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Strictly private and confidential

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Our ref
3174

Date
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By email (response@hkex.com.hk)

Dear Sirs,

Re: Consultation Paper on proposals to further expand the paperless listing regime and other rule amendments

We refer to the Consultation Paper on proposals to further expand the paperless listing regime and other rule amendments (the "**Consultation Paper**") issued in August 2024 and are pleased to respond with comments. Unless otherwise defined, all capitalised terms used in this letter shall have the same meanings as defined in the Consultation Paper.

As we do not have detailed comments on all of the questions set out in the Consultation Paper, we have not completed the questionnaire and prefer to respond in more general terms which we trust is acceptable.

Overall observations

We fully support the Exchange's initiatives to streamline and modernise Hong Kong's capital markets and applaud the great strides that have already been made by the Exchange in recent years with the implementation of the two prior phases of the paperless listing regime. We also recognise the essential work being carried out by the Exchange and SFC in conjunction with the Federation of Share Registrars to implement the USM initiative and believe this will enhance Hong Kong's markets and position it well for the future.

Technology and electronic solutions have been adopted across all aspects of everyday life. The proposals in the Consultation Paper will provide access to electronic options for securities holders in managing their securities and we believe this is a welcome and timely improvement for the Hong Kong market which complements and dovetails with the other modernisation initiatives already underway.

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We fully support the efforts of the Exchange to minimise environmental waste. The proposals will reduce paper wastage by enabling greater use of electronic communication which will have a positive environmental impact.

In relation to the specific proposals, we set out below our comments.

Question 1 Do you agree with the Electronic Instructions Proposal as detailed in paragraphs 29 to 45 of the Consultation Paper? Please give reasons for your views.

We agree with the Exchange's proposals to require issuers to provide securities holders with an option to send Requested Communications to issuers electronically. We consider that this will provide much greater flexibility for securities holders and significantly ease their ability to respond to such Requested Communications, in line with society's wide adoption of electronic communication methods. We believe that introducing this initially as an option for securities holders rather than making it a mandatory requirement is appropriate at this stage. We also agree that issuers should be given the flexibility to identify their own methods for authenticating communications from their securities holders to accommodate different market solutions and existing practices. The approach could be modified and enhanced in future depending on market adoption levels and best practices.

We agree that the scope of Requested Communications, to include both instructions relating to attendance at meetings and for Proxy-related Instructions, and instructions in relation to actionable corporate communications is appropriate. This will provide flexibility and more convenient options for securities holders to respond.

We agree with the rationale for this proposal as set out in paragraph 46 of the Consultation Paper and believe that enabling electronic instructions will significantly increase the speed and efficiency of communication between issuers and securities holders, which will lead to an increase in investor engagement.

Question 2 Do you agree with the implementation timeline (including the availability of transitional arrangements) for the Electronic Instructions Proposal as set out in paragraphs 47 to 54 of the Consultation Paper? Please give reasons for your views.

We understand the rationale behind the Exchange's proposed implementation timeline and support a proposed implementation date that coincides with the implementation of the USM. The transition period of one year to enable issuers to amend their constitutional documents seems reasonable and, as noted in the Consultation Paper, can be planned for and managed at an issuer's annual general meeting without the need to hold a separate meeting for this specific purpose.

Question 3 Do you agree with the Real-time Electronic Payment Proposal as detailed in paragraphs 69 to 74 of the Consultation? Please give reasons for your views.

Given the wide societal adoption of electronic payment methods and the reported proposals to phase out the use of cheques in Hong Kong, we support this proposal to give securities holders the option to receive Corporate Action Proceeds by CHATs. We agree with the Exchange's rationale set out in paragraph 76 and believe this will provide greater flexibility and convenience for securities holders.

We note that issuers would be required to seek instructions from securities holders on their choice of payment options and request functional electronic payment information. Where this is not provided, issuers will be able to pay proceeds in a previously conveyed manner. We agree with this approach to put the onus on the investor to provide the functional electronic payment information. We also support the flexibility in the arrangement that will permit an issuer to offer other forms of electronic payment options where they wish in addition to the CHATs requirement.



Given this proposal complements the USM regime, we support the implementation timeline to coincide with the implementation of USM.

Question 4 Do you agree with the Electronic Subscription Monies Proposal as detailed in paragraphs 83 to 89 of the Consultation Paper? Please give reasons for your views.

We support the proposal to require issuers to provide an option for securities holders to pay subscription monies via electronic means. We agree with the Exchange's rationale for this proposal in paragraph 90 of the Consultation Paper.

As above, we support the implementation timeline to enable securities registrars and listed issuers to prepare for this together with the implementation of the USM.

Question 5 Do you agree that MMOs should no longer be available to issuers as set out in paragraph 99 of the Consultation Paper? Please give reasons for your views.

We agree with the proposal to dispense with MMOs as MMOs no longer serve any meaningful purpose following the launch of FINI and the adoption of the fully electronic listing application process.

Question 6 Do you agree with the Hybrid General Meeting and E-voting Proposal as detailed in paragraphs 129 to 134 of the Consultation Paper? Please give reasons for your views.

We support the proposals to require issuers to enable hybrid meetings and e-voting to the extent permitted by law. We believe this proposal will provide greater flexibility by removing barriers in an issuer's constitutional document that may prevent them from holding hybrid meetings and facilitating e-voting.

Please also refer to our response to Question 7 below.

Question 7 Should issuers be required to provide securities holders with an option to attend general meetings remotely and vote via electronic means (as set out in paragraph 135 of the Consultation Paper)? Please give reasons for your views.

The COVID pandemic necessitated changes to the way meetings were conducted and catapulted the adoption of hybrid meetings, considerably easing access difficulties to meetings for investors. Hybrid meetings are also particularly helpful to facilitate meeting attendance by investors based overseas.

We support this proposal and believe it would be a very positive step for Hong Kong to take the lead in promoting best practice by requiring issuers to provide optional electronic attendance at meetings and e-voting.

Question 8 Should web accessibility guideline(s) (e.g. WCAG) be incorporated into, or referred to, in the Listing Rules (for example, the CG Code) or the Exchange's guidance, such that any corporate communications made available on issuers' website under the Rules should conform to such guideline(s), as set out in paragraph 146 of the Consultation Paper? Please give reasons for your views.

We welcome the Exchange's proposal to incorporate WCAG into the Listing Rules and consider this would be a positive step to ensuring web communications are readily accessible to all investors.



Minor Rule amendments

Questions 9 and 10

We agree with the Exchange's proposals to make minor changes to the Listing Rules to clarify the intended applicability of the waiver conditions in respect of the publication of annual results/reports and to align the Main Board and GEM requirements as proposed.

Amendments in relation to debt securities

Questions 11 to 19

Question 11 Do you agree with the proposal to amend MB Rule 2.07C to cover the types of announcements mentioned in paragraphs 158 and 159 of the Consultation Paper? Please give reasons for your views.

We agree with the Exchange's proposal to clarify that the relevant prescribed announcements may also be published by Professional Debt Issuers during trading hours under the specified circumstances. Given debt securities issued by Professional Debt Issuers are traded OTC through international clearing systems (and are not normally traded on the Exchange), the publication of such announcements will not directly affect the trading of such securities on the Exchange. Rather, Professional Debt Issuers will be able to publish such prescribed announcements in a timely manner.

Question 12 Do you agree with the proposal to amend MB Rule 37.06 as mentioned in paragraphs 161 to 164 of the Consultation Paper? Please give reasons for your views.

We agree with the Exchange's proposal to clarify that "audited accounts for two years" refers to audited accounts for a minimum of two "financial years". In addition, we are supportive of the Exchange's proposal to allow applicants to submit, on top of the audited accounts for two financial years, audited interim financial statements for the first six months of the financial year. Although market practice is for six month interim financial statements to be 'reviewed' rather than 'audited', this proposal will allow for increased flexibility where required.

Question 13 Do you agree with the proposal to clarify the scope of Professional Debt Issuers' continuing obligation to notify the Exchange of their proposals to amend trust deed (see paragraphs 165 and 166 of the Consultation Paper)? Please give reasons for your views.

We agree with the Exchange's proposal to clarify that Professional Debt Issuers should notify the Exchange of a proposal to amend any document constituting the debt securities (not only trust deeds). However, we would ask the Exchange to clarify the intention of inserting the words any document "securing" the debt securities. On a plain reading, this would capture any security document that creates a security interest to 'secure' the debt securities. While we do not object to this addition, we would query whether this is the Exchange's intention, given other credit enhancement documents (such as guarantees) have not been included.

Question 14 Do you agree with the proposal to clarify the scope of Professional Debt Issuers' continuing obligation to submit financial statements to the Exchange (see paragraphs 167 and 168 of the Consultation Paper)? Please give reasons for your views.

We agree with the Exchange's proposal to make this clarificatory change, which reflects current market practice.



Question 15 Do you agree with the proposal to revise the scope of Public Debt Issuers' continuing obligation to inform and submit drafts to the Exchange with respect to their proposal to amend documents that affect the rights of the holders of their listed debt securities (see paragraphs 169 to 171 of the Consultation Paper)? Please give reasons for your views.

We agree with the Exchange's proposal to require Public Debt Issuers to inform and submit drafts to the Exchange with respect to their proposal to amend trust deeds or other documents constituting their listed debt securities. However, please refer to our response to Question 13 above with regards to the insertion of the word "securing".

Question 16 Do you agree with the proposal to clarify the validity period of a debt programme under MB Rule 37.41 (GEM Rule 30.34) (see paragraphs 172 and 173 of the Consultation Paper)? Please give reasons for your views.

We agree with the Exchange's proposal to make this clarificatory change.

Question 17 Do you agree with the proposal to revise the definition of supranationals under the MB Rules (see paragraphs 174 and 175 of the Consultation Paper)? Please give reasons for your views.

We agree with the Exchange's proposal to make this clarificatory change, which will provide Supranational applicants with greater certainty as to their eligibility.

Question 18 Do you agree with the proposal to require all Public Debt Issuers (except States and supranationals) to publish the English and Chinese versions of their financial statements (see paragraphs 176 to 178 of the Consultation Paper)? Please give reasons for your views.

We agree with the Exchange's proposal to make this clarificatory change.

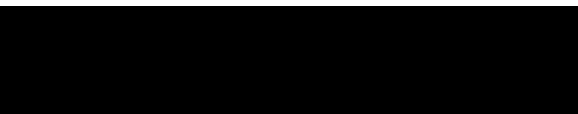
Question 19 Do you agree with the proposal to replace references to "general meeting" with "meeting of holders of the debt securities" in paragraph 9 of Appendix A2 to the MB Rules (paragraph 9 of Appendix A2 to the GEM Rules) (see paragraphs 179 and 180 of the Consultation Paper)? Please give reasons for your views.

We agree with the Exchange's proposal to make this clarificatory change.

Please let us know if you have any queries in relation to the above.

We confirm that we are happy for the contents of this letter to be made publicly available as part of the consultation process.

Yours faithfully



Herbert Smith Freehills