

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.

Although the majority of issuers will be able to fulfill the proposed NAV Requirement, this will rule out the smaller size issuers with sizable growth assets but because of their borrowings and liabilities, such issuers may have a relatively low NAV. We agree that a higher NAV Requirement will ensure only issuers with larger asset pools can list debts under Chapter 37, but a balance needs to be struck to ensure that the Exchange does not rule out the smaller size issuers with sizable growth assets as this may potentially undermine the Exchange's competitiveness.

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.

The current Eligibility Exemption is relied on heavily by State owned corporations and should be maintained, especially in light of the fact that the other exchanges like SGX do not have such exemption in place, and hence maintaining such Eligibility Exemption may potentially make the Exchange a more favourable listing venue for State owned corporations.

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

N/A

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.

The majority of the issuers proposing to list debts under Chapter 37 will be able to fulfil the proposed minimum issuance size requirement and should not have much of an impact on the competitiveness of the Exchange in attracting issuers.

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

Yes

No

Please give reasons for your views.

As tap issuance constitutes the same class as the original issuance, we agree that such minimum issuance size shall not apply to tap issuances so as not to undermine the competitiveness of the Exchange.

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.

This will alert the potential investors in an eye catching area of the listing document that the intended investor market is limited to professional investors only.

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.

Certain issuers may have specific confidentiality issues and hence have concerns with making its financial or other information publicly available. It is one of the key distinctions between listing of Chapter 37 Debts on the Exchange versus its competitors such as SGX, and it is an important consideration factor when issuers are deciding on its listing venues. Requiring publication of listing documents is likely to impact on an issuer's decision to list on the Exchange and thereby potentially undermining the Exchange's competitiveness.

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 that the current disclosure and vetting approach is sufficient, and that such approach is aligned with the legal framework in Hong Kong that the disclosure standards between Institutional Investors and HNW Investors is the same.

- (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.

In a typical Chapter 37 Debt issuance, issuer would be offering to both Institutional Investors and HNW Investors, it would be unduly burdensome for issuers to fulfil two different sets of disclosure requirements. Moreover, as mentioned in our response to Question 6(a), such different sets of disclosure requirements is contrary to the current legal framework in Hong Kong where disclosure standards between Institutional Investors and HNW Investors are the same.

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.

The proposed guidance on specified Special Features will enhance consistency on the disclosure standard and provide potential investors with further information in order to make a well informed assessment of whether or not to invest in the Chapter 37 Debts.

- (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.

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.

This codifies the existing practice and will enhance efficiency in the listing process by removing the need to apply for the PI Waiver.

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 agree given that this is the logical way to measure a REIT issuer's actual assets and financial position.

- (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 agree - a REIT will have undergone a rigorous vetting process in order to get listed which is equivalent to that of a normal HK Listco.

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.

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.

Issuers are best placed to provide such confirmation to the Exchange, such requirement will alleviate the administrative burden in providing various constitutional documents and resolutions and will make it less burdensome for the issuers. We would like to suggest in particular that Issuers be allowed to provide written confirmation in relation to authorisation to apply for the e-Submission system of 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.

Such proposal will affect the timing for the listing of Chapter 37 Debts, as the issuer may have only reviewed the financial statements and have not proceeded with auditing the financial statements at that particular point in time. This proposal will be burdensome on the issuer and is likely to affect the timing of its listing of Chapter 37 Debts.

- (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.

If the audited financial statements are disclosed in the listing document or where issuer/guarantor is exempted from Issuer Eligibility Requirements, submission of financial statements to the Exchange will create unnecessary additional administrative burden.

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.

This codifies the existing practice and will provide further clarity on the scope of supplementary listing document.

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.

N/A

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.

N/A

- End -