

Corporate Communications Department  
Hong Kong Exchanges and Clearing Limited,  
12/F, One International Finance Center,  
1 Harbour View Street,  
Central, Hong Kong.

28<sup>th</sup> November 2014

Dear Sir,

**Concept Paper on Weighted Voting Rights**

On behalf of ACCA (Associated of Chartered Certified Accountants) Hong Kong, we enclose a copy of the completed questionnaire in respect of the above for your consideration.

Should you have any questions, please do not hesitate to contact us.

Yours faithfully



Fergus Wong  
Chairman

Enclosures

## 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.

HKEx should allow companies to use WVR structure to:

- provide investors with more options of investment.
- attract new overseas companies listing in Hong Kong.
- enhance Hong Kong's competitiveness and position as an international financial centre.

We agree to allow WVR structures on the basis of the introduction of appropriate investor protection mechanisms

**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.

- WVR should not be made available to existing listed companies to avoid prejudicing the interests of the existing shareholders of a company.
- WVR should only be made available to new applicants for listing so investors are fully aware that their rights will be inferior to those given superiors rights.
- New applicants should justify, with supporting evidence, why and how WVR is necessary to benefit the company's long term development and provide proper disclosure of the details of the WVR in the listing documents.
- free market mechanism would allow investors to decide if WVR is beneficial to the company and acceptable to investors.

**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.

Multiple voting shares must convert into OSOV shares if beneficial ownership is transferred to persons who are not :

- (i) affiliates of the original holders; or
- (ii) other holders of shares with WVR or their affiliates.

To retain the WVR feature, such transfer has to be approved by OSOV shareholders.

Both HKEx and existing OSOV shareholders need to approve subsequent amendments to the terms of the WRV.

If a company needs to increase the number of shares with WVR, it should be approved through voting by OSOV shareholders. Existing shareholders with superior voting rights, and their close associated persons, cannot participate in the voting and the approval process.

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?

We suggest keeping it simple in the experimental stage and no other WVR structures as mentioned in Chapter 5 of the Concept Paper should be permissible..

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.

In the US, private plaintiff's ability to initiate a class action lawsuit for violation of federal securities laws acts as a deterrent to mis-governance.

HKEx shall consider strengthening investor protection whereby aggrieved minority shareholders shall be provided with less costly tools.

Shareholders that are enjoying a privileged right under WVR would certainly assuming more rights in the management of the listed entity. It is from this skewed share of management rights where the company shall be subject to more obligations in terms of corporate governance.

For instance, most of the "Recommended Best Practice" at present in the listing rules could be mandated against WVR companies. WVR companies shall also be subject to a demand of higher ratio of Independent Non-Executive Directors (INEDs) on the board versus the current requirement of not less than 1/3 or 3 INEDs.

Regarding shareholder communications, there may be setting up an independent shareholders committee whereby its representatives shall be briefed by executive management (largely representing WVR shareholders) twice a year, not to mention a voluntary disclosure of board decisions by these WVR representative members on the board.

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 suggest allowing shares of companies with WVR to be traded in Main Board with no restrictions.

Special stock codes can be used to differentiate and highlight those shares with WVR to investors

- (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)?

No comment

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

No comment

- End -