



香港證券學會

Hong Kong Securities Professionals Association

2018年10月12日

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敬啟者

### 「上市委員會決定的覆核架構」諮詢文件回應

本會有超過 2,500 名成員，成員是 證券及期貨條例 所指的香港聯合交易所有限公司的參與者。

現隨函附上本會對諮詢文件的回應。本會同意香港交易所將本會的身份及回應意見公開發佈。

如您有任何疑問，請致電 [REDACTED] 與本會會長李細燕太平紳士聯繫。

香港證券學會  
會長李細燕太平紳士

抄送：立法會金融服務界議員張華峰 SBS JP

## 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.

With the rules change to delist unfit listed companies, for example, main board companies in 18 months, it is contradictory in concept to allow such a long appeal process. The existing three level of review structure, is the main reason why problematic companies cannot be delisting in 4 or 5 years as they keep on making appeal, with no real reasons in substance and their appeal is at no cost to them.

We also recommend the Exchange to charge fee for those companies who apply for review or appeal. Currently, the appellant does not need to pay any fee to Exchange to appeal.

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.

The existing system is too clumsy and inefficient to get into the final outcome. The members of LRC does not have apparent independence as they are board members of HKEC, which is a listed COMMERCIAL PROFIT-MAKING company.

- (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.

15 to 19 members look good to us. Although 5 is the suggested quorum, we would recommend to have a 7 members as a minium quorum as 5 is the quorum for listing committee. If the ruling of the proposed listing review meeting is made by 7 members, it looks more solid than that from a 5-member listing committee meeting.

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 consider that the number of the proposed listing review committee can be limited to have 15 to 19 members. The recommended mix of representatives mentioned in Chapter 2A in main board listing rules looks OK to us. However, we think there should be at least one or two representatives from small and medium size brokerage firm to ensure the problems faced by some small and medium size listed companies can be better understood by the representative from the small and medium size brokerage companies.

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.

Publish decisions only if they are exemplary.

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.

We are of the view that the power of the SFC should be codified into the Listing Rules as it is very unclear to us how the appeal procedures be like if the SFC appeals to overturn the decision of Listing committee or the Proposed Listing Review Committee. In particular, if the SFC appeals to the decision made by the Proposed Listing Review Committee, there should be another layer of review committee or procedures. Who will be eligible to be members of this "SFC appeal" review hearing and can the appellant make a further appeal against this "SFC appeal" review hearing.

Not many people, market partitioners or listed companies management is aware of the fact that the SFC has such power to appeal. Transparency in this aspect is good for the market.

- End -