, on behalf of the applicant’s controlling
       shareholder(s) and/or its associates is material;

(ii) where the increase in fair value of the issue manager group’s interests (direct or indirect) in
    the equity securities of the applicant pursuant to the listing is deemed to be material, in
    comparison to quantum of fees received by the issue manager for its role as the issue
    manager;

(iii) where the issue manager group has or will have an interest (direct or deemed) in 5% or more
    of the equity securities of the applicant, its principal subsidiaries and/or controlling
    shareholder(s) through an existing loan facility;

(iv) where an employee of the issue manager who is directly involved in the applicant’s listing
    has or will have an interest (direct or deemed) in the equity securities of the applicant; and

(v) where the appointment of the REIT trustee (that is part of the same corporate group as the
    issue manager) is a condition for the appointment of the issue manager.

**Question 5: Definition of “Issue Manager Group”**

Do you agree with the definition of the “issue manager group” as proposed in Appendix 1?

**Comments Received**

3.26 Majority of the respondents were supportive in principle of the introduction of the definition of
“issue manager group”. However, respondents expressed concerns that the definition of “issue
manager group” would be too wide and overly onerous. The potential examination of issue
managers’ independence would encompass a wide net of entities and individuals in particular for
issue managers that are financial institutions and lead to additional burdens in view of time, costs and resources expended to ascertain the existence of any circumstance involving such parties which may materially affect an issue managers’ independence. To address concerns that the definition of “issue manager group” was overly broad, some respondents proposed for “associates” to be removed from the definition in its entirety to reduce the scope of entities and individuals covered.

3.27 Other feedback received on the definition of “issue manager group” include:

(i) Reference to be made to the Companies Act concept of related corporations as part of an expansion of limb (a) to include the related corporations of the issue manager;

(ii) Removal of limb (b) on controlling shareholders of the issue managers. Issue managers that are financial institutions could have controlling shareholders and their associates who are listed or highly regulated, or whom the issue manager has no practical ability to obtain any information from, due to their remoteness. Accordingly, such parties should not be included within the definition;

(iii) Reference to subsidiaries or associates in the definition should exclude subsidiaries or associates that are listed, in view that listed entities are accountable to public shareholders and are expected to operate independently with a separate board and management, and in compliance with the relevant listing rules;

(iv) Exclusion of business units within the issue manager entity that operate independently of the business unit acting as issue manager, with Chinese walls and associated compliance processes and procedures in place;

(v) Limit the scope of limb (c) to Singapore based director(s), chief executive officer(s) and key officer(s) of the issue manager involved in the decision-making with respect to a new listing application, as the ambit should be confined to those individuals who assume ultimate responsibility under Singapore law, being persons who are based in Singapore. One respondent requested clarification on the ambit of “directly involved in the decision-making with respect to a new listing applicant”; and

(vi) Deletion of limb (d) as the interpretation could be overly broad and it would be difficult to determine or define with precision who would constitute a person who the issue manager exercises control over, and creates uncertainty.

SGX’s Responses

3.28 We recognise the hardship posed by the scope of parties which could fall within the proposed definition of “issue manager group” due to references to associates and person(s) that the issue manager in fact exercises control over. This would be particularly of concern to issue managers that are large financial institutions, as the number of parties that could fall within the “issue manager group” could be very large. Taking into consideration the feedback, we are agreeable to (i) remove references to associates and limb (d) which refers to person(s) that the issue manager in fact exercises control over and (ii) modify limb (a), in line with Section 6 of the Companies Act, to include an issue manager’s related corporations, being any other company which is its subsidiary or holding company or is a subsidiary of such holding company. With these revisions, we believe that it will be more manageable for issue managers to conduct their independence checks and assessment.

3.29 We note the drafting suggestions provided on the definition of “issue manager group” and do not
consider it necessary to exclude listed or regulated entities nor introduce various factors for exclusion as part of the definition. Applicants (through their issue managers) should consult SGX in the event of uncertainty based on circumstantial factors in each application.

3.30 In response to the clarification sought on the ambit of “directly involved in the decision-making with respect to a new listing application” in limb (c), we wish to clarify that the intention is to include individuals who form the core team undertaking the role and responsibilities of an issue manager in respect of such listing application, regardless of whether these individuals are directors, chief executive officers (or equivalent persons), or key officers of a Singapore-based entity or an overseas-based entity.
III Implementation of Amendments to Mainboard Rules

1 Implementation Date

1.1 The amendments to the Mainboard Rules will take effect from 10 January 2020.
Appendix 1   Respondents to the Consultation

SGX received comments from 8 respondents on the Consultation, of which 3 requested confidentiality. The 5 respondents who agreed to be named are:

Allen & Gledhill LLP
DBS Bank Ltd.
PrimePartners Corporate Finance Pte. Ltd.
Rajah & Tann Singapore LLP
WongPartnership LLP
Appendix 2 Amendments to Mainboard Rules

Legend: Deletions are struck-through and insertions are underlined.

Definitions and Interpretation

“issue manager group”

(a) the issue manager and any other company which is its subsidiary or holding company or is a subsidiary of such holding company;

(b) the controlling shareholder(s) of the issue manager; and

(c) the director(s), chief executive officer(s) (or equivalent person(s)) and key officer(s) of the issue manager who are directly involved in the decision-making with respect to a new listing application.

Where the issue manager is a Singapore-based entity of a foreign financial institution, a reference to the issue manager’s director(s), chief executive officer(s) (or equivalent person(s)) and key officer(s) who are directly involved in the decision-making with respect to a new listing application shall mean a reference to the Singapore-based entity’s director(s), chief executive officer(s) (or equivalent person(s)) and its key officer(s) who are directly involved in the decision-making with respect to that listing application. However, where the director(s), chief executive officer(s) (or equivalent person(s)) and key officer(s) of an overseas-based entity of that issue manager are directly involved in the decision-making with respect to that listing application, such persons would likewise be included within the issue manager group.

References to a new listing includes an initial public offering, a listing by way of an introduction or a reverse takeover.

Chapter 1 Introduction
Part IV Issue Managers, and Issuer’s Directors and Issuer’s Executive Officers

Issue Manager’s Functions

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An applicant must appoint an issue manager who will act as the sponsor for and manage the applicant’s listing on the Exchange. An application for new listing or reverse takeover must be managed by an issue manager accredited by the Exchange.

An issue manager must be able to give the applicant impartial and competent advice and must have the necessary experience to discharge its professional duties as an issue manager fully and professionally.

The issue manager is responsible for preparing the applicant for a new listing (including an initial public offering, a listing by way of an introduction or a reverse takeover).

The Exchange must be notified as and when there are significant changes to the corporate structure of accredited issue managers (whether due to mergers and acquisitions, resignation of key management personnel and/or staff of the team managing listing applications, or otherwise).
The issue manager is responsible for preparing the applicant for listing. This requires the issue manager to be satisfied that:

(a) the applicant is suitable to be listed;

(b) the applicant meets admission requirements;

(c) the applicant is set up sufficiently to comply with the continuing listing requirements; and

(d) where the applicant is a corporation, the applicant’s directors appreciate the nature of their responsibilities and can be expected to honour their obligations under the Exchange’s listing rules.

Normally, the issue manager lodges the listing application and deals with the Exchange on all matters relating to the listing application.

Independence of Issue Managers

At least one issue manager must be independent of an applicant for a new listing (including an initial public offering, a listing by way of an introduction or a reverse takeover).

The Exchange retains the discretion to deem an issue manager independent or otherwise. In determining whether an issue manager is independent, the Exchange will have regard to the matters set out in Practice Note 2.1A.

Responsibilities of Issue Managers

An issue manager must:

(1) discharge its obligations with due care, diligence and skill;

(2) in preparing an applicant for a new listing (including an initial public offering, a listing by way of an introduction or a reverse takeover),

(a) be satisfied that: —

(i) Rule 112A has been complied with;

(ii) the applicant is suitable to be listed on SGX-ST;

(iii) the applicant meets admission requirements;

(iv) the applicant is set up sufficiently to comply with the continuing listing requirements;

(v) where the applicant is a corporation, the applicant’s directors appreciate the nature of their responsibilities and can be expected to honour their obligations under the Exchange’s listing rules. In the case where the applicant is a REIT or a business trust,
the same will apply to the directors of the applicant’s REIT manager or trustee-manager, as the case may be; and

(vi) the information and confirmation(s) submitted to the Exchange (which includes, where applicable, the confirmations set out in Rules 210(9)(c), 210(9)(g) and/or 246(4)) is complete and accurate in all material respects, and not misleading. If subsequently, the issue manager reasonably believes that the information provided does not meet this standard, it should notify the Exchange as soon as practicable, and correct the information;

(b) conduct adequate due diligence on the applicant. The Exchange will have regard to the due diligence guidelines issued by The Association of Banks in Singapore when assessing the adequacy of due diligence conducted;

(3) provide to the Exchange, as soon as practicable, any information or confirmation that the Exchange may require for the purposes of ensuring that the listing rules are complied with by the issue manager, the applicant and the directors and executive officers of the applicant, REIT manager or trustee-manager, as the case may be. Such information or confirmation shall be provided to the Exchange in such form and within such time as the Exchange may reasonably require;

(4) inform the Exchange of all matters relevant to the listing application that should be brought to the Exchange’s attention in a timely manner; and

(5) notify the Exchange as and when there are significant changes to their corporate structure (whether due to mergers and acquisitions, resignation of key management personnel and/or staff of the team managing listing applications, or otherwise).

Responsibilities of Issuer’s Directors and Executive Officers

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(1) Each person who is, and who has consented to be, named in the prospectus, introductory document or circular to shareholders (in the case of a reverse takeover) as a director, executive officer, proposed director or proposed executive officer of the applicant or the enlarged group (in the case of a reverse takeover) (or where applicable REIT manager or trustee-manager), is responsible for ensuring that the information submitted to the Exchange in listing applications (including applications for an initial public offering, a listing by way of an introduction or a reverse takeover), pre-consultation applications, and SGXNET announcements, is complete and accurate in all material respects, and not misleading.

(2) Such persons mentioned in Rule 114(1) must assist and facilitate the issue manager’s conduct of due diligence in accordance with Rule 112B(2)(b).

(3) The directors and executive officers of the applicant or of the issuer (or where applicable REIT manager or trustee-manager) following admission, are responsible for ensuring that the accuracy of the information submitted to the Exchange (including information submitted in all applications and information contained in all SGXNET announcements) is complete and accurate in all material respects, and not misleading. However, the issue manager must exercise due care and diligence in ensuring the completeness and accuracy of the information contained in the application. The issue manager must also ensure that the Exchange is informed of all matters which should be brought to its attention.
Practice Note 2.1A

Independence of Issue Managers

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<td>Listing Rule 112A</td>
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1. Introduction

Issue managers play a major role in initial public offerings, listings by way of an introduction and reverse takeovers as they prepare listing applicants for the listing, lodge listing applications and deal with the Exchange on matters relating to listing applications.

Rule 112A requires at least one issue manager to be independent of an applicant so that the interests of investors may be safeguarded. All issue managers are expected to provide impartial advice and discharge their professional duties fully and professionally.

2. Independence of Issue Managers

2.1 The Exchange will not normally consider an issue manager to be independent of an applicant if any of the following circumstances exist from the date of submission of the listing application up to the date of listing:

(i) more than 20% of the gross proceeds from the offering is or will be used to:-

   (a) reduce and/or retire any outstanding loan and/or available committed credit facility extended by the issue manager group to the applicant and/or its subsidiaries; and/or

   (b) discharge any guarantee given by the issue manager group on behalf of the applicant and/or its subsidiaries;

(ii) the aggregate amount of:-

   (a) outstanding loans and/or available committed credit facilities extended by the issue manager group to the applicant and/or its subsidiaries; and

   (b) guarantees given by the issue manager group on behalf of the applicant and/or its subsidiaries,

exceed 30% of:

(A) the applicant’s latest audited total assets or latest unaudited pro forma total assets (if applicable) prior to the submission of the application;

(B) in the case of an applicant engaged principally in property investment and/or development, the latest valuation of the assets of the applicant and its subsidiaries; or
in the case of a REIT or business trust that does not have audited financial statements, the latest unaudited pro forma total assets prior to the submission of the application; or

the issue manager group has or will have an interest (direct or deemed) in 5% or more in the equity securities of the applicant, its principal subsidiaries and/or controlling shareholder(s) before or after the listing.

2.2 References to “loans” and “guarantees” in paragraphs 2.1(i) and 2.1(ii) above exclude short-term financing facilities granted by the issue manager group to REITs, business trusts and/or their subsidiaries for the sole purpose of the acquisition of the assets for the proposed initial public offering or reverse takeover, where such short-term financing facilities are repaid on or around the time of completion of the listing.

2.3 For the purposes of paragraphs 2.1(ii)(A), (B) and (C), where a loan provided by the issue manager group is drawn down for the purpose of the acquisition of an asset and such asset is not included in the applicant’s latest audited total assets, unaudited pro forma total assets or valuation of the assets (where applicable), the valuation of the asset, for which the loan was based upon, may be included as part of the applicant’s total asset figure as referred to in paragraph 2.1(ii)(A), (B) or (C).

2.4 For the purposes of paragraph 2.1(ii)(B) above, the Exchange would consider the applicant to be engaged principally in property investment and/or development where the property investment and/or development activities of the applicant and/or its subsidiaries, based on the applicant’s latest audited financial statements: (1) represents 50% or more of the total assets, revenue or operating expenses of the group; or (2) is the single largest contributor based on any of the tests in (1) above.

2.5 For the purposes of paragraph 2.1(iii) above:

(i) reference to “equity securities” excludes equity interests:

(a) held by an investment unit/entity in the issue manager group on behalf of, and for the benefit of, its independent and discretionary clients;

(b) held by a fund management unit/entity in the issue manager group on behalf of its independent and non-discretionary clients;

(c) held in a custodial capacity on behalf of independent clients; and

(d) held by the issue manager group that arise as a result of an underwriting obligation; and

(ii) an issue manager group would be deemed to have an interest in the equity securities of the applicant, its principal subsidiaries and/or controlling shareholder(s) if the issue manager group will be granted securities that may be convertible to shares in the applicant, its principal subsidiaries and/or controlling shareholder(s) before or after the listing.
2.6 Notwithstanding that specific numerical limits have been provided in paragraphs 2.1(i), (ii) and (iii) above, the Exchange retains the discretion to deem the issue manager independent or otherwise having regard to the spirit and intent of Rule 112A.

The issue manager must consider whether there are any circumstances other than those set out in paragraph 2.1 above that may materially affect its independence. In the event of any uncertainty, the applicant should consult and clarify with the Exchange as soon as possible.
Appendix 3  Consequential Amendments to Mainboard Rules

Legend: Deletions are struck-through and insertions are underlined.

Definitions and Interpretation

“issue manager”

broking members of the Exchange, banks or corporate finance firms accredited by the Exchange to advise on listing applications for initial public offerings or listings by way of introduction, and includes financial advisers advising on reverse takeover applications.

Chapter 2 Equity Securities
Part X Listing Procedures

Contents of Application

246(4)(a)

having exercised due care, diligence and skill made due and careful enquiry, the issuer satisfies the admission requirements;

246(4)(f)

it is satisfied that the profit forecast, if any, has been made by the applicant’s directors after due and careful enquiry and consideration.

Chapter 10 Acquisitions and Realisations
Part VIII Very Substantial Acquisitions or Reverse Takeovers

1015(5)(d)

A statement by the issue manager(s) and/or financial adviser(s) in the form set out in paragraph 3.1 of Practice Note 12.1.

Chapter 12 Circulars, Annual Reports and Electronic Communications
Part II Circulars

1206(6)

name the financial adviser and/or issue manager appointed (if any) in the circular, and where required by SGX, include a responsibility statement from the financial adviser and/or issue manager in respect of such information contained in the circular as required by SGX, as set out in paragraph 3.1 of Practice Note 12.1.
Practice Note 2.1
Equity Securities Listing Procedure

4. Due Diligence

4.1 Listing Rule 112B provides states two principles that an issue manager must:

a. discharge its obligations with due care, diligence and skill;

b. that an issue manager is expected to exercise due care and diligence in ensuring the completeness and accuracy of the information contained in an application, in preparing an applicant for a new listing (including an initial public offering, a listing by way of an introduction or a reverse takeover), be satisfied of the various matters set out in Rule 112B(2)(a) and, conduct adequate due diligence; and

c. that an issue manager must inform ensure that the Exchange is informed of all matters relevant to the listing application that which should be brought to its the Exchange’s attention in a timely manner.

4.3 Issue managers are also encouraged expected to continually review their due diligence processes and procedures to see how they might be refined or improved to meet their obligations under the relevant laws, regulations and SGX’s listing requirements.

4.4 The failure of an issue manager to discharge its obligations to the satisfaction of the Exchange may result in the Exchange taking such action as it thinks appropriate, including requiring the applicant to find a new issue manager as its sponsor for the listing, imposing conditions on the submission of the application by the issue manager, and censuring the issue manager (publicly or privately). If the Exchange loses confidence generally that an issue manager is properly discharging its obligations, the Exchange may decline to accept any applications sponsored by it.

Practice Note 12.1
Responsibility Statements for Directors, Vendors, Issue Managers and Financial Advisers

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<td>Listing Rules 610(3), 610(4), 1015(5)(c), 1015(5)(d), 1205 and 1206(6)</td>
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<td>Effective date: 29 September 2011</td>
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1. This Practice Note provides guidance on the wordings for the responsibility statements for directors, vendors, issue managers and financial advisers.

2. Responsibility Statement for Directors and Vendors

2.1 For the purposes of Rule 610(3), Rule 1015(5)(c) and Rule 1205, the following directors' [or vendors'] responsibility statement should be included in circulars:

"The [directors/vendors] collectively and individually accept full responsibility for the accuracy of the information given in this circular and confirm after making all reasonable enquiries that, to the best of
their knowledge and belief, this circular constitutes full and true disclosure of all material facts about the [describe proposed action], the issuer and its subsidiaries, and the [directors/vendors] are not aware of any facts the omission of which would make any statement in this circular misleading, [and where the circular contains a profit forecast, the directors are satisfied that the profit forecast has been stated after due and careful enquiry and consideration]. Where information in the circular has been extracted from published or otherwise publicly available sources or obtained from a named source, the sole responsibility of the [directors/vendors] has been to ensure that such information has been accurately and correctly extracted from those sources and/or reproduced in the circular in its proper form and context.”


3.1 For the purposes of Rule 610(4), Rule 1015(5)(d), Rule 1206(6) and Appendix 8.2, the following issue manager’s or financial adviser’s responsibility statement should be included in circulars:

“To the best of the financial adviser’s [issue manager’s/financial adviser’s] knowledge and belief, this circular constitutes full and true disclosure of all material facts about the [describe proposed action], the issuer and its subsidiaries, and the financial adviser [issue manager/financial adviser] is not aware of any facts the omission of which would make any statement in the document misleading; [and where the document contains a profit forecast, it is satisfied that the profit forecast has been stated by the directors after due and careful enquiry and consideration].”