

**From:** [REDACTED]  
**Sent:** Thursday, October 8, 2020 5:43 PM  
**To:** response  
**Subject:** Fwd: IMPORTANT - HKICS/Consultation Paper on Review of Listing Rules relating to Disciplinary Powers and Sanctions

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香港交易所  
中环交易广场2期8楼

敬启者：

### 有关检讨《上市规则》中的纪律处分权力及制裁的咨询文件(该“咨询文件”)

本人反对该咨询文件中第93(c)部，向公司秘书人员施加次级纪律责任的建议。首先，与其他高管职位相比，公司秘书在上市公司业务（如股权并购等）上的主动性和参与程度非常低，甚至在日常业务中，碍于不同公司的业务防火墙和保密守则，往往是最后阶段才获知会公司行动的决定，并且很多时候，仅仅知道交易中需要披露的详情。其次，公司董事作为公司行为的主导者应及已经全面承担违规的处分，因为他们比纯粹作为雇员的其他高级管理层，包括公司秘书，具备更高层次的影响力，即使实行咨询文件中的建议，亦不会因而减少上市公司违规的诱因，事实是，上市公司的大股东或董事将继续享受高薪厚职，并由于次级纪律责任的生效，心理上反而更容易将违规责任卸责至其他高级管理人员（其薪水可能非常低微，甚至只是象征式收费），严重扭曲本次立法的原意。

本人亦反对仅仅因为咨询文件中提及的个案，而向全体公司秘书简单粗暴地施加次级纪律责任，因为《上市规则企业管治守则》中已明文指引上市公司需购买董事责任险，而市面上，相关保险产品较少，对高级管理层，如公司秘书的保障不足；又或者，上市公司需缴纳大额保费，增加不必要之经济负担，最终减少股东整体回报，不利香港进一步成为国际集资平台的首选。

另一方面，公司秘书专业培养周期长，行业狭隘，薪金水平却增幅较慢，如再面临不断增加的个人责任风险，将减少行业吸引力，造成人才流失，削弱市场人才选择，倒逼上市公司考虑引入其他专业、甚至非本地居民担任此职位，长远反而削弱香港上市公司管治水平和效果。

俗语说：“当上帝关了这扇门，一定会为你打开另一扇门”。建议港交所作为法定垄断的、具主要话语权的香港金融设施建设者之一，除了考虑立法保障市场投资者，亦应该同时考虑为市场从业员的发展提供支持和建设。例如，就高管薪酬订立最低工资指引、取消承担个人责任风险的漏洞，以及增加相关保险及法律支援的机制等。

最后，本人同意其他由香港秘书公会提出之意见（请参电邮如下）。

综上，请港交所团队多维度地评估该咨询文件中的建议对业界，以致其他持份者的即时和长期影响，并提供相应之缓解方案。否则，在获得业界广泛认可前，应暂缓相关建议的实行。

祝商祺！

敬上  
2020年10月8日

作者为主板上市公司公司秘书。作者不希望咨询结果刊登作者信息。谢谢！

----- Forwarded message -----

From: **HKICS** <[donotreply@marketing.hkics.org.hk](mailto:donotreply@marketing.hkics.org.hk)>

Date: Thu, Oct 8, 2020 at 12:43 PM

Subject: IMPORTANT - HKICS/Consultation Paper on Review of Listing Rules relating to Disciplinary Powers and Sanctions

**IMPORTANT**

Dear members, graduates and students

On 8 October 2020, the Institute made a submission on the 'Consultation Paper on Review of Listing Rules relating to Disciplinary Powers and Sanctions' (the 'Submission'). The Submission focuses upon secondary disciplinary liability which the Exchange is proposing to impose on the company secretary for participating in a Listing Rule breach.

The Institute has submitted that company secretaries should be qualified professionals, and as such, disciplinary issues should be left to the relevant professional institutes and dealt with in accordance with applicable professional standards.

Please read in particular paragraph 93(c) of the Consultation Paper for the example relating to the imputation of liability on the company secretary as well as the Submission. Please consider making a submission on this important topic directly to the Exchange at [response@hkex.com.hk](mailto:response@hkex.com.hk) **on or before 9 October 2020**. This is because the number of submissions does matter and this is an issue that expose you to personal liability. Please remember that your submission should be in your own words and not based on some template to count as a submission.

Again, please express your views whether you support the proposals or not. To view the Submission, please click [HERE](#).

Kindly regards  
HKICS

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