

[Redacted]

From: INFO
Sent: 15 February 2023 18:49
To: [Redacted]
Cc: Info Team
Subject: FW: [Confidential] EOC's Response to Consultation Paper on Proposals to Expand the Paperless Listing Regime and Other Rule Amendments (GEC/ENQ/23/00608)
Attachments: HKEx_Consultation on Paperless Regime_v4_clean.pdf

Confidential
GEC/ENQ/23/00608

Dear [Redacted],

We received the below email regarding the submission of captioned consultation paper. Grateful if you could kindly follow up. Thank you.

Best regards,
[Redacted]

[Redacted]

Sent: Wednesday, February 15, 2023 4:13 PM
To: INFO <HKEXINFO@hkex.com.hk>
[Redacted]
Subject: [Confidential] EOC's Response to Consultation Paper on Proposals to Expand the Paperless Listing Regime and Other Rule Amendments (GEC/ENQ/23/00608)

You don't often get email from [Redacted] [why this is important](#)

Warning: This is an external email. Please be cautious of attachments, links and requests to input information.

Dear Sir/Madam,

I write to submit the response of the Equal Opportunities Commission (EOC) to your consultation paper on "Proposals to Expand the Paperless Listing Regime and Other Rule Amendments".

The EOC has submitted our response via your online questionnaire earlier. It is also attached herewith for your reference please.

In case you have any question, please do not hesitate to contact us. Thank you.

Regards,

[Redacted]
[Redacted]
Equal Opportunities Commission
16/F, 41 Heung Yip Road, Wong Chuk Hang, Hong Kong

[Redacted]

Web: <http://www.eoc.org.hk>

Hong Kong Exchanges and Clearing Limited (HKEx)'s Consultation Paper on Proposals to Expand the Paperless Listing Regime and Other Rule Amendments (December 2022)

Submission from the Equal Opportunities Commission

Introduction

Technological advancements have enhanced more convenient access to information which can facilitate communications with persons with disabilities (PWDs) if and only if websites are designed with accessibility in mind. However, there is considerable room for improvement when it comes to electronic dissemination of corporate communications by listed issuers in Hong Kong. In 2020, there were about 534,200 persons with one or more disabilities in Hong Kong, including 47,600 persons with seeing difficulty and 47,900 persons with hearing difficulty.¹ According to Hong Kong Blind Union's 2018 Web Accessibility Survey funded by the Equal Opportunities Commission (EOC), only 8.9% of websites of listed companies selected met 12 criteria of Level A requirements of Web Content Accessibility Guidelines (WCAG) 2.0, an international standard for web developers established by the World Wide Web Consortium (W3C), whereas only 3.0% met these 12 basic criteria and also 10 advanced criteria of WCAG 2.0 Level AA requirements.² With WCAG 2.2 draft scheduled to be finalized by W3C in April 2023 and Level AA requirements being the target for many organizations to meet, it is high time for Hong Kong Exchanges and Clearing Limited (HKEx) to promote web accessibility of listed issuers.

¹ Census and Statistics Department (2021). Special Topics Report No.63: Persons with Disabilities and Chronic Diseases. Retrieved February 2023, from

https://www.censtatd.gov.hk/en/data/stat_report/product/C0000055/att/B11301632021XXXXB0100.pdf

² Hong Kong Blind Union (2018). *2018 Web Accessibility Survey Report*. Retrieved February 2023, from https://www.eoc.org.hk/EOC/Upload/UserFiles/File/Funding%20Programme/policy/1718/EOC%20Report%202018_final%20version_ChineseOnly.pdf

I. HKEx’s proposal to amend the Listing Rules mandating listed issuers to electronically disseminate corporate communications to their securities holders (Question 11 of HKEx’s Consultation Paper)

2. While the EOC, in principle, supports the proposal of HKEx mandating listed issuers to electronically disseminate corporate communications to their securities holders, HKEx should consider incorporating the conformance of corporate communications with web accessibility guidelines such as WCAG 2.1 into the Listing Rules or the Corporate Governance Code therein as appropriate. These guidelines will make online content accessible to a wider range of PWDs, including those with blindness and low vision, photosensitivity as well as other disabilities.

3. The equal right of PWDs to own or inherit property and to control their own financial affairs is a fundamental human right enshrined in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The UNCRPD entered into force for the People’s Republic of China, including the Hong Kong Special Administrative Region since 31 August 2008. According to sections 6 and 26 of the Disability Discrimination Ordinance (Cap 487), it is unlawful for a person who, whether for payment or not, provides goods, services or facilities, to discriminate against another person with a disability in the terms and conditions or in the manner, in providing goods, services or facilities to the latter. From the EOC’s operational experience, from time to time, we received concerns from PWDs on accessibility issues in relation to websites or mobile applications developed by companies in private sector.

4. As corporate communications of listed issuers may seek instructions or consent from their securities holders on how they wish to exercise their rights as the issuers' securities holders,³ it is important to ensure access to such information particularly for PWDs. If a listed issuer fails to electronically disseminate such communications to its securities holders who are PWDs in a way that they cannot access the online information to exercise their rights as securities holders, the rights of these securities holders with disabilities would clearly be compromised. In the past, the EOC has advocated for the right of PWDs as shareholders to participate in shareholder meetings held by listed companies with barrier-free access and other accommodations.⁴ To achieve good corporate governance and enhance digital inclusion, the EOC recommends that HKEx should ensure the equal rights of PWDs to receive information pertinent to their investment and participate in the decision-making process of the listed issuers.

5. Disability is often the most neglected aspect in the environmental, social and governance (ESG) agenda. When disability inclusion has been increasingly taken into account by the private sector for their corporate social responsibility initiatives ranging from volunteering to training and development, substantial changes should be made by incorporating a perspective of disability inclusion throughout information disclosure and the decision-making process of business operations, such as investor relations and

³ Hong Kong Exchanges and Clearing Limited (2022). *Consultation Paper on Proposals to Expand the Paperless Listing Regime and Other Rule Amendments*. Retrieved February 2023, from <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/December-2022-Expand-Paperless-Listing-Regime/Consultation-Paper/cp202212.pdf>

⁴ Equal Opportunities Commission (2019). *Disability Shouldn't Be A Barrier in Hong Kong, Unless Society Makes It One*. Retrieved February 2023, from <https://www.eoc.org.hk/en/Articles/Detail/174>

employment. By full inclusion of securities holders with disabilities in the corporate governance process, HKEx and listed issuers can demonstrate their commitment to the growing recognition of diversity and inclusion (D&I) as well as ESG which are increasingly relevant to investors, employees, and regulators. Research has shown that businesses inclusive of PWDs have, on average, 28% higher revenue, double net income and 30% higher profit margins.⁵ International businesses have also recently called for further progress on digital accessibility and how to measure it with more inclusive ESG reporting.⁶ HKEx should consider strengthening the requirements pertinent to digital accessibility, disability inclusion and relevant reporting in the future.

Equal Opportunities Commission

February 2023

⁵ World Economic Forum (2022). *Closing the Disability Inclusion Gap with Business Leadership*. Retrieved February 2023, from <https://www.weforum.org/impact/disability-inclusion/>

⁶ Valuable 500, Allianz, London Stock Exchange Group and Tortoise Media (2023). *ESG and Disability Data: A Call for Inclusive Reporting*. Retrieved February 2023, from <https://www.thevaluable500.com/wp-content/uploads/2023/01/ESG-and-Disability-Data-white-paper.pdf>

Submitted via Qualtrics

**Equal Opportunities Commission
Company / Organisation
Other**

Question 1

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

Please give reasons for your views.

Question 2

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

Please give reasons for your views.

Question 3

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

Please give reasons for your views.

Question 4

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

Please give reasons for your views.

Question 5

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

Please give reasons for your views.

Question 6

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

Please give reasons for your views.

Question 7

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

Please give reasons for your views.

Question 8

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

Please give reasons for your views.

Question 9

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

Please give reasons for your views.

Question 10

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

Please give reasons for your views.

Question 11

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

Yes

Please give reasons for your views.

Technological advancements have enhanced more convenient access to information which can facilitate communications with persons with disabilities (PWDs) if and only if websites are designed with accessibility in mind. However, there is considerable room for improvement when it comes to electronic dissemination of corporate communications by listed issuers in Hong Kong. In 2020, there were about 534,200 persons with one or more disabilities in Hong Kong, including 47,600 persons with seeing difficulty and 47,900 persons with hearing difficulty.[1] According to Hong Kong Blind Union's 2018 Web Accessibility Survey funded by the Equal Opportunities Commission (EOC), only 8.9% of websites of listed companies selected met 12 criteria of Level A requirements of Web Content Accessibility Guidelines (WCAG) 2.0, an international standard for web developers established by the World Wide Web Consortium (W3C), whereas only 3.0% met these 12 basic criteria and also 10 advanced criteria of WCAG 2.0 Level AA requirements.[2] With WCAG 2.2 draft scheduled to be finalized by W3C in April 2023 and Level AA requirements being the target for many organizations to meet, it is high

time for Hong Kong Exchanges and Clearing Limited (HKEx) to promote web accessibility of listed issuers.

While the EOC, in principle, supports the proposal of HKEx mandating listed issuers to electronically disseminate corporate communications to their securities holders, HKEx should consider incorporating the conformance of corporate communications with web accessibility guidelines such as WCAG 2.1 into the Listing Rules or the Corporate Governance Code therein as appropriate. These guidelines will make online content accessible to a wider range of PWDs, including those with blindness and low vision, photosensitivity as well as other disabilities.

The equal right of PWDs to own or inherit property and to control their own financial affairs is a fundamental human right enshrined in the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD). The UNCPRD entered into force for the People's Republic of China, including the Hong Kong Special Administrative Region since 31 August 2008. According to sections 6 and 26 of the Disability Discrimination Ordinance (Cap 487), it is unlawful for a person who, whether for payment or not, provides goods, services or facilities, to discriminate against another person with a disability in the terms and conditions or in the manner, in providing goods, services or facilities to the latter. From the EOC's operational experience, from time to time, we received concerns from PWDs on accessibility issues in relation to websites or mobile applications developed by companies in private sector.

As corporate communications of listed issuers may seek instructions or consent from their securities holders on how they wish to exercise their rights as the issuers' securities holders, it is important to ensure access to such information particularly for PWDs. If a listed issuer fails to electronically disseminate such communications to its securities holders who are PWDs in a way that they cannot access the online information to exercise their rights as securities holders, the rights of these securities holders with disabilities would clearly be compromised. In the past, the EOC has advocated for the right of PWDs as shareholders to participate in shareholder meetings held by listed companies with barrier-free access and other accommodations.[3] To achieve good corporate governance and enhance digital inclusion, the EOC recommends that HKEx should ensure the equal rights of PWDs to receive information pertinent to their investment and participate in the decision-making process of the listed issuers.

Disability is often the most neglected aspect in the environmental, social and governance (ESG) agenda. When disability inclusion has been increasingly taken into account by the private sector for their corporate social responsibility initiatives ranging from volunteering to training and development, substantial changes should be made by incorporating a perspective of disability inclusion throughout information disclosure and the decision-making process of business operations, such as investor relations and

employment. By full inclusion of securities holders with disabilities in the corporate governance process, HKEx and listed issuers can demonstrate their commitment to the growing recognition of diversity and inclusion (D&I) as well as ESG which are increasingly relevant to investors, employees, and regulators. Research has shown that businesses inclusive of PWDs have, on average, 28% higher revenue, double net income and 30% higher profit margins.[4] International businesses have also recently called for further progress on digital accessibility and how to measure it with more inclusive ESG reporting.[5] HKEx should consider strengthening the requirements pertinent to digital accessibility, disability inclusion and relevant reporting in the future.

[1] Census and Statistics Department (2021). Special Topics Report No.63: Persons with Disabilities and Chronic Diseases. Retrieved February 2023, from https://www.censtatd.gov.hk/en/data/stat_report/product/C0000055/att/B11301632021XXXB0100.pdf

[2] Hong Kong Blind Union (2018). 2018 Web Accessibility Survey Report. Retrieved February 2023, from https://www.eoc.org.hk/EOC/Upload/UserFiles/File/Funding%20Programme/policy/1718/EOC%20Report%202018_final%20version_ChineseOnly.pdf

[3] Equal Opportunities Commission (2019). Disability Shouldn't Be A Barrier in Hong Kong, Unless Society Makes It One. Retrieved February 2023, from <https://www.eoc.org.hk/en/Articles/Detail/174>

[4] World Economic Forum (2022). Closing the Disability Inclusion Gap with Business Leadership. Retrieved February 2023, from <https://www.weforum.org/impact/disability-inclusion/>

[5] Valuable 500, Allianz, London Stock Exchange Group and Tortoise Media (2023). ESG and

Disability Data: A Call for Inclusive Reporting. Retrieved February 2023, from <https://www.thevaluable500.com/wp-content/uploads/2023/01/ESG-and-Disability-Data-white-paper.pdf>

Question 12

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

Please give reasons for your views.

Question 13

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

Please give reasons for your views.

Question 14

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

Please give reasons for your views.

Question 15

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

Please give reasons for your views.

Question 16

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

Question 17

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

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

Question 18

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

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