



A member of Softbank Investment Group

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Fax Cover Sheet

Date: 31 July, 2003

To: Hong Kong Exchanges and Clearing Limited

Fax: 2295 3599

To: Securities and Futures Commission

Fax: 2810 5385

From: John Tran

Tel: 2533 3771

Fax: 2525 2203

No. of Page(s): 4 (including cover sheet)

Please notify Irene Ko

At 2533 3769

if message received is incomplete.

Please see attached.



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31 July 2003

Hong Kong Exchanges and Clearing Limited
Listing Division
11th Floor
One International Finance Centre
1 Harbour View Street
Central
Hong Kong

Securities and Futures Commission
Corporate Finance Division
8th Floor
Chater House
8 Connaught Road Central
Hong Kong

Dear Sir,

Re: Consultation Paper on The Regulation of Sponsors and Independent Financial Advisers dated May 2003 ("Consultation Paper")

We refer to the Consultation Paper and set forth below our comments. For your ease of reference, we adopt in this letter the same numbering in the Consultation Paper.

Q.1 & 2 Acceptable Sponsors Firms

My view is to maintain a list is fair, but how Exchange can demonstrate that it will accept or reject an application to be a sponsor or IFA in a transparent, reasonable and timely manner is very difficult. Those are important to give confidence to the practitioners and the professional parties on the Exchange and to avoid any confusion, doubt and misunderstanding. For example, the existing mechanism for GEM sponsorship is inefficient and involved too much discretion by the Exchange, which caused all the problems stated above.

My suggestion is that the rules and criteria for being a sponsor or IFA should be clearly stated and fair, which should not involve discretion by the Exchange, and the process time should be quick.

About the list of unacceptable person, the circumstances and reasons that will result in sponsor or IFA to be an unacceptable person should be stated very clearly and in a fair manner, so that the professional parties have guidelines to follow. Also, there should be ways for the unacceptable person to return to be a sponsor or IFA.

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TO WORKFLOW FAX

FROM GEM-CF

31-JUL-2003 15:34
31/07/03 15:39 FAX



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Q.4 Competence and experience of the sponsor and IFA firms

We cannot see how the present system of Principal Supervisors and Assistant Supervisors under the GEM Listing Rules to be replaced by a new system of Eligible Supervisors would improve the quality of the sponsorship works. Further the number of Eligible Supervisors in sponsorship works should remain at two to fall in line with IFA works and the Responsible Officer concept under the Securities and Futures Ordinance.

Q.5 Qualifications and experience criteria of eligible supervisors

We opine that with the full implementation of the experience requirement as stipulated in the Consultation Paper may create a shortage of Eligible Supervisors in the market, which will potentially discriminate against smaller firms. Thus, we propose three years relevant experience requirements as the minimum standards for Eligible Supervisors.

About the rules and criteria for being an Eligible Supervisor, these should be clearly stated and fair, which should not involve discretion by the Exchange, and the process time should be quick. Too much discretion by the Exchange creates a loss of confidence by the professional parties on the Exchange, which is the current situation.

Q.8. Undertaking to the Exchange

The Exchange proposes Eligible Supervisors to provide to the Exchange with a written undertaking in similar terms to that provided by sponsors firms and IFA firms is onerous. It should always be those in charge or directly cause such issues, not every Eligible Supervisor in the firm, to face punishment or judgment.

Q.10 Independence

We would like the Commission and the Exchange to clarify further the term "has an interest in or business relationship..."

Q.11 Reasonable investigations

The proposals appear to put an onerous burden on the sponsors and impracticable in some instances; for example,

- in determining whether the new applicant is suitable for listing, the Exchange and the Commission do have the relevant responsibilities, if the sponsors and the Commission and the Exchange have different views on the subject, it will be a concern for the sponsors
- it is stated that the Exchange considers the extent of due diligence depends on the circumstances and is a matter of judgment. This is very ambiguous, in particular, as to who would exercise the judgment, base on what to exercise the judgment and what if there are different views between the sponsors and the Exchange about the extent of due diligence required. There is always expectation gap between the Exchange and the professional parties



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- when the directors of the new applicant have signed the listing application/prospectus in acknowledging their understanding of the Listing Rules, it is not necessary for the sponsors to repeat what have been admitted by the directors of the new applicant
- the sponsors in discharging their duties in the sponsorship, have to rely on the works of other experts in a particular areas. Owing to the specialized nature of the works, the sponsors are not in a position to form a view whether the experts have been properly discharging their works.

Q.12 Code of Conduct for Sponsors and Independent Financial Advisers ("Code of Conduct")

We have reservations on some aspects which may create too onerous burden to the sponsors, for example, the sponsors need to verify the authenticity of the educational and professional qualifications of the directors or senior management of the new applicant, and the sponsors have to make independent enquiries with various regulators in verifying the personal background of the applicants. These checking should be more appropriate and more effective if conducted by the regulators rather than the sponsors.

About the integrity of a director, I do not know as to what extent to investigate about it. The fact is there has been high officials in the Exchange or the government body of Hong Kong who have turned out to have integrity issues.

In other aspects, the proposed Code of Conduct requires the sponsors to confirm that the expert or professional does not have a relationship with the new applicant, which in our view is not fair and practical to the sponsor. The sponsor should not and cannot confirm on behalf of the expert and/or professionals.

Q.17 Ability of existing GEM and Main Board Sponsors and IFAs to meet eligibility criteria for acceptable tests

We may not be able to meet the eligibility criteria for sponsorship works, as there are career breaks among some of our staff which cannot meet the 4 years relevant experience yardstick.

Yours faithfully
For and on behalf of
SBI E2-Capital (HK) Limited

John Tran
Executive Director and
Head of Corporate Finance