

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.

We submit that "it depends". That is, it depends on what are the additional protections relating to corporate governance, especially minority protection, that are adopted consequent upon the introduction of WVR structures. Our Institute's focus is to promote good governance, and the most fair and equitable form of voting structure conducive to good governance remains the "one share one vote" structure. However, we take cognisance of the need to develop Hong Kong's competitiveness in the global market place as a financial centre, and as such, we will not hold the "one share one vote" structure as sacrosanct. Nonetheless, we believe if WVR structures are to be adopted there should be requirements like (1) a substantial shareholder with "skin in the game" that is an investment in the listed issuer (cf. FaceBook) (2) an alternative board for trading such that investors will not be confused as to what they are buying into, and (3) added minority protections, like statutory derivative actions. This should be in addition to the current SFC regulatory tools following the Tiger Asia case relating to market misconduct and contravention of the SFO. All these matters require further proposals and market consultations.

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:

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

- (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;

or

- (ii) “innovative” companies (see paragraphs 163 to 164 of the Concept Paper), please specify how we should define such companies below;

full risk disclosure will be mandatory

or

- (iii) companies with other specific pre-determined characteristics (for example, size or history), please specify with reasons below;

or

- (d) only in “exceptional circumstances” as permitted by current Listing Rule 8.11² (see paragraph 81 of the Concept Paper) and, if so, please give examples below.

² GEM Rule 11.25.

Please give reasons for your views below.

The main focus should be the detailed proposals relating to corporate governance, including minority protections adopted by reason of WVR structures in accordance with our answer to Question 1.

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.

The main focus should be the detailed proposals relating to corporate governance, including minority protections adopted by reason of WVR structures in accordance with our answer to Question 1.

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?

The main focus should be the detailed proposals relating to corporate governance, including minority protections adopted by reason of WVR structures in accordance with our answer to Question 1.

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.

There is definite need for changes to implement the detailed proposals relating to corporate governance, including minority protections adopted by reason of WVR structures in accordance with our answer to Question 1.

6. Do you have any comments or suggestions regarding the additional matters discussed in paragraphs 33 to 47 of the Concept Paper:

- (a) using GEM, a separate board, or a professional board to list companies with WVR structures (paragraphs 33 to 41 of the Concept Paper); and

We prefer a separate board for investor protection, but we are open to any proposal that provide adequate consideration of corporate governance, including minority protections adopted by reason of WVR structures in accordance with our answer to Question 1.

- (b) the prospect of overseas companies seeking to list for the first time on the Exchange with a WVR structure or seeking a further primary or secondary listing here (see paragraphs 44 to 47 of the Concept Paper)?

We will adopt market consensus in this regard.

7. Do you have any other comments or suggestions regarding WVR structures?

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