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The Public Markets in Singapore 2018: A Summary

December 2018

*2018 is an "annus mirabilis", a year of notable changes to the regulatory landscape of the public markets in Singapore. Various changes were made to the Code of Corporate Governance ("**Code**"), the listing manual ("**Listing Manual**") of the Singapore Exchange Securities Trading Limited ("**SGX-ST**") and the Securities and Futures Act ("**SFA**"). These regulations comprise the "holy trinity" of laws and regulations applicable to publicly listed companies. This article ("**Article**") highlights these key changes. This Article also summarises some proposed rule amendments which could see implementation in 2019.*

Corporate Governance: Changes to the code and the Listing Manual

On 28 February 2017, the Corporate Governance Council ("**Council**") was established to conduct a comprehensive review of the Code. On 6 August 2018, the Council submitted its recommendations to the Monetary Authority of Singapore ("**MAS**"). MAS accepted all the recommendations and issued a revised Code ("**2018 Code**"), and accompanying Practice Guidance. The 2018 Code supersedes and replaces the Code that was issued in May 2012 ("**2012 Code**"). The 2018 Code will take effect for annual reports covering financial years commencing from 1 January 2019 and the key amendments to the Code are set out below.

Changes to the code

Structural Changes

The 2018 Code streamlined the Code to focus on key tenets of corporate governance and led to a net reduction of 3 principles and 31 provisions. Baseline corporate governance practices stipulated in the 2012 Code were to be shifted to the Listing Manual, rendering compliance with these requirements and practices mandatory to ensure that companies provide meaningful disclosures to their stakeholders. On 6 August 2018, Singapore Exchange ("**SGX**") issued amendments to the Listing Manual to incorporate these requirements and practices. The amendments to the Listing Manual will take effect on 1 January 2019, save for certain amendments relating to board composition and director independence, which will take effect on 1 January 2022 to provide issuers with more time to make board composition adjustments.

The 2018 Code comprises of (a) the introduction, which sets out the broad intent of the 2018 Code and clarifies how companies should adopt the comply-or-explain regime; (b) the principles, which are overarching statements embodying the fundamentals of good corporate governance and (c) the provisions, which are guiding steps designed to support compliance with the underlying principles. In this regard, Rule 710 of the Listing Manual will be amended to require issuers to describe in its annual report its corporate governance practices with specific reference to the principles and the provisions of the Code. An issuer must comply with the principles of the Code.

Where an issuer's practices vary from any provisions of the Code, it must explicitly state, in its annual report, the provision from which it has varied, explain the reason for variation, and explain how the practices it had adopted are consistent with the intent of the relevant principle.

An accompanying Practice Guidance has also been issued to provide companies with guidance on the application of the 2018 Code and best practices for companies and is intended to be applied on a voluntary basis.

Director Independence

The 2018 Code rationalised the tests of director independence so as to provide clarity on considerations which companies should apply their minds to when assessing the independence of each director by (a) setting out an overarching principle-based definition of director independence in the Code; (b) shifting objective and baseline tests of independence setting out circumstances which deem directors not to be independent to the Listing Manual, to reflect that companies should apply these without any exceptions; and (c) including in the Practice Guidance the other tests of director independence which set out details on business relationships between a director or his family members, and the company, or where the director is directly associated with a substantial shareholder.

Under the 2018 Code, an "independent" director is one who is independent in conduct, character and judgement, and has no relationship with the company, its related corporations, its substantial shareholders or its officers that could interfere, or be reasonably perceived to interfere, with the exercise of the director's independent business judgement in the best interests of the company. The shareholding threshold for the determination of a director's independence has also been reduced from 10% to 5% under the 2018, in line with the definition of "substantial shareholder" under the Companies Act.

Board Composition and Diversity

Under the 2018 Code, where the chairman of the board of directors is not independent, a majority of the Board should comprise independent directors, compared to "at least half" under the 2012 Code. The guideline under the 2012 Code that independent directors must comprise at least one-third of the board will also be shifted to the Listing Manual with effect from 1 January 2022.

New provisions under the 2018 Code also provide that the majority of the board should comprise of non-executive directors and that board diversity policy and progress made towards implementing the board diversity policy, including objectives, are disclosed in the company's annual report.

Remuneration Disclosures

Companies will have to disclose the relationship between remuneration and value creation. Additionally, companies will have to disclose the names and remuneration of employees who are substantial shareholders of the company, or are immediate family members of a director, the CEO or a substantial shareholder of the company, and whose remuneration exceeds S$100,000 during the year (revised from S$50,000 currently), in bands no wider than S$100,000 (revised from S$50,000 currently), stating clearly the employee's relationship with the director/CEO/substantial shareholder.

Stakeholder Engagement

A new principle has been introduced for companies to consider and balance the needs and interests of material stakeholders, together with accompanying provisions to establish arrangements to identify such stakeholders and disclose stakeholder relationships in their annual report.

Changes to the Listing Manual

In addition to the changes to the Code highlighted above, as mentioned, baseline corporate governance practices stipulated in the 2012 Code will be shifted to the Listing Manual. SGX has also issued transitional arrangements regarding the 2018 Code to establish transitional arrangements for certain guidelines shifted into the Listing Manual. The key amendments to the Listing Manual in connection with corporate governance are set out below.

Mandatory Training for First-Time Directors

A director without prior experience as a director of a listed company will be required to undergo training in the rules and responsibilities of a director as prescribed by the SGX. If the nominating committee is of the view that training is not required because the director has other relevant experience, the basis of its assessment must be disclosed. Otherwise, such training should be completed within one year from the date of his appointment to the board.

Independence of Directors

Under the Listing Manual, a director will not be independent (a) if he is employed by the company or any of its related corporations for the current or any of the past 3 financial years; (b) if he has an immediate family member who is employed or has been employed by the issuer or any of its related corporations for the past 3 financial years, and whose remuneration is determined by the remuneration committee of the company; or (c) with effect from 1 January 2022, where the director has served on the board for more than 9 years since the date of his first appointment and his continued appointment as an independent director has not been sought and approved in separate resolutions by (i) all shareholders; and (ii) shareholders, excluding the directors and the chief executive officer of the company, and associates of such directors and chief executive officer.

Establishment of Board Committees

The Listing Manual has been amended to stipulate that a company must establish one or more committees as may be necessary to perform the functions of an audit committee, a nominating committee and a remuneration committee, with written terms of reference which clearly set out the authority and duties of the committees.

Re-nomination and Re-appointment of Directors

All directors will be required to submit themselves for re-nomination and re-appointment at least once every 3 years. When a candidate is standing for the first time or re-elected to the board at a general meeting, the company shall provide certain information relating to the candidate (as set out in Appendix 7.4.1 in the Listing Rules (Mainboard) ("**Mainboard Rules**") or Appendix 7F in the Listing Rules (Catalist) ("**Catalist Rules**") of the Listing Manual) in the notice of meeting, annual report, or relevant circular distributed to shareholders prior to the general meeting. The outcome of the shareholder vote must also be announced by the company.

Internal Controls, Risk Management and Internal Audit

A company is required to have adequate and effective systems of internal controls (including financial, operational, compliance and information technology controls) and risk management systems. The audit committee may commission an independent audit on internal controls and risk management systems for its assurance, or where it is not satisfied with the systems of internal controls and risk management. A company is also required to establish and maintain on an ongoing basis an effective internal audit function that is adequately resourced and independent of the activities it audits.

Disclosure of reasons for not declaring or recommending dividends

It is also stipulated under the Listing Manual that where directors of the company decide not to declare or recommend a dividend, this must be announced together with the reason(s) for such decision.

Disclosures in Annual Report

Additional disclosures in the annual report have been stipulated under the Listing Manual and companies have to (a) disclose the relationship between the chairman and chief executive officer of the company if they are immediate family members; (b) identify all directors, including their designations (i.e. independent, non-executive, executive, etc.) and roles (as members or chairmen of the board or board committees); (c) include audit committee's comment on whether the internal audit function is independent, effective and adequately resourced; and (d) include the board's comment on the adequacy and effectiveness of the company's internal controls (including financial, operational, compliance and information technology controls) and risk management systems, as well as a statement on whether the audit committee concurs with the board's comment. Where material weaknesses are identified by the board or audit committee, they must be disclosed together with the steps taken to address them.

Establishment of Corporate Governance Advisory Committee

In line with the Council's recommendations, MAS will establish an independent Corporate Governance Advisory Committee ("**CGAC**") to advocate good corporate governance practices. The CGAC will monitor companies' implementation of the 2018 Code and provide support to companies by promulgating good practices and areas for improvement. The CGAC will also advise regulators on corporate governance issues. The CGAC will comprise senior practitioners with experience as board Chairmen or directors, corporate governance experts and representatives from diverse stakeholder groups and is expected to be established by the end of 2018.

Dual Class Listing Shares

On 26 June 2018, after two rounds of public consultation, SGX allowed the listing of dual-class shares on the Main Board with immediate effect. A dual class share structure is one which gives certain shareholders voting rights disproportionate to their shareholding as shares in one class carry one vote, while shares in another class carry multiple votes.

SGX has put in place certain safeguards in the Listing Manual to address risks of the dual class share structure. Each multiple voting share will be capped at 10 votes per share, and holders of multiple voting shares will be limited to named individuals or permitted holder groups whose scope must be specified at the initial public offering ("**IPO**").

There is also an enhanced voting process for companies with dual-class listed shares where all shares carry one vote each regardless of class for certain corporate actions, such as the appointment and removal of independent directors and/or auditors, the variation of rights attached to any class of shares, a reverse takeover, winding-up or delisting of the company.

The majority of the audit committee, nominating committee and the remuneration committee, and each of their respective chairmen must be independent directors. Moreover, sunset clauses are required whereby multiple voting shares will automatically be converted to ordinary voting shares under certain stipulated circumstances.

The new SFR: Amendments to Prospectus Disclosure Requirements

The new Securities and Futures (Offers of Investments)(Securities and Securities-Based Derivatives Contracts) Regulations 2018 ("**SFR**") came into effect on 8 October 2018, together with amendments to the Securities and Futures Act. The new SFR has, amongst others, collapsed the requirements under the Securities and Futures (Offers of Investments)(Shares and Debentures) Regulations 2005 and Securities and Futures (Offers of Investments)(Business Trusts)(No. 2) Regulations 2005 relating to offers of shares, debentures and units of business trusts and enhanced the prospectus disclosure requirements. In connection with the new SFR, MAS had issued a consultation paper on 26 May 2017 and a response to the feedback received from the consultation paper on 1 October 2018 ("**Response**"). The key amendments to the prospectus disclosure requirements in various parts of the Fifth Schedule of the SFR are set out below.

Part 1 – Front Cover

Companies will need to include the enhanced disclaimer on the front cover of the prospectus.

Part 2 – Identity of Directors, Key Executives, Advisers and Agents

The identities of the introducer and the consultant engaged to assist in (a) any group restructuring exercise in conjunction with the IPO; or (b) the issue of securities to investors during the period of 12 months prior to the date of lodgement of the prospectus for the purposes of facilitating the IPO have to be disclosed, together with the nature and terms of any material relationship of the introducer or consultant with the company. In the Response, MAS indicated that the term "consultant" was not defined as it is meant to be broad such as to cover any adviser hired for the aforesaid purposes.

Part 3 – Offer Statistics and Timetable

The new SFR clarifies that in the event that the offer price or the number of shares has not been fixed, a range may be stated, together with details on how and when the final price and the number of shares will be published. The market capitalisation at the time the shares will be listed is to be disclosed as well.

Part 4 – Key Information

Disclosure on the significant contingent liabilities and the nature of such liabilities is required. In relation to the use of proceeds to acquire or refinance the acquisition of any asset, business or entity, the carve-out for acquisitions made in the ordinary course of business has been removed. Additionally, details on the status of the acquisition, the estimated completion date and the amount of funds that has already been paid by the group (where applicable) are to be included.

Part 5 – Information on the Relevant Corporation

Under the new SFR, an email address is required to be included in the prospectus. Additionally, where a company has made any statement regarding its position in comparison with its competitors, the basis for such a statement would have to be disclosed.

The new SFR also requires additional disclosures on material tangible fixed assets of the group. Where the property will be acquired or is beneficially owned by the group, and the group has not obtained legal title to the property, a statement of that fact, the reasons why legal title has not been obtained, the potential impact on the group's operations and, if applicable, the expected date by which the legal title will be transferred to the group must be disclosed. In the case of leased properties, the group should disclose the identity of the lessor, the duration of the lease and, if the lease may be unilaterally terminated by the lessor, a statement of that fact and the potential impact of that fact on the relevant corporation's operations. MAS, in its Response, stated that this additional disclosure has been inserted as such information would be of interest to an investor.

However, it is no longer a requirement under the SFR to disclose a company's marketing activities. Notwithstanding this, MAS stated in its Response that any person making an offer of securities would still be subject to the general requirement under section 243 of the SFA that a prospectus for an offer of securities shall contain all the information that investors and their professional advisers would reasonably require to make an informed assessment of specified matters. Thus, marketing activities that fall under the general requirement of section 243 of the SFA should still be disclosed.

Part 6 – Operating and Financial Review and Prospects

Directors will have to provide a statement as to whether the working capital available to the group as at the date of lodgement of the prospectus is sufficient for at least the next 12 months, as compared to just for present requirements previously. MAS, in its Response, stated that the 12-month period was proposed after taking into account the practices in the UK and EU, and the time horizon which directors have to consider when assessing the appropriateness of the going concern assumption in preparing annual reports.

Companies are also now required to provide information on its credit policy, the circumstances under which credit terms may be extended, the average collection period and any material exposure to doubtful trade receivables and the amount which has been collected as of the latest practicable date, if the amount of trade receivables is material.

Part 7 – Substantial Shareholders, Directors, Key Executives and Employees

The new SFR prescribes that compensation paid, or to be paid, pursuant to any bonus or profit-sharing plan or any other profit-linked agreement or arrangement, to persons who are not directors or controlling shareholders need not be disclosed under certain circumstances. MAS has clarified in its Response that where a company is loss-making for a financial year, the carve-out would not apply and details of such a plan, agreement or arrangement and the basis of such person's participation would need to be disclosed.

Disclosure in relation to employees who are immediate family members of a director or chief executive officer whose remuneration exceeds S$50,000 during a relevant financial year has to be made or an explanation as to why such information is not disclosed has to be provided.

Part 9 – Financial Information

On 26 March 2018, SGX replaced references in the Listing Manual to Singapore Financial Reporting Standards with Singapore Financial Reporting Standards (International). SGX had issued practice notes to clarify the transitional arrangements such that where a listing applicant submits its financial statements for financial years that begin before 1 January 2018, the listing applicant would have to satisfy the relevant requirements under Part IX of the Fifth Schedule of the Securities and Futures (Offers of Investments)(Shares and Debentures) Regulations 2005. In line with the amendments to the Listing Manual, the new SFR has also provided for transitional relief from restating up to three years of historical annual financial statements from the Singapore Financial Reporting Standards to Singapore Financial Reporting Standards (International).

The new SFR also clarifies that the requirements for pro forma financial information do not include any acquisition or disposal, or agreement to acquire or dispose, that (a) was made in the ordinary course of business by the group or (b) was made in relation to a new production line, construction-in-progress or any other machinery or equipment that has been disclosed elsewhere in the prospectus pursuant to the requirements on material expenditure on and divestment of capital investment and material commitment for capital expenditures.

Proposed Amendments to the Voluntary Delisting Regime

On 9 November 2018, Singapore Exchange Regulation Pte. Ltd. ("**SGX RegCo**") issued a consultation paper on the proposed amendments to the voluntary delisting regime. Under the Listing Manual, SGX may agree to a voluntary delisting application if:

a) the issuer convenes a general meeting to obtain shareholders' approval for the voluntary delisting;

b) the resolution to delist the issuer ("**Voluntary Delisting Resolution**") has been approved by a majority of at least 75% of the total number of issued shares (excluding treasury shares and subsidiary holdings) held by shareholders present and voting; and

c) the Voluntary Delisting Resolution has not been voted against by 10% or more of the total number of issued shares (excluding treasury shares and subsidiary holdings) held by shareholders present and voting ("**10% Block**").

The issuer's directors and controlling shareholders are not required to abstain from voting on the Voluntary Delisting Resolution. The Listing Manual further require that a reasonable exit alternative ("**Exit Offer**") be offered to the issuer's shareholders and holders of any other class of listed securities to be delisted and should normally be in cash. The issuer should also appoint an independent financial adviser ("**IFA**") to advise on the Exit Offer.

The proposed amendments to the voluntary delisting regime under the Listing Manual are set out in the paragraphs below.

Enhancing the Exit Offer Requirements

SGX proposed to enhance the Exit Offer requirement by stipulating that the Exit Offer must not only be reasonable, but must also be fair. In this regard, SGX takes reference from the guidance of the Securities Industry Council ("**SIC**") on the concept of "fair" and "reasonable". In the Practice Statement on the Opinion Issued by an IFA in relation to Offers, Whitewash Waivers and Disposal of Assets under the Singapore Code on Takeovers and Mergers ("**Practice Statement**") issued by the SIC on 25 June 2014, SIC stated its expectation that an IFA should conclude, clearly and unequivocally, whether an offer is fair and reasonable. In this regard, SIC expressed that an offer is "fair" if the offer price is equal to, or greater than, the value of the securities which are the subject of the offer. In considering whether an offer is "reasonable", SIC expressed that the IFA should additionally consider other matters, including, the existing voting rights in the offeree company held by the offeror and parties acting in concert with it ("**Offeror Concert Party Group**") and the market liquidity of the relevant securities.

SGX proposed that the IFA must opine that the Exit Offer is fair and reasonable and that such opinion must be clear and unequivocal. SGX also proposed to codify the existing practice that the Exit Offer must include a cash alternative as the default alternative.

Amending the Voting Threshold for a Voluntary Delisting Resolution

The Listing Manual currently protects minority shareholders by requiring that the Voluntary Delisting Resolution must not be voted against by a 10% Block. However, this means that the offeror has no incentive to get minority shareholders to turn up and vote. As such, should minority shareholders not attend the general meeting nor appoint proxies to vote on the Voluntary Delisting Resolution, their absence would facilitate the offeror's ability to meet the existing voting thresholders for a voluntary delisting under the Listing manual. This problem is compounded when the issuer is tightly controlled as it becomes even more difficult for minority shareholders to collectively obtain a 10% Block. As such, SGX considered that it was necessary to strengthen the protection for minority shareholders under the existing voluntary delisting regime.

In line with the general principles in the Listing Manual whereby a party who is interested in a transaction should not be allowed to vote on the relevant resolution, SGX proposed that the Offeror Concert Party Group abstain from voting on the Voluntary Delisting Resolution. Directors and controlling shareholders of the issuer who are not part of the Offeror Concert Party Group may vote on the Voluntary Delisting Resolution.

To strike a balance between ensuring that minority shareholders are not unduly prejudiced in a voluntary delisting and that the power accorded in minority shareholders' hands is not unduly disproportionate, SGX proposed that the existing approval threshold for a Voluntary Delisting Resolution be reduced from 75% to a simple majority of 50% and to remove the 10% Block provision.

Proposed Amendments to Delisting Pursuant to Voluntary Liquidation

As the voluntary liquidation process relates to the realisation of an issuer's assets and subsequent distribution of the cash proceeds to shareholders on a *pro rata* basis, SGX considers that the Exit Offer would typically be fair and reasonable. Furthermore, the appointed liquidator also owes a duty to the court. As such, SGX will normally not require an IFA to be appointed to opine on the Exit Offer in the case of a delisting pursuant to a voluntary liquidation. Accordingly, SGX proposed that the proposed Exit Offer requirements and the proposed shareholders' approval requirements on the Voluntary Delisting Resolution do not apply to a delisting pursuant to a voluntary liquidation.

Proposed Amendments to Delisting Pursuant to Scheme of Arrangement

In line with the existing position in the Listing Manual that Rule 1309 of the Mainboard Rules and Rule 1308 of the Catalist Rules are applicable to a delisting pursuant to a scheme of arrangement, SGX proposed that the Exit Offer for a scheme of arrangement must be fair and reasonable and that an IFA must also be appointed to opine that the Exit Offer is fair and reasonable.

Proposed Amendments to Delisting Pursuant to General Offer

SGX proposed to clarify that the proposed Exit Offer requirements and the proposed shareholders' approval requirements on the Voluntary Delisting Resolution do not apply to a delisting pursuant to a general offer where an offeror is exercising its right of compulsory acquisition. This is in line with the existing practice where a waiver from Rule 1307 of the Listing Manual is typically granted following a general offer where the offeror is exercising its right of compulsory acquisition as SGX considered that the offeror would have garnered the requisite acceptances from shareholders for a general offer.

The public consultation closed on 7 December 2018 and subject to the feedback received, it is anticipated that the amendments to the Listing Manual will take effect in 2019. As at the date of this Article, SGX has not published any response to the feedback received or any amendments to the Listing Manual.

Regulation of Issue Managers and Changes to Listings Review Process

On 29 November 2018, SGX RegCo issued a consultation paper proposing changes to the regulation of issue managers and the order of the review processes for applications to list on the Mainboard of the SGX-ST.

Proposed Revisions to the Responsibilities of Issue Managers

For better administration and enforcement of the relevant requirements relating to the duties and standards applicable to issue managers who are responsible for preparing prospective issuers for a new listing (including an IPO, a listing by way of an introduction or a reverse takeover), SGX proposed to introduce Mainboard Rule 112B to clearly set out the responsibilities of issue managers, including (a) discharging their obligations with due care, diligence and skill, (b) satisfying themselves that information submitted to SGX is complete, accurate and not misleading; (c) conducting due diligence, including, at a minimum, complying with the due diligence guidelines issued by The Association of Banks in Singapore where applicable or such other satisfactory and no less strict due diligence guidelines or processes; (d) providing to SGX, as soon as practicable, any information or confirmation that SGX may require for the purposes of ensuring that the Mainboard Rules are complied with; (e) informing SGX of all matters that should be brought to SGX's attention in a timely manner; and (f) notifying SGX as and when there are significant changes to their corporate structure (whether due to mergers and acquisitions, resignation key management personnel and/or staff of the team managing listing applications, or otherwise).

Proposed Revisions to the Responsibilities of Issuer's Directors and Executive Officers

SGX proposed to amend Mainboard Rule 114 by: (a) regrouping the obligations imposed on issue managers under the new Mainboard Rule 112B; and (b) clarifying that the obligations of the directors and executive officers of a prospective issuer or issuer following admission to ensure that information submitted to SGX is complete, accurate and not misleading, would apply to all applications (including listing applications and pre-consultation applications) and SGXNet announcements.

Proposed Revisions on the Independence of Issue Managers

Aside from taking on the role of an issue manager preparing a listing applicant for a potential SGX listing, issue managers and/or their associates, could have other relationships with the listing applicant which could present potential conflicts with the issue manager's responsibilities to provide impartial advice to the listing applicant, discharge its obligations and be satisfied that the listing applicant meets the relevant admission requirements and is suitable to be listed. While the Catalist Rules set out procedures and practices on the independence of sponsors from the Catalist issuers they sponsor, the Mainboard Rules have no equivalent requirements that provide guidance on the independence of issue managers from Mainboard listing applicants. SGX proposed to a new Mainboard Rule 112A requiring an issue manager to be independent of a listing applicant. In cases where joint issue managers are appointed, at least one must be independent of the listing applicant.

SGX proposed to introduce a new Practice Note 2.1A in the Mainboard Rules setting out the circumstances and relevant threshold limits in considering whether an issue manager is considered independent to provide guidance of SGX's assessment of the factors affecting an issue manager's independence. SGX will retain the discretion to deem an issuer independent or otherwise. Under the proposed Practice Note 2.1A,

SGX will not normally consider an issue manager to be independent of a listing applicant if any of the following circumstances exist before the date of listing:

a) more than 20% of the net proceeds from the offering (excluding commissions and other fees and expenses payable in connection with the offering) is or will be used to (i) 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 (ii) discharge any guarantee given by the issue manager group on behalf of the applicant and/or its subsidiaries;

b) the aggregate amount of outstanding loans and/or available committed credit facilities extended by the issue manager group to the applicant and/or its subsidiaries and guarantees given by the issue manager group on behalf of the applicant and/or its subsidiaries, exceed 20% of the applicant's latest audited total assets prior to the submission of the application; or

c) 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.

In light of the above, SGX proposed to include a new definition for "issue manager group" in the Mainboard Rules, which would include (a) the issue manager and its subsidiaries; (b) the controlling shareholder(s) of the issue manager and their associates; (c) the director(s), chief executive officer(s) and key officer(s) of the issue manager who are directly involved in the decision-making with respect to a new listing application, and their associates; and (d) person(s) that the issue manager in fact exercises control over. In this regard, a "person" includes any company or association or body of persons, corporate or unincorporated.

SGX recognised that issue managers may include the Singapore-based entities of foreign financial institutions and that the inclusion of directors, chief executives and key officers, and their associates who are based overseas within the definition of "issue manager group" may pose hardships for the issue manager to obtain relevant information from a large group of persons and may not be relevant for the assessment of the independence of the issue manager. Accordingly, it will be clarified that where the issue manager is a Singapore-based entity of a foreign financial institution, a director, chief executive officer or key officer of an overseas-based entity of that issue manager, and his or her associates, will only be included within the issue manager group if that director, chief executive officer or key officer is directly involved in the decision-making with respect to the listing application.

Proposed Revisions to the Non-referral Process

SGX established an independent Listings Advisory Committee ("**LAC**") in 2015 to consider listing policy issues and listing applications that meet certain referral criteria. Under the Mainboard Rules, a specific listing application may be referred to the LAC when (a) novel or unprecedented issues are involved; (b) specialist expertise is required; (c) matters of public interest are involved; or (d) SGX is of the view that a referral is appropriate. In addition, SGX shall, within a reasonable period, report to the LAC on specific listing applications which satisfy all admission requirements under the Mainboard Rules and have not been referred to the LAC. The LAC has the discretion to convene an LAC meeting for any specific listing application which was not referred to it, if it is of the view that any referral criterion under the Mainboard Rules has been satisfied ("**Non-referral Process**"). The purpose of the Non-referral Process was to address the perception that SGX's commercial considerations might conflict with its regulatory duty to refer to the LAC cases that meet the referral criteria. Pursuant to the establishment of SGX RegCo in September 2017 to separate SGX's regulatory functions from its commercial and operating activities, this concern would be mitigated as there would be an additional layer of independent oversight by the board of directors of SGX RegCo ("**SGX RegCo Board**") in the performance of its duties.

SGX noted feedback from market professionals that the Non-referral Process has contributed significantly towards lengthening the review timeline for listing applications impacted the time-to-market for listing applicants, which in turn affected the competitiveness of SGX as a listing venue.

To address the feedback, SGX proposed revising the current Non-referral Process to benefit from LAC's advice while enhancing time to market. Information on listing applications which SGX has assessed to be non-referrals will still be provided to the LAC regularly after the grant of the eligibility to list. Such information will also be provided to the SGX RegCo Board, which may also ask that the matter be referred to the LAC for its advice. This approach will significantly reduce the time to market and uncertainty for listing applicants to maintain SGX's competitiveness as a listing venue while allowing SGX to continue tapping into industry experience and knowledge. Should the LAC form a view that a particular matter should have been referred for the LAC's deliberation under the Mainboard Rules, the intention is to apply the LAC's advice for future similar matters on a prospective basis. In this way, any advice or view rendered on a non-referral listing application would not affect the existing case for which the eligibility to list has been granted.

The public consultation for this consultation paper will close on 28 December 2018. Subject to the feedback received, it is anticipated that the amendments to the Mainboard Rules will take effect in the first quarter of 2019.

The above discussion is intended only to be a summary of the key amendments affecting publicly-listed companies and prospective issuers, as well as the key proposed amendments to the Listing Manual as at the date of this Article. For more information, please refer to the full text of the 2018 Code, the accompanying Practice Guidance, the Listing Manual, the SFR and the consultation papers issued by SGX.

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