



THE LAW SOCIETY'S SUBMISSIONS

CONSULTATION PAPER ON PROPOSED CHANGES TO ALIGN THE DEFINITIONS OF CONNECTED PERSON AND ASSOCIATE IN THE LISTING RULES

QA. Do you agree with the proposal to rename the definitions of “connected person” and “associate” in Chapter 1 as “restricted connected person” and “close associate”?

Law Society's response:

Yes

QB. Do you agree with the proposal to align the definitions of connected person and/or associate in each of the Rules described in the table under paragraph 13 above with those used in Chapter 14A? If not, why not?

Law Society's response:

1. Before commenting on the individual changes, we would like to point out that although the proposed changes are set to align the letter with perhaps the spirit of the Listing Rules, the proposed changes do involve various extensions of the existing requirements. This is the case, for example, where an existing provision refers to “connected persons” or “associates” and requires disclosure to be made about their interests. By aligning (or rather extending) these expressions with the ambit of those used in Chapter 14A, this may impose additional obligations on the part of the issuer to obtain information about the relevant connected persons or associates.
2. First, that may be difficult in certain circumstances. Issuers may not have that information, because it is one thing to check and have it confirmed whether a transaction in question may be connected (largely a negative confirmation), and quite a different (and more extensive) obligation to have systems in place to have that information maintained up-to-date for disclosure (that becomes a positive obligation). Secondly, in the context of “connected persons”, it is necessary to clarify that issuers are not required to speculate on whether a person may be deemed by the Exchange as a connected person, and they are entitled to regard that person as not being a connected person until the Exchange exercises its deeming power and inform the relevant issuer. Thirdly, there may also be circumstances where considerations may

need to be given as to whether or not the extension will significantly increase the compliance burden on the part of issuers.

3. Although we do not generally disagree with the spirit behind the amendments, we have also highlighted the particular rules that may merit consideration in the context of the comments made in paragraph 2 above.

<u>Rule no.</u>		<u>Your response</u>	
		<u>Agree/Disagree</u>	<u>If not, why not?</u>
<i>Transactions</i>			
1.	R14.06(b), R14.23B(2)	Agree	
	R14.92	Agree	
2.	R14.58(3), R14.63(3)	Agree (see comments above re deemed connected persons)	
3.	R5.03, PN12- Para 15	Agree (see comments above re deemed connected persons)	
<i>Issues of securities</i>			
4.	R7.21(2), R7.26A(1)	Agree	
5.	N1 to R13.36(2)(b), R19A.38	Agree (see comments above re deemed connected persons)	
<i>Share option schemes</i>			
6.	R17.03(4)	Agree	
	R17.04(1), N1 to R17.04(3)	Agree (see comments above re deemed connected persons)	
	R17.06A, R17.07	Agree	
<i>Repurchases of securities</i>			
7.	R10.06(1), (2)	Agree in principle. (The disclosure by	

<u>Rule no.</u>		<u>Your response</u>	
		<u>Agree/Disagree</u>	<u>If not, why not?</u>
		issuers re connected persons who intend to sell will require issuers to check whether there is such an intention with the extended classes of connected persons. See also comments above re deemed connected persons.)	
<i>Voting at general meeting</i>			
8.	R2.16	Agree in principle. (For example, siblings and extended relatives holding shares in an issuer may be in loggerheads. The extension means that these persons cannot vote down a proposal put forward by members of their extended family. Although the same issues can arise with immediate family members under current rules, that is less likely to be the case. Need to consider whether in these cases, a waiver	

<u>Rule no.</u>		<u>Your response</u>	
		<u>Agree/Disagree</u>	<u>If not, why not?</u>
		can be obtained.)	
	N2 to R14.33, R14.46, R14.49, R14.55, R14.63(2)(d)	Agree in principle. (see immediately preceding comments re voting against)	
	R13.68	Agree in principle. (see comments above)	
	PN15 – Para 3(e)(2)	Agree in principle. (see comments above)	
9.	R6.12, R6.13, R7.19, R7.24, R13.36(4), R14.90, R14.91, Note to R13.39	Agree in principle. (see comments above)	
10.	PN4 - Para 4(c)	Agree (see comments re deemed connected persons above)	
11.	R21.04(3)(d)	Agree	
<i>Voting at, and quorum for, board meeting</i>			
12.	R13.44	Agree in principle. (see comments above)	
	App3 – Para 4(1), N1 to App3	Agree in principle. (see note above)	
	App14 – Para A.1.7	Agree	

<u>Rule no.</u>		<u>Your response</u>	
		<u>Agree/Disagree</u>	<u>If not, why not?</u>
	App14 – Para B.1.2(h)	Agree	
<i>Independent non-executive directors (“INEDs”), independent financial advisers (“IFAs”) and sponsor</i>			
13.	R3.13	Agree (see comments above re deemed connected persons)	
	R13.84 (see also item no. 14 below)	Agree (see comments above re deemed connected persons)	
	R13.80 (see also item no. 14 below)	Agree (see comments above re deemed connected persons)	
	R3A.07(3), (6)	Agree (see comments above re deemed connected persons)	
	PN21 – Para 14(g)	Agree (see comments above re deemed connected persons)	
14.	R13.84	Agree (see comments above re deemed connected persons)	
	R13.80	Agree (see comments above re deemed connected persons)	
15.	R3A.05	Agree	
<i>Disclosures in issuers’ documents</i>			
16.	R7.16	Agree (see note above)	

<u>Rule no.</u>		<u>Your response</u>	
		<u>Agree/Disagree</u>	<u>If not, why not?</u>
	App1A – Para 28(1)(b)(v), App1E – Para 28(1)(b)(v)	Agree	
	App1B – Para 26(1)(b)(v), App1F – Para 22(1)(b)(v), App16 – Para 31(5)	Agree	
	R21.08(12)	Agree	
<i>Depository</i>			
17.	R19B.03	Agree (check)	
<i>Investment companies</i>			
18.	R21.04 (3)(a)	Agree (see comments above re deemed connected persons)	
	R21.04 (4)	Agree	

The Law Society of Hong Kong
Company Law Committee
26 June 2013