

## Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below that are raised in the Consultation Paper downloadable from the HKEX website at:

<http://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/September-2018-Adverse-Audit-Opinion/Consultation-Paper/cp201809.pdf>

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

1. Do you agree with the proposal to add a Rule to require trading suspension if an issuer has published a preliminary annual results announcement and its auditor has issued, or has indicated that it will issue, a disclaimer or an adverse opinion on the issuer's financial statements?

Yes

No

If your answer is "No", please give reasons for your views.

In accordance with the Hong Kong Standard on Auditing 705 ("HKAS 705") paragraph A8, the auditor's inability to obtain sufficient appropriate audit evidence may arise from: (a) circumstances beyond the control of the entity; (b) circumstances relating to the nature or timing of the auditor's work; or (c) limitations imposed by management. We notice that most disclaimer of opinion cases for Hong Kong listed issuers without trading suspension are under circumstances (a) and (b) above, which in many cases can be totally beyond the issuer's control or fault. As such, it would be unfair and inappropriate to suspend the trading of all issuers with disclaimer opinion.

For circumstance (c), HKAS 705 sets out detailed guidance to auditor as to when it should withdraw from the audit (i.e. when the auditor concludes that a qualification of the opinion would be inadequate the gravity of the situation), in which case the Exchange, under the existing post-vet regime, would have revealed the deliberate imposition of limitation by management and take appropriate action (including the suspension of trading until the issues relating to the management-imposed limitation is resolved).

In determining the amount and extent of "sufficient appropriate" audit evidence which would affect whether a disclaimer of opinion is drawn, auditor's own professional judgement is the most critical factor. While auditor's judgment are guided by the standards on auditing, it is almost inevitable that auditor's judgment may involve subjective elements. We therefore consider that it is wrong to correlate "suitability of continual trading or listing" with disclaimer opinion. We think there is unnecessary and inappropriate to amend the current Listing Rules as suggested by the existing consultation.

2. Do you agree with the proposed Rule 13.50A to require the issuer to address the issues giving rise to the disclaimer or adverse opinion, provide comfort that a disclaimer or adverse opinion in respect of such issues would no longer be required, and disclose sufficient information for investors to assess its updated financial position before trading resumption (as described in paragraph 32 of the Consultation Paper)?

Yes

No

If your answer is “No”, please give reasons for your views.

As explained above, insufficient appropriate audit evidence are, in most cases, due to circumstances beyond the control of the entity or circumstances relating to the nature or timing of the auditor’s work, rather than limitations imposed by management. It is unfair to suspend listed issuers which gets disclaimer opinion due to funding shortage (giving rise to question regarding the preparation of financial statements on going concern basis) and prolonged litigation or dispute. In many of these cases, the listed issuer is the victim rather than the wrongdoer. Not only we disagree with any rule change seeking to penalise the victim, we think the suggested rule change is making all listed issuers in Hong Kong vulnerable to their unlisted business counterparties, as Hong Kong listed issuers are put under pressure of avoiding significant litigation or dispute for fear of trading suspension or de-listing.

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