



Hong Kong General Chamber of Commerce
香港總商會 1861

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Mr Charles Li Xiaojia
Chief Executive Officer
Hong Kong Exchanges and Clearing Limited
8/F, Two Exchange Square,
8 Connaught Place, Central,
Hong Kong

Dear Mr. Li,

**Response by Hong Kong General Chamber of Commerce (“HKGCC”) to HKEx’s
Consultation Paper of January 2020 “Corporate WVR Beneficiaries”**

HKGCC welcomes this opportunity to comment on the above Consultation Paper (“CP”).

With effect from 30 April 2018, the listing rules were amended to permit issuers with *individual* weighted voting rights (“WVR”) to list on the Exchange. The CP proposes to extend this permission to cover issuers with *corporate* WVR.

It is clear that, as was the case with individual WVR, this proposal is highly controversial, with strong and divided views on it.¹ Indeed, it was for this reason that HKEx decided to postpone the issue of the CP (originally targeted for 31 July 2018) “*with the aim of developing a broader consensus on the subject*”.² The CP states that it incorporates comments and suggestions made during the period since 31 July 2018,³ but does not disclose those comments and suggestions, or state whether a broader consensus has indeed been reached, and if so in what areas. Presumably, this will become clear when the responses to the CP are published.

One of the reasons why WVR is so controversial is that it is a departure from Hong Kong’s traditional “one share, one vote” system, a bedrock principle of good corporate governance. As the CP itself states, “...*the “one-share, one vote” principle continues to be the optimum method of empowering shareholders and aligning their interests in a company. Allowing corporate entities will add an additional level of complexity to the Rules if implemented*”.⁴

There would therefore have to be very good reasons for departing further from this principle, by extending individual WVR to corporate WVR. In other words, clear public benefit would

¹ CP paras 70-73.

² CP para 74.

³ N 2 above.

⁴ CP paras 113, 114.

have to be demonstrated if such a proposal were to be implemented. Moreover, there must be clear evidence that the benefits outweigh the costs and risks of doing so.

In terms of potential benefits, it seems that the main objective of the proposal (as with individual WVR) is to enable HKEx to compete more effectively with other exchanges (notably in the US) for listings of innovative companies, such as those in the IT sector, particularly from mainland China.⁵ The CP appears to imply that individual WVR has been insufficient to achieve this objective, and that corporate WVR would remedy this. In this regard, it would be helpful to know, for example, whether there had been potential listing applicants in Hong Kong that have chosen other venues for listing instead due to the lack of corporate WVR in Hong Kong. In the absence of such information, it is difficult to see real (as opposed to hypothetical) benefits that would result from the proposal.

As pointed out in our response to HKEx's proposal on individual WVR, even if corporate WVR were to achieve the objective of enabling HKEx to compete more effectively with overseas exchanges in attracting listings, this must not be done at the cost of reducing investor protection. Indeed, this is a requirement imposed on HKEx by the Securities and Futures Ordinance ("SFO").⁶ There must be clear evidence that WVR structures pose no risks to the investing public before they are introduced, or if there are potential risks, there should be effective safeguards in place.

The CP does indeed identify a number of substantial risks with corporate WVR. Some of these were also risks identified by HKEx in its consultation paper on individual WVR. The CP states that certain of these risks (such as misalignment of shareholders' interests) would be *exacerbated* by corporate WVR, and that corporate WVR also presents *additional* risks.⁷

It is therefore all the more important to demonstrate that the proposed safeguards set out in Chapter 4 of the CP will be effective, if corporate WVR were to be introduced. In this connection, we would welcome further explanation and re-assurance from HKEx on the efficacy of its proposed safeguards. It would also be helpful to provide an explanation of the experience of implementing individual WVR since it was introduced on 30 April 2018. This could cover questions such as which companies with WVR have been listed, whether there have been any disputed applications and how such disputes were resolved, and whether the safeguards for the investing public have proved effective.

As it is, certain aspects of the proposed safeguards would benefit from further clarification, particularly the "ring-fencing" measures which are designed to "*reduce the risk of WVR proliferating and becoming commonplace in Hong Kong*".⁸ For example:

- In assessing whether the prospective corporate WVR beneficiary will make a sufficient contribution to its "ecosystem", what is a "meaningful scale" that the ecosystem must

⁵ CP paras 15-17, 91-112. We assume for present purposes that enabling HKEx to compete more effectively would benefit the Hong Kong public. For example, the CP states that it would give the Hong Kong investing public a broader range of companies in which to invest- CP para 97.

⁶ SFO section 63(2).

⁷ CP paras 71, 117.

⁸ CP para 153.

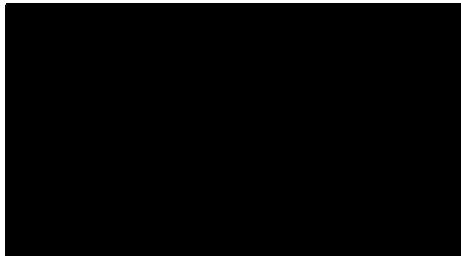
have attained?⁹ And what will be considered sufficient experience in “*emerging and innovative sectors*”?¹⁰ These criteria are rather vague and subjective.

- The CP proposes that corporate WVR will lapse permanently if the corporate’s contribution to the WVR issuer is “*substantially terminated or materially disrupted or suspended*” for a period exceeding 12 months.¹¹ But it is not clear how this provision would be assessed, or enforced.

HKGCC understands HKEx’s underlying intent to enhance Hong Kong’s attractiveness as a listing destination for New Economy enterprises through the introduction of corporate WVR. We are prepared to support such an initiative but before we commit to doing so, there would need to be:

- Clear evidence that its introduction would add value to the current situation, namely, public benefits which cannot be achieved with individual WVR; and
- Clear evidence that, or at least a reasoned explanation as to why, the safeguards which HKEx proposes to combat the acknowledged additional risks of corporate WVR will be effective.

Yours sincerely,



⁹ CP para156.

¹⁰ CP para168.

¹¹ CP para 160.