

## 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 agree with the reasons for this proposal as set out in paragraph 59 of the Consultation Paper.

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.

Paragraph 64 of the Consultation Paper has set out the market concerns on whether financial support or backing will be provided by a State to its State corporations in case of default of the State corporations' payment obligations, with reference to the risk disclosures in some recent listing documents of Chapter 37 Debts issued by State corporations, which stated that the repayment obligations under their Chapter 37 Debts remain the sole obligation of the issuer. This has indeed raised the question of the appropriateness of the current Eligibility Exemption for State corporations as the financial support or backing provided by the State in case of default of the State corporation is crucial for investors' protection. In addition, there is no equivalent eligibility exemption available in other stock exchanges such as SGX, LUXSE, ISE and LSE.

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

Those State corporations whose Chapter 37 Debts are not guaranteed by the State should comply with the Issuer Eligibility Requirements.

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.

This proposal reduces the flexibility of the issuer to issue a small placement and, for which, the investor requires a listing. This is illustrated by the fact that the other stock exchanges allow for substantially lower thresholds. Further, a minimum issuance size would unnecessarily restrict AIA's ability, as an investor, from working with issuers to potentially issue a private placement on a listed basis.

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

Yes

No

Please give reasons for your views.

We concur with paragraph 70 of the Consultation Paper.

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.

On the basis that "professional investors" include both "Institutional Investors" and "HNW Investors", we support this proposal. We agree that this requirement will serve to alert retail investors in Hong Kong that they are not the intended class of investors in relation to the relevant Chapter 37 Debts, as well as other purposes for this proposal as set out in paragraph 82 of the Consultation Paper.

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.

Professional investors can get access to the offering documents through deal distribution. Issuers are obligated to provide listing documents to investors at the time the debts are issued and it should be the responsibility of the licensed intermediaries to provide listing documents to investors after the debts are issued. By making the listing documents public, investors who are not intended to subscribe for them, such as retail investors, may approach licensed intermediaries to buy the products, which could create more enforcement actions against licensed intermediaries. Further, the disclosures in the issuer's periodic results announcements and reports are not entirely consistent with that in the offering documents given that equity and debt investors focus on different matters. Accordingly, the information set out in the offering documents may confuse an equity investor who also reads the issuer's periodic disclosures.

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 agree with the reasons for this proposal as set out in paragraph 99 of the Consultation Paper.

- (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.

This topic deserves a more detailed consultation, with due consideration on the rationale for the SFC Code of Conduct's requirement for licensed intermediaries to treat HNW investors differently from institutional investors. Until we have such further consultation to justify a different standard with specific disclosure requirements in respect of Chapter 37 Debts that are offered to HNW Investors, no change should be made to Rule 37.29.

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.

“Special Features” is too broad and can be subject to interpretation. Disclosure of the Special Features should be within the deal documentation and highlighted appropriate as advised by the Issuers’ and underwriters’ counsels. Further, the underwriting and selling institutions should have policies that alert their investors to such Special Features.

- (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.

The issuers’ and underwriters’ counsels should have a sense of market practice and what investors would expect to be disclosed regarding ‘Special Features’.

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 agree with this proposal which will streamline the listing process in view of almost all issuers applying for the PI waiver, as stated in paragraph 107 of the Consultation Paper.

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.

No comment.

- (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.

No comment.

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.

We are in support of the proposed enhancements under paragraphs (a), (b), (d), (f) and (g) relating to the continuing obligations of the issuer and guarantor under this proposal.

Regarding paragraph (c), we expect more clarity as to what information is required to be set out in these quarterly announcements and whether this is quarterly disclosure is still mandatory in the case of prolonged trading suspension of the Chapter 37 Debts.

With respect to paragraph (e), the issuer has already disclosed a very comprehensive list of “risk factors” some of which may materially affect the issuer’s ability to meet its obligations for the Chapter 37 debts. Requiring the issuer to announce such information again might create unnecessary concerns and even a false market.



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 agree this will alleviate the administrative burden of both the issuer and the Exchange.

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 agree the reasons set out in paragraphs 142 to 145 in the Consultation Paper.

- (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 agree the reasons set out in paragraphs 142 to 145 in the Consultation Paper.

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 agree that the proposal will clarify the current practice of the Exchange.

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.

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.

No

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