

Summary: HKEX Guidance Letter GL87-16 (April 2016)
Guidance for issuers subject to market commentaries or rumours

This Guidance Letter reflects HKEX's recurring theme that trading halts (pending issuance of clarification announcement) should be kept as short as possible. HKEX has previously issued a Guidance Letter (GL83-15) for principles and best practices in applying for trading halts. (see our [Dec 15 Legal update](#))

This subject is related to the disclosure of inside information regime under the Securities and Futures Ordinance ("SFO"). (see our [March update](#) for SFC's latest Corporate Regulatory Newsletter)

I. Underlying principles

- HKEX has a statutory obligation under the SFO to ensure, so far as reasonably practicable, an "orderly, informed and fair market" in the trading of securities information disclosure
- The duration of any trading halt should be the shortest possible. The issuer must resume trading as soon as practicable following publication of a clarification announcement.

II. Market commentaries or rumours

In recent years, allegations made by market commentaries or research firms alleging fraud, material accounting or corporate governance irregularities have caused intense price pressure on the listed issuers' shares.

(1) Issuers' actions to address false or disorderly market concerns

(a) HKEX may make an enquiry under the Listing Rules:

- if the allegations have, or are likely to have, an effect on the issuer's share price such that, in the view of HKEX, there is or there is likely to be a false or disorderly market in the listed issuers' securities. The issuer must make a clarification statement promptly.

(Note: an issuer also has an independent obligation to issue a clarification announcement to prevent the development of a false market under the Listing Rules)

- (b) A trading halt is needed, if it cannot promptly publish the clarification statement.
- (c) The duration of any trading halt should be for the shortest possible period. The issuer must resume trading as soon as practicable following the publication of a clarification announcement.
- (d) What should the clarification statement include:
 - make reference to the allegations and inform the market about the issuer's position (so as to avoid the creation of a false market)
 - to the extent possible—contain particulars to address or refute the allegations
 - should also disclose any inside information under the SFO

(2) **HKEX actions**

- (a) HKEX would not normally pre-vet the clarification announcement
- (b) (Save for exceptional circumstances) HKEX should expect share trading to resume after the publication of the clarification announcement
- (c) If HKEX believes that the announcement would not address the concerns on false or disorderly market, it may require the issuer to provide further information and halt trading pending further clarification
 - e.g. the announcement contains information inconsistent with the issuer's other published documents, or contains information which creates market confusion i.e. raises HKEX's concerns on the possible development of a false or disorderly market in the trading of the shares
- (d) After the publication of the clarification announcement, HKEX may continue to follow up with the issuer for further disclosure, reviews/investigations arising out of the allegations:
 - e.g. require issuer to provide further information
 - e.g. require issuers to review or conduct investigations into the claims or documents used to support the allegations
- (e) HKEX takes follow up actions to require an issuer to demonstrate that its responses to the allegations are supported; and that it has in place internal controls and risk management measure to safeguard its assets, and financial and reporting controls to promote reporting that is timely and materially accurate

- (f) In the absence of a material development (that raises concerns about trading on an orderly manner), HKEX's follow up actions would not normally affecting trading in the issuer's shares
- (g) Where follow up actions indicate that the issuer announcement is materially inaccurate or misleading, or that there are serious concerns about the issuer's compliance with the Listing Rules, HKEX may suspend share trading
- (h) HKEX may make a referral to SFC for enforcement action under the law (e.g. under the Securities and Futures Ordinance)

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