

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below on the proposed change discussed in the Consultation Paper downloadable from the HKEX website at:

<https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/December-2019-Chapter-37-Debt-Issues/Consultation-Paper/cp201912.pdf>

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

Capitalised terms have the same meaning as defined in the Consultation Paper unless otherwise stated.

1. Do you agree with the proposed increase of the NAV Requirement from HK\$100 million to HK\$1 billion?

Yes

No

Please give reasons for your views.

we believe that a higher net asset requirement would help ensure that only issuers, except state corporation as defined under Chapter 37, with larger asset pools can list its debt securities under Chapter 37 on HKEx, thus it would be beneficial from the perspective of enhancing the quality of the debt securities listed on HKEx and protecting the investor's interest. In practice, most of the issuers in the offshore debt capital markets would have net assets over HK\$1 billion. Therefore, we believe the higher threshold on net assets may not have a significant impact on the deal volume for HKEx listing in large. However, as a direct consequence of this amendment, the smaller issuers with less HK\$1 billion would have to switch to other listing venue.

2. (a) Do you agree that the Exchange should maintain the current Eligibility Exemption available for State corporations?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

- (b) If not, which type of State corporations should comply with Issuer Eligibility Requirements? Please give reasons for your views.



3. (a) Do you agree with the proposed introduction of a minimum issuance size of HK\$100 million (or equivalent in other currencies) for Chapter 37 Debts?

Yes

No

Please give reasons for your views.

We believe the HK\$100 million issue size requirement would not be regarded as a high threshold. In practice, most of the bonds offering transaction that we involve would be with issue size above HK\$100 million. Therefore, we believe the higher threshold on the issue size may not have a significant impact on the deal volume for HKEx listing in large.

- (b) Do you agree that such minimum issuance size shall not apply to tap issuances?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

4. Do you agree with the proposal to require issuers to state explicitly on the front cover of the listing document the intended investor market in Hong Kong (i.e. professional investors only) for its Chapter 37 Debts, in addition to the existing legend required under Rule 37.31?

Yes

No

Please give reasons for your views.

Understand currently HKEx would require the below paragraph to be put in place on the cover page of the OCs for debt securities offerings. Therefore, we would think it has already been addressed under the current regime. If HKEx would like to further expand the statement or disclosure in the OCs in this regard, we would have no objection at all and believe it will not impose any significant burden on the transaction parties.

5. Do you agree with the proposal to require publication of listing documents for Chapter 37 Debts on the Exchange's website on the listing date?

Yes

No

Please give reasons for your views.

we understand that the publication of listing documents would be in line with the other key debt securities listing venues, such as SGC and LSE and would be beneficial to the potential investors in terms of getting access to the Issuer's information (ie. business description and financial information of the issuer). However, from the Issuer's point of view, one of the reasons for them to choose HKEx as the listing venue is the "light-touch" approach HKEx adopts in debt securities listing. For example, HKEx would not require the Issuer to disclose listing documents (such as OC) to the public. As buyers of the debt securities are professional investors other than retail investors and they should be provided with the OCs in the roadshow, it is questionable if the publication of listing documents on the HKEx would be of any further benefit or give more protections to the professional investors. In addition, we are not sure the timing for the publication of listing document. If publication is required to be made before pricing, then by allowing the public to access to the listing documents (such as OC), it might undermine the selling restrictions of the bond offerings in Hong Kong.

6. (a) Do you agree that the Exchange's current disclosure and vetting approach in relation to listing documents for Chapter 37 should remain unchanged, notwithstanding that the intended investors would include HNW Investors?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

- (b) For the purpose of Rule 37.29, should there be a different standard with specific disclosure requirements in respect of Chapter 37 Debts that are offered to HNW Investors, compared to those that are offered to Institutional Investors, for example, the manner of presenting information such as the terms and conditions and financial information of issuer and any credit support provider (even though the current Hong Kong legal framework does not differentiate disclosure standards between

Institutional Investors and HNW Investors)? If so, what should those specific disclosure requirements be?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

7. (a) Do you agree that the Exchange should publish disclosure guidance to the market on specified Special Features found in certain Chapter 37 Debts and other disclosure-related matters?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

- (b) Do you have other suggestions on any additional or alternative proposals that the Exchange may implement to promote disclosure quality and consistency for Chapter 37 Debts?

Yes

No

Please give reasons for your views.

we have no further suggestions.

8. Do you agree with the proposal to codify the PI Waiver by revising the definition of “professional investors” under Chapter 37 to include HNW Investors?

Yes

No

You may provide reasons for your views.

we think it is in line with the current practice HKEx adopts.

9. (a) Do you agree with the proposal to allow eligibility of a REIT Issuer (or a REIT Guarantor) to be assessed by reference to the REIT Assets and REIT Financials respectively, provided that it has recourse to the REIT Assets to satisfy the obligations under the relevant Chapter 37 Debts?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

- (b) Do you agree that if the relevant REIT is listed on the Exchange, a REIT Issuer (or a REIT Guarantor) should be qualified as a HK Listco and therefore, be exempted from the Issuer Eligibility Requirements?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

10. Do you have any comments on the proposed enhancements relating to the continuing obligations of the issuer and guarantor under Chapter 37?

Yes

No

Please give reasons for your views.

- o Introduce an obligation for issuers/guarantors to promptly respond to HKEx enquiries; we would think this is a reasonable requirement. However, we understand many PRC issuers are SOEs or LGFVs with burdensome internal procedures to get through before they can respond or sometimes their authorised representatives may not be able to read English, in practice it might be difficult for them to respond to HKEx's enquiries promptly.
- o To require announcement of default or matters leading to or involving winding up and/or liquidation and to require issuer to announce information having a material effect on its ability to meet its obligation under listed debt securities.; We believe that the proposed approach is intended to enhance the disclosure requirement under distressed scenario and to protect the investor's interest in a timely manner. However, we are a bit concerned with whether this requirement could be effectively implemented or complied by the issuer as in many distressed cases, the issuer would be reluctant to disclose the default or distressed situation until the last minute due to the reputational concern or the hope that we are able to get through. Therefore, how to police the implementation of this requirement and the consequence or punishment of not complying this requirement would need to be carefully considered and designed.

11. Do you agree with the proposal to replace the existing requirements to submit copies of constitutional documents and resolutions as part of the listing application documents with a requirement to provide written confirmation by the issuer (or guarantor, as the case may be) in relation to its due incorporation, capacity and authorisation?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

12. (a) Do you agree with the proposal to replace the existing requirement to submit last published financial statements with a new requirement for an issuer (or the guarantor that an issuer relies in fulfilling the Issuer Eligibility Requirements) to submit its audited financial statements to evidence its fulfilment of the Issuer Eligibility Requirements?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

- (b) Where the issuer (or the guarantor) is exempted from the Issuer Eligibility Requirements or where the required audited financial statements are disclosed in the listing document, do you agree that such issuer (or guarantor) should not be required to separately submit financial statements to the Exchange?

Yes

No

Please give reasons for your views.

We have no further comments on this point where the issuer is incorporated within the guarantor group as a Special Purpose Vehicle (“SPV”) with no substantial business activities. However, we have recently worked on several bonds offering transactions where the bonds will be issued by an issuer, a body corporation with substantial business activities, with the benefit of a guarantee from a guarantor who is also a body corporation with substantial business activities. In these cases, the guarantor and the issuer may or may be not be within the same group or be related and the guarantor is often reluctant to take any continuing obligations.

13. Do you agree with the proposal to amend Rule 37.26 to clarify that supplementary listing document includes a pricing supplement?

Yes

No

Please give reasons for your views.

we have no further comments on this point.

14. The Exchange invites your comments regarding whether the drafting of the proposed housekeeping Rule amendments will give rise to any ambiguities or unintended consequences.

no ambiguities or unintended consequences.

15. Do you have any other comments in respect of the matters discussed in the Consultation Paper? If so, please set out your additional comments.

we have no further comments.

- End -