

By email ([response@hkex.com.hk](mailto:response@hkex.com.hk))

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Corporate Communications Department  
Hong Kong Exchanges and Clearing Limited  
12<sup>th</sup> Floor, One International Finance Centre  
1 Harbour View Street  
Central  
Hong Kong

Dear Sirs

### **Consultation Paper on Review of the Corporate Governance Code and Related Listing Rules**

The Stock Exchange of Hong Kong Limited ("the Exchange") proposed to adopt an implied consent regime where the articles of association of the issuer state that shareholders shall receive corporate communications via electronic means, without providing an automatic right to receive hard copies. We understand from informal discussion that the Exchange proposed to abolish election and notification requirements for issuers sending corporate communications.

In view of technology advancement and be environmental friendly, we totally agree with the Exchange that one can improve the existing e-com process and there are different ways to achieve so. We would like to set out our views of the above proposal below.

#### **Protection to shareholders**

The Exchange aims to maintain a fair and orderly market with sufficient protection to shareholders especially minority shareholders. Listing Rule 2.03(3) sets out investors and the public should be fully informed by issuers. Part E of Appendix 14 Corporate Governance Code and Corporate Governance Report emphasize the importance of shareholders by issuers.

Based on HKEX Investors Survey in April 2015, local retail participation in the Hong Kong stock market remained high. Compared to institutional shareholders, retail shareholders may have yet to embrace new technologies and therefore not able to get information of issuers if implied consent is adopted.

Other developed stock markets like the UK and Australia (with more developed technology regime) only allow express and deemed consent but not implied consent. Implied consent is not an ideal way for issuers to communicate with shareholders and causes inconvenience to shareholders who need information from issuers to evaluate a company's performance and make their investment decisions.

#### **Election requirement**

Some issuers may consider printing hard copies of corporate communications too costly and not environmental friendly. Some shareholders prefer to receive electronic communications while some prefer hard copy. Therefore, currently shareholders are given a choice of e-copy or hard copy that can balance the interests of issuers and different shareholders. If a choice is not given under implied consent or shareholders need to take initiative to request the issuers for e-copy or hard copy, it will create burden on the shareholders and there is also delay of dissemination of information. It is doubtful if the issuers have properly discharged their responsibilities to "provide" corporate communications to shareholders as required under HK company law if the shareholders need to ask for it.

Currently, every shareholder receives a physical letter notifying them corporate communications are posted. On the same letter, election choice is offered to the shareholder and he should fill in certain information for share registrar to process his choice. The holder name, address and barcode are printed on the letter for identification purpose. If that shareholder returns such letter to the share registrar, it can verify the shareholder identity before any update his choice of corporate communications. If election choice is not given in the letter, the shareholder can only write to an issuer/share registrar and request for e-copy/hard copy by a letter or email.

Australia's Corporation Acts 2001 requires a company to notify its members in writing that the members may elect whether they wish to receive a hard copy or an electronic copy. The Singapore Exchange amended its listing rules (see Rule 1209) to require the same under deemed consent approach. In view of the above explanation and global practice, we consider offer for election is necessary as it is an international best practice.

### **Notification requirement**

For issuers adopting electronic corporate communications, the Listing Rules currently require issuers to notify their shareholders by hard copies that new corporate communications are published on the website.

The notification is very important to shareholders because the corporate actions may have a significant dilutive effect on their shareholding (e.g. any fund raising exercise) or have a substantial impact on their interest (e.g. any disposal of assets by an issuer), therefore would have an effect on their investment decisions. Besides, the corporate actions may require shareholders to complete document in accordance with specific procedures (e.g. proxy form, rights issue provisional allotment letter). Some documents are crucial for shareholders to determine whether to invest in a company like annual report (with detailed financial performance), share buyback mandate, connected transaction circular...etc.

Only with the existence of the notification to the shareholders, shareholders are able to make a full assessment of an issuer, make investment decision with sufficient information and have confidence in Hong Kong stock market.

The UK Companies Act 2006 requires a company to send a hard copy notification to its shareholders that communications have been published on the website. The Singapore Exchange requires the same as stated in Rule 1212. In view of the above explanation and global practice, we consider notification to shareholders is necessary.

### **Electronic notification**

With the latest advance in technologies, we suggest we should explore the possibility to enhance the existing e-com process further to reduce costs for issuers and be more environmentally friendly.

Currently, issuers send a physical letter by mail to shareholders for notification/election purpose. If there is no reply from the shareholders, the shareholders are deemed to receive a letter for election and notification purpose ("the Letter") going forward instead of hard copies of all corporate communications (e.g. annual report and circulars) from issuers.

To improve and streamline the process, issuers can solicit email address or phone number from shareholders, so that they agree to receive the Letter by electronic means afterwards. This is generally accepted practice because most of the financial institutions now send statements to their clients by electronic means only unless the choice is being revoked. With advance in technology, there is also possibility to make this a cost-effective two-way, interactive communication channel between the issuers and their shareholders in future.

## **Conclusion**

In summary, to protect shareholders interests, we consider implied consent is not suitable in Hong Kong market. Shareholders should be offered for election of choice of corporate communications and being notified by issuers if there is any corporate action.

We understand the Exchange will publish responses in the consultation conclusion and we do not wish our name to be disclosed to members of the public.

Thank you very much for your kind consideration.

Please feel free to contact us if you require further information.

Yours sincerely

