

## 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 Exchange<sup>1</sup> 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.

Based on the research of the Concept Paper, companies listed on US markets with WVR structures include a number of sizable and good companies (e.g. Visa, Master, Google, Facebook, Groupon). Since 2013, there were 7 Mainland Chinese companies listed on US markets with WVR structures, and all of them recorded increase in share prices ranges from 10% to 80% since listing. This may illustrate that the risk involved in WVR structure does not necessarily result in poor corporate governance or profit/share price performance. We consider it worthwhile to find way to list good companies that adopt WVR structures, while setting out conditions to minimise the conflict of interests between investors and the companies' management for shareholders' protection.

**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;

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

or

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

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 8.11<sup>2</sup> (see paragraph 81 of the Concept Paper) and, if so, please give examples below.

Please give reasons for your views below.

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<sup>2</sup> GEM Rule 11.25.

- For IPO applicants, the relevant risks of WVR structures should have been prominently disclosed in the prospectus and investors are assumed to have invested on a "buyers-beware" basis.

- For listed issuers, we do not encourage adoption of WVR structures unless there are strong valid reasons, and any such proposal must first be approved by independent shareholders before adoption (i.e. with the board members and any person who expects to hold the "B" shares abstain from voting).

- We do not consider it necessary or appropriate to set a restriction that only certain industries or "innovative" companies can adopt the WVR structures, as the line of differentiation would be hard and subjective to draw. It is also not the current practice of other market (e.g. US).

- However, companies intending to list with WVR structures must be able to demonstrate that they are widely accepted "good and sizable" companies with good business prospects and sound corporate governance that justify the risks. Exchange may consider setting qualitative and quantitative measures in different dimensions for applicants to illustrate the above.

**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.

Yes. We recommend to adopt all restrictions currently applied in US as set out in paragraph 153 of the Concept Paper for better investors' protection.

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 variations mentioned in Chapter 5 can be seen as extensions of the current proposal as they also ride on the concept of disproportionated voting right. The merits of these variations should be assessed with support of more detailed research in the 2nd phrase consultation, if the current Concept Paper receives positive market response.

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.

The best way should be to incorporate the "class action" concept in the Companies Ordinance or other relevant regulations. Enhanced corporate governance measures and transparency of directors' actions are also necessary (e.g. extended scope and level of disclosure of board decisions and the relevant basis, "A" shareholders' right to remove directors who commit serious faults, etc.)

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

- As GEM has now re-positioned itself as a stepping stone to Main Board rather than a "high investment risk" board as previously planned, we suggest to use a new, separate board to cater for companies adopting WVR structure who are sizable enough as a Mainboard issuer, but distinct from others only on their capital structure.

- Both professional and retail investors should be allowed to invest in these stocks subject to an undertaking that they are aware of the differences in the capital structure and the relevant risks.

- (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)?

Same treatment as long as it complies with the regulations of their respective jurisdictions.

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

For better appreciation of the potential risks, suggest the Exchange to provide some empirical studies on the allegations, claims, or class actions encountered by the existing US companies adopting WVR structures in the forthcoming 2nd phase consultation paper.

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