AMENDMENTS TO THE LISTING MANUAL - ENHANCED DISCLOSURE REQUIREMENTS WITH RESPECT TO INTERESTED PERSON TRANSACTIONS

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On 9 January 2020, the Singapore Exchange Securities Trading Limited ("**SGX-ST**") announced several changes to the listing rules of the SGX-ST ("**Listing Rules**"), including the adoption of a risk-based approach to quarterly reporting and enhancements to continuous disclosure obligations. These rules have been effective since 7 February 2020.

This article highlights some of the notable changes to Chapter 9 of the Listing Rules with respect to interested person transactions ("**IPTs**").

General power of the SGX-ST

The Listing Rules have been amended to address the SGX-ST's concern that issuers may attempt to circumvent the Listing Rules through ingenious methods.

Chapter 9 of the Listing Rules aims to guard against the risk that interested persons could influence the issuer, its subsidiaries or associated companies, to enter into transactions with interested persons that may adversely affect the interests of the issuer or its shareholders. While the provisions of Chapter 9 do not generally apply to IPTs that are below S$100,000 in value, the revised Listing Rules give the SGX-ST the discretion to, in appropriate circumstances:

- aggregate separate IPTs below S$100,000 entered into during the same financial year and treat them

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as if they were one transaction; and

- deem a person or entity as an "interested person" if the person or entity has entered into, or proposes to enter into, a transaction with an entity at risk, and an agreement or arrangement with an interested person in connection with the transaction.

These amendments are consistent with the overarching objective of Chapter 9 of the Listing Rules to grant the SGX-ST discretionary power to apply the provisions of Chapter 9 to particular transactions, having regard to the substance (instead of the form) of the transactions.

Additional Disclosure Requirements

The Listing Rules have also been amended to require additional information to be disclosed pertaining to IPTs in the announcements, annual reports and IPT general mandates of issuers. Some of these amendments are highlighted below.

Announcement

An issuer is required to disclose, where available, the book value, the net profit attributable to the assets and the latest available open market value of an IPT.
The SGX-ST clarified in the Responses to Comments on Consultation Paper: Enhancements to Continuous Disclosures ("**Response Paper**") that if the relevant value is not available, or not applicable to the IPT, the issuer may modify its compliance with the requirement accordingly.

Annual Report

An issuer also needs to disclose the nature of the known relationship between the issuer and the interested person in its annual report. As to the level of disclosure required, the SGX-ST stated that it would be sufficient to identify the interested person as, for example, "an associate of the issuer's controlling shareholder".

IPT General Mandate

The revised Listing Rules also require an issuer to identify any interested person covered by the IPT general mandate on a named basis, instead of identifying them as a class (for example, merely as "directors").

While such a mandate will not be invalidated in its entirety due to a change relating to one named person, and would survive *vis-à-vis* the remaining named interested persons in the mandate, should the issuer seek to, for example, include a new associate of a director within the ambit of its IPT mandate, the SGX-ST has stated that the issuer should appoint an independent financial adviser due to the potential change in risk profile.

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As a transitional arrangement, the SGX-ST stated in the Response Paper that an issuer whose existing IPT general mandate identifies the interested persons as a class only needs to comply with this requirement when the issuer next makes any amendment to its existing IPT general mandate.

Aggregation Rules

Under Chapter 9 of the Listing Rules, IPTs entered into with the same interested person are to be aggregated for the purposes of disclosure and determining whether certain thresholds have been crossed. In this regard, the SGX-ST also clarified how the principles regarding the aggregation of IPTs apply.

The term "primary interested persons" was introduced to mean, amongst others, a director, chief executive officer or controlling shareholder of the issuer. For the purposes of aggregation, the reference to "same interested person" refers to a primary interested person and its associate (i.e. transactions between (a) an entity at risk and a primary interested person; and (b) an entity at risk and an associate of that primary interested person, are deemed to be transactions between an entity at risk with the same interested person). However, the aggregation principle does not extend to the associates of associates of the primary interested person.

Moreover, Listing Rule 908 has also been amended to state that where an entity at risk separately enters into transactions with two primary interested persons, the transactions are deemed to be transactions between the entity at risk with the same interested person if the primary interested person is also an associate of the other primary interested person. For instance, if Director A and Director B enter into separate IPTs with the issuer, and these two directors are associates, the transactions between the issuer and the two directors will be aggregated for the purposes of determining whether the requirement for announcement or shareholders' approval has been triggered.

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