

29 MAY 2008

RESPONSE TO JOINT CONSULTATION PAPER

on the Proposal to allow a Companies Ordinance Offeror to issue a CO Paper Application Form for Shares in or Debentures of a Company to be listed on SEHK, and a Collective Investment Scheme Offeror to supply a CIS Paper Application Form for Interests in an SFC-authorized CIS to be listed on SEHK, with a Listing Document Displayed on Certain Websites

("Joint Consultation Paper")

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We welcome the SFC's and HKEx's joint proposal to allow the issue of electronic prospectuses and agree with the majority of the proposals made in the Joint Consultation Paper. Below is a submission by Allen & Overy in response to selected questions raised in the Joint Consultation Paper (using the same defined terms as set out in the Joint Consultation Paper).

Question 4

Do you agree that ready accessibility to, and the ability to download by the public free of charge, the e-Prospectus on and from the company's website and the HKEx website, together with availability of copies of the Paper Prospectus for collection at specified locations, also free of charge, upon request by any member of the public as discussed in paragraphs 38 to 42 above, are sufficient for access purposes by prospective investors?

Response:

We generally agree with this. However, there may be a risk that, without taking appropriate measures, the making available of an electronic prospectus on an issuer's website may fall foul of the selling restrictions rules and regulations of third countries where the public offer of the securities is not intended to take place. Therefore, we would suggest the inclusion of a requirement (similar to the requirement in the UK) that issuers should take measures to avoid targeting residents in third countries where the offer of securities to the public does not take place, such as the insertion of a disclaimer as to who are the addressees of the offer and/or blocking access to the webpage from overseas jurisdictions where the offer is not intended to take place.

Question 6

Do you agree that an e-Prospectus should contain in a prominent place on the face of it the statements and information discussed in paragraph 50 above?

Should any other statement and/or information be included on the face of the e-Prospectus to ensure genuine access?

Response:

While we agree that the statements and information discussed in paragraph 50 should be prominently displayed, please consider whether it may be more appropriate for these statements and information to be contained in the webpages leading to an electronic prospectus rather than on the face of the electronic prospectus. If the statements form part of an electronic prospectus, purely as a technical matter, there may be the potential issue of whether the electronic prospectus could be regarded as a different prospectus which requires separate registration with the Companies Registry.

Question 7

Do you anticipate any systemic and/or logistical problems with the requirement to publish revised CO Paper Application Forms in the event an addendum or a replacement prospectus is issued? If so, please explain what these may be.

Response:

Currently, where an issuer issues an addendum or a replacement prospectus, there is no requirement for the issuer to publish revised CO Paper Application Forms. We would like to understand more about the rationale of the proposed change other than to alert investors of the publication of an addendum or replacement prospectus. We could envisage the following issues relating to the issue of revised CO Paper Application Forms:

- Confusion may be created in the market as there will be two versions of CO Paper Application Forms. Investors may have queries as to whether applications made or to be made under the old version of the CO Paper Application Forms would still be valid. This is especially the case where investors may have already taken copies of the old version of the CO Paper Application Forms but have not yet submitted them at the time the revised forms are issued.
- The revising and re-printing of the CO Paper Application Forms would increase time and costs and go against the intention of protecting the environment, which are contrary to the objectives aimed to be achieved by allowing the issue of electronic prospectuses.

If the purpose of requiring the issue of revised application forms is to notify the public of the publication of an addendum or replacement prospectus, this could be achieved by other means, for example, an announcement published in the newspapers or on relevant websites, and a prominent notice placed adjacent to where paper application forms are made available to the public (similar to the notification relating to the temporary unavailability of an electronic prospectus as envisaged in the Joint Consultation Paper).

Yours faithfully,



Allen & Overy