

**Submitted via Qualtrics**

**Company/Organisation view**

**Question 1**

**Do you agree with the proposal to amend the Listing Rules to remove the requirement to cancel repurchased shares?**

Yes

**Please provide reasons for your views.**

We urge a fast track of amendments to the Hong Kong Companies Ordinance to effect the new regime on treasury shares.

- Currently, listed issuers incorporated in Hong Kong are required to cancel repurchased shares and are prohibited from holding treasury shares under the Hong Kong Companies Ordinance.
- We understand that if the proposals on the removal of the listing rules requirements to cancel repurchased shares and the proposed framework on treasury shares are supported by the market, the Exchange will work with the relevant parties to consider the necessary amendments to the Hong Kong Companies Ordinance such that listed issuers incorporated in Hong Kong can also benefit from the treasury share regime as the other overseas issuers.
- We would suggest the Exchange to urge the Government and relevant stakeholders to explore fast track implementation of amendments to the Hong Kong Companies Ordinance to effect the new regime on treasury shares.

**Question 2**

**Do you agree with the proposal to require a resale of treasury shares to be subject to the same requirements as an issue of new shares as described in Proposal (1)(a) to (c) above?**

Yes

**Please provide reasons for your views.**

**Question 3**

**Do you agree with the proposal to require a resale of treasury shares (whether on-market or off-market) to be subject to a moratorium period after a share repurchase?**

Yes

**Please provide reasons for your views.**

We suggest to expressly include “pursuant to the vesting of share awards requiring the issuer to issue securities or transfer treasury shares” as one of the circumstances which permits issuers to issue shares or transfer treasury shares within a period of 30 days after any purchase of its shares under Rule 10.06(3)(a).

- We understand the current Listing Rules restrict new share issuance for a period of 30 days after any share repurchase (“Post-Repurchase Restriction”), with the exception (“Exception”) that new shares may be issued pursuant to the exercise of options or similar instruments which were outstanding prior to the share repurchase.
- The draft new Listing Rules envisage that sale/transfer of treasury shares after any repurchase would also be subject to a similar 30-day restriction, and the Exception would be extended to allow transfer of treasury shares pursuant to the exercise of options or similar instruments which were outstanding prior to the share repurchase.
- We would suggest the Exception should be further extended to expressly allow new share issuance and transfer of treasury shares for the purpose of satisfying vesting of share awards which had been granted prior to the share repurchase.
- This may simply be a drafting point, but it is important to have it clarified in the new listing rules to avoid the Post-Repurchase Restriction being unduly restrictive on using new shares or treasury shares for satisfying vesting of share awards.

**Question 4**

**Do you agree with the proposal to require an on-Exchange share repurchase to be subject to a moratorium period after an on Exchange resale of treasury shares?**

No

**Please provide reasons for your views.**

The stated purpose of the proposal is to deter issuers from manipulating share price. Acts of market misconduct such as price rigging, insider dealing, false trading, stock market manipulation are outlawed in the existing dual civil and criminal regime under the Securities and Futures Ordinance of Hong Kong. Given the effective statutory regime that is in place, the proposed moratorium on share repurchase would be unnecessary and would create any undue fetter on issuers wishing to carry out bona fide share repurchases. The rules of other stock exchanges (e.g. New York Stock Exchange, London Stock Exchange, Singapore Stock Exchange) do not appear to impose similar Post Resale-Restriction.

**Question 5**

**Do you consider that the moratorium periods (in either direction) should be shorter than 30 days? If so, please share with us your views on the appropriate duration of the moratorium periods and the reason for your suggestion including your views on how the considerations in paragraph 68 should be addressed.**

No

**Question 6**

**Do you agree with the proposal that dealing restrictions described in paragraph 69 under Proposal (2)(b) above shall be imposed on a resale of treasury shares on the Exchange?**

Yes

**Please provide reasons for your views.**

**Question 7**

**Do you agree with the proposals for an on-market resale of treasury shares as described in paragraph 70 under Proposal (2)(b) above?**

Yes

**Please provide reasons for your views.**

**Question 8**

**Do you agree with the proposal relating to new listing applicants as described in Proposal (3) above?**

Yes

**Please provide reasons for your views.**

**Question 9**

**Do you agree with the proposal to require issuers (being holders of treasury shares) to abstain from voting on matters that require shareholders' approval under the Listing Rules as described in Proposal (4)(a) above?**

Yes

**Please provide reasons for your views.**

**Question 10**

**Do you agree with the proposal to disregard treasury shares for calculating an issuer's issued shares and voting shares under the Rules as described in Proposal (4)(b) above?**

Yes

**Please provide reasons for your views.**

### **Question 11**

**Do you have any comments regarding the different treatment of treasury shares when calculating an issuer's issued voting shares under the proposed Rules and Part XV of the SFO as described in paragraph 77 above?**

No comments

### **Question 12**

**Do you agree with the proposal to require an issuer to disclose in the explanatory statement its intention as to whether the repurchased shares will be cancelled or kept as treasury shares as described in Proposal (4)(c) above?**

No

**Please provide reasons for your views.**

- The explanatory statement is finalised at least a month prior to the annual general meeting that considers and approves the repurchase mandate, and the repurchase mandate may be exercised for up to about a year until the next annual general meeting.
- It would be unduly fettering on an issuer to limit its options as to whether to cancel any repurchased shares or hold them in treasury so early in advance. It would be in the best interest of an issuer and its shareholders as whole to be able to retain flexibility and decide whether any part of the repurchased shares will be cancelled or held in treasury according to the actual circumstances that prevail at the time of the repurchases.
- If an issuer so wishes, it may voluntarily state its intention or expressly reserves its options in the explanatory statement, but that should not be a compulsory requirement.

### **Question 13**

**Do you agree with the proposal to clarify that a resale of treasury shares by an issuer or its subsidiary includes resale of treasury shares through their agents or nominees as described in Proposal (4)(d) above?**

Yes

**Please provide reasons for your views.**

We suggest HKEx to (A) expressly provide that the new listing rules on treasury shares shall apply to purchase of listco shares on the Hong Kong Stock Exchange by subsidiaries

of listco (including their respective agents or nominees), and (B) clarify whether the new listing rules on treasury shares shall apply to purchase of listco shares by listco or its subsidiaries (including their respective agents or nominees) through Stock Connect.

- The draft new Listing Rules are silent on whether the proposed framework for treasury shares and share repurchases would apply to purchase of listco shares on Hong Kong Stock Exchange by subsidiaries of listco (including their respective agents or nominees). The respective listing rules of other markets (e.g. US and UK markets) do not appear to impose restriction prohibiting issuers from conducting share repurchases through their subsidiaries. We believe purchase of listco shares by a subsidiary of listco (including its agents or nominees) shall be treated in the same way as repurchase by listco of its own shares, and suggest that the new listing rules contain express provisions to that effect, in particular, listco shares purchased by listco's subsidiaries (including their respective agents or nominees) can be treated as "treasury shares", such that those shares may be resold by listco group for cash, transferred by listco group to third parties as consideration or for other purposes, used by listco for satisfying vesting of share awards, exercise of share options, conversion of convertible securities or utilised in the same way as shares repurchased by listco itself, notwithstanding that such shares may not be regarded as treasury shares in the strict legal sense under the laws of its place of incorporation.

- Moreover, the new listing rules should clarify that listco shares purchased by listco or its subsidiaries (including their respective agents or nominees) through Stock Connect may be held in treasury and be treated as "treasury shares" under the new regime. We strongly advocate that shares repurchased through Stock Connect shall be treated in the same way as those repurchased directly on the Exchange, at least as regards accounting treatments.