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STRICTLY PRIVATE AND CONFIDENTIAL

31st July, 2003

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The Securities and Futures Commission
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073435

Dear Sir/Madam,

Re: Consultation Paper (the "Consultation Paper") on the Regulation of Sponsors and Independent Financial Advisers

We refer to the Consultation Paper provided in May 2003. We would like to give you our general view thereon and address the summary of questions in Annex 3 in the section headed "Proposals under the Consultation Paper".

BACKGROUND

The Hong Kong economy was hit significantly by the Asian financial crisis in late 1997. Not only did our financial market have a severe downturn, but most corporate finance houses also faced difficulties to operate. Many experienced practitioners were forced to leave this sector. It was until the establishment of the GEM Board in July 1999 which helped revive the corporate finance industry. However, given that the criteria for listing were relaxed, local companies as well as PRC enterprises tried to raise fund by listing on the Hong Kong Stock Exchange based on their formulated business model (rather than their established track record). Thus, the greater demand for the IPO sponsors led to the entry of many sponsor firms and supporting staffs. Whether new supporting staffs were qualified and adequately supervised to handle the IPO transactions could affect the smoothness of the vetting process of the Stock Exchange. Also, the presentation of unproven business models and the complexity of the PRC issues might create problems for the Stock Exchange to judge the

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suitability of listing of some applicants.

Besides, the corporate scandals of some Hong Kong listed companies (and also US multinational firms) raised specific concerns from the regulatory bodies and the investor public on the corporate governance in recent years. It was perceived that our market integrity could be preserved if the listed issuers in Hong Kong (especially the newly ones) were freed from any potential delinquency.

REASONS FOR THE PROPOSALS

It is considered that one of the preventive measures for minimizing any misconduct of the listed issuers in Hong Kong is the imposition of stringent rules on the sponsor firms. If the sponsors (and even their employees) who are experienced and qualified are given the responsibility to endorse the financial and operational aspects of the listing applicants, they will perform more than sufficient due diligence work which may help detect any irregular activities. In view that more PRC enterprises may apply to the Stock Exchange (since the establishment of a new board for "hi-tech" companies in the PRC is deferred) for listing, if these companies are thoroughly screened and vigilantly endorsed by their sponsors, the possibility of their ultimate failure might be reduced.

PROPOSALS UNDER THE CONSULTATION PAPER

Q1. Acceptable sponsor firms

Partly agree

We believe that a list of acceptable sponsors can be maintained by the Stock Exchange. However, we have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, (iii) independence {see Q10}, and (iv) the transition process. Will all current GEM sponsors automatically be included in the new list? If not, those financial institutions which would like to continue to act as sponsors will be required to make their own application. Based on our past experience with GEM application, the application process is a time consuming and tedious process, it is anticipated that the application process may take several months.

Q2. Acceptable IFA firms

Partly agree

We believe that a list of acceptable IFAs can be maintained by the Stock Exchange. However, we also have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, and (iii) the formation of the new list. Can those financial institutions which would like to be sponsors as well as IFAs make a single application for both qualifications? Although not all financial institutions are interested in the smaller IFA market, they may apply for such qualification so that they are flexible enough to provide a wide range of activities for marketing purpose. As such, in addition to the applications launched by those financial institutions which

have a focus on IFA market or are not currently qualified as sponsors, the number of applications can be significant which takes longer processing time.

Q3. Acceptable individuals

Disagree

We consider that item (c) is difficult to accept. We trust that the Stock Exchange will take careful steps to judge whether an individual must be put on its proposed unacceptable list under the then circumstances. However, if, for instance, Mr. X of PQR Capital Limited ("PQR", being a sponsor admitted on the new list) is considered as an unacceptable individual by the Stock Exchange and made public, the corporate image of PQR will be adversely affected notwithstanding that all/other eligible supervisors are capable to perform the duties of a sponsor. Perhaps, it is possible that Mr. X will be dismissed from PQR and is unable to get back in the corporate finance sector. So, what we suggest is that the Stock Exchange can list out all acceptable individuals in its website.

Furthermore, all personnel engaging in the provision of corporate finance advisory work have to be licensed or registered under the SFO. In applying to be licensed or registered under the SFO, an individual has to be a "fit and proper person". As such, we propose the Stock Exchange to further elaborate on what circumstances that an individual who passes the "fit and proper person" test of the SFC and yet be regarded as an unacceptable individual by the Stock Exchange.

Q4. Competence and experience of the sponsor and IFA firms

Disagree

We accept that the Stock Exchange would like to place a greater weight on experience of professional staff, rather than the sponsor firm or IFA firm itself. However, we have strong concern on having at least four eligible supervisors in a sponsor firm. We note that the UKLA requires the sponsor to have at least four eligible employees who (i) are being employed at an appropriate level of seniority within the sponsor; and (ii) have provided advice in connection with a significant transaction at least three times in the preceding 36 months and at least once in the preceding 12 months {see attachment I}. It does not necessarily mean that the sponsor must have four "senior" supervisors. We are of the view that the current setting of the GEM Board of having two Principal Supervisors and two Assistant Supervisors suffices to demonstrate the experience of the sponsor and IFA firms.

Q5. Qualification and experience criteria of eligible supervisors

Disagree

As mentioned above, the UKLA's requirement on experience of an individual is her/his involvement in three transactions which may be acquired within a period of 36 months. In other words, if an individual is involved in three transactions in the latest year, he is also considered to be eligible. Besides, the statement made in P.90 of the consultation paper that "a sponsor must be a Member of the TSX and meet standards of business that are substantially the same as those proposed by the Exchange (including employing at least one senior corporate finance officer who is licensed and has at least five continuous years of relevant experience with an underwriter and employing one industry expert in respect of each area of business undertaken)" is not appropriate. According to the policy statement taken by the TSX {see attachment II}, it is not necessary for such officer to have "at least five continuous years of relevant experience with an underwriter" if s/he can satisfy any one of the other requirements, e.g., a licensed CFA or CBV. It seems to us that the number of years of experience (proposed to be a minimum of 4 years for each of four eligible supervisors) can be relaxed.

In addition, it must be very careful to define the "substantive involvement" in at least 3 completed "significant transactions". For "substantive involvement", it may be interpreted that s/he must be a core member in that transaction who has carried out or supervised her/his employees to carry out part of due diligence work. This can be viewed as "very" demanding when compared with "providing advice" as presently adopted in the UKLA and the GEM Board. For "significant transactions", those qualified transactions have been clearly set out. However, we wonder why the connected (and discloseable) transactions are not recognised as "significant transactions". In particular, it is accepted in UKLA that a related party transaction involving the preparation of a circular is qualified (and so does the GEM Board).

It is further proposed that experience derived from recognised overseas markets will be recognised and only one significant transaction in Hong Kong market. While we agree that only recognising "local experience" is too stringent, requiring local experience in only one significant transaction without imposing time limitation as to when such experience is gained will defeat the purpose of ensuring that eligible supervisors understand and have the unique experience in dealing with the local practitioners, for instance, the extensive pre-listing vetting process over disclosure matters of IPO application with the Exchange. In an ever-changing market, recent local experience should be a fundamental criterion for assessing the knowledge and experience of an eligible supervisor in Hong Kong Listing Rules. It should also be noted that not only the eligible supervisor should acquire the suggested years of experience and active participation, other market practitioners, including the regulator, should also be on the same level playing field in order to truly improve vetting efficiency and to upgraded its sophistication.

Q6. Other factors relevant to the eligibility criteria

Partly agree

We consider that should an objective assessment and a clear explanation be provided by the Stock Exchange on the non-acceptance of a firm to the list of sponsors, the Stock Exchange can make such refusal or cancellation (but subject to the firm's objection). We think that it may be appropriate to adopt a Code of Conduct for Sponsors and Independent Financial Advisers. But, it must be viewed as a code of practice to help the firms improve their corporate governance and operations rather than a criteria for admission {see Q12}.

Q7. Minimum capital requirement of sponsor firms

a) Partly agree

We consider that as long as it is not creating an uneven playing field for smaller firms, such requirement is acceptable. However, we do not understand the rationale of having such a HK$10 million capital requirement.

b) Agree

We concur that IFA firms should not be subject to a similar requirement.

Q8. Undertakings to the Exchange

Disagree

We note from the consultation paper that such undertakings are not currently required by the Main Board and the UKLA while most of them are also not needed by the GEM Board. Chapter 2 the GEM Listing Rules sets out that "the principal function of the Exchange is to provide a fair, orderly and efficient market for the trading of securities. In furtherance of this, the Exchange has made the GEM Listing Rules under section 23 of the Securities and Futures Ordinance prescribing the requirements for the listing of securities on GEM. These comprise requirements which have to be met before securities may be listed and also continuing obligations with which an issuer and, where applicable, a guarantor must comply once listing has been granted." As such, we have doubts that "the sponsor (and also its eligible supervisors) to make the proposed undertakings to the Stock Exchange of complying with (i) the relevant Listing Rules applicable to sponsors and (ii) the proposed Code of Conduct for Sponsors and Independent Financial Advisers" is essential to the Stock Exchange for providing a fair, orderly and efficient market for the trading of securities.

Moreover, we are uncertain as to whether the Listing Rules which are designated for governing the listing of securities (and also their issuer) will be exploited if the statement of "a breach of the undertaking will be deemed to be a breach of the Listing Rules ......" is so established.

Q9. Appointment

Disagree

The UKLA requires the appointment of a sponsor {see attachment III} in the following situations:-

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities) must have appointed a sponsor when (a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or (b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UKLA.

2.7 In the event of a breach of the listing rules by an issuer, the UKLA may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

Besides, regarding the provision of certain financial information in listing documents and/or circulars, a sponsor is generally required to (i) obtain written confirmation from the issuer relating thereto and (ii) satisfy itself that such confirmation has been given after due and careful enquiry by the issuer {see attachment IV}.

Based on the approach adopted by the UKLA, we believe that the discretion to direct an issuer to appoint a sponsor firm to provide advice for any specified period can only be exercised by the Stock Exchange in the event of a breach of the Listing Rules (rather than in any situation as proposed in the consultation paper). Indeed, given the clear role and responsibility of the sponsors, it is not necessary for the Listing Rules to set out requirements generally applicable to sponsor firms where a sponsor firm gives advice or guidance to an issuer in relation to interpretation or application of the Listing Rules, irrespective of whether or not the Listing Rules require appointment of a sponsor.

An IPO with a large offering size does not mean that is complicated as to warrant more manpower, so that the combined effort of sponsors are required. It appears that such proposal has limited the market practitioners to give higher priority to size of offer than to the quality of the listing applicant. We are of the view that the issue as to whether or not more than one sponsor firm is required, it is much better for the issue to be determined by the market practitioners.

Also, we realise that should there be an acceptable list of sponsors in Q1, those co-sponsors (i.e., firms which are not qualified as sponsors for the time being to act as co-sponsors in IPOs) are no longer retained. In particular, a joint sponsorship is not encouraged unless such IPO is sizeable enough. Can the reasons for not welcoming the joint effort from different firms be clearly stipulated?

In addition, we consider that the appointment of retained sponsors for the Main Board which involves the interests of the issuer(s) must be subject to the opinion from the issuers, applicants, potential applicants and investor public. It is not just a matter between the Stock Exchange and the sponsors.

Q10. Independence

Partly agree

According to the "Sponsor's confirmation of independence" as required by the UKLA {see Attachment V}, we note that the sponsor as well as its directors, partners and employees must report (i) whether they have any shareholding interest or directorship in the issuer and (ii) any other matters which may affect the independence from the issuer. As such, interests of any associates of the sponsor's directors and employees may or may not be a factor which can materially affect its independence. In particular, whether a business relationship (past or current) between the issuer and the sponsors' director or employee can also materially affect its independence may be subject to judgment. So, we do not consider that the existence of such interests or relationship must prelude a firm from acting as a sponsor.

In addition, we note that the independence of an IFA relating to the Code-related matters is stricter than that relating to the Stock Exchange matters. However, due to the nature of the Stock Exchange matters, we think that a firm can qualify to be an IFA (other than any shareholding interest) if it does not serve as a financial adviser to the issuer and its subsidiaries within the past 12 months.

Q11. Responsibilities

Disagree

We do not agree that there is an expectation gap between the Stock Exchange's view of the responsibilities of sponsors and the manner in which many sponsors are discharging those responsibilities. As set out in the Model Code for Sponsors of the Listing Rules (Main Board), the purpose of which is to give guidance on the Stock Exchange's minimum expectations of the sponsor's role. For instance, a sponsor should satisfy itself, on the basis of all available information, that an issuer is suitable for listing. Besides, a sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified. It is also specified that failure by a sponsor to meet such expectations without reasonable cause may render it unacceptable to perform the role of sponsor in future.

We note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document.

Given the role as a sponsor, we believe that it is not unacceptable to us to take certain review procedures regarding the suitability of listing of the issuers. However, for the "non-expert sections", we may have the difficulty in assessing the correctness and completeness of certain information. If, for instance, the Company's management predicts that the industry growth is about 20 per cent. per annum for the coming five

years, what a sponsor can do may include (i) to obtain some research reports, (ii) to observe the pattern of past industry growth, (iii) to study other relevant markets (e.g. upstream, downstream or overseas), and (iv) to perform an industry analysis itself so as to make a justification thereon. But, whenever the sponsor cannot have access to all research reports (or other relevant materials), it may miss out some pieces of important information (perhaps, that can make the aforesaid industry growth unjustified). As such, notwithstanding that the sponsor can make investigations (or any applicable review procedures), it is impracticable for the sponsor to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Yet, it is generally acknowledged that the directors of the issuer must be responsible for such information (which relates to the particular features of its business and the industry it belongs to). On the other hand, if the experts so appointed are independent from the issuer and qualified for providing the information set out in the "expert sections", we think that it is sufficient for the Stock Exchange to make reliance thereon. Taking into account the approach of the TSX on the use of experts {see attachment VI}, it may be our responsibility to help assess the independence and qualification of such experts.

Q12. Code of Conduct for Sponsors and Independent Financial Advisers
Disagree

We agree with some of the matters set out the Code of Conduct for Sponsors and Independent Financial Adviser (the "Code of Conduct"). It is proposed in the Code of Conduct that it will be a requirement of the Corporate Finance Adviser Code of Conduct issued by the SFC that a registered person under the SFO has to observe the requirements of the Listing Rules including the Code of Conduct. Given that breach of the Code of Conduct would cast prima facie doubt on the fitness and properness of that person with respect to their registration under the SFO. As such, we do not see the reason for the Exchange to insist that a breach of the requirements of the Code of Conduct constitutes a breach of the Listing Rules. Such provisions would render a person subject to the regulation of both the Exchange and SFC which is not necessary. This is because a person who has breached the Code of Conduct may not be regarded as fit and proper and his registration under the SFO would probably not be renewed. We do not see the reason of having a single breach of regulation subject to proceedings of two regulatory authorities. In this regard, we are of the view that the Stock Exchange should coordinate with the SFC to enable the SFC to take appropriate action under the SFO. We are of the view that the Code of Conduct should be a code of practice to help the firms improve their corporate governance and operations {see Q6}.

We consider that the proposed requirements set out in the Code of Conduct should be strictly applicable only to sponsor firm(s) and IFA firm(s) (but not their eligible supervisors, other directors and/or staff) given that it is the firm rather than the individual to accept and perform the work for an issuer. In addition, we have concerns whether it is practicable for (i) a sponsor or (ii) an IFA to fully satisfy itself

and/or to assure the Stock Exchange whether (i) all the information set out in the "non-expert sections" in relation to an IPO, or (ii) all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement respectively, is without any omission or not misleading.

Q13. Declaration by sponsors and lead underwriters in listing documents to be registered

Disagree

Firstly, we have considered the approach taken by the UKLA, the TSX and the ASX in this regard. We noticed that there is no such kind of declaration required to be made by the sponsors and the lead underwriters in the listing documents to be registered. In particular, for the related "expert sections" found in the ASX {see attachment VII}, if the prospectus includes a statement purporting to be made by an expert, the prospectus can be issued once the expert has provided its written consent (and being stated therein). It seems to us that the expert itself is responsible for its statement or opinion expressed in the prospectus.

As mentioned in Q11, we note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document. While, according to the proposed requirement herein, the Stock Exchange would like the sponsor to make a declaration regarding its reasonable investigations on "non-expert sections" and "expert sections" in the prospectus subsequent to its vetting process. We wonder whether it is necessary to do so. Nevertheless, as discussed earlier, notwithstanding that we, as a sponsor, can make investigations (or any applicable review procedures), it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Given the aforesaid limitation, we consider that the sponsor (or the lead underwriter) is not able to provide such declaration. It may be more appropriate to advise the investors to be fully aware of the particular nature of the information set out in the "non-expert sections".

Q14. IFA due diligence declaration

Disagree

It is proposed that the Exchange would also like the IFA to perform due diligence work in assessing the correctness and completeness of all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement and to make a declaration thereon in its letter as enclosed in the circular subsequent to its vetting process. Again, notwithstanding that we, as an IFA, can make appropriate steps and due diligence work, it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement is without any

omission or not misleading. Given the aforesaid limitation, we consider that the IFA is not able to provide such declaration.

Q15. Reporting obligations and monitoring

Partly agree

We agree that it is appropriate to streamline the administration of the sponsor and IFA regime. However, using a certification process and a targeted program of monitoring cannot be served as a "complete" system for assessing the suitability of a firm as a sponsor or an IFA. As such, we suggest that the review of its ongoing eligibility can be made in every two years.

Q16. Compliance and sanctions

Disagree

We regret to hear that the rationale for imposing penalties on sponsors or financial advisers or any of their members of staff is to promote high standards of conduct and ensure that regulatory standards are being upheld. We wonder why the supervisors who have the qualifications and experience {see Q5} are still perceived to be unable to help discharge the sponsors' responsibility.

We consider that the existing Listing Rules have already provided sufficient and proper measures on any breach of duty by the sponsors relating to matters governed by the Listing Rules. We do not think that it is appropriate to extend such measures to individuals since it is the firm (but not the individual herself/himself) to accept and perform the sponsor's work for an issuer. Nevertheless, we consider that the Stock Exchange can make assessment on the work and professional conduct of an individual before accepting her/him to the list of acceptable individuals (or during the annual or bi-annual review process).

Q17/18. Ability of existing GEM and Main Board sponsors and IFAs to meet eligibility criteria for acceptable lists

a) Yes, if effective today.

b) Yes, if effective in 6 months time.

c) Not certain, if effective in 18 months time.

d) Not certain, if effective in 30 months time.

We refer to our concern set out in Q5 that it is uncertain as to whether each of our 4 "eligible" supervisors can complete at least one "significant transaction" in the then recent year to fulfil the proposed requirement. Nevertheless, we would like to reiterate our reply to Q4 that the requirement as stipulated by the UKLA does not necessarily mean that the sponsor must have four "senior" supervisors. In fact, we think that the GEM Board setting of having two Principal Supervisors and two Assistant Supervisors is good enough.

FINANCIAL IMPLICATIONS

Pursuant to the Consultation Paper, it has been suggested that the introduction of standards of due diligence to close the expectation gap accompanied by prominent disclosure of the sponsor's role in performing due diligence on the prospectus [both distracts from the responsibilities which should properly be borne by the directors and] will lead to increased professional fees for new applicant companies. However, the potential increase in costs cannot be easily quantified as any increase will depend on both the circumstances of the applicant and the approach to due diligence currently taken by the sponsor concerned. Nevertheless, we consider that such increase in professional fees stemmed from the due diligence costs as incurred in meeting the new standards and the perceived risks associated with disclosure is likely to be passed on to the applicants. If the transaction cost is increased, those applicants of smaller size may (i) be unwilling to list in Hong Kong or (ii) defer their listing plan. Taking into account that the fund raising activities comprise primarily small/mid-cap companies {see attachment VIII for market statistics in 2002}, it is possible that the corporate finance sector will then be squeezed again. Not only are some sponsors (or their employees) out, but also certain accountants, lawyers, valuers, analysts and other professionals who work in this sector may be forced to leave.

We note that the current vetting process by the Stock Exchange is valuable. However, if the sponsors who have already carried out certain review procedures are also required to make the proposed declarations in the prospectus (i.e., to endorse the financial and operational aspects of the listing applicants as discussed above) which we consider inappropriate, it is arguable that the Stock Exchange is still required to spend resources on vetting those endorsed applicants for the market.

Based on the above arguments, it is uncertain as to whether it is financially justifiable for the Stock Exchange to put forward these proposals under the Consultation Paper. As such, we hope that the Stock Exchange can carry out market survey to acknowledge the acceptability of the increased costs by the listing applicants and assess the potential financial effects on our economy and the respective stakeholders.

RECOMMENDATIONS

Having considered the aforesaid principal factors, namely (i) reasons for the proposals, (ii) proposals under the Consultation Paper, and (iii) financial implications, we do not consider that it is compulsory for the Stock Exchange to put forward the proposals on regulating the sponsors and, particularly, we do not agree with such proposals which are not market practice worldwide and/or not market acceptable.

In fact, we understand that the primary role of the Stock Exchange is to provide a fair, orderly and efficient market for the trading of securities. It may take initiative to promote and advocate the code of conduct on the corporate governance of the listed

issuers. But, the Stock Exchange is not supposed to be responsible for preventing and detecting corporate scandals (and so do the sponsors). Given the parallel interests between the Stock Exchange and the sponsor firms, should either party be put into jeopardy, we consider that the sponsorship system cannot be run as efficient and effective as before.

Instead of introducing a new system to regulate the discharge of responsibilities of sponsors and IFAs, we are of the view that steps should be taken in the direction of some of the proposals set out in the Consultation Paper within the existing regulatory regime. We believe that the existing regime of having all corporate finance advisers regulated by the licensing system of the SFC under the SFO is working well and there is no need to introduce a two-tier regulation. Instead, we believe that the Exchange, as the front line regulator with close contacts with corporate finance advisers should strengthen its cooperation with the SFC so that the SFC can regulate and monitor the activities of the intermediaries subject to its regulatory regime.

Lastly, we would like to express our disappointment regarding the status of consultation is too preliminary for a conclusion to be reached if genuine support is to be obtained from financial intermediaries. Our representatives attended consultation seminar, in English and in Mandarin, jointly organised by the Exchange and the SFC on 18th July, 2003 but either insufficient time was given for Q&A sections or material concerns raised were not addressed or clarified. Given that it is anticipated by the Exchange that the results and conclusions on the Consultation Paper will be published on or around end of October 2003, with a view to the new rules being published by 1st January 2004, we believe that a second phase consultation is a must.

Yours faithfully,
For and on behalf of
Guotai Junan Capital Limited

David Lui
Executive Director

c.c. Mr. Paul Chow – Chief Executive of Hong Kong Exchanges and Clearing Limited

CHAPTER 2

SPONSORS

Scope of chapter

This chapter contains rules relating to the approval, function and appointment of a sponsor. In certain circumstances listing rules require issuers to appoint a sponsor.

This chapter is of application to sponsors and issuers.

The main headings are:

Details of the UK Listing Authority's procedures in relation to approval, cancellation of approval and discipline of sponsors are set out in chapters 4 and 8 of the UKLA Guidance Manual.

Compliance with rules

2.1 Sponsors must comply with all listing rules applicable to them.

Approval

2.2 The UK Listing Authority will maintain a list of sponsors approved by the UK Listing Authority.

2.3 The UK Listing Authority may refuse an application for approval as a sponsor or cancel a sponsor's approval if the UK Listing Authority considers that the sponsor does not satisfy the criteria set out in paragraph 2.4.

Sponsor

2.4 In order to be included on the list of sponsors maintained by the UK Listing Authority, a sponsor must:

(a) be a person authorised for the purposes of the Act or a person regulated by a designated professional body under the Act;

(b) pay the relevant fees required by the UK Listing Authority;

(c) be a body corporate or a partnership;

(d) have at least four eligible employees; and

(e) satisfy the UK Listing Authority that it is competent to perform the services required of a sponsor by the listing rules.

2.5 For the purposes of rule 2.4(d) an eligible employee shall:

(a) be employed at an appropriate level of seniority within the sponsor; and

(b) have provided advice in connection with a significant transaction:

(i) at least three times in the preceding 36 months; and

(ii) at least once in the preceding 12 months.

Appointment of a sponsor

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities, must have appointed a sponsor when:

(a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or

(b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UK Listing Authority.

2.7 In the event of a breach of the listing rules by an issuer, the UK Listing Authority may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

2.8 An issuer must advise the UK Listing Authority in writing (copied to the sponsor) of the resignation or dismissal of any sponsor appointed by it. It must also, where a sponsor is dismissed, inform the UK Listing Authority in writing immediately of the reason for the dismissal.

Services to be provided by a sponsor

Nature of services

2.9 A sponsor must:

(a) in the case of any application for listing which requires the production of listing particulars, satisfy itself, to the best of its knowledge and belief, having made due and careful enquiry of the issuer and its advisers, that the issuer has satisfied all applicable conditions for listing and other relevant requirements of the listing rules;

(b) for each transaction in respect of which it acts as sponsor in accordance with the listing rules, submit to the UK Listing Authority at an early stage (and, in any event, no later than the date on which any documents in connection with the transaction are first submitted to the UK Listing Authority for approval) a confirmation of independence in the form set out in schedule 1A;

(c) provide to the UK Listing Authority any information or explanation known to it in such form and within such time limit as the UK Listing Authority may reasonably require for the purpose of verifying whether listing rules are being and have been complied with by it or by an issuer;

(d) take all reasonable steps to ensure that a confirmation or declaration required to be provided to the UK Listing Authority by a sponsor under the listing rules is correct and complete in all material respects; and

(e) advise the UK Listing Authority in writing without delay of its resignation or dismissal, giving details of any relevant facts or circumstances.

2.10 Where a sponsor (whether or not appointed by an issuer pursuant to paragraphs 2.6 or 2.7) gives guidance or advice to an issuer in relation to the application or interpretation of the listing rules, the sponsor:

(a) should ensure that the issuer is properly guided and advised as to the application or interpretation of the relevant listing rules; and

(b) should provide that service with due care and skill.

d. trading in the securities of the issuer by all partners, directors, officers and employees and approved persons shall be monitored by a designated and duly qualified officer of the Sponsor to assess whether trading has or might reasonably appear to have occurred based on access to Confidential Information.

7. Without limiting the generality of paragraph 2(d)(5) (and without limiting any other educational requirements required under applicable Securities Law or Exchange Requirements), the Sponsor shall employ a corporate finance officer, compliance officer or branch manager who will oversee and be responsible for the preparation and execution of the Sponsor Report and who:

   a. has successfully completed the Canadian Securities Course,

   b. has successfully completed the Partners, Directors and Senior Officers Qualifying Exam (CSI);

   c. is not engaged in trading on behalf of or advising public clients; and either:

      1) has at least seven continuous years of relevant experience in the securities industry or securities regulatory industry, two years of which must have been with an underwriter that is a member of a Canadian stock exchange or other self-regulatory body in Canada,

      2) has at least five continuous years of relevant experience with an underwriter that is a member of a Canadian stock exchange or other self-regulatory body in Canada or five continuous years of relevant experience with a securities regulatory body or Canadian exchange,

      3) is licensed by the Association of Investment Management and Research to use the designation "Chartered Financial Analyst" or "CFA" or is licensed to use the designation Chartered Business Valuator or "CBV", or

      4) has at least three years of relevant experience in the securities industry or securities regulatory industry and has other professional qualifications satisfactory to the Exchange.

8. The Sponsor shall employ or retain at least one individual with reasonably satisfactory education or experience in evaluating and assessing the technical aspects of businesses in the industry sector in respect of which the issuer in regard to whom the Sponsor Report is to be provided is, or is intended to be, engaged.

9. Subject to section 1(o) of Sponsorship Policy Statement 4, the Sponsor agrees to provide upon request by the Exchange, all and any part of the materials and information obtained or compiled in connection with the Review Procedures conducted.

(ii) at least once in the preceding 12 months.

Appointment of a sponsor

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities, must have appointed a sponsor when:

(a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or

(b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UK Listing Authority.

2.7 In the event of a breach of the listing rules by an issuer, the UK Listing Authority may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

2.8 An issuer must advise the UK Listing Authority in writing (copied to the sponsor) of the resignation or dismissal of any sponsor appointed by it. It must also, where a sponsor is dismissed, inform the UK Listing Authority in writing immediately of the reason for the dismissal.

Services to be provided by a sponsor

Nature of services

2.9 A sponsor must:

(a) in the case of any application for listing which requires the production of listing particulars, satisfy itself, to the best of its knowledge and belief, having made due and careful enquiry of the issuer and its advisers, that the issuer has satisfied all applicable conditions for listing and other relevant requirements of the listing rules;

(b) for each transaction in respect of which it acts as sponsor in accordance with the listing rules, submit to the UK Listing Authority at an early stage (and, in any event, no later than the date on which any documents in connection with the transaction are first submitted to the UK Listing Authority for approval) a confirmation of independence in the form set out in schedule 1A;

(c) provide to the UK Listing Authority any information or explanation known to it in such form and within such time limit as the UK Listing Authority may reasonably require for the purpose of verifying whether listing rules are being and have been complied with by it or by an issuer;

(d) take all reasonable steps to ensure that a confirmation or declaration required to be provided to the UK Listing Authority by a sponsor under the listing rules is correct and complete in all material respects; and

(e) advise the UK Listing Authority in writing without delay of its resignation or dismissal, giving details of any relevant facts or circumstances.

2.10 Where a sponsor (whether or not appointed by an issuer pursuant to paragraphs 2.6 or 2.7) gives guidance or advice to an issuer in relation to the application or interpretation of the listing rules, the sponsor:

(a) should ensure that the issuer is properly guided and advised as to the application or interpretation of the relevant listing rules; and

(b) should provide that service with due care and skill.

securities are traded on a regulated regularly operating open market; or

(b) an AIM company,

the sponsor must be satisfied that an accountants' report is not required (see paragraph 12.11).

Working capital

2.18 Where an issuer prepares listing particulars, a Class 1 circular or any circular containing proposals to be put to shareholders in general meeting concerning a refinancing or reconstruction of the issuer or its group which includes a working capital statement (see paragraph 6.E.16 or 6.L.10), the sponsor must report to the UK Listing Authority in writing that:

(a) it has obtained written confirmation from the issuer that the working capital available to the group is sufficient for its present requirements, that is for at least the next twelve months from the date of publication of the relevant document; and

(b) it is satisfied that this confirmation has been given after due and careful enquiry by the issuer and that the persons or institutions providing finance have stated in writing that the relevant financing facilities exist.

Profit forecast

2.19 Where a profit forecast or estimate (see paragraphs 12.21 to 12.27) appears in listing particulars, a Class 1 acquisition circular or any circular containing proposals to be put to shareholders in general meeting concerning a refinancing or reconstruction of the issuer or its group, the sponsor must report that it has satisfied itself that the forecast or estimate has been made after due and careful enquiry by the issuer. Such report must be included in the listing particulars or circular as appropriate.

Financial information

2.20 Where an issuer prepares listing particulars or a Class 1 circular the sponsor must:

(a) obtain written confirmation from the issuer that the financial information published in that document (other than that contained in the comparative table, the accountant's report or, in the case of a shelf document, published annual accounts) has been properly extracted from the issuer's accounting records; and

(b) be satisfied that this confirmation has been given after due and careful enquiry by the issuer.

In cases where a declaration under paragraph 2.12 is not required, the sponsor must confirm its satisfaction in this regard in writing to the UK Listing Authority.

Miscellaneous

2.21 The sponsor shall also provide the following services in relation to an issuer:

(a) communications with the UK Listing Authority;

(b) in the case of an application for listing, lodging with the UK Listing Authority all supporting documents;

(c) seeking the UK Listing Authority's approval of a shelf document and listing particulars; and

(d) the services referred to in the appendix to this chapter.

SCHEDULE 1A

SPONSOR'S CONFIRMATION OF INDEPENDENCE

To: UK Listing Authority ....20....

Full name of sponsor: .... ("the sponsor")

Full name of issuer: .... ("the issuer")

I,.................................., a partner/director of the above sponsor, or an officer duly authorised to give this declaration:

(a) hereby notify you that a director, partner or employee of the sponsor who is directly involved in the sponsor activities of the sponsor in relation to the issuer has an interest in a class of share, debt or loan capital of the issuer or any other company in the issuer's group;

Issuer or group company	Nature of holding	Holding	%	Name of beneficial owner

or

(b) hereby confirm that no director, partner or employee of the sponsor who is directly involved in the sponsor activities of the sponsor in relation to the issuer has any interest in any class of share, debt or loan capital of the issuer or any other company in the issuer's group;

and either

(c) hereby notify you of the following interests of the sponsor (and any company in the sponsor's group) (being all such interests of which the sponsor or the compliance department is aware) in the shares, debt or loan capital of the issuer or any other company in the issuer's group.

Issuer or group company	Nature of holding	Holding	%	Name of beneficial owner

(Holdings by exempt fund managers and exempt market makers' holdings may be excluded. Holdings of the type exempted from disclosure under Section 209 of the Companies Act 1985 may be excluded. "Group company" includes any company whose results are consolidated into the ultimate holding company's statutory accounts).

or

(d) hereby confirm that the above sponsor (or any company in the sponsor's group) has no interest (of which the sponsor or the compliance department is aware) in any class of share, debt or loan capital of the issuer or any other company in the issuer's group;

and either

(e) hereby notify you that the individual(s) named below, who is (are) a director, partner or employee of the sponsor (or any company in the sponsor's group) is either a director of the issuer, or a director of a company in the issuer's group;

Name	Employer	Company of which individual is a director

and confirm that the individual(s) will take no part in the sponsor's activities in relation to this transaction;

or

(f) hereby confirm that no director, partner or employee of the sponsor (or any company in the sponsor's group) has a directorship in the issuer, or any company in the issuer's group;

and either

(g) hereby notify you of any other matter referred to in the sponsors' eligibility criteria that we or our compliance department are aware of which may affect our independence from the issuer or any other company in the issuer's group;

or

(h) hereby confirm that there are no other matters referred to in the sponsors' eligibility criteria that we or our compliance department are aware of which may affect our independence from the issuer or any other company in the issuer's group.

SIGNED BY ....
Partner/director or duly authorised officer,
for and on behalf of

....
Name of sponsor

Confirmation of independence by the Compliance Department

I,.. being a duly authorised compliance officer of the above sponsor, hereby confirm that I am satisfied that:

- the information provided on this confirmation of independence is accurate and complete; and

- where interests or directorships or other matters have been notified to you in (a), (c), (e) or (g) above, appropriate procedures are in place to avoid a conflict of interest between the sponsor's duties under the listing rules and those interests or directorships.

SIGNED BY..

Compliance Officer
for and on behalf of

....
Name of sponsor

Notes deleted – December 2001

Sponsorship Policy Statement 3

Minimum Review Required for Preparation of Sponsor Report

General

1. The scope and extent of Due Diligence considered appropriate will vary in each circumstance. The Exchange will rely heavily upon the assumption that a Sponsor has the expertise and ability to determine what constitutes appropriate Due Diligence and to fulfill its responsibilities in that regard. The Due Diligence process should provide the Sponsor with a thorough understanding of the business of the listed issuer and the risks associated with the listed issuer's business. The understanding gained from this process puts the Sponsor in a better position to decide whether to sponsor the listed issuer and to sign the Sponsor Report.

Use of Experts

2. Where the Sponsor, in its professional judgment determines that particular experience or technical expertise is necessary to conduct the appropriate Due Diligence or the required Review Procedures, the Sponsor is required to ensure that such experience or technical expertise exists either among the Corporate Finance Persons or the Sponsor may rely upon an outside expert consultant, or specialist (an "Expert") to prepare an assessment report or technical report on which the Sponsor can rely. Where the Sponsor employs in-house, an individual with the requisite experience or technical expertise, the Sponsor may rely upon the services of such person. The Sponsor may also rely upon the professional services of any accounting firm, law firm, or search house (a "Professional") to assist it with the conduct of its Review Procedures. However, it is the responsibility of the Sponsor to take reasonable steps to .confirm that any employee, Expert or Professional retained or relied upon, possesses the appropriate business or other experience and education necessary to assess the business, products, services or technology or to otherwise perform the services for which they were retained. The Sponsor is also responsible for confirming that any Expert or Professional retained by the Sponsor or upon whom the Sponsor may rely, is not a related party, connected party, related issuer or connected issuer of the listed issuer, or does not otherwise have a relationship with the listed issuer that may lead a reasonable person to conclude that the Expert's or Professional's independence or objectivity could be compromised. The Sponsor must confirm that any Expert does not have any direct, indirect or contingent interest in any of the securities or assets of the listed issuer, its Insiders, or any Associates or Affiliates of the listed issuer.

(b) Section 1032 will not apply where directors make a statement in reliance on an expert but do not cite the expert in any of the ways mentioned below: [PN 55.11].

(c) A firm or body corporate can be an expert for the purposes of s1032: [PN 55.13].

(d) If the prospectus holds someone out to be an expert, the ASC will require that person's consent without inquiring if the person is in fact an expert: [PN 55.14]–[PN 55.16].

(e) Section 1032 will apply even where the citation of an expert is only apparent when different parts of the prospectus are read together: [PN 55.17]–[PN 55.19].

(f) Section 1032 does not require the consent of an expert to the statement of some other person which is a deduction from a statement made and published with the consent of the expert: [PN 55.20]–[PN 55.25].

(g) Section 1032 and related provisions require the prospectus to name the expert ([PN 55.32]) although s1032 applies whether or not the expert is named: [PN 55.12].

(h) The ASC has provided class order relief for the citing of:

  (i) government experts (see Class Order [CO 94/1989] and [PN 55.34]–[PN 55.37]; and

  (ii) certain text book or journal statements (see Class Order [CO 94/1989] and [PN 55.42]–[PN 55.44].

(i) The ASC will consider providing class order relief for the citing of ratings of ratings agencies previously approved by the ASC: [PN 55.38]–[PN 55.41].

(j) The ASC may provide relief where the statement of an expert should be included but it is impracticable to obtain the expert's consent: [PN 55.45]–[PN 55.52].

The practice note also sets out the ASC's requirements on compliance with s1021(6), which covers the interests of directors and experts: [PN 55.54]–[PN 55.64].

[PN 55.3] References to sections, subsections, and paragraphs in this practice note are references to the Law unless otherwise specified. References to regulations are references to the Corporations Regulations unless otherwise specified.

Background: expert's consent under s1032

[PN 55.4] Section 1032 provides that a person shall not issue a prospectus which includes a statement purporting:

(a) to have been made by an expert; or

(b) to be based on a statement made by an expert,

unless:

(c) the expert has given written consent to the issue of the prospectus with that statement included in the form and context in which it appears; and

(d) the prospectus states that the expert has given and not withdrawn consent.

[PN 55.5] Section 1032 equally applies to a prospectus made under s1022AA and to a secondary trading notice under s1043C (s1043C(5), reg 7.12.08B and Sch 9A of the Regulations). However, s1032 does not apply in relation to an excluded issue, offer or invitation (s1017).

[PN 55.6] Section 1032 is an evidentiary provision supporting several other provisions, as follows.

(a) First, s1006(2)(e) gives effect to the following policy referred to by the Cohen Committee ("Report of the Committee on Company Law Amendment", London, HMSO, 1945, para 44):

> "an expert who makes a report and authorises the inclusion of that report or a summary thereof in a prospectus should be liable to those who subscribe on the faith of that prospectus unless he can show that he had reasonable ground for believing the statement to be true up to the time of the allotment of the shares or debentures comprised in the offer".

(b) Secondly, directors who take proper precautions have a defence for including a statement to which an expert has consented (s1008A(2)).

(c) Thirdly, if an expert:

  (i) is mentioned in a prospectus only as the authority for a certain statement; and

  (ii) has given the requisite consent under s1032,

  the expert's liability for omissions in respect of the prospectus is limited to that statement (s1009(2)).

  Accordingly, experts, whose only role in relation to a prospectus is to consent to the inclusion of certain material, can control and limit their liability by being named as consenting to the inclusion of that material under s1032.

(d) Fourthly, if an expert is cited in a prospectus without consent being obtained under s1032, the directors, and any other persons authorising the issue of the prospectus, are liable to indemnify the expert (s1012).

Year 2002

	Stock Code	Company Name at time of listing	Date of Prospectus (dd/mm/yy	Date of Listing (dd/mm/yy)	Sponsor(s)	Reporting Accountants	Valuer(s)
1	612	China Investment Fund Co Ltd	18/12/01	02/01/02	Baron Capital Ltd	Deloitte Touche Tohmatsu	N/A
2	896	Hanison Construction Holdings Ltd	31/12/01	10/01/02	Dao Heng Securities Ltd/ Deloitte & Touche Corporate Finance Ltd	Deloitte Touche Tohmatsu	RHL Appraisal Ltd
3	1073	China Agrotech Holdings Ltd	14/12/01	14/01/02	ICEA Capital Ltd	Arthur Andersen & Co	Sallmanns (Far East)
4	746	Lee & Man Handbag International Ltd	21/12/01	16/01/02	AMS Corporate Finance Ltd	Deloitte Touche Tohmatsu	Sallmanns (Far East) Ltd
5	1129	Sky Hawk computer Group Holdings Ltd	08/01/02	17/01/02	Polaris Securities (Hong Kong) Ltd/ CSC Asia Ltd/ Baritis Securities (Hong Kong) Ltd	KPMG	Vigers Hong Kong Ltd
6	812	Tanrich Financial Holdings Ltd	21/01/02	30/01/02	Platinum Securities Co Ltd	PricewaterhouseCoopers	Sallmanns (Far East)
7	1126	Dream International Ltd	29/01/02	07/02/02	TIS Securities (HK) Ltd	KPMG	Vigers Hong Kong Ltd
8	1002	V.S. International Group Ltd	28/01/02	08/02/02	DBS Asia Capital Ltd	KPMG	DTZ Debenham Tie Leung Ltd
9	1076	First National Foods Holdings Ltd	30/01/02	11/02/02	JS Cresvale International Ltd	Arthur Andersen & Co/ Charles Chan Ip & Fung CPA	Sallmanns (Far East) Ltd
10	130	Moiselle International Holdings Ltd	31/01/02	11/02/02	Dao Heng Securities Ltd	KPMG	DTZ Debenham Tie Leung Ltd
11	228	Hon Po Group (Lobster King) Ltd	31/01/02	18/02/02	Anglo Chinese Corporate Finance, Ltd/ International Capital Network	Ernst & Young	FPD Savills (Hong Kong) Ltd
12	810	China Treasure (Greater China) Investments Ltd	19/02/02	28/02/02	Dao Heng Securities Ltd	Ernst & Young	N/A
13	901	Radford Capital Investment Ltd	15/02/02	28/02/02	Asia Financial Capital Ltd/ CU Corporate Finance Ltd	HLM & Co	N/A
14	209	Sewco International Holdings Ltd	22/02/02	06/03/02	First Shanghai Capital Ltd	Ernst & Young	Castores Magi Surveyors Ltd
15	1161	Water Oasis Group Ltd	27/02/02	11/03/02	Anglo Chinese Corporate Finance, Ltd/ International Capital Network	PricewaterhouseCoopers	American Appraisal Hongkong Ltd
16	916	Fu Cheong International Holdings Ltd	13/03/02	27/03/02	Kim Eng Capital (Hong Kong) Ltd	Ernst & Young	DTZ Debenham Tie Leung Ltd
17	157	Natural Beauty Bio-Technology Ltd	19/03/02	28/03/02	Core Pacific-Yamaichi Capital Ltd/ Barits Securities (Hong Kong) Ltd	Arthur Andersen & Co	Vigers Hong Kong Ltd
18	646	Yardway Group Ltd	19/03/02	28/03/02	Dao Heng Securities Ltd	KPMG	Sallmanns (Far East)
19	1186	Value Partners China Greenchip Fund Ltd	03/04/02	08/04/02	CLSA Ltd	PricewaterhouseCoopers	N/A
20	0223	Kenfair International (Holdings) Ltd	25/03/02	10/04/02	Baron Capital Ltd/ Ka Wah Capital Ltd/ KGI Asia Ltd	Ernst & Young	LCH (Asia-Pacific) Surveyors Ltd
21	2389	Wang Sing International Holdings Group Ltd	16/04/02	26/04/02	Sun Hung Kai International Ltd/ Deloitte & Touche Corporate	Deloitte Touche Tohmatsu	DTZ Debenham Tie Leung Ltd
22	0928	Tack Fat Group International Ltd	16/04/02	29/04/02	Guotai Junan Capital Ltd/ Barits Securities (HK) Ltd/ Taiwan Securities (HK) Co Ltd	KPMG	American Appraisal Hongkong Ltd
23	0582	Greenfield Chemical Holdings Ltd	18/04/02	30/04/02	Sun Hung Kai International Ltd	Deloitte Touche Tohmatsu	Castores Magi Surveyors Ltd
24	0856	VST Holdings Ltd	29/04/02	09/05/02	Guotai Junan Capital Ltd	Arthur Andersen & Co	LCH (Asia-Pacific) Surveyors Ltd
25	0915	Linmark Group Ltd	30/04/02	10/05/02	DBS Asia Capital Ltd/ SBI E2-Capital (HK) Ltd	Deloitte Touche Tohmatsu	DTZ Debenham Tie Leung Ltd
26	1198	Chitaly Holdings Ltd	02/05/02	15/05/02	Kingston Corporate Finance Ltd	Ernst & Young	Castores Magi Surveyors Ltd
27	0766	Sino Prosper Holdings Ltd	30/04/02	15/05/02	Hantec Capital Ltd/ Get Nice Capital Ltd/ Barits Securities (Hong	Deloitte Touche Tohmatsu	Castores Magi Surveyors Ltd
28	2688	Xinao Gas Holdings Ltd	23/04/02	03/06/02	N M Rothschild & Sons (HK) Ltd	Deloitte Touche Tohmatsu	Chesterton Petty Ltd
29	0169	China Fair Land Holdings Ltd	22/05/02	04/06/02	Sun Hung Kai International Ltd / Deloitte & Touche Corporate	Deloitte Touche Tohmatsu	Chesterton Petty Ltd
30	0064	Get Nice Holdings Ltd	24/05/02	06/06/02	AMS Corporate Finance Ltd	Deloitte Touche Tohmatsu	Insignia Brooke
31	0356	Incutech Investments Ltd	27/05/02	07/06/02	Upbest Securities Co. Ltd	PricewaterhouseCoopers	N/A
32	2323	Topsearch International (Holdings) Ltd	11/06/02	21/06/02	DBS Asia Capital Ltd	Ernst & Young	DTZ Debenham Tie Leung Ltd
33	249	Harbin Brewery Group Ltd	18/06/02	27/06/02	First Shanghai Capital Ltd / Cazenove Asia Ltd	Ernst & Young	Vigers Hong Kong Ltd
		"	"	"	"	"	"
34	691	Global Trend Intelligent Technologies Ltd	18/06/02	28/06/02	Kim Eng Capital (Hong Kong) Ltd / CEF Capital Ltd / GC Capital (Asia)	Ernst & Young	DTZ Debenham Tie Leung Ltd
35	01094	Sunny Global Holdings Ltd	21/06/02	03/07/02	Oriental Patron Asia Ltd	Grant Thornton	DTZ Debenham Tie Leung Ltd
36	00628	Teem Foundation Group Ltd	12/07/02	24/07/02	South China Capital Ltd	Ernst & Young	BMI Appraisals Ltd
37	02388	BOC Hong Kong (Holdings) Ltd	15/07/02	25/07/02	BOCI Asia Ltd/ Goldman Sachs (Asia) LLC/ UBS Warburg Asia Ltd	PricewaterhouseCoopers	Chesterton Petty Ltd
		"	"	"	"	"	"
38	01211	BYD Co Ltd - H Shares	22/07/02	31/07/02	BNP Paribas Peregrine Capital Ltd	PricewaterhouseCoopers	S. H. Ng & Co Ltd
39	00703	Surge Recreation Holdings Ltd	31/07/02	15/08/02	Celestial Capital Ltd	Ernst & Young	Chesterton Petty Ltd

Year 2002

	Stock Code	Company Name at time of listing	Date of Prospectus (dd/mm/yy)	Date of Listing (dd/mm/yy)	Sponsor(s)	Reporting Accountants	Valuer(s)
40	01217	Sino Technology Investments Co L	16/08/02	28/08/02	Kingston Corporate Finance Ltd	HLB Hodgson Impey Cheng	N/A
41	00364	Huafeng Environmental Protection	20/08/02	30/08/02	Deloitte & Touche Corporate Finance Ltd	Ernst & Young	BMI Appraisals Ltd
42	00860	Ming Fung Jewellery Group Ltd	22/08/02	03/09/02	Kingston Corporate Finance Ltd	Ernst & Young	Castores Magi Surveyors Ltd
43	02898	Long Far Pharmaceutical Holdings	27/08/02	05/09/02	Shenyin Wanguo Capital (HK) Ltd	KPMG	BMI Appraisals Ltd
44	00912	Suga International Holdings Ltd	06/09/02	18/09/02	Oriental Patron Asia Ltd	PricewaterhouseCoopers	DTZ Debenham Tie Leung Ltd
45	01226	Friedmann Pacific Greater China I	10/09/02	19/09/02	TIS Securities (HK) Ltd	RSM Nelson Wheeler	N/A
46	01227	First Asia Capital Investment Ltd	17/09/02	27/09/02	Kingsway Capital Ltd	PKF	N/A
47	00395	Asia Zirconium Ltd	17/10/02	28/10/02	Tai Fook Capital Ltd	RSM Nelson Wheeler	Vigers Hong Kong Ltd
48	02312	Golden 21 Investment Holdings	15/10/02	28/10/02	CEF Capital Ltd	Ernst & Young	N/A
49	00708	People's Food Holdings Ltd	21/10/02	28/10/02	UOB Asia (Hong Kong) Ltd/CLSA Equity Capital Markets Ltd	Ernst & Young	LCH (Asia-Pacific) Surveyors Ltd
50	02888	Standard Chartered PLC	21/10/02	31/10/02	Goldman Sachs (Asia) LLC/Cazenove Asia Ltd	KPMG Audit Plc/ KPMG	Jones Lang LaSalle Ltd/ Cluttons/ Insignia Brooke (India) Pvt. Ltd/ R. Propiedades S.A.C. (trading as Colliers International Peru)/ Don & Wright
	"	"	"	"	"	"	"
51	00221	LeRoi Holdings Ltd	23/10/02	07/11/02	Kingston Corporate Finance Ltd	Ernst & Young	BMI Appraisals Ltd
52	01142	Rontex International Holdings Ltd	28/10/02	08/11/02	CSC Asia Ltd/ First Asia Finance Group Ltd	HLB Hodgson Impey Cheng	DTZ Debenham Tie Leung Ltd
53	02309	Grandtop International Holdings Ltd	30/10/02	12/11/02	CSC Asia Ltd	HLB Hodgson Impey Cheng	DTZ Debenham Tie Leung Ltd
54	00850	Wing Shing Chemical Holdings Ltd	31/10/02	13/11/02	Dao Heng Securities Ltd	PricewaterhouseCoopers/ Lau & Au Yeung CPA Ltd	LCH (Asia-Pacific) Surveyors Ltd
55	00379	PME Group Ltd	31/10/02	13/11/02	Emperor Capital Ltd	Deloitte Touche Tohmatsu	Castores Magi Surveyors Ltd
56	00728	China Telecom Corporation Ltd - H Shares	06/11/02	15/11/02	China International Capital Corporation (Hong Kong) Ltd/Merrill Lynch Far East Ltd/Morgan Stanley Dean Witter	KPMG	Chesterton Petty Ltd
	"	"	"	"	"	"	"
57	00357	Hainan Meilan Airport Co Ltd - H Shares	06/11/02	18/11/02	The Hongkong and Shanghai Banking Corporation Ltd	Ernst & Young	Vigers Hong Kong Ltd
	"	"	"	"	"	"	"
58	02883	China Oilfield Services Ltd - H Shares	11/11/02	20/11/02	Credit Suisse First Boston (Hong Kong) Ltd/Merrill Lynch Far East	Ernst & Young	Sallmanns (Far East) Ltd
	"	"	"	"	"	"	"
59	0587	Hua Han Bio-Pharmaceutical Holdings Ltd	28/11/02	10/12/02	Deloitte & Touche Corporate Finance Ltd/ Guotai Junan Capital	Ernst & Young	DTZ Debenham Tie Leung Ltd
60	0607	Warderly International Holdings Ltd	29/11/02	18/12/02	CSC Asia Ltd/ Access Capital Ltd	Deloitte Touche Tohmatsu	DTZ Debenham Tie Leung Ltd

Remarks : (a) Hong Kong Offers / (b) International Offers

Funds Raised (HK$)	IPO Subscription Price (HK$)	
$30,000,000	0.5000	
N/A - By introductior	N/A	
N/A - By introductior	N/A	
N/A - By introductior	N/A	
$57,500,000	0.5000	
$50,000,000	1.0000	
$195,000,000	1.2000	
$94,600,000	0.4300	
$146,000,000	0.7300	
$70,000,000	1.0000	
$50,000,000	0.2000	
$100,000,000	1.0000	
$126,360,000	0.1800	
$55,000,000	0.5500	
$88,128,000	1.0800	
$60,000,000	0.2000	
$275,000,000	0.5500	
$50,000,000	0.5000	
$305,000,000	10.0000	
$82,800,000	1.0000	
$79,800,000	0.9500	
$141,680,000	0.3850	
$50,000,000	0.8000	
$54,250,000	0.2500	
$301,392,000	1.6800	
$57,500,000	1.0000	
$50,000,000	0.2500	
N/A - By introductior	N/A	
$96,600,000	1.0000	
$75,000,000	1.0000	
$30,000,000	1.0000	
$253,920,000	1.3800	
$37,752,000	1.5600	(a)
$339,768,000	1.5600	(b)
$75,750,000	0.7500	
$50,000,000	0.5000	
$50,400,000	0.3000	
$6,495,949,900	8.0750	(a)
$14,020,465,250	8.5000	(b)
$1,637,025,000	10.9500	
$51,000,000	0.3400	

Funds Raised (HK$)	IPO Subscription Price (HK$)	
$16,500,000	0.2500	
$80,000,000	0.5000	
$65,520,000	0.3600	
$51,000,000	0.3400	
$50,000,000	1.0000	
$28,100,000	0.5000	
$22,000,000	0.5000	
$80,000,000	0.8000	
$100,000,000	1.0000	
N/A - By introduction	N/A - By introduction	
$321,694,800	84.0000	(a)
$2,234,828,400	84.0000	(b)
$50,600,000	0.2500	
$60,000,000	1.0000	
$60,000,000	1.0000	
$51,000,000	0.5000	
$50,000,000	0.2500	
$555,395,400	1.4700	(a)
$10,552,512,600	1.4700	(b)
$76,242,600	3.7800	(a)
$686,183,400	3.7800	(b)
$672,665,280	1.6800	(a)
$1,905,886,080	1.6800	(b)
$117,040,000	0.7700	
$75,000,000	0.8000	

♦New listings

Year : 2002 (up to 2002/12/20)

Listing date	Stock code	Company	Offer price (HK$)	Subscription ratio[1] (times)	Funds raised (HK$)	No. of outstanding shares at listing	MC at listing[2] (HK$)	Business activity	Place of incorporation	Listing method	Sponsors	Reporting accountant
/1/2002	8159	Glory Mark Hi-Tech (Holdings) Ltd	0.43	8.50	34,400,000	320,000,000	137,600,000	Computer peripherals	Cayman Islands	Offer for subscription Offer for placing	Kingston Corporate Finance Ltd	Deloitte Touche Tohmatsu
/1/2002	8077	Infoserve Technology Corp	0.79	n.a.	50,718,000	536,303,456	423,679,730	Internet solution	Cayman Islands	Offer for placing	Anglo Chinese Corporate Finance, Ltd	Arthur Andersen & Co
/1/2002	8137	Jessica Publications Ltd	0.25	n.a.	12,661,997	506,479,876	126,619,969	Publication	Cayman Islands	Offer for placing	Deloitte & Touche Corporate Finance Ltd	Arthur Andersen & Co
1/1/2002	8123	Stockmartnet Holdings Ltd	0.38	n.a.	96,170,400	761,094,000	289,215,720	Securities services	Cayman Islands	Offer for placing	Worldsec Corporate Finance Ltd	Deloitte Touche Tohmatsu
24/1/2002	8160	MediaNation Inc.	2.60	0.20	445,603,600	605,058,995	1,573,153,387	Advertising	Cayman Islands	Offer for subscription Offer for placing	Deutsche Bank AG	Arthur Andersen & Co
31/1/2002	8109	Creative Energy Solutions Holdings Ltd	0.90	n.a.	103,500,000	415,000,000	373,500,000	Energy mgt solution	Bermuda	Offer for placing	Celestial Capital Ltd	Charles Chan, IP & Fung CPA Ltd
31/1/2002	8072	Media Partners International Holdings Inc	1.10	n.a.	235,180,000	853,800,000	939,180,000	Advertising	Cayman Islands	Offer for placing	BNP Paribas Peregrine Capital Ltd	KPMG
/2/2002	8199	Vitop Bioenergy Holdings Ltd	0.31	n.a.	55,583,000	650,000,000	201,500,000	Healthcare products	Cayman Islands	Offer for sale Offer for placing	UOB Asia (Hong Kong) Ltd	Ernst & Young
/2/2002	8166	Linefan Technology Holdings Ltd	0.24	n.a.	52,800,000	929,090,000	222,981,600	Enterprise software	Cayman Islands	Offer for placing	Shenyin Wanguo Capital (H.K.) Ltd	Deloitte Touche Tohmatsu Victor Ling, Tang & Partners
/2/2002	8193	Vital BioTech Holdings Ltd	0.45	n.a.	135,000,000	1,200,000,000	540,000,000	Pharmaceutical	Cayman Islands	Offer for sale Offer for placing	Core Pacific - Yamaichi Capital Ltd	PricewaterhouseCoopers
/2/2002	8190	Golding Soft Ltd	0.30	n.a.	75,000,000	1,000,000,000	300,000,000	Enterprise software	Cayman Islands	Offer for sale Offer for placing	Core Pacific - Yamaichi Capital Ltd	Ernst & Young
9/2/2002	8176	Blu Spa Holdings Ltd	0.30	n.a.	43,050,000	410,000,000	123,000,000	Personal care	Cayman Islands	Offer for sale Offer for placing	DBS Asia Capital Ltd	Deloitte Touche Tohmatsu
27/2/2002	8096	ThinSoft (Holdings) Inc	0.40	n.a.	50,000,000	500,000,000	200,000,000	Thin Computing Solutions	Cayman Islands	Offer for placing	ICEA Capital Ltd	Ernst & Young
28/2/2002	8197	Northeast Tiger Pharmaceutical Co Ltd - H Shares	0.26	n.a.	53,820,000	207,000,000	53,820,000	Pharmaceutical	PRC	Offer for placing	First Shanghai Capital Ltd	Arthur Andersen & Co
/3/2002	8163	Tradeeasy Holdings Ltd	0.50	n.a.	50,000,000	400,000,000	200,000,000	E-commerce	Cayman Islands	Offer for sale Offer for placing	Hantec Capital Ltd	Ernst & Young
/3/2002	8085	New Chinese Medicine Holdings Ltd	0.60	104.00	41,400,000	469,000,000	281,400,000	Pharmaceutical	Cayman Islands	Offer for subscription Offer for placing	Kingston Corporate Finance Ltd	Deloitte Touche Tohmatsu
26/3/2002	8172	Satellite Devices Corporation	0.40	n.a.	59,606,572	576,000,000	230,400,000	GPS Provider	Cayman Islands	Offer for sale Offer for placing	ICEA Capital Ltd	PricewaterhouseCoopers Graham H.Y. Chan & Co
/5/2002	8106	Zheda Lande Scitech Ltd - H Shares	0.83	n.a.	93,063,750	112,125,000	93,063,750	Telecom Solutions	PRC	Offer for placing	Core Pacific - Yamaichi Capital Ltd	Arthur Andersen & Co
/5/2002	8173	Panorama International Holdings Ltd	0.33	n.a.	33,000,000	400,000,000	132,000,000	Video Programmes Distribution	Cayman Islands	Offer for sale Offer for placing	First Shanghai Capital Ltd	RSM Nelson Wheeler

♦New listings

Year : 2002 (up to 2002/12/20)

Listing date	Stock code	Company	Offer price (HK$)	Subscription ratio[1] (times)	Funds raised (HK$)	No. of outstanding shares at listing	MC at listing[2] (HK$)	Business activity	Place of Incorporation	Listing method	Sponsors	Reporting accountant
10/5/2002	8143	Grandy Applied Environment Technology Corporation	0.28	241.30	64,400,000	830,000,000	232,400,000	Environmental Protection	Cayman Islands	Offer for subscription Offer for sale Offer for placing	Hantec Capital Ltd	Ernst & Young
14/5/2002	8212	Aptus Holdings Ltd	0.50	n.a.	70,010,000	618,260,000	309,130,000	Product Commercialisation Serv	Cayman Islands	Offer for sale Offer for placing	Kingston Corporate Finance Ltd	Ernst & Young
17/5/2002	8198	Wafer Systems Ltd	0.55	n.a.	32,984,600	282,268,000	155,247,400	Network Infrastructure	Cayman Islands	Offer for sale Offer for placing	CSC Asia Ltd	Arthur Andersen & Co
…1/5/2002	8136	FX Creations International Holdings Ltd	0.26	1.05	21,060,000	400,000,000	104,000,000	Retails & Distribution	Cayman Islands	Offer for subscription Offer for placing	Kingston Corporate Finance Ltd	Ernst & Young
…/6/2002	8031	Kinetana International Biotech Pharma Ltd	0.65	143.20	78,000,000	520,000,000	338,000,000	Pharmaceutical	Cayman Islands	Offer for subscription Offer for placing	AMS Corporate Finance Ltd	Ernst & Young
17/6/2002	8126	G. A. Holdings Ltd	0.50	n.a.	50,000,000	400,000,000	200,000,000	Distribution of Vehicles	Cayman Islands	Offer for sale Offer for placing	JS Cresvale International Ltd Celestial Capital Ltd	Arthur Andersen & Co
…8/6/2002	8189	Tianjin TEDA Biomedical Engineering Co Ltd - H Shares	0.98	n.a.	98,000,000	100,000,000	98,000,000	Medical & health	PRC	Offer for placing	CSC Asia Ltd	Arthur Andersen & Co
…8/6/2002	8067	Changchun Da Xing Pharmaceutical Co Ltd - H Shares	0.45	n.a.	72,450,000	161,000,000	72,450,000	Pharmaceutical	PRC	Offer for placing	CSC Asia Ltd Kingsway Capital Ltd	Horwath Hong Kong CPA Ltd
…8/6/2002	8208	Changmao Biochemical Engineering Co Ltd - H Shares	0.55	n.a.	101,035,000	183,700,000	101,035,000	Chemical Product	PRC	Offer for placing	Tai Fook Capital Ltd	PricewaterhouseCoopers Henny Wee & Co
2/7/2002	8011	Kanstar Environmental Technology Holdings Ltd	0.20	n.a.	40,000,000	800,000,000	160,000,000	Paper Manufacturer	Cayman Islands	Offer for sale Offer for placing	South China Capital Ltd	Deloitte Touche Tohmatsu
5/7/2002	8221	Lee's Pharmaceutical Holdings Ltd	0.40	n.a.	36,000,000	289,225,000	115,690,000	Pharmaceutical	Cayman Islands	Offer for sale Offer for placing	Asia Investment Capital Ltd CSC Asia Ltd	HLM & Co
6/7/2002	8222	CK Life Sciences Int'l, (Holdings) Inc	2.00	121.00	2,932,500,000	6,407,000,000	12,814,000,000	Biotechnology	Cayman Islands	Offer for subscription Offer for placing	Salomon Smith Barney Hong Kong Ltd	Deloitte Touche Tohmatsu
8/7/2002	8155	Capital Publications Ltd	0.30	n.a.	15,194,400	506,498,344	151,949,503	Publication	Cayman Islands	Offer for placing	MasterLink Securities (HK) Corp Ltd	PricewaterhouseCoopers
9/7/2002	8226	Sonavox International Holdings Ltd	0.50	n.a.	40,000,000	320,000,000	160,000,000	Audio Products	Cayman Islands	Offer for placing	Deloitte & Touche Corporate Finance Ltd	K.L. Lee & Partners C.P.A. Ltd
…6/7/2002	8229	Tungda Innovative Lighting Holdings Ltd	0.25	n.a.	63,750,000	888,000,000	222,000,000	Lighting Products	Cayman Islands	Offer for sale Offer for placing	Core Pacific - Yamaichi Capital Ltd	Deloitte Touche Tohmatsu
…9/7/2002	8177	Sino Stride Technology (Holdings) Ltd	0.33	n.a.	112,266,000	1,084,090,000	357,749,700	System developer	Cayman Islands	Offer for sale Offer for placing	South China Capital Ltd	Ernst & Young
…1/7/2002	8171	QUASAR Communication Technology Holdings Ltd	0.65	n.a.	67,337,400	406,251,500	264,063,475	Cellular phone solutions	Cayman Islands	Offer for sale	Shenyin Wanguo Capital (H.K.) Ltd	PricewaterhouseCoopers

♦New listings

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										Offer for placing		
11/7/2002	8205	Shanghai Jiaoda Withub Information Industrial Co Ltd - H Shares	0.66	n.a.	87,120,000	132,000,000	87,120,000	System developer	PRC	Offer for sale Offer for placing	Tai Fook Capital Ltd	BDO International
/8/2002	8167	B&S Entertainment Holdings Ltd	0.50	n.a.	50,000,000	400,000,000	200,000,000	Entertainment	Cayman Islands	Offer for sale Offer for placing	Kim Eng Capital (Hong Kong) Ltd	Ernst & Young
2/8/2002	8202	Inno-Tech Holdings Ltd	0.28	14.50	33,600,000	480,000,000	134,400,000	Software solution	Bermuda	Offer for subscription Offer for sale Offer for placing	Hantec Capital Ltd	KPMG
2/8/2002	8039	Loulan Holdings Ltd	0.50	n.a.	50,000,000	400,000,000	200,000,000	Wine-making business	Cayman Islands	Offer for placing	TIS Securities (HK) Ltd Kim Eng Capital (Hong Kong) Ltd	Ernst & Young
3/8/2002	8231	Shanghai Fudan-Zhangjiang Bio-Pharmaceutical Co Ltd - H Share	0.80	n.a.	158,400,000	198,000,000	158,400,000	Pharmaceutical	PRC	Offer for sale Offer for placing	Guotai Junan Capital Ltd	PricewaterhouseCoopers
16/8/2002	8057	Datasys Technology Holdings Ltd	0.38	n.a.	65,360,000	800,000,000	304,000,000	System developer	Cayman Islands	Offer for placing	CSC Asia Ltd	Ernst & Young
6/8/2002	8130	Milkyway Image Holdings Ltd	0.30	1.04	43,764,000	560,000,000	168,000,000	Entertainment	Cayman Islands	Offer for subscription Offer for sale Offer for placing	Hantec Capital Ltd	Moores Rowland
0/9/2002	8201	Wanyou Fire Safety Technology Holdings Ltd	0.40	n.a.	200,000,000	2,000,000,000	800,000,000	Fire Services Systems Provider	Cayman Islands	Offer for sale Offer for placing	Core Pacific - Yamaichi Capital Ltd	Deloitte Touche Tohmatsu
/10/2002	8196	Launch Tech Co Ltd - H Shares	0.72	n.a.	79,200,000	110,000,000	79,200,000	Automobile related services	PRC	Offer for placing	Core Pacific - Yamaichi Capital Ltd	Deloitte Touche Tohmatsu
7/10/2002	8228	Vertex Communications & Technology Group Ltd	0.40	n.a.	49,220,000	492,196,232	196,878,493	IT infrastructure	Cayman Islands	Offer for placing	Kingsway Capital Ltd	Deloitte Touche Tohmatsu
9/10/2002	8099	Zhengzhou Gas Co Ltd - H Shares	0.25	n.a.	137,665,000	550,660,000	137,665,000	Energy	PRC	Offer for sale Offer for placing	South China Capital Ltd	Ernst & Young
/11/2002	8211	Zhenjiang Yonglong Enterprises Co, Ltd - H Shares	0.26	n.a.	65,000,000	250,000,000	65,000,000	Textile	PRC	Offer for placing	Kingsway Capital Ltd Guotai Junan Capital Ltd	Deloitte Touche Tohmatsu KLL Associates CPA Ltd
2/11/2002	8156	Bee & Bee Natural Life Products Ltd	0.46	77.98	51,520,000	400,000,000	184,000,000	Food Products	Cayman Islands	Offer for subscription Offer for sale Offer for placing	Guotai Junan Capital Ltd	Deloitte Touche Tohmatsu
2/11/2002	8220	Vaso Digital International Holdings Ltd	0.25	n.a.	26,325,000	520,000,000	130,000,000	Digital AV Products	Cayman Islands	Offer for sale Offer for placing	Kingston Corporate Finance Ltd	Ernst & Young
3/11/2002	8060	Global Link Communications Holdings Ltd	0.36	n.a.	58,500,000	650,000,000	234,000,000	Telecommunications Solutions	Cayman Islands	Offer for sale Offer for placing	Kingsway Capital Ltd	RSM Nelson Wheeler
5/11/2002	8206	HK6 Holdings Ltd	0.30	4.16	30,000,000	400,000,000	120,000,000	Financial Information	Cayman Islands	Offer for subscription	Tai Fook Capital Ltd	Glass Radcliffe Chan

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										Offer for sale Offer for placing		
15/11/2002	8239	MP Logistics International Holdings Ltd	0.40	n.a.	20,000,000	300,000,000	120,000,000	Logistics Services	Cayman Islands	Offer for placing	Kingston Corporate Finance Ltd	Ernst & Young
29/11/2002	8192	AGL MediaTech Holdings Ltd	0.25	n.a.	30,000,000	480,000,000	120,000,000	Content distribution solution	Cayman Islands	Offer for sale Offer for placing	South China Capital Ltd	Deloitte Touche Tohmatsu
12/12/2002	8235	CCID Consulting Co Ltd - H Shares	0.25	n.a.	52,250,000	209,000,000	52,250,000	Consulting Services for IT Industry	PRC	Offer for sale Offer for placing	Kingsway Capital Ltd	Ernst & Young
12/12/2002	8236	Powerleader Science & Technology Co Ltd - H Shares	0.28	n.a.	61,600,000	220,000,000	61,600,000	Server Solution Provider	PRC	Offer for placing	Core Pacific - Yamaichi Capital Ltd	PricewaterhouseCoopers
20/12/2002	8256	Netel Technology (Holdings) Ltd	1.00	n.a.	45,600,000	380,000,000	380,000,000	Telecom Services	Cayman Islands	Offer for sale Offer for placing	Tai Fook Capital Ltd	PricewaterhouseCoopers Lau & Au Yeung C.P.A. Ltd
Total		57			7,010,668,719							

1. Subscription ratio of the New Issue on WHITE and YELLOW application forms for New Issue Shares.
2. MC (Market Capitalisation) at listing is calculated by multiplying the number of outstanding shares at listing by the offer price.

国泰君安
GUOTAI JUNAN

STRICTLY PRIVATE AND CONFIDENTIAL

31st July, 2003

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& by hand

The Securities and Futures Commission
The Corporate Finance Division
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By fax no.: 2810 5385
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Dear Sir/Madam,

Re: Consultation Paper (the "Consultation Paper") on the Regulation of Sponsors and Independent Financial Advisers

We refer to the Consultation Paper provided in May 2003. We would like to give you our general view thereon and address the summary of questions in Annex 3 in the section headed "Proposals under the Consultation Paper".

BACKGROUND

The Hong Kong economy was hit significantly by the Asian financial crisis in late 1997. Not only did our financial market have a severe downturn, but most corporate finance houses also faced difficulties to operate. Many experienced practitioners were forced to leave this sector. It was until the establishment of the GEM Board in July 1999 which helped revive the corporate finance industry. However, given that the criteria for listing were relaxed, local companies as well as PRC enterprises tried to raise fund by listing on the Hong Kong Stock Exchange based on their formulated business model (rather than their established track record). Thus, the greater demand for the IPO sponsors led to the entry of many sponsor firms and supporting staffs. Whether new supporting staffs were qualified and adequately supervised to handle the IPO transactions could affect the smoothness of the vetting process of the Stock Exchange. Also, the presentation of unproven business models and the complexity of the PRC issues might create problems for the Stock Exchange to judge the

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suitability of listing of some applicants.

Besides, the corporate scandals of some Hong Kong listed companies (and also US multinational firms) raised specific concerns from the regulatory bodies and the investor public on the corporate governance in recent years. It was perceived that our market integrity could be preserved if the listed issuers in Hong Kong (especially the newly ones) were freed from any potential delinquency.

REASONS FOR THE PROPOSALS

It is considered that one of the preventive measures for minimizing any misconduct of the listed issuers in Hong Kong is the imposition of stringent rules on the sponsor firms. If the sponsors (and even their employees) who are experienced and qualified are given the responsibility to endorse the financial and operational aspects of the listing applicants, they will perform more than sufficient due diligence work which may help detect any irregular activities. In view that more PRC enterprises may apply to the Stock Exchange (since the establishment of a new board for "hi-tech" companies in the PRC is deferred) for listing, if these companies are thoroughly screened and vigilantly endorsed by their sponsors, the possibility of their ultimate failure might be reduced.

PROPOSALS UNDER THE CONSULTATION PAPER

Q1. Acceptable sponsor firms

Partly agree

We believe that a list of acceptable sponsors can be maintained by the Stock Exchange. However, we have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, (iii) independence {see Q10}, and (iv) the transition process. Will all current GEM sponsors automatically be included in the new list? If not, those financial institutions which would like to continue to act as sponsors will be required to make their own application. Based on our past experience with GEM application, the application process is a time consuming and tedious process, it is anticipated that the application process may take several months.

Q2. Acceptable IFA firms

Partly agree

We believe that a list of acceptable IFAs can be maintained by the Stock Exchange. However, we also have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, and (iii) the formation of the new list. Can those financial institutions which would like to be sponsors as well as IFAs make a single application for both qualifications? Although not all financial institutions are interested in the smaller IFA market, they may apply for such qualification so that they are flexible enough to provide a wide range of activities for marketing purpose. As such, in addition to the applications launched by those financial institutions which

have a focus on IFA market or are not currently qualified as sponsors, the number of applications can be significant which takes longer processing time.

Q3. Acceptable individuals

Disagree

We consider that item (c) is difficult to accept. We trust that the Stock Exchange will take careful steps to judge whether an individual must be put on its proposed unacceptable list under the then circumstances. However, if, for instance, Mr. X of PQR Capital Limited ("PQR", being a sponsor admitted on the new list) is considered as an unacceptable individual by the Stock Exchange and made public, the corporate image of PQR will be adversely affected notwithstanding that all/other eligible supervisors are capable to perform the duties of a sponsor. Perhaps, it is possible that Mr. X will be dismissed from PQR and is unable to get back in the corporate finance sector. So, what we suggest is that the Stock Exchange can list out all acceptable individuals in its website.

Furthermore, all personnel engaging in the provision of corporate finance advisory work have to be licensed or registered under the SFO. In applying to be licensed or registered under the SFO, an individual has to be a "fit and proper person". As such, we propose the Stock Exchange to further elaborate on what circumstances that an individual who passes the "fit and proper person" test of the SFC and yet be regarded as an unacceptable individual by the Stock Exchange.

Q4. Competence and experience of the sponsor and IFA firms

Disagree

We accept that the Stock Exchange would like to place a greater weight on experience of professional staff, rather than the sponsor firm or IFA firm itself. However, we have strong concern on having at least four eligible supervisors in a sponsor firm. We note that the UKLA requires the sponsor to have at least four eligible employees who (i) are being employed at an appropriate level of seniority within the sponsor; and (ii) have provided advice in connection with a significant transaction at least three times in the preceding 36 months and at least once in the preceding 12 months {see attachment I}. It does not necessarily mean that the sponsor must have four "senior" supervisors. We are of the view that the current setting of the GEM Board of having two Principal Supervisors and two Assistant Supervisors suffices to demonstrate the experience of the sponsor and IFA firms.

Q5. Qualification and experience criteria of eligible supervisors
Disagree
As mentioned above, the UKLA's requirement on experience of an individual is her/his involvement in three transactions which may be acquired within a period of 36 months. In other words, if an individual is involved in three transactions in the latest year, he is also considered to be eligible. Besides, the statement made in P.90 of the consultation paper that "a sponsor must be a Member of the TSX and meet standards of business that are substantially the same as those proposed by the Exchange (including employing at least one senior corporate finance officer who is licensed and has at least five continuous years of relevant experience with an underwriter and employing one industry expert in respect of each area of business undertaken)" is not appropriate. According to the policy statement taken by the TSX {see attachment II}, it is not necessary for such officer to have "at least five continuous years of relevant experience with an underwriter" if s/he can satisfy any one of the other requirements, e.g., a licensed CFA or CBV. It seems to us that the number of years of experience (proposed to be a minimum of 4 years for each of four eligible supervisors) can be relaxed.

In addition, it must be very careful to define the "substantive involvement" in at least 3 completed "significant transactions". For "substantive involvement", it may be interpreted that s/he must be a core member in that transaction who has carried out or supervised her/his employees to carry out part of due diligence work. This can be viewed as "very" demanding when compared with "providing advice" as presently adopted in the UKLA and the GEM Board. For "significant transactions", those qualified transactions have been clearly set out. However, we wonder why the connected (and discloseable) transactions are not recognised as "significant transactions". In particular, it is accepted in UKLA that a related party transaction involving the preparation of a circular is qualified (and so does the GEM Board).

It is further proposed that experience derived from recognised overseas markets will be recognised and only one significant transaction in Hong Kong market. While we agree that only recognising "local experience" is too stringent, requiring local experience in only one significant transaction without imposing time limitation as to when such experience is gained will defeat the purpose of ensuring that eligible supervisors understand and have the unique experience in dealing with the local practitioners, for instance, the extensive pre-listing vetting process over disclosure matters of IPO application with the Exchange. In an ever-changing market, recent local experience should be a fundamental criterion for assessing the knowledge and experience of an eligible supervisor in Hong Kong Listing Rules. It should also be noted that not only the eligible supervisor should acquire the suggested years of experience and active participation, other market practitioners, including the regulator, should also be on the same level playing field in order to truly improve vetting efficiency and to upgraded its sophistication.

Q6. Other factors relevant to the eligibility criteria

Partly agree

We consider that should an objective assessment and a clear explanation be provided by the Stock Exchange on the non-acceptance of a firm to the list of sponsors, the Stock Exchange can make such refusal or cancellation (but subject to the firm's objection). We think that it may be appropriate to adopt a Code of Conduct for Sponsors and Independent Financial Advisers. But, it must be viewed as a code of practice to help the firms improve their corporate governance and operations rather than a criteria for admission {see Q12}.

Q7. Minimum capital requirement of sponsor firms

a) Partly agree

We consider that as long as it is not creating an uneven playing field for smaller firms, such requirement is acceptable. However, we do not understand the rationale of having such a HK$10 million capital requirement.

b) Agree

We concur that IFA firms should not be subject to a similar requirement.

Q8. Undertakings to the Exchange

Disagree

We note from the consultation paper that such undertakings are not currently required by the Main Board and the UKLA while most of them are also not needed by the GEM Board. Chapter 2 the GEM Listing Rules sets out that "the principal function of the Exchange is to provide a fair, orderly and efficient market for the trading of securities. In furtherance of this, the Exchange has made the GEM Listing Rules under section 23 of the Securities and Futures Ordinance prescribing the requirements for the listing of securities on GEM. These comprise requirements which have to be met before securities may be listed and also continuing obligations with which an issuer and, where applicable, a guarantor must comply once listing has been granted." As such, we have doubts that "the sponsor (and also its eligible supervisors) to make the proposed undertakings to the Stock Exchange of complying with (i) the relevant Listing Rules applicable to sponsors and (ii) the proposed Code of Conduct for Sponsors and Independent Financial Advisers" is essential to the Stock Exchange for providing a fair, orderly and efficient market for the trading of securities.

Moreover, we are uncertain as to whether the Listing Rules which are designated for governing the listing of securities (and also their issuer) will be exploited if the statement of "a breach of the undertaking will be deemed to be a breach of the Listing Rules ......" is so established.

Q9. Appointment

Disagree

The UKLA requires the appointment of a sponsor {see attachment III} in the following situations:-

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities) must have appointed a sponsor when (a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or (b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UKLA.

2.7 In the event of a breach of the listing rules by an issuer, the UKLA may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

Besides, regarding the provision of certain financial information in listing documents and/or circulars, a sponsor is generally required to (i) obtain written confirmation from the issuer relating thereto and (ii) satisfy itself that such confirmation has been given after due and careful enquiry by the issuer {see attachment IV}.

Based on the approach adopted by the UKLA, we believe that the discretion to direct an issuer to appoint a sponsor firm to provide advice for any specified period can only be exercised by the Stock Exchange in the event of a breach of the Listing Rules (rather than in any situation as proposed in the consultation paper). Indeed, given the clear role and responsibility of the sponsors, it is not necessary for the Listing Rules to set out requirements generally applicable to sponsor firms where a sponsor firm gives advice or guidance to an issuer in relation to interpretation or application of the Listing Rules, irrespective of whether or not the Listing Rules require appointment of a sponsor.

An IPO with a large offering size does not mean that is complicated as to warrant more manpower, so that the combined effort of sponsors are required. It appears that such proposal has limited the market practitioners to give higher priority to size of offer than to the quality of the listing applicant. We are of the view that the issue as to whether or not more than one sponsor firm is required, it is much better for the issue to be determined by the market practitioners.

Also, we realise that should there be an acceptable list of sponsors in Q1, those co-sponsors (i.e., firms which are not qualified as sponsors for the time being to act as co-sponsors in IPOs) are no longer retained. In particular, a joint sponsorship is not encouraged unless such IPO is sizeable enough. Can the reasons for not welcoming the joint effort from different firms be clearly stipulated?

In addition, we consider that the appointment of retained sponsors for the Main Board which involves the interests of the issuer(s) must be subject to the opinion from the issuers, applicants, potential applicants and investor public. It is not just a matter between the Stock Exchange and the sponsors.

Q10. Independence

Partly agree

According to the "Sponsor's confirmation of independence" as required by the UKLA {see Attachment V}, we note that the sponsor as well as its directors, partners and employees must report (i) whether they have any shareholding interest or directorship in the issuer and (ii) any other matters which may affect the independence from the issuer. As such, interests of any associates of the sponsor's directors and employees may or may not be a factor which can materially affect its independence. In particular, whether a business relationship (past or current) between the issuer and the sponsors' director or employee can also materially affect its independence may be subject to judgment. So, we do not consider that the existence of such interests or relationship must prelude a firm from acting as a sponsor.

In addition, we note that the independence of an IFA relating to the Code-related matters is stricter than that relating to the Stock Exchange matters. However, due to the nature of the Stock Exchange matters, we think that a firm can qualify to be an IFA (other than any shareholding interest) if it does not serve as a financial adviser to the issuer and its subsidiaries within the past 12 months.

Q11. Responsibilities

Disagree

We do not agree that there is an expectation gap between the Stock Exchange's view of the responsibilities of sponsors and the manner in which many sponsors are discharging those responsibilities. As set out in the Model Code for Sponsors of the Listing Rules (Main Board), the purpose of which is to give guidance on the Stock Exchange's minimum expectations of the sponsor's role. For instance, a sponsor should satisfy itself, on the basis of all available information, that an issuer is suitable for listing. Besides, a sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified. It is also specified that failure by a sponsor to meet such expectations without reasonable cause may render it unacceptable to perform the role of sponsor in future.

We note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document.

Given the role as a sponsor, we believe that it is not unacceptable to us to take certain review procedures regarding the suitability of listing of the issuers. However, for the "non-expert sections", we may have the difficulty in assessing the correctness and completeness of certain information. If, for instance, the Company's management predicts that the industry growth is about 20 per cent. per annum for the coming five

years, what a sponsor can do may include (i) to obtain some research reports, (ii) to observe the pattern of past industry growth, (iii) to study other relevant markets (e.g. upstream, downstream or overseas), and (iv) to perform an industry analysis itself so as to make a justification thereon. But, whenever the sponsor cannot have access to all research reports (or other relevant materials), it may miss out some pieces of important information (perhaps, that can make the aforesaid industry growth unjustified). As such, notwithstanding that the sponsor can make investigations (or any applicable review procedures), it is impracticable for the sponsor to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Yet, it is generally acknowledged that the directors of the issuer must be responsible for such information (which relates to the particular features of its business and the industry it belongs to). On the other hand, if the experts so appointed are independent from the issuer and qualified for providing the information set out in the "expert sections", we think that it is sufficient for the Stock Exchange to make reliance thereon. Taking into account the approach of the TSX on the use of experts {see attachment VI}, it may be our responsibility to help assess the independence and qualification of such experts.

Q12. Code of Conduct for Sponsors and Independent Financial Advisers
Disagree
We agree with some of the matters set out the Code of Conduct for Sponsors and Independent Financial Adviser (the "Code of Conduct"). It is proposed in the Code of Conduct that it will be a requirement of the Corporate Finance Adviser Code of Conduct issued by the SFC that a registered person under the SFO has to observe the requirements of the Listing Rules including the Code of Conduct. Given that breach of the Code of Conduct would cast prima facie doubt on the fitness and properness of that person with respect to their registration under the SFO. As such, we do not see the reason for the Exchange to insist that a breach of the requirements of the Code of Conduct constitutes a breach of the Listing Rules. Such provisions would render a person subject to the regulation of both the Exchange and SFC which is not necessary. This is because a person who has breached the Code of Conduct may not be regarded as fit and proper and his registration under the SFO would probably not be renewed. We do not see the reason of having a single breach of regulation subject to proceedings of two regulatory authorities. In this regard, we are of the view that the Stock Exchange should coordinate with the SFC to enable the SFC to take appropriate action under the SFO. We are of the view that the Code of Conduct should be a code of practice to help the firms improve their corporate governance and operations {see Q6}.

We consider that the proposed requirements set out in the Code of Conduct should be strictly applicable only to sponsor firm(s) and IFA firm(s) (but not their eligible supervisors, other directors and/or staff) given that it is the firm rather than the individual to accept and perform the work for an issuer. In addition, we have concerns whether it is practicable for (i) a sponsor or (ii) an IFA to fully satisfy itself

and/or to assure the Stock Exchange whether (i) all the information set out in the "non-expert sections" in relation to an IPO, or (ii) all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement respectively, is without any omission or not misleading.

Q13. Declaration by sponsors and lead underwriters in listing documents to be registered

Disagree

Firstly, we have considered the approach taken by the UKLA, the TSX and the ASX in this regard. We noticed that there is no such kind of declaration required to be made by the sponsors and the lead underwriters in the listing documents to be registered. In particular, for the related "expert sections" found in the ASX {see attachment VII}, if the prospectus includes a statement purporting to be made by an expert, the prospectus can be issued once the expert has provided its written consent (and being stated therein). It seems to us that the expert itself is responsible for its statement or opinion expressed in the prospectus.

As mentioned in Q11, we note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document. While, according to the proposed requirement herein, the Stock Exchange would like the sponsor to make a declaration regarding its reasonable investigations on "non-expert sections" and "expert sections" in the prospectus subsequent to its vetting process. We wonder whether it is necessary to do so. Nevertheless, as discussed earlier, notwithstanding that we, as a sponsor, can make investigations (or any applicable review procedures), it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Given the aforesaid limitation, we consider that the sponsor (or the lead underwriter) is not able to provide such declaration. It may be more appropriate to advise the investors to be fully aware of the particular nature of the information set out in the "non-expert sections".

Q14. IFA due diligence declaration

Disagree

It is proposed that the Exchange would also like the IFA to perform due diligence work in assessing the correctness and completeness of all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement and to make a declaration thereon in its letter as enclosed in the circular subsequent to its vetting process. Again, notwithstanding that we, as an IFA, can make appropriate steps and due diligence work, it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement is without any

omission or not misleading. Given the aforesaid limitation, we consider that the IFA is not able to provide such declaration.

Q15. Reporting obligations and monitoring

Partly agree

We agree that it is appropriate to streamline the administration of the sponsor and IFA regime. However, using a certification process and a targeted program of monitoring cannot be served as a "complete" system for assessing the suitability of a firm as a sponsor or an IFA. As such, we suggest that the review of its ongoing eligibility can be made in every two years.

Q16. Compliance and sanctions

Disagree

We regret to hear that the rationale for imposing penalties on sponsors or financial advisers or any of their members of staff is to promote high standards of conduct and ensure that regulatory standards are being upheld. We wonder why the supervisors who have the qualifications and experience {see Q5} are still perceived to be unable to help discharge the sponsors' responsibility.

We consider that the existing Listing Rules have already provided sufficient and proper measures on any breach of duty by the sponsors relating to matters governed by the Listing Rules. We do not think that it is appropriate to extend such measures to individuals since it is the firm (but not the individual herself/himself) to accept and perform the sponsor's work for an issuer. Nevertheless, we consider that the Stock Exchange can make assessment on the work and professional conduct of an individual before accepting her/him to the list of acceptable individuals (or during the annual or bi-annual review process).

Q17/18. Ability of existing GEM and Main Board sponsors and IFAs to meet eligibility criteria for acceptable lists

a) Yes, if effective today.

b) Yes, if effective in 6 months time.

c) Not certain, if effective in 18 months time.

d) Not certain, if effective in 30 months time.

We refer to our concern set out in Q5 that it is uncertain as to whether each of our 4 "eligible" supervisors can complete at least one "significant transaction" in the then recent year to fulfil the proposed requirement. Nevertheless, we would like to reiterate our reply to Q4 that the requirement as stipulated by the UKLA does not necessarily mean that the sponsor must have four "senior" supervisors. In fact, we think that the GEM Board setting of having two Principal Supervisors and two Assistant Supervisors is good enough.

FINANCIAL IMPLICATIONS

Pursuant to the Consultation Paper, it has been suggested that the introduction of standards of due diligence to close the expectation gap accompanied by prominent disclosure of the sponsor's role in performing due diligence on the prospectus [both distracts from the responsibilities which should properly be borne by the directors and] will lead to increased professional fees for new applicant companies. However, the potential increase in costs cannot be easily quantified as any increase will depend on both the circumstances of the applicant and the approach to due diligence currently taken by the sponsor concerned. Nevertheless, we consider that such increase in professional fees stemmed from the due diligence costs as incurred in meeting the new standards and the perceived risks associated with disclosure is likely to be passed on to the applicants. If the transaction cost is increased, those applicants of smaller size may (i) be unwilling to list in Hong Kong or (ii) defer their listing plan. Taking into account that the fund raising activities comprise primarily small/mid-cap companies {see attachment VIII for market statistics in 2002}, it is possible that the corporate finance sector will then be squeezed again. Not only are some sponsors (or their employees) out, but also certain accountants, lawyers, valuers, analysts and other professionals who work in this sector may be forced to leave.

We note that the current vetting process by the Stock Exchange is valuable. However, if the sponsors who have already carried out certain review procedures are also required to make the proposed declarations in the prospectus (i.e., to endorse the financial and operational aspects of the listing applicants as discussed above) which we consider inappropriate, it is arguable that the Stock Exchange is still required to spend resources on vetting those endorsed applicants for the market.

Based on the above arguments, it is uncertain as to whether it is financially justifiable for the Stock Exchange to put forward these proposals under the Consultation Paper. As such, we hope that the Stock Exchange can carry out market survey to acknowledge the acceptability of the increased costs by the listing applicants and assess the potential financial effects on our economy and the respective stakeholders.

RECOMMENDATIONS

Having considered the aforesaid principal factors, namely (i) reasons for the proposals, (ii) proposals under the Consultation Paper, and (iii) financial implications, we do not consider that it is compulsory for the Stock Exchange to put forward the proposals on regulating the sponsors and, particularly, we do not agree with such proposals which are not market practice worldwide and/or not market acceptable.

In fact, we understand that the primary role of the Stock Exchange is to provide a fair, orderly and efficient market for the trading of securities. It may take initiative to promote and advocate the code of conduct on the corporate governance of the listed

issuers. But, the Stock Exchange is not supposed to be responsible for preventing and detecting corporate scandals (and so do the sponsors). Given the parallel interests between the Stock Exchange and the sponsor firms, should either party be put into jeopardy, we consider that the sponsorship system cannot be run as efficient and effective as before.

Instead of introducing a new system to regulate the discharge of responsibilities of sponsors and IFAs, we are of the view that steps should be taken in the direction of some of the proposals set out in the Consultation Paper within the existing regulatory regime. We believe that the existing regime of having all corporate finance advisers regulated by the licensing system of the SFC under the SFO is working well and there is no need to introduce a two-tier regulation. Instead, we believe that the Exchange, as the front line regulator with close contacts with corporate finance advisers should strengthen its cooperation with the SFC so that the SFC can regulate and monitor the activities of the intermediaries subject to its regulatory regime.

Lastly, we would like to express our disappointment regarding the status of consultation is too preliminary for a conclusion to be reached if genuine support is to be obtained from financial intermediaries. Our representatives attended consultation seminar, in English and in Mandarin, jointly organised by the Exchange and the SFC on 18th July, 2003 but either insufficient time was given for Q&A sections or material concerns raised were not addressed or clarified. Given that it is anticipated by the Exchange that the results and conclusions on the Consultation Paper will be published on or around end of October 2003, with a view to the new rules being published by 1st January 2004, we believe that a second phase consultation is a must.

Yours faithfully,

Wyman Yuen

國泰君安
GUOTAI JUNAN

STRICTLY PRIVATE AND CONFIDENTIAL

31st July, 2003

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By fax no.: 2295 3599
& by hand

The Securities and Futures Commission
The Corporate Finance Division
8th Floor, Chater House
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Hong Kong

By fax no.: 2810 5385
& by hand

Dear Sir/Madam,

Re: Consultation Paper (the "Consultation Paper") on the Regulation of Sponsors and Independent Financial Advisers

We refer to the Consultation Paper provided in May 2003. We would like to give you our general view thereon and address the summary of questions in Annex 3 in the section headed "Proposals under the Consultation Paper".

BACKGROUND

The Hong Kong economy was hit significantly by the Asian financial crisis in late 1997. Not only did our financial market have a severe downturn, but most corporate finance houses also faced difficulties to operate. Many experienced practitioners were forced to leave this sector. It was until the establishment of the GEM Board in July 1999 which helped revive the corporate finance industry. However, given that the criteria for listing were relaxed, local companies as well as PRC enterprises tried to raise fund by listing on the Hong Kong Stock Exchange based on their formulated business model (rather than their established track record). Thus, the greater demand for the IPO sponsors led to the entry of many sponsor firms and supporting staffs. Whether new supporting staffs were qualified and adequately supervised to handle the IPO transactions could affect the smoothness of the vetting process of the Stock Exchange. Also, the presentation of unproven business models and the complexity of the PRC issues might create problems for the Stock Exchange to judge the

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suitability of listing of some applicants.

Besides, the corporate scandals of some Hong Kong listed companies (and also US multinational firms) raised specific concerns from the regulatory bodies and the investor public on the corporate governance in recent years. It was perceived that our market integrity could be preserved if the listed issuers in Hong Kong (especially the newly ones) were freed from any potential delinquency.

REASONS FOR THE PROPOSALS

It is considered that one of the preventive measures for minimizing any misconduct of the listed issuers in Hong Kong is the imposition of stringent rules on the sponsor firms. If the sponsors (and even their employees) who are experienced and qualified are given the responsibility to endorse the financial and operational aspects of the listing applicants, they will perform more than sufficient due diligence work which may help detect any irregular activities. In view that more PRC enterprises may apply to the Stock Exchange (since the establishment of a new board for "hi-tech" companies in the PRC is deferred) for listing, if these companies are thoroughly screened and vigilantly endorsed by their sponsors, the possibility of their ultimate failure might be reduced.

PROPOSALS UNDER THE CONSULTATION PAPER

Q1. Acceptable sponsor firms

Partly agree

We believe that a list of acceptable sponsors can be maintained by the Stock Exchange. However, we have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, (iii) independence {see Q10}, and (iv) the transition process. Will all current GEM sponsors automatically be included in the new list? If not, those financial institutions which would like to continue to act as sponsors will be required to make their own application. Based on our past experience with GEM application, the application process is a time consuming and tedious process, it is anticipated that the application process may take several months.

Q2. Acceptable IFA firms

Partly agree

We believe that a list of acceptable IFAs can be maintained by the Stock Exchange. However, we also have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, and (iii) the formation of the new list. Can those financial institutions which would like to be sponsors as well as IFAs make a single application for both qualifications? Although not all financial institutions are interested in the smaller IFA market, they may apply for such qualification so that they are flexible enough to provide a wide range of activities for marketing purpose. As such, in addition to the applications launched by those financial institutions which

have a focus on IFA market or are not currently qualified as sponsors, the number of applications can be significant which takes longer processing time.

Q3. Acceptable individuals

Disagree

We consider that item (c) is difficult to accept. We trust that the Stock Exchange will take careful steps to judge whether an individual must be put on its proposed unacceptable list under the then circumstances. However, if, for instance, Mr. X of PQR Capital Limited ("PQR", being a sponsor admitted on the new list) is considered as an unacceptable individual by the Stock Exchange and made public, the corporate image of PQR will be adversely affected notwithstanding that all/other eligible supervisors are capable to perform the duties of a sponsor. Perhaps, it is possible that Mr. X will be dismissed from PQR and is unable to get back in the corporate finance sector. So, what we suggest is that the Stock Exchange can list out all acceptable individuals in its website.

Furthermore, all personnel engaging in the provision of corporate finance advisory work have to be licensed or registered under the SFO. In applying to be licensed or registered under the SFO, an individual has to be a "fit and proper person". As such, we propose the Stock Exchange to further elaborate on what circumstances that an individual who passes the "fit and proper person" test of the SFC and yet be regarded as an unacceptable individual by the Stock Exchange.

Q4. Competence and experience of the sponsor and IFA firms

Disagree

We accept that the Stock Exchange would like to place a greater weight on experience of professional staff, rather than the sponsor firm or IFA firm itself. However, we have strong concern on having at least four eligible supervisors in a sponsor firm. We note that the UKLA requires the sponsor to have at least four eligible employees who (i) are being employed at an appropriate level of seniority within the sponsor; and (ii) have provided advice in connection with a significant transaction at least three times in the preceding 36 months and at least once in the preceding 12 months {see attachment I}. It does not necessarily mean that the sponsor must have four "senior" supervisors. We are of the view that the current setting of the GEM Board of having two Principal Supervisors and two Assistant Supervisors suffices to demonstrate the experience of the sponsor and IFA firms.

Q5. Qualification and experience criteria of eligible supervisors
Disagree
As mentioned above, the UKLA's requirement on experience of an individual is her/his involvement in three transactions which may be acquired within a period of 36 months. In other words, if an individual is involved in three transactions in the latest year, he is also considered to be eligible. Besides, the statement made in P.90 of the consultation paper that "a sponsor must be a Member of the TSX and meet standards of business that are substantially the same as those proposed by the Exchange (including employing at least one senior corporate finance officer who is licensed and has at least five continuous years of relevant experience with an underwriter and employing one industry expert in respect of each area of business undertaken)" is not appropriate. According to the policy statement taken by the TSX {see attachment II}, it is not necessary for such officer to have "at least five continuous years of relevant experience with an underwriter" if s/he can satisfy any one of the other requirements, e.g., a licensed CFA or CBV. It seems to us that the number of years of experience (proposed to be a minimum of 4 years for each of four eligible supervisors) can be relaxed.

In addition, it must be very careful to define the "substantive involvement" in at least 3 completed "significant transactions". For "substantive involvement", it may be interpreted that s/he must be a core member in that transaction who has carried out or supervised her/his employees to carry out part of due diligence work. This can be viewed as "very" demanding when compared with "providing advice" as presently adopted in the UKLA and the GEM Board. For "significant transactions", those qualified transactions have been clearly set out. However, we wonder why the connected (and discloseable) transactions are not recognised as "significant transactions". In particular, it is accepted in UKLA that a related party transaction involving the preparation of a circular is qualified (and so does the GEM Board).

It is further proposed that experience derived from recognised overseas markets will be recognised and only one significant transaction in Hong Kong market. While we agree that only recognising "local experience" is too stringent, requiring local experience in only one significant transaction without imposing time limitation as to when such experience is gained will defeat the purpose of ensuring that eligible supervisors understand and have the unique experience in dealing with the local practitioners, for instance, the extensive pre-listing vetting process over disclosure matters of IPO application with the Exchange. In an ever-changing market, recent local experience should be a fundamental criterion for assessing the knowledge and experience of an eligible supervisor in Hong Kong Listing Rules. It should also be noted that not only the eligible supervisor should acquire the suggested years of experience and active participation, other market practitioners, including the regulator, should also be on the same level playing field in order to truly improve vetting efficiency and to upgraded its sophistication.

Q6. Other factors relevant to the eligibility criteria

Partly agree

We consider that should an objective assessment and a clear explanation be provided by the Stock Exchange on the non-acceptance of a firm to the list of sponsors, the Stock Exchange can make such refusal or cancellation (but subject to the firm's objection). We think that it may be appropriate to adopt a Code of Conduct for Sponsors and Independent Financial Advisers. But, it must be viewed as a code of practice to help the firms improve their corporate governance and operations rather than a criteria for admission {see Q12}.

Q7. Minimum capital requirement of sponsor firms

a) Partly agree

We consider that as long as it is not creating an uneven playing field for smaller firms, such requirement is acceptable. However, we do not understand the rationale of having such a HK$10 million capital requirement.

b) Agree

We concur that IFA firms should not be subject to a similar requirement.

Q8. Undertakings to the Exchange

Disagree

We note from the consultation paper that such undertakings are not currently required by the Main Board and the UKLA while most of them are also not needed by the GEM Board. Chapter 2 the GEM Listing Rules sets out that "the principal function of the Exchange is to provide a fair, orderly and efficient market for the trading of securities. In furtherance of this, the Exchange has made the GEM Listing Rules under section 23 of the Securities and Futures Ordinance prescribing the requirements for the listing of securities on GEM. These comprise requirements which have to be met before securities may be listed and also continuing obligations with which an issuer and, where applicable, a guarantor must comply once listing has been granted." As such, we have doubts that "the sponsor (and also its eligible supervisors) to make the proposed undertakings to the Stock Exchange of complying with (i) the relevant Listing Rules applicable to sponsors and (ii) the proposed Code of Conduct for Sponsors and Independent Financial Advisers" is essential to the Stock Exchange for providing a fair, orderly and efficient market for the trading of securities.

Moreover, we are uncertain as to whether the Listing Rules which are designated for governing the listing of securities (and also their issuer) will be exploited if the statement of "a breach of the undertaking will be deemed to be a breach of the Listing Rules ......" is so established.

Q9. Appointment

Disagree

The UKLA requires the appointment of a sponsor {see attachment III} in the following situations:-

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities) must have appointed a sponsor when (a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or (b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UKLA.

2.7 In the event of a breach of the listing rules by an issuer, the UKLA may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

Besides, regarding the provision of certain financial information in listing documents and/or circulars, a sponsor is generally required to (i) obtain written confirmation from the issuer relating thereto and (ii) satisfy itself that such confirmation has been given after due and careful enquiry by the issuer {see attachment IV}.

Based on the approach adopted by the UKLA, we believe that the discretion to direct an issuer to appoint a sponsor firm to provide advice for any specified period can only be exercised by the Stock Exchange in the event of a breach of the Listing Rules (rather than in any situation as proposed in the consultation paper). Indeed, given the clear role and responsibility of the sponsors, it is not necessary for the Listing Rules to set out requirements generally applicable to sponsor firms where a sponsor firm gives advice or guidance to an issuer in relation to interpretation or application of the Listing Rules, irrespective of whether or not the Listing Rules require appointment of a sponsor.

An IPO with a large offering size does not mean that is complicated as to warrant more manpower, so that the combined effort of sponsors are required. It appears that such proposal has limited the market practitioners to give higher priority to size of offer than to the quality of the listing applicant. We are of the view that the issue as to whether or not more than one sponsor firm is required, it is much better for the issue to be determined by the market practitioners.

Also, we realise that should there be an acceptable list of sponsors in Q1, those co-sponsors (i.e., firms which are not qualified as sponsors for the time being to act as co-sponsors in IPOs) are no longer retained. In particular, a joint sponsorship is not encouraged unless such IPO is sizeable enough. Can the reasons for not welcoming the joint effort from different firms be clearly stipulated?

In addition, we consider that the appointment of retained sponsors for the Main Board which involves the interests of the issuer(s) must be subject to the opinion from the issuers, applicants, potential applicants and investor public. It is not just a matter between the Stock Exchange and the sponsors.

Q10. Independence

Partly agree

According to the "Sponsor's confirmation of independence" as required by the UKLA {see Attachment V}, we note that the sponsor as well as its directors, partners and employees must report (i) whether they have any shareholding interest or directorship in the issuer and (ii) any other matters which may affect the independence from the issuer. As such, interests of any associates of the sponsor's directors and employees may or may not be a factor which can materially affect its independence. In particular, whether a business relationship (past or current) between the issuer and the sponsors' director or employee can also materially affect its independence may be subject to judgment. So, we do not consider that the existence of such interests or relationship must prelude a firm from acting as a sponsor.

In addition, we note that the independence of an IFA relating to the Code-related matters is stricter than that relating to the Stock Exchange matters. However, due to the nature of the Stock Exchange matters, we think that a firm can qualify to be an IFA (other than any shareholding interest) if it does not serve as a financial adviser to the issuer and its subsidiaries within the past 12 months.

Q11. Responsibilities

Disagree

We do not agree that there is an expectation gap between the Stock Exchange's view of the responsibilities of sponsors and the manner in which many sponsors are discharging those responsibilities. As set out in the Model Code for Sponsors of the Listing Rules (Main Board), the purpose of which is to give guidance on the Stock Exchange's minimum expectations of the sponsor's role. For instance, a sponsor should satisfy itself, on the basis of all available information, that an issuer is suitable for listing. Besides, a sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified. It is also specified that failure by a sponsor to meet such expectations without reasonable cause may render it unacceptable to perform the role of sponsor in future.

We note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document.

Given the role as a sponsor, we believe that it is not unacceptable to us to take certain review procedures regarding the suitability of listing of the issuers. However, for the "non-expert sections", we may have the difficulty in assessing the correctness and completeness of certain information. If, for instance, the Company's management predicts that the industry growth is about 20 per cent. per annum for the coming five

years, what a sponsor can do may include (i) to obtain some research reports, (ii) to observe the pattern of past industry growth, (iii) to study other relevant markets (e.g. upstream, downstream or overseas), and (iv) to perform an industry analysis itself so as to make a justification thereon. But, whenever the sponsor cannot have access to all research reports (or other relevant materials), it may miss out some pieces of important information (perhaps, that can make the aforesaid industry growth unjustified). As such, notwithstanding that the sponsor can make investigations (or any applicable review procedures), it is impracticable for the sponsor to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Yet, it is generally acknowledged that the directors of the issuer must be responsible for such information (which relates to the particular features of its business and the industry it belongs to). On the other hand, if the experts so appointed are independent from the issuer and qualified for providing the information set out in the "expert sections", we think that it is sufficient for the Stock Exchange to make reliance thereon. Taking into account the approach of the TSX on the use of experts {see attachment VI}, it may be our responsibility to help assess the independence and qualification of such experts.

Q12. Code of Conduct for Sponsors and Independent Financial Advisers
Disagree
We agree with some of the matters set out the Code of Conduct for Sponsors and Independent Financial Adviser (the "Code of Conduct"). It is proposed in the Code of Conduct that it will be a requirement of the Corporate Finance Adviser Code of Conduct issued by the SFC that a registered person under the SFO has to observe the requirements of the Listing Rules including the Code of Conduct. Given that breach of the Code of Conduct would cast prima facie doubt on the fitness and properness of that person with respect to their registration under the SFO. As such, we do not see the reason for the Exchange to insist that a breach of the requirements of the Code of Conduct constitutes a breach of the Listing Rules. Such provisions would render a person subject to the regulation of both the Exchange and SFC which is not necessary. This is because a person who has breached the Code of Conduct may not be regarded as fit and proper and his registration under the SFO would probably not be renewed. We do not see the reason of having a single breach of regulation subject to proceedings of two regulatory authorities. In this regard, we are of the view that the Stock Exchange should coordinate with the SFC to enable the SFC to take appropriate action under the SFO. We are of the view that the Code of Conduct should be a code of practice to help the firms improve their corporate governance and operations {see Q6}.

We consider that the proposed requirements set out in the Code of Conduct should be strictly applicable only to sponsor firm(s) and IFA firm(s) (but not their eligible supervisors, other directors and/or staff) given that it is the firm rather than the individual to accept and perform the work for an issuer. In addition, we have concerns whether it is practicable for (i) a sponsor or (ii) an IFA to fully satisfy itself

and/or to assure the Stock Exchange whether (i) all the information set out in the "non-expert sections" in relation to an IPO, or (ii) all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement respectively, is without any omission or not misleading.

Q13. Declaration by sponsors and lead underwriters in listing documents to be registered

Disagree

Firstly, we have considered the approach taken by the UKLA, the TSX and the ASX in this regard. We noticed that there is no such kind of declaration required to be made by the sponsors and the lead underwriters in the listing documents to be registered. In particular, for the related "expert sections" found in the ASX {see attachment VII}, if the prospectus includes a statement purporting to be made by an expert, the prospectus can be issued once the expert has provided its written consent (and being stated therein). It seems to us that the expert itself is responsible for its statement or opinion expressed in the prospectus.

As mentioned in Q11, we note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document. While, according to the proposed requirement herein, the Stock Exchange would like the sponsor to make a declaration regarding its reasonable investigations on "non-expert sections" and "expert sections" in the prospectus subsequent to its vetting process. We wonder whether it is necessary to do so. Nevertheless, as discussed earlier, notwithstanding that we, as a sponsor, can make investigations (or any applicable review procedures), it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Given the aforesaid limitation, we consider that the sponsor (or the lead underwriter) is not able to provide such declaration. It may be more appropriate to advise the investors to be fully aware of the particular nature of the information set out in the "non-expert sections".

Q14. IFA due diligence declaration

Disagree

It is proposed that the Exchange would also like the IFA to perform due diligence work in assessing the correctness and completeness of all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement and to make a declaration thereon in its letter as enclosed in the circular subsequent to its vetting process. Again, notwithstanding that we, as an IFA, can make appropriate steps and due diligence work, it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement is without any

omission or not misleading. Given the aforesaid limitation, we consider that the IFA is not able to provide such declaration.

Q15. Reporting obligations and monitoring

Partly agree

We agree that it is appropriate to streamline the administration of the sponsor and IFA regime. However, using a certification process and a targeted program of monitoring cannot be served as a "complete" system for assessing the suitability of a firm as a sponsor or an IFA. As such, we suggest that the review of its ongoing eligibility can be made in every two years.

Q16. Compliance and sanctions

Disagree

We regret to hear that the rationale for imposing penalties on sponsors or financial advisers or any of their members of staff is to promote high standards of conduct and ensure that regulatory standards are being upheld. We wonder why the supervisors who have the qualifications and experience {see Q5} are still perceived to be unable to help discharge the sponsors' responsibility.

We consider that the existing Listing Rules have already provided sufficient and proper measures on any breach of duty by the sponsors relating to matters governed by the Listing Rules. We do not think that it is appropriate to extend such measures to individuals since it is the firm (but not the individual herself/himself) to accept and perform the sponsor's work for an issuer. Nevertheless, we consider that the Stock Exchange can make assessment on the work and professional conduct of an individual before accepting her/him to the list of acceptable individuals (or during the annual or bi-annual review process).

Q17/18. Ability of existing GEM and Main Board sponsors and IFAs to meet eligibility criteria for acceptable lists

a) Yes, if effective today.

b) Yes, if effective in 6 months time.

c) Not certain, if effective in 18 months time.

d) Not certain, if effective in 30 months time.

We refer to our concern set out in Q5 that it is uncertain as to whether each of our 4 "eligible" supervisors can complete at least one "significant transaction" in the then recent year to fulfil the proposed requirement. Nevertheless, we would like to reiterate our reply to Q4 that the requirement as stipulated by the UKLA does not necessarily mean that the sponsor must have four "senior" supervisors. In fact, we think that the GEM Board setting of having two Principal Supervisors and two Assistant Supervisors is good enough.

FINANCIAL IMPLICATIONS

Pursuant to the Consultation Paper, it has been suggested that the introduction of standards of due diligence to close the expectation gap accompanied by prominent disclosure of the sponsor's role in performing due diligence on the prospectus [both distracts from the responsibilities which should properly be borne by the directors and] will lead to increased professional fees for new applicant companies. However, the potential increase in costs cannot be easily quantified as any increase will depend on both the circumstances of the applicant and the approach to due diligence currently taken by the sponsor concerned. Nevertheless, we consider that such increase in professional fees stemmed from the due diligence costs as incurred in meeting the new standards and the perceived risks associated with disclosure is likely to be passed on to the applicants. If the transaction cost is increased, those applicants of smaller size may (i) be unwilling to list in Hong Kong or (ii) defer their listing plan. Taking into account that the fund raising activities comprise primarily small/mid-cap companies {see attachment VIII for market statistics in 2002}, it is possible that the corporate finance sector will then be squeezed again. Not only are some sponsors (or their employees) out, but also certain accountants, lawyers, valuers, analysts and other professionals who work in this sector may be forced to leave.

We note that the current vetting process by the Stock Exchange is valuable. However, if the sponsors who have already carried out certain review procedures are also required to make the proposed declarations in the prospectus (i.e., to endorse the financial and operational aspects of the listing applicants as discussed above) which we consider inappropriate, it is arguable that the Stock Exchange is still required to spend resources on vetting those endorsed applicants for the market.

Based on the above arguments, it is uncertain as to whether it is financially justifiable for the Stock Exchange to put forward these proposals under the Consultation Paper. As such, we hope that the Stock Exchange can carry out market survey to acknowledge the acceptability of the increased costs by the listing applicants and assess the potential financial effects on our economy and the respective stakeholders.

RECOMMENDATIONS

Having considered the aforesaid principal factors, namely (i) reasons for the proposals, (ii) proposals under the Consultation Paper, and (iii) financial implications, we do not consider that it is compulsory for the Stock Exchange to put forward the proposals on regulating the sponsors and, particularly, we do not agree with such proposals which are not market practice worldwide and/or not market acceptable.

In fact, we understand that the primary role of the Stock Exchange is to provide a fair, orderly and efficient market for the trading of securities. It may take initiative to promote and advocate the code of conduct on the corporate governance of the listed

issuers. But, the Stock Exchange is not supposed to be responsible for preventing and detecting corporate scandals (and so do the sponsors). Given the parallel interests between the Stock Exchange and the sponsor firms, should either party be put into jeopardy, we consider that the sponsorship system cannot be run as efficient and effective as before.

Instead of introducing a new system to regulate the discharge of responsibilities of sponsors and IFAs, we are of the view that steps should be taken in the direction of some of the proposals set out in the Consultation Paper within the existing regulatory regime. We believe that the existing regime of having all corporate finance advisers regulated by the licensing system of the SFC under the SFO is working well and there is no need to introduce a two-tier regulation. Instead, we believe that the Exchange, as the front line regulator with close contacts with corporate finance advisers should strengthen its cooperation with the SFC so that the SFC can regulate and monitor the activities of the intermediaries subject to its regulatory regime.

Lastly, we would like to express our disappointment regarding the status of consultation is too preliminary for a conclusion to be reached if genuine support is to be obtained from financial intermediaries. Our representatives attended consultation seminar, in English and in Mandarin, jointly organised by the Exchange and the SFC on 18th July, 2003 but either insufficient time was given for Q&A sections or material concerns raised were not addressed or clarified. Given that it is anticipated by the Exchange that the results and conclusions on the Consultation Paper will be published on or around end of October 2003, with a view to the new rules being published by 1st January 2004, we believe that a second phase consultation is a must.

Yours faithfully,

Dennis Leung

國泰君安
GUOTAI JUNAN

STRICTLY PRIVATE AND CONFIDENTIAL

31st July, 2003

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Listing Division
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1 Harbour View Street
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By fax no.: 2295 3599
& by hand

The Securities and Futures Commission
The Corporate Finance Division
8th Floor, Chater House
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By fax no.: 2810 5385
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Dear Sir/Madam,

Re: Consultation Paper (the "Consultation Paper") on the Regulation of Sponsors and Independent Financial Advisers

We refer to the Consultation Paper provided in May 2003. We would like to give you our general view thereon and address the summary of questions in Annex 3 in the section headed "Proposals under the Consultation Paper".

BACKGROUND

The Hong Kong economy was hit significantly by the Asian financial crisis in late 1997. Not only did our financial market have a severe downturn, but most corporate finance houses also faced difficulties to operate. Many experienced practitioners were forced to leave this sector. It was until the establishment of the GEM Board in July 1999 which helped revive the corporate finance industry. However, given that the criteria for listing were relaxed, local companies as well as PRC enterprises tried to raise fund by listing on the Hong Kong Stock Exchange based on their formulated business model (rather than their established track record). Thus, the greater demand for the IPO sponsors led to the entry of many sponsor firms and supporting staffs. Whether new supporting staffs were qualified and adequately supervised to handle the IPO transactions could affect the smoothness of the vetting process of the Stock Exchange. Also, the presentation of unproven business models and the complexity of the PRC issues might create problems for the Stock Exchange to judge the

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suitability of listing of some applicants.

Besides, the corporate scandals of some Hong Kong listed companies (and also US multinational firms) raised specific concerns from the regulatory bodies and the investor public on the corporate governance in recent years. It was perceived that our market integrity could be preserved if the listed issuers in Hong Kong (especially the newly ones) were freed from any potential delinquency.

REASONS FOR THE PROPOSALS

It is considered that one of the preventive measures for minimizing any misconduct of the listed issuers in Hong Kong is the imposition of stringent rules on the sponsor firms. If the sponsors (and even their employees) who are experienced and qualified are given the responsibility to endorse the financial and operational aspects of the listing applicants, they will perform more than sufficient due diligence work which may help detect any irregular activities. In view that more PRC enterprises may apply to the Stock Exchange (since the establishment of a new board for "hi-tech" companies in the PRC is deferred) for listing, if these companies are thoroughly screened and vigilantly endorsed by their sponsors, the possibility of their ultimate failure might be reduced.

PROPOSALS UNDER THE CONSULTATION PAPER

Q1. Acceptable sponsor firms

Partly agree

We believe that a list of acceptable sponsors can be maintained by the Stock Exchange. However, we have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, (iii) independence {see Q10}, and (iv) the transition process. Will all current GEM sponsors automatically be included in the new list? If not, those financial institutions which would like to continue to act as sponsors will be required to make their own application. Based on our past experience with GEM application, the application process is a time consuming and tedious process, it is anticipated that the application process may take several months.

Q2. Acceptable IFA firms

Partly agree

We believe that a list of acceptable IFAs can be maintained by the Stock Exchange. However, we also have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, and (iii) the formation of the new list. Can those financial institutions which would like to be sponsors as well as IFAs make a single application for both qualifications? Although not all financial institutions are interested in the smaller IFA market, they may apply for such qualification so that they are flexible enough to provide a wide range of activities for marketing purpose. As such, in addition to the applications launched by those financial institutions which

have a focus on IFA market or are not currently qualified as sponsors, the number of applications can be significant which takes longer processing time.

Q3. Acceptable individuals

Disagree

We consider that item (c) is difficult to accept. We trust that the Stock Exchange will take careful steps to judge whether an individual must be put on its proposed unacceptable list under the then circumstances. However, if, for instance, Mr. X of PQR Capital Limited ("PQR", being a sponsor admitted on the new list) is considered as an unacceptable individual by the Stock Exchange and made public, the corporate image of PQR will be adversely affected notwithstanding that all/other eligible supervisors are capable to perform the duties of a sponsor. Perhaps, it is possible that Mr. X will be dismissed from PQR and is unable to get back in the corporate finance sector. So, what we suggest is that the Stock Exchange can list out all acceptable individuals in its website.

Furthermore, all personnel engaging in the provision of corporate finance advisory work have to be licensed or registered under the SFO. In applying to be licensed or registered under the SFO, an individual has to be a "fit and proper person". As such, we propose the Stock Exchange to further elaborate on what circumstances that an individual who passes the "fit and proper person" test of the SFC and yet be regarded as an unacceptable individual by the Stock Exchange.

Q4. Competence and experience of the sponsor and IFA firms

Disagree

We accept that the Stock Exchange would like to place a greater weight on experience of professional staff, rather than the sponsor firm or IFA firm itself. However, we have strong concern on having at least four eligible supervisors in a sponsor firm. We note that the UKLA requires the sponsor to have at least four eligible employees who (i) are being employed at an appropriate level of seniority within the sponsor; and (ii) have provided advice in connection with a significant transaction at least three times in the preceding 36 months and at least once in the preceding 12 months {see attachment I}. It does not necessarily mean that the sponsor must have four "senior" supervisors. We are of the view that the current setting of the GEM Board of having two Principal Supervisors and two Assistant Supervisors suffices to demonstrate the experience of the sponsor and IFA firms.

Q5. Qualification and experience criteria of eligible supervisors

Disagree

As mentioned above, the UKLA's requirement on experience of an individual is her/his involvement in three transactions which may be acquired within a period of 36 months. In other words, if an individual is involved in three transactions in the latest year, he is also considered to be eligible. Besides, the statement made in P.90 of the consultation paper that "a sponsor must be a Member of the TSX and meet standards of business that are substantially the same as those proposed by the Exchange (including employing at least one senior corporate finance officer who is licensed and has at least five continuous years of relevant experience with an underwriter and employing one industry expert in respect of each area of business undertaken)" is not appropriate. According to the policy statement taken by the TSX {see attachment II}, it is not necessary for such officer to have "at least five continuous years of relevant experience with an underwriter" if s/he can satisfy any one of the other requirements, e.g., a licensed CFA or CBV. It seems to us that the number of years of experience (proposed to be a minimum of 4 years for each of four eligible supervisors) can be relaxed.

In addition, it must be very careful to define the "substantive involvement" in at least 3 completed "significant transactions". For "substantive involvement", it may be interpreted that s/he must be a core member in that transaction who has carried out or supervised her/his employees to carry out part of due diligence work. This can be viewed as "very" demanding when compared with "providing advice" as presently adopted in the UKLA and the GEM Board. For "significant transactions", those qualified transactions have been clearly set out. However, we wonder why the connected (and discloseable) transactions are not recognised as "significant transactions". In particular, it is accepted in UKLA that a related party transaction involving the preparation of a circular is qualified (and so does the GEM Board).

It is further proposed that experience derived from recognised overseas markets will be recognised and only one significant transaction in Hong Kong market. While we agree that only recognising "local experience" is too stringent, requiring local experience in only one significant transaction without imposing time limitation as to when such experience is gained will defeat the purpose of ensuring that eligible supervisors understand and have the unique experience in dealing with the local practitioners, for instance, the extensive pre-listing vetting process over disclosure matters of IPO application with the Exchange. In an ever-changing market, recent local experience should be a fundamental criterion for assessing the knowledge and experience of an eligible supervisor in Hong Kong Listing Rules. It should also be noted that not only the eligible supervisor should acquire the suggested years of experience and active participation, other market practitioners, including the regulator, should also be on the same level playing field in order to truly improve vetting efficiency and to upgraded its sophistication.

Q6. Other factors relevant to the eligibility criteria

Partly agree

We consider that should an objective assessment and a clear explanation be provided by the Stock Exchange on the non-acceptance of a firm to the list of sponsors, the Stock Exchange can make such refusal or cancellation (but subject to the firm's objection). We think that it may be appropriate to adopt a Code of Conduct for Sponsors and Independent Financial Advisers. But, it must be viewed as a code of practice to help the firms improve their corporate governance and operations rather than a criteria for admission {see Q12}.

Q7. Minimum capital requirement of sponsor firms

a) Partly agree

We consider that as long as it is not creating an uneven playing field for smaller firms, such requirement is acceptable. However, we do not understand the rationale of having such a HK$10 million capital requirement.

b) Agree

We concur that IFA firms should not be subject to a similar requirement.

Q8. Undertakings to the Exchange

Disagree

We note from the consultation paper that such undertakings are not currently required by the Main Board and the UKLA while most of them are also not needed by the GEM Board. Chapter 2 the GEM Listing Rules sets out that "the principal function of the Exchange is to provide a fair, orderly and efficient market for the trading of securities. In furtherance of this, the Exchange has made the GEM Listing Rules under section 23 of the Securities and Futures Ordinance prescribing the requirements for the listing of securities on GEM. These comprise requirements which have to be met before securities may be listed and also continuing obligations with which an issuer and, where applicable, a guarantor must comply once listing has been granted." As such, we have doubts that "the sponsor (and also its eligible supervisors) to make the proposed undertakings to the Stock Exchange of complying with (i) the relevant Listing Rules applicable to sponsors and (ii) the proposed Code of Conduct for Sponsors and Independent Financial Advisers" is essential to the Stock Exchange for providing a fair, orderly and efficient market for the trading of securities.

Moreover, we are uncertain as to whether the Listing Rules which are designated for governing the listing of securities (and also their issuer) will be exploited if the statement of "a breach of the undertaking will be deemed to be a breach of the Listing Rules ……" is so established.

Q9. Appointment

Disagree

The UKLA requires the appointment of a sponsor {see attachment III} in the following situations:-

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities) must have appointed a sponsor when (a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or (b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UKLA.

2.7 In the event of a breach of the listing rules by an issuer, the UKLA may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

Besides, regarding the provision of certain financial information in listing documents and/or circulars, a sponsor is generally required to (i) obtain written confirmation from the issuer relating thereto and (ii) satisfy itself that such confirmation has been given after due and careful enquiry by the issuer {see attachment IV}.

Based on the approach adopted by the UKLA, we believe that the discretion to direct an issuer to appoint a sponsor firm to provide advice for any specified period can only be exercised by the Stock Exchange in the event of a breach of the Listing Rules (rather than in any situation as proposed in the consultation paper). Indeed, given the clear role and responsibility of the sponsors, it is not necessary for the Listing Rules to set out requirements generally applicable to sponsor firms where a sponsor firm gives advice or guidance to an issuer in relation to interpretation or application of the Listing Rules, irrespective of whether or not the Listing Rules require appointment of a sponsor.

An IPO with a large offering size does not mean that is complicated as to warrant more manpower, so that the combined effort of sponsors are required. It appears that such proposal has limited the market practitioners to give higher priority to size of offer than to the quality of the listing applicant. We are of the view that the issue as to whether or not more than one sponsor firm is required, it is much better for the issue to be determined by the market practitioners.

Also, we realise that should there be an acceptable list of sponsors in Q1, those co-sponsors (i.e., firms which are not qualified as sponsors for the time being to act as co-sponsors in IPOs) are no longer retained. In particular, a joint sponsorship is not encouraged unless such IPO is sizeable enough. Can the reasons for not welcoming the joint effort from different firms be clearly stipulated?

In addition, we consider that the appointment of retained sponsors for the Main Board which involves the interests of the issuer(s) must be subject to the opinion from the issuers, applicants, potential applicants and investor public. It is not just a matter between the Stock Exchange and the sponsors.

Q10. Independence

Partly agree

According to the "Sponsor's confirmation of independence" as required by the UKLA {see Attachment V}, we note that the sponsor as well as its directors, partners and employees must report (i) whether they have any shareholding interest or directorship in the issuer and (ii) any other matters which may affect the independence from the issuer. As such, interests of any associates of the sponsor's directors and employees may or may not be a factor which can materially affect its independence. In particular, whether a business relationship (past or current) between the issuer and the sponsors' director or employee can also materially affect its independence may be subject to judgment. So, we do not consider that the existence of such interests or relationship must prelude a firm from acting as a sponsor.

In addition, we note that the independence of an IFA relating to the Code-related matters is stricter than that relating to the Stock Exchange matters. However, due to the nature of the Stock Exchange matters, we think that a firm can qualify to be an IFA (other than any shareholding interest) if it does not serve as a financial adviser to the issuer and its subsidiaries within the past 12 months.

Q11. Responsibilities

Disagree

We do not agree that there is an expectation gap between the Stock Exchange's view of the responsibilities of sponsors and the manner in which many sponsors are discharging those responsibilities. As set out in the Model Code for Sponsors of the Listing Rules (Main Board), the purpose of which is to give guidance on the Stock Exchange's minimum expectations of the sponsor's role. For instance, a sponsor should satisfy itself, on the basis of all available information, that an issuer is suitable for listing. Besides, a sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified. It is also specified that failure by a sponsor to meet such expectations without reasonable cause may render it unacceptable to perform the role of sponsor in future.

We note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document.

Given the role as a sponsor, we believe that it is not unacceptable to us to take certain review procedures regarding the suitability of listing of the issuers. However, for the "non-expert sections", we may have the difficulty in assessing the correctness and completeness of certain information. If, for instance, the Company's management predicts that the industry growth is about 20 per cent. per annum for the coming five

years, what a sponsor can do may include (i) to obtain some research reports, (ii) to observe the pattern of past industry growth, (iii) to study other relevant markets (e.g. upstream, downstream or overseas), and (iv) to perform an industry analysis itself so as to make a justification thereon. But, whenever the sponsor cannot have access to all research reports (or other relevant materials), it may miss out some pieces of important information (perhaps, that can make the aforesaid industry growth unjustified). As such, notwithstanding that the sponsor can make investigations (or any applicable review procedures), it is impracticable for the sponsor to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Yet, it is generally acknowledged that the directors of the issuer must be responsible for such information (which relates to the particular features of its business and the industry it belongs to). On the other hand, if the experts so appointed are independent from the issuer and qualified for providing the information set out in the "expert sections", we think that it is sufficient for the Stock Exchange to make reliance thereon. Taking into account the approach of the TSX on the use of experts {see attachment VI}, it may be our responsibility to help assess the independence and qualification of such experts.

Q12. Code of Conduct for Sponsors and Independent Financial Advisers
Disagree
We agree with some of the matters set out the Code of Conduct for Sponsors and Independent Financial Adviser (the "Code of Conduct"). It is proposed in the Code of Conduct that it will be a requirement of the Corporate Finance Adviser Code of Conduct issued by the SFC that a registered person under the SFO has to observe the requirements of the Listing Rules including the Code of Conduct. Given that breach of the Code of Conduct would cast prima facie doubt on the fitness and properness of that person with respect to their registration under the SFO. As such, we do not see the reason for the Exchange to insist that a breach of the requirements of the Code of Conduct constitutes a breach of the Listing Rules. Such provisions would render a person subject to the regulation of both the Exchange and SFC which is not necessary. This is because a person who has breached the Code of Conduct may not be regarded as fit and proper and his registration under the SFO would probably not be renewed. We do not see the reason of having a single breach of regulation subject to proceedings of two regulatory authorities. In this regard, we are of the view that the Stock Exchange should coordinate with the SFC to enable the SFC to take appropriate action under the SFO. We are of the view that the Code of Conduct should be a code of practice to help the firms improve their corporate governance and operations {see Q6}.

We consider that the proposed requirements set out in the Code of Conduct should be strictly applicable only to sponsor firm(s) and IFA firm(s) (but not their eligible supervisors, other directors and/or staff) given that it is the firm rather than the individual to accept and perform the work for an issuer. In addition, we have concerns whether it is practicable for (i) a sponsor or (ii) an IFA to fully satisfy itself

and/or to assure the Stock Exchange whether (i) all the information set out in the "non-expert sections" in relation to an IPO, or (ii) all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement respectively, is without any omission or not misleading.

Q13. Declaration by sponsors and lead underwriters in listing documents to be registered

Disagree

Firstly, we have considered the approach taken by the UKLA, the TSX and the ASX in this regard. We noticed that there is no such kind of declaration required to be made by the sponsors and the lead underwriters in the listing documents to be registered. In particular, for the related "expert sections" found in the ASX {see attachment VII}, if the prospectus includes a statement purporting to be made by an expert, the prospectus can be issued once the expert has provided its written consent (and being stated therein). It seems to us that the expert itself is responsible for its statement or opinion expressed in the prospectus.

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FINANCIAL IMPLICATIONS

Pursuant to the Consultation Paper, it has been suggested that the introduction of standards of due diligence to close the expectation gap accompanied by prominent disclosure of the sponsor's role in performing due diligence on the prospectus [both distracts from the responsibilities which should properly be borne by the directors and] will lead to increased professional fees for new applicant companies. However, the potential increase in costs cannot be easily quantified as any increase will depend on both the circumstances of the applicant and the approach to due diligence currently taken by the sponsor concerned. Nevertheless, we consider that such increase in professional fees stemmed from the due diligence costs as incurred in meeting the new standards and the perceived risks associated with disclosure is likely to be passed on to the applicants. If the transaction cost is increased, those applicants of smaller size may (i) be unwilling to list in Hong Kong or (ii) defer their listing plan. Taking into account that the fund raising activities comprise primarily small/mid-cap companies {see attachment VIII for market statistics in 2002}, it is possible that the corporate finance sector will then be squeezed again. Not only are some sponsors (or their employees) out, but also certain accountants, lawyers, valuers, analysts and other professionals who work in this sector may be forced to leave.

We note that the current vetting process by the Stock Exchange is valuable. However, if the sponsors who have already carried out certain review procedures are also required to make the proposed declarations in the prospectus (i.e., to endorse the financial and operational aspects of the listing applicants as discussed above) which we consider inappropriate, it is arguable that the Stock Exchange is still required to spend resources on vetting those endorsed applicants for the market.

Based on the above arguments, it is uncertain as to whether it is financially justifiable for the Stock Exchange to put forward these proposals under the Consultation Paper. As such, we hope that the Stock Exchange can carry out market survey to acknowledge the acceptability of the increased costs by the listing applicants and assess the potential financial effects on our economy and the respective stakeholders.

RECOMMENDATIONS

Having considered the aforesaid principal factors, namely (i) reasons for the proposals, (ii) proposals under the Consultation Paper, and (iii) financial implications, we do not consider that it is compulsory for the Stock Exchange to put forward the proposals on regulating the sponsors and, particularly, we do not agree with such proposals which are not market practice worldwide and/or not market acceptable.

In fact, we understand that the primary role of the Stock Exchange is to provide a fair, orderly and efficient market for the trading of securities. It may take initiative to promote and advocate the code of conduct on the corporate governance of the listed

issuers. But, the Stock Exchange is not supposed to be responsible for preventing and detecting corporate scandals (and so do the sponsors). Given the parallel interests between the Stock Exchange and the sponsor firms, should either party be put into jeopardy, we consider that the sponsorship system cannot be run as efficient and effective as before.

Instead of introducing a new system to regulate the discharge of responsibilities of sponsors and IFAs, we are of the view that steps should be taken in the direction of some of the proposals set out in the Consultation Paper within the existing regulatory regime. We believe that the existing regime of having all corporate finance advisers regulated by the licensing system of the SFC under the SFO is working well and there is no need to introduce a two-tier regulation. Instead, we believe that the Exchange, as the front line regulator with close contacts with corporate finance advisers should strengthen its cooperation with the SFC so that the SFC can regulate and monitor the activities of the intermediaries subject to its regulatory regime.

Lastly, we would like to express our disappointment regarding the status of consultation is too preliminary for a conclusion to be reached if genuine support is to be obtained from financial intermediaries. Our representatives attended consultation seminar, in English and in Mandarin, jointly organised by the Exchange and the SFC on 18th July, 2003 but either insufficient time was given for Q&A sections or material concerns raised were not addressed or clarified. Given that it is anticipated by the Exchange that the results and conclusions on the Consultation Paper will be published on or around end of October 2003, with a view to the new rules being published by 1st January 2004, we believe that a second phase consultation is a must.

Yours faithfully,

Wilson Lo

國泰君安
GUOTAI JUNAN

STRICTLY PRIVATE AND CONFIDENTIAL

31st July, 2003

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1 Harbour View Street
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& by hand

The Securities and Futures Commission
The Corporate Finance Division
8th Floor, Chater House
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By fax no.: 2810 5385
& by hand

Dear Sir/Madam,

Re: Consultation Paper (the "Consultation Paper") on the Regulation of Sponsors and Independent Financial Advisers

We refer to the Consultation Paper provided in May 2003. We would like to give you our general view thereon and address the summary of questions in Annex 3 in the section headed "Proposals under the Consultation Paper".

BACKGROUND

The Hong Kong economy was hit significantly by the Asian financial crisis in late 1997. Not only did our financial market have a severe downturn, but most corporate finance houses also faced difficulties to operate. Many experienced practitioners were forced to leave this sector. It was until the establishment of the GEM Board in July 1999 which helped revive the corporate finance industry. However, given that the criteria for listing were relaxed, local companies as well as PRC enterprises tried to raise fund by listing on the Hong Kong Stock Exchange based on their formulated business model (rather than their established track record). Thus, the greater demand for the IPO sponsors led to the entry of many sponsor firms and supporting staffs. Whether new supporting staffs were qualified and adequately supervised to handle the IPO transactions could affect the smoothness of the vetting process of the Stock Exchange. Also, the presentation of unproven business models and the complexity of the PRC issues might create problems for the Stock Exchange to judge the

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suitability of listing of some applicants.

Besides, the corporate scandals of some Hong Kong listed companies (and also US multinational firms) raised specific concerns from the regulatory bodies and the investor public on the corporate governance in recent years. It was perceived that our market integrity could be preserved if the listed issuers in Hong Kong (especially the newly ones) were freed from any potential delinquency.

REASONS FOR THE PROPOSALS

It is considered that one of the preventive measures for minimizing any misconduct of the listed issuers in Hong Kong is the imposition of stringent rules on the sponsor firms. If the sponsors (and even their employees) who are experienced and qualified are given the responsibility to endorse the financial and operational aspects of the listing applicants, they will perform more than sufficient due diligence work which may help detect any irregular activities. In view that more PRC enterprises may apply to the Stock Exchange (since the establishment of a new board for "hi-tech" companies in the PRC is deferred) for listing, if these companies are thoroughly screened and vigilantly endorsed by their sponsors, the possibility of their ultimate failure might be reduced.

PROPOSALS UNDER THE CONSULTATION PAPER

Q1. Acceptable sponsor firms

Partly agree

We believe that a list of acceptable sponsors can be maintained by the Stock Exchange. However, we have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, (iii) independence {see Q10}, and (iv) the transition process. Will all current GEM sponsors automatically be included in the new list? If not, those financial institutions which would like to continue to act as sponsors will be required to make their own application. Based on our past experience with GEM application, the application process is a time consuming and tedious process, it is anticipated that the application process may take several months.

Q2. Acceptable IFA firms

Partly agree

We believe that a list of acceptable IFAs can be maintained by the Stock Exchange. However, we also have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, and (iii) the formation of the new list. Can those financial institutions which would like to be sponsors as well as IFAs make a single application for both qualifications? Although not all financial institutions are interested in the smaller IFA market, they may apply for such qualification so that they are flexible enough to provide a wide range of activities for marketing purpose. As such, in addition to the applications launched by those financial institutions which

have a focus on IFA market or are not currently qualified as sponsors, the number of applications can be significant which takes longer processing time.

Q3. Acceptable individuals

Disagree

We consider that item (c) is difficult to accept. We trust that the Stock Exchange will take careful steps to judge whether an individual must be put on its proposed unacceptable list under the then circumstances. However, if, for instance, Mr. X of PQR Capital Limited ("PQR", being a sponsor admitted on the new list) is considered as an unacceptable individual by the Stock Exchange and made public, the corporate image of PQR will be adversely affected notwithstanding that all/other eligible supervisors are capable to perform the duties of a sponsor. Perhaps, it is possible that Mr. X will be dismissed from PQR and is unable to get back in the corporate finance sector. So, what we suggest is that the Stock Exchange can list out all acceptable individuals in its website.

Furthermore, all personnel engaging in the provision of corporate finance advisory work have to be licensed or registered under the SFO. In applying to be licensed or registered under the SFO, an individual has to be a "fit and proper person". As such, we propose the Stock Exchange to further elaborate on what circumstances that an individual who passes the "fit and proper person" test of the SFC and yet be regarded as an unacceptable individual by the Stock Exchange.

Q4. Competence and experience of the sponsor and IFA firms

Disagree

We accept that the Stock Exchange would like to place a greater weight on experience of professional staff, rather than the sponsor firm or IFA firm itself. However, we have strong concern on having at least four eligible supervisors in a sponsor firm. We note that the UKLA requires the sponsor to have at least four eligible employees who (i) are being employed at an appropriate level of seniority within the sponsor; and (ii) have provided advice in connection with a significant transaction at least three times in the preceding 36 months and at least once in the preceding 12 months {see attachment I}. It does not necessarily mean that the sponsor must have four "senior" supervisors. We are of the view that the current setting of the GEM Board of having two Principal Supervisors and two Assistant Supervisors suffices to demonstrate the experience of the sponsor and IFA firms.

Q5. Qualification and experience criteria of eligible supervisors

Disagree

As mentioned above, the UKLA's requirement on experience of an individual is her/his involvement in three transactions which may be acquired within a period of 36 months. In other words, if an individual is involved in three transactions in the latest year, he is also considered to be eligible. Besides, the statement made in P.90 of the consultation paper that "a sponsor must be a Member of the TSX and meet standards of business that are substantially the same as those proposed by the Exchange (including employing at least one senior corporate finance officer who is licensed and has at least five continuous years of relevant experience with an underwriter and employing one industry expert in respect of each area of business undertaken)" is not appropriate. According to the policy statement taken by the TSX {see attachment II}, it is not necessary for such officer to have "at least five continuous years of relevant experience with an underwriter" if s/he can satisfy any one of the other requirements, e.g., a licensed CFA or CBV. It seems to us that the number of years of experience (proposed to be a minimum of 4 years for each of four eligible supervisors) can be relaxed.

In addition, it must be very careful to define the "substantive involvement" in at least 3 completed "significant transactions". For "substantive involvement", it may be interpreted that s/he must be a core member in that transaction who has carried out or supervised her/his employees to carry out part of due diligence work. This can be viewed as "very" demanding when compared with "providing advice" as presently adopted in the UKLA and the GEM Board. For "significant transactions", those qualified transactions have been clearly set out. However, we wonder why the connected (and discloseable) transactions are not recognised as "significant transactions". In particular, it is accepted in UKLA that a related party transaction involving the preparation of a circular is qualified (and so does the GEM Board).

It is further proposed that experience derived from recognised overseas markets will be recognised and only one significant transaction in Hong Kong market. While we agree that only recognising "local experience" is too stringent, requiring local experience in only one significant transaction without imposing time limitation as to when such experience is gained will defeat the purpose of ensuring that eligible supervisors understand and have the unique experience in dealing with the local practitioners, for instance, the extensive pre-listing vetting process over disclosure matters of IPO application with the Exchange. In an ever-changing market, recent local experience should be a fundamental criterion for assessing the knowledge and experience of an eligible supervisor in Hong Kong Listing Rules. It should also be noted that not only the eligible supervisor should acquire the suggested years of experience and active participation, other market practitioners, including the regulator, should also be on the same level playing field in order to truly improve vetting efficiency and to upgraded its sophistication.

Q6. Other factors relevant to the eligibility criteria

Partly agree

We consider that should an objective assessment and a clear explanation be provided by the Stock Exchange on the non-acceptance of a firm to the list of sponsors, the Stock Exchange can make such refusal or cancellation (but subject to the firm's objection). We think that it may be appropriate to adopt a Code of Conduct for Sponsors and Independent Financial Advisers. But, it must be viewed as a code of practice to help the firms improve their corporate governance and operations rather than a criteria for admission {see Q12}.

Q7. Minimum capital requirement of sponsor firms

a) Partly agree

We consider that as long as it is not creating an uneven playing field for smaller firms, such requirement is acceptable. However, we do not understand the rationale of having such a HK$10 million capital requirement.

b) Agree

We concur that IFA firms should not be subject to a similar requirement.

Q8. Undertakings to the Exchange

Disagree

We note from the consultation paper that such undertakings are not currently required by the Main Board and the UKLA while most of them are also not needed by the GEM Board. Chapter 2 the GEM Listing Rules sets out that "the principal function of the Exchange is to provide a fair, orderly and efficient market for the trading of securities. In furtherance of this, the Exchange has made the GEM Listing Rules under section 23 of the Securities and Futures Ordinance prescribing the requirements for the listing of securities on GEM. These comprise requirements which have to be met before securities may be listed and also continuing obligations with which an issuer and, where applicable, a guarantor must comply once listing has been granted." As such, we have doubts that "the sponsor (and also its eligible supervisors) to make the proposed undertakings to the Stock Exchange of complying with (i) the relevant Listing Rules applicable to sponsors and (ii) the proposed Code of Conduct for Sponsors and Independent Financial Advisers" is essential to the Stock Exchange for providing a fair, orderly and efficient market for the trading of securities.

Moreover, we are uncertain as to whether the Listing Rules which are designated for governing the listing of securities (and also their issuer) will be exploited if the statement of "a breach of the undertaking will be deemed to be a breach of the Listing Rules ......" is so established.

Q9. Appointment

Disagree

The UKLA requires the appointment of a sponsor {see attachment III} in the following situations:-

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities) must have appointed a sponsor when (a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or (b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UKLA.

2.7 In the event of a breach of the listing rules by an issuer, the UKLA may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

Besides, regarding the provision of certain financial information in listing documents and/or circulars, a sponsor is generally required to (i) obtain written confirmation from the issuer relating thereto and (ii) satisfy itself that such confirmation has been given after due and careful enquiry by the issuer {see attachment IV}.

Based on the approach adopted by the UKLA, we believe that the discretion to direct an issuer to appoint a sponsor firm to provide advice for any specified period can only be exercised by the Stock Exchange in the event of a breach of the Listing Rules (rather than in any situation as proposed in the consultation paper). Indeed, given the clear role and responsibility of the sponsors, it is not necessary for the Listing Rules to set out requirements generally applicable to sponsor firms where a sponsor firm gives advice or guidance to an issuer in relation to interpretation or application of the Listing Rules, irrespective of whether or not the Listing Rules require appointment of a sponsor.

An IPO with a large offering size does not mean that is complicated as to warrant more manpower, so that the combined effort of sponsors are required. It appears that such proposal has limited the market practitioners to give higher priority to size of offer than to the quality of the listing applicant. We are of the view that the issue as to whether or not more than one sponsor firm is required, it is much better for the issue to be determined by the market practitioners.

Also, we realise that should there be an acceptable list of sponsors in Q1, those co-sponsors (i.e., firms which are not qualified as sponsors for the time being to act as co-sponsors in IPOs) are no longer retained. In particular, a joint sponsorship is not encouraged unless such IPO is sizeable enough. Can the reasons for not welcoming the joint effort from different firms be clearly stipulated?

In addition, we consider that the appointment of retained sponsors for the Main Board which involves the interests of the issuer(s) must be subject to the opinion from the issuers, applicants, potential applicants and investor public. It is not just a matter between the Stock Exchange and the sponsors.

Q10. Independence

Partly agree

According to the "Sponsor's confirmation of independence" as required by the UKLA {see Attachment V}, we note that the sponsor as well as its directors, partners and employees must report (i) whether they have any shareholding interest or directorship in the issuer and (ii) any other matters which may affect the independence from the issuer. As such, interests of any associates of the sponsor's directors and employees may or may not be a factor which can materially affect its independence. In particular, whether a business relationship (past or current) between the issuer and the sponsors' director or employee can also materially affect its independence may be subject to judgment. So, we do not consider that the existence of such interests or relationship must prelude a firm from acting as a sponsor.

In addition, we note that the independence of an IFA relating to the Code-related matters is stricter than that relating to the Stock Exchange matters. However, due to the nature of the Stock Exchange matters, we think that a firm can qualify to be an IFA (other than any shareholding interest) if it does not serve as a financial adviser to the issuer and its subsidiaries within the past 12 months.

Q11. Responsibilities

Disagree

We do not agree that there is an expectation gap between the Stock Exchange's view of the responsibilities of sponsors and the manner in which many sponsors are discharging those responsibilities. As set out in the Model Code for Sponsors of the Listing Rules (Main Board), the purpose of which is to give guidance on the Stock Exchange's minimum expectations of the sponsor's role. For instance, a sponsor should satisfy itself, on the basis of all available information, that an issuer is suitable for listing. Besides, a sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified. It is also specified that failure by a sponsor to meet such expectations without reasonable cause may render it unacceptable to perform the role of sponsor in future.

We note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document.

Given the role as a sponsor, we believe that it is not unacceptable to us to take certain review procedures regarding the suitability of listing of the issuers. However, for the "non-expert sections", we may have the difficulty in assessing the correctness and completeness of certain information. If, for instance, the Company's management predicts that the industry growth is about 20 per cent. per annum for the coming five

years, what a sponsor can do may include (i) to obtain some research reports, (ii) to observe the pattern of past industry growth, (iii) to study other relevant markets (e.g. upstream, downstream or overseas), and (iv) to perform an industry analysis itself so as to make a justification thereon. But, whenever the sponsor cannot have access to all research reports (or other relevant materials), it may miss out some pieces of important information (perhaps, that can make the aforesaid industry growth unjustified). As such, notwithstanding that the sponsor can make investigations (or any applicable review procedures), it is impracticable for the sponsor to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Yet, it is generally acknowledged that the directors of the issuer must be responsible for such information (which relates to the particular features of its business and the industry it belongs to). On the other hand, if the experts so appointed are independent from the issuer and qualified for providing the information set out in the "expert sections", we think that it is sufficient for the Stock Exchange to make reliance thereon. Taking into account the approach of the TSX on the use of experts {see attachment VI}, it may be our responsibility to help assess the independence and qualification of such experts.

Q12. Code of Conduct for Sponsors and Independent Financial Advisers
Disagree
We agree with some of the matters set out the Code of Conduct for Sponsors and Independent Financial Adviser (the "Code of Conduct"). It is proposed in the Code of Conduct that it will be a requirement of the Corporate Finance Adviser Code of Conduct issued by the SFC that a registered person under the SFO has to observe the requirements of the Listing Rules including the Code of Conduct. Given that breach of the Code of Conduct would cast prima facie doubt on the fitness and properness of that person with respect to their registration under the SFO. As such, we do not see the reason for the Exchange to insist that a breach of the requirements of the Code of Conduct constitutes a breach of the Listing Rules. Such provisions would render a person subject to the regulation of both the Exchange and SFC which is not necessary. This is because a person who has breached the Code of Conduct may not be regarded as fit and proper and his registration under the SFO would probably not be renewed. We do not see the reason of having a single breach of regulation subject to proceedings of two regulatory authorities. In this regard, we are of the view that the Stock Exchange should coordinate with the SFC to enable the SFC to take appropriate action under the SFO. We are of the view that the Code of Conduct should be a code of practice to help the firms improve their corporate governance and operations {see Q6}.

We consider that the proposed requirements set out in the Code of Conduct should be strictly applicable only to sponsor firm(s) and IFA firm(s) (but not their eligible supervisors, other directors and/or staff) given that it is the firm rather than the individual to accept and perform the work for an issuer. In addition, we have concerns whether it is practicable for (i) a sponsor or (ii) an IFA to fully satisfy itself

and/or to assure the Stock Exchange whether (i) all the information set out in the "non-expert sections" in relation to an IPO, or (ii) all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement respectively, is without any omission or not misleading.

Q13. Declaration by sponsors and lead underwriters in listing documents to be registered

Disagree

Firstly, we have considered the approach taken by the UKLA, the TSX and the ASX in this regard. We noticed that there is no such kind of declaration required to be made by the sponsors and the lead underwriters in the listing documents to be registered. In particular, for the related "expert sections" found in the ASX {see attachment VII}, if the prospectus includes a statement purporting to be made by an expert, the prospectus can be issued once the expert has provided its written consent (and being stated therein). It seems to us that the expert itself is responsible for its statement or opinion expressed in the prospectus.

As mentioned in Q11, we note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document. While, according to the proposed requirement herein, the Stock Exchange would like the sponsor to make a declaration regarding its reasonable investigations on "non-expert sections" and "expert sections" in the prospectus subsequent to its vetting process. We wonder whether it is necessary to do so. Nevertheless, as discussed earlier, notwithstanding that we, as a sponsor, can make investigations (or any applicable review procedures), it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Given the aforesaid limitation, we consider that the sponsor (or the lead underwriter) is not able to provide such declaration. It may be more appropriate to advise the investors to be fully aware of the particular nature of the information set out in the "non-expert sections".

Q14. IFA due diligence declaration

Disagree

It is proposed that the Exchange would also like the IFA to perform due diligence work in assessing the correctness and completeness of all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement and to make a declaration thereon in its letter as enclosed in the circular subsequent to its vetting process. Again, notwithstanding that we, as an IFA, can make appropriate steps and due diligence work, it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement is without any

omission or not misleading. Given the aforesaid limitation, we consider that the IFA is not able to provide such declaration.

Q15. Reporting obligations and monitoring

Partly agree

We agree that it is appropriate to streamline the administration of the sponsor and IFA regime. However, using a certification process and a targeted program of monitoring cannot be served as a "complete" system for assessing the suitability of a firm as a sponsor or an IFA. As such, we suggest that the review of its ongoing eligibility can be made in every two years.

Q16. Compliance and sanctions

Disagree

We regret to hear that the rationale for imposing penalties on sponsors or financial advisers or any of their members of staff is to promote high standards of conduct and ensure that regulatory standards are being upheld. We wonder why the supervisors who have the qualifications and experience {see Q5} are still perceived to be unable to help discharge the sponsors' responsibility.

We consider that the existing Listing Rules have already provided sufficient and proper measures on any breach of duty by the sponsors relating to matters governed by the Listing Rules. We do not think that it is appropriate to extend such measures to individuals since it is the firm (but not the individual herself/himself) to accept and perform the sponsor's work for an issuer. Nevertheless, we consider that the Stock Exchange can make assessment on the work and professional conduct of an individual before accepting her/him to the list of acceptable individuals (or during the annual or bi-annual review process).

Q17/18. Ability of existing GEM and Main Board sponsors and IFAs to meet eligibility criteria for acceptable lists

a) Yes, if effective today.

b) Yes, if effective in 6 months time.

c) Not certain, if effective in 18 months time.

d) Not certain, if effective in 30 months time.

We refer to our concern set out in Q5 that it is uncertain as to whether each of our 4 "eligible" supervisors can complete at least one "significant transaction" in the then recent year to fulfil the proposed requirement. Nevertheless, we would like to reiterate our reply to Q4 that the requirement as stipulated by the UKLA does not necessarily mean that the sponsor must have four "senior" supervisors. In fact, we think that the GEM Board setting of having two Principal Supervisors and two Assistant Supervisors is good enough.

FINANCIAL IMPLICATIONS

Pursuant to the Consultation Paper, it has been suggested that the introduction of standards of due diligence to close the expectation gap accompanied by prominent disclosure of the sponsor's role in performing due diligence on the prospectus [both distracts from the responsibilities which should properly be borne by the directors and] will lead to increased professional fees for new applicant companies. However, the potential increase in costs cannot be easily quantified as any increase will depend on both the circumstances of the applicant and the approach to due diligence currently taken by the sponsor concerned. Nevertheless, we consider that such increase in professional fees stemmed from the due diligence costs as incurred in meeting the new standards and the perceived risks associated with disclosure is likely to be passed on to the applicants. If the transaction cost is increased, those applicants of smaller size may (i) be unwilling to list in Hong Kong or (ii) defer their listing plan. Taking into account that the fund raising activities comprise primarily small/mid-cap companies {see attachment VIII for market statistics in 2002}, it is possible that the corporate finance sector will then be squeezed again. Not only are some sponsors (or their employees) out, but also certain accountants, lawyers, valuers, analysts and other professionals who work in this sector may be forced to leave.

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Based on the above arguments, it is uncertain as to whether it is financially justifiable for the Stock Exchange to put forward these proposals under the Consultation Paper. As such, we hope that the Stock Exchange can carry out market survey to acknowledge the acceptability of the increased costs by the listing applicants and assess the potential financial effects on our economy and the respective stakeholders.

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Lastly, we would like to express our disappointment regarding the status of consultation is too preliminary for a conclusion to be reached if genuine support is to be obtained from financial intermediaries. Our representatives attended consultation seminar, in English and in Mandarin, jointly organised by the Exchange and the SFC on 18th July, 2003 but either insufficient time was given for Q&A sections or material concerns raised were not addressed or clarified. Given that it is anticipated by the Exchange that the results and conclusions on the Consultation Paper will be published on or around end of October 2003, with a view to the new rules being published by 1st January 2004, we believe that a second phase consultation is a must.

Yours faithfully,

Jacky Ho
Responsible Officer

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STRICTLY PRIVATE AND CONFIDENTIAL

31st July, 2003

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suitability of listing of some applicants.

Besides, the corporate scandals of some Hong Kong listed companies (and also US multinational firms) raised specific concerns from the regulatory bodies and the investor public on the corporate governance in recent years. It was perceived that our market integrity could be preserved if the listed issuers in Hong Kong (especially the newly ones) were freed from any potential delinquency.

REASONS FOR THE PROPOSALS

It is considered that one of the preventive measures for minimizing any misconduct of the listed issuers in Hong Kong is the imposition of stringent rules on the sponsor firms. If the sponsors (and even their employees) who are experienced and qualified are given the responsibility to endorse the financial and operational aspects of the listing applicants, they will perform more than sufficient due diligence work which may help detect any irregular activities. In view that more PRC enterprises may apply to the Stock Exchange (since the establishment of a new board for "hi-tech" companies in the PRC is deferred) for listing, if these companies are thoroughly screened and vigilantly endorsed by their sponsors, the possibility of their ultimate failure might be reduced.

PROPOSALS UNDER THE CONSULTATION PAPER

Q1. Acceptable sponsor firms

Partly agree

We believe that a list of acceptable sponsors can be maintained by the Stock Exchange. However, we have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, (iii) independence {see Q10}, and (iv) the transition process. Will all current GEM sponsors automatically be included in the new list? If not, those financial institutions which would like to continue to act as sponsors will be required to make their own application. Based on our past experience with GEM application, the application process is a time consuming and tedious process, it is anticipated that the application process may take several months.

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We believe that a list of acceptable IFAs can be maintained by the Stock Exchange. However, we also have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, and (iii) the formation of the new list. Can those financial institutions which would like to be sponsors as well as IFAs make a single application for both qualifications? Although not all financial institutions are interested in the smaller IFA market, they may apply for such qualification so that they are flexible enough to provide a wide range of activities for marketing purpose. As such, in addition to the applications launched by those financial institutions which

have a focus on IFA market or are not currently qualified as sponsors, the number of applications can be significant which takes longer processing time.

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We consider that item (c) is difficult to accept. We trust that the Stock Exchange will take careful steps to judge whether an individual must be put on its proposed unacceptable list under the then circumstances. However, if, for instance, Mr. X of PQR Capital Limited ("PQR", being a sponsor admitted on the new list) is considered as an unacceptable individual by the Stock Exchange and made public, the corporate image of PQR will be adversely affected notwithstanding that all/other eligible supervisors are capable to perform the duties of a sponsor. Perhaps, it is possible that Mr. X will be dismissed from PQR and is unable to get back in the corporate finance sector. So, what we suggest is that the Stock Exchange can list out all acceptable individuals in its website.

Furthermore, all personnel engaging in the provision of corporate finance advisory work have to be licensed or registered under the SFO. In applying to be licensed or registered under the SFO, an individual has to be a "fit and proper person". As such, we propose the Stock Exchange to further elaborate on what circumstances that an individual who passes the "fit and proper person" test of the SFC and yet be regarded as an unacceptable individual by the Stock Exchange.

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Disagree

We accept that the Stock Exchange would like to place a greater weight on experience of professional staff, rather than the sponsor firm or IFA firm itself. However, we have strong concern on having at least four eligible supervisors in a sponsor firm. We note that the UKLA requires the sponsor to have at least four eligible employees who (i) are being employed at an appropriate level of seniority within the sponsor; and (ii) have provided advice in connection with a significant transaction at least three times in the preceding 36 months and at least once in the preceding 12 months {see attachment I}. It does not necessarily mean that the sponsor must have four "senior" supervisors. We are of the view that the current setting of the GEM Board of having two Principal Supervisors and two Assistant Supervisors suffices to demonstrate the experience of the sponsor and IFA firms.

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Disagree

As mentioned above, the UKLA's requirement on experience of an individual is her/his involvement in three transactions which may be acquired within a period of 36 months. In other words, if an individual is involved in three transactions in the latest year, he is also considered to be eligible. Besides, the statement made in P.90 of the consultation paper that "a sponsor must be a Member of the TSX and meet standards of business that are substantially the same as those proposed by the Exchange (including employing at least one senior corporate finance officer who is licensed and has at least five continuous years of relevant experience with an underwriter and employing one industry expert in respect of each area of business undertaken)" is not appropriate. According to the policy statement taken by the TSX {see attachment II}, it is not necessary for such officer to have "at least five continuous years of relevant experience with an underwriter" if s/he can satisfy any one of the other requirements, e.g., a licensed CFA or CBV. It seems to us that the number of years of experience (proposed to be a minimum of 4 years for each of four eligible supervisors) can be relaxed.

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It is further proposed that experience derived from recognised overseas markets will be recognised and only one significant transaction in Hong Kong market. While we agree that only recognising "local experience" is too stringent, requiring local experience in only one significant transaction without imposing time limitation as to when such experience is gained will defeat the purpose of ensuring that eligible supervisors understand and have the unique experience in dealing with the local practitioners, for instance, the extensive pre-listing vetting process over disclosure matters of IPO application with the Exchange. In an ever-changing market, recent local experience should be a fundamental criterion for assessing the knowledge and experience of an eligible supervisor in Hong Kong Listing Rules. It should also be noted that not only the eligible supervisor should acquire the suggested years of experience and active participation, other market practitioners, including the regulator, should also be on the same level playing field in order to truly improve vetting efficiency and to upgraded its sophistication.

Q6. Other factors relevant to the eligibility criteria

Partly agree

We consider that should an objective assessment and a clear explanation be provided by the Stock Exchange on the non-acceptance of a firm to the list of sponsors, the Stock Exchange can make such refusal or cancellation (but subject to the firm's objection). We think that it may be appropriate to adopt a Code of Conduct for Sponsors and Independent Financial Advisers. But, it must be viewed as a code of practice to help the firms improve their corporate governance and operations rather than a criteria for admission {see Q12}.

Q7. Minimum capital requirement of sponsor firms

a) Partly agree

We consider that as long as it is not creating an uneven playing field for smaller firms, such requirement is acceptable. However, we do not understand the rationale of having such a HK$10 million capital requirement.

b) Agree

We concur that IFA firms should not be subject to a similar requirement.

Q8. Undertakings to the Exchange

Disagree

We note from the consultation paper that such undertakings are not currently required by the Main Board and the UKLA while most of them are also not needed by the GEM Board. Chapter 2 the GEM Listing Rules sets out that "the principal function of the Exchange is to provide a fair, orderly and efficient market for the trading of securities. In furtherance of this, the Exchange has made the GEM Listing Rules under section 23 of the Securities and Futures Ordinance prescribing the requirements for the listing of securities on GEM. These comprise requirements which have to be met before securities may be listed and also continuing obligations with which an issuer and, where applicable, a guarantor must comply once listing has been granted." As such, we have doubts that "the sponsor (and also its eligible supervisors) to make the proposed undertakings to the Stock Exchange of complying with (i) the relevant Listing Rules applicable to sponsors and (ii) the proposed Code of Conduct for Sponsors and Independent Financial Advisers" is essential to the Stock Exchange for providing a fair, orderly and efficient market for the trading of securities.

Moreover, we are uncertain as to whether the Listing Rules which are designated for governing the listing of securities (and also their issuer) will be exploited if the statement of "a breach of the undertaking will be deemed to be a breach of the Listing Rules ......" is so established.

Q9. Appointment

Disagree

The UKLA requires the appointment of a sponsor {see attachment III} in the following situations:-

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities) must have appointed a sponsor when (a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or (b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UKLA.

2.7 In the event of a breach of the listing rules by an issuer, the UKLA may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

Besides, regarding the provision of certain financial information in listing documents and/or circulars, a sponsor is generally required to (i) obtain written confirmation from the issuer relating thereto and (ii) satisfy itself that such confirmation has been given after due and careful enquiry by the issuer {see attachment IV}.

Based on the approach adopted by the UKLA, we believe that the discretion to direct an issuer to appoint a sponsor firm to provide advice for any specified period can only be exercised by the Stock Exchange in the event of a breach of the Listing Rules (rather than in any situation as proposed in the consultation paper). Indeed, given the clear role and responsibility of the sponsors, it is not necessary for the Listing Rules to set out requirements generally applicable to sponsor firms where a sponsor firm gives advice or guidance to an issuer in relation to interpretation or application of the Listing Rules, irrespective of whether or not the Listing Rules require appointment of a sponsor.

An IPO with a large offering size does not mean that is complicated as to warrant more manpower, so that the combined effort of sponsors are required. It appears that such proposal has limited the market practitioners to give higher priority to size of offer than to the quality of the listing applicant. We are of the view that the issue as to whether or not more than one sponsor firm is required, it is much better for the issue to be determined by the market practitioners.

Also, we realise that should there be an acceptable list of sponsors in Q1, those co-sponsors (i.e., firms which are not qualified as sponsors for the time being to act as co-sponsors in IPOs) are no longer retained. In particular, a joint sponsorship is not encouraged unless such IPO is sizeable enough. Can the reasons for not welcoming the joint effort from different firms be clearly stipulated?

In addition, we consider that the appointment of retained sponsors for the Main Board which involves the interests of the issuer(s) must be subject to the opinion from the issuers, applicants, potential applicants and investor public. It is not just a matter between the Stock Exchange and the sponsors.

Q10. Independence

Partly agree

According to the "Sponsor's confirmation of independence" as required by the UKLA {see Attachment V}, we note that the sponsor as well as its directors, partners and employees must report (i) whether they have any shareholding interest or directorship in the issuer and (ii) any other matters which may affect the independence from the issuer. As such, interests of any associates of the sponsor's directors and employees may or may not be a factor which can materially affect its independence. In particular, whether a business relationship (past or current) between the issuer and the sponsors' director or employee can also materially affect its independence may be subject to judgment. So, we do not consider that the existence of such interests or relationship must prelude a firm from acting as a sponsor.

In addition, we note that the independence of an IFA relating to the Code-related matters is stricter than that relating to the Stock Exchange matters. However, due to the nature of the Stock Exchange matters, we think that a firm can qualify to be an IFA (other than any shareholding interest) if it does not serve as a financial adviser to the issuer and its subsidiaries within the past 12 months.

Q11. Responsibilities

Disagree

We do not agree that there is an expectation gap between the Stock Exchange's view of the responsibilities of sponsors and the manner in which many sponsors are discharging those responsibilities. As set out in the Model Code for Sponsors of the Listing Rules (Main Board), the purpose of which is to give guidance on the Stock Exchange's minimum expectations of the sponsor's role. For instance, a sponsor should satisfy itself, on the basis of all available information, that an issuer is suitable for listing. Besides, a sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified. It is also specified that failure by a sponsor to meet such expectations without reasonable cause may render it unacceptable to perform the role of sponsor in future.

We note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document.

Given the role as a sponsor, we believe that it is not unacceptable to us to take certain review procedures regarding the suitability of listing of the issuers. However, for the "non-expert sections", we may have the difficulty in assessing the correctness and completeness of certain information. If, for instance, the Company's management predicts that the industry growth is about 20 per cent. per annum for the coming five

years, what a sponsor can do may include (i) to obtain some research reports, (ii) to observe the pattern of past industry growth, (iii) to study other relevant markets (e.g. upstream, downstream or overseas), and (iv) to perform an industry analysis itself so as to make a justification thereon. But, whenever the sponsor cannot have access to all research reports (or other relevant materials), it may miss out some pieces of important information (perhaps, that can make the aforesaid industry growth unjustified). As such, notwithstanding that the sponsor can make investigations (or any applicable review procedures), it is impracticable for the sponsor to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Yet, it is generally acknowledged that the directors of the issuer must be responsible for such information (which relates to the particular features of its business and the industry it belongs to). On the other hand, if the experts so appointed are independent from the issuer and qualified for providing the information set out in the "expert sections", we think that it is sufficient for the Stock Exchange to make reliance thereon. Taking into account the approach of the TSX on the use of experts {see attachment VI}, it may be our responsibility to help assess the independence and qualification of such experts.

Q12. Code of Conduct for Sponsors and Independent Financial Advisers
Disagree
We agree with some of the matters set out the Code of Conduct for Sponsors and Independent Financial Adviser (the "Code of Conduct"). It is proposed in the Code of Conduct that it will be a requirement of the Corporate Finance Adviser Code of Conduct issued by the SFC that a registered person under the SFO has to observe the requirements of the Listing Rules including the Code of Conduct. Given that breach of the Code of Conduct would cast prima facie doubt on the fitness and properness of that person with respect to their registration under the SFO. As such, we do not see the reason for the Exchange to insist that a breach of the requirements of the Code of Conduct constitutes a breach of the Listing Rules. Such provisions would render a person subject to the regulation of both the Exchange and SFC which is not necessary. This is because a person who has breached the Code of Conduct may not be regarded as fit and proper and his registration under the SFO would probably not be renewed. We do not see the reason of having a single breach of regulation subject to proceedings of two regulatory authorities. In this regard, we are of the view that the Stock Exchange should coordinate with the SFC to enable the SFC to take appropriate action under the SFO. We are of the view that the Code of Conduct should be a code of practice to help the firms improve their corporate governance and operations {see Q6}.

We consider that the proposed requirements set out in the Code of Conduct should be strictly applicable only to sponsor firm(s) and IFA firm(s) (but not their eligible supervisors, other directors and/or staff) given that it is the firm rather than the individual to accept and perform the work for an issuer. In addition, we have concerns whether it is practicable for (i) a sponsor or (ii) an IFA to fully satisfy itself

and/or to assure the Stock Exchange whether (i) all the information set out in the "non-expert sections" in relation to an IPO, or (ii) all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement respectively, is without any omission or not misleading.

Q13. Declaration by sponsors and lead underwriters in listing documents to be registered

Disagree

Firstly, we have considered the approach taken by the UKLA, the TSX and the ASX in this regard. We noticed that there is no such kind of declaration required to be made by the sponsors and the lead underwriters in the listing documents to be registered. In particular, for the related "expert sections" found in the ASX {see attachment VII}, if the prospectus includes a statement purporting to be made by an expert, the prospectus can be issued once the expert has provided its written consent (and being stated therein). It seems to us that the expert itself is responsible for its statement or opinion expressed in the prospectus.

As mentioned in Q11, we note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document. While, according to the proposed requirement herein, the Stock Exchange would like the sponsor to make a declaration regarding its reasonable investigations on "non-expert sections" and "expert sections" in the prospectus subsequent to its vetting process. We wonder whether it is necessary to do so. Nevertheless, as discussed earlier, notwithstanding that we, as a sponsor, can make investigations (or any applicable review procedures), it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Given the aforesaid limitation, we consider that the sponsor (or the lead underwriter) is not able to provide such declaration. It may be more appropriate to advise the investors to be fully aware of the particular nature of the information set out in the "non-expert sections".

Q14. IFA due diligence declaration

Disagree

It is proposed that the Exchange would also like the IFA to perform due diligence work in assessing the correctness and completeness of all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement and to make a declaration thereon in its letter as enclosed in the circular subsequent to its vetting process. Again, notwithstanding that we, as an IFA, can make appropriate steps and due diligence work, it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement is without any

omission or not misleading. Given the aforesaid limitation, we consider that the IFA is not able to provide such declaration.

Q15. Reporting obligations and monitoring

Partly agree

We agree that it is appropriate to streamline the administration of the sponsor and IFA regime. However, using a certification process and a targeted program of monitoring cannot be served as a "complete" system for assessing the suitability of a firm as a sponsor or an IFA. As such, we suggest that the review of its ongoing eligibility can be made in every two years.

Q16. Compliance and sanctions

Disagree

We regret to hear that the rationale for imposing penalties on sponsors or financial advisers or any of their members of staff is to promote high standards of conduct and ensure that regulatory standards are being upheld. We wonder why the supervisors who have the qualifications and experience {see Q5} are still perceived to be unable to help discharge the sponsors' responsibility.

We consider that the existing Listing Rules have already provided sufficient and proper measures on any breach of duty by the sponsors relating to matters governed by the Listing Rules. We do not think that it is appropriate to extend such measures to individuals since it is the firm (but not the individual herself/himself) to accept and perform the sponsor's work for an issuer. Nevertheless, we consider that the Stock Exchange can make assessment on the work and professional conduct of an individual before accepting her/him to the list of acceptable individuals (or during the annual or bi-annual review process).

Q17/18. Ability of existing GEM and Main Board sponsors and IFAs to meet eligibility criteria for acceptable lists

a) Yes, if effective today.

b) Yes, if effective in 6 months time.

c) Not certain, if effective in 18 months time.

d) Not certain, if effective in 30 months time.

We refer to our concern set out in Q5 that it is uncertain as to whether each of our 4 "eligible" supervisors can complete at least one "significant transaction" in the then recent year to fulfil the proposed requirement. Nevertheless, we would like to reiterate our reply to Q4 that the requirement as stipulated by the UKLA does not necessarily mean that the sponsor must have four "senior" supervisors. In fact, we think that the GEM Board setting of having two Principal Supervisors and two Assistant Supervisors is good enough.

FINANCIAL IMPLICATIONS

Pursuant to the Consultation Paper, it has been suggested that the introduction of standards of due diligence to close the expectation gap accompanied by prominent disclosure of the sponsor's role in performing due diligence on the prospectus [both distracts from the responsibilities which should properly be borne by the directors and] will lead to increased professional fees for new applicant companies. However, the potential increase in costs cannot be easily quantified as any increase will depend on both the circumstances of the applicant and the approach to due diligence currently taken by the sponsor concerned. Nevertheless, we consider that such increase in professional fees stemmed from the due diligence costs as incurred in meeting the new standards and the perceived risks associated with disclosure is likely to be passed on to the applicants. If the transaction cost is increased, those applicants of smaller size may (i) be unwilling to list in Hong Kong or (ii) defer their listing plan. Taking into account that the fund raising activities comprise primarily small/mid-cap companies {see attachment VIII for market statistics in 2002}, it is possible that the corporate finance sector will then be squeezed again. Not only are some sponsors (or their employees) out, but also certain accountants, lawyers, valuers, analysts and other professionals who work in this sector may be forced to leave.

We note that the current vetting process by the Stock Exchange is valuable. However, if the sponsors who have already carried out certain review procedures are also required to make the proposed declarations in the prospectus (i.e., to endorse the financial and operational aspects of the listing applicants as discussed above) which we consider inappropriate, it is arguable that the Stock Exchange is still required to spend resources on vetting those endorsed applicants for the market.

Based on the above arguments, it is uncertain as to whether it is financially justifiable for the Stock Exchange to put forward these proposals under the Consultation Paper. As such, we hope that the Stock Exchange can carry out market survey to acknowledge the acceptability of the increased costs by the listing applicants and assess the potential financial effects on our economy and the respective stakeholders.

RECOMMENDATIONS

Having considered the aforesaid principal factors, namely (i) reasons for the proposals, (ii) proposals under the Consultation Paper, and (iii) financial implications, we do not consider that it is compulsory for the Stock Exchange to put forward the proposals on regulating the sponsors and, particularly, we do not agree with such proposals which are not market practice worldwide and/or not market acceptable.

In fact, we understand that the primary role of the Stock Exchange is to provide a fair, orderly and efficient market for the trading of securities. It may take initiative to promote and advocate the code of conduct on the corporate governance of the listed

issuers. But, the Stock Exchange is not supposed to be responsible for preventing and detecting corporate scandals (and so do the sponsors). Given the parallel interests between the Stock Exchange and the sponsor firms, should either party be put into jeopardy, we consider that the sponsorship system cannot be run as efficient and effective as before.

Instead of introducing a new system to regulate the discharge of responsibilities of sponsors and IFAs, we are of the view that steps should be taken in the direction of some of the proposals set out in the Consultation Paper within the existing regulatory regime. We believe that the existing regime of having all corporate finance advisers regulated by the licensing system of the SFC under the SFO is working well and there is no need to introduce a two-tier regulation. Instead, we believe that the Exchange, as the front line regulator with close contacts with corporate finance advisers should strengthen its cooperation with the SFC so that the SFC can regulate and monitor the activities of the intermediaries subject to its regulatory regime.

Lastly, we would like to express our disappointment regarding the status of consultation is too preliminary for a conclusion to be reached if genuine support is to be obtained from financial intermediaries. Our representatives attended consultation seminar, in English and in Mandarin, jointly organised by the Exchange and the SFC on 18th July, 2003 but either insufficient time was given for Q&A sections or material concerns raised were not addressed or clarified. Given that it is anticipated by the Exchange that the results and conclusions on the Consultation Paper will be published on or around end of October 2003, with a view to the new rules being published by 1st January 2004, we believe that a second phase consultation is a must.

Yours faithfully,

Henry Yeung
Responsible Officer

國泰君安
GUOTAI JUNAN

STRICTLY PRIVATE AND CONFIDENTIAL

31st July, 2003

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Listing Division
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1 Harbour View Street
Central
Hong Kong

By fax no.: 2295 3599
& by hand

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

By fax no.: 2810 5385
& by hand

Dear Sir/Madam,

Re: Consultation Paper (the "Consultation Paper") on the Regulation of Sponsors and Independent Financial Advisers

We refer to the Consultation Paper provided in May 2003. We would like to give you our general view thereon and address the summary of questions in Annex 3 in the section headed "Proposals under the Consultation Paper".

BACKGROUND

The Hong Kong economy was hit significantly by the Asian financial crisis in late 1997. Not only did our financial market have a severe downturn, but most corporate finance houses also faced difficulties to operate. Many experienced practitioners were forced to leave this sector. It was until the establishment of the GEM Board in July 1999 which helped revive the corporate finance industry. However, given that the criteria for listing were relaxed, local companies as well as PRC enterprises tried to raise fund by listing on the Hong Kong Stock Exchange based on their formulated business model (rather than their established track record). Thus, the greater demand for the IPO sponsors led to the entry of many sponsor firms and supporting staffs. Whether new supporting staffs were qualified and adequately supervised to handle the IPO transactions could affect the smoothness of the vetting process of the Stock Exchange. Also, the presentation of unproven business models and the complexity of the PRC issues might create problems for the Stock Exchange to judge the

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In addition, it must be very careful to define the "substantive involvement" in at least 3 completed "significant transactions". For "substantive involvement", it may be interpreted that s/he must be a core member in that transaction who has carried out or supervised her/his employees to carry out part of due diligence work. This can be viewed as "very" demanding when compared with "providing advice" as presently adopted in the UKLA and the GEM Board. For "significant transactions", those qualified transactions have been clearly set out. However, we wonder why the connected (and discloseable) transactions are not recognised as "significant transactions". In particular, it is accepted in UKLA that a related party transaction involving the preparation of a circular is qualified (and so does the GEM Board).

It is further proposed that experience derived from recognised overseas markets will be recognised and only one significant transaction in Hong Kong market. While we agree that only recognising "local experience" is too stringent, requiring local experience in only one significant transaction without imposing time limitation as to when such experience is gained will defeat the purpose of ensuring that eligible supervisors understand and have the unique experience in dealing with the local practitioners, for instance, the extensive pre-listing vetting process over disclosure matters of IPO application with the Exchange. In an ever-changing market, recent local experience should be a fundamental criterion for assessing the knowledge and experience of an eligible supervisor in Hong Kong Listing Rules. It should also be noted that not only the eligible supervisor should acquire the suggested years of experience and active participation, other market practitioners, including the regulator, should also be on the same level playing field in order to truly improve vetting efficiency and to upgraded its sophistication.

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Partly agree

We consider that should an objective assessment and a clear explanation be provided by the Stock Exchange on the non-acceptance of a firm to the list of sponsors, the Stock Exchange can make such refusal or cancellation (but subject to the firm's objection). We think that it may be appropriate to adopt a Code of Conduct for Sponsors and Independent Financial Advisers. But, it must be viewed as a code of practice to help the firms improve their corporate governance and operations rather than a criteria for admission {see Q12}.

Q7. Minimum capital requirement of sponsor firms

a) Partly agree

We consider that as long as it is not creating an uneven playing field for smaller firms, such requirement is acceptable. However, we do not understand the rationale of having such a HK$10 million capital requirement.

b) Agree

We concur that IFA firms should not be subject to a similar requirement.

Q8. Undertakings to the Exchange

Disagree

We note from the consultation paper that such undertakings are not currently required by the Main Board and the UKLA while most of them are also not needed by the GEM Board. Chapter 2 the GEM Listing Rules sets out that "the principal function of the Exchange is to provide a fair, orderly and efficient market for the trading of securities. In furtherance of this, the Exchange has made the GEM Listing Rules under section 23 of the Securities and Futures Ordinance prescribing the requirements for the listing of securities on GEM. These comprise requirements which have to be met before securities may be listed and also continuing obligations with which an issuer and, where applicable, a guarantor must comply once listing has been granted." As such, we have doubts that "the sponsor (and also its eligible supervisors) to make the proposed undertakings to the Stock Exchange of complying with (i) the relevant Listing Rules applicable to sponsors and (ii) the proposed Code of Conduct for Sponsors and Independent Financial Advisers" is essential to the Stock Exchange for providing a fair, orderly and efficient market for the trading of securities.

Moreover, we are uncertain as to whether the Listing Rules which are designated for governing the listing of securities (and also their issuer) will be exploited if the statement of "a breach of the undertaking will be deemed to be a breach of the Listing Rules ......" is so established.

Q9. Appointment

Disagree

The UKLA requires the appointment of a sponsor {see attachment III} in the following situations:-

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities) must have appointed a sponsor when (a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or (b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UKLA.

2.7 In the event of a breach of the listing rules by an issuer, the UKLA may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

Besides, regarding the provision of certain financial information in listing documents and/or circulars, a sponsor is generally required to (i) obtain written confirmation from the issuer relating thereto and (ii) satisfy itself that such confirmation has been given after due and careful enquiry by the issuer {see attachment IV}.

Based on the approach adopted by the UKLA, we believe that the discretion to direct an issuer to appoint a sponsor firm to provide advice for any specified period can only be exercised by the Stock Exchange in the event of a breach of the Listing Rules (rather than in any situation as proposed in the consultation paper). Indeed, given the clear role and responsibility of the sponsors, it is not necessary for the Listing Rules to set out requirements generally applicable to sponsor firms where a sponsor firm gives advice or guidance to an issuer in relation to interpretation or application of the Listing Rules, irrespective of whether or not the Listing Rules require appointment of a sponsor.

An IPO with a large offering size does not mean that is complicated as to warrant more manpower, so that the combined effort of sponsors are required. It appears that such proposal has limited the market practitioners to give higher priority to size of offer than to the quality of the listing applicant. We are of the view that the issue as to whether or not more than one sponsor firm is required, it is much better for the issue to be determined by the market practitioners.

Also, we realise that should there be an acceptable list of sponsors in Q1, those co-sponsors (i.e., firms which are not qualified as sponsors for the time being to act as co-sponsors in IPOs) are no longer retained. In particular, a joint sponsorship is not encouraged unless such IPO is sizeable enough. Can the reasons for not welcoming the joint effort from different firms be clearly stipulated?

In addition, we consider that the appointment of retained sponsors for the Main Board which involves the interests of the issuer(s) must be subject to the opinion from the issuers, applicants, potential applicants and investor public. It is not just a matter between the Stock Exchange and the sponsors.

Q10. Independence

Partly agree

According to the "Sponsor's confirmation of independence" as required by the UKLA {see Attachment V}, we note that the sponsor as well as its directors, partners and employees must report (i) whether they have any shareholding interest or directorship in the issuer and (ii) any other matters which may affect the independence from the issuer. As such, interests of any associates of the sponsor's directors and employees may or may not be a factor which can materially affect its independence. In particular, whether a business relationship (past or current) between the issuer and the sponsors' director or employee can also materially affect its independence may be subject to judgment. So, we do not consider that the existence of such interests or relationship must prelude a firm from acting as a sponsor.

In addition, we note that the independence of an IFA relating to the Code-related matters is stricter than that relating to the Stock Exchange matters. However, due to the nature of the Stock Exchange matters, we think that a firm can qualify to be an IFA (other than any shareholding interest) if it does not serve as a financial adviser to the issuer and its subsidiaries within the past 12 months.

Q11. Responsibilities

Disagree

We do not agree that there is an expectation gap between the Stock Exchange's view of the responsibilities of sponsors and the manner in which many sponsors are discharging those responsibilities. As set out in the Model Code for Sponsors of the Listing Rules (Main Board), the purpose of which is to give guidance on the Stock Exchange's minimum expectations of the sponsor's role. For instance, a sponsor should satisfy itself, on the basis of all available information, that an issuer is suitable for listing. Besides, a sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified. It is also specified that failure by a sponsor to meet such expectations without reasonable cause may render it unacceptable to perform the role of sponsor in future.

We note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document.

Given the role as a sponsor, we believe that it is not unacceptable to us to take certain review procedures regarding the suitability of listing of the issuers. However, for the "non-expert sections", we may have the difficulty in assessing the correctness and completeness of certain information. If, for instance, the Company's management predicts that the industry growth is about 20 per cent. per annum for the coming five

years, what a sponsor can do may include (i) to obtain some research reports, (ii) to observe the pattern of past industry growth, (iii) to study other relevant markets (e.g. upstream, downstream or overseas), and (iv) to perform an industry analysis itself so as to make a justification thereon. But, whenever the sponsor cannot have access to all research reports (or other relevant materials), it may miss out some pieces of important information (perhaps, that can make the aforesaid industry growth unjustified). As such, notwithstanding that the sponsor can make investigations (or any applicable review procedures), it is impracticable for the sponsor to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Yet, it is generally acknowledged that the directors of the issuer must be responsible for such information (which relates to the particular features of its business and the industry it belongs to). On the other hand, if the experts so appointed are independent from the issuer and qualified for providing the information set out in the "expert sections", we think that it is sufficient for the Stock Exchange to make reliance thereon. Taking into account the approach of the TSX on the use of experts {see attachment VI}, it may be our responsibility to help assess the independence and qualification of such experts.

Q12. Code of Conduct for Sponsors and Independent Financial Advisers
Disagree
We agree with some of the matters set out the Code of Conduct for Sponsors and Independent Financial Adviser (the "Code of Conduct"). It is proposed in the Code of Conduct that it will be a requirement of the Corporate Finance Adviser Code of Conduct issued by the SFC that a registered person under the SFO has to observe the requirements of the Listing Rules including the Code of Conduct. Given that breach of the Code of Conduct would cast prima facie doubt on the fitness and properness of that person with respect to their registration under the SFO. As such, we do not see the reason for the Exchange to insist that a breach of the requirements of the Code of Conduct constitutes a breach of the Listing Rules. Such provisions would render a person subject to the regulation of both the Exchange and SFC which is not necessary. This is because a person who has breached the Code of Conduct may not be regarded as fit and proper and his registration under the SFO would probably not be renewed. We do not see the reason of having a single breach of regulation subject to proceedings of two regulatory authorities. In this regard, we are of the view that the Stock Exchange should coordinate with the SFC to enable the SFC to take appropriate action under the SFO. We are of the view that the Code of Conduct should be a code of practice to help the firms improve their corporate governance and operations {see Q6}.

We consider that the proposed requirements set out in the Code of Conduct should be strictly applicable only to sponsor firm(s) and IFA firm(s) (but not their eligible supervisors, other directors and/or staff) given that it is the firm rather than the individual to accept and perform the work for an issuer. In addition, we have concerns whether it is practicable for (i) a sponsor or (ii) an IFA to fully satisfy itself

and/or to assure the Stock Exchange whether (i) all the information set out in the "non-expert sections" in relation to an IPO, or (ii) all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement respectively, is without any omission or not misleading.

Q13. Declaration by sponsors and lead underwriters in listing documents to be registered

Disagree

Firstly, we have considered the approach taken by the UKLA, the TSX and the ASX in this regard. We noticed that there is no such kind of declaration required to be made by the sponsors and the lead underwriters in the listing documents to be registered. In particular, for the related "expert sections" found in the ASX {see attachment VII}, if the prospectus includes a statement purporting to be made by an expert, the prospectus can be issued once the expert has provided its written consent (and being stated therein). It seems to us that the expert itself is responsible for its statement or opinion expressed in the prospectus.

As mentioned in Q11, we note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document. While, according to the proposed requirement herein, the Stock Exchange would like the sponsor to make a declaration regarding its reasonable investigations on "non-expert sections" and "expert sections" in the prospectus subsequent to its vetting process. We wonder whether it is necessary to do so. Nevertheless, as discussed earlier, notwithstanding that we, as a sponsor, can make investigations (or any applicable review procedures), it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Given the aforesaid limitation, we consider that the sponsor (or the lead underwriter) is not able to provide such declaration. It may be more appropriate to advise the investors to be fully aware of the particular nature of the information set out in the "non-expert sections".

Q14. IFA due diligence declaration

Disagree

It is proposed that the Exchange would also like the IFA to perform due diligence work in assessing the correctness and completeness of all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement and to make a declaration thereon in its letter as enclosed in the circular subsequent to its vetting process. Again, notwithstanding that we, as an IFA, can make appropriate steps and due diligence work, it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement is without any

omission or not misleading. Given the aforesaid limitation, we consider that the IFA is not able to provide such declaration.

Q15. Reporting obligations and monitoring

Partly agree

We agree that it is appropriate to streamline the administration of the sponsor and IFA regime. However, using a certification process and a targeted program of monitoring cannot be served as a "complete" system for assessing the suitability of a firm as a sponsor or an IFA. As such, we suggest that the review of its ongoing eligibility can be made in every two years.

Q16. Compliance and sanctions

Disagree

We regret to hear that the rationale for imposing penalties on sponsors or financial advisers or any of their members of staff is to promote high standards of conduct and ensure that regulatory standards are being upheld. We wonder why the supervisors who have the qualifications and experience {see Q5} are still perceived to be unable to help discharge the sponsors' responsibility.

We consider that the existing Listing Rules have already provided sufficient and proper measures on any breach of duty by the sponsors relating to matters governed by the Listing Rules. We do not think that it is appropriate to extend such measures to individuals since it is the firm (but not the individual herself/himself) to accept and perform the sponsor's work for an issuer. Nevertheless, we consider that the Stock Exchange can make assessment on the work and professional conduct of an individual before accepting her/him to the list of acceptable individuals (or during the annual or bi-annual review process).

Q17/18. Ability of existing GEM and Main Board sponsors and IFAs to meet eligibility criteria for acceptable lists

a) Yes, if effective today.

b) Yes, if effective in 6 months time.

c) Not certain, if effective in 18 months time.

d) Not certain, if effective in 30 months time.

We refer to our concern set out in Q5 that it is uncertain as to whether each of our 4 "eligible" supervisors can complete at least one "significant transaction" in the then recent year to fulfil the proposed requirement. Nevertheless, we would like to reiterate our reply to Q4 that the requirement as stipulated by the UKLA does not necessarily mean that the sponsor must have four "senior" supervisors. In fact, we think that the GEM Board setting of having two Principal Supervisors and two Assistant Supervisors is good enough.

FINANCIAL IMPLICATIONS

Pursuant to the Consultation Paper, it has been suggested that the introduction of standards of due diligence to close the expectation gap accompanied by prominent disclosure of the sponsor's role in performing due diligence on the prospectus [both distracts from the responsibilities which should properly be borne by the directors and] will lead to increased professional fees for new applicant companies. However, the potential increase in costs cannot be easily quantified as any increase will depend on both the circumstances of the applicant and the approach to due diligence currently taken by the sponsor concerned. Nevertheless, we consider that such increase in professional fees stemmed from the due diligence costs as incurred in meeting the new standards and the perceived risks associated with disclosure is likely to be passed on to the applicants. If the transaction cost is increased, those applicants of smaller size may (i) be unwilling to list in Hong Kong or (ii) defer their listing plan. Taking into account that the fund raising activities comprise primarily small/mid-cap companies {see attachment VIII for market statistics in 2002}, it is possible that the corporate finance sector will then be squeezed again. Not only are some sponsors (or their employees) out, but also certain accountants, lawyers, valuers, analysts and other professionals who work in this sector may be forced to leave.

We note that the current vetting process by the Stock Exchange is valuable. However, if the sponsors who have already carried out certain review procedures are also required to make the proposed declarations in the prospectus (i.e., to endorse the financial and operational aspects of the listing applicants as discussed above) which we consider inappropriate, it is arguable that the Stock Exchange is still required to spend resources on vetting those endorsed applicants for the market.

Based on the above arguments, it is uncertain as to whether it is financially justifiable for the Stock Exchange to put forward these proposals under the Consultation Paper. As such, we hope that the Stock Exchange can carry out market survey to acknowledge the acceptability of the increased costs by the listing applicants and assess the potential financial effects on our economy and the respective stakeholders.

RECOMMENDATIONS

Having considered the aforesaid principal factors, namely (i) reasons for the proposals, (ii) proposals under the Consultation Paper, and (iii) financial implications, we do not consider that it is compulsory for the Stock Exchange to put forward the proposals on regulating the sponsors and, particularly, we do not agree with such proposals which are not market practice worldwide and/or not market acceptable.

In fact, we understand that the primary role of the Stock Exchange is to provide a fair, orderly and efficient market for the trading of securities. It may take initiative to promote and advocate the code of conduct on the corporate governance of the listed

issuers. But, the Stock Exchange is not supposed to be responsible for preventing and detecting corporate scandals (and so do the sponsors). Given the parallel interests between the Stock Exchange and the sponsor firms, should either party be put into jeopardy, we consider that the sponsorship system cannot be run as efficient and effective as before.

Instead of introducing a new system to regulate the discharge of responsibilities of sponsors and IFAs, we are of the view that steps should be taken in the direction of some of the proposals set out in the Consultation Paper within the existing regulatory regime. We believe that the existing regime of having all corporate finance advisers regulated by the licensing system of the SFC under the SFO is working well and there is no need to introduce a two-tier regulation. Instead, we believe that the Exchange, as the front line regulator with close contacts with corporate finance advisers should strengthen its cooperation with the SFC so that the SFC can regulate and monitor the activities of the intermediaries subject to its regulatory regime.

Lastly, we would like to express our disappointment regarding the status of consultation is too preliminary for a conclusion to be reached if genuine support is to be obtained from financial intermediaries. Our representatives attended consultation seminar, in English and in Mandarin, jointly organised by the Exchange and the SFC on 18th July, 2003 but either insufficient time was given for Q&A sections or material concerns raised were not addressed or clarified. Given that it is anticipated by the Exchange that the results and conclusions on the Consultation Paper will be published on or around end of October 2003, with a view to the new rules being published by 1st January 2004, we believe that a second phase consultation is a must.

Yours faithfully,

Deirdre Yau
Responsible Officer

國泰君安
GUOTAI JUNAN

STRICTLY PRIVATE AND CONFIDENTIAL

31st July, 2003

Hong Kong Exchanges and Clearing Limited
Listing Division
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1 Harbour View Street
Central
Hong Kong

By fax no.: 2295 3599
& by hand

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

By fax no.: 2810 5385
& by hand

Dear Sir/Madam,

Re: Consultation Paper (the "Consultation Paper") on the Regulation of Sponsors and Independent Financial Advisers

We refer to the Consultation Paper provided in May 2003. We would like to give you our general view thereon and address the summary of questions in Annex 3 in the section headed "Proposals under the Consultation Paper".

BACKGROUND

The Hong Kong economy was hit significantly by the Asian financial crisis in late 1997. Not only did our financial market have a severe downturn, but most corporate finance houses also faced difficulties to operate. Many experienced practitioners were forced to leave this sector. It was until the establishment of the GEM Board in July 1999 which helped revive the corporate finance industry. However, given that the criteria for listing were relaxed, local companies as well as PRC enterprises tried to raise fund by listing on the Hong Kong Stock Exchange based on their formulated business model (rather than their established track record). Thus, the greater demand for the IPO sponsors led to the entry of many sponsor firms and supporting staffs. Whether new supporting staffs were qualified and adequately supervised to handle the IPO transactions could affect the smoothness of the vetting process of the Stock Exchange. Also, the presentation of unproven business models and the complexity of the PRC issues might create problems for the Stock Exchange to judge the

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suitability of listing of some applicants.

Besides, the corporate scandals of some Hong Kong listed companies (and also US multinational firms) raised specific concerns from the regulatory bodies and the investor public on the corporate governance in recent years. It was perceived that our market integrity could be preserved if the listed issuers in Hong Kong (especially the newly ones) were freed from any potential delinquency.

REASONS FOR THE PROPOSALS

It is considered that one of the preventive measures for minimizing any misconduct of the listed issuers in Hong Kong is the imposition of stringent rules on the sponsor firms. If the sponsors (and even their employees) who are experienced and qualified are given the responsibility to endorse the financial and operational aspects of the listing applicants, they will perform more than sufficient due diligence work which may help detect any irregular activities. In view that more PRC enterprises may apply to the Stock Exchange (since the establishment of a new board for "hi-tech" companies in the PRC is deferred) for listing, if these companies are thoroughly screened and vigilantly endorsed by their sponsors, the possibility of their ultimate failure might be reduced.

PROPOSALS UNDER THE CONSULTATION PAPER

Q1. Acceptable sponsor firms

Partly agree

We believe that a list of acceptable sponsors can be maintained by the Stock Exchange. However, we have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, (iii) independence {see Q10}, and (iv) the transition process. Will all current GEM sponsors automatically be included in the new list? If not, those financial institutions which would like to continue to act as sponsors will be required to make their own application. Based on our past experience with GEM application, the application process is a time consuming and tedious process, it is anticipated that the application process may take several months.

Q2. Acceptable IFA firms

Partly agree

We believe that a list of acceptable IFAs can be maintained by the Stock Exchange. However, we also have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, and (iii) the formation of the new list. Can those financial institutions which would like to be sponsors as well as IFAs make a single application for both qualifications? Although not all financial institutions are interested in the smaller IFA market, they may apply for such qualification so that they are flexible enough to provide a wide range of activities for marketing purpose. As such, in addition to the applications launched by those financial institutions which

have a focus on IFA market or are not currently qualified as sponsors, the number of applications can be significant which takes longer processing time.

Q3. Acceptable individuals

Disagree

We consider that item (c) is difficult to accept. We trust that the Stock Exchange will take careful steps to judge whether an individual must be put on its proposed unacceptable list under the then circumstances. However, if, for instance, Mr. X of PQR Capital Limited ("PQR", being a sponsor admitted on the new list) is considered as an unacceptable individual by the Stock Exchange and made public, the corporate image of PQR will be adversely affected notwithstanding that all/other eligible supervisors are capable to perform the duties of a sponsor. Perhaps, it is possible that Mr. X will be dismissed from PQR and is unable to get back in the corporate finance sector. So, what we suggest is that the Stock Exchange can list out all acceptable individuals in its website.

Furthermore, all personnel engaging in the provision of corporate finance advisory work have to be licensed or registered under the SFO. In applying to be licensed or registered under the SFO, an individual has to be a "fit and proper person". As such, we propose the Stock Exchange to further elaborate on what circumstances that an individual who passes the "fit and proper person" test of the SFC and yet be regarded as an unacceptable individual by the Stock Exchange.

Q4. Competence and experience of the sponsor and IFA firms

Disagree

We accept that the Stock Exchange would like to place a greater weight on experience of professional staff, rather than the sponsor firm or IFA firm itself. However, we have strong concern on having at least four eligible supervisors in a sponsor firm. We note that the UKLA requires the sponsor to have at least four eligible employees who (i) are being employed at an appropriate level of seniority within the sponsor; and (ii) have provided advice in connection with a significant transaction at least three times in the preceding 36 months and at least once in the preceding 12 months {see attachment I}. It does not necessarily mean that the sponsor must have four "senior" supervisors. We are of the view that the current setting of the GEM Board of having two Principal Supervisors and two Assistant Supervisors suffices to demonstrate the experience of the sponsor and IFA firms.

Q5. Qualification and experience criteria of eligible supervisors

Disagree

As mentioned above, the UKLA's requirement on experience of an individual is her/his involvement in three transactions which may be acquired within a period of 36 months. In other words, if an individual is involved in three transactions in the latest year, he is also considered to be eligible. Besides, the statement made in P.90 of the consultation paper that "a sponsor must be a Member of the TSX and meet standards of business that are substantially the same as those proposed by the Exchange (including employing at least one senior corporate finance officer who is licensed and has at least five continuous years of relevant experience with an underwriter and employing one industry expert in respect of each area of business undertaken)" is not appropriate. According to the policy statement taken by the TSX {see attachment II}, it is not necessary for such officer to have "at least five continuous years of relevant experience with an underwriter" if s/he can satisfy any one of the other requirements, e.g., a licensed CFA or CBV. It seems to us that the number of years of experience (proposed to be a minimum of 4 years for each of four eligible supervisors) can be relaxed.

In addition, it must be very careful to define the "substantive involvement" in at least 3 completed "significant transactions". For "substantive involvement", it may be interpreted that s/he must be a core member in that transaction who has carried out or supervised her/his employees to carry out part of due diligence work. This can be viewed as "very" demanding when compared with "providing advice" as presently adopted in the UKLA and the GEM Board. For "significant transactions", those qualified transactions have been clearly set out. However, we wonder why the connected (and discloseable) transactions are not recognised as "significant transactions". In particular, it is accepted in UKLA that a related party transaction involving the preparation of a circular is qualified (and so does the GEM Board).

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Moreover, we are uncertain as to whether the Listing Rules which are designated for governing the listing of securities (and also their issuer) will be exploited if the statement of "a breach of the undertaking will be deemed to be a breach of the Listing Rules ......" is so established.

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Besides, regarding the provision of certain financial information in listing documents and/or circulars, a sponsor is generally required to (i) obtain written confirmation from the issuer relating thereto and (ii) satisfy itself that such confirmation has been given after due and careful enquiry by the issuer {see attachment IV}.

Based on the approach adopted by the UKLA, we believe that the discretion to direct an issuer to appoint a sponsor firm to provide advice for any specified period can only be exercised by the Stock Exchange in the event of a breach of the Listing Rules (rather than in any situation as proposed in the consultation paper). Indeed, given the clear role and responsibility of the sponsors, it is not necessary for the Listing Rules to set out requirements generally applicable to sponsor firms where a sponsor firm gives advice or guidance to an issuer in relation to interpretation or application of the Listing Rules, irrespective of whether or not the Listing Rules require appointment of a sponsor.

An IPO with a large offering size does not mean that is complicated as to warrant more manpower, so that the combined effort of sponsors are required. It appears that such proposal has limited the market practitioners to give higher priority to size of offer than to the quality of the listing applicant. We are of the view that the issue as to whether or not more than one sponsor firm is required, it is much better for the issue to be determined by the market practitioners.

Also, we realise that should there be an acceptable list of sponsors in Q1, those co-sponsors (i.e., firms which are not qualified as sponsors for the time being to act as co-sponsors in IPOs) are no longer retained. In particular, a joint sponsorship is not encouraged unless such IPO is sizeable enough. Can the reasons for not welcoming the joint effort from different firms be clearly stipulated?

In addition, we consider that the appointment of retained sponsors for the Main Board which involves the interests of the issuer(s) must be subject to the opinion from the issuers, applicants, potential applicants and investor public. It is not just a matter between the Stock Exchange and the sponsors.

Q10. Independence

Partly agree

According to the "Sponsor's confirmation of independence" as required by the UKLA {see Attachment V}, we note that the sponsor as well as its directors, partners and employees must report (i) whether they have any shareholding interest or directorship in the issuer and (ii) any other matters which may affect the independence from the issuer. As such, interests of any associates of the sponsor's directors and employees may or may not be a factor which can materially affect its independence. In particular, whether a business relationship (past or current) between the issuer and the sponsors' director or employee can also materially affect its independence may be subject to judgment. So, we do not consider that the existence of such interests or relationship must prelude a firm from acting as a sponsor.

In addition, we note that the independence of an IFA relating to the Code-related matters is stricter than that relating to the Stock Exchange matters. However, due to the nature of the Stock Exchange matters, we think that a firm can qualify to be an IFA (other than any shareholding interest) if it does not serve as a financial adviser to the issuer and its subsidiaries within the past 12 months.

Q11. Responsibilities

Disagree

We do not agree that there is an expectation gap between the Stock Exchange's view of the responsibilities of sponsors and the manner in which many sponsors are discharging those responsibilities. As set out in the Model Code for Sponsors of the Listing Rules (Main Board), the purpose of which is to give guidance on the Stock Exchange's minimum expectations of the sponsor's role. For instance, a sponsor should satisfy itself, on the basis of all available information, that an issuer is suitable for listing. Besides, a sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified. It is also specified that failure by a sponsor to meet such expectations without reasonable cause may render it unacceptable to perform the role of sponsor in future.

We note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document.

Given the role as a sponsor, we believe that it is not unacceptable to us to take certain review procedures regarding the suitability of listing of the issuers. However, for the "non-expert sections", we may have the difficulty in assessing the correctness and completeness of certain information. If, for instance, the Company's management predicts that the industry growth is about 20 per cent. per annum for the coming five

years, what a sponsor can do may include (i) to obtain some research reports, (ii) to observe the pattern of past industry growth, (iii) to study other relevant markets (e.g. upstream, downstream or overseas), and (iv) to perform an industry analysis itself so as to make a justification thereon. But, whenever the sponsor cannot have access to all research reports (or other relevant materials), it may miss out some pieces of important information (perhaps, that can make the aforesaid industry growth unjustified). As such, notwithstanding that the sponsor can make investigations (or any applicable review procedures), it is impracticable for the sponsor to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Yet, it is generally acknowledged that the directors of the issuer must be responsible for such information (which relates to the particular features of its business and the industry it belongs to). On the other hand, if the experts so appointed are independent from the issuer and qualified for providing the information set out in the "expert sections", we think that it is sufficient for the Stock Exchange to make reliance thereon. Taking into account the approach of the TSX on the use of experts {see attachment VI}, it may be our responsibility to help assess the independence and qualification of such experts.

Q12. Code of Conduct for Sponsors and Independent Financial Advisers
Disagree
We agree with some of the matters set out the Code of Conduct for Sponsors and Independent Financial Adviser (the "Code of Conduct"). It is proposed in the Code of Conduct that it will be a requirement of the Corporate Finance Adviser Code of Conduct issued by the SFC that a registered person under the SFO has to observe the requirements of the Listing Rules including the Code of Conduct. Given that breach of the Code of Conduct would cast prima facie doubt on the fitness and properness of that person with respect to their registration under the SFO. As such, we do not see the reason for the Exchange to insist that a breach of the requirements of the Code of Conduct constitutes a breach of the Listing Rules. Such provisions would render a person subject to the regulation of both the Exchange and SFC which is not necessary. This is because a person who has breached the Code of Conduct may not be regarded as fit and proper and his registration under the SFO would probably not be renewed. We do not see the reason of having a single breach of regulation subject to proceedings of two regulatory authorities. In this regard, we are of the view that the Stock Exchange should coordinate with the SFC to enable the SFC to take appropriate action under the SFO. We are of the view that the Code of Conduct should be a code of practice to help the firms improve their corporate governance and operations {see Q6}.

We consider that the proposed requirements set out in the Code of Conduct should be strictly applicable only to sponsor firm(s) and IFA firm(s) (but not their eligible supervisors, other directors and/or staff) given that it is the firm rather than the individual to accept and perform the work for an issuer. In addition, we have concerns whether it is practicable for (i) a sponsor or (ii) an IFA to fully satisfy itself

and/or to assure the Stock Exchange whether (i) all the information set out in the "non-expert sections" in relation to an IPO, or (ii) all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement respectively, is without any omission or not misleading.

Q13. Declaration by sponsors and lead underwriters in listing documents to be registered

Disagree

Firstly, we have considered the approach taken by the UKLA, the TSX and the ASX in this regard. We noticed that there is no such kind of declaration required to be made by the sponsors and the lead underwriters in the listing documents to be registered. In particular, for the related "expert sections" found in the ASX {see attachment VII}, if the prospectus includes a statement purporting to be made by an expert, the prospectus can be issued once the expert has provided its written consent (and being stated therein). It seems to us that the expert itself is responsible for its statement or opinion expressed in the prospectus.

As mentioned in Q11, we note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document. While, according to the proposed requirement herein, the Stock Exchange would like the sponsor to make a declaration regarding its reasonable investigations on "non-expert sections" and "expert sections" in the prospectus subsequent to its vetting process. We wonder whether it is necessary to do so. Nevertheless, as discussed earlier, notwithstanding that we, as a sponsor, can make investigations (or any applicable review procedures), it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Given the aforesaid limitation, we consider that the sponsor (or the lead underwriter) is not able to provide such declaration. It may be more appropriate to advise the investors to be fully aware of the particular nature of the information set out in the "non-expert sections".

Q14. IFA due diligence declaration

Disagree

It is proposed that the Exchange would also like the IFA to perform due diligence work in assessing the correctness and completeness of all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement and to make a declaration thereon in its letter as enclosed in the circular subsequent to its vetting process. Again, notwithstanding that we, as an IFA, can make appropriate steps and due diligence work, it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement is without any

omission or not misleading. Given the aforesaid limitation, we consider that the IFA is not able to provide such declaration.

Q15. Reporting obligations and monitoring

Partly agree

We agree that it is appropriate to streamline the administration of the sponsor and IFA regime. However, using a certification process and a targeted program of monitoring cannot be served as a "complete" system for assessing the suitability of a firm as a sponsor or an IFA. As such, we suggest that the review of its ongoing eligibility can be made in every two years.

Q16. Compliance and sanctions

Disagree

We regret to hear that the rationale for imposing penalties on sponsors or financial advisers or any of their members of staff is to promote high standards of conduct and ensure that regulatory standards are being upheld. We wonder why the supervisors who have the qualifications and experience {see Q5} are still perceived to be unable to help discharge the sponsors' responsibility.

We consider that the existing Listing Rules have already provided sufficient and proper measures on any breach of duty by the sponsors relating to matters governed by the Listing Rules. We do not think that it is appropriate to extend such measures to individuals since it is the firm (but not the individual herself/himself) to accept and perform the sponsor's work for an issuer. Nevertheless, we consider that the Stock Exchange can make assessment on the work and professional conduct of an individual before accepting her/him to the list of acceptable individuals (or during the annual or bi-annual review process).

Q17/18. Ability of existing GEM and Main Board sponsors and IFAs to meet eligibility criteria for acceptable lists

a) Yes, if effective today.

b) Yes, if effective in 6 months time.

c) Not certain, if effective in 18 months time.

d) Not certain, if effective in 30 months time.

We refer to our concern set out in Q5 that it is uncertain as to whether each of our 4 "eligible" supervisors can complete at least one "significant transaction" in the then recent year to fulfil the proposed requirement. Nevertheless, we would like to reiterate our reply to Q4 that the requirement as stipulated by the UKLA does not necessarily mean that the sponsor must have four "senior" supervisors. In fact, we think that the GEM Board setting of having two Principal Supervisors and two Assistant Supervisors is good enough.

FINANCIAL IMPLICATIONS

Pursuant to the Consultation Paper, it has been suggested that the introduction of standards of due diligence to close the expectation gap accompanied by prominent disclosure of the sponsor's role in performing due diligence on the prospectus [both distracts from the responsibilities which should properly be borne by the directors and] will lead to increased professional fees for new applicant companies. However, the potential increase in costs cannot be easily quantified as any increase will depend on both the circumstances of the applicant and the approach to due diligence currently taken by the sponsor concerned. Nevertheless, we consider that such increase in professional fees stemmed from the due diligence costs as incurred in meeting the new standards and the perceived risks associated with disclosure is likely to be passed on to the applicants. If the transaction cost is increased, those applicants of smaller size may (i) be unwilling to list in Hong Kong or (ii) defer their listing plan. Taking into account that the fund raising activities comprise primarily small/mid-cap companies {see attachment VIII for market statistics in 2002}, it is possible that the corporate finance sector will then be squeezed again. Not only are some sponsors (or their employees) out, but also certain accountants, lawyers, valuers, analysts and other professionals who work in this sector may be forced to leave.

We note that the current vetting process by the Stock Exchange is valuable. However, if the sponsors who have already carried out certain review procedures are also required to make the proposed declarations in the prospectus (i.e., to endorse the financial and operational aspects of the listing applicants as discussed above) which we consider inappropriate, it is arguable that the Stock Exchange is still required to spend resources on vetting those endorsed applicants for the market.

Based on the above arguments, it is uncertain as to whether it is financially justifiable for the Stock Exchange to put forward these proposals under the Consultation Paper. As such, we hope that the Stock Exchange can carry out market survey to acknowledge the acceptability of the increased costs by the listing applicants and assess the potential financial effects on our economy and the respective stakeholders.

RECOMMENDATIONS

Having considered the aforesaid principal factors, namely (i) reasons for the proposals, (ii) proposals under the Consultation Paper, and (iii) financial implications, we do not consider that it is compulsory for the Stock Exchange to put forward the proposals on regulating the sponsors and, particularly, we do not agree with such proposals which are not market practice worldwide and/or not market acceptable.

In fact, we understand that the primary role of the Stock Exchange is to provide a fair, orderly and efficient market for the trading of securities. It may take initiative to promote and advocate the code of conduct on the corporate governance of the listed

issuers. But, the Stock Exchange is not supposed to be responsible for preventing and detecting corporate scandals (and so do the sponsors). Given the parallel interests between the Stock Exchange and the sponsor firms, should either party be put into jeopardy, we consider that the sponsorship system cannot be run as efficient and effective as before.

Instead of introducing a new system to regulate the discharge of responsibilities of sponsors and IFAs, we are of the view that steps should be taken in the direction of some of the proposals set out in the Consultation Paper within the existing regulatory regime. We believe that the existing regime of having all corporate finance advisers regulated by the licensing system of the SFC under the SFO is working well and there is no need to introduce a two-tier regulation. Instead, we believe that the Exchange, as the front line regulator with close contacts with corporate finance advisers should strengthen its cooperation with the SFC so that the SFC can regulate and monitor the activities of the intermediaries subject to its regulatory regime.

Lastly, we would like to express our disappointment regarding the status of consultation is too preliminary for a conclusion to be reached if genuine support is to be obtained from financial intermediaries. Our representatives attended consultation seminar, in English and in Mandarin, jointly organised by the Exchange and the SFC on 18th July, 2003 but either insufficient time was given for Q&A sections or material concerns raised were not addressed or clarified. Given that it is anticipated by the Exchange that the results and conclusions on the Consultation Paper will be published on or around end of October 2003, with a view to the new rules being published by 1st January 2004, we believe that a second phase consultation is a must.

Yours faithfully,

Anthony Wong

国泰君安
GUOTAI JUNAN

STRICTLY PRIVATE AND CONFIDENTIAL

31st July, 2003

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By fax no.: 2295 3599
& by hand

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

By fax no.: 2810 5385
& by hand

Dear Sir/Madam,

Re: Consultation Paper (the "Consultation Paper") on the Regulation of Sponsors and Independent Financial Advisers

We refer to the Consultation Paper provided in May 2003. We would like to give you our general view thereon and address the summary of questions in Annex 3 in the section headed "Proposals under the Consultation Paper".

BACKGROUND

The Hong Kong economy was hit significantly by the Asian financial crisis in late 1997. Not only did our financial market have a severe downturn, but most corporate finance houses also faced difficulties to operate. Many experienced practitioners were forced to leave this sector. It was until the establishment of the GEM Board in July 1999 which helped revive the corporate finance industry. However, given that the criteria for listing were relaxed, local companies as well as PRC enterprises tried to raise fund by listing on the Hong Kong Stock Exchange based on their formulated business model (rather than their established track record). Thus, the greater demand for the IPO sponsors led to the entry of many sponsor firms and supporting staffs. Whether new supporting staffs were qualified and adequately supervised to handle the IPO transactions could affect the smoothness of the vetting process of the Stock Exchange. Also, the presentation of unproven business models and the complexity of the PRC issues might create problems for the Stock Exchange to judge the

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suitability of listing of some applicants.

Besides, the corporate scandals of some Hong Kong listed companies (and also US multinational firms) raised specific concerns from the regulatory bodies and the investor public on the corporate governance in recent years. It was perceived that our market integrity could be preserved if the listed issuers in Hong Kong (especially the newly ones) were freed from any potential delinquency.

REASONS FOR THE PROPOSALS

It is considered that one of the preventive measures for minimizing any misconduct of the listed issuers in Hong Kong is the imposition of stringent rules on the sponsor firms. If the sponsors (and even their employees) who are experienced and qualified are given the responsibility to endorse the financial and operational aspects of the listing applicants, they will perform more than sufficient due diligence work which may help detect any irregular activities. In view that more PRC enterprises may apply to the Stock Exchange (since the establishment of a new board for "hi-tech" companies in the PRC is deferred) for listing, if these companies are thoroughly screened and vigilantly endorsed by their sponsors, the possibility of their ultimate failure might be reduced.

PROPOSALS UNDER THE CONSULTATION PAPER

Q1. Acceptable sponsor firms

Partly agree

We believe that a list of acceptable sponsors can be maintained by the Stock Exchange. However, we have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, (iii) independence {see Q10}, and (iv) the transition process. Will all current GEM sponsors automatically be included in the new list? If not, those financial institutions which would like to continue to act as sponsors will be required to make their own application. Based on our past experience with GEM application, the application process is a time consuming and tedious process, it is anticipated that the application process may take several months.

Q2. Acceptable IFA firms

Partly agree

We believe that a list of acceptable IFAs can be maintained by the Stock Exchange. However, we also have strong concerns on (i) the admission criteria {see Q4-8}, (ii) on-going eligibility {see Q5}, and (iii) the formation of the new list. Can those financial institutions which would like to be sponsors as well as IFAs make a single application for both qualifications? Although not all financial institutions are interested in the smaller IFA market, they may apply for such qualification so that they are flexible enough to provide a wide range of activities for marketing purpose. As such, in addition to the applications launched by those financial institutions which

have a focus on IFA market or are not currently qualified as sponsors, the number of applications can be significant which takes longer processing time.

Q3. Acceptable individuals
Disagree
We consider that item (c) is difficult to accept. We trust that the Stock Exchange will take careful steps to judge whether an individual must be put on its proposed unacceptable list under the then circumstances. However, if, for instance, Mr. X of PQR Capital Limited ("PQR", being a sponsor admitted on the new list) is considered as an unacceptable individual by the Stock Exchange and made public, the corporate image of PQR will be adversely affected notwithstanding that all/other eligible supervisors are capable to perform the duties of a sponsor. Perhaps, it is possible that Mr. X will be dismissed from PQR and is unable to get back in the corporate finance sector. So, what we suggest is that the Stock Exchange can list out all acceptable individuals in its website.

Furthermore, all personnel engaging in the provision of corporate finance advisory work have to be licensed or registered under the SFO. In applying to be licensed or registered under the SFO, an individual has to be a "fit and proper person". As such, we propose the Stock Exchange to further elaborate on what circumstances that an individual who passes the "fit and proper person" test of the SFC and yet be regarded as an unacceptable individual by the Stock Exchange.

Q4. Competence and experience of the sponsor and IFA firms
Disagree
We accept that the Stock Exchange would like to place a greater weight on experience of professional staff, rather than the sponsor firm or IFA firm itself. However, we have strong concern on having at least four eligible supervisors in a sponsor firm. We note that the UKLA requires the sponsor to have at least four eligible employees who (i) are being employed at an appropriate level of seniority within the sponsor; and (ii) have provided advice in connection with a significant transaction at least three times in the preceding 36 months and at least once in the preceding 12 months {see attachment I}. It does not necessarily mean that the sponsor must have four "senior" supervisors. We are of the view that the current setting of the GEM Board of having two Principal Supervisors and two Assistant Supervisors suffices to demonstrate the experience of the sponsor and IFA firms.

Q5. Qualification and experience criteria of eligible supervisors

Disagree

As mentioned above, the UKLA's requirement on experience of an individual is her/his involvement in three transactions which may be acquired within a period of 36 months. In other words, if an individual is involved in three transactions in the latest year, he is also considered to be eligible. Besides, the statement made in P.90 of the consultation paper that "a sponsor must be a Member of the TSX and meet standards of business that are substantially the same as those proposed by the Exchange (including employing at least one senior corporate finance officer who is licensed and has at least five continuous years of relevant experience with an underwriter and employing one industry expert in respect of each area of business undertaken)" is not appropriate. According to the policy statement taken by the TSX {see attachment II}, it is not necessary for such officer to have "at least five continuous years of relevant experience with an underwriter" if s/he can satisfy any one of the other requirements, e.g., a licensed CFA or CBV. It seems to us that the number of years of experience (proposed to be a minimum of 4 years for each of four eligible supervisors) can be relaxed.

In addition, it must be very careful to define the "substantive involvement" in at least 3 completed "significant transactions". For "substantive involvement", it may be interpreted that s/he must be a core member in that transaction who has carried out or supervised her/his employees to carry out part of due diligence work. This can be viewed as "very" demanding when compared with "providing advice" as presently adopted in the UKLA and the GEM Board. For "significant transactions", those qualified transactions have been clearly set out. However, we wonder why the connected (and discloseable) transactions are not recognised as "significant transactions". In particular, it is accepted in UKLA that a related party transaction involving the preparation of a circular is qualified (and so does the GEM Board).

It is further proposed that experience derived from recognised overseas markets will be recognised and only one significant transaction in Hong Kong market. While we agree that only recognising "local experience" is too stringent, requiring local experience in only one significant transaction without imposing time limitation as to when such experience is gained will defeat the purpose of ensuring that eligible supervisors understand and have the unique experience in dealing with the local practitioners, for instance, the extensive pre-listing vetting process over disclosure matters of IPO application with the Exchange. In an ever-changing market, recent local experience should be a fundamental criterion for assessing the knowledge and experience of an eligible supervisor in Hong Kong Listing Rules. It should also be noted that not only the eligible supervisor should acquire the suggested years of experience and active participation, other market practitioners, including the regulator, should also be on the same level playing field in order to truly improve vetting efficiency and to upgraded its sophistication.

Q6. Other factors relevant to the eligibility criteria

Partly agree

We consider that should an objective assessment and a clear explanation be provided by the Stock Exchange on the non-acceptance of a firm to the list of sponsors, the Stock Exchange can make such refusal or cancellation (but subject to the firm's objection). We think that it may be appropriate to adopt a Code of Conduct for Sponsors and Independent Financial Advisers. But, it must be viewed as a code of practice to help the firms improve their corporate governance and operations rather than a criteria for admission {see Q12}.

Q7. Minimum capital requirement of sponsor firms

a) Partly agree

We consider that as long as it is not creating an uneven playing field for smaller firms, such requirement is acceptable. However, we do not understand the rationale of having such a HK$10 million capital requirement.

b) Agree

We concur that IFA firms should not be subject to a similar requirement.

Q8. Undertakings to the Exchange

Disagree

We note from the consultation paper that such undertakings are not currently required by the Main Board and the UKLA while most of them are also not needed by the GEM Board. Chapter 2 the GEM Listing Rules sets out that "the principal function of the Exchange is to provide a fair, orderly and efficient market for the trading of securities. In furtherance of this, the Exchange has made the GEM Listing Rules under section 23 of the Securities and Futures Ordinance prescribing the requirements for the listing of securities on GEM. These comprise requirements which have to be met before securities may be listed and also continuing obligations with which an issuer and, where applicable, a guarantor must comply once listing has been granted." As such, we have doubts that "the sponsor (and also its eligible supervisors) to make the proposed undertakings to the Stock Exchange of complying with (i) the relevant Listing Rules applicable to sponsors and (ii) the proposed Code of Conduct for Sponsors and Independent Financial Advisers" is essential to the Stock Exchange for providing a fair, orderly and efficient market for the trading of securities.

Moreover, we are uncertain as to whether the Listing Rules which are designated for governing the listing of securities (and also their issuer) will be exploited if the statement of "a breach of the undertaking will be deemed to be a breach of the Listing Rules ......" is so established.

Q9. Appointment

Disagree

The UKLA requires the appointment of a sponsor {see attachment III} in the following situations:-

2.6 An issuer (other than a public sector issuer or an issuer issuing specialist securities or miscellaneous securities) must have appointed a sponsor when (a) it prepares a shelf document or makes any application for listing which requires the production of listing particulars; or (b) in relation to any transaction or matter a sponsor is required by the listing rules to report to the UKLA.

2.7 In the event of a breach of the listing rules by an issuer, the UKLA may notify such issuer that the appointment of a sponsor is required to give advice on the application of the listing rules.

Besides, regarding the provision of certain financial information in listing documents and/or circulars, a sponsor is generally required to (i) obtain written confirmation from the issuer relating thereto and (ii) satisfy itself that such confirmation has been given after due and careful enquiry by the issuer {see attachment IV}.

Based on the approach adopted by the UKLA, we believe that the discretion to direct an issuer to appoint a sponsor firm to provide advice for any specified period can only be exercised by the Stock Exchange in the event of a breach of the Listing Rules (rather than in any situation as proposed in the consultation paper). Indeed, given the clear role and responsibility of the sponsors, it is not necessary for the Listing Rules to set out requirements generally applicable to sponsor firms where a sponsor firm gives advice or guidance to an issuer in relation to interpretation or application of the Listing Rules, irrespective of whether or not the Listing Rules require appointment of a sponsor.

An IPO with a large offering size does not mean that is complicated as to warrant more manpower, so that the combined effort of sponsors are required. It appears that such proposal has limited the market practitioners to give higher priority to size of offer than to the quality of the listing applicant. We are of the view that the issue as to whether or not more than one sponsor firm is required, it is much better for the issue to be determined by the market practitioners.

Also, we realise that should there be an acceptable list of sponsors in Q1, those co-sponsors (i.e., firms which are not qualified as sponsors for the time being to act as co-sponsors in IPOs) are no longer retained. In particular, a joint sponsorship is not encouraged unless such IPO is sizeable enough. Can the reasons for not welcoming the joint effort from different firms be clearly stipulated?

In addition, we consider that the appointment of retained sponsors for the Main Board which involves the interests of the issuer(s) must be subject to the opinion from the issuers, applicants, potential applicants and investor public. It is not just a matter between the Stock Exchange and the sponsors.

Q10. Independence

Partly agree

According to the "Sponsor's confirmation of independence" as required by the UKLA {see Attachment V}, we note that the sponsor as well as its directors, partners and employees must report (i) whether they have any shareholding interest or directorship in the issuer and (ii) any other matters which may affect the independence from the issuer. As such, interests of any associates of the sponsor's directors and employees may or may not be a factor which can materially affect its independence. In particular, whether a business relationship (past or current) between the issuer and the sponsors' director or employee can also materially affect its independence may be subject to judgment. So, we do not consider that the existence of such interests or relationship must prelude a firm from acting as a sponsor.

In addition, we note that the independence of an IFA relating to the Code-related matters is stricter than that relating to the Stock Exchange matters. However, due to the nature of the Stock Exchange matters, we think that a firm can qualify to be an IFA (other than any shareholding interest) if it does not serve as a financial adviser to the issuer and its subsidiaries within the past 12 months.

Q11. Responsibilities

Disagree

We do not agree that there is an expectation gap between the Stock Exchange's view of the responsibilities of sponsors and the manner in which many sponsors are discharging those responsibilities. As set out in the Model Code for Sponsors of the Listing Rules (Main Board), the purpose of which is to give guidance on the Stock Exchange's minimum expectations of the sponsor's role. For instance, a sponsor should satisfy itself, on the basis of all available information, that an issuer is suitable for listing. Besides, a sponsor should be closely involved in the preparation of the listing document and in ensuring that all material statements therein have been verified. It is also specified that failure by a sponsor to meet such expectations without reasonable cause may render it unacceptable to perform the role of sponsor in future.

We note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document.

Given the role as a sponsor, we believe that it is not unacceptable to us to take certain review procedures regarding the suitability of listing of the issuers. However, for the "non-expert sections", we may have the difficulty in assessing the correctness and completeness of certain information. If, for instance, the Company's management predicts that the industry growth is about 20 per cent. per annum for the coming five

years, what a sponsor can do may include (i) to obtain some research reports, (ii) to observe the pattern of past industry growth, (iii) to study other relevant markets (e.g. upstream, downstream or overseas), and (iv) to perform an industry analysis itself so as to make a justification thereon. But, whenever the sponsor cannot have access to all research reports (or other relevant materials), it may miss out some pieces of important information (perhaps, that can make the aforesaid industry growth unjustified). As such, notwithstanding that the sponsor can make investigations (or any applicable review procedures), it is impracticable for the sponsor to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Yet, it is generally acknowledged that the directors of the issuer must be responsible for such information (which relates to the particular features of its business and the industry it belongs to). On the other hand, if the experts so appointed are independent from the issuer and qualified for providing the information set out in the "expert sections", we think that it is sufficient for the Stock Exchange to make reliance thereon. Taking into account the approach of the TSX on the use of experts {see attachment VI}, it may be our responsibility to help assess the independence and qualification of such experts.

Q12. Code of Conduct for Sponsors and Independent Financial Advisers
Disagree
We agree with some of the matters set out the Code of Conduct for Sponsors and Independent Financial Adviser (the "Code of Conduct"). It is proposed in the Code of Conduct that it will be a requirement of the Corporate Finance Adviser Code of Conduct issued by the SFC that a registered person under the SFO has to observe the requirements of the Listing Rules including the Code of Conduct. Given that breach of the Code of Conduct would cast prima facie doubt on the fitness and properness of that person with respect to their registration under the SFO. As such, we do not see the reason for the Exchange to insist that a breach of the requirements of the Code of Conduct constitutes a breach of the Listing Rules. Such provisions would render a person subject to the regulation of both the Exchange and SFC which is not necessary. This is because a person who has breached the Code of Conduct may not be regarded as fit and proper and his registration under the SFO would probably not be renewed. We do not see the reason of having a single breach of regulation subject to proceedings of two regulatory authorities. In this regard, we are of the view that the Stock Exchange should coordinate with the SFC to enable the SFC to take appropriate action under the SFO. We are of the view that the Code of Conduct should be a code of practice to help the firms improve their corporate governance and operations {see Q6}.

We consider that the proposed requirements set out in the Code of Conduct should be strictly applicable only to sponsor firm(s) and IFA firm(s) (but not their eligible supervisors, other directors and/or staff) given that it is the firm rather than the individual to accept and perform the work for an issuer. In addition, we have concerns whether it is practicable for (i) a sponsor or (ii) an IFA to fully satisfy itself

and/or to assure the Stock Exchange whether (i) all the information set out in the "non-expert sections" in relation to an IPO, or (ii) all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement respectively, is without any omission or not misleading.

Q13. Declaration by sponsors and lead underwriters in listing documents to be registered

Disagree

Firstly, we have considered the approach taken by the UKLA, the TSX and the ASX in this regard. We noticed that there is no such kind of declaration required to be made by the sponsors and the lead underwriters in the listing documents to be registered. In particular, for the related "expert sections" found in the ASX {see attachment VII}, if the prospectus includes a statement purporting to be made by an expert, the prospectus can be issued once the expert has provided its written consent (and being stated therein). It seems to us that the expert itself is responsible for its statement or opinion expressed in the prospectus.

As mentioned in Q11, we note that the Stock Exchange proposes to request the sponsors for conducting reasonable investigations on several areas of concern, namely (i) suitability of listing, (ii) "non-expert sections", and (iii) "expert sections" which allow the Stock Exchange to rely upon during its assessment of the applicant's listing application and listing document. While, according to the proposed requirement herein, the Stock Exchange would like the sponsor to make a declaration regarding its reasonable investigations on "non-expert sections" and "expert sections" in the prospectus subsequent to its vetting process. We wonder whether it is necessary to do so. Nevertheless, as discussed earlier, notwithstanding that we, as a sponsor, can make investigations (or any applicable review procedures), it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information set out in the "non-expert sections" is without any omission or not misleading. Given the aforesaid limitation, we consider that the sponsor (or the lead underwriter) is not able to provide such declaration. It may be more appropriate to advise the investors to be fully aware of the particular nature of the information set out in the "non-expert sections".

Q14. IFA due diligence declaration

Disagree

It is proposed that the Exchange would also like the IFA to perform due diligence work in assessing the correctness and completeness of all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement and to make a declaration thereon in its letter as enclosed in the circular subsequent to its vetting process. Again, notwithstanding that we, as an IFA, can make appropriate steps and due diligence work, it is impracticable for us to fully satisfy itself and/or to assure the Stock Exchange whether all the information (including expert advice or opinion relied on) in relation to a transaction or an arrangement is without any

omission or not misleading. Given the aforesaid limitation, we consider that the IFA is not able to provide such declaration.

Q15. Reporting obligations and monitoring

Partly agree

We agree that it is appropriate to streamline the administration of the sponsor and IFA regime. However, using a certification process and a targeted program of monitoring cannot be served as a "complete" system for assessing the suitability of a firm as a sponsor or an IFA. As such, we suggest that the review of its ongoing eligibility can be made in every two years.

Q16. Compliance and sanctions

Disagree

We regret to hear that the rationale for imposing penalties on sponsors or financial advisers or any of their members of staff is to promote high standards of conduct and ensure that regulatory standards are being upheld. We wonder why the supervisors who have the qualifications and experience {see Q5} are still perceived to be unable to help discharge the sponsors' responsibility.

We consider that the existing Listing Rules have already provided sufficient and proper measures on any breach of duty by the sponsors relating to matters governed by the Listing Rules. We do not think that it is appropriate to extend such measures to individuals since it is the firm (but not the individual herself/himself) to accept and perform the sponsor's work for an issuer. Nevertheless, we consider that the Stock Exchange can make assessment on the work and professional conduct of an individual before accepting her/him to the list of acceptable individuals (or during the annual or bi-annual review process).

Q17/18. Ability of existing GEM and Main Board sponsors and IFAs to meet eligibility criteria for acceptable lists

a) Yes, if effective today.

b) Yes, if effective in 6 months time.

c) Not certain, if effective in 18 months time.

d) Not certain, if effective in 30 months time.

We refer to our concern set out in Q5 that it is uncertain as to whether each of our 4 "eligible" supervisors can complete at least one "significant transaction" in the then recent year to fulfil the proposed requirement. Nevertheless, we would like to reiterate our reply to Q4 that the requirement as stipulated by the UKLA does not necessarily mean that the sponsor must have four "senior" supervisors. In fact, we think that the GEM Board setting of having two Principal Supervisors and two Assistant Supervisors is good enough.

FINANCIAL IMPLICATIONS

Pursuant to the Consultation Paper, it has been suggested that the introduction of standards of due diligence to close the expectation gap accompanied by prominent disclosure of the sponsor's role in performing due diligence on the prospectus [both distracts from the responsibilities which should properly be borne by the directors and] will lead to increased professional fees for new applicant companies. However, the potential increase in costs cannot be easily quantified as any increase will depend on both the circumstances of the applicant and the approach to due diligence currently taken by the sponsor concerned. Nevertheless, we consider that such increase in professional fees stemmed from the due diligence costs as incurred in meeting the new standards and the perceived risks associated with disclosure is likely to be passed on to the applicants. If the transaction cost is increased, those applicants of smaller size may (i) be unwilling to list in Hong Kong or (ii) defer their listing plan. Taking into account that the fund raising activities comprise primarily small/mid-cap companies {see attachment VIII for market statistics in 2002}, it is possible that the corporate finance sector will then be squeezed again. Not only are some sponsors (or their employees) out, but also certain accountants, lawyers, valuers, analysts and other professionals who work in this sector may be forced to leave.

We note that the current vetting process by the Stock Exchange is valuable. However, if the sponsors who have already carried out certain review procedures are also required to make the proposed declarations in the prospectus (i.e., to endorse the financial and operational aspects of the listing applicants as discussed above) which we consider inappropriate, it is arguable that the Stock Exchange is still required to spend resources on vetting those endorsed applicants for the market.

Based on the above arguments, it is uncertain as to whether it is financially justifiable for the Stock Exchange to put forward these proposals under the Consultation Paper. As such, we hope that the Stock Exchange can carry out market survey to acknowledge the acceptability of the increased costs by the listing applicants and assess the potential financial effects on our economy and the respective stakeholders.

RECOMMENDATIONS

Having considered the aforesaid principal factors, namely (i) reasons for the proposals, (ii) proposals under the Consultation Paper, and (iii) financial implications, we do not consider that it is compulsory for the Stock Exchange to put forward the proposals on regulating the sponsors and, particularly, we do not agree with such proposals which are not market practice worldwide and/or not market acceptable.

In fact, we understand that the primary role of the Stock Exchange is to provide a fair, orderly and efficient market for the trading of securities. It may take initiative to promote and advocate the code of conduct on the corporate governance of the listed

issuers. But, the Stock Exchange is not supposed to be responsible for preventing and detecting corporate scandals (and so do the sponsors). Given the parallel interests between the Stock Exchange and the sponsor firms, should either party be put into jeopardy, we consider that the sponsorship system cannot be run as efficient and effective as before.

Instead of introducing a new system to regulate the discharge of responsibilities of sponsors and IFAs, we are of the view that steps should be taken in the direction of some of the proposals set out in the Consultation Paper within the existing regulatory regime. We believe that the existing regime of having all corporate finance advisers regulated by the licensing system of the SFC under the SFO is working well and there is no need to introduce a two-tier regulation. Instead, we believe that the Exchange, as the front line regulator with close contacts with corporate finance advisers should strengthen its cooperation with the SFC so that the SFC can regulate and monitor the activities of the intermediaries subject to its regulatory regime.

Lastly, we would like to express our disappointment regarding the status of consultation is too preliminary for a conclusion to be reached if genuine support is to be obtained from financial intermediaries. Our representatives attended consultation seminar, in English and in Mandarin, jointly organised by the Exchange and the SFC on 18th July, 2003 but either insufficient time was given for Q&A sections or material concerns raised were not addressed or clarified. Given that it is anticipated by the Exchange that the results and conclusions on the Consultation Paper will be published on or around end of October 2003, with a view to the new rules being published by 1st January 2004, we believe that a second phase consultation is a must.

Yours faithfully,

Ivan Chan