



Guide to the Cayman Islands Stock Exchange

HIGGS & JOHNSON
Counsel & Attorneys-at-Law



Contents

Preface	2
1. Listing Rules	3
2. Primary Listing	3
3. Secondary Listing	3
4. Listing Mutual Funds Part 1: General Procedures	3
5. General Listing Conditions	4
6. General Continuing Obligations	5
7. Listing Mutual Funds Part 2: Requirements	5
8. Conditions for Listing	5
9. Mutual Fund Listing Documents	6
10. Continuing Obligations of Listed Mutual Funds	6
11. Listing Mutual Funds Part 3: Required Contents	6



Preface

The Cayman Islands Stock Exchange (the "CSX") opened for the first time on January 1, 1997. The CSX has successfully increased the profile of the Cayman Islands as an offshore financial services centre, and has laid the foundations for a domestic capital market.

The CSX was formed under the *Cayman Islands Stock Exchange Company Law, 1996* as a body corporate with the sole and exclusive right to operate the securities market in the Cayman Islands and use the name, the Cayman Islands Stock Exchange. The CSX has three functions: listing, surveillance and technology. An application will initially be heard by the Listing Committee, which consists of six members, including the chief executive officer of the Exchange, and five others appointed by the Council of the CSX.

The CSX offers the following advantages to listing in the Cayman Islands:

- a tax free jurisdiction;
- rapid response time to applications (initial comments within three business days of receipt of documents);
- competitive listing fees;
- the listing rules have been designed specifically to facilitate the listing of mutual funds and special purpose vehicles;
- simple and clear listing rules;
- familiarity with all types of mutual funds; and
- International credibility: ISG member, IOSCO affiliate member, WFE corresponding emerging market; European Securitization Forum member, Asia Pacific Offshore Institute corporate member and AIMA member.

LISTING RULES

The Listing Rules set out the requirements of the CSX before a listing is granted, the continuing obligations of an issuer after listing, and the powers of the CSX to suspend or cancel a listing. They seek to strike a balance between providing appropriate issuers with access to a capital market at the earliest possible opportunity, and providing investors with sufficient and timely information to enable them to make informed decisions as to the value and merits of listed securities. The operators of each issuer must take responsibility for the matters contained within the listing document. In particular, the Listing Rules are intended to ensure that:

- issuers and their businesses are suitable for listing;
- the issue and marketing of securities is conducted in a fair, open and orderly manner and that potential investors are given sufficient information to enable them to make a proper and informed assessment of the issuer and the proposed securities;

- after listing, investors and the public are kept fully informed, and immediate disclosure is made of all material information;
- all holders of listed securities of the same class are treated fairly and equally; and
- operators of an issuer act in the best interests of the investors as a whole.

The Listing Rules are not exhaustive and the CSX may impose additional requirements or conditions. Compliance with the listing rules may not itself ensure an applicant's suitability. Obtaining professional advice on a potential listing is recommended, because certain novel concepts have been introduced by the Listing Rules, and some definitions differ from those in existing Cayman Islands laws. For example the definition of director is expanded in the Listing Rules and includes the concept (already common in English law) of the "shadow director", a person from whom the directors are accustomed to receiving directions and instructions.

PRIMARY LISTING

The Listing Rules set out detailed requirements for an application for a primary listing, which include a listing document, together with supporting documents, and any other specified information applicable to the specific type of security. It is important to note however that all applications must be made through a CSX-authorized Listing Agent.

SECONDARY LISTING

Obtaining a secondary listing on the CSX is a relatively simple process. The issuer should have a primary listing on a recognised stock exchange in another jurisdiction, and in the opinion of the CSX, the proposed securities must be suitable to be listed on the CSX. The documentation submitted to the primary exchange must also be submitted to the CSX, and any future disclosures that are made to the primary exchange must simultaneously be made to the CSX. The fee for a secondary listing is US \$2,500, to be paid on listing and annually thereafter.

LISTING OF MUTUAL FUNDS PART 1: GENERAL PROCEDURES

The principal function of the Cayman Islands Stock Exchange ("CSX") is to provide a fair, orderly and efficient market for the trading of securities issued by all types of issuers. Any issuer wishing to list a security on the CSX must fulfil certain requirements prior to the listing and will be subject to certain continuing obligations after listing as outlined below. (See Rule 2.2).

Notwithstanding complete compliance with the listing requirements, the CSX has absolute discretion to accept or reject an application. The CSX may, where necessary, impose additional requirements or make listing subject to special conditions whenever that is considered appropriate. Issuers must satisfy any additional requirements and supply any further documents and information that the CSX may require in any particular case. Conversely, the CSX may modify the application of the listing rules (either unconditionally or subject to conditions) in such cases and circumstances, as it considers appropriate. (See Rule 2.3, 2.6).

GENERAL LISTING CONDITIONS

1. Listing Agents

Issuers must appoint an approved listing agent in connection with the application for listing. Where the application concerns a secondary listing, specialist securities or depositary receipts, a listing agent is not normally required although the CSX retains the discretion to require the appointment of a listing agent and/or an advisor acceptable to the CSX. Listing agents are responsible for communicating with the CSX during the application process. They ensure that the issuer receives reliable and impartial guidance as to the application of the CSX listing rules and that all necessary documents supporting an application for listing are filed with the CSX.

2. Listing Documents

Generally, one or more listing documents containing all information that is necessary to enable an investor to make an informed assessment of all aspects of the issuer and the relevant securities must be prepared in the English language (or accompanied by a certified translation into English) and submitted to the CSX. (See Rules 2.14, 2.15). However, a listing document is not required in the case of an application by a listed issuer for a further issue of securities. In such cases, application for admission to listing must be made to the CSX at least forty-eight hours prior to the issue. (See Rule 2.19).

A supplementary listing document must be submitted to the CSX if, after the listing document has been approved by the CSX, but before dealings in the relevant securities have commenced, the issuer becomes aware that a significant new matter has arisen or there is a significant change in any matter contained in the listing document. (See Rule 2.20).

A draft listing document bearing marginal notes, indicating where the information required by the various paragraphs of the CSX listing rules has been included, must be

submitted to the CSX in reasonable time for the CSX to review it and for amendments to be made to it, prior to the proposed publication date. The listing document and any supplementary listing document must be formally approved by the CSX before publication. (See Rules 2.16, 2.17).

The following documents must be submitted to the CSX, together with the initial listing fee, before formal approval is given: -

- An application for admission to listing, in the prescribed form;
- Two copies of the listing document in final form;
- A declaration by the issuer or, in the case of unsponsored depositary receipts, a declaration by the applicant, in the prescribed form;
- Except in the case of specialist debt securities, unsponsored depositary receipts, derivative warrants and securities which are the subject of a secondary listing, a declaration for each director and proposed director of the issuer in the prescribed form;
- In the case of unsponsored depositary receipts, a depositary's undertaking in the prescribed form;
- A declaration by the listing agent in the prescribed form;
- A letter from the issuer or listing agent confirming which of the listing requirements, if any, do not apply to the issuer;
- Where applicable, a shareholders' statement in the prescribed form;
- In the case of a secondary listing, the most recent prospectus or listing document filed with the issuer's primary regulatory exchange; and
- Such other documents as may be required by the CSX. (See Rule 2.17).

3. Supporting Documents

The CSX may, at any time, require the issuer to produce a copy of any of the following (where applicable): -

- A copy of the issuer's constitution and all amendments to date;
- The audited annual financial statements of the issuer and of any guarantor for each of the periods which form part of the issuer's financial record, contained in the listing document;

- Any interim financial statements made up after the last audited annual financial statements, but prior to listing;
- In the case of specialist debt securities, a copy of the executed trust deed of the issuer, paying agency agreement, swap agreement, derivatives contract, repurchase agreement, security lending agreement, guarantee, surety, financial policy or any other material contracts pertaining to the issue;
- In the case of depositary receipts, a copy of the executed deposit agreement and paying agency agreement (if any) and any other material contracts pertaining to the issue;
- In the case of derivative warrants, a copy of the executed warrant agreement, warrant instrument, guarantee and any other material contracts pertaining to the issue;
- A copy of any reports, letters, valuations, statements by experts, contracts or other documents referred to in the listing document; and
- A copy of any temporary and definitive document of title. (See Rule 2.18).

GENERAL CONTINUING OBLIGATIONS

1. Listing Agent or Authorised Representative

Following the granting of a listing, every issuer must appoint either a listing agent or two authorised representatives to act at all times as the issuer's principal channel of communication with the CSX for all purposes. (See Rule 2.9).

2. Undertaking of Compliance

An issuer seeking a listing for its securities on the CSX is required to enter into an undertaking with the CSX to comply with the requirements of the CSX. (See Rule 2.25).

3. Undertaking to Disclose

The issuer must keep the CSX, the members of the issuer and other holders of its listed securities informed of any information relating to the group: -

- necessary to enable them and the public to appraise the financial position of the group;
- necessary to avoid the establishment of a false market in its securities; or
- that might reasonably be expected materially to affect market activity in and the price of its securities. (See Rule 2.26).

4. Further Publication

The CSX is entitled to impose additional continuing obligations on, and may require the publication of further information by, the issuer but the CSX will first notify the issuer of its intention to do so and will allow the issuer to make representations. (See Rule 2.27).

5. Response to CSX Inquiries

All issuers must respond promptly to any enquiries made by the CSX concerning unusual movements in the price or trading volume of its listed securities, or any other matters, by giving such relevant information as is available to the issuer or, where appropriate, by issuing a statement. (See Rule 2.28).

6. Insider Trading

Insiders of the issuer must not trade on the basis of unpublished price sensitive information. Insiders should refrain from trading, even after price sensitive information has been released to the press, for a period sufficient to permit thorough public dissemination and evaluation of the information. (See Rule 2.31).

LISTING OF MUTUAL FUNDS PART 2: REQUIREMENTS

All listed mutual funds must comply with the general listing procedures outlined in Part 1 of this memorandum. There are, however, additional requirements for mutual fund listings, which are outlined below.

CONDITIONS FOR LISTING

1. Eligibility

The fund must be duly established in the Cayman Islands or in another recognized jurisdiction such as Bermuda, Canada, all member states of the European Union, Guernsey, Hong Kong, Isle of Man, Japan, Jersey, Malaysia, Singapore, Switzerland and the United States of America. (See Rule 9.1). The directors and investment managers of the fund must have adequate experience and expertise in the management of mutual funds. (See Rule 9.4). An application for listing securities of any class must relate to all of the securities of that class. (See Rule 9.3).

2. Liquidity

At least twenty-five per cent of the listed securities of a closed-ended fund must be held by the public (i.e. persons other than directors, substantial shareholders, directors of substantial shareholders or their associates). A lower percentage may be accepted if the CSX determines that the market in the securities can maintain a sufficient level of liquidity. (See Rule 9.2).

3. Transferability and Convertibility

The securities of the fund must be freely transferable, although certain pre-approved restrictions are permitted, subject to adequate disclosure. (See Rule 9.5). Convertible securities are only admitted to listing if investors can obtain adequate information about the securities into which they are convertible. This may require the new securities to be listed either on the CSX or on another exchange recognised by the CSX. (See Rule 9.9).

4. Independent Custodian and Auditor

The CSX requires a listed fund to appoint an acceptable custodian, which must be separate from the mutual fund, its directors, investment manager, investment advisor or administrator although it can be an associate of any of them. (See Rule 9.6). The fund must also appoint an independent auditor to audit its annual financial statements. (See Rule 9.7).

5. Valuation

The assets of the fund should be valued in accordance with the applicable accounting standards and the Net Asset Value ("NAV") of the securities must be calculated at least quarterly. (See Rule 9.8).

MUTUAL FUND LISTING DOCUMENTS

A mutual fund listing document must describe the securities to be listed in all material respects and must contain all the information necessary to enable an investor to make an informed decision as to whether or not to purchase the securities of the relevant mutual fund. It should therefore make adequate disclosure on such matters as the fund's dividend policy, risk factors of investing in the fund, particulars of the directors and service providers and the fees and expenses of the fund, particulars of any actual or potential conflicts of interest, a description of any material contracts, details of the formation of the fund and the fund's investment objectives, policies, and restrictions. The required contents of a mutual fund listing document are more particularly set out in Part 3 of this memorandum.

CONTINUING OBLIGATIONS OF LISTED MUTUAL FUNDS

The fund must ensure that all holders of the same class of shares of listed securities are treated equally. (See Rule 9.54). The fund must notify the CSX promptly of any developments which are not public and which may affect its business or the price of its securities (See Rule 9.57) and must make available all information and facilities which are necessary for the public to assess the financial position of the fund and for investors to exercise their

made available to every investor on request. (See Rules 9.63, 9.73).

The fund must maintain a registrar and transfer agent in the Cayman Islands or other financial centre acceptable to the CSX. (See Rule 9.69).

Mutual funds are required to pay an annual fee of US \$2,500 to the CSX although fees for each additional listed sub-fund of an umbrella fund are charged on a reduced basis. (See Rule 9.70). NAV calculations and proposed dividend payments must be notified to the CSX promptly. (See Rules 9.60, 9.61).

LISTING OF MUTUAL FUNDS PART 3: REQUIRED CONTENTS

The listing document should include the following information (although the list provided below is not exhaustive and clients are reminded to take specific legal advice with respect to particular mutual funds).

1. Preliminary Information

The following information should be included on the cover of the listing document: -

- The name and jurisdiction of formation of the fund;
- The name, class and offer price of the listing securities;
- The name of the listing agent and any underwriters or distributors;
- A responsibility declaration by the directors, trustees or investment manager; and
- A statement that a listing application has been made to the CSX, giving the date of the expected listing. (See Rule 9.10).

The following information should be included on the inside cover or on the back page of the listing document: -

- The address of the principal or registered office of the mutual fund; and
- The names and addresses of the mutual fund's service providers, legal advisers, auditors, paying agents and listing agents. (See Rule 9.10).

2. General Statements

- The fund's investment objective, policies and restrictions, as well as the way in which these may be changed or varied. Details of the types of securities in which the fund will invest should be included. (See Rule 9.11);

- A statement regarding the fund's ability to take management control of underlying investments (9.14) or to use borrowing, leverage, derivatives, currency hedges or other financial techniques. (See Rule 9.12);
- A disclosure of the terms on which investments, other than purchases on a stock exchange or other open markets, are to be or have been acquired. If these transactions involve members of the mutual fund family, the identity of the sellers and a description of their association or affiliation should be included. (See Rule 9.13);
- A statement of the dividend policy, including any time limit on entitlement to dividends. (See Rule 9.15, 9.16);
- A statement with respect to all material risks associated with investing in a mutual fund. (See Rule 9.17);
- If the listing document contains an expert statement, the name, address and qualifications of such expert, the details of any association that he may have with the fund and a statement that he consents to the inclusion of the statement. (See Rule 9.43).

3. Information on Directors and Service Providers: -

- The names, addresses and qualifications of directors;
- Details of directors' service contracts and any fees or remuneration to be paid to directors;
- Details of any interests of directors in voting securities or in any options in respect of such securities;
- A summary of any provisions concerning indemnities or restrictions of liability of directors or service providers;
- The names and details of the qualifications and experience of the investment manager and /or investment advisor;
- Details of the remuneration arrangements of investment advisers retained by the investment manager;
- Name of custodian, descriptions of arrangements entered into for the custody of assets of the fund and a description of the custodian's experience and expertise;
- A statement as to whether any sub-custodians will be appointed to hold any assets of the fund;

- The name and any regulatory authority of any broker that holds any assets of the mutual fund and a description of any arrangements entered into with the broker whereby the broker is required to segregate the assets of the fund to ensure that they are unavailable to the creditors of the broker; and
- A summary of the contents of the service providers' contracts. (See Rule 9.19).

4. Fees and Expenses

A statement of all material fees to be paid by the fund, their calculation and any method of variation of these fees. Where the fund is newly created, a statement of the aggregate cost of establishing it and how any portion to be borne by the fund will be accounted for. (See Rules 9.20, 9.21).

5. Financial Information

Financial information about the mutual fund or any sub-fund and the prospects of the mutual fund or sub-fund. The precise scope of the information that is required varies depending on whether or not the fund has commenced operations, the length of time for which it has been in existence and whether or not it has prepared audited financial statements. (See Rules 9.23-9.26).

In all cases, the following must be provided: -

- The NAV per security of the mutual fund or sub-fund (if the NAV is not audited there must be a statement to that effect). (See Rule 9.27);
- A statement of any material information which may be relevant to the financial prospects of the mutual fund or sub-fund for the current financial year. (See Rule 9.29);
- The source of any historical performance data that appears in the listing document. (See Rule 9.31);
- Details of the arrangements for preparation and distribution of the mutual fund's or sub-fund's annual financial statements and other financial statements published by the mutual fund or sub-fund. (See Rule 9.32).

6. Capital

- Particulars of any capital of the fund, which is under option. (See Rule 9.37);
- Names and proportion of voting capital held by any persons who directly or indirectly, jointly or severally, exercise or could exercise control over the fund. (See Rule 9.40).

- Name of any promoter and details of any cash security or other benefit which was given to him within the two years immediately preceding the issue of the listing document, or which is proposed to be given to him (See Rule 9.36);
- Particulars of any commissions, discounts, brokerages or special terms granted within two years immediately preceding the date of the listing document and the name of any directors, proposed directors or promoters who have received any such benefit and the amount that they received. (See Rule 9.42)

8. Other Listings

Particulars of any other stock exchange or regulated regularly operating markets on which any securities of the issuer are listed or traded or on which such a facility has been or will be sought. (See Rule 9.41).

9. Material Contracts and Documents

- If not already disclosed, a summary of the principal contents of any material contracts entered into by the fund within two years immediately preceding the date of the listing document (See Rule 9.44); and
- Details of a location acceptable to the CSX where significant documents are available for inspection free of charge. These must include the constitution of the mutual fund, contracts between the mutual fund and its directors/service providers, reports, letters, valuations or other documents that are included or referred to in the listing document and interim financial statements and the audited financial statements of the mutual fund. (See Rule 9.5).

10. Other Information

The following must also be included: -

- Prescribed details of the terms of issue and characteristics of each class of security to be listed;
- Statutory and general information including:-
 - a. The date of formation of the mutual fund. If the fund is of limited duration, a statement to this effect.
 - b. Where applicable, a brief description of the group of mutual funds and the position within the group occupied by the mutual fund whose securities are to be listed.
 - c. Where the mutual fund is a company, the amount and description of its authorized share capital, the number of shares issued/agreed to be issued and the amount paid up on such shares.
 - d. Where the mutual fund is a unit trust, the designation and number of units issued and the amount paid up on each unit.
 - e. A statement of resolutions, authorisations and approvals by which the securities have been created or issued. (See Rule 9.34);
- A summary of the provisions of the mutual fund's constitution, including the rights attached to the securities. (See Rule 9.35);
- Particulars of any litigation or claims of material importance pending or threatened by or against the mutual fund or sub-fund, or an appropriate negative statement. (See Rule 9.38);
- The basis of any taxation of the fund. (See Rule 9.39).

These specific requirements may vary somewhat in the case of umbrella funds, feeder funds, funds of funds and closed-ended funds. (See Rules 9.46-9.56).