

Annex

Modifications to the Listing Rules of the Stock Exchange of Hong Kong Limited (the “Exchange”) the subject of a conditional Waiver made by the Exchange on 19 December 2005 to enable HSBC Holdings plc (“HSBC”) to hold treasury shares

1 Chapter 1

- 1.1 The definition of “market capitalisation” is amended to read: “the market value of the entire size of an issuer, which shall include all classes of securities of the issuer (other than treasury shares), irrespective of whether any such class(es) of securities are unlisted, or listed on other regulated market(s)”.
- 1.2 The definition of “treasury shares” is inserted to mean: “shares of an issuer which the issuer has repurchased and holds in treasury, as authorised by the laws of its jurisdiction of incorporation and its constitution, such shares being qualifying shares to which sections 162A to 162G of the UK Companies Act 1985 apply”.

2 Chapter 2

Rule 2.03(4) is amended to read: “all holders of listed securities are treated fairly and equally (disregarding for these purposes the issuer in its capacity as the holder of any treasury shares)”.

3 Chapter 3

Rule 3.13(1) is amended to read: “holds more than 1% of the total issued share capital of the listed issuer (excluding treasury shares)”.

4 Chapter 3A

4.1 Rule 3A.23(2)

Rule 3A.23(2) is amended to read: “where a transaction, which might be a notifiable or connected transaction, is contemplated including share issues, sales of treasury shares out of treasury and share repurchases”.

5 Chapter 4

5.1 Rule 4.04

Rule 4.04(8) is amended to read: “the earnings per share (which, for the avoidance of doubt, will not take account of treasury shares) and the basis of computation.....”

5.2 Rule 4.29(8)

Rule 4.29(8) is amended to read: “Where the pro forma earnings per share information is given for a transaction which includes the issue of securities or the sale of treasury shares out of treasury for cash, the calculation is to be based on the weighted average number of shares outstanding during the period (other than treasury shares), adjusted as if that issue had taken place at the beginning of the period.”

6 Chapter 6

6.1 Rules 6.03, 6.05 and 6.08

Note (1) to rules 6.03, 6.05 and 6.08 is amended to read: “*The Exchange is under an obligation to maintain a orderly and fair market for the trading of all Exchange listed securities and listed securities (other than treasury shares) should be continuously traded save in exceptional circumstances*”.

6.2 Rule 6.15

Rule 6.15(1) is amended to read: “after a general offer a right to compulsory acquisition is exercised pursuant to applicable laws and regulations (the requirements of which are, where the issuer is not a company incorporated in Hong Kong, at least as onerous as those applicable if it were) resulting in the acquisition of all the listed securities of the issuer (other than treasury shares)”.

7 Chapter 7

7.1 Rule 7.19

Rule 7.19(6) is amended to read: “If the proposed rights issue would increase either the issued share capital (excluding treasury shares) or the market capitalisation of the issuer by more than 50% (on its own or when aggregated with any other rights issues or open offers announced by the issuer (i) within the 12 month period immediately preceding the announcement of the proposed rights issue or (ii) prior to such 12 month period where dealing in respect of the shares issued pursuant thereto commenced within such 12 month period, together with any bonus securities (other than any such bonus securities to be issued into treasury), warrants or other convertible securities (assuming full conversion) granted or to be granted to shareholders as part of such rights issues or open offers);”.

7.2 Rule 7.24

Rule 7.24(5) is amended to read: “If the proposed open offer would increase either the issued share capital (excluding treasury shares) or the market capitalisation of the issuer by more than 50% (on its own or when aggregated with any other open offers or rights issues announced by the issuer (i) within the 12 month period immediately preceding the announcement of the proposed open offer or (ii) prior to such 12 month period where dealing in respect of the shares issued pursuant thereto commenced within such 12 month period, together with any bonus securities (other than any such bonus securities to be issued into treasury), warrants or other convertible securities (assuming full conversion) granted or to be granted to shareholders as part of such rights issues or open offers)”.

8 Chapter 8

Rule 8.08

Rule 8.08 is amended by the insertion of note 4 to rule 8.08(1) as follows: “For the purposes of rule 8.08, treasury shares are not taken into consideration when calculating the number of shares of a class of shares in the hands of the public.”

9 Chapter 10

9.1 Rule 10.01

Rule 10.01 is amended to read: “Normally no more than 10% of the aggregate of any securities being marketed for which listing is sought and/or any treasury shares being sold (but not any treasury shares being sold or transferred out of treasury for the purposes of an employees’ share scheme) may be offered to employees or past employees of the issuer or its subsidiaries.....”

9.2 Rule 10.06

- 9.2.1 Rule 10.06(1)(b)(viii) is amended by the addition of the following wording at the end of such rule: “together with details of any such repurchases which resulted in the issuer holding treasury shares and details of any transfer, sale or cancellation of such treasury shares by the issuer during that period (including the date of any transfer, sale or cancellation and the price of any sale of treasury shares or the highest and lowest price of any such sales, where relevant);
- 9.2.2 Rule 10.06(1)(c)(i) is amended to read: “the total number and description of the shares which the issuer is authorised to purchase on the Exchange or on another stock exchange recognised for this purpose by the Commission and the Exchange under the Code on Share Repurchases, may not exceed 10 per cent. of the issued share capital of the issuer (excluding treasury shares) and the total number.....”
- 9.2.3 Rule 10.06(3) is amended to read: “An issuer whose primary listing is on the Exchange may not make a new issue of shares or sell its treasury shares out of treasury or announce a proposed new issue of shares or a proposed sale of its treasury shares out of treasury (other than, in each case, for the purposes of an employees’ share scheme) for a period of 30 days after any purchase by it of shares.....”
- 9.2.4 Rule 10.06(4)(b) is amended to read:
- “include in its annual report and accounts a monthly breakdown of purchases of shares made during the financial year under review showing the number of shares purchased each month (whether on the Exchange or otherwise), ~~and~~ the purchase price per share or the highest and lowest price paid for all such purchases, where relevant, ~~and~~ the aggregate price paid by the issuer for such purchases, the number of shares held as treasury shares following such purchases, the number of treasury shares sold, transferred or cancelled (on a monthly basis) and the number of treasury shares held following such sale, transfer or cancellation (at the end of each month). The directors’ report shall contain reference to the purchases made during the year and the directors reasons for making such purchases.”
- 9.2.5 Rule 10.06(5) is amended to read: “Other than those listed shares purchased by an issuer to be held as treasury shares, the listing of all shares which are purchased by an issuer (whether on the Exchange or otherwise) shall be automatically cancelled upon purchase and the issuer must apply for listing of any further issues of that type of shares in the normal way. The issuer shall ensure that the documents of title of purchased shares (other than documents of title relating to the shares to be held as treasury shares) are cancelled and destroyed as soon as reasonably practicable following settlement of any such purchase. Where shares are held as treasury shares following a purchase by the issuer, and those treasury shares are subsequently cancelled by the issuer, the listing of those treasury shares shall also be cancelled and the issuer shall ensure that the documents of title of any cancelled treasury shares are destroyed as soon as reasonably practicable following such cancellation.”
- 9.2.6 Rule 10.06 is amended by the insertion of a note to rule 10.06(5) as follows: “For the avoidance of doubt, shares purchased by an issuer to hold as treasury shares will remain listed and the listing will not be suspended or cancelled. Any subsequent sale of such treasury shares or transfer of such treasury shares pursuant to an employees’ share scheme shall not, for the purposes of the Exchange’s Listing Rules, constitute a new issue of shares and shall not require a new listing application to be made.”

10 Chapter 13

10.1 Rule 13.25A

Rule 13.25A(2) is modified by the insertion of a new sub-paragraph (xi) as follows:

“(xi) sale of treasury shares out of treasury or cancellation of treasury shares; or”

and the existing rule 13.25A(2)(xi) shall be renumbered as 13.25A(2)(xii) and shall be amended to read “change in issued share capital not falling within any of the categories referred to in rule

13.25A(2)(a)(i) to (xi) or rule 13.25A.(2)(b); and”, and the “or” at the end of rule 13.25A(2)(a)(x) shall be deleted.

Rule 13.25A(3) is amended by the insertion of the following:

“(a) the event, either individually or when aggregated with any other events described in that rule which have occurred since the listed issuer published its last monthly return under rule 13.25B or last return under this rule 13.25A (whichever is the later), results in a change of 5% or more of the listed issuer’s issued share capital (excluding treasury shares).”

Rule 13.25A(4) is amended by the insertion of the following:

“For the purposes of rule 13.25A(3), the percentage change in the listed issuer’s issued share capital is to be calculated by reference to the listed issuer’s total issued share capital (excluding treasury shares) as it was immediately before the earliest relevant event which has not been disclosed in a monthly return published under rule 13.25B or a return published under this rule 13.25A.”

10.2 Rule 13.25B

Rule 13.25B is modified by the insertion of the following: “Such information includes, among other things, the number as at the close of such period of equity securities (including the number of any equity securities held as treasury shares), debt securities and any other securitised instruments, as applicable, issued and which may be issued pursuant to options, warrants, convertible instruments or any other agreements or arrangements. Such information shall also include details of the sale of treasury shares out of treasury or cancellation of treasury shares.”

10.3 Rule 13.28

Rule 13.28 is amended to read: “On the next business day following the date on which the directors agree to issue securities for cash under the authority of a general mandate granted to them by the shareholders in accordance with rule 13.36(2)(b), or agree to sell treasury shares out of treasury for cash other than in connection with an employee share scheme, an issuer shall publish in the newspapers an announcement containing the following information:

- (1) the name of the issuer;
- (2) the number, class and aggregate nominal value of the securities agreed to be issued or sold out of treasury;
- (3) the total funds to be raised and the proposed use of the proceeds;
- (4) the issue/sale price of each security and the basis for determining the same;
- (5) the net price to the issuer of each security;
- (6) the reasons for making the issue/sale;
- (7) the names of the allottees/transferees, if less than six in number and, in the case of six or more allottees/transferees, a brief generic description of them. The Exchange reserves the right to require submission of such further information (on an electronic spreadsheet or such other format as it may request) on the allottees/transferees as it may consider necessary for the purpose of establishing their independence, including without limitation details of beneficial ownership;
- (8) the market price of the securities concerned on a named date, being the date on which the terms of the issue or sale out of treasury were fixed; and

- (9) the total funds raised and a detailed breakdown and description of the funds raised on any issue of equity securities or sale of treasury shares in the 12 months immediately preceding the announcement of the proposed issue of securities, the use of such proceeds, the intended use of any amount not yet utilised and how the issuer has dealt with such amount;
- (10) where applicable, the name of the underwriter/placing agent and the principal terms of the underwriting/placing arrangements;
- (11) a statement whether the issue or sale out of treasury is subject to shareholder's approval;
- (12) where the securities are issued under a general mandate granted to the directors by the shareholders in accordance with rule 13.36(2)(b), details of the mandate;
- (13) where the securities are issued or sold out of treasury by way of a rights issue or an open offer, the information set out in paragraph 18 of Appendix 1, Part B;
- (14) conditions to which the issue is subject or a negative statement if applicable; and
- (15) any other material information with regard to the issue or sale out of treasury including any restrictions on the ability of the issuer to issue or sell out of treasury further securities or any restrictions on the ability of the allottees to dispose of shares issued or sold to them or any restrictions on the ability of existing shareholders to dispose of their securities arising in connection with the allotment or sale".

10.4 Rule 13.36

Rule 13.36(2)(b) is amended to read: ".....subject to a restriction that the aggregate number of securities allotted or agreed to be allotted must not exceed the aggregate of 20% of the existing issued share capital of the issuer (excluding treasury shares) (or in the case of a scheme of arrangement involving an introduction in the circumstances set out in rule 7.14(3), 20% of the issued share capital of an overseas issuer (excluding treasury shares) following the implementation of such a scheme) plus the number of such securities repurchased and cancelled by the issuer itself since the granting of the general mandate (up to a maximum number equivalent to 10% of the existing issued share capital of the issuer (excluding treasury shares)), provided that....."

10.5 Rule 13.84

Rule 13.84(1) is amended to read: "the IFA group and any financial director or associate of a director of the independent financial adviser holds, directly or indirectly, in aggregate more than 5% of the issued share capital of the issuer (excluding treasury shares), another party to the transaction...."

11 Chapter 14

11.1 Rule 14.07

Rule 14.07(5) is amended to read: "Equity capital ratio - the nominal value of the listed issuer's equity capital issued as consideration divided by the nominal value of the listed issuer's issued equity capital (excluding treasury shares) immediately before the transaction."

11.2 Rule 14.81

Rule 14.81(3) is amended to read: "a prominent and legible statement in the following form: "the Stock Exchange of Hong Kong Limited (the "Exchange") has stated that if, at the close of the offer, less than the minimum prescribed percentage applicable to the listed issuer, being [] % of the issued shares (excluding treasury shares), are held by the public....."

12 Chapter 14A

12.1 Rule 14A.10

12.1.1 Rule 14A.10(13)(g) is amended to read: “issuing new securities and/or the sale or transfer of treasury shares out of treasury”.

12.2 Rule 14A.31

12.2.1 The note to rules 14A.31(2) and 14A.32 is amended to read: “*This exemption does not apply to the issue of new securities or the sale of treasury shares out of treasury by a listed issuer to a connected person, which is governed by rule 14A.31(3).*”

12.2.2 Rule 14A.31(3) is amended to read: “where a listed issuer issues new securities or transfers treasury shares out of treasury to a connected person.....”

12.2.3 Rule 14A.31(3)(b) is amended to read: “securities are issued or treasury shares are transferred or sold out of treasury under a share option scheme....”

12.2.4 Rule 14A.31(3)(c) is amended to read: “the connected person is acting as underwriter or sub-underwriter of an issue of securities (or sale of treasury shares out of treasury) by the listed issuer....”

12.2.5 Note 1 to rule 14A.31(3) is amended to read: “*The entity whose issue of securities (or sale of treasury shares out of treasury) is being underwritten....*”

12.2.6 Rule 14A.31(3)(d) is amended to read: “securities are issued or treasury shares are sold out of treasury to a connected person within 14 days after such connected person has executed an agreement to reduce its holding in that class of securities by placing securities to a third person who is not an associate. The securities must be issued (or, in the case of treasury shares, sold) at a price not less than the placing price. The placing price may be adjusted for the expenses of the placing. The number of securities issued (or, in the case of treasury shares, sold) to the connected person must not exceed the number of securities placed by it;”.

13 Chapter 15

13.1 Rule 15.02

Rule 15.02(1) is amended to read: “the securities to be issued or transferred out of treasury on exercise of the warrants must not, when aggregated with all other equity securities which remain to be issued or transferred out of treasury on the exercise of any other subscription rights, if all such rights were immediately exercised, whether or not such exercise is permissible, exceed twenty per cent. of the issued equity capital of the issuer (excluding treasury shares) at the time such warrants are issued...”

14 Chapter 17

14.1 Rule 17.01

Rule 17.01(1) is amended to read: “The following provisions apply, with appropriate modifications, to all schemes involving the grant by a listed issuer or any of its subsidiaries of options over new shares ~~or~~ other new securities or treasury shares of the listed issuer or any of its subsidiaries to, or for the benefit of, specified participants in such schemes.....Any arrangement involving the grant of options to participants over new shares ~~or~~ other new securities or treasury shares of a listed issuer or any of its subsidiaries which, in the opinion of the Exchange, is analogous to a share option scheme as described in this rule 17.01 must comply with the requirements of this chapter.”

14.2 Rule 17.03

14.2.1 Rule 17.03(3) is amended to read: “the total number of securities which may be issued and/or treasury shares which may be sold or transferred out of treasury upon exercise of all options to be granted under the scheme, together with the percentage of the issued share capital that it represents (excluding treasury shares) at the date of approval of the scheme”.

14.2.2 Note (1) to rule 17.03(3) is amended to read: “*The total number of securities which may be issued and/or treasury shares which may be sold or transferred out of treasury upon exercise of all options to be granted under the scheme or any other schemes must not in aggregate exceed 10% of the relevant class of securities (excluding treasury shares) of the listed issuer (or the subsidiary) in issue as at the date of approval of the scheme.....*

.....However, the total number of securities which may be issued and/or treasury shares which may be sold or transferred out of treasury upon exercise of all options to be granted under all of the schemes of the listed issuer (or the subsidiary) under the limit as “refreshed” must not exceed 10% of the relevant class of securities (excluding treasury shares) in issue as at the date of approval of the limit....”

14.2.3 Note (2) to rule 17.03(3) is amended to read: “*The limit on the number of securities which may be issued and/or treasury shares which may be sold or transferred out of treasury upon the exercise of all outstanding options granted....must not exceed 30% of the relevant class of securities (excluding treasury shares) of the listed issuer (or the subsidiary) in issue from time to time.*”

14.2.4 Note to rule 17.03(4) is amended to read: “*.....the total number of securities issued and to be issued and/or treasury shares which may be sold or transferred or to be sold or transferred out of treasury upon exercise of the options granted to each participant (including both exercised and outstanding options) in any 12-month period must not exceed 1% of the relevant class of securities (excluding treasury shares) of the listed issuer (or the subsidiary) in issue. Where any further grant of options to a participant would result in the securities issued or to be issued and/or the treasury shares which may be sold or transferred or to be sold or transferred out of treasury upon exercise of all options granted and to be granted to such person....representing in aggregate over 1% of the relevant class of securities (excluding treasury shares) in issue, such further grant....”*

14.3 Rule 17.04

Rule 17.04(1) is amended to read: “.....Where the grant of options to a substantial shareholder or an independent non-executive director of the listed issuer, or any of their respective associates, would result in the securities issued and to be issued and/or treasury shares sold or transferred or to be sold or transferred out of treasury upon exercise of all options already granted and to be granted (including options exercised, cancelled and outstanding) to such person in the 12-month period up to and including the date of such grant:

(a) representing in aggregate over 0.1% of the relevant class of securities in issue (excluding treasury shares); and....”

14.4 Rule 17.09

Rule 17.09(3) is amended to read: “the total number of securities available for issue and/or sale or transfer of treasury shares out of treasury under the scheme together with the percentage of the issued share capital (excluding treasury shares) that it represents as at the date of the annual report”.

15 Appendix 1B

Paragraph 26(1)(b)(v) is amended to read: “a statement of the interests of any of the directors; their associates; or any shareholder (which to the knowledge of the directors owns more than 5% of the issuers’ share capital (excluding treasury shares)) in the suppliers or customers disclosed under (i) to (v) above or if there are no such interests a statement to that effect”.

16 Appendix 2

Paragraph 5(2) is amended to read: “if any such class (other than the preference or preferred shares so described) is a class the holders of which are not entitled to vote at general meetings of the issuer, the words “non voting” must appear legibly on every certificate therefore issued by the issuer. For the avoidance of doubt, this rule shall not apply to treasury shares, which shall be non-voting”.

17 Appendix 3

Paragraph 10(1) is amended to read: “That, where the capital of the issuer includes shares which do not carry voting rights, the words “non-voting” must appear in the designation of such shares. For the avoidance of doubt, this rule shall not apply to treasury shares, which shall be non-voting”.

18 Appendix 5

HSBC will amend the relevant forms contained in Appendix 5 to the extent necessary (if at all) as and when it is required to submit such forms pursuant to the Exchange’s Listing Rules.

18.1 Form E

When appropriate HSBC will amend paragraph (3) of the sponsor’s declaration as follows: “25% of the total issued share capital of the Issuer (excluding treasury shares) [have been placed/will be held] in the hands of the public in accordance with rule 8.08...”

18.2 Form F

Paragraph 3 of Form F is amended to read “that.....Shares of...(Number & Class).....HK\$.....Debenture/Loan Stock.....Debenture/Notes/Bonds (of which.....Shares of HK\$.....were treasury shares which were sold out of treasury for cash) have been subscribed/purchased for cash and duly allotted/issued/transferred to the subscribers/purchasers (and that the said shares have been converted into HK\$.....Stock);

19 Appendix 16

19.1 Paragraph 2(4) is amended to read: “statement of changes in equity (which, for the avoidance of doubt, will include any changes in respect of treasury shares held by the listed issuer);”

19.2 Paragraph 4(g) is amended to read: “earnings per share (which, for the avoidance of doubt, will not take account of treasury shares);”

19.3 Paragraph 10(4) is amended to read: “Any such statement must also distinguish between:

(a) those listed securities which are purchased and cancelled by the listed issuer, those securities which are purchased and held as treasury shares by that issuer and any existing treasury shares cancelled by the issuer; and

(b) those securities which are purchased, by a subsidiary of the listed issuer”.

19.4 Paragraph 11 is amended to read:

“In the case of any issue for cash of equity securities or sale of treasury shares made otherwise than to shareholders in proportion to their shareholdings (excluding any transfer of treasury shares for the purposes of an employee share scheme) and which has not been specifically authorised by the shareholders, a listed issuer shall disclose:

(1) the reasons for making the issue/sale;

- (2) the classes of equity securities issued/sold;
- (3) as respect each class of equity securities, the number issued/sold, their aggregate nominal value;
- (4) the issue/sale price of each security;
- (5) the net price to the listed issuer of each security;
- (6) the names of the allottees/transferees, if less than six in number, and, in the case of six or more allottees/transferees, a brief generic description of them;
- (7) the market price of the securities concerned on a named date, being the date on which the terms of the issue/sale were fixed; and
- (8) the use of the proceeds.”

19.5 Paragraph 31(5) is amended to read: “a statement of the interests of any of the directors; their associates; or any shareholder (which to the knowledge of the directors owns more than 5% of the listed issuers’ share capital (excluding treasury shares)) in the suppliers or customers disclosed under (1) to (4) above or if there are no such interests a statement to that effect”.

19.6 Paragraph 37(4) is amended to read: “a statement of changes in equity (which, for the avoidance of doubt, will include any changes in respect of treasury shares);”