

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below that are raised in the Consultation Paper downloadable from the HKEX website at:

<http://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/August-2018-Review-Structure-to-LC-Decisions/Consultation-Paper/cp201808.pdf>

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

1. Do you agree to revise the current review structure so that decisions of Material Significance made by the Listing Committee will be subject to only one level of review?

Yes

No

Please give reasons for your views.

We support reducing the current review structure to one level - i.e. to abolish the Listing Appeals Committee ("LAC"). Past statistics provided by the Exchange indicate that cases appealed to the LAC have only a low chance of success. Under the current structure, for each appeal case, two rounds of hearings have taken place and each appeal case is fully and objectively heard by two separate committees. It is difficult and rare therefore for a higher level review committee to overturn the decision by the preceding level committee unless obvious error has been made. A two-level review structure therefore is not expeditious and not an effective use of market resources.

2. Do you agree with:

(a) the proposal to establish a new independent review committee to replace the LRC and the LD(R)C respectively and to hear reviews currently conducted by them?

Yes

No

Please give reasons for your views.

We agree that, with the abolition of LAC, the LRC in its new form will become the final review body. However, we have reservations about the proposal that all existing Listing Committee ("LC") members are to be excluded from the new LRC. In fact, for the purpose of ensuring familiarity with Exchange's listing policy objectives and consistency in the standard of decision-making, it is important that existing LC members (who are not involved in the first hearing) shall form the majority membership of the new LRC.

In our views, many of the reasons suggested in the consultation paper (para.76) that existing LC members are not suitable to participate in the review hearing do not stand.

For example, point (a) stated that the system for selecting members (to sit on the LC hearing and on the LRC) does not take into account the level of relevant knowledge, experience or specialisation of the individuals concerned, and hence seems arbitrary. To this, we consider the 28 individuals appointed to the LC all possess the necessary knowledge, experience or specialization that meet the very high selection standard in the first place. Point (b) is only a perception problem. Regarding point (d), it is hard to say some individuals are better than the others, nor we believe there should be such a distinction within the LC. All members join the LC on an equal footing and are equally qualified to sit on the LRC, applying their own knowledge and experience to assess the merits of the appeal case and review the decision made previously. So, there should not be any question about the people handling the review are not senior to the people making the previous decision.

On the other hand, we also have reservations about the idea that the new LRC would be composed of mainly former LC members. First of all, they no longer participate in the deliberation of listing policies or rule changes, as the current LC members do, and as such would be less familiar with the Exchange's current listing policy objectives and their background and rationale. And this is something sheer briefings cannot make up for. Entrusting the final hearing authority to them may produce decisions that are inconsistent with the Exchange's objectives and with the standard currently adopted by the LC. A secondary issue with recruiting mainly former LC members is that it would mean, at least in theory, someone could be sitting on the LC for six years, followed by another six years on the new LRC. This would leave important listing decisions to the same group of people over a period of 12 years, and is not ideal. This might promote linear thinking in listing-related matters and lead to decisions unduly influenced by personal preferences or even biases.

(b) the size and composition of the new independent review committee (including the mix of members' representation)?

Yes

No

Please give reasons for your views.

Based on the reasons set out above, we believe that the new LRC shall continue to be composed of existing LC members in the majority with no less than five to form the quorum. And to allow new perspective and some independence in the review process, we suggest adding two non-existing LC members to the membership composition. The new members could be directors of the HKEX (in doing so, we are combining the old LAC and LRC into one new review body), former LC members for their experience, or seasoned and reputable market professionals with strong legal and financial expertise.

The two new members shall be appointed for a maximum term of three years to ensure refreshing of ideas and perspectives at shorter intervals while the LC members can serve on the new LRC for as long as their LC membership lasts.

3. If the Exchange decides to retain two levels of review for decisions of Material Significance made by the Listing Committee, do you agree that the LAC is to be replaced by a review committee with members being drawn from the proposed new independent review committee and chaired by a member of a separate chairperson panel? Are there any additional process or safeguards that you would suggest to enhance this aspect of the review structure for such decisions of Material Significance?

Yes

No

Please give reasons for your views.

We support keeping one level of review.

4. Do you agree with the proposal to routinely publish decisions of the new Listing Review Committee for non-disciplinary matters on the basis described in paragraphs 102 to 105 of the Consultation Paper?

Yes

No

Please give reasons for your views.

5. The Exchange does not consider that specific consultation is required in relation to the provisions for the SFC's power to request review of decisions as set out in Chapter 5 of the Consultation Paper (as they reflect the MOU and administrative procedures) but would be pleased to receive any comments from respondents.

No further comments.

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