

## 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.

We agree with the proposal for adopting one common set of Core Standards for all issuers. The existing set of regime has become overly complicated with different sets of shareholder protection requirements for companies incorporated in Recognised Jurisdiction and Acceptable Jurisdictions, Rule 19C.07 of the Listing Rules also set out a set of shareholder protection standards applicable to Non-Greater China Issuer and Grandfathered Greater China Issuer, which can be extremely complicated for potential issuers to navigate and make it less attractive as a listing venue for prospective applicants due to the complexity of the application of the relevant rules for Overseas 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of the Consultation Paper; and (b) that the existing shareholder protection standards set out in Schedule C should be repealed?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 agree with the proposed Core Standards and also repealing the existing shareholder protection standards set out in Schedule C as the Core Standards concern the most fundamental shareholder rights that will ensure there is adequate protection of shareholders' interest.

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.

We agree with codifying the current practice that all issuers must conform their constitutional documents to the Core Standards to ensure that shareholders' interest are adequately protected under the constitutional documents subject to limitation and restriction to local laws.

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 agree with the proposal that the Core Standards should also be applicable to existing listed issuers. Listed issuers shall amend their constitution at the second AGM (if necessary) following implementation of the proposal in order to comply with the Core Standards. The Core Standards are similar to a sub-set of the existing Appendix 3 and 13, therefore, it would not be too difficult for existing issuers to comply with the Core Standard.

The Exchange should clarify whether or not the waivers which may have been granted previously to existing listed issuers from complying with the relevant requirement (which is equivalent to the requirement under the Core Standards) would continue to be in force without such issuers having to apply for a new waiver from strict compliance with the relevant Core Standard. For example, a number of the Ch.19C secondary listed issuers have been granted waivers to be exempted from having similar provisions in its constitutional documents to the effect that the appointment, removal and remuneration of auditors be approved by a majority of its members or body that is independent of its board of directors.

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.

Please refer to our answers to question 5 in the above.

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 agree with the principle set out in paragraph 155 as this has always been the key consideration in assessing whether or not waivers should be granted. However, we urge the Exchange to provide further clarity with typical examples as to what circumstances will constitute "burdensome" or "unnecessary". The Exchange should also consider how the overseas regulations would be applied to actions taken in the Hong Kong market and whether they would still be similarly applied, which may colour how extensive such waivers should be.

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.

We agree with codifying the Common Waivers in the Listing Rules so as to provide certainty and clarity.

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.

We agree with the proposal as this does not change the existing regime that allows Grandfathered Greater China Issuers and Non-Greater China Issuers to secondary list pursuant to Ch.19C and then becoming dual primary listed company providing that such companies had complied with the relevant suitability and eligibility requirements of Ch.19C in the first place. The proposal simply provides a faster route instead of a "two step" route. We noted the Exchange reserves the right to reject an applicant on suitability grounds if its WVR structure represents an extreme case of non-conformance with governance norms and suggest the Exchange to provide further clarity with examples of such non-conformance with governance norms in order to provide certainty and clarity to potential applicants.

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.

We agree with the proposal that Grandfathered Greater China Issuers and Non-Greater China Issuers should retain their Non-compliant WVR and/or VIE Structures (subsisting at the time of their dual primary listing in Hong Kong) in the event of delisting from the Qualifying Exchange, such that this will align with the proposal of permitting secondary listed issuers to retain their non-compliant WVR and/or VIE Structures in the event of de-listing.

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 with the proposal such that Chapter 19C will contain all the provisions relating to all the different ways of achieving secondary listing as it will be much more user friendly to have all the rules applicable to secondary listing in one chapter than having to refer to different chapters of the Listing Rules and also the JPS which is a separate document from the Listing Rules.

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 agree with the proposed Criteria B as Criteria B will essentially bring the current minimum market capitalisation threshold applicable to Non-WVR Issuers with a centre of gravity outside Greater China in line with those with centre of gravity in China. However, we disagree with the second limb of Criteria A of having an expected market capitalisation at the time of secondary listing of at least HK\$3 billion. Whilst we appreciate that Criteria A is based upon the existing JPS requirements, such requirement under the JPS is rather dated and we recommend the Exchange to consider imposing a higher market capitalisation requirement of HK\$5 billion in order to ensure the quality of secondary listed issuers on the Exchange.

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.

We agree that there should be an exemption from the listing compliance record requirement for secondary listing applicants without WVR structure and to align with the exemption provided for under the JPS. We recommend the Exchange to set out a list of non-exhaustive factors that it will take into consideration in assessing whether or not the secondary listing applicant is well-established (e.g. years of track record of its key business segment) in order to provide further clarity to market practitioners.

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.

We agree with removing the requirement to prove that an applicant without WVR structure is an "Innovative Company" as the "Innovative Company" requirement is intended for companies with WVR structure. Such requirement has restricted high quality Greater China companies in traditional industries from seeking for a secondary listing in Hong Kong via the Chapter 19C route.

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.

We disagree with the proposal which provides the Exchange with the discretion to reject an application for secondary listing if it constitutes an attempt to avoid the Listing Rules that apply to primary listing as secondary listing is essentially a way to list on the Exchange without being subject to the Listing Rules that apply to primary listing. We are of the view the Exchange can rely on the quantitative eligibility requirements to ensure that secondary listing applicants are applicants with substantial market capitalisation which can sufficiently differ them from companies with "shell" like characteristics.

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.

Please refer to our answers to question 15 above.

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 agree with the proposal that the scope of the Trading Migration Requirement should be extended to cover all issuers with a secondary listing regardless of whether or not the Overseas Issuer has a centre of gravity inside or outside of Greater China. The intention of the Trading Migration Requirement is that when the bulk of trading in the shares of these secondary listed companies migrate from its primary listing venue to Hong Kong, it will no longer be appropriate to place reliance upon the regulatory regime in operation in an overseas jurisdiction of primary listing. This rationale should be applied across the board to all secondary listed companies regardless of whether or not it is a Greater China Issuer. Although it is unlikely that the majority of trading in the securities of an issuer that does not have its centre of gravity in Greater China to migrate to the Exchange's market, one cannot rule out the possibility of this, and shall extend the scope of Trading Migration Requirement to cover such scenario. Extending the Trading Migration Requirement as proposed will also add additional safeguard to deter issuers from first seeking primary listing overseas and then followed by a secondary listing in Hong Kong in order to enjoy the Automatic Waivers applicable to secondary listing issuers, as such companies would ultimately cease to enjoy the Automatic Waivers if the bulk of trading migrate to Hong Kong eventually and will have to comply with all the applicable Listing Rules requirements as they would be treated as having dual primary listing.

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 are of the view that extension of the Trading Migration Requirement to all secondary listed issuers will not be unduly burdensome for those that are not currently subject to this requirement. As the Exchange has pointed out in footnote 124 of the Consultation Paper, there are currently two issuers with a centre of gravity outside Greater China that are secondary listed on the Exchange with very low trading volumes on the Exchange compared to the total trading volumes of their securities on their primary exchange. We believe that extension of the scope of the Trading Migration Requirement will not have a substantial impact to the Overseas Issuers with centre of gravity outside China as it is not very likely for such companies' bulk of trading to migrate to the Exchange's markets as the nature of their businesses are more likely to attract investors in its primary listing venue than the Exchange.

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.

We agree with the codification of the principles upon which the Exchange will grant exemptions/waivers to secondary listed issuers as this will provide the market with greater certainty in assessing whether or not waivers will likely be granted.

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.

We agree with codifying the Automatic Waivers and conditional Common Waivers in order to provide clarity to the market. Note 2 to the Appendix to JPS provides that the Exchange may impose any Rule or additional requirements whenever appropriate in individual cases. We suggest the Exchange to include a similar note in the proposed Rule 19C.11B in order to provide the Exchange with the ability to impose additional conditions in granting waivers as necessary/appropriate.

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 with the removal of the condition for granting a waiver from the shareholders' consent requirement under Rule 13.36.

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 disagree with the proposed requirement that secondary listed issuers should be subject to the diversity disclosure requirement as it may be unduly burdensome for secondary listed issuers where rules of its primary listing venue do not impose equivalent diversity requirements. In the event that the Exchange implements this proposal, the Exchange should consider granting a grace period of two years for such secondary listing issuers (where rules of its primary listing venue do not impose equivalent diversity requirements) in order to comply with the proposed diversity requirements.

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.

Please refer to our responses to question 10 in the above.

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 agree with the proposed codification of the Regulatory Co-operation Requirement which will be applicable to all issuers given the proposed repeal of the Recognised Jurisdiction concept on the basis that the compliance obligation of those companies will not be increased. We note that there is a lack of clarity around how the business and assets test would be applied in determining an overseas company's place of central management and control.

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 agree with the proposal as this is in line with the existing practice.

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 agree with the proposed codification as this is in line with the current requirement as stated in the JPS.

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.

We agree to retain the list of acceptance alternative financial reporting standards as guidance to provide the market with list of examples of standards that the Exchange has accepted and also the limitations applicable to each of the alternative financial reporting standards.

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 agree with the proposal as this is in line with the requirement as set out in JPS as there is no reason to retain the alternative financial reporting standards if it de-lists from the jurisdiction of the alternative standards and Hong Kong is its only listing venue.

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 issuers that de-list from a jurisdiction of an alternative financial reporting standard should be given an automatic grace period within which to adopt IFRS or HKFRS as adopting a different financial reporting standard will no doubt be very time consuming and burdensome on the de-listed issuers. We agree in principle with the grace period being the period from the date of its de-listing until the deadline for the publication of the second full year financials from the date of its de-listing and, we recommend the Exchange to consider setting out factors that it may consider in granting an extension of grace period to such issuer on a case-by-case basis.

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.

We agree with the proposal that issuers that adopt US GAAP must demonstrate a reason for doing so and adopt IFRS or HKFRS if the circumstances underpinning those reasons change. As this proposal will have impact on existing issuers who have been adopting US GAAP without the need to demonstrate the reasons as per the existing Listing Rules, the Exchange may consider granting such companies grandfathering provisions for such companies or providing for a grace period for the issuers to comply with such requirement.

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.

We agree a reconciliation statement may be included as investors or potential investors may not be familiar with the US GAAP, such proposal will enable the investors/potential investors to make a well-informed assessment of the issuer's financial position.

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 agree with the proposal to codify the PIE Engagement regime into the Listing Rules in order to provide certainty, among other things, as to the circumstances under which the Exchange will provide a statement of no objection.

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.

Yes, we agree the proposal to continue the existing practice and 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.

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.

We 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 be consistent with the statutory requirements under FRCO.

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.

We 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.

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.

We agree with the proposal to amend the Listing Rules in order to codify the new requirement under FRCO that the Exchange shall be responsible for collecting the new FRC levies and to provide basis for the Exchange to do so under the Listing Rules.

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.

We agree to codify the JPS requirement for Company Information Sheets as this is consistent with the existing 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 agree with this proposal in order to provide investors and potential investors with key information of such issuers. As it gives a wide discretion to the Exchange to require any Overseas Issuer to publish a company information sheet (meaning those primary listed issuers incorporated in a Recognised Jurisdiction may potentially be subject to this requirement as well), we suggest providing a non-exhaustive list of examples in the proposed Rule 19.62 as to when the Exchange will exercise such discretion (e.g. where the issuer is subject to unfamiliar overseas laws and regulations) with respect to primary listed issuers.

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 agree as this proposal will consolidate the relevant guidance into one document to make it easier to navigate for potential issuers and market practitioners.

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