

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below on the proposed change discussed in the Consultation Paper downloadable from the HKEX website at:

<http://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/August-2019-Codification-of-General-Waivers/Consultation-Paper/cp201908.pdf>

Where there is insufficient space provided for your comments, please attach additional pages.

Capitalised terms have the same meaning as defined in the Consultation Paper unless otherwise stated.

1. Do you agree with our proposal to codify the existing General Waiver such that bonus or capitalisation issues by a PRC incorporated issuer are exempted from shareholders' approvals in general meetings and separate class meetings?

Yes

No

You may provide reasons for your views.

2. Do you agree with our proposal to codify the existing General Waiver to modify the calculation of consideration ratio for a PRC incorporated issuer whose domestic shares are listed on a PRC exchange?

Yes

No

You may provide reasons for your views.

3. Do you agree with our proposal to codify the existing General Waiver to allow the listed issuer's stock code to be displayed prominently in the corporate or shareholder information section of financial reports as described in paragraph 30 of the Consultation Paper?

Yes

No

You may provide reasons for your views.

4. Do you agree with our proposal to codify the R4.04(2)&(4) Conditions as an exception to Main Board Rules 4.04(2) and 4.04(4) regarding the disclosure of financial information of subsidiaries or businesses acquired or to be acquired after trading record period?

Yes

No

You may provide reasons for your views.

5. Do you agree with our proposal to codify the R4.10 Waiver as an exception to Main Board Rule 4.10 regarding the disclosure of financial information of the overseas banking companies?

Yes

No

You may provide reasons for your views.

6. Do you agree with our proposal to codify the R8.21(1) Conditions as an exception to Main Board Rule 8.21(1) regarding the change of financial year period?

Yes

No

You may provide reasons for your views.

7. Do you agree with our proposal to (i) codify the modification provided by the General Waivers into Main Board Rules 13.46 and 13.49(1) subject to the new applicant meeting the Annual Results and Reports Waivers Conditions; (ii) codify similar exception to Main Board Rule 13.48(1) as well as GEM Rules 18.66 and 18.79; (iii) align the conditions for Interim Results Exemption with the Annual Results and Reports Waivers Conditions; and (iv) repeal PN 10 and consolidate the guidance with the relevant Main Board Rules?

Yes

No

You may provide reasons for your views.

8. Do you agree with the proposal to codify the waiver from disclosure of actual consideration of aircrafts to be acquired by listed airline operators, as described in paragraph 58 of the Consultation Paper?

Yes

No

You may provide reasons for your views.

9. Do you agree with the proposal to allow listed issuers to determine SpinCo's Scheme Limit with reference to SpinCo's shares in issue as at the date of SpinCo's listing?

Yes

No

You may provide reasons for your views.

10. Do you agree with the proposal to codify the waiver of the exercise price requirement for issuers dually listed on the Exchange and a PRC exchange as described in paragraph 65 of the Consultation Paper?

Yes

No

You may provide reasons for your views.

11. Do you agree with our proposal to codify the waiver described in paragraph 71 of the Consultation Paper in respect of the experience and qualification of company secretary into the Rules?

Yes

No

You may provide reasons for your views.

We write to oppose the proposal for codifying the waiver described in paragraph 71 of the Consultation Paper in respect of the experience and qualifications of company secretary into the Rules.

The role of a company secretary of a listed issuer can never be understated. The Cadbury Report (1993) emphasized the importance of the role of the company secretary as follows: “The company secretary has a key role to play in ensuring that board procedures are both followed and regularly reviewed. The chairman and the board will look to the company secretary for guidance on what their responsibilities are under the rules and regulations to which they are subject and on how these responsibilities should be discharged. All directors should have access to the advice and services of the company secretary and should recognise that the chairman is entitled to strong support from the company secretary in ensuring the effective functioning of the board.”

The Hong Kong Independent Non-executive Director Association (HKiNEDA) as a body of Independent Non-executive Directors (“INEDs”), our members rely heavily on the company secretaries of the listed issuers they are serving to obtain adequate information to help them discharge their duties properly. The company secretaries play a vital role as a bridge between the management and INEDs in all information exchange. The company secretaries also serve the function of facilitating induction and the professional development of directors.

With the increasing complexity of the disclosure requirements in all sort of corporate documents, listed issuers need highly qualified company secretaries to ensure timely and proper disclosure and fulfilment of regulatory requirements. The mounting importance and ever expanding extent of regulatory requirements, including risk management, corporate governance and environmental, social and governance (“ESG”) regime have made the role of the company secretaries more important than before. The proposed waiver is a backward movement against the flow.

One more point we would like to stress is that the company secretaries need to, and seen to have impartiality and trustworthiness in order for the directors, the INEDs in particular, to accept that the company secretaries are reliable. To be qualified as a company secretary of a listed issuer, a person must be a professional chartered secretary, accountant or lawyer. All those qualified persons are governed by the code of professional ethics and conduct of their respective professional bodies. The professional status of the company secretaries also gives confidence to shareholders and investors at large.

To conclude, we submit that a well-qualified company secretary is an indispensable ingredient of a listed issuer. The grant of Main Board Rule 3.28 waiver is totally unjustified even if the principal business activities are primarily outside Hong Kong.

12. Do you agree with the proposals (a) to provide an exemption for Main Board listed issuers that are banking companies or insurance companies from including a working capital statement, subject to appropriate alternative disclosures in their listing documents and transaction circulars if they are able to meet the same conditions as those set out in Main Board Rule 8.21A(2), and (b) to limit Main Board Rule 8.21A(2) so that the exemption applies only to banking companies or insurance companies, subject to alternative disclosures in their listing documents and the conditions as described in paragraph 73 of the Consultation Paper?

Yes

No

You may provide reasons for your views.

13. Do you agree with our proposal to codify the guidance in Guidance Letter HKEX-GL7-09 into the Rules for new applicants' easy reference?

Yes

No

You may provide reasons for your views.

14. Do you agree with our proposal to codify the guidance in Listing Decision HKEX-LD15-3 into the Rules for new applicants' easy reference?

Yes

No

You may provide reasons for your views.

15. Do you agree to amend Main Board Rule 17.05 to state clearly that the restricted period for grant of share options would cover the trading day after the announcement is made with respect to the inside information?

Yes

No

You may provide reasons for your views.

16. Do you agree with our proposal to codify the guidance in Guidance Letter HKEX-GL16-09 into the Rules for completeness?

Yes

No

You may provide reasons for your views.

17. Do you agree with our proposal to codify the guidance in Guidance Letter HKEX-GL31-12 into a new practice note to the Rules for completeness?

Yes

No

You may provide reasons for your views.

18. Do you agree with our proposal to codify the guidance in Guidance Letter HKEX-GL58-13 into the Rules for new applicants' easy reference?

Yes

No

You may provide reasons for your views.

19. Do you agree with our proposal to codify the guidance in Guidance Letter HKEX-GL60-13 into the Rules for new applicants' easy reference?

Yes

No

You may provide reasons for your views.

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