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Analysis of the Draft for Comments Regarding the Improvement of the Growth Enterprise Board's Delisting System

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On 29 November 2011, the Shenzhen Stock Exchange (the "**SZSE**") issued the *Plan Regarding the Improvement of the Growth Enterprise Board's Delisting System (Draft for Comments)* (the "**Draft**") to seek public opinions. The Draft modifies and improves the original provisions in the currently effective *Stock Listing Rules* of *the Growth Enterprise Board* that govern the Growth Enterprise Board-listed companies (the "**Listed Companies**") in respect of the delisting risk warning, listing suspension and delisting system (the "**Current Delisting System**"). Major modifications are made as follows:

Addition of two delisting conditions, an abundant system of delisting standards

On the basis that the delisting conditions provided in the Current Delisting System are retained, the Draft adds two new delisting conditions:

- the daily closing price of a Listed Company's shares is lower than the par value of each share for twenty (20) consecutive trading days;
- a Listed Company is publicly condemned by the SZSE for three times during the most recent thirty-six (36) months.

With regards to the standards of public condemnations, the SZSE has issued the *Standards for the Public Condemnations of Listed Companies on the Growth Enterprise Board* on 1 April 2011 to provide a clear definition. According to those standards, public condemnations mainly aim at the irregular conducts of the Listing Companies in information disclosure and their affiliates' misuse of funds, illegal provision of external security and irregular use of funds raised, etc. The addition of the abovementioned delisting conditions implies that the Listed Companies might be caused to be delisted by their irregular conducts in the area of regulated operations.

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Shortening the delisting time under two current delisting conditions to speed up delisting

At the same time, the Draft shortens the delisting time under two current delisting conditions in the Current Delisting System. Under the Current Delisting System, (i) a delisting risk warning will take effect as soon as the net assets of a Listed Company is shown negative on the audited annual report; (ii) if the net assets value is shown negative for two consecutive years, the company will be suspended from listing; (iii) and the company will be delisted if its net assets continue to be negative as shown in its first interim report after the suspension. Besides, upon a delisting risk warning taking effect due to the cumulative trading volume of the shares being less than one million shares for 120 consecutive trading days, if the cumulative trading volume continues to be less than one million shares within the following 120 trading days, the company will also be delisted.

The Draft reduces the delisting time under the aforesaid two delisting conditions, i.e. (i) if the net assets reflected in the Listed Company's audited annual report is shown negative, its shares will be immediately suspended from listing, and the company will be delisted if the net assets continue to be shown negative for two consecutive years after such suspension; and (ii) the company will be delisted directly if the cumulative trading volume is less than one million shares within 120 consecutive trading days.

Not supporting "back-door listing" using the suspended Listed Companies

Regarding the financial standards for the suspended Listed Companies to restore listing, the Draft provides that the calculation methods of IPO and refinancing shall be referred to; out of the net profits before and after deducting the non-recurring gains and losses, the lower one shall be taken as the profit criterion to determine the restoration of listing. Meanwhile, the Draft clearly does not support the use of "back-door listing" by third party. The above provisions mean that the frequent occurrence of "back-door listing" through restructuring by using suspended Listed Companies as a target on the Main Board and the Small and Medium-sized Enterprise Board will not occur on the Growth Enterprise Board.

Improving the way of making the delisting risk warning

Under the Current Delisting System, Listed Companies make the delisting risk through the "delisting risk alert treatment" ("***ST system**"). However, due to restructuring expectation, vicious speculation has emerged in some companies under the *ST system on the Main Board and the Small and Medium-sized Enterprise Board. To avoid confusing the investors, the Draft provides that the Growth Enterprise Board will no longer use the "delisting risk alert treatment", but adopt the two following measures to point out delisting risk: (1) a Listed Company shall, upon being aware that it is about to trigger the delisting conditions, timely disclose the relevant information, publish a notice of delisting risk reminder, and thereafter disclose such notice once a week; (2) securities companies shall, through text messages and emails, etc., notify the investors holding the shares of the company of such notice.

Clarifying the trading mechanism before and after the delisting

The Draft proposes to implement a system of "delisting fixing period" for the Growth Enterprise Board. The main content of such system is: the thirty (30) trading days following the SZSE making the delisting decision shall be the "delisting fixing period"; during this period, the shares will be moved to a special "Delisting Fixing Board" for trading; the shares will be delisted upon the expiration of the "delisting fixing period"; the constraint over the rise and fall of the shares during the "delisting fixing period" will be maintained at 10% which is the same as for ordinary shares transactions. Such system is set up to mainly ensure that the investors have the essential transaction opportunities to appropriately treat the shares they hold prior to the delisting. In addition, the Draft clearly provides that the shares of the company will be uniformly translated to and traded in the Agency Share Transfer System after delisting.

The improvement of the Current Delisting System of the Growth Enterprise Board will not only help form a mechanism of survival of the fittest which would maintain the Growth Enterprise Board Market in a reasonable state of dynamic equilibrium, but is also in favour of cultivating the risk awareness of the investors and the whole market, thus facilitating the culture of rational investment to establish. Therefore, the Draft will play a positive role with respect to further promoting the Growth Enterprise Board Market in institutional development and in developing in a regulated, healthy and stable manner.

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