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1 April 2008

Mr Richard Williams
Head of Listing
The Stock Exchange of Hong Kong Ltd.
12/F, One International Finance Centre
1 Harbour View Street
Central
Hong Kong

(BY FAX & BY POST : 2524 0149)

Dear Mr Williams,

Re : Combined Consultation Paper on Proposed Changes to the Listing Rules

Thank you for your letter of 11 January 2008 enclosing the Combined Consultation Paper on the captioned subject.

We have comments only on a number of issues raised in the Paper. They are set out below for your consideration.

Issue 1: Use of websites for communication with shareholders

Question 1.1

The proposed deletion of the last sentence of rule 2.07A(1) will remove the requirement for a listed issuer incorporated oversea to comply with a standard which is no less onerous than that imposed on a listed issuer incorporated in Hong Kong by the Companies Ordinance ("CO") with respect to any corporate communication. The proposal is to facilitate overseas issuers to take advantage of the HKEx's another proposal to allow listed issuers to communicate with their shareholders by means of website while the CO has yet to be amended for this. However, the proposal would allow overseas issuers to have an advantage over HK issuers, if the CO is more onerous than the Listing Rules and the relevant overseas legislative requirement. As a result, the level-playing field presently available overseas and Hong Kong

incorporated issuers will be lost. We do not consider this to be fair and do not therefore support the proposal.

Question 1.2

We note that the proposed rule 2.07A(2A), which allows a listed issuer to avail itself of a prescribed procedure for deeming consent from a shareholder to the listed issuer sending or supplying corporate communications to him by making them available on its website ("website communications"), is strictly modeled on paragraphs 10 and 13(1) of Schedule 5 of the CA 2006. We support the proposal which will facilitate the greater use of electronic means for corporate communication. It is also in line with our reform proposals in this respect whereby provisions for website communication by a company similar to those in Schedule 5 of the CA 2006 would be adopted.

Question 1.3

We agree that listed issuers should be required to seek their shareholders' consent to website communications, and that deemed consent should only arise if a shareholder has failed to respond within a period of time. Shareholders should have the right to choose a means of communication with the companies according to their own wishes. It is in line with our reform proposals in this respect that a company should seek shareholders' agreement to website communications individually (whose agreement would be deemed given if he did not respond to the company's request within 28 days). Under our proposals, each shareholder should also be able to revoke his agreement by giving notice to the company.

Question 1.4

Paragraph (a) : We agree that 28 days should be an adequate period of time for a shareholder to make his choice and respond to the company's request for consent to website communications.

Paragraphs (b) and (c) : We also agree that, in order to prevent a listed issuer from abusing the proposed prescribed procedure for deeming consent from a shareholder to website communications, listed issuers should be precluded from seeking consent to website communication from a shareholder for a period of time since the last unsuccessful attempt. A period of 12 months should be appropriate for this purpose.

Question 1.5

We support the greater use of electronic device for corporate communications. However, we have reservation on the proposal that a listed issuer be allowed to send a corporate communication to a shareholder in a CD format without first obtaining his express consent. Though household computers are increasingly popular, not every shareholder has the necessary equipments (both hardware and software) and/or computer knowledge to open and read

the CD. Shareholders should have to right to choose the means and form of corporate communications according to their own wishes. Their right to receive corporate communications should not be prejudiced by their lack of necessary equipments and/or computer knowledge.

Question 1.6
No comments.

Issue 9: Disclosure requirements for announcements regarding issues of securities for cash and allocation basis for excess shares in rights issue

Please note that under the current CO, a company incorporated in Hong Kong is required to file notifications to the Companies Registry ("CR") by way of filing with the CR returns with regard to changes of its share capital and the allotment of its shares. For instance, under section 45 of the CO, a Hong Kong issuer is required to file a return on allotment of its shares for cash and no-cash consideration, and to file, in addition, a return on the particulars of a contract relating to a share allotment for non-cash consideration. The proposed disclosure requirement may be considered as an additional obligation to a Hong Kong issuer.

It should also be noted that the question of allotment of shares will be coming up for consideration in the CO rewrite. There is a possibility that the law governing this area may change subject to the review by the Advisory Group and their relevant recommendations.

Issue 10: Alignment of requirements for material dilution in major subsidiary and deemed disposal

There is a proposal under consideration that in the new CO, the capital maintenance rules should be replaced by solvency tests which would govern all types of "distribution" to its shareholders by a company incorporated in Hong Kong. Under the proposed regime, the term "distribution" would be widely defined and may cover not only the payment of dividends but also other forms of transfer of assets from a company to its shareholders. All forms of distribution could only be made after the satisfaction of a test of solvency of the company, which may involve the making of certain solvency certification by its directors. If a material dilution in major subsidiary and "deemed disposal" to a shareholder should fall within the definition of distribution, the directors of a Hong Kong issuer would have to carry out the solvency certification. Whether a "distribution" should be subject to shareholders approval would also be a subject to be examined in the CO rewrite.

Issue 11: General Mandates

The requirements of shareholders approval for general or specific mandate under the Listing Rules are consistent with section 57B of the CO which provides that the power to allot shares is vested in shareholders subject to two exceptions. Firstly, where the shares are offered pro-rata to existing shareholders and secondly, where the directors exercise their power of allotment pursuant to an authorization granted to the directors by way of a resolution passed at each annual general meeting.

It should be noted that the topic of pre-emption rights will be coming up for consideration in the CO rewrite. There is a possibility that this area of the law may change subject to the review of section 57B of the CO by the Advisory Group and their relevant recommendations because of the possible introduction of a statutory requirement in the new CO along the lines of the CA 2006 (sections 561 to 577) for pre-emption rights for Hong Kong issuers.

Issue 12: Voting at general meeting

Question 12.1

The issue of whether all resolutions at general meeting should be decided by voting on a poll had been considered by the Standing Committee on Company Law Reform ("SCCLR") during the Phase II of the Company Law Review. The SCCLR, upon taking into consideration public views, recommended that voting by a show of hands should continue subject to certain specified matters (e.g. voting on connected transactions). In addition, the SCCLR also recommended that it should be a statutory duty of the chairperson of a meeting to demand a poll if he knew that the result of a voting by a show of hands would be different from that of voting by a poll because significant number of proxies were against the proposal. These recommendations will be implemented in the context of the CO rewrite. We note that the Listing Rules already have provisions requiring voting by poll for connected transactions, transactions that are subject to independent shareholders' approval and transactions where an interested shareholder will be required to abstain from voting, and provisions requiring the chairman of a meeting to demand a poll in certain circumstances. It appears that the existing Listing Rules already have sufficient safeguards against any abuse of the mechanism of voting on a show of hands. We do not see the need for the Listing Rules to impose on listed issuers a more stringent requirement that all their resolutions at general meetings must be by poll.

Question 12.2

As said above, we consider that the existing Listing Rules already have sufficient safeguards against any abuse of the mechanism of voting on a show of hands. We do not see the need for the Listing Rules to impose on listed issuers a more stringent requirement that all resolutions at annual general

meetings should be passed by poll.

Question 12.3

In respect of the disclosure of the result of voting, the SCCLR recommended that any shareholder should be able to inspect votes (including proxies and voting papers) after the meeting and that the CO should be amended to require companies to disclose the poll results to their shareholders. These recommendations will be implemented in the CO rewrite. We note that Rule 13.39(5) of the Main Board Listing Rules already requires the disclosure of the result of poll by way of announcement if voting at a general meeting is taken on a poll. We do not have strong views, one way or the other, on whether listed issuers should additionally be required to announce the number of proxy votes in the case of voting by a show of hands.

Question 12.4

The SCCLR recommended that the existing minimum lengths of notice for annual general meetings and extraordinary general meetings should remain unchanged while the existing requirement of 21 day's notice of meeting for passing a special resolution at a meeting should be removed. These recommendations will be implemented in the CO rewrite. In order to encourage shareholders' participation in company meetings, we support the proposal that listed issuers should be required to give a minimum notice period of 28 calendar days, which is longer than the statutory minimum, for convening all general meetings.

Issue 14 : Codification of waiver to property companies

Questions 14.1 – 14.8

We do not have any comments on the consultation questions except one minor observation in relation to the consultation proposal of exemption in relation to connected transactions as set out below :-

- It is one of the proposals that there be relief for property joint ventures with connected persons where the connected person is only connected by virtue of being a joint venture partner with the listed issuer in existing single purpose property projects ("Qualified Connected Person") from strict compliance with Chapter 14A of the Main Board Listing Rules in relation to the shareholders' approval requirements. If the joint venture partner is a connected person other than a Qualified Connected Person, the property joint venture will not be exempted.

- We have considered the compatibility of the proposal with the relevant connected transactions provisions proposed in the CO rewrite which follow basically sections 190 – 196 of the UK Companies Act 2006 thereby making members' approval a

requirement for substantial property transactions between the company and its directors, directors of the holding company or persons connected with them for both public and private companies. How "substantial property transaction" should be defined is yet to be decided. However, the initial suggestion is that, so far as public companies are concerned, the triggering thresholds should track the thresholds used in the Listing Rules as far as possible.

- We do not consider that the proposal, if implemented, would have an implication on the substantial property transactions provisions proposed in the CO rewrite as the consultation proposal is limited to "property joint venture" and "Qualified Connected Person", which do not fall within the scope of our proposed substantial property transactions provisions.

Yours sincerely,

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(Edward Lau)
for Registrar of Companies