

[REDACTED]

From: [REDACTED]
Sent: 06 March 2018 17:17
To: response
Subject: Re: Emerging and Innovative Companies CP

Dear Sir,

I am writing with comments on the above Consultation Paper.

Overall, I am supportive of the paper's proposals, indeed pleased that a breakthrough has been achieved on secondary listings, in particular. Comments are as follows:

Biotech companies

1. Why HK\$1.5 billion market cap requirement? The market capitalisation/revenue/cash flow test threshold in Rule 8.05(2) is HK\$2 billion - is it necessary to institute a similar but different figure?
2. On the other hand, Rule 18.04 appears to allow mineral companies to list without meeting any quantitative thresholds provided they have individuals with at least 5 years experience. Why treat bio companies, which as the CP argues go through a highly structured product validation process, so much more strictly than mineral companies which would seem to be similarly risky?
3. Ideally, if Hong Kong had an effective venture board, smaller biotech companies would be able to list there with acceptance of their higher risk, but given that this is the Main Board, the bar obviously cannot be set too low. The CP says that the HK\$1.5 billion figure has been discussed with the market and checked against other markets, but without giving the actual rationale. Is there any rationale for the HK\$1.5 billion - for example, what proportion of US biotech new listings would qualify under this threshold?
4. Restrictions on cornerstones. Given the controversial and possibly distorting impact of cornerstone investors on the market generally, is there scope to apply the biotech restrictions on cornerstones to the market generally? If not, why not?

WVR

1. The rationale for allowing WVR for 'innovative' companies is presumably recognition of the unique role of the founders in developing that innovation. It would be preferable to state such rationale more explicitly.
2. 'Innovation'. The factors listed in Rule 106 are rather judgemental (even R&D spending can be subjective, depending on how activities are classified). There could be a lot of room for the Listing Committee to exercise its discretion, arbitrarily letting through some companies but not others. Arguably, most companies that are not actually state-sanctioned monopolies must display a degree of innovation in order to survive and grow (see also 5 below).
3. Rather than trying to justify WVR on grounds of innovation, why not just allow it generally where founder-directors are considered to bring special and long-term contribution to the company, whether in terms of 'innovative' ideas or good execution and persistence (arguably more important)? Do we need to dress it up?
4. One of the justifications for allowing WVR (albeit unstated in the paper) is that Hong Kong already allows control disproportionate to economic ownership via pyramid structures. Consideration could be given to extending the safeguard of the corporate governance

- committee and compliance adviser (albeit see 6 below) to listed companies in pyramid structures.
5. Ringfencing. It is somewhat arbitrary to restrict WVR structures to new issuers (and to existing issuers already-listed overseas). Existing HK-listed issuers can be 'innovative' too, for example revamping their business and adopting new models as market conditions change. It is not wholly logical to bar them from adopting WVR structures for their key directors. Presumably a spin off from an existing HK-listed issuer would be eligible for WVR?
 6. Compliance adviser. Is this overkill, given that there is already quite a comprehensive regime under the corporate governance committee? Do the compliance advisers mandated for GEM companies add value?

Secondary listings

1. Are there no other reputable markets in the world beyond NYSE, NASDAQ and LSE Premium?
2. Equivalence requirement. It would not be easy for an already-listed issuer to change its constitutional documents.

I hope these comments are helpful.

Regards,

Matthew Harrison