

::: AUTHOR :::



Terence LIN
Partner
Corporate
terence.lin@rodyk.com
+65 6885 3635

Proposed Changes To SGX Listing Criteria And Listing For Special Purpose Acquisition Companies

The Singapore Exchange Limited ("SGX") issued a consultation paper dated 6 January 2010 proposing the listing of cash companies, along with a broadening of the SGX Mainboard listing criteria.

Proposed revision of SGX-ST Mainboard listing criteria

The rationale for the proposed revisions to the SGX Mainboard admission criteria are to improve Singapore's position as a capital market by offering a pair of distinct listing platforms catering to the needs and requirements of companies of different profiles. The SGX Mainboard is positioned for relatively established companies with sustained track records while SGX Catalist caters to fast growing companies under a sponsor supervised regime.

Currently, a company applying for the listing of its equity securities on the SGX Mainboard must meet, among other conditions, one of the following requirements:

- (1) a cumulative consolidated pre-tax profit of at least S\$7.5 million for the last three years and a minimum pre-tax profit of S\$1 million for each of those three years;
- (2) a cumulative consolidated pre-tax profit of at least S\$10 million for the last one or two years; or
- (3) a market capitalisation of at least S\$80 million calculated based on the issue price and post-invitation issued share capital.

SGX is proposing that SGX Mainboard aspirants be required to meet one of the following two admission criteria instead:

- (1) profitability in the latest financial year (with pre-tax profit based on the latest full year consolidated audited accounts, excluding exceptional or non-recurrent income and extraordinary items), a minimum three year operating track record and a market capitalisation of at least S\$150 million based on the issue price and post-invitation issued share capital; or
- (2) an operating revenue (actual or pro forma) in the latest financial year and a market capitalisation of at least S\$300 million based on issue price and post-invitation issued share capital.

The proposed SGX Mainboard admission criteria will also apply to reverse takeovers. SGX Catalist companies that are seeking a transfer to the SGX Mainboard must meet criterion (1).

The SGX is also proposing to raise the minimum issue price of the equity securities offered in an initial public offering ("IPO") or reverse takeover to 50 cents. from the current 20 cents.

Listing rules for Special Purpose Acquisition Companies

SGX is proposing that Special Purpose Acquisition Companies ("SPACs") be allowed to list on the SGX Mainboard. SPACs are shell companies with no operating histories that raise capital through an IPO for the purpose of acquiring operating businesses through business combinations.

SPACs seeking a listing must have a minimum market capitalisation of S\$150 million, calculated based on the post-invitation issued share capital and the IPO issue price, to facilitate a sizeable business combination and must comply with certain proposed criteria, including, among others, the following:

- (1) At least 25% of the issued shares (excluding treasury shares) of the SPAC must be held by at least 300 public shareholders, to ensure sufficient free float.
- (2) At least 95% of the IPO proceeds must be placed in an account operated by an escrow agent which is part of a financial institution licensed by the Monetary Authority of Singapore. The sum placed in escrow together with interest earned cannot be drawn down except for the purpose of the business combination. This is to safeguard the SPAC's assets, given that its only asset is cash until the completion of the business combination.
- (3) Equity interests given to the SPAC's founding shareholders without an equity contribution equivalent to public shareholders should, in aggregate, comprise no more than 10% of the SPAC's issued post-invitation share capital. This serves to prevent excessive dilution to public shareholders.
- (4) The SPAC's founding shareholders must subscribe for shares amounting to at least 2% of the SPAC's post-invitation issued share capital at a price not less than the IPO issue price and/or purchase warrants amounting to 2% of the IPO proceeds. This is to align the interests of the founding shareholders with that of other shareholders.
- (5) The founding shareholders and associates are not considered independent and are not permitted to vote on the resolution approving the business combination. This is to ensure that the management strives to secure the best deal for the SPAC so as to gain the approval of independent shareholders.
- (6) Independent shareholders voting against the business combination shall have the right to convert their shares for a pro-rata share of the cash in escrow, provided the business combination is approved and completed. The SPAC and the founding shareholders must not agree to any special deal with any individual shareholder or group of shareholders to directly or indirectly procure their vote in favour of the business combination.

RODYK & DAVIDSON LLP

SINGAPORE

80 Raffles Place
#33-00 UOB Plaza 1
Singapore 048624
Tel +65 6225 2626
Fax +65 6225 1838
Email mail@rodyk.com

SHANGHAI

Unit 23-09 Ocean Towers
No. 550 Yan An East Road
Shanghai 200001, China
Tel +86 (21) 6322 9191
Fax +68 (21) 6322 4550
Email shanghai.mail@rodyk.com

- (7) The business combination must be completed within three years, otherwise the SPAC will be liquidated.
- (8) The value of a business combination should amount to at least 80% of the net asset value of a SPAC (excluding escrowed amounts representing deferred underwriting fees), to set an adequate size threshold for assets to be acquired.

This article was also published in the Rodyk Reporter March 2010 issue

This article is for general information purposes only. Its contents are not intended to be legal or professional advice and are not a substitute for specific advice relating to particular circumstances. Rodyk & Davidson LLP does not accept responsibility for any loss or damage arising from any reliance on the contents of this article. If you require specific advice or have any questions, please contact the author(s) or our Editor.

Editor Claire WONG | claire.wong@rodyk.com | +65 6885 3703

© Rodyk & Davidson LLP 2010. Limited Liability Partnership Registration No. T07LL0439G.