Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please make your comments by replying to questions below against proposed changes discussed in the Consultation Paper at the hyperlink: http://www.hkex.com.hk/consul/paper/cp200910ct_e.pdf.

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

A. Transactions with persons connected with an issuer only by virtue of their relationship with the issuer's subsidiaries

1. Do you think that the definition of connected person should exclude persons connected by virtue of their relationship with an issuer's subsidiaries?

☒ Yes

☐ No

Please provide reasons for your views.

It is unlikely that the person can unduly influence the listed issuer's action only by virtue of his relationship with the subsidiary.

2. If your answer to question 1 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

3. On the basis that the definition of connected person will continue to include person connected at the subsidiary level, do you agree with the proposal to introduce an "insignificant subsidiary exemption" for connected transactions?

☒ Yes

☐ No

Please provide reasons for your views.

Connected persons of "insignificant subsidiary" should not be able to exert significant influence over the listed issuer's actions and affect the minority shareholders' interests.

4. Based on your experience, do you think that the "insignificant subsidiary exemption" would be used by you (or for market practitioners, your clients)?

☒ Yes

☐ No

Please describe the circumstances and refer to Option 1 or 2.

Certain operating subsidiaries of the Company represent less than 5% or 10% of the total assets, profits or revenue of the Company as suggested in the Conclusion Paper.

5. If your answer to question 3 is "Yes", do you agree with

(a) the proposed materiality threshold under (i) Option 1 or (ii) Option 2?

☒ Yes (*please choose one of the following options*)

☐ Option 1

☒ Option 2

☐ No

Please provide reasons for your views.

10% threshold calculated based on three years' financial figures would smooth out exceptional fluctuations.

(b) the proposed bases for assessing the significance of a subsidiary, i.e. the asset ratio, revenue ratio and the profits ratio?

☐ Yes

☒ No. The significance of a subsidiary should be determined by (*please specify*): asset ratio and revenue ratio only

Please provide reasons for your views.

To be in line with the calculation of percentage ratios under Chapter 14A of the Listing Rules, profits ratio should be excluded from the proposed bases.

(c) the proposed additional safeguard to require the consideration ratio be less than 10% if an "insignificant" subsidiary concerned is itself a party to the transaction or its securities/assets are the subject of the transaction?

☐ Yes

☒ No

Please provide reasons for your views.

Proposed bases by using asset and revenue ratios should be enough.

(d) the proposed mechanism for applying the exemption to continuing connected transactions described in paragraph 27 of the Consultation Paper?

☒ Yes

☐ No

Please provide reasons for your views.

6. If your answers to question 5 are "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If you answer is "No", please provide reasons and alternative views.

No comment.

7. If you agree with Option 2, do you think that the definition of "major subsidiary" under Rule 13.25 should be amended to align with that in the "insignificant subsidiary exemption" if adopted?

☒ Yes

☐ No

Please provide reasons for your views.

Such amendment can avoid any ambiguity.

B. De minimis thresholds that trigger disclosure or shareholders' approval requirement for connected transactions

8. (a) For the exemption from independent shareholders' approval requirement, do you support the proposal to revise the percentage threshold to 5%? If your answer is "No", please specify the percentage threshold that you consider appropriate.

☒ Yes

☐ No. The percentage threshold should be *(please specify)*: _____

Please provide reasons for your views.

This will be in line with international practice.

(b) For the exemption from all reporting, announcement and independent shareholders' requirements, do you support the proposal to revise the percentage threshold to 1%? If your answer is "No", please specify the percentage threshold that you consider appropriate.

☒ Yes

☐ No. The percentage threshold should be *(please specify)*: _____

Please provide reasons for your views.

The proposal based on the analysis done by the Exchange as stated on P.14 of the Consultation Paper is acceptable.

9. If your answer to question 8 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

10. Do you agree that a percentage threshold is sufficient to assess whether a connected transaction is eligible for the de minimis exemptions?

☒ Yes

☐ No

Please provide reasons for your views.

To be fair to all listed issuers, using the same percentage materiality test for all listed issuers should be sufficient.

11. Do you believe that an absolute monetary cap should also be imposed, irrespective of the percentage threshold test for de minimis exemptions? If your answer is yes, please specify the monetary cap that you consider appropriate for fully exempt connected transactions (the monetary cap for connected transactions exempt from independent shareholders' approval would be adjusted proportionately).

☐ Yes. The monetary cap for fully exempt connected transactions should be:

- ☐ HK$100 million
- ☐ HK$200 million
- ☐ HK$500 million
- ☐ HK$1,000 million
- ☐ Other monetary cap *(please specify)*: HK$_____

☒ No

C. Transactions that are revenue in nature and in the ordinary and usual course of business

12. Do you agree that the connected transaction Rules should govern revenue transactions with connected persons?

☐ Yes

☒ No

Please provide reasons for your views.

Regulation of connected transactions of a revenue nature is out of line with majority of international norms. In addition, connected transactions of revenue nature on normal commercial terms and on arms' length basis should not affect the minority shareholders' interests.

Proposed exemption for revenue transactions with associates of a passive investor

13. Do you agree with the proposed exemption for revenue transactions with associates of a substantial shareholder who is a passive investor in the issuer group?

☐ Yes

☐ No

Please provide reasons for your views.

No comment.

14. Do you think that the proposed exemption should also require the substantial shareholder be a passive investor in the relevant associate, for example, it is not involved in the management of the relevant associate?

☐ Yes

☐ No

Please provide reasons for your views.

No comment.

15. If your answer to question 13 is "Yes",

(a) do you agree that the passive investor must be a sovereign fund or an authorised unit trust or mutual fund?

☐ Yes

☐ No

Please provide reasons for your views.

N/A

(b) do you think that the exemption should be made available to other passive investors? If so, which?

☐ Yes. The exemption should be made available to *(please specify)*:

☐ No

Please provide reasons for your views.

No comment.

(c) do you agree that the passive investor must not have representative on the board of directors of the issuer and its subsidiaries?

☐ Yes

☐ No

Please provide reasons for your views.

No comment.

(d) do you agree with other proposed conditions set out in paragraph 59 of the Consultation Paper?

☐ Yes

☐ No

Please provide reasons for your views.

No comment.

16. If your answer to question 13 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

Proposed modification of the exemption for provision of consumer goods or consumer services

17. Do you agree with the proposed changes to expand the exemption for acquisition of consumer goods or services described in paragraph 66 of the Consultation Paper?

☒ Yes

☐ No

Please provide reasons for your views.

We support the Exchange to expand this exemption.

18. If your answer to question 17 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☒ No

If your answer is "No", please provide reasons and alternative views.

We suggest uplifting or removing the threshold of "1% of the total revenue or total purchases" as stated in the Rule 14A.31(7)(d) or increasing the threshold (say, 5%), in line with the proposed increase of the de minimis threshold as suggested in Part B of Chapter 2 of the Consultation Paper,.

19. Can you think of any other suggestions to improve the regulation of revenue transactions with connected persons?

☐ Yes

☐ No

If your answer is "Yes", please elaborate your views.

No comment.

D. Definition of associate

(1) Definition of associate in Rule 1.01 (for non-PRC issuer) and Rule 19A.04 (for PRC issuer)

20. Do you support the proposal to carve out from the definition of associate the following entities?

(i) The holding company of the investee company or a fellow subsidiary of this holding company described in paragraph 68(e) of the Consultation Paper.

☒ Yes

☐ No

(ii) A company controlled by the investee company (not being a subsidiary of the investee company) described in paragraph 68(f) of the Consultation Paper and this company's subsidiary, holding company and fellow subsidiary.

☒ Yes

☐ No

Please provide reasons for your views.

It is unlikely that the connected person can exert significant influence over these entities and take advantage in the transactions between the listed issuer and these entities.

21. If your answer to question 20 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

(2) Extended definition of associate in Rule 14A.11(4)

22. Do you agree with the proposed extension of the definition of associate to a company in which a connected person's relative has a majority control as described in paragraph 74 of the Consultation Paper?

☒ Yes

☐ No

Please provide reasons for your views.

23. If your answer to question 22 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

E. Definition of connected person

(1) Non wholly-owned subsidiary

24. Do you agree with the proposed exemption for (i) transactions between a connected subsidiary and any of its own subsidiaries; and (ii) transactions between any subsidiaries of the connected subsidiary?

☒ Yes

☐ No

Please provide reasons for your views.

25. If your answer to question 24 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

26. Do you agree that a non wholly-owned subsidiary should not be regarded as a connected person in the circumstances described in paragraphs 81(a) and (b) of the Consultation Paper?

☒ Yes

☐ No

Please provide reasons for your views.

27. If your answer to question 26 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

(2) Promoter of a PRC issuer

28. Do you support the proposal to delete "promoter" of a PRC issuer from the definition of connected person?

☐ Yes

☐ No

Please provide reasons for your views.

No comment.

29. If your answer to question 28 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

(3) PRC Governmental Body

30. Do you support the proposal to apply those provisions for PRC Governmental Body in Chapter 19A to connected persons of non-PRC issuers?

☒ Yes

☐ No

Please provide reasons for your views.

31. If your answer to question 30 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

(4) Management shareholder of a GEM issuer

32. Do you support the proposal to delete "management shareholder" from the definition of connected person in the GEM Rules?

☐ Yes

☐ No

Please provide reasons for your views.

No comment.

33. If your answer to question 32 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

F. Other changes to the connected transaction Rules

(1) Exemption for small transaction involving issue of new securities by subsidiary

34. Do you agree with the proposal to remove the restriction on applying the de minimis exemptions to an issue of securities by the issuer's subsidiary?

☒ Yes

☐ No

Please provide reasons for your views.

35. If your answer to question 34 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

(2) Exemption for financial assistance provided on a pro-rata basis

36. Do you agree with the proposal to clarify that the exemption under Rule 14A.65(3)(b)(i) will apply where the commonly held entity is also a connected person?

☒ Yes

☐ No

Please provide reasons for your views.

The exemption should be applied as the risk of potential abuse in the specific circumstances described in Rule 14A.65(3)(b)(i) is remote.

37. If your answer to question 36 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

(3) Transactions with third parties involving joint investments with connected persons

38. Do you agree with the proposal to extend the exemption under Note 3 to Rule 14A.13(1)(b)(i) to disposal transactions mentioned in paragraph 108 of the Consultation Paper?

☒ Yes

☐ No

Please provide reasons for your views.

Exemption should be extended as the risk that the target company's substantial shareholder can exert significant influence over the listed issuer and the transaction with a third party is remote.

39. If your answer to question 38 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

(4) Annual review of continuing connected transactions

40. Do you agree with the proposed Rule amendments to clarify that the annual review requirements apply to continuing connected transactions that are subject to reporting and disclosure requirements in Chapter 14A?

☒ Yes

☐ No

Please provide reasons for your views.

Such amendment can avoid any ambiguity.

41. If your answer to question 40 is "Yes", do you agree that the proposed draft Rule amendments in Appendix I to the Consultation Paper will implement our proposal?

☐ Yes

☐ No

If your answer is "No", please provide reasons and alternative views.

No comment.

42. Are there any other comments you would like to make?

☐ Yes

☒ No

If your answer is "Yes", please elaborate your views.

- End -