

## Part B Consultation Questions

Please reply to the questions below that are raised in the Consultation Paper downloadable from the HKEX website at: <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/March-2021-Listing-Regime/Consultation-Paper/cp202103.pdf>. Please indicate your preference by ticking the appropriate boxes.

Unless otherwise stated, capitalised terms used herein shall have the same meanings defined in the Consultation Paper.

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

**We encourage you to read all of the following questions before responding.**

1. Do you agree that the Equivalence Requirement and the concept of “Recognised Jurisdictions” and “Acceptable Jurisdictions” should be replaced with one common set of Core Standards for all issuers?

Yes

No

Please give reasons for your views.

The current regime is complicated and might create confusion or room for regulatory arbitrage. We agree with the Exchange’s proposal to form a common set of standards for all issuers.

2. If your answer to Question 1 is “Yes”, do you agree: (a) with the proposed Core Standards set out in paragraphs 79 to 137 of the Consultation Paper; and (b) that the existing shareholder protection standards set out in Schedule C should be repealed?

Yes

No

Please give reasons for your views.

We generally agree with the proposed Core Standards except for that relating to the right to convene an extraordinary general meeting set out in paragraphs 102 to 104.

We note that the company laws of the Cayman Islands do not impose a maximum requisition threshold of 10%. It is common for Chinese businesses listed in the United States to have a requisition threshold higher than 10% in their constitutional documents.

We also note that the Exchange has granted waiver to certain 19C companies, including Alibaba. We suggest that the Exchange not include this requirement as a Core Standard or, as an alternative, specify the circumstances under which the Exchange would consider granting a waiver.

We agree that the existing shareholder protection standards set out in Schedule C should be repealed.

3. Do you agree to codify the current practice that all issuers must conform their constitutional documents to the Core Standards or else demonstrate, as necessary for each standard, how the domestic laws, rules and regulations to which the issuer is subject and its constitutional documents, in combination, provide the relevant shareholder protection under the Core Standards?

Yes

No

Please give reasons for your views.

Yes, we believe the codification will provide clear and practical guidance for all issuers to follow.

4. Do you believe any other standards or Listing Rules requirements, other than those set out in paragraphs 79 to 137 or Schedule C of the Consultation Paper, should be added or repealed?

Yes

No

Please provide these other standards with reasons for your views.

5. Do you agree that existing listed issuers should be required to comply with the Core Standards?

Yes

No

Please give reasons for your views.

We believe that it is fair and sensible to create a uniform regulatory framework and require all listed issuers, including the existing ones, to comply with the Core Standards.

However, we suggest that the listed issuers who have been granted specific waivers should be allowed to keep their current corporate governance practice notwithstanding the implementation of the Core Standards.

6. If your answer to Question 5 is "Yes", do you agree that: (a) existing listed issuers should have until their second annual general meeting following the implementation of our proposals to make any necessary amendments to their constitutional documents to conform with the Core Standards; and (b) the application of the Core Standards will not cause existing listed issuers undue burden?

Yes

No

Please give reasons for your views.

(a) We agree that existing listed issuers should have until their second annual general meeting following the implementation of the proposals to make any necessary amendments to their constitutional documents to conform with the Core Standards. This is generally in line with the current practice of allowing 19C listing applicants to amend their constitutional documents to conform with the relevant corporate governance requirements within certain time after listing on the Exchange.

(b) We note from the consultation paper that the Exchange has conducted a review and concluded that the vast majority of existing listed issuers are already providing the proposed Core Standards and therefore the implementation of the Core Standards should not cause them an undue compliance burden. Provided that all specific waivers and/or exemptions granted to existing listed issuers will survive the implementation of the proposals, we do not believe the application of the Core Standards will cause undue burden to existing listed issuers.

7. Do you agree with the principles set out in paragraph 155 of the Consultation Paper for use when considering waiver applications from Overseas Issuers applying for a dual primary listing in Hong Kong?

Yes

No

Please give reasons for your views.

We believe the principles help provide a clear and simplified listing regime.

8. Do you agree to codify certain Common Waivers and the prescribed conditions as described in paragraph 158 of the Consultation Paper?

Yes

No

Please give reasons for your views.

Similar to the codification of automatic waivers for secondary listing through the Chapter 19C route, we believe the codification of certain Common Waivers and the prescribed conditions can enhance regulatory transparency.

9. Do you agree that Grandfathered Greater China Issuers and Non-Greater China Issuers with Non-compliant WVR and/ or VIE Structures should be able to apply for dual primary listing directly on the Exchange as long as they can meet the relevant

suitability and eligibility requirements under Chapter 19C of the Listing Rules for Qualifying Issuers with a WVR structure?

Yes

No

Please give reasons for your views.

This will help streamline the current dual-listing regime without causing additional loopholes.

10. Do you agree that Grandfathered Greater China Issuers and Non-Greater China Issuers referred to in Question 9 above be allowed to retain their Non-compliant WVR and/ or VIE Structures (subsisting at the time of their dual primary listing in Hong Kong) even if, after their listing in Hong Kong, they are de-listed from the Qualifying Exchange on which they are primary listed?

Yes

No

Please give reasons for your views.

Adjustments to non-compliant WVR and/or VIE structures would cause undue burden to the issuers.

If the super-voting shareholder does not agree to sacrifice its voting rights, it is hardly possible for an amendment to the WVR structure to be passed at a shareholders' meeting.

Adjusting VIE structures requires extensive communication with local governments, clients, suppliers and employees and may incur significant time and costs in transferring assets between companies, especially for companies with long operating history and complex corporate structures.

11. Do you agree with our proposal to codify requirements (with the amendments set out in the Consultation Paper) relating to secondary listings in Chapter 19C of the Listing Rules and re-purpose Chapter 19 of the Listing Rules as one dedicated to primary listings only?

Yes

No

Please give reasons for your views.

We agree that the proposed codification would help reduce the complexity of existing requirements.

12. Do you agree that the Exchange should implement the quantitative eligibility criteria as proposed in paragraphs 199 and 201 of the Consultation Paper for all Overseas Issuers without a WVR structure (including those with a centre of gravity in Greater China) seeking to secondary list on the Exchange?

Yes

No

Please give reasons for your views.

We believe that the proposed quantitative eligibility criteria would help streamline the secondary listing regime.

13. Do you agree that an exemption from the listing compliance record requirement be introduced, similar to the current JPS exemption, to cater for secondary listing applicants without a WVR structure that are well-established and have an expected market capitalisation at listing that is significantly larger than HK\$10 billion?

Yes

No

Please give reasons for your views.

The proposed exemption provides flexibility to the Exchange and helps attract reputable issuers to seek secondary listing in Hong Kong.

14. Do you agree that new secondary listing applicants without a WVR structure (including those that have a centre of gravity in Greater China) should not have to demonstrate to the Exchange that they are an "Innovative Company"?

Yes

No

Please give reasons for your views.

Although the Exchange has published guidance on the characteristics which it considers an "Innovative Company" for the purpose of the Listing Rules would normally be expected to possess, such requirement is sometimes seen to be subjective and imprecise.

We believe that the innovation feature should be a marketing factor for the investors to consider, rather than a gating factor for the regulators to stop a listing. If a qualified and reputable issuer operating in a traditional industry seeks to list in Hong Kong, we are of the view that it should not be banned from the Hong Kong capital market because of its business nature.

15. Do you agree that a Rule should be introduced to make it clear that the Exchange retains the discretion to reject an application for secondary listing if it believes the listing constitutes an attempt to avoid the Listing Rules that apply to primary listing?

Yes

No

Please give reasons for your views.

The new Rule is necessary, particularly given the significant number of companies going public in the United States by way of de-SPAC transactions in the past few years.

16. Do you agree that the Exchange should apply the test for a reverse takeover, as described in paragraph 210 of the Consultation Paper, if the Exchange suspects that an issuer's secondary listing application is an attempt to avoid the Listing Rules that apply to primary listing?

Yes

No

Please give reasons for your views.

We believe that a quantitative test would help provide clear guidance on the secondary listing regime.

17. Do you agree that the scope of the Trading Migration Requirement should be extended to cover all issuers with a secondary listing?

Yes

No

Please give reasons for your views.

We believe the extension would help enhance consistency and streamline the existing secondary listing regime.

18. In your opinion, will the extension of the Trading Migration Requirement to all secondary listed issuers be unduly burdensome for those that are not currently subject to this requirement?

Yes

No

Please give reasons for your views.

We do not expect the extension to have a material adverse effect on the limited number of secondary listed issuers that are not currently subject to the requirement. Given the stable trading distribution of these issuers, it is unlikely that the Trading Migration Requirement will be triggered.

19. Do you agree with the codification of the principles set out in paragraph 215 of the Consultation Paper on which exemptions/ waivers are granted to secondary listed issuers?

Yes

No

Please give reasons for your views.

The proposed codification of the principles, which are in line with the current practice, helps enhance clarity, certainty and transparency of the secondary listing regime.

20. Do you agree to codify the Automatic Waivers and conditional Common Waivers in the Listing Rules for all issuers with, or seeking, a secondary listing?

Yes

No

Please give reasons for your views.

The proposed codification helps enhance clarity, certainty and transparency of the secondary listing regime.

21. Do you agree with the removal of the current condition for granting a waiver from the shareholders' consent requirement relating to further issues of share capital for secondary listed issuers as described in paragraphs 218 and 219 of the Consultation Paper?

Yes

No

Please give reasons for your views.

We agree that removing unnecessary conditions helps simplify and standardise the Listing Rules for all Overseas Issuers.

22. Do you agree that secondary listed issuers should comply with the requirements for a diversity policy and for such policy to be disclosed in their annual reports (for the reasons set out in paragraph 223 of the Consultation Paper)?

Yes

No

Please give reasons for your views.

We support the proposal as it helps promote better corporate governance without creating undue burden for most issuers.

23. Do you have any comments on the content of the Guidance Letter in relation to trading migration and de-listing of secondary listed issuers from their overseas exchanges of primary listing set out in Schedule E of the Consultation Paper?

Yes

No

Please give your comments.

24. Do you agree that the Exchange should codify the Regulatory Co-operation Requirement (with modification as described in paragraph 242 of the Consultation Paper) into Chapter 8 of the Listing Rules for all issuers?

Yes

No

Please give reasons for your views.

We believe that the codification helps streamline the regulatory regime.

25. Do you agree that the Exchange should retain as guidance the alternative auditing standards listed in paragraph 249 of the Consultation Paper that can be used to audit the financial statements of Overseas Issuers?

Yes

No

Please give reasons for your views.



We believe that the codification helps streamline the regulatory regime.

26. Do you agree to codify the JPS requirement that the suitability of a body of alternative financial reporting standards depends on whether there is any significant difference between that body of standards and IFRS, and whether there is any concrete proposal to converge or substantially converge the standards with IFRS?

Yes

No

Please give reasons for your views.

We believe that the codification helps streamline the regulatory regime.

27. Do you agree to retain, as guidance, the list of acceptable alternative financial reporting standards that can be used to prepare the financial statements of Overseas Issuers subject to the current limitations on their use as set out in Table 7 (see Schedule E of the Consultation Paper)?

Yes

No

Please give reasons for your views.

This is in line with the current market practice.

28. Do you agree to codify the JPS requirement that a dual primary or secondary listed issuer that adopts a body of alternative financial reporting standards for its financial statements (other than issuers incorporated in an EU member state which adopted EU-IFRS) must adopt HKFRS or IFRS if it de-lists from the jurisdiction of the alternative standards?

Yes

No

Please give reasons for your views.

We believe it is a fair and sensible approach to require such dual primary or secondary listed issuer to adopt HKFRS or IFRS in the same way as primary listed issuers if it de-lists from the jurisdiction of the alternative standards.

29. Do you agree that issuers that de-list from a jurisdiction of an alternative financial reporting standard should: (a) be given an automatic grace period (i.e. an application to the Exchange is not required) within which to adopt IFRS or HKFRS; and (b) that this grace period should end on the issuer's first anniversary of its de-listing?

Yes

No

Please give reasons for your views.

We agree that an automatic grace period should be given. However, we suggest that the grace period be changed to a complete financial year after de-listing given the potentially different financial years adopted by issuers.

30. Do you agree that, for the sake of consistency of approach, an issuer must demonstrate a reason for adopting US GAAP for the preparation of its financial statements (including annual financial statements and the financial statements included in its accountants' reports) and adopt IFRS or HKFRS if the circumstances underpinning those reasons change (e.g. it de-lists from a US exchange)?

Yes

No

Please give reasons for your views.

The demonstration of a reason for adopting US GAAP is not unduly burdensome to the issuers.

31. Do you agree that any issuer that wishes to adopt US GAAP for the preparation of its annual financial statements must include a reconciliation statement showing the financial effect of any material differences between its financial statements and financial statements prepared using HKFRS or IFRS?

Yes

No

Please give reasons for your views.

The requirement to include a reconciliation statement may result in significant amount of work and weaken the attractiveness of a dual listing in Hong Kong. With the increasing number of US-listed companies going public in Hong Kong, we observe that the Hong Kong investors are getting more comfortable and familiar with US GAAP over time. We do not observe strong objection to US GAAP among Hong Kong investors.

In contrast to the proposed requirement, the US market accepts annual financial statements prepared using IFRS and does not require reconciliation to US GAAP for US investors.

32. Do you agree to codify the amendment to the FRCO that established the PIE Engagement regime into the Listing Rules?

Yes

No

Please give reasons for your views.

We believe that the codification helps streamline the regulatory regime.

33. Do you agree to amend the Listing Rules to codify the requirement that an issuer normally appoint a firm of practising accountants that is qualified under the PAO and is a Registered PIE Auditor under the FRCO to prepare an accountants' report that constitutes a PIE Engagement under the FRCO?

Yes

No

Please give reasons for your views.

This is in line with the current market practice.

34. Do you agree to amend the Listing Rules to allow Overseas Issuers to appoint an audit firm that is not qualified under the PAO (but it is a Recognized PIE Auditor of that issuer under the FRCO) for PIE Engagements to prepare an accountants' report for a reverse takeover or a very substantial acquisition circular relating to the acquisition of an overseas company?

Yes

No

Please give reasons for your views.

This is in line with the current market practice.

35. Do you agree to amend the Listing Rules to codify the JPS requirement that, in relation to the PIE Engagements and notifiable transactions, overseas audit firms must normally fulfil the characteristics described in paragraph 271 of the Consultation Paper?

Yes

No

Please give reasons for your views.

This is in line with the current market practice.

36. Do you agree to amend the Listing Rules to codify the amendments to the FRCO on the collection of levies by the Exchange on behalf of the FRC as described in paragraphs 280 and 281 of the Consultation Paper?

Yes

No

Please give reasons for your views.

This is in line with the current market practice.

37. Do you agree to codify the JPS requirement for Company Information Sheets as described in paragraphs 283 to 288 of the Consultation Paper?

Yes

No

Please give reasons for your views.

This is in line with the current market practice.

38. Do you agree that the Company Information Sheet requirement should be applied to:  
(a) secondary listed issuers; and (b) any other Overseas Issuer, at the Exchange's

discretion, where it believes the publication of a Company Information Sheet would be useful to Hong Kong investors?

Yes

No

Please give reasons for your views.

We believe that the requirement helps streamline the regulatory regime.

39. Do you agree to amalgamate the guidance described in paragraphs 289 and 290 of the Consultation Paper into one combined guidance letter for Overseas Issuers (see Schedule E of the Consultation Paper)?

Yes

No

Please give reasons for your views.

We believe that the amalgamation helps streamline the regulatory regime.

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