



消費者委員會 CONSUMER COUNCIL

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來函編號 YOUR REF.

本函編號 OUR REF.

13 April, 2010

Securities and Futures Commission
Supervision of Markets Division
8/F, Chater House
8 Connaught Road Central
Hong Kong

Dear Sir,

**Re: Joint Consultation Paper on a Proposed Operational Model
for Implementing a Scripless Securities Market in Hong Kong**

The Consumer Council would like to submit its views on the captioned consultation paper for consideration of the SFC, HKEx and the Federation of Share Registrars. We shall be happy to address any query you or your colleagues may have regarding the submission.

Yours faithfully,

Consumer Council

Encl.

Consumer Council
Submission on a Proposed Operational Model for Implementing a
Scripless Securities Market in Hong Kong

The Consumer Council (the Council) is pleased to submit its views concerning a joint consultation paper issued by the Securities and Futures Commission, the Federation of Share Registrars Limited and Hong Kong Exchanges and Clearing Limited on a proposed operational model for implementing a scripless securities market in Hong Kong.

The following sets out the Council's views to the specific issues (*in bold italics*) raised in the consultation paper that have direct implications to the interests of consumers/investors.

Do you agree that investors should be given the option to hold securities in paper form and to rematerialise securities that have been dematerialised?

The Council is glad to note that the consultation paper has taken into consideration the Council's previous suggestion of giving investors the option to choose between holding their securities in paper form or in scripless form, as well as the option to rematerialize securities that have been dematerialized. The Council would only add that the cost of exercising these options should not be excessive to investors.

Do you agree that the scripless system should eventually be made compulsory and the paper-based option removed altogether?

Notwithstanding that the proposed scripless system might eventually be made compulsory in the longer term, the Council considers it important to conduct assessments to review the investing public's readiness to a completely scripless securities market before removing the paper-based option completely.

Do you agree that implementation of a scripless securities market should proceed in phases?

The Council supports the proposed phased approach. As stated in the Council's previous submissions, adopting a transitional approach is necessary to allow gradual shifting from the physical share certificate system to a scripless system to provide investors with sufficient time to adjust to the changes.

Do you agree with the proposed phasing, i.e. dematerialising securities in batches, and dematerialising Hong Kong securities first?

Whilst agreeing to the proposed phasing of dematerializing existing certificated securities in batches and with Hong Kong securities dematerialized first, the Council would emphasize the importance of making the phased dematerialization process very clear to the investing public through various

promotional channels to minimize the confusion of investors with the dematerialization process (i.e. which line of securities will be called up first for dematerialization, whether this will be in alphabetical order based on the names of securities concerned or by reference to the number of holders of that line of securities) and the options available to holders of those securities (i.e. to choose holding their securities in paper form or in scripless form).

Do you have any views on the proposed dematerialisation process and HKSCC Nominees Limited's diminishing role?

In light of the existence of unclaimed entitlements in the Central Clearing and Settlement System (CCASS) pending claim by the relevant investors who withdrew their securities from CCASS but have not subsequently registered them in their own names, the Council considers that Hong Kong Securities Clearing Company (or others in similar capacity) should continue to serve as nominee for unclaimed CCASS entitlements.

Do you agree with the proposal that the formal register comprise two parts as discussed in paragraphs 49 to 53 of the paper?

The Council considers the proposed setting up of an uncertificated sub-register to form part of the formal register will be useful to provide for registered transfers of securities and confer legal title on transferee account holders. But it is equally important to ensure accuracy in the record details of holdings in these two sub-registers to avoid discrepancy over the total number of issued certificates, or doubt/confusion as to who the true owner of the securities is. On this matter, the Council wishes to know if there will be any dispute resolution mechanism available to handle discrepancies.

Do you agree with the proposal to facilitate name-on-register within CCASS?

The Council fully supports the proposal to allow investors holding securities in CCASS to have the option to register their securities in their own names, thus enjoying the full benefits of legal ownership. As this option is currently not available for securities held within CCASS, the Council sees the need to ensure investors know about the option and the differences between the various available options (or account types), for them to make an informed choice.

Do you consider that the proposed arrangements for addressing any concerns arising from the removal of the immediate credit arrangement are adequate?

The Council considers it necessary to ensure that there will be no differential treatment by share registrars in the dematerialization process if certificated securities deposited for settlement purposes are to be deposited into other accounts (i.e. CPA, PSA, or IPA) not offered by the relevant share registrars (Issuer Sponsored Accounts, ISA). Any delay in the dematerialization process may create an unfair competition amongst the various account types

within CCASS.

Do you think the proposed model provides enough options (in terms of account types) for investors? If not, what other options do you think should be provided and why?

The Council appreciates the various options put forward in the proposed model for investor choice. Again, the Council is of the view that the costs for these options should be set at a reasonable level but not excessive, so as to attract more investors to opt for holding scripless securities.

Should broker/bank/custodian nominees in CCASS be allowed to appoint multiple representatives so that their investor-clients can attend and vote at meetings?

The Council supports that broker/custodian nominees in CCASS be allowed to appoint multiple representatives so that their investor-clients wishing to attend and vote at meetings can exercise the same right as other registered securities holders.

Do you agree that investors should be required to provide a unique identification number irrespective of whether they obtain their securities by way of a transfer or through an IPO?

The Council understands the purpose of requiring investors to provide a unique identification number such as their Hong Kong identity card number or passport number as part of the account opening processes. The investing public should be alerted on the need to require them to provide sensitive personal information such as HKID number or passport number (instead of other identification numbers) when they acquire securities by way of a registered transfer. The Council believes that thorough consideration should be given in this respect to protection of investors' privacy right.

Do you agree with the proposal to introduce a new Registrar Participant category in CCASS?

The Council has no specific view on the introduction of a new Registrar Participant category in CCASS. While the introduction of this account type can help facilitate electronic communication between share registrars and other CCASS Participants, and hence between securities issuers and securities holders, this should not become a mandatory obligation on investors to open an ISA within CCASS offered by individual share registrars on behalf of listed issuers.

Do you agree that share registrars who provide scripless related services should be more directly and robustly regulated than they are today?

The Council supports that if share registrars take on a more active role in the provision of scripless related services, the level of regulation should be

commensurate with the nature of services and the associated risks to the investing public.

Do you have any views on the proposed changes to the IPO process?

It is stated in the consultation paper that a large portion of the retail investor base still prefers a paper option and/or prefers to have securities registered in their own names. The Council sees the need to carry out a pilot study to assess the acceptability of the proposed scripless IPO option (i.e. for some issuers to offer new securities in both certificated and uncertificated form) to the investing public before the implementation of having all IPOs in scripless form.

Do you agree that the scope of the scripless operational model should extend to all publicly traded securities in Hong Kong (including therefore securities such as derivative warrants and CBBCs)? If not, to what extent should the scope be limited, and why?

If the scripless operational model is to be implemented, the Council is of the view that all publicly traded securities in Hong Kong should be included – provided of course that a gradual and phased approach will be adopted, with investors given the option to choose between holding their securities in paper form or in scripless form.

What are your views on the costs and benefits of introducing a scripless securities market in Hong Kong?

The Council welcomes the proposed model to provide choice and better protection to investors. But as the Council has repeatedly stated above, the costs of exercising these options should not be prohibitive to investors. To foster wide acceptance of opting for scripless securities, the Council urges that the benefits of cost reduction in scripless trading should be reflected in the securities market through adjustment in fees and charges to be paid by investors.

Regarding the dematerialisation of shares and debentures of overseas companies, do you agree with the proposed approach to focus first on Bermuda, Cayman Islands, Mainland China and UK companies?

The Council does not have any comments on the country of origin of shares and debentures to be focused on first. However, given the large number of overseas securities in Hong Kong market (about 84% as noted in the consultation paper), the Council is concerned whether it is practical to go scripless with Hong Kong incorporated companies first without securing the vast majority of overseas incorporated companies to apply scripless in Hong Kong. Further elaboration is expected in this regard.

Consumer Council
April 2010