

Part B Consultation Questions

Please reply to the questions below that are raised in the Concept Paper downloadable from the HKEx website at: [add link]. Please indicate your preference by ticking the appropriate boxes.

Where there is insufficient space provided for your comments, please attach additional pages.

We encourage you to read all of the following questions before responding.

1. Should the Exchange¹ in no circumstances allow companies to use WVR structures?

Yes (in no circumstances allow companies to use WVR structures)

No

Please give reasons for your views below.

Please see our detailed letter dated 24 November 2014 - attached

Please only answer the remaining questions if you believe there are circumstances in which companies should be allowed to use WVR structures.

2. Should the Exchange permit WVR structures:

(a) for all companies, including existing listed companies; or

(b) only for new applicants (see paragraphs 147 to 152 of the Concept Paper);
or

(c) only for:

(i) companies from particular industries (e.g. information technology companies) (see paragraphs 155 to 162 of the Concept Paper), please specify below which industries and how we should define such companies;

¹ References to “the Exchange” in this Questionnaire mean The Stock Exchange of Hong Kong Limited, a HKEx subsidiary.

If you wish, you can choose more than one of the options (b), (c) and (d) above to indicate that you prefer a particular combination of options.

3. If a listed company has a dual class share structure with unequal voting rights at general meetings, should the Exchange require any or all of the restrictions on such structures applied in the US (see the examples at paragraph 153 of the Concept Paper), or others in addition or in substitution?

Please identify the restrictions and give reasons for your views below.

4. Should other WVR structures be permissible (see Chapter 5 of the Concept Paper for examples), and, if so, which ones and under what circumstances?

Please give reasons for your views below. In particular, how would you answer Question 2 and Question 3 in relation to such structures?

5. Do you believe changes to the corporate governance and regulatory framework in Hong Kong are necessary to allow companies to use WVR structures (see paragraphs 67 to 74 and Appendix V of the Concept Paper)?

Yes

No

If so, please specify these changes with reasons below.



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24 November 2014

Dear Sirs

Re: Concept Paper on Weighted Voting Rights

We welcome the Hong Kong Exchange's consultation on the concept of weighted voting rights and we thank you for the opportunity to provide our thoughts on this important issue. We are a fundamental long only global institutional investor with over US\$270bn in assets under management on behalf of private individuals and institutions. We are very active participants in the Hong Kong market with almost US\$20bn invested in Hong Kong listed securities at the time of writing.

We are opposed to the introduction of weighted voting rights in Hong Kong and we do not believe that companies (whether listed or seeking to list) should be permitted to introduce governance structures which allow for voting or other related rights disproportionate to the economic interests of the holders of such rights. Our reasons are as follows:

- such structures have the potential to reduce the alignment of interests between controlling and minority shareholders, a key "soft" protection in a low free float market such as Hong Kong;
- the collective incentive for shareholders to monitor and engage with management is reduced because minority shareholders will have no meaningful way of influencing the outcome of key decisions (already a significant issue in Hong Kong, but which

this would only exacerbate) and in turn, the accountability of the board and management to shareholders is weakened;

- such structures carry a greater potential for abuse in the heightened risk that controllers may take advantage of their position to extract private benefits from a company at a disproportionate cost to the public shareholders;
- whilst we understand that the mechanics of how this will interact with the Hong Kong Takeovers Code have yet to be addressed, such structures can clearly be used as an anti-takeover device to entrench existing management and prevent shareholders from realizing the full benefits of strategic or financial consolidation.

Of course, as a global investment management organization, we invest in many different types of companies around the world, including some of those which have unequal voting or entrenched management rights. We do so because we recognize that some of these companies have superior businesses run by strong management teams and valued attractively vis-à-vis the enhanced risk. We have given serious consideration to whether safeguards can be designed to attract some of these businesses to Hong Kong whilst limiting the overall detrimental impact of weighted voting rights; however we have come to the conclusion that as a matter of principle, it is not possible to adequately define a set of rules which would accommodate only certain of those companies or industries without fundamentally altering the level playing field which the Exchange offers.

We understand the competitive pressures on the Exchange and the need to maintain relevant and flexible listing rules in order to attract the best possible companies, particularly in comparison to the US. However, as the concept paper itself states, the attractiveness of Hong Kong as a listing venue may itself be fundamentally altered by possibilities inherent in Stock Connect and we note that mainland China clearly prohibits the use of this structure for any company – public or private – through its corporate law. We believe it is appropriate to also consider this given that international companies will now be able to access mainland investors directly through Hong Kong for the first time.

In summary, Hong Kong regulators have set a high standard amongst the major Asia Pacific markets for upholding shareholder rights and investor protection. One-share one-vote is one such fundamental principle which the Exchange has defended for almost 30 years. In our view, allowing this principle to be compromised is a backward step for the Hong Kong



market as a whole and we encourage the Exchange not to go forward with this proposal.

Please do not hesitate to contact us if you would like to discuss the issue further.

Yours faithfully



Jenn-Hui Tan
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