

Submitted via Qualtrics

**Latham & Watkins LLP
Company / Organisation
Law Firm**

Question 1

Do you agree with our proposal to remove the documents identified in Table 1 in Schedule II of the Consultation Paper and that doing so will not jeopardise market quality?

Yes

Please give reasons for your views.

We generally agree with the proposal to remove the documents identified in Table 1 in Schedule II to the Consultation Paper, considering submission documents proposed to be removed under the proposal are either (a) undertakings or confirmations to comply with requirements that are already set out in the Listing Rules or Guidance Materials, (b) documents providing information that overlaps with existing or proposed disclosure requirements for listing documents, announcements or annual/interim reports, (c) copies of documents that are already required, or proposed to be required, to be published or displayed on the Exchange's website, (d) documents evidencing the accuracy of information contained in other submissions, (e) documents evidencing the due authorisation of an issuer's actions, (f) documents evidencing the performance of sponsor due diligence and other obligations, and (g) other documents that are no longer required for other reasons. We note from the Consultation Paper that the Exchange deems the reviewing of such submission documents not to add value from its vetting perspective and as a result any requirement for submission of such documents to the Exchange would in fact be unnecessary. The significant reduction in the number of submission documents will also enhance efficiency of the applicant in preparing for its listing application and of the Exchange in its vetting process.

We further agree that the proposal to remove such submission documents will not jeopardise market quality. With respect to existing submission documents which fall under category (a) above, the professional parties should be well aware of the relevant requirements from their past experience and are expected to keep themselves up-to-date with the latest updates to the Listing Rules and Guidance Materials, while for the obligations of the issuers/listing applicants and their directors/supervisors, directors are required to seek specific legal advice and training from their legal advisers based on the proposed new rule 3.09D (as in line with market practice) and sponsors will undertake to provide advice and guidance to the listing applicant and its directors on the compliance thereof under the overarching undertakings proposed to be added to the Form A1 (on top of the existing confirmation and undertaking on Listing Rules compliance by the listing applicant currently contained in the Form A1). With respect to existing submission documents which fall under categories (b) to (d) above, the duties and responsibilities of

listing applicants/issuers, directors/supervisors and sponsors to be satisfied of the accuracy and completeness of documents and the information provided, submitted and/or published are clearly set out in the Listing Rules, the Code of Conduct and relevant provisions in the SFO as well as entrenched in the common law fiduciary duties and duties of skill, care and diligence which directors are subject to, and the proposal of including a consolidated set of overarching obligations to be undertaken by new applicants and sponsors in the Form A1 also provide additional safeguard to ensure the accuracy and completeness of documents and the information provided. With respect to existing submission documents which fall under category (e) above, please refer to our answer to question 4 below. With respect to existing submission documents which fall under category (f) above, the proposal will not change the level of due diligence required of a sponsor under the Listing Rules and the Code of Conduct.

Notwithstanding our agreement in principle to the removal of submission documents which fall under the aforementioned specific categories, we also hereby invite the Exchange to further consider the following with respect to specific submission documents:

- with respect to attachments 1 (details of five largest customers and suppliers), 3 (aging analysis of trade receivables and subsequent settlement by major clients), 4 (aging analysis of trade payables and subsequent settlement by major suppliers), 5 (analysis by age group of major categories of inventory and subsequent usage/sale), 6 (basis of provision for or write-off of trade receivables and inventory) and 7 (analysis of key financial ratios during track record period) to Form M104 – based on our past experience, these attachments generally contain more details as compared to the prospectus disclosure, as such extra details submitted to the regulators to facilitate vetting are usually deemed either too sensitive to be exposed to competitors or too trivial to add significant value to the investors' assessment of their investment for disclosure. We invite the Exchange to re-consider whether these attachments to Form M104 are better placed to remain as separate submissions under the A1 pack as per the current practice; and if the Exchange considers not, we respectfully urge the Exchange to place significant consideration in balancing between the enhanced benefits to investors in making an informed assessment for their investment in the listing applicant and the potential downside to the listing applicant given the commercial sensitivity of certain information as the Exchange comes up with the enhanced prospectus disclosure requirements corresponding to the proposed removal of the submission requirement of these attachments.
- with respect to Form M105 (basic qualifications for new listing), Form M106 (basic requirements for contents of listing document), Form M107 (property valuation) and Form M108 (accountants' report) - while we agree with the proposal to remove the requirements for the submission of these forms to the Exchange, we would still invite the Exchange to continue publishing updated versions of these forms reflecting the latest updates to the Listing Rules and the company law of Hong Kong as the basis which is

consistent over the board for listing applicants, sponsors and their advisers to conduct their own compliance checks. These forms have over time proven to be very useful tools for listing applicants, sponsors and their advisers in double-checking the fulfilment of basic listing qualifications and disclosure requirements under the Listing Rules and the company law of Hong Kong insofar as applicable and required to be met. With listing applicants, sponsors and their advisers conducting more comprehensive compliance checks prior to the submission of the listing application, we believe this will also help ease the Exchange's vetting exercise.

- with respect to Form M112 (application for waiver from strict compliance with requirement under the Listing Rules) – we note the growing market practice to simply refer to the Waivers section of the prospectus in the Form M112. As such, we invite the Exchange to consider removing the requirement for the submission of the Form M112 unless the listing applicant would like to provide further details to the Exchange in addition to those as set out in the Waivers section of the prospectus to facilitate vetting and/or a separate application is required for exemptions from compliance with non-Listing Rules requirements (e.g. provisions under the Companies (Winding Up and Miscellaneous Provisions) Ordinance of Hong Kong).

- given all A1 listing documents will be submitted electronically via the Exchange's online platform, and coupled with the proposal to remove the requirement for the physical submission of 11 hard copies of the application proof prospectus to the Exchange as part of the A1 listing application submission, we invite the Exchange to further consider removing the requirement for the physical submission of one CD-ROM containing the A1 listing documents as part of the A1 listing application submission pursuant to rule 9.11(1) of the Listing Rules, such that the physical submission requirement is removed in full for A1 listing application submissions.

Question 2

Do you agree with our proposal to codify the relevant obligations into the Listing Rules or Guidance Materials and repeal the undertakings, confirmations and declarations as set out in Table 2 in Schedule II of the Consultation Paper?

Yes

Please give reasons for your views.

We agree with the proposal to codify the relevant obligations into the Listing Rules or Guidance Materials and repeal the undertakings, confirmations and declarations as set out in Table 2 in Schedule II to the Consultation Paper, considering that the proposal does not alter the existing obligations which the issuers/listing applicants, directors/supervisors and relevant professional parties will be subject to, but simply changes the basis of the obligations from undertakings, confirmations and declarations

to be given to provisions codified into the Listing Rules and Guidance Materials. From a regulatory perspective, we note that the Exchange deems that the exercise of disciplinary powers by the regulators will not be hindered by the implementation of the proposal, and as such the requirement to separately submit standalone undertakings, confirmations and declarations following the codification of obligations thereunder would be unnecessary. From the obligors' perspective, the professional parties should be well aware of their respective obligations from their past experience and are expected to keep themselves up-to-date with the latest updates to the Listing Rules and Guidance Materials, while the obligations of the issuers/listing applicants and their directors/supervisors which are being proposed to be codified under the proposal are relatively standard obligations (e.g. directors/supervisors to comply with the Listing Rules and other applicable laws and regulations, directors/supervisors to ensure the truth, accuracy and completeness of their biographical details in the application proof prospectus, and the listing applicant's articles of association to conform with the Listing Rulings and the laws of place of incorporation of the applicant) which align with the common law fiduciary duties and duties of skill, care and diligence which the directors are subject to, directors are required to seek specific legal advice and training from their legal advisers based on the proposed new rule 3.09D (as in line with market practice) and which sponsors will undertake to provide advice and guidance to the listing applicant and its directors on the compliance thereof under the overarching undertakings proposed to be added to the Form A1.

As a minor side point, as we note that the listing applicant/issuer and its directors are no longer required to provide the undertakings with respect to rule 10.06 of the Listing Rules under the proposal, we also invite the Exchange to further consider whether the undertaking with respect to rule 10.08 of the Listing Rules is still required to be submitted by the listing applicant as a pre-bulk print document.

Question 3

Do you agree with our proposal to repeal the requirement for listing agreements for listing of debt securities (except for debt issues to professional investors), structured products and interests in CIS and investment companies by codifying the relevant obligations as set out in Table 3 in Schedule II of the Consultation Paper?

Yes

Please give reasons for your views.

We agree with the proposal to repeal the requirement for listing agreements for listing of debt securities (except for debt issues to professional investors), structured products and interests in CIS and investment companies by codifying the relevant obligations as set out in Table 3 in Schedule II to the Consultation Paper, considering that the proposal does not alter the existing obligations which the signatories to the listing agreements will be subject to, but simply changes the basis of the obligations from undertakings to be given in the listing agreements to provisions codified into the Listing Rules. This

approach is in line with the amendments of the Listing Rules which took place back in 2004 and 2011, which repealed the listing agreements for issues of shares and debt securities (to professional investors only) and incorporated into the Listing Rules continuing obligations previously contained in those listing agreements. We are further encouraged by Exchange's corresponding proposal to incorporate undertakings on Listing Rule compliance into relevant listing application forms and formal applications (with the same signatories), in order to alleviate the possible downside arising from the proposed removal of listing agreements that parties who are currently signatories to such listing agreements may be less aware of their relevant obligations.

Question 4

Do you agree with our proposal to incorporate in the Listing Rules an issuer's obligation to obtain necessary authorisations and consents for its actions set out in Part (e) of Table 1 in Schedule II of the Consultation Paper?

Yes

Please give reasons for your views.

It is a basic corporate law principle that all actions of a company (whether a listed or private company, and whether in the capacity of a listed issuer, a listing applicant or a guarantor) shall be duly authorized (e.g. by way of the passing of director or shareholder resolutions), so the necessary authorisations and consents will still need to be obtained regardless of whether the Exchange requires any evidence thereof. We agree with the proposal to incorporate in the Listing Rules an issuer's obligation to obtain necessary authorisations and consents for its actions set out in Part (e) of Table 1 in Schedule II to the Consultation Paper, as we note from the Consultation Paper that the Exchange deems the reviewing of the evidence of such due authorisations not to add value from its vetting perspective and as a result any requirement for submission of such evidence to the Exchange would in fact be unnecessary, and the proposal is simply the codification of a fundamental corporate law principle which shall not be controversial.

Question 5

Do you agree with our proposal to require the submission of the overarching undertakings from new applicants and sponsors in the Form A1 referred to in paragraph 38 of the Consultation Paper?

Yes

Please give reasons for your views.

We agree with the proposal to require the submission of the overarching undertakings from new applicants and sponsors in the Form A1 referred to in paragraph 38 of the Consultation Paper, as such proposal represents a fine balance which: on the one hand, allows the reduction of a significant number of submission documents which are covered by such overarching undertakings, to enhance efficiency of the applicant in preparing for its listing application and of the Exchange in its vetting process; and on the other hand,

reminds the new applicants and sponsors to ensure compliance of their fundamental obligations through the legally-binding overarching undertakings contained under such a key document which is to be submitted at an early stage of the listing application. Among the overarching obligations, we note in particular that the sponsors will have to undertake to provide advice and guidance to the new applicant and its directors on fulfilment of their more detailed obligations as further set out in the Listing Rules and Guidance Materials.

Question 6

Do you agree with our proposal to consolidate the requirement for personal particulars of directors/ supervisors in Form FF004?

Yes

Please give reasons for your views.

We agree with the proposal to consolidate the requirement for personal particulars of directors/supervisors in Form FF004. It is sensible for all the information required from the directors/supervisors with respect to their personal particulars and contact details to be contained in one single form. To the extent that the requested information are readily available by the time of submission of Form FF004, we also have no concern with moving forward the submission deadline of Form FF004 to the time of submission of the listing application.

Question 7

Do you agree with our proposal to remove signature and/or certification requirements for documents set out in Table 5 in Schedule II of the Consultation Paper?

Yes

Please give reasons for your views.

The duties and responsibilities of issuers and sponsors to be satisfied of the accuracy and completeness of documents and the information provided, submitted and/or published are clearly set out in the Listing Rules, the Code of Conduct and relevant provisions in the SFO. In addition, the proposal of including a consolidated set of overarching obligations to be undertaken by new applicants and sponsors in the Form A1 also provide additional safeguard to ensure the accuracy and completeness of documents and the information provided. Therefore, we agree with the proposal to remove signature and/or certification requirements for the documents set out in Table 5 in Schedule II, which are merely for the purpose of evidencing the sponsor's approval of the content or signifying that the submission is a true copy of the original document. We invite the Exchange to also consider extending the removal of signature and/or certification requirements to other aspects of the listing application for the same reasoning above, for example, the signature requirement for Form M119, and the certification requirement for certain prospectus registration documents (e.g. material

contracts).

Question 8

Do you agree with our proposal to remove from the Listing Rules any requirement for submission of multiple copies of the same document and to require submission of one electronic copy only in respect of the documents set out in Table 6 in Schedule II of the Consultation Paper?

Yes

Please give reasons for your views.

We agree with the proposal as this is the sensible approach to require only one submission of electronic copy as we move to a mandatory electronic submission system. This proposal aligns with the paperless initiative for a more efficient procedure and environmentally-friendly means for submission of documents.

Question 9

Do you agree with our proposal to mandate electronic means as the only mode of submission to the Exchange unless otherwise specified in the Listing Rules or required by the Exchange?

Yes

Please give reasons for your views.

We agree with the proposal to make electronic submission mandatory and the only mode of submission to the Exchange unless otherwise specified in the Listing Rules or required by the Exchange, as this aligns with the paperless initiative for a more efficient procedure and also environmentally-friendly means for submission of documents. However, we invite the Exchange to consider combining its different online submission platforms into only one single platform. With the new introduction of FINI, certain documents for the listing will have to be submitted via FINI. It is unclear from the Consultation Paper as to which documents will have to be submitted via FINI and the Issuer Platform. In order to make it more user friendly and easier for listed issuers or listing applicants (and their advisers) to navigate, as well as to avoid any unnecessary confusion which may arise, we recommend the Exchange to consider using only one single electronic platform for electronic submission of documents. We invite the Exchange to consider implementing a testing stage of the Issuer Platform (like what the Exchange did with regard to FINI) for listed issuers, listing applicants and their advisers to be more familiar with the system before its official launch and providing detailed user guidelines on how to navigate around the Issuer Platform.

With regard to enabling electronic signature of the relevant submission documents to be submitted via the Issuer Platform, we invite the Exchange to consider allowing for a transitional period where wet-ink signature will still be acceptable in order to allow the

listed issuers, listing applicants and their advisers to be more familiar with the electronic signature system.

Question 10

Do you agree with our proposal to mandate the digitalisation of the prospectus authorisation and registration processes?

Yes

Please give reasons for your views.

We agree with the proposal to mandate digitalisation of the prospectus authorization and registration process as the current regime requires a lot of printing which does not align with the underlying rationales of the paperless initiative, and involves physical delivery of voluminous documents to the Exchange and the Companies Registry located in different regions of Hong Kong which may not be the most efficient procedure. As the Exchange has rightly pointed out in the Consultation Paper, the digitalisation of the prospectus authorization and registration process would also help minimize the possible disruptions which may be caused by uncontrollable factors and which may have serious impact such as delaying the applicant's listing timetable - for example, with the digitalisation of the prospectus authorization and registration process, prospectus registration can still take place even when there are office closures by the Exchange and/or the Companies Registry as a result of extreme weather conditions, a pandemic or otherwise. The removal of the requirement of physical delivery of the printed documents for the prospectus authorization and registration process would also provide more flexibility in terms of timing on the prospectus registration date, and hence lessen the unnecessary burden on the listing applicants, their advisers and the vetting teams with, among other things, the prospectus bulk-printing timetable no longer posing a concern and there being more time to cater for any last minute issues such as outstanding clearances required from the SFC and any comment that the Companies Registry may have.

We understand that the Exchange is still exploring the feasibility of the digitalisation of the prospectus authorization and registration processes with all the relevant parties, and as such, the Consultation Paper has not set out the details with regard to, among others, the method of onward electronic submission to the Companies Registry. We invite the Exchange to provide clear guidance to the listing applicants and the practitioners with regard to the digitalisation of the prospectus authorization and registration processes if the proposal is successfully adopted in the future.

Question 11

Do you agree with our proposal to amend the Listing Rules to mandate that listed issuers must disseminate corporate communications to their securities holders electronically if this is permitted by their applicable laws and regulations and their constitutional documents?

Yes

Please give reasons for your views.

We agree with this proposal as electronic dissemination is a more efficient and environmentally-friendly means of communication, especially given the current regime requires a separate notification to be sent to the holders each time when there is a new document or information available on the website which essentially means that significant printing, postage costs and delay in hard copy deliveries are still inevitable. Notwithstanding our support for electronic dissemination of corporate communications, we further agree that it is important that there is still an opportunity for securities holders to opt for receiving corporate communications in printed form if that is their preferred choice and that the issuer must still send corporate communications in hard copy form if it does not have functional electronic contact details of a securities holder, in line with paragraphs 85 and 89 of the Consultation Paper.

Question 12

Do you agree with our proposal to allow the consent of holders of a listed issuer's securities to be implied for the electronic dissemination of its corporate communications, to the extent permitted under applicable laws and regulations and its constitutional documents?

Yes

Please give reasons for your views.

We agree with the proposal to allow for implied consent by securities holders for the electronic dissemination of a listed issuer's corporate communications so long implied consent is permissible under applicable laws and regulations and constitutional documents of the listed issuer. Electronic dissemination of information is now a well-accepted alternative to hard copy dissemination and for the same reasons in favour of electronic dissemination as mentioned in our answer to question 11, we agree with such proposal provided that there is still an opportunity for securities holders to opt for receiving corporate communications in printed form if that is their preferred choice and that the issuer must still send corporate communications in hard copy form if it does not have functional electronic contact details of a securities holder.

As the majority of the listed issuers on the Exchange are incorporated in Cayman Islands, Bermuda or the PRC, where implied consent is generally permitted under the relevant laws and regulations, the proposal to allow for implied consent will enable the majority of the listed issuers on the Exchange to rely on such provision in the amended Listing Rules to disseminate corporate communications electronically. However, as the Companies Ordinance of Hong Kong currently does not permit shareholders' consent to be implied for electronic dissemination of corporate communications, and there is a considerable number of blue chip companies listed on the Exchange with a place of incorporation in Hong Kong, we recommend the Exchange to further consider with the relevant parties the issue of allowing for implied consent in relation to electronic

dissemination of corporate communications by Hong Kong-incorporated listed issuers.

Question 13

Do you agree with our proposal to state in the Rules that Actionable Corporate Communications must be sent to the securities holders individually and in electronic form if the holders provide functional electronic contact details?

Yes

Please give reasons for your views.

We agree with the proposal that Actionable Corporate Communications must be sent individually as these require positive actions to be taken by the securities holders in order to exercise certain rights, and sending such communications individually will better raise the attention of the securities holders to such matters. While we further agree that Actionable Corporate Communications should be sent in electronic form if the securities holders have provided functional electronic contact details for the same reasons as mentioned in our answer to question 11, we consider to be paramount that proper safeguards are put in place in order to ensure the securities holders have indeed received such electronic communications, for instance, having safeguards in place to ensure that such communications will not automatically be moved into the junk mailbox and having arrangements in place to deal with the situation where the listed issuer has received a bounce-back email. Such safeguards are particularly important, as otherwise a securities holder who has not actually received such Actionable Corporate Communications may be deprived of the opportunity to exercise his/her right to participate in a corporate action.

Question 14

Do you agree that where a listed issuer does not have functional electronic contact details of a securities holder, an Actionable Corporate Communication must be sent to the holder in hard copy form including a request for the security holder's electronic contact details to facilitate electronic dissemination of Actionable Corporate Communications in future?

Yes

Please give reasons for your views.

We agree that where the functional electronic contact details of a securities holder is not available, an Actionable Corporate Communication must be sent to such holder by way of hard copy, including a request for the holder's electronic contact for future electronic dissemination. However, we consider that such request should also include an option for the holder to elect for receipt of Actionable Corporate Communications by way of hard copy free of charge going forward as this may well be the preferred way of communication for certain holders, particularly in light of the importance of Actionable Corporate Communications, in order to ensure that holders will not be deprived of the opportunity to exercise their rights.

Question 15

As your answer to Question 13 above is yes, do you agree that we should define Actionable Corporate Communications as “any corporate communication that seeks instructions from an issuer’s securities holders on how they wish to exercise their rights as the issuer’s securities holders”?

Yes

Please give reasons for your views.

As the term “actionable corporate communication” is defined very broadly in the proposed amendment, we recommend the Exchange to provide clear guidance on the list of Actionable Corporate Communications in order to avoid any confusion as to what will constitute “actionable corporate communication”.

Question 16

We invite comments on the manner in which the Appendices to the Listing Rules are proposed to be categorised/amended and whether they will give rise to any ambiguities or unintended consequences.

We agree with the proposed amendments to be made to the Appendices. Following the deletion from the Listing Rules the appendices that have been or are being proposed to be superseded, repealed or deemed unnecessary which should not be controversial, we believe this would also be a good timing and opportunity to reorder the Appendices to avoid leaving many blank appendices and to categorize them by topic (rather than the time at which they were added to the Listing Rules). With the reordering of the Appendices, we also concur that the Appendices should be streamlined as much as possible to facilitate easier navigation, such that the Appendices would mainly contain only significant provisions and/or mandatory requirements, and the existing appendices which contain Regulatory Forms, Fee Rules and contents which are merely administrative in nature would be better placed on the HKEX's website as Listing Rules (but not as Appendices). However, given the drastic changes to be made to the Appendices which market practitioners and listed issuers have been used to for decades, we invite the Exchange to provide separate guidance on how to navigate through the updated Appendices and the different updated sections of the Exchange website (and how they correspond to the existing Appendices), as well as to give full consideration to the consequential changes that may have to be made to the various documents making references to the existing Appendices.

Question 17

Do you agree with our proposal to remove the requirement for physical attendance by members to meet the quorum needed for meetings of the Listing Committee and Listing Review Committee?

Yes

Since your answer is “no”, please give reasons for your views.

Question 18

Do you agree with our proposal to make minor changes to the Listing Rules described in paragraph 122 to reflect current practices and requirements?

Yes

Since your answer is “no”, please give reasons for your views.