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HKEX
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CONSULTATION PAPER

CORPORATE WVR BENEFICIARIES

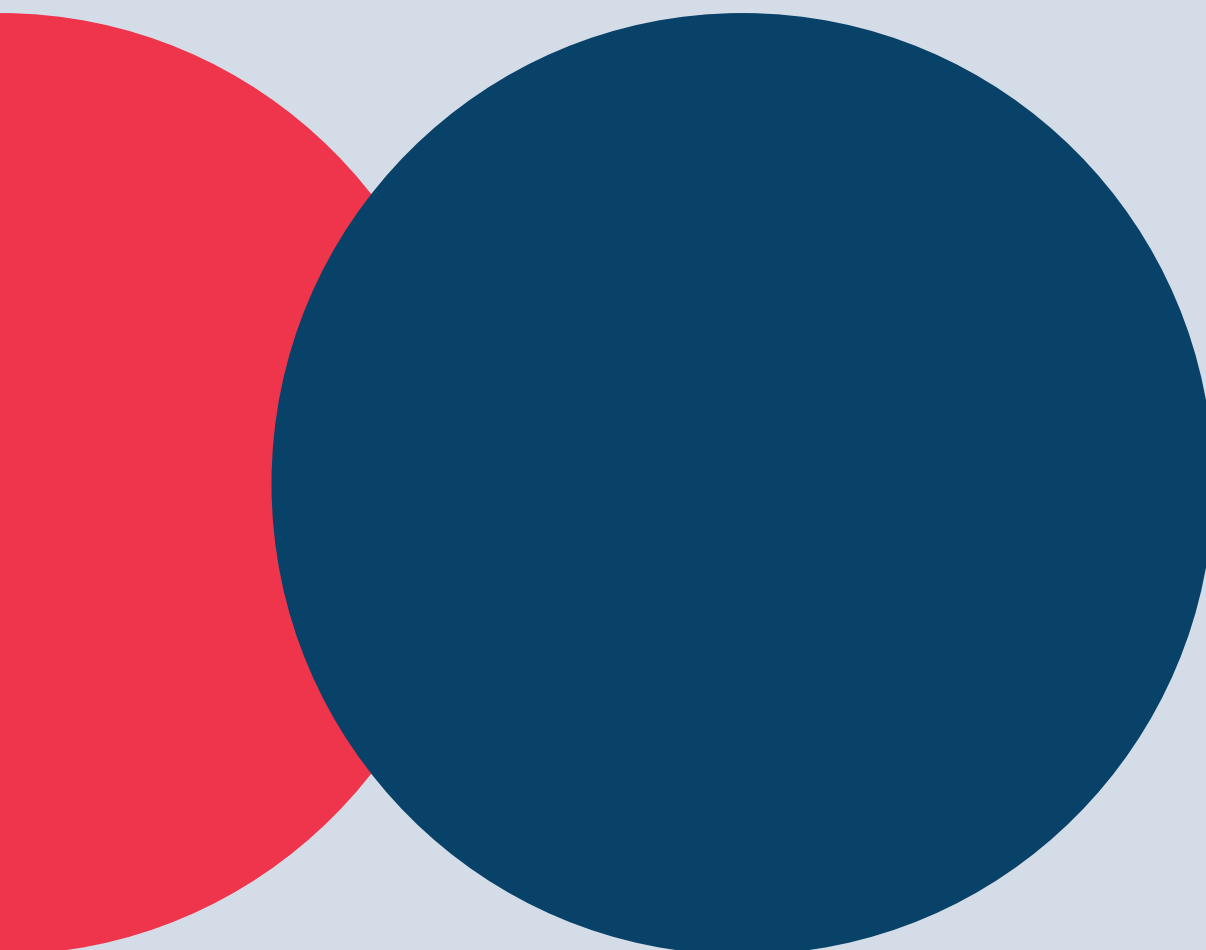


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HOW TO RESPOND TO THIS CONSULTATION PAPER

The Exchange, a wholly-owned subsidiary of HKEX, invites written comments on the matter discussed in this paper, or comments on related matters that might have an impact upon the matter discussed in this paper, on or before **1 May 2020**. You may respond by completing the questionnaire which is available at: <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/January-2020-Corporate-WVR/Questionnaire/cp202001q.docx> .

Written comments may be sent:

By mail or hand delivery to Hong Kong Exchanges and Clearing Limited
8th Floor, Two Exchange Square
8 Connaught Place
Central
Hong Kong
Re: Corporate WVR CP

By fax to (852) 2524 0149

By e-mail to response@hkex.com.hk
Please mark in the subject line:
Re: Corporate WVR CP

Our submission enquiry number is (852) 2840 3844.

Respondents are reminded that we will publish responses on a named basis in the intended consultation conclusions. If you do not wish your name to be disclosed to members of the public, please state so when responding to this paper. Our policy on handling personal data is set out in **Appendix I**.

Submissions received during the consultation period by **1 May 2020** will be taken into account before the Exchange decides upon any appropriate further action and a consultation conclusions paper will be published in due course.

DISCLAIMER

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DEFINITIONS

| TERM | DEFINITION |
|---|---|
| “2015 WVR Concept Paper Conclusions” | “Consultation Conclusions to Concept Paper on Weighted Voting Rights” published in June 2015 (here) |
| “Alibaba” | Alibaba Group Holding Limited |
| “CG Code” | Appendix 14 of the Rules – Corporate Governance Code and Corporate Governance Report |
| “Controlling Shareholder” | Any person (including a holder of depositary receipts) who is or group of persons (including any holder of depositary receipts) who are together entitled to exercise or control the exercise of 30% (or such other amount as may from time to time be specified in the Takeovers Code as being the level for triggering a mandatory general offer) or more of the voting power at general meetings of the issuer or who is or are in a position to control the composition of a majority of the board of directors of the issuer; or in the case of a PRC issuer, the meaning ascribed to that phrase by Rule 19A.14 provided always that a depositary shall not be a Controlling Shareholder merely by reason of the fact that it is holding shares of the issuer for the benefit of the holders of depositary receipts |
| “Corporate Governance Committee” | A committee of the board of an issuer that has the responsibility for performing the corporate governance duties set out in the terms of reference of CG Code Provision D.3.1 |
| “Corporate Representative” | An officer (as defined under the SFO) of the corporate WVR beneficiary who, in his or her capacity as a member of the board of directors of a WVR issuer, acts as a representative of the corporate WVR beneficiary |
| “Eligible Entity” | A corporate that meets the proposed eligibility requirements to benefit from WVR |
| “Exchange” or “SEHK” | The Stock Exchange of Hong Kong Limited |
| “Financial Eligibility Tests” | The financial eligibility requirements of the Main Board, being: <ul style="list-style-type: none"> (a) Rule 8.05(1)(a) (profit test); (b) Rule 8.05(2)(d), (e) and (f) (the market capitalisation/revenue/cash flow test); or (c) Rule 8.05(3)(d) and (e) (the market capitalisation/revenue test) |

| TERM | DEFINITION |
|--|--|
| | of the Listing Rules |
| “FSDC” | Financial Services Development Council, Hong Kong |
| “HKEX” | Hong Kong Exchanges and Clearing Limited |
| “Huya” | Huya Inc. |
| “Innovative Company” | A company that demonstrates the characteristics set out in paragraph 4.2 of the WVR Guidance Letter |
| “IPO” | Initial public offering |
| “Listing Rules” or “Rules” | The Rules Governing the Listing of Securities on SEHK (Main Board unless otherwise stated) |
| “LSE” | London Stock Exchange plc |
| “Main Board” | The main board of the SEHK |
| “NASDAQ” | Nasdaq Stock Market |
| “New Board Concept Paper” | The Concept Paper on a New Board published on 16 June 2017 (here) |
| “New Board Concept Paper Conclusions” | The Conclusions to the New Board Concept Paper published on 15 December 2017 (here) |
| “NYSE” | New York Stock Exchange LLC |
| “PRC” or “Mainland” | The People’s Republic of China |
| “Prospectus” | A prospectus as defined under Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32. of the Laws of Hong Kong) |
| “Qualifying Exchange” | NYSE, NASDAQ or the Main Market of the LSE (and belonging to the UK FCA’s “Premium Listing” segment) |
| “Rule Chapters Conclusions Paper” | The conclusions to the Rule Chapters Consultation Paper published on 24 April 2018 (here) |
| “Rule Chapters Consultation Paper” | The Consultation Paper on a Listing Regime for Companies from Emerging and Innovative Sectors published on 23 February 2018 (here) |
| “SFC” | Securities and Futures Commission |

| TERM | DEFINITION |
|------------------------------|--|
| “SFO” | Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong) |
| “Takeovers Code” | The Codes on Takeovers and Mergers and Share Buy-backs |
| “Tencent” | Tencent Holdings Limited |
| “UK” | United Kingdom |
| “unicorn company” | A private company valued at more than US\$1 billion |
| “US” | United States of America |
| “WVR” | Weighted voting rights |
| “WVR issuer” | Issuer with a WVR structure |
| “WVR Guidance Letter” | Guidance issued by the Exchange entitled “Suitability for Listing with a WVR Structure”, HKEX-GL-93-18 |
| “WVR structure” | A structure that results in any party having WVR |

EXECUTIVE SUMMARY

Purpose

1. This consultation paper solicits market feedback on a proposal to extend the Exchange's current WVR regime to permit corporates to benefit from WVR, subject to appropriate safeguards.

Background

2. Following the publication of the Rule Chapters Conclusions Paper, the Exchange implemented Chapter 8A of the Rules to permit issuers with a WVR structure to list on the Exchange.
3. The requirements under Chapter 8A limit beneficiaries of WVR to individuals. Both before and after the publication of the Rule Chapters Consultation Paper, the Exchange received feedback from a number of parties that the Exchange should, additionally, consider permitting corporate entities to benefit from WVR.
4. At the time of the Rule Chapters Consultation Paper, the Exchange recognised that allowing corporate entities to benefit from WVR would be a significant new development from the proposed way forward set out in the New Board Concept Paper Conclusions. Accordingly, the Exchange stated that it would launch a separate consultation on the matter by 31 July 2018.
5. On 25 July 2018, the Exchange published a news release stating that it had decided to defer the launch of the consultation. The Exchange stated that it would continue to engage with relevant stakeholders and work on the proposal with the aim of developing a broader consensus on the subject. This consultation paper incorporates comments and suggestions made during those further discussions.
6. The Exchange considers that the issue of whether to allow corporate entities to benefit from WVR forms an important part of the overall market debate on WVR. Accordingly, the Exchange considers that this is an issue which should be put forward for market consultation. However, the Exchange recognises that this is a complex issue and, in putting forward the proposal in this Consultation Paper for market feedback, has sought to put forward a proposal which seeks to balance various viewpoints and the need for a robust regulatory regime, and to fairly reflect the benefits and risks of such a regime.

Rationale for Hong Kong to allow corporate WVR beneficiaries

Business ecosystem

7. Many "innovative companies", as described by the WVR Guidance Letter, do not evolve and develop in a vacuum. They often operate in a broader "ecosystem" that includes other companies, both within the same corporate group (e.g. a parent company and its subsidiaries) and independent companies.
8. A significant number of the largest unlisted Mainland companies from emerging and

innovative sectors¹ are closely associated with a recognisable ecosystem, which has materially contributed to and shaped their historical growth. In these situations, the listing applicant's strategy, development and prospects after its IPO will continue to be materially influenced by the strategy and vision of the ecosystem leader, and it would be in the interest of the listing applicant to continue to co-evolve with the companies and other components in the ecosystem. Like the personal contribution required of an individual WVR beneficiary, the synergistic benefits of the ecosystem and the strategy and vision of the leader in developing the ecosystem are difficult for a listing applicant to replicate on its own or with other business partners.

9. Under the foregoing circumstances, there may be grounds for the board of the listing applicant to determine that it would be in the interest of the listing applicant to grant WVR to a corporate shareholder who is the ecosystem leader because it would encourage it to include the listing applicant in its common vision for the ecosystem, which is a core competitive advantage for the listing applicant, and reinforces the listing applicant's position within the ecosystem.
10. While the term "ecosystem" is more often used in association with technology companies, a traditional economy company (e.g. financial services conglomerates) can develop a similarly complex network of innovative companies and other components around a technology-enabled platform or a set of core products or services to form such an ecosystem.

Benefits to the listing applicant

11. From the perspective of a listing applicant, a reinforced role within the corporate shareholder's ecosystem provides access to material intangible benefits such as users and data (e.g. through the smartphone platform of a major technology firm) that are difficult for it to replicate on its own and that considerably boost its development potential and gives it a significant competitive advantage over peers that do not have equivalent support. On balance, granting WVR to a corporate at listing may be in the interests of the company if it encourages the corporate shareholder to include the listing applicant in its common vision for the ecosystem (which is a core competitive advantage for the listing applicant) and reinforce the applicant's position within the ecosystem.

Why corporates have sought WVR

12. An ecosystem leader may begin with a small investment stake in a unicorn company or be diluted down to a small stake over time after it has raised funds multiple times from other investors to acquire capital and strategic partnerships to develop the company. 38% of non-fund corporate WVR beneficiaries of US-listed Mainland WVR issuers² held less than a controlling economic stake (i.e. less than 30% in share capital) at the time of the issuer's US listing (see paragraphs 103 and 104). After listing, the ecosystem leader's interest may also be further diluted as a result of share-based employee incentive schemes which are commonly used to motivate and reward staff in innovative unicorn companies given the importance of human capital to their

¹ Source: HKEX, IFR, Bloomberg, FinanceAsia and Dealreporter

² Those that listed between 2010 and November 2019.

success. Accordingly, at IPO, an ecosystem leader, in common with individual entrepreneurial founders, may seek to use WVR structures to maintain control of the unicorn company they have incubated.

13. WVR may also be sought as a means of retaining the balance of control of an issuer after listing. If a corporate does not have a controlling economic stake in a listing applicant, control may be shared between the corporate, individual founders and other investors. The WVR issuer may want these shared control arrangements to continue post-listing, recognising that both individuals and corporate shareholders are important to the continued development of the company. In these circumstances, allowing a corporate to benefit from WVR helps ensure that an issuer is controlled, after IPO, by the same group of shareholders who have been responsible for its past success. From the corporate shareholder's perspective on the other hand, the corporate shareholder often wishes to maintain or consolidate control over the issuer where the issuer's business forms an important part of the corporate shareholder's ecosystem, given the issuer's importance to the overall strategy and future development of the corporate shareholder.
14. Consolidation of the issuer for financial accounting purposes is often another motivation for corporates to seek WVR. Research analysts covering emerging and innovative sectors may place particular importance on revenue trends (scale, growth rates, etc.) when evaluating early-stage pre-profit businesses. When valuing the corporate shareholder of such companies, an analyst may choose not to include the revenue generated by a business within the ecosystem if the corporate does not include it within its consolidated accounts. In these circumstances, corporates may wish to use WVR to gain more than 50% voting power in the company and so continue to consolidate the WVR issuer into their financial results.

Diversification of investment opportunities for Hong Kong public investors

15. The New Board Concept Paper identified that a major challenge facing the Hong Kong market was a lack of diversity and high sector concentrations, notably in the financial and property sectors, with minimal weightings in some of the fastest growing industries globally. The New Board Concept Paper also noted that US-listed companies with WVR structures were often from industries (e.g. the information technology industry) in which the Hong Kong market was underweight.
16. In recent years, Mainland emerging and innovative issuers have sought listings on US exchanges with corporate WVR beneficiaries, which the Hong Kong WVR regime does not accommodate. Examples include Youdao, Tencent Music Entertainment and Huya, three Mainland based internet software and services companies that listed on US exchanges in October 2019, December 2018 and May 2018, respectively. All three companies had a market capitalisation at listing of above HK\$10 billion, the threshold for a WVR listing in Hong Kong. Between 2010 and November 2019, 42% of Mainland issuers with WVR structures listed in the US had corporate WVR beneficiaries and these deals represented 48% of the total IPO funds raised by Mainland issuers with WVR structures. The US has a regulatory regime whereby companies may list with corporate WVR beneficiaries as long as they disclose this fact and the associated risks.
17. As at November 2019, 42 out of the largest 50 largest China unlisted unicorn

companies have non-fund corporate shareholders that are well established listed companies.³ Based on valuations from the latest rounds of fund raising activities, these 42 unicorn companies⁴ had a combined market value of US\$540 billion (equivalent to 12% of Hong Kong securities market capitalisation). While recognising that an issuers' selection of listing venue takes into account many considerations (including aftermarket liquidity, analyst coverage, investors' familiarity with the issuer's brand or industry, and other factors), the availability of corporate WVR structures may form part of that consideration. If the Exchange's WVR regime does not accommodate corporate WVR beneficiaries, it is anticipated that companies for whom this is an issue may continue to choose the US over Hong Kong for their IPOs. Investors in Hong Kong will lose the opportunity to invest in a more diverse range of companies in their home market where they have the convenience of trading in their own time zone and have the protections and safeguards provided to them by Hong Kong law and the Listing Rules.

Risks associated with corporate WVR beneficiaries

Shareholders' interests could be misaligned

18. Empirical studies argue that Controlling Shareholders may have less of a disincentive to extract benefits from a company for themselves at the expense of other shareholders as their economic interest in the company falls⁵. Allowing corporates to control companies through a WVR structure amplifies this misalignment of interests as a WVR structure allows a Controlling Shareholder to maintain control whilst holding a disproportionately smaller equity interest in a company.
19. Moreover, corporate WVR beneficiaries can themselves have Controlling Shareholders. These Controlling Shareholders would be in a position to exercise majority voting power in the listing applicant with only a small and indirect stake in it. The listing applicant may represent a very small part of a much larger corporate group and therefore a relatively minor part of the ultimate Controlling Shareholder's overall economic interests. Consequently, there is a greater risk of a misalignment of interests, which could be substantial in extent, between the ultimate Controlling Shareholder and the listing applicant's shareholders as a whole. This risk is potentially further exacerbated if the corporate WVR beneficiary is itself controlled through WVR.

WVR structures could become more widespread

20. The current WVR regime permits only individuals to benefit from WVR. These individuals must have been materially responsible for the growth of the business of the WVR issuer, by way of their skills, knowledge and/or strategic direction in circumstances where the value of the issuer is largely attributable or attached to intangible human capital. Only a relatively small number of individuals are able to meet

³ Source: HKEX, IFR, Bloomberg, FinanceAsia, Hurun and Dealreporter.

⁴ All of these companies meet the market capitalisation requirement of HK\$10 billion under the existing WVR regime.

⁵ For example, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer and Robert W. Vishny, "Investor Protection and Corporate Governance" (1999); Stijn Claessens, Simeon Djankov and Larry H.P. Lang, "The separation of ownership and control in East Asian Corporations" (2000); and Mara Faccio and Larry H.P. Lang, "The ultimate ownership of Western European corporations" (2002).

these requirements.

21. Allowing all corporates to benefit from WVR may result in a proliferation of such rights and WVR structures becoming commonplace in the Hong Kong market.
22. The Exchange could limit WVR only to corporate shareholders that play a pivotal role in an ecosystem (see paragraphs 7 to 10) which the listing applicant materially benefits from to justify them having WVR on a basis that is akin to the contribution required of an individual WVR beneficiary. However, the Exchange would be required to make a subjective judgement as to whether such an ecosystem exists and the nature and extent of the corporate shareholder's contribution to the listing applicant. Consequently, this test, on its own, cannot be the primary ring-fencing measure.
23. The Exchange could also simply employ a very high financial eligibility requirement (for example a high market capitalisation requirement) to limit WVR to a small number of companies. However, the Exchange recognises that there is no universally recognised financial eligibility criteria that could, on its own, be used to differentiate between corporates that play a pivotal role in an ecosystem and those that do not. Further, a very high financial eligibility criteria, such as a high market capitalisation requirement, may be seen as creating an uneven playing field which favours the well-established tech giants at the expense of smaller but potentially innovative new challengers in the industry. Accordingly it is difficult to employ a simple financial eligibility test to limit WVR and a degree of subjective judgement may be required to determine if exceptions should be made on a case by case basis.
24. The proposed eligibility requirements described in the "Ring-fencing" section in paragraph 41 to paragraph 56 below seek to address these risks.

Exercise of WVR

25. An individual WVR beneficiary is permitted to exercise WVR on the basis that through their skills, knowledge and/or strategic direction, they have materially contributed to the issuer's growth and success prior to listing. The current WVR regime prohibits individual beneficiaries from transferring their WVRs to other persons as they have not made this contribution.
26. The senior management and the board of a corporate WVR beneficiary who exercise the WVR will change over time and, themselves, may not have made the intangible contribution to the development of the WVR issuer to justify them exercising WVR.

WVRs could be exercised by corporates without them owing fiduciary duties to the company and its shareholders

27. Under the current regime, an individual beneficiary's WVR will lapse if they are no longer a director, are no longer able to perform the duties of a director or are deemed by the Exchange to no longer meet the requirements of a director. The purpose is to ensure that the individual WVR beneficiary, as part of the board, owes fiduciary duties to the WVR issuer and its shareholders and is responsible and accountable for its performance.
28. Unlike individuals, corporates cannot themselves act as directors. This means a corporate WVR beneficiary cannot owe fiduciary duties to the issuer and their

management conduct and competence are not regulated under the Rules. Likewise the senior management and the board of a corporate WVR beneficiary will not, on a personal basis, owe any fiduciary duty or other responsibility to the listing applicant or its shareholders (unless they are also appointed to the board of the listing applicant).

Indefinite life

29. Under the current regime, an individual's WVR must lapse when that individual dies. This means that the WVR will fall away over time. Allowing corporate entities, which do not have a natural limit to their lifespan, to benefit from WVR could potentially result in WVR structures existing indefinitely.

Proposals

Introduction

30. The Exchange is consulting the market on a proposal to broaden its WVR Rules to permit corporate entities to benefit from WVR. We propose that the same conditions and safeguards that currently apply to issuers with individual WVR beneficiaries also apply to those with a corporate WVR beneficiary, subject to the following additional conditions and safeguards. The Exchange welcomes views on the proposals and any alternative suggestions from respondents on the best way to strike the appropriate balance on this complex topic.

Position in group, minimum economic interest and maximum votes per share

31. The following measures aim to address the risk that the interests of the Controlling Shareholder of a corporate WVR beneficiary do not align with the interests of a WVR company's minority shareholders.

Position in group

32. The Exchange proposes that a corporate WVR beneficiary must be either an Eligible Entity), or a wholly owned subsidiary of the Eligible Entity (and provided that only the Eligible Entity could direct the voting of the WVR shares held by the corporate WVR beneficiary). This provides the corporate WVR beneficiary with a degree of flexibility in terms of corporate structure to hold WVR shares through a special purpose vehicle, while ensuring that the management and the board of directors of the Eligible Entity are the only persons who are able to direct the voting of WVR shares.

Corporate WVR beneficiary must have had an underlying economic interest of 10% or more and material involvement in the listing applicant for at least two financial years prior to the applicant listing.

33. A corporate shareholder that acquires, or materially increases, its stake in a listing applicant shortly before listing in order to benefit from WVR will not be considered suitable to hold WVR. The Exchange proposes that a corporate WVR beneficiary must have held an economic interest of not less than 10% in, and have been materially involved in the management or the business of, the listing applicant (for example, through the inclusion of the business of the applicant in its ecosystem) for a period of

not less than two financial years⁶ prior to the date of the listing application.

Minimum economic interest of corporate WVR beneficiary in an applicant at listing and after listing

34. At IPO, individual WVR beneficiaries are required to, collectively, beneficially own at least 10% of the underlying interest in a listing applicant's total issued share capital. They are not required to maintain this interest on an ongoing basis after listing.
35. In addition to the requirement proposed in paragraph 33, for a corporate WVR beneficiary, the Exchange proposes to require it to beneficially own a minimum of at least 30% of the underlying economic interest of the listing applicant's total issued share capital and to be the single largest shareholder in the applicant at the time of listing (save for any individual WVR beneficiary). For a corporate WVR beneficiary that holds an economic interest between 10% and 30% during the two financial years prior to the date of the listing application, it may comply with this proposed requirement by increasing its shareholding in the listing application in compliance with existing Rules and guidance on pre-IPO investments and placing to existing shareholders.⁷
36. The Exchange also proposes that the WVR attached to a corporate WVR beneficiary's shares lapse if it fails to maintain at least a 30% economic interest on an ongoing basis. If this is adopted, the Exchange proposes to allow an exception to allow the corporate WVR beneficiary to subscribe for shares without the need for shareholders' approval. This is as long as the subscription is for the sole purpose of complying with the 30% interest requirement and provided that the shares subscribed do not carry WVR and are on the same terms or better from the perspective of the issuer as the original issuance which triggered the need for the subscription.
37. These proposals aim to reduce the likelihood of a misalignment of interests recognising that, with at least a 30% economic interest, the corporate WVR beneficiary would be regarded as having "de facto control" of the relevant listing applicant even without WVR and would be considered a Controlling Shareholder under both the Listing Rules and the Takeovers Code.

Maximum five votes per share

38. Individual WVR beneficiaries are entitled to benefit from shares that carry no more than ten times the voting power of ordinary shares, on any resolution tabled at the issuer's general meetings.
39. For a corporate WVR beneficiary, the Exchange proposes that it be entitled to benefit from shares that carry no more than five times the voting power of ordinary shares.
40. This is proposed so as to cap the extent of control that a corporate WVR beneficiary can exercise and limit the effect of any misalignment of interests between the Controlling Shareholder of a corporate WVR beneficiary and minority shareholders.

⁶ A corporate WVR beneficiary must meet the minimum 10% economic interest requirement for at least two financial years and any stub period up to the date on which it increases its stake in the applicant to meet the minimum 30% economic interest requirement described in paragraph 35.

⁷ See HKEX-GL43-12 "Guidance on Pre-IPO investments" and HKEX-GL85-16 "Placing to connected clients, and existing shareholders or their close associates, under the Rules".

This means that, if a corporate WVR beneficiary held the minimum 30% economic interest, they could have a maximum of 68% of the voting power at general meetings.

Ring-fencing

41. To reduce the risk of WVR proliferating and becoming commonplace in Hong Kong, the following measures are proposed to “ring-fence” corporate WVR beneficiaries to candidates who would serve the overall objective to attract high-calibre candidates from emerging and innovative sectors to list in Hong Kong.

Contribution of the corporate WVR beneficiary

42. As stated in paragraphs 4.4 and 4.5 of the WVR Guidance Letter, for an individual beneficiary to qualify for WVR, it must be demonstrated that he or she: must have an active executive role within the business; and was materially responsible for the growth of the listing applicant. An individual must remain as a director to retain his or her WVR.
43. Like the personal contribution required of an individual WVR beneficiary, the synergistic benefits of the ecosystem and the strategy and vision of the ecosystem leader in developing the ecosystem are difficult for a listing applicant to replicate on its own or with other business partners. The benefits provided by an ecosystem are a basis for the board of the applicant to determine that it is in the interest of the applicant to issue WVR shares to the lead company within the ecosystem. This is because material future benefits will accrue to the applicant as a result of the corporate shareholder’s control which reinforces the applicant’s role within the ecosystem.
44. Accordingly, for a listing applicant to grant WVR to a prospective corporate WVR beneficiary, the listing applicant and the prospective corporate WVR beneficiary are expected to demonstrate that an ecosystem, with at least the following characteristics, exists between them:
 - (a) there is a community of companies (which includes the listing applicant) and other components (which may be non-legal entities such as business units of the corporate shareholder, user or customer bases, applications, programs or other technological applications) that has grown and co-evolved around a technology or know-how platform or a set of core products or services, owned or operated by the prospective corporate WVR beneficiary (for the avoidance of doubt, such platform or products or services does not need to represent the main business of the prospective corporate WVR beneficiary);
 - (b) the components within the ecosystem (including the listing applicant) both benefit from, and contribute to, the ecosystem by sharing certain data, users and/or technology (for example, software, applications, proprietary know-how or patents);
 - (c) the ecosystem must have attained meaningful scale, which will normally be measured by reference to indicators such as the number and technological sophistication of the components connected to the ecosystem, the size of its (combined) user base, or the frequency and extent of cross-interaction between the users or customers of different components;
 - (d) the core components within the ecosystem, and the listing applicant, are in substance controlled by the corporate WVR beneficiary; and

- (e) the growth and success of the listing applicant was materially attributable to its participation in and co-evolvement with the ecosystem; and the applicant is expected to continue to benefit materially from being part of that ecosystem.
45. While the term “ecosystem” is more often used in association with technology companies, a traditional economy company (e.g. financial services conglomerates) can develop a similarly complex network of innovative companies and other components around a technology-enabled platform and core products or services to form such an ecosystem.
46. We propose that the WVR attached to a corporate WVR beneficiary’s shares lapse permanently if the corporate’s intangible contribution to the WVR issuer (for example, the WVR issuer’s access to information and technologies shared within the ecosystem and the inclusion of the applicant in its overall vision and planning for the ecosystem) is substantially terminated or materially disrupted or suspended for a period exceeding 12 months.
47. We also propose that the terms of reference of a WVR issuer’s corporate governance committee include a requirement for it to confirm, on a six monthly and annual basis, that (after making due enquiries with the executive officers of the WVR issuer and other enquiries that they consider appropriate) they are not aware of any grounds for the WVR attached to a corporate WVR beneficiary’s shares to be terminated on the foregoing basis.

Size of corporate WVR beneficiary

48. The Exchange proposes that a prospective corporate WVR beneficiary must have an expected market capitalisation of not less than HK\$200 billion both (i) on the day of the listing; and (ii) based on its average market capitalisation over the preceding three months. A high market capitalisation requirement would limit the number of corporate shareholders potentially eligible for WVR to well-established companies and help to reduce the risk of WVR becoming commonplace in Hong Kong. The Exchange invites market feedback on the market capitalisation requirement and whether (and, under what circumstances) exceptions to the market capitalisation requirement should be provided.
49. For illustrative purposes only, there were 297 companies with a market capitalisation of HK\$200 billion or more, which is 4% of the 7,903 companies primary listed on the Exchange or a Qualifying Exchange as at December 2019. This should not be taken as meaning that all these companies would be eligible to be a corporate WVR beneficiary under our proposals.

Nature of the corporate WVR beneficiary

50. We propose that a corporate WVR beneficiary must have the following characteristics:
- (a) Experience in emerging and innovative sectors
- A corporate WVR beneficiary must demonstrate that either: (i) it itself is primarily an Innovative Company; or (ii) it has a track record of investment in, and contributions to, Innovative Companies.
- (b) Regulatory oversight

A corporate WVR beneficiary must be a company with a primary listing on the Exchange or a Qualifying Exchange to ensure their conduct is subject to regulatory oversight under a reputable legal and regulatory regime.

The WVR attached to a corporate WVR beneficiary's shares must lapse permanently if the corporate WVR beneficiary no longer remains listed on the Exchange or a Qualified Exchange.

51. The proposed requirements limit corporate WVR beneficiaries to an entity with business experience in emerging and innovative sectors and help to ensure that the conduct of the corporate WVR beneficiary is subject to a degree of regulatory oversight.

Size of listing applicant relative to corporate WVR beneficiary

52. As an additional ring-fencing measure, the Exchange proposes that the listing applicant must not represent more than 30% of the corporate WVR beneficiary in terms of market capitalisation at the time of listing. This restriction aims to help ensure that existing issuers cannot in substance introduce a WVR structure over a material part of its business/assets.

Corporate Representative

53. Individual WVR beneficiaries must be directors of a WVR issuer and their WVR must lapse if they cease to be a director.
54. For a corporate WVR beneficiary, we propose that at least one director of the listing applicant must be a Corporate Representative at the time of listing. A Corporate Representative must be an officer (as defined under the SFO) of the corporate WVR beneficiary who, in his or her capacity as a member of the board of directors of a WVR issuer, acts as a representative of the corporate WVR beneficiary.
55. The WVR attached to a corporate WVR beneficiary's shares would lapse permanently if:
- (a) the corporate WVR beneficiary no longer has a Corporate Representative on the listed issuer's board of directors for a continuous period of 30 days (unless the corporate WVR beneficiary is able to demonstrate to the Exchange's satisfaction that there are justifiable grounds for the absence (for example, illness)); or
 - (b) a Corporate Representative is disqualified by a court or tribunal of competent jurisdiction or found by the Exchange to be unsuitable as a director as a result of an action or decision taken in his or her capacity as director of the listed issuer save where the corporate WVR beneficiary is able to demonstrate to the Exchange's satisfaction that the action or decision was taken outside of the authority granted by the corporate WVR beneficiary to the Corporate Representative; or
 - (c) the corporate WVR beneficiary, whether or not through the Corporate Representative, has been convicted of an offence involving a finding that the beneficiary acted fraudulently or dishonestly.
56. This proposal aims to ensure that a corporate WVR beneficiary is both responsible and accountable for the performance of the issuer but is not punished for actions or decisions taken by the Corporate Representative for which they are not culpable.

Sunset clause

57. Since corporate entities do not have a natural lifespan, the Exchange proposes to mandate that the WVR of a corporate WVR beneficiary be subject to a time-defined sunset of not more than 10 years. The Exchange proposes that the WVR of the corporate WVR beneficiary could be renewed with the approval of independent shareholders⁸ for further periods of five years following the expiry of the previous term.

Corporates and individuals able to benefit from WVR in the same issuer

58. The Exchange proposes that, as long as the individual WVR beneficiary and the corporate WVR beneficiary can each meet the relevant suitability requirements (including demonstrating that they were each materially responsible for the growth of the business), it would not prohibit a listing applicant from concurrently having both a corporate WVR beneficiary and individual WVR beneficiaries.
59. The Exchange proposes not to mandate that a corporate WVR beneficiary and individual WVR beneficiaries of the same issuer are subject to the same sunset provisions. Where the issuer has both an individual and a corporate WVR beneficiary, the Exchange proposes that the time-defined sunset will only be mandated for the corporate WVR beneficiary. This is because the individual WVR beneficiary is already subject to an “event-based” sunset and the WVR held by the individual will not exist indefinitely.

Corporate WVR sunset

60. To ensure that independent shareholders can make a genuine decision on whether to renew the sunset on a corporate WVR beneficiary’s WVRs and ensure that this decision is not affected by the change in the distribution of voting power that may result, we propose that, if the WVR attached to a corporate WVR beneficiary’s shares falls away at the end of a sunset period, any individual WVR beneficiary will be required to convert part of his or her WVR shares into ordinary shares such that the individual WVR beneficiary will control the same proportion of voting power in the issuer both before and after the corporate WVR beneficiary’s WVR fall away.

Individual WVR sunset

61. If the sunsets that apply to corporate and individual WVR beneficiaries of the same issuer are not inter-conditional, there is a risk that they are triggered at different times. This may happen unpredictably if an “event-based” sunset applied to individual WVR beneficiaries is triggered.
62. Although this unpredictability may cause disruption and a material change to the control of an issuer when it occurs, this risk is currently tolerated for issuers that have multiple individual WVR beneficiaries. Also, an “event-based” sunset of an individual WVR beneficiary is not subject to a shareholder vote and so the concerns expressed above regarding the potential effect of the sunset on a voting decision (see paragraph 60) do not arise. For these reasons, the Exchange proposes that the WVR belonging to a corporate WVR beneficiary not be affected by the trigger of an individual WVR

⁸ Independent shareholder approval would be as currently defined in the Listing Rules. All WVR beneficiaries would be required abstain from voting on all renewal resolutions.

beneficiary's "event-based" sunset. This means that, if the sunset on an individual's WVR is triggered, the proportionate voting power enjoyed by the corporate WVR beneficiary (and any remaining individual WVR beneficiaries) may increase.

63. If an applicant decides to link the "event-based" WVR sunset of individuals with those of a corporate WVR beneficiary, it has the flexibility to do so under the proposed regime.

Request for comment

64. We would like to invite public comments on the proposals. Any final Rule amendments and details regarding implementation would be published in a conclusions paper after we have considered the public's views. When providing your comments please give reasons for your views. We also welcome any alternative suggestions regarding the conditions and safeguards we have set out in this paper.

Proposed timetable and next steps

65. Responses to this consultation paper should be submitted to us by 1 May 2020. The Exchange will take into account these responses and comments before deciding upon any further appropriate action and publishing a conclusions paper.

CHAPTER 1: INTRODUCTION

Background to this Consultation

The New Board Concept Paper and Rule Chapters Consultation

66. The New Board Concept Paper was published on 16 June 2017 pursuant to a holistic review by the Exchange, which identified certain gaps within Hong Kong's listing regime affecting its overall competitiveness versus other major global listing venues, particularly in respect of attracting companies from emerging and innovative sectors.⁹
67. Drawing on the feedback received in response to the New Board Concept Paper and subsequent regulatory discussions with the SFC, the Exchange determined in the New Board Concept Paper Conclusions (published on 15 December 2017) to proceed to expand the existing listing regime, which included a proposal to add a new chapter to the Rules to permit issuers from emerging and innovative sectors that have WVR structures to list, subject to additional disclosure and safeguards.¹⁰
68. The proposal in the New Board Concept Paper Conclusions limited a beneficiary of WVR to an individual. Listing Rules to permit individuals to benefit from WVR were subsequently set out in the Rule Chapters Consultation Paper published in February 2018.
69. The Rule Chapters Conclusions Paper was published on 24 April 2018. Following general support for the proposals, the Exchange decided to implement the Rules in Chapter 8A, with effect from 30 April 2018, to permit issuers to list with a WVR structure. The Exchange stated in the Rule Chapters Conclusions Paper that it would launch a separate consultation to explore the option of allowing corporate entities to benefit from WVR by 31 July 2018.

Proposal on Corporate WVR

70. In the course of the public consultation on the New Board, the Exchange had received feedback from a number of parties including the European Chamber of Commerce in Hong Kong¹¹, FSDC¹², the Law Society¹³ and the Hong Kong Securities Professionals Association¹⁴ that the Exchange should, additionally, consider permitting corporate entities to benefit from WVR.
71. The Exchange recognised that allowing corporate entities to benefit from WVR would be a significant new development from the proposed way forward in the New Board Concept Paper Conclusions and presented additional risks (see Chapter 3 of this consultation paper for a full discussion of these risks). Accordingly, the Exchange stated that it would launch a separate consultation within three months of the implementation of its WVR regime for individuals to explore the option of also allowing

⁹ The New Board Concept Paper is available [here](#).

¹⁰ The New Board Concept Paper Conclusions are available [here](#). In drafting the proposals on WVR issuers, the Exchange also referred to the 2015 WVR Concept Paper Conclusions.

¹¹ Please see response to Rule Chapters Consultation Paper ([here](#)).

¹² Please see response to Rule Chapters Consultation Paper ([here](#)).

¹³ Please see response to Rule Chapters Consultation Paper ([here](#)).

¹⁴ Please see response to Rule Chapters Consultation Paper ([here](#)).

corporate entities to benefit from WVR.

72. The public respondents who supported corporate WVR expressed the view that often high quality new economy companies have good reasons to have a corporate WVR beneficiary and limiting WVR beneficiaries to individuals would make the Hong Kong market less friendly to new economy enterprises and potentially diminish Hong Kong market's ability to attract such companies (see Chapter 2, paragraphs 96 and 97).
73. On the other hand, there were also a number of respondents, mostly made up of large institutional fund managers and corporate governance associations¹⁵ who, in the context of expressing their general opposition to WVR, expressed concerns regarding corporate WVR beneficiaries. In particular they voiced the concern that extending the regime in this way would enable WVR to exist in perpetuity, undermine the requirement for "intangible human capital" contributions from the WVR beneficiary and enable transfer of WVR through the transfer of a corporate WVR beneficiary's shares (see Chapter 3 for a full description of these risks). They also stated that additional restrictions, particularly in the form of a time-defined sunset, should be imposed if the Exchange does proceed with allowing corporate entities to benefit from WVR (see paragraphs 128 and 129).
74. On 25 July 2018, the Exchange published a news release stating that it had decided to defer the launch of the consultation. The Exchange stated that it would continue to engage with relevant stakeholders and work on the proposal with the aim of developing a broader consensus on the subject. This consultation paper incorporates comments and suggestions made during those further discussions.
75. The Exchange considers that the issue of whether to allow corporate entities to benefit from WVR forms an important part of the overall market debate on WVR. Accordingly, the Exchange considers that this is an issue which should be put forward for market consultation. However, the Exchange recognises that this is a complex issue and, in putting forward the proposal in this Consultation Paper for market feedback, has sought to put forward a proposal which seeks to balance various viewpoints and the need for a robust regulatory regime, and to fairly reflect the benefits and risks of such a regime.

The purpose of this Consultation

76. This consultation paper solicits market feedback on a proposal to extend the scope of WVR beneficiaries from individuals to corporates subject to a number of additional safeguards.

¹⁵ Including the Asian Corporate Governance Association. Please see their response to the Rule Chapters Consultation Paper ([here](#)).

CHAPTER 2: RATIONALE FOR ALLOWING CORPORATES WVR BENEFICIARIES

77. This chapter sets out the reasons for allowing corporates to be WVR beneficiaries. This chapter also provides data on the Mainland issuers listed in the US with corporate WVR beneficiaries between 2010 and November 2019 to provide context.

Business ecosystems

78. A listing applicant with a WVR structure must meet the suitability requirements set out in the WVR Guidance Letter. This includes the requirement that the applicant must be an “innovative company.” While the WVR Guidance Letter acknowledges that there is no single, static definition of such a company, it offers the following guidance:

The Exchange considers an innovative company for the purpose of the Main Board Listing Rules would normally be expected to possess more than one of the following characteristics:

- (a) its success is demonstrated to be attributable to the application, to the company’s core business, of (1) new technologies; (2) innovations; and/or (3) a new business model, which also serves to differentiate the company from existing players;*
 - (b) research and development is a significant contributor of its expected value and constitutes a major activity and expense;*
 - (c) its success is demonstrated to be attributable to its unique features or intellectual property; and/or*
 - (d) it has an outsized market capitalisation / intangible asset value relative to its tangible asset value.*
79. Many “innovative companies”, as described by the WVR Guidance Letter, do not evolve and develop in a vacuum. They often operate in a broader “ecosystem” that includes other companies, both within the same corporate group (e.g. a parent company and its subsidiaries) and independent companies.
80. Like the term “innovative company”, there is no universally agreed, precise definition of “ecosystem” in the business context. Nevertheless, the academic and business literature suggests some common themes and characteristics:
- (a) a lead company which owns or controls key components of the ecosystem, controls other companies’ access to the ecosystem, and drives the strategic direction of the ecosystem;
 - (b) a level of cooperation and integration between the lead company and other companies that goes beyond the traditional relationship of parent-subsidary or supplier-customer;
 - (c) synergistic benefits such that companies in the ecosystem create more value as a member of the ecosystem than they could independently. Such value may be difficult to measure in practice, but could include the enhanced value of its product or service offering to its customers as well as the revenue or profit generated by the company;

- (d) members of the ecosystem contribute to the value of the whole, rather than just leveraging the value created by other members;
 - (e) a “platform” or other infrastructure that makes it easy for companies to connect to or build upon the core product or service offering of the ecosystem and create new products and solutions; and
 - (f) elements similar to those identified for “innovative companies” in the WVR Guidance Letter: significant utilisation of technology and core IP (which could include software, applications, and proprietary know-how, as well as patents).
81. A significant number of the largest unlisted Mainland companies from emerging and innovative sectors¹⁶ are closely associated with a recognisable ecosystem, which has materially contributed to and shaped their historical growth. In these situations, the listing applicant’s strategy, development and prospects after its IPO will continue to be materially influenced by the strategy and vision of the ecosystem leader, and it would be in the interest of the listing applicant to continue to co-evolve with the companies and other components in the ecosystem. Like the personal contribution required of an individual WVR beneficiary, the synergistic benefits of the ecosystem and the strategy and vision of the leader in developing the ecosystem are difficult for a listing applicant to replicate on its own or with other business partners.
82. In its response to the Rule Chapters Consultation Paper the FSDC stated:
- “A lot of the “unicorns” in the TMT space ... could attribute a big part of their successes to the fact that their corporate parent was able to accelerate their growth by providing them with strategic guidance, channelling users and sharing other synergistic benefits. Disallowing a corporate parent from holding WVRs so as to maintain control, could, in our view abruptly lift a company from the ecosystem which is instrumental to its performance.”¹⁷*
83. Under the foregoing circumstances, there may be grounds for the board of the listing applicant to determine that it would be in the interest of the listing applicant to grant WVR to a corporate shareholder who is the ecosystem leader because it would encourage it to include the listing applicant in its common vision for the ecosystem, which is a core competitive advantage for the listing applicant, and reinforce the listing applicant’s position within the ecosystem. A mere contractual arrangement between the corporate shareholder and the company may not provide the same degree of assurance to the corporate shareholder. Allowing a corporate shareholder to maintain control over a listing applicant under the foregoing circumstances recognises the business reality and needs of many emerging and innovative companies, and would further the overall objective of attracting high calibre companies from those sectors to list in Hong Kong.
84. While the term “ecosystem” is more often used in association with technology companies, a traditional economy company (e.g. financial services conglomerates) can develop a similarly complex network of innovative companies and other components around a technology-enabled platform or a set of core products or

¹⁶ Source: HKEX, IFR, Bloomberg, FinanceAsia and Dealreporter

¹⁷ Please see response to Rule Chapters Consultation Paper ([here](#)), second and third page.

services to form such an ecosystem.

Benefits to the listing applicant

85. From the perspective of a listing applicant, a reinforced role within the corporate shareholder's ecosystem provides access to material intangible benefits such as users and data (e.g. through the smartphone platform of a major Mainland technology firm) that are difficult for it to replicate on its own and that considerably boost its development potential and gives it a significant competitive advantage over peers that do not have equivalent support. On balance, granting WVR to a corporate shareholder may be in the interests of the company if it encourages the corporate shareholder to include the listing applicant in its common vision for the ecosystem (which is a core competitive advantage for the listing applicant) and reinforces the applicant's position within the ecosystem.

Why corporate shareholders seek WVR

86. The New Board Concept Paper noted that entrepreneurial individuals who found emerging and innovative companies sometimes hold only minority stakes in those companies at listing. This is often the result of the prior dilution of their shareholdings through multiple venture capital funding rounds. When those companies wish to raise public funds via a listing on an exchange, the founder may seek to retain control of the company through a WVR structure. WVR structures enable these individuals to maintain control, despite their minority stakes, by granting them voting power that is disproportionate to their economic interest in the company.
87. In recent years, listed companies founded by these entrepreneurial individuals have grown large in size and developed "ecosystems" of services for their customers via technology enabled platforms or a set of core products or services (e.g. smartphone applications) which provide a range of synergistic benefits to companies within their networks or "ecosystems". This has resulted in a new wave of emerging or innovative start-up companies. These "ecosystem leaders" have either founded a number of these companies themselves or have taken investment stakes in promising start-ups founded by others. In addition to providing these start-ups with capital, the ecosystem leaders typically contributes to the start-up's growth through the synergistic benefits provided by its ecosystem; for example, through access to an ecosystem's users and data. A number of such start-ups have grown to the point at which they are valued at more than US\$1 billion and are commonly referred to as "unicorn companies".
88. An ecosystem leader may begin with a small investment stake in a unicorn company or be diluted down to a small stake over time after it has raised funds multiple times from other investors to acquire capital and strategic partnerships to develop the company. 38% of non-fund corporate WVR beneficiaries of US-listed Mainland WVR issuers¹⁸ held less than a controlling economic stake (i.e. less than 30% in share capital) at the time of the issuer's US listing (see paragraph 103 and 104). After listing, the ecosystem leader's interest may also be further diluted as a result of share-based employee incentive schemes which are commonly used to motivate and reward staff

¹⁸ Those that listed between 2010 and November 2019.

in innovative unicorn companies given the importance of human capital to their success. Accordingly, at IPO an ecosystem leader, in common with individual entrepreneurial founders, may seek to use WVR structures to maintain control of the unicorn company they have incubated.

89. WVR may also be sought as a means of retaining the balance of control of an issuer after listing. If a corporate does not have a controlling economic stake in a listing applicant, control may be shared between the corporate, individual founders and other investors. This may be formalised through contractual rights in a shareholders' agreement between those parties. The WVR issuer may want these shared control arrangements to continue post-listing, recognising that both individuals and corporate shareholders are important to its continued development. In these circumstances, allowing a corporate to benefit from WVR helps ensure that an issuer is controlled, after IPO, by the same group of shareholders who have been responsible for its past success. From the corporate shareholder's perspective on the other hand, the corporate shareholder often wishes to maintain or consolidate control over the issuer where the issuer's business forms an important part of the corporate shareholder's ecosystem, given the issuer's importance to the overall strategy and future development of the corporate shareholder.
90. Consolidation of the issuer for financial accounting purposes is often another motivation for corporates to seek WVR. Research analysts covering emerging and innovative sectors may place particular importance on revenue trends (scale, growth rates, etc.) when evaluating early-stage pre-profit businesses. Revenue is a key indicator of business performance and a main driver for valuation for high growth, early-stage or pre-profit businesses, in the absence of other financial metrics. When valuing the corporate shareholder of such companies, an analyst may choose not to include the revenue generated by a business within the ecosystem if the corporate does not include it within its consolidated accounts. In these circumstances, corporates may wish to use WVR to gain more than 50% voting power in the company and so continue to consolidate the WVR issuer into their financial results. It is noted that 65% of non-fund corporate WVR beneficiaries of US-listed Mainland WVR issuers held a minority stake at the time of their listing, i.e. less than a 50% stake (see paragraphs 103 and 104).

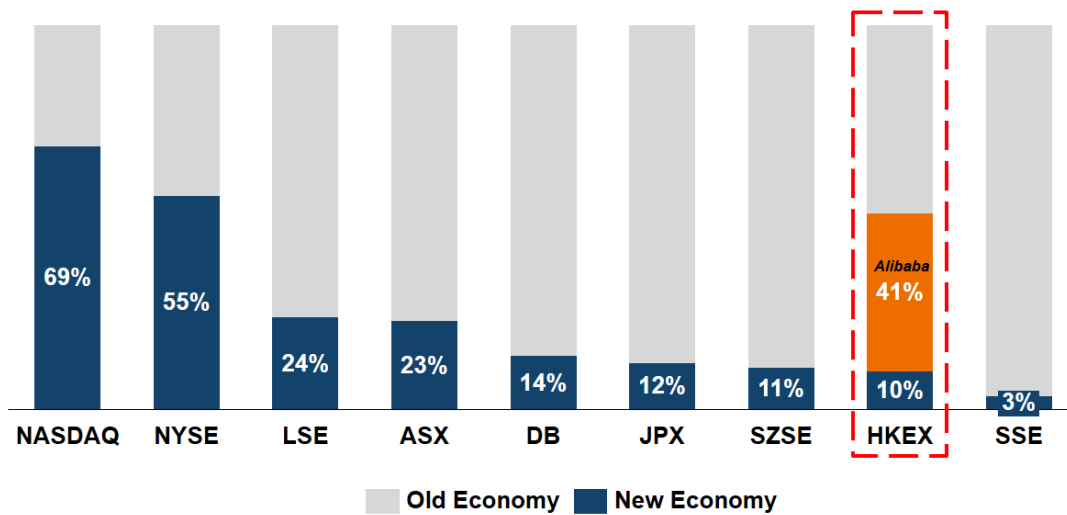
Diversification of the Hong Kong market

91. The New Board Concept Paper identified that a major challenge facing by the Hong Kong market was a lack of diversity and high sector concentrations, notably in the financial and property sectors which together make up 38% of the total market capitalisation of the Hong Kong market¹⁹. Companies from emerging and innovative sectors that have listed on our market in the past 10 years make up only 10% of our total market capitalisation (if Alibaba is excluded as an outlier), as compared with 69%, 55% and 24% for NASDAQ, NYSE and LSE, respectively²⁰ (see Figure 1).

¹⁹ Source: HKEX (based on Hang Seng Industry Classification) as of November 2019.

²⁰ Source: Bloomberg as of December 2019.

Figure 1 – Composition of new economy²¹ and old economy²² companies listed in the past 10 years²³ (based on market capitalisation)



Source: Bloomberg (as of December 2019)

92. Hong Kong has had minimal weightings in some of the fastest growing industries globally: Pharmaceuticals, Biotechnology & Life Sciences (3%); Healthcare Equipment & Services (1%); and Interactive Media & Services (10%, or 0.1% if Tencent is excluded)²⁴.
93. Partly as a consequence of this, Hong Kong’s market valuation in terms of price-to-earnings ratio is the lowest among its major peers, trading at 10.3x versus a peer group average of 20.5x²⁵ (see Figure 2).

²¹ Industries include Biotechnology, Health Care Technology, Interactive Media & Services, Internet & Direct Marketing Retail, IT Services, Software, Technology Hardware, Storage & Peripherals

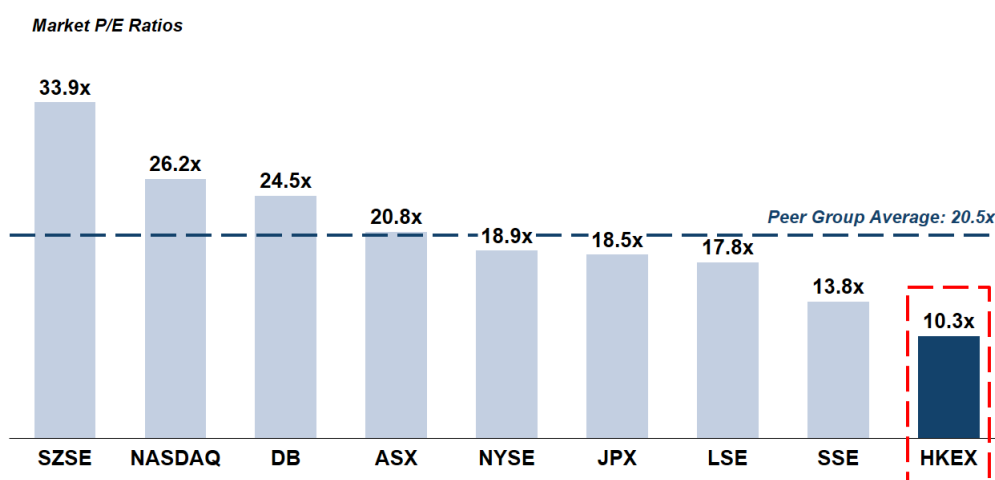
²² Industries that are not in the new economy (see footnote 21).

²³ As of December 2019.

²⁴ See footnote 20.

²⁵ See footnote 20.

Figure 2 – Market valuation of major financial markets



Source: Bloomberg (as of December 2019)

94. The New Board Concept Paper stated that there is a significant risk that our market’s low exposure to higher growth sectors will lead to stagnation and a lack of investor interest, further depressing valuations and in turn dampening appeal to prospective new issuers.

Progress

95. Progress has been made in addressing the challenges set out above by providing a route to listing for Biotech Companies (as defined in Rule 18A.01 of the Rules) that do not meet any of the Financial Eligibility Tests, issuers primary listed on a Qualifying Exchange and companies with WVR structures. These changes were implemented as three new chapters in the Listing Rules on 30 April 2018.

Competitive considerations

96. In recent years, Mainland emerging and innovative issuers have sought listings on US exchanges with corporate WVR beneficiaries, which the Hong Kong WVR regime does not accommodate. Recent examples include Youdao, Tencent Music Entertainment and Huya, three Mainland based internet software and services companies that listed on US exchanges in October 2019, December 2018 and May 2018, respectively. All three companies had a market capitalisation at listing of above HK\$10 billion, the threshold for a WVR listing in Hong Kong. Between 2010 and November 2019, 42% of Mainland issuers with WVR structures listed in the US had corporate WVR beneficiaries and these deals represented 48% of the total IPO funds raised²⁶.
97. As at November 2019, 42 out of the largest 50 largest China unlisted “unicorn companies” have non-fund corporate shareholders that are well established listed companies. Based on valuations from the latest rounds of fund raising activities, these

²⁶ Source: Bloomberg and Company Filings from U.S. Securities and Exchange Commission Filings from 2010 to November 2019 (including companies’ listing prospectuses and annual reports).

42 unicorn companies²⁷ have a combined market value of US\$540 billion (equivalent to 12% of Hong Kong securities market capitalisation). While issuers' selection of listing venue takes into account many considerations (including aftermarket liquidity, analyst coverage, investors' familiarity with the issuer's brand or industry, and other factors), the availability of corporate WVR structures may form part of their consideration. If the Exchange's WVR regime is not amended to accommodate corporate WVR beneficiaries, it could be expected that companies for whom this is an issue may continue to choose the US over Hong Kong for their IPOs. Investors in Hong Kong would then lose the opportunity to invest in a more diverse range of companies in their home market where they have the convenience of trading in their own time zone and have the protections and safeguards provided to them by Hong Kong law and the Listing Rules.

Review of empirical evidence from the US market

98. As stated in the New Board Concept Paper and Rule Chapters Consultation Paper, WVR structures have been a feature of many emerging and innovative companies, particularly for Mainland companies that have listed in the US.
99. In the following analysis, we reviewed Mainland WVR issuers²⁸ that listed in the US between 2010 and November 2019 (total: 91 companies)²⁹ and set out our key observations.

It is common practice among Mainland WVR issuers listed in the US to grant WVR to corporate shareholders

100. Corporate WVR beneficiaries can be classified into two distinct groups:
- **Non-fund corporate shareholders**³⁰ – who operate businesses that are not investment related (e.g. the parent companies of spin-offs or strategic investors that operate their own non-investment related businesses).
 - **Fund corporate shareholders** – who are investment entities or funds (e.g. private equity / venture capital).
101. Among the sample of 91 Mainland US-listed WVR issuers, 38 issuers (42%) granted WVR to corporate shareholders. Of these 38 issuers, 15 (16%) of them granted WVR to fund corporate shareholders only, 13 (14%) granted WVR to non-fund corporate shareholders only, and 10 (11%) granted to both fund and non-fund corporate shareholders (See Figure 3).

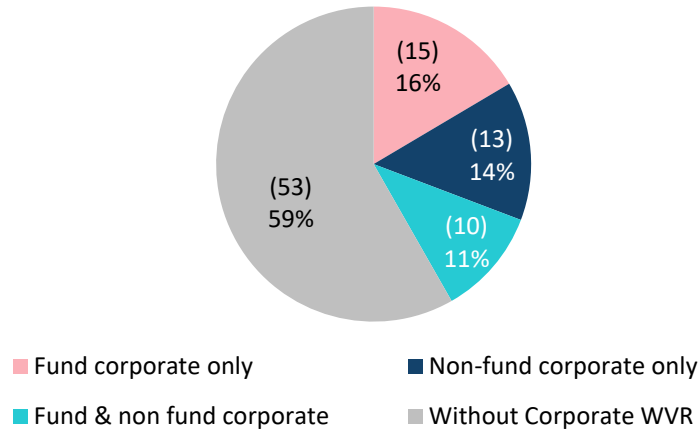
²⁷ All of these companies meet the market capitalisation requirement of HK\$10 billion under the existing WVR regime.

²⁸ Excluding Alibaba because it has a non-share based WVR structure and its size is an outlier.

²⁹ Source: Bloomberg as of November 2019.

³⁰ Entities that are used by individuals in the form of trust or SPV to hold their shares are not considered as corporate shareholders.

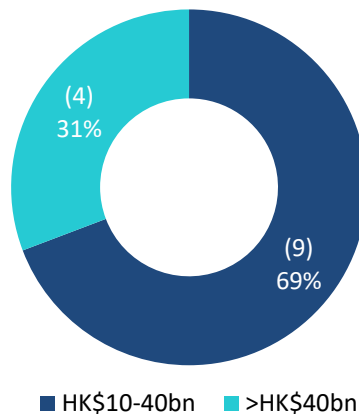
Figure 3 – WVR beneficiaries of Mainland US-listed WVR issuers (no. of companies)



The majority of WVR issuers with non-fund corporate WVR beneficiaries have large market capitalisations

102. Among the 23 Mainland WVR issuers with non-fund corporate WVR beneficiaries, 13 of them had market capitalisations greater than HK\$10 billion at listing and so would have met the minimum market capitalisation threshold set out in the Listing Rules in Hong Kong for companies with WVR structures. Of these, nine (69%) had a market capitalisation between HK\$10 to 40 billion and four (31%) had a market capitalisation greater than HK\$40 billion (See Figure 4).

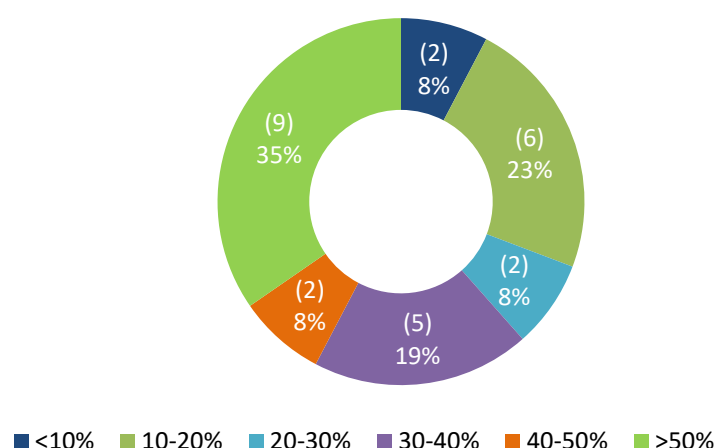
Figure 4 – Distribution of Mainland US-listed WVR issuers with non-fund corporate WVR beneficiaries by market capitalisation (no. of companies; only showing companies with >HK\$10 billion market capitalisation)



Most non-fund corporate WVR beneficiaries hold a minority shareholding at listing

- 103. 17 non-fund corporates were the WVR beneficiaries of the 23 Mainland WVR issuers mentioned above and their holdings were mostly minority economic stakes (i.e. they held less than a 50% of share capital in the Mainland WVR issuer)³¹.
- 104. Some of the 23 Mainland WVR issuers had multiple non-fund corporate investors and several of these investors had holdings in more than one Mainland WVR issuer. In total, there were 26 holdings. Of these 26, 17 (65%) were minority economic stakes at listing. 10 of them (38%) were less than a controlling economic stake (i.e. less than 30% of share capital). On average, these non-fund corporate holdings represented a 38% stake at listing (See Figure 5).

**Figure 5 – Breakdown of the 26 non-fund corporate holdings in Mainland US-listed WVR issuers
(Percentage shareholding in the issuer at listing)**



Most non-fund corporate WVR beneficiaries come from the emerging and innovative sectors

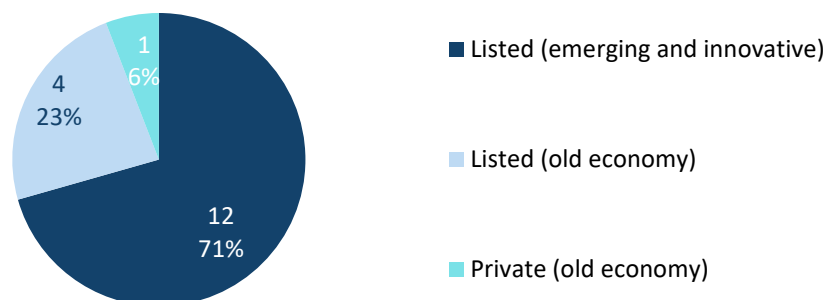
- 105. Most non-fund corporate WVR beneficiaries are from emerging and innovative sectors but a significant minority (29%) are from old economy sectors (See Figure 6)³².

³¹ Some corporates such as Tencent is a non-fund corporate WVR beneficiary in seven Mainland issuers.

³² Source: Bloomberg as of November 2019.

Note: At the time of the listing of Huami, although Xiaomi (a non-fund corporate WVR beneficiary of Huami) is not yet listed at the Exchange, it has subsequently listed on SEHK and Xiaomi is also a corporate WVR beneficiary of Viomi Technology after its listing.

Figure 6 – Non-fund corporate WVR beneficiaries by nature (no. of companies)



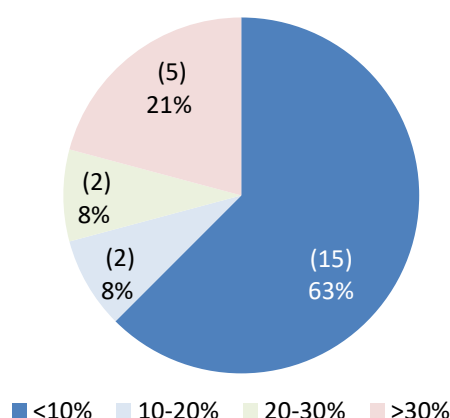
Most non-fund corporate WVR beneficiaries are themselves listed companies on SEHK or a Qualifying Exchange

- 106. All except one³³ of the 17 non-fund corporate WVR beneficiaries are listed companies.
- 107. 12 of them are listed on the SEHK or Qualifying Exchanges (NASDAQ / NYSE / LSE Main + Premium). The four remaining listed ones are listed on the Tokyo Stock Exchange and the Australian Securities Exchange.

Most non-fund corporate WVR beneficiaries are 10 times larger than the company in which they hold WVR

- 108. At the time of the IPO of the Mainland WVR issuer, the non-fund listed corporate WVR beneficiaries referred to above were generally much larger, in terms of market capitalisation, than the issuer. In more than half of cases, the corporate WVR beneficiary was more than 10 times larger, by market capitalisation³⁴ (See Figure 7).

Figure 7 – Market capitalisation of issuer as percentage of listed corporate WVR beneficiary (no. of companies)

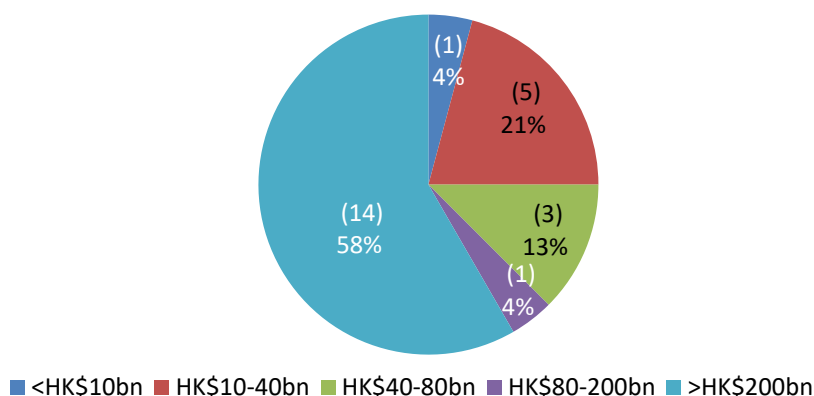


³³ Dalian Wanda Group Co., Ltd.

³⁴ Source: Bloomberg as of November 2019 (analysis based on market capitalisation at the point of issuer listing). The market capitalisation of one corporate WVR beneficiary was not known at the time of the IPO of the investee Mainland WVR issuer.

109. In terms of the market capitalisation of the corporate WVR beneficiaries, at the time of the IPO of the Mainland WVR issuer, the market capitalisation of one (4%) was less than HK\$10 billion, the market capitalisation of nine (38%) was between HK\$10-200 billion and the market capitalisation of 14 (58%) was greater than HK\$200 billion (See Figure 8).

Figure 8 – Market capitalisation distribution of the listed corporate WVR beneficiaries (no. of companies)



The most common sunset mechanism is the “event-based” automatic conversion of WVR shares into ordinary shares upon transfer. A time-defined sunset clause is not common.

110. Among the 38 Mainland US-listed WVR issuers (see paragraph 101) that granted WVR shares to fund or non-fund corporate shareholders, 34 of them (89%) have sunset clauses.
111. Event-based sunset clauses are the most common approach among the 38 issuers and can be classified into two separate types:

| Event triggering sunset | No. of companies with such clause (percentage of total) |
|--|---|
| Transfer of WVR shares to any person or entity that is not an affiliate as defined in prospectus | 34 out of 38 (89%) |
| The aggregate number of WVR shares falls below a certain threshold | 10 out of 38 (26%) |

112. None of the 38 Mainland US-listed WVR issuers has a time-defined sunset clause in addition to event-based sunset clauses.

CHAPTER 3: RISKS RELATING TO CORPORATE WVR BENEFICIARIES

Introduction

113. As stated in the introduction to Chapter 8A of the Rules, the Exchange believes that the “one-share, one-vote” principle continues to be the optimum method of empowering shareholders and aligning their interests in a company.
114. Allowing corporate entities to benefit from WVR will further deviate from this general principle, and will add an additional level of complexity to the Rules if implemented.
115. Accordingly, the Exchange would only be prepared to consider listing applications of companies seeking to deviate from this principle subject to the conditions and safeguards set out in Chapter 8A or Chapter 19C supplemented by the proposals set out in Chapter 4 of this consultation paper.

Shareholders’ interests could be misaligned

116. Empirical studies argue that Controlling Shareholders may have less of a disincentive to extract benefits from a company for themselves at the expense of other shareholders as their economic interest in the company falls³⁵. Allowing corporates to control companies through a WVR structure amplifies this misalignment of interests as a WVR structure allows a Controlling Shareholder to maintain control whilst holding a disproportionately smaller equity interest in a company.
117. Moreover, corporate WVR beneficiaries themselves could have Controlling Shareholders and a WVR structure. Such Controlling Shareholders would be in a position to exercise majority voting power in a listing applicant with only a small and indirect stake in it. The listing applicant may represent a very small part of a much larger corporate group and therefore a relatively minor part of the ultimate Controlling Shareholder’s overall economic interests. Consequently, there is a greater risk of a misalignment of interests, which could be substantial in extent, between the ultimate Controlling Shareholder and the listing applicant’s shareholders as a whole. This risk is potentially further exacerbated if the corporate WVR beneficiary is itself controlled through WVR.
118. This risk was described, as follows, by Our Hong Kong Foundation in its submission to the Rule Chapters Consultation Paper:
- “... allowing a corporate shareholder to be the WVR beneficiary may set the stage for a power pyramid. A corporate shareholder with WVR shares could wield a great amount of power with a relatively small stake. For example, if Person A is the WVR beneficiary of Company X, which is in turn the WVR beneficiary of Company Y through*

³⁵ For example, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer and Robert W. Vishny, “Investor Protection and Corporate Governance” (1999); Stijn Claessens, Simeon Djankov and Larry H.P. Lang, “The separation of ownership and control in East Asian Corporations” (2000); and Mara Faccio and Larry H.P. Lang, “The ultimate ownership of Western European corporations” (2002).

WVR shares in Y, Person A would be able to make major decisions in Company Y just by holding a small but controlling stake in Company X (and perhaps no direct stake in Company Y). In this case, the interests of the ultimate controller (Person A) may not align with those of the investors of Company Y, leading to potential moral hazard problems.”³⁶

WVR structures could become more widespread

119. The current WVR regime permits only individuals to benefit from WVR. These individuals must have been materially responsible for the growth of the business of the WVR issuer, by way of their skills, knowledge and/or strategic direction in circumstances where the value of the issuer is largely attributable or attached to intangible human capital. Only a relatively small number of individuals are able to meet these requirements.
120. Allowing all corporates to benefit from WVR may result in a proliferation of such rights and WVR structures becoming commonplace and synonymous with the Hong Kong market. 38 (42%) of the 91 Mainland companies with WVR listed in the US between 2010 and November 2019 have corporate WVR beneficiaries. In 25 out of these 38 companies, WVR were granted to private equity/venture capital corporate shareholders whose holdings primarily represented a financial investment only (see paragraph 101).
121. This risk was raised by the Asian Corporate Governance Association in its submission to the Rule Chapters Consultation Paper, in which they stated:
- “... we are deeply concerned about a scenario in which acquisitive WVR companies would then spawn additional WVR companies with a cascading loss of governance rights for investors.”³⁷*
122. The Exchange could limit WVR only to corporate shareholders that play a pivotal role in an ecosystem (see paragraphs 78 to 84), which the listing applicant materially benefits from, to justify them having WVR and on a basis that is akin to the contribution required of an individual WVR beneficiary. However, the Exchange would be required to make a subjective judgement as to whether such an ecosystem exists and the nature and extent of the corporate shareholder’s contribution to the listing applicant. Consequently, this test, on its own, cannot be the primary ring-fencing measure.

Exercise of WVR

123. An individual WVR beneficiary is permitted to exercise WVR on the basis of the skills, knowledge and/or strategic direction that they have materially contributed to the issuer’s growth and success prior to listing. The current WVR regime prohibits individual beneficiaries from transferring their WVRs to other persons as they have not made this contribution.
124. The senior management and the board of a corporate WVR beneficiary exercise its

³⁶ Our Hong Kong Foundation submission to Rule Chapters Consultation Paper, page 7 (see [link](#)).

³⁷ Asian Corporate Governance Association submission to Rule Chapters Consultation Paper, page 2 (see [link](#)).

WVR. These persons will change over time and, themselves, are unlikely to have made the intangible contribution to the development of the WVR issuer to justify them exercising WVR.

125. This risk was a concern of the Hong Kong Investment Funds Association who stated in their submission to the Rule Chapters Consultation Paper that:

*“... there is the potential risk that Corporate WVRs can become traded entities themselves, creating a secondary market for “control ownership” as distinct from economic ownership.”*³⁸

WVRs could be exercised by corporates without them owing fiduciary duties to the company and its shareholders

126. Under the current regime, an individual beneficiary’s WVR will lapse if they are no longer a director, are no longer able to perform the duties of a director or are deemed by the Exchange to no longer meet the requirements of a director. The purpose is to ensure that the individual WVR beneficiary, as part of the board, owes fiduciary duties to the WVR issuer and its shareholders and is responsible and accountable for its performance.
127. Unlike individuals, corporates cannot themselves act as directors. This means corporate WVR beneficiaries cannot owe fiduciary duties to the issuer and their management conduct and competence are not regulated under the Rules. Likewise the senior management and the board of a corporate WVR beneficiary will not, on a personal basis, owe any fiduciary duty or other responsibility to the listing applicant or its shareholders (unless they are also appointed to the board of the listing applicant).

WVR could exist indefinitely

128. Under the current regime, an individual’s WVR must lapse when that individual dies. This means that the WVR will fall away over time. Allowing corporate entities, which do not have a natural limit to their lifespan, to benefit from WVR could potentially result in WVR structures existing indefinitely.
129. Several respondents to the Rule Chapters Consultation Paper expressed this concern. The Hong Kong Investment Funds Association wrote, in their submission to the Rule Chapters Consultation Paper that:
- “By suggesting [WVR] can also be held by a Corporate entity implies that these rights will be able to exist in perpetuity. By limiting the WVR rights to individuals actively involved in the company at least suggests there is a finite limit to the exercise of these rights. However, it is questionable how this can be avoided with a Corporate WVR holder unless sunset clauses are permitted.”*³⁹

³⁸ Hong Kong Investment Funds Association submission to Rules Chapters Consultation Paper, page 3 (see [link](#)).

³⁹ See footnote 38.

CHAPTER 4: PROPOSED REQUIREMENTS FOR CORPORATE WVR BENEFICIARIES

Introduction

130. The Exchange is consulting the market on a proposal to broaden the existing Chapter 8A of the Rules to permit corporate entities to benefit from WVR, subject to the additional conditions and safeguards outlined below. These measures are designed to strike a balance between addressing the reasons for extending the regime (see Chapter 2) whilst mitigating the risks (see Chapter 3). The Exchange welcomes views on the proposals and any alternative suggestions from respondents on the best way to strike the appropriate balance on this complex topic.
131. For the avoidance of doubt, failure to meet the additional conditions and safeguards set out in this chapter would not prevent a listing applicant from listing. It would only prevent them from listing with a corporate WVR beneficiary.

Question 1 Do you agree, in principle, that the Exchange should expand the existing WVR regime to enable corporate entities to benefit from WVR provided that they meet appropriate conditions and safeguards?

Please give reasons for your views. If your agreement is conditional upon particular aspect(s) of the proposed regime being implemented, please state what those aspect(s) are.

Structure

132. Assuming there is the appropriate support to Question 1, we propose to amend Chapter 8A of the Rules and issue a new guidance letter or amend the WVR Guidance Letter to permit corporate entities to benefit from WVR under the existing Chapter 8A regime for the listing of companies with a WVR structure. Regardless of whether you have answered “yes” to Question 1, we encourage you to respond to the following questions which may shape the conditions and safeguards that accompany a corporate WVR regime (if one were introduced).
133. Unless otherwise stated, all other requirements applicable to a company with a WVR structure will also apply to a company with a corporate WVR beneficiary (e.g. the requirement for a compliance adviser on a continuing basis). Amendments will be made to the suitability criteria in the WVR Guidance Letter and to the ongoing requirements in Chapter 8A to make these relevant to a corporate WVR beneficiary.

Proposals

Position in group, minimum economic interest and maximum votes per share

134. The following measures aim to address the risk that extending the WVR regime to allow a corporate to have WVR amplifies the potential misalignment of interests of shareholders (see paragraphs 116 to 118).

Position in group

135. The Exchange proposes that a corporate WVR beneficiary must be an Eligible Entity or a wholly owned subsidiary of an Eligible Entity (and provided that only the Eligible Entity could direct the voting of the WVR shares held by the corporate WVR beneficiary). This provides the corporate WVR beneficiary with a degree of flexibility in terms of corporate structure to hold WVR shares through a special purpose vehicle, while ensuring that the management and the board of directors of the Eligible Entity are the only persons who are able to direct the voting of WVR shares.
136. The Exchange recognises that a corporate WVR beneficiary itself may be subject to a change of control, which may effectively result in a change to the ultimate controller of WVR shares it holds in the issuer. The Exchange considers that such an event should not affect the WVR of the corporate WVR beneficiary, since eligibility for WVR was established by the corporate WVR beneficiary and not by its controller. Requiring the WVR to fall away if there is a change of control in the corporate WVR beneficiary would amount to a poison pill. Accordingly the Exchange does not propose to require the WVR of a corporate WVR beneficiary to fall away if there is a change of control in the corporate WVR beneficiary.

Question 2 Do you agree that a corporate WVR beneficiary must be either the Eligible Entity or a wholly owned subsidiary of the Eligible Entity?
Please give reasons for your views. In your response, you may propose additional or alternative measures to the ones discussed in this paper.

Minimum economic interest

137. Under the existing Rules, all the individual beneficiaries of a company's WVR structure are required, collectively, to beneficially own a minimum of at least 10% of the underlying economic value in the applicant's total issued share capital at the time of listing (see Rule 8A.12). This helps ensure that, at the time of its initial listing, the economic interest in the company held by all WVR beneficiaries, as a group, is large enough, in dollar terms, to align their combined interests, to some extent, with those of other shareholders. Individual WVR beneficiaries are not required to maintain a minimum interest in the WVR issuer on a continuous basis.
138. For a corporate WVR beneficiary, the Exchange proposes to require it to beneficially own a minimum of at least 30% of the underlying economic interest of the listing applicant's total issued share capital and be the single largest shareholder in the applicant at the time of listing (save for any individual WVR beneficiary). The Exchange also proposes that the WVR attached to a corporate WVR beneficiary's shares lapse if it fails to maintain at least a 30% interest on an ongoing basis.
139. These proposals recognise that, with at least a 30% interest, the corporate WVR beneficiary would normally be regarded as having "de facto control" of the relevant listing applicant even without WVR and would be considered a Controlling Shareholder under both the Listing Rules and the Takeovers Code. Consequently, allowing a

corporate to exercise WVR will have less of a practical impact on the rights of other shareholders.

140. The US exchanges do not impose a minimum economic interest requirement for a corporate WVR beneficiary and, as noted above (see paragraphs 103 and 104) 38% of the corporate WVR beneficiaries in the US had an economic interest below 30% at listing. Consequently, the Exchange's proposal may put Hong Kong at a competitive disadvantage to US exchanges and dissuade some companies from listing here.
141. The Exchange seeks views from respondents as to whether it may be acceptable for a corporate WVR beneficiary to have a lower level of economic interest of at least 20% but less than 30%. This would still be a significant shareholding and may, in combination with the other proposed conditions proposed in this consultation paper, be sufficient to align the ultimate Controlling Shareholder's interests with those of minority shareholders. However, respondents should note the points under paragraph 139 above as to the rationale for proposing a 30% economic interest threshold.
142. If respondents believe that an economic interest of less than 30% is acceptable, the Exchange seeks views on whether additional conditions and limits should be imposed in such circumstances and, if so, what these should be.

Question 3 Recognising that, with at least a 30% economic interest, the corporate WVR beneficiary would be regarded as having "de facto control" of the relevant listing applicant even without WVR and would be considered a Controlling Shareholder under both the Listing Rules and the Takeovers Code, the Exchange has proposed a minimum shareholding requirement for a corporate WVR beneficiary to own at least 30% of the economic interest in the listing applicant. Do you agree with the proposed requirement for a corporate WVR beneficiary to: own at least 30% of the economic interest in the listing applicant; be the single largest shareholder at listing; and that its WVR should lapse if it fails to maintain at least a 30% economic interest on an ongoing basis?

Please give reasons for your views.

Question 4 If your answer to Question 3 is "no", do you propose a different economic interest in order for the applicant to benefit from WVR and, if so, what this should be? Do you believe that any other conditions and requirements should be imposed if a lower economic interest threshold is allowed? If so please state these conditions/requirements.

Please give reasons for your views.

In your response, you may propose additional or alternative measures to the ones discussed in this paper.

Exception from requiring share issues on a pre-emptive basis without shareholder approval

143. Under the Listing Rules, a listed issuer is prohibited from issuing shares on a non-pre-emptive basis without a specific or general mandate approved by shareholders.⁴⁰
144. If the requirement for the corporate WVR beneficiary to hold at least 30% of economic interest in the issuer on an ongoing basis is adopted, the Exchange proposes to introduce an exception in the existing Rules to permit an issuance of shares on a non-pre-emptive basis to a corporate WVR beneficiary without shareholders' approval provided that:
- (a) The subscription is solely for the purpose and to the extent necessary to allow the corporate WVR beneficiary to comply with the 30% economic interest requirement referred to in paragraph 138 above;
 - (b) such shares do not carry WVR;
 - (c) the subscription will be on the same terms or better (from the perspective of the listed issuer) as the original issuance that triggered the need for the corporate WVR beneficiary to subscribe for additional shares in order to comply with the 30% economic interest requirement; and
 - (d) the subscription price paid by the corporate WVR beneficiary for the anti-dilution shares is fair and reasonable (having regard, among other things, to the average trading price of the listed issuer's stock over the preceding three months).
145. Where appropriate, the Exchange may require the listed issuer to demonstrate the reasonableness of the subscription price to be paid by the corporate WVR beneficiary, particularly in circumstances where the original issuance concerns an issue of shares as consideration for acquisitions or whether there are factors indicating that the original issuance may not have been conducted on an arm's length basis (for example an opinion from an independent financial adviser may be required in appropriate circumstances).

Question 5 Do you agree with the proposed exception from the Rules to permit an issuance of shares on a non-pre-emptive basis to a corporate WVR beneficiary without shareholders' approval if the conditions set out in paragraph 144 of the consultation paper are satisfied?

Please give reasons for your views. If your answer to Question 5 is "no", and you agree with the requirement for the corporate WVR beneficiary to hold at least 30% of economic interest in the issuer on an ongoing basis, what alternative measures would you propose to enable such minimum economic interest to be maintained on an ongoing basis?

In your response, you may propose additional or alternative measures

⁴⁰ Listing Rule 13.36

to the ones discussed in this paper.

Corporate WVR beneficiary must have an interest of 10% or more and material involvement for at least two financial years

146. To demonstrate “de facto control” the Exchange proposes that a corporate WVR beneficiary must hold an economic interest of at least 30% in the listing applicant at the time of listing (see paragraphs 138 and 139 above). In most cases, we would assume that a corporate WVR beneficiary would need to hold close to that amount during its track record period so as to be able to meet the 30% threshold at listing. However, we do not propose imposing a requirement that a corporate WVR beneficiary control the listing applicant, be its single largest shareholder or have an interest of 30% or more economic interest in the listing applicant throughout the track record period.
147. Instead, to provide flexibility, the Exchange proposes that a corporate WVR beneficiary must have held an economic interest of not less than 10% of the listing applicant and have been materially involved in the management or its business (for example through the inclusion of the business of the applicant in its ecosystem) for a period of not less than two financial years⁴¹ prior to the date of the listing application. An economic interest of at least 10% would demonstrate that the corporate WVR beneficiary has had a material economic interest in the applicant during that period in addition to its material involvement in the applicant’s management or business.
148. For a corporate WVR beneficiary that holds an economic interest between 10% and 30% during the two financial years prior to the date of the listing application, it may increase its shareholding in the listing application to 30% in compliance with existing Rules and guidance on pre-IPO investments and placing to existing shareholders.⁴²
149. A corporate shareholder that acquires, or materially increases, its stake in a listing applicant shortly before listing in order to benefit from WVR will not be considered suitable to hold WVR. Accordingly, the Exchange will review the corporate WVR beneficiary’s interest in the listing applicant (and any change in the interest in the two financial years prior to the date of the listing application) and its role in assessing the suitability of the corporate WVR beneficiary.

Question 6 Do you agree with the proposed requirement that a corporate WVR beneficiary must have held an economic interest of at least 10% in, and have been materially involved in the management or the business of, the listing applicant for a period of at least two financial years prior the date of its application for listing?

Please give reasons for your views. If your answer to Question 6 is “no”, do you agree that a historical holding requirement should be

⁴¹ A corporate WVR beneficiary must meet the minimum 10% economic interest requirement for at least two financial years and any stub period up to the date on which it increases its stake in the applicant to meet the minimum 30% economic interest requirement described in paragraphs 138 and 139 above.

⁴² See HKEX-GL43-12 “Guidance on Pre-IPO investments” and HKEX-GL85-16 “Placing to connected clients, and existing shareholders or their close associates, under the Rules”.

imposed? If so what alternative threshold or holding period would you propose?

In your response, you may propose additional or alternative measures to the ones discussed in this paper.

Maximum five votes per share

150. Individual WVR beneficiaries are entitled to benefit from shares that carry no more than ten times the voting power of ordinary shares, on any resolution tabled at the issuer's general meetings.
151. For a corporate WVR beneficiary, the Exchange proposes that it be entitled to benefit from shares that carry no more than five times the voting power of ordinary shares.
152. This is proposed so as to cap the extent of control that a corporate WVR beneficiary can exercise and limit the effect of any misalignment of interests between the Controlling Shareholder of a corporate WVR beneficiary and minority shareholders. This means that, if a corporate WVR beneficiary held the minimum 30% economic interest, they could have a maximum of 68% of the voting power at general meetings.

Question 7 Do you agree that the maximum ratio of weighted votes permitted for shares of a corporate WVR beneficiary should be lower than the maximum ratio permitted for individual WVR beneficiaries? Do you agree that this ratio should be set at no more than five times the voting power of ordinary shares? If not, what is the maximum ratio that you would propose?

Please give reasons for your views.

In your response, you may propose additional or alternative measures to the ones discussed in this paper.

Ring-fencing

153. To reduce the risk of WVR proliferating and becoming commonplace in Hong Kong, the following measures are proposed to “ring-fence” corporate WVR beneficiaries to candidates who would serve the overall objective to attract high-calibre candidates from emerging and innovative sectors to list in Hong Kong.

Contribution by the corporate WVR beneficiary

154. As stated in paragraphs 4.4 and 4.5 of the WVR Guidance Letter, for an individual beneficiary to qualify for WVR, it must be demonstrated that he or she must have an active executive role within the business and was materially responsible for the growth of the listing applicant; and the individual must remain as a director to retain his WVR.
155. Like the personal contribution required of an individual WVR beneficiary, the synergistic benefits of the ecosystem and the strategy and vision of the leader in developing the ecosystem are difficult for a listing applicant to replicate on its own or with other business partners. The benefits provided by an ecosystem provide a basis for the board of the applicant to determine that it is in the interest of the applicant to

issue WVR shares to the lead company within the ecosystem – because material future benefits will accrue to the applicant as a result of the corporate shareholder’s control which reinforces the applicant’s role within the ecosystem.

156. Accordingly, for a listing applicant to grant WVR to a prospective corporate WVR beneficiary, the listing applicant and the prospective corporate WVR beneficiary is expected to demonstrate that an ecosystem with at least the following characteristics exists between them:
- (a) there is a community of companies (which includes the listing applicant) and other components (which may be non-legal entities such as business units of the corporate shareholder, user or customer bases, applications, programs or other technological applications) that has grown and co-evolved around a technology or know-how platform or a set of core products or services, owned or operated by the prospective corporate WVR beneficiary (for the avoidance of doubt, such platform or products or services does not need to represent the main business of the prospective corporate WVR beneficiary);
 - (b) the components within the ecosystem (including the listing applicant) both benefit from, and contribute to, the ecosystem by sharing certain data, users and/or technology (for example, software, applications, proprietary know-how or patents);
 - (c) the ecosystem must have attained meaningful scale, which will normally be measured by reference to indicators such as the number and technological sophistication of the components connected to the ecosystem, the size of its (combined) user base, or the frequency and extent of cross-interaction between the users or customers of different components;
 - (d) the core components within the ecosystem, and the listing applicant, are in substance controlled by the corporate WVR beneficiary; and
 - (e) the growth and success of the listing applicant was materially attributable to its participation in and co-evolution with the ecosystem; and the applicant is expected to continue to benefit materially from being part of that ecosystem.
157. As highlighted by these characteristics, in order for a corporate WVR beneficiary to qualify for WVR, its contribution to the listing applicant must be of a nature that it cannot be easily replicated or substituted by other means. Accordingly, a mere financial investment and ordinary non-financial contribution will not constitute sufficient basis for a corporate shareholder to be entitled to WVR. For this reason, a corporate WVR beneficiary cannot be a private equity/venture capital company. Non-financial contribution by a corporate shareholder (e.g. the contribution of know-how or strategic advice) that is available through other means without undue difficulty (e.g. by hiring a team of scientists or experienced managers) would also be insufficient to justify WVR.
158. While the term “ecosystem” is more often used in association with technology companies, a traditional economy company (e.g. financial services conglomerates) can develop a similarly complex network of innovative companies and other components around a technology-enabled platform and core products or services to form such an ecosystem.

159. The Exchange would like to seek views on whether there are other circumstances relevant to innovative companies that may justify granting WVR to a corporate shareholder.

Ongoing requirement to provide access to the qualifying ecosystem

160. We propose that the WVR attached to a corporate WVR beneficiary's shares lapse permanently if the corporate's contribution to the WVR issuer (for example, the WVR issuer's access to information and technologies shared within the ecosystem and the inclusion of the applicant in its overall vision and planning for the ecosystem) is substantially terminated or materially disrupted or suspended for a period exceeding 12 months.
161. An WVR issuer is required by the Rules to establish a corporate governance committee to, alongside other duties, review and monitor all risks relating to the issuer's WVR structure.⁴³ We propose that a WVR issuer's corporate governance committee also confirm, on a six month and annual basis, that (after making due enquiries with the executive officers of the WVR issuer and other enquiries that they consider appropriate) they are not aware of any grounds for the WVR attached to a corporate WVR beneficiary's shares to be terminated on the foregoing basis. We propose that the foregoing requirement be set out in the committee's terms of reference.
162. The provision, by the corporate WVR beneficiary, of an ecosystem that materially benefits a listed WVR issuer on an ongoing basis may likely result in transactions between them that would be caught, under the Exchange's connected transaction Rule regime, as continuing connected transactions. The existing Chapter 8A Listing Rules for WVR issuers, which would also be applicable to issuers with a corporate WVR beneficiary, extend this regime further by requiring the corporate governance committee to review and monitor all risks related to connected transactions and make a recommendation to the board on each of them.
163. The Exchange would like to seek views as to whether there are other conditions or requirements that should be imposed on the corporate WVR beneficiary or the WVR issuer on an ongoing basis.

Question 8 In summary, the Exchange recognises that the synergistic benefits of the ecosystem and the strategy and vision of the leader in developing the ecosystem may be difficult for a listing applicant to replicate on its own or with other business partners; and that this provides a basis for the listing applicant to determine that it is in its interest to issue WVR shares to the lead company within the ecosystem in order to reinforce its own role within the ecosystem. Accordingly, the Exchange has proposed that a corporate WVR beneficiary should be required to demonstrate its contribution through the inclusion of the listing applicant in its ecosystem in order

⁴³ Listing Rule 8A.30

to benefit from WVR. Do you agree with the Exchange's proposal in relation to the ecosystem requirement?

Question 9 Do you agree with the required characteristics of the ecosystem as outlined in paragraph 156 above? Please elaborate if you wish to propose an alternative or additional criteria.

Question 10 Are there other circumstances relevant to innovative companies that, in your view, could either (a) justify granting WVR to a corporate WVR beneficiary; or (b) be required as a pre-requisite to being granted WVR?

Question 11 Do you agree that the corporate WVR beneficiary can be a traditional economy company provided that it develops a similar ecosystem which can satisfy the eligibility criteria?

Question 12 If your answer to Question 8 is "yes", do you agree that the corporate WVR beneficiary should be required to provide a contribution to the WVR issuer (e.g. by facilitating the applicant's participation in the ecosystem and including the applicant in its vision and planning for the ecosystem) on an ongoing basis as described in paragraph 160?

Question 13 Are there alternative or additional conditions or requirements that you would propose for the corporate WVR beneficiary or the WVR issuer on an ongoing basis?

Question 14 If your answer to Question 12 is "yes", do you agree that a WVR issuer's corporate governance committee should (after making due enquiries) confirm, on a six month and annual basis, that there has been no termination or material disruption, etc., to the corporate WVR beneficiary's contribution to the listing applicant as described in paragraph 161? Alternatively, would you prefer there to be a different mechanism to check that this requirement is being met? If so, please state what this should be.

Please give reasons for your views.

In your response, you may propose additional or alternative measures to the ones discussed in this paper.

Size of corporate WVR beneficiary

164. As discussed in paragraphs 154 to 159 above, a corporate WVR beneficiary must be the lead company in a business ecosystem which the listing applicant belongs to and draws material benefits from. In view of the minimum market capitalisation requirement for a WVR listing applicant, and the expected scale of the ecosystem (in order for the applicant to derive material benefits from it), it is anticipated that a corporate WVR beneficiary would have a market capitalisation that is substantially larger than that of the WVR listing applicant. As stated above, a company from a traditional economy sector can qualify as a WVR beneficiary provided that it meets the relevant criteria.
165. Accordingly, the Exchange proposes that a corporate WVR beneficiary must have an

expected market capitalisation of at least HK\$200 billion. To mitigate the impact of short-term volatility, the Exchange proposes that the market capitalisation of the prospective corporate WVR beneficiary must be not less than HK\$200 billion both (i) on the day of the listing; and (ii) based on its average market capitalisation over the preceding three months.

166. On the other hand, the Exchange recognises that using a high market capitalisation requirement as a gatekeeping measure may be seen as creating an uneven playing field which favours the well-established tech giants at the expense of smaller but potentially innovative new challengers in the industry (see also paragraph 23). Bearing this in mind, the Exchange invites market feedback on the market capitalisation requirement and whether (and, under what circumstances) any exceptions to the market capitalisation requirement should be provided (bearing in mind the rationale set out in paragraphs 164 and 165 above).
167. For illustrative purposes only, there were 297 companies with a market capitalisation of HK\$200 billion or more, which is 4% of the 7,903 companies primary listed on the Exchange or a Qualifying Exchange as at December 2019. This should not be taken as meaning that all these companies would be eligible to be a corporate WVR beneficiary under our proposals.

Question 15 Balancing the need to ring-fence corporate WVR beneficiary on a fair, rational and justifiable basis to avoid a proliferation of WVR structures, and the risk that a high market capitalisation requirement may be seen as creating an uneven playing field, the Exchange has proposed that a prospective corporate WVR beneficiary must have an expected market capitalisation of at least HK\$200 billion at the time of the WVR issuer's listing. Do you agree with the proposed minimum market capitalisation requirement of HK\$200 billion for a prospective corporate WVR beneficiary? Please state the reasons for your views.

Question 16 Do you consider that any exceptions to the market capitalisation requirement should be provided? If your answer to this question is "yes", please explain the reason(s) for your view and state under what circumstances, and the factors that you consider to be relevant.

In your response, you may propose additional or alternative measures to the ones discussed in this paper

Nature of the corporate WVR beneficiary

168. We propose to include an additional suitability requirement under the WVR Guidance Letter that a corporate WVR beneficiary have the following characteristics:

- (a) Experience in emerging and innovative sectors

A corporate WVR beneficiary must demonstrate that either: (i) it itself is primarily an Innovative Company; or (ii) it has business experience in one or more emerging and innovative sectors as well as a track record of investment

in, and contributions to, Innovative Companies.

(b) Regulatory oversight

A corporate WVR beneficiary must be a company with a primary listing on the Exchange or a Qualifying Exchange to ensure their conduct is subject to regulatory oversight under a reputable legal and regulatory regime.

The WVR attached to a corporate WVR beneficiary's shares must lapse permanently if the corporate WVR beneficiary no longer remains listed on the Exchange or a Qualified Exchange.

169. The proposed requirements limit corporate WVR beneficiaries to an entity with business experience in emerging and innovative sectors and help to ensure that the conduct of the corporate WVR beneficiary is subject to a degree of regulatory oversight since, unlike individual WVR beneficiaries, a corporate WVR beneficiary is not subject to the fiduciary duties and Listing Rules applicable to a director (see also paragraphs 126 to 127).

Question 17 Do you agree with the proposed requirement that to be suitable to benefit from WVR, a corporate WVR beneficiary must be either: (a) an Innovative Company or (b) have business experience in one or more emerging and innovative sectors as well as a track record of investments in, and contributions to, innovative companies?

Question 18 Do you agree with the proposed requirement that to benefit from WVR, a corporate beneficiary must have and maintain a primary listing on the Exchange or a Qualifying Exchange?

Please give reasons for your views.

In your response, you may propose additional or alternative measures to the ones discussed in this paper.

Size of listing applicant relative to corporate WVR beneficiary

170. As an additional ring-fencing measure, the Exchange proposes that the listing applicant must not represent more than 30% of the corporate WVR beneficiary in terms of market capitalisation at the time of its listing.⁴⁴ This restriction aims to help ensure that existing issuers cannot in substance introduce a WVR structure over a material part of its business/assets.

Question 19 Do you agree with the requirement that a listing applicant must not represent more than 30% of the corporate WVR beneficiary in terms of market capitalisation at the time of its listing? If not, do you prefer an alternative threshold?

⁴⁴ I.e. the market capitalisation of the listing applicant based on its offer price must not be more than 30% of the market capitalisation of the corporate WVR beneficiary based on the corporate WVR beneficiary's average market capitalisation for the preceding three months prior to the listing of the listing applicant.

Please give reasons for your views.

In your response, you may propose additional or alternative measures to the ones discussed in this paper.

Corporate Representative

171. Individual WVR beneficiaries must be directors of a WVR issuer and their WVR must lapse if they cease to be a director.
172. For a corporate WVR beneficiary, we propose that at least one director of the listing applicant must be a Corporate Representative at the time of listing. This proposal aims to mitigate the risk identified in Chapter 3 (see paragraphs 126 and 127) that a corporate WVR beneficiary avoids responsibility and accountability for the performance of the issuer.
173. A Corporate Representative must be an officer (as defined under the SFO) of the corporate WVR beneficiary who, in his or her capacity as a member of the board of directors of a WVR issuer, acts as a representative of the corporate WVR beneficiary.
174. The WVR attached to a corporate WVR beneficiary's shares would lapse permanently if:
- (a) the beneficiary no longer has a Corporate Representative on the listed issuer's board of directors for a continuous period of 30 days (unless the corporate WVR beneficiary is able to demonstrate to the Exchange's satisfaction that there are justifiable grounds for the absence (for example, illness)); or
 - (b) a Corporate Representative is disqualified by a court or tribunal of competent jurisdiction or found by the Exchange to be unsuitable as a director as a result of an action or decision taken in his or her capacity as director of the listed issuer save where the corporate WVR beneficiary is able to demonstrate to the Exchange's satisfaction that the action or decision was taken outside of the authority granted by the corporate WVR beneficiary to the Corporate Representative; or
 - (c) the corporate WVR beneficiary, whether or not through the Corporate Representative, has been convicted of an offence involving a finding that the beneficiary acted fraudulently or dishonestly.
175. The requirement for there to be a Corporate Representative on the board of directors of the issuer introduces an element of supervision and control over the conduct of the corporate WVR beneficiary. This is in addition to the supervision that arises from the proposed requirement that a corporate WVR beneficiary remain as a listed company on the Exchange or a Qualifying Exchange (see paragraph 168(b)).
176. The proposal is also intended to ensure that a Corporate WVR beneficiary is not deprived of their WVR for actions or decisions taken by a Corporate Representative for which the corporate WVR beneficiary is not culpable.

Question 20 Do you agree with the proposed requirement that at least one director of the listing applicant must be a Corporate Representative?

Are there any alternative or additional measures that you would propose to increase a corporate WVR beneficiary's responsibility and accountability for how it exercises its control?

Please give reasons for your views.

Question 21 Do you agree that the WVR attached to a corporate WVR beneficiary's shares must lapse permanently if:

- (a) the beneficiary no longer has a Corporate Representative on the listed issuer's board of directors for a continuous period of 30 days;
- (b) the Corporate Representative is disqualified as a director or found unsuitable by the Exchange as a result of an action or decision taken in his or her capacity as director of the listed issuer save where the corporate WVR beneficiary is able to demonstrate to the Exchange's satisfaction that the action or decision was taken outside of the authority granted by the corporate WVR beneficiary to the Corporate Representative; or
- (c) the corporate WVR beneficiary has been convicted of an offence involving a finding that the beneficiary acted fraudulently or dishonestly?

If not do you suggest any alternative criteria?

Please give reasons for your views.

In your response, you may propose additional or alternative measures to the ones discussed in this paper

Sunset clause

- 177. Under the existing WVR regime, individual WVR beneficiaries are subject to an "event-based" sunset. The Rules impose a requirement that a beneficiary's WVR fall away if he/she dies. The effect of this requirement is that WVR should naturally fall away over time.
- 178. In Chapter 3 we described the risk that, since corporate entities do not have a natural lifespan, allowing them to benefit from WVR may mean that those WVR exist indefinitely (see paragraphs 128 to 129).
- 179. The Exchange proposes to mandate that the WVR of a corporate WVR beneficiary be subject to a time-defined sunset of not more than 10 years. The Exchange proposes that the WVR of the corporate WVR beneficiary could be indefinitely renewed, with the approval of independent shareholders,⁴⁵ for further periods of five years following the expiry of the previous term.
- 180. The mandated time-defined sunset for a corporate WVR beneficiary represents the

⁴⁵ Independent shareholder approval would be as currently defined in the Listing Rules. All WVR beneficiaries would be required abstain from voting on all renewal resolutions.

minimum requirement that a company with a corporate WVR beneficiary needs to meet in order to list. Shareholders have the flexibility to negotiate the appropriate provisions and safeguards at the time of listing that exceed the minimum regulatory requirements to suit their circumstances.

Question 22 Do you agree that the Exchange should impose a time-defined sunset on the WVR of a corporate WVR beneficiary?

Please give reasons for your views.

Question 23 If your answer to Question 22 is “yes”, do you agree with the proposed maximum 10 year length of the initial “sunset period”? If not, what length of period would you prefer?

Please give reasons for your views.

Question 24 Do you agree that the WVR of a corporate WVR beneficiary could be renewed at the end of the sunset period with the approval of independent shareholders? If so, do you agree with the maximum five year length of the renewal period or would you prefer an alternative renewal period length?

Please give reasons for your views.

Question 25 Do you agree that there should be no limit on the number of times that the WVR of a corporate WVR beneficiary could be renewed? If not, what is the limit that you would propose?

Question 26 Should the Exchange impose any other requirements on a corporate WVR beneficiary as of a condition of renewing its WVR? If so, please provide details of the suggested requirement.

Please give reasons for your views.

In your response, you may propose additional or alternative measure to the ones discussed in this paper.

Corporates and individuals benefiting from WVR in the same issuer

181. As stated in Chapter 2, the Exchange recognises that there are cases where an issuer has materially benefited from the contributions of both individual as well as a corporate WVR beneficiary. For example, an issuer’s business may be developed initially through the knowledge and strategic direction of an individual founder and subsequently with the benefit of the ecosystem of a corporate investor.
182. The Exchange proposes that, as long as the individual WVR beneficiary and the corporate WVR beneficiary can each meet the relevant suitability requirements (including demonstrating that they were each materially responsible for the growth of the business), it would not prohibit a listing applicant from concurrently having both a corporate WVR beneficiary and individual WVR beneficiaries.
183. The Exchange proposes not to mandate that a corporate WVR beneficiary and individual WVR beneficiaries of the same issuer are subject to the same sunset provisions. Where the issuer has both an individual and a corporate WVR beneficiary,

the Exchange proposes that the time-defined sunset will only be mandated for the corporate WVR beneficiary. This is because the individual WVR beneficiary is already subject to an “event-based” sunset and so the WVR held by the individual will not exist indefinitely.

184. However, the Exchange acknowledges that, in some circumstances, independent shareholders may be reluctant to vote down a renewal of the corporate WVR beneficiary’s WVR if the control by individual WVR beneficiaries would substantially increase on a proportionate basis as a result.
185. To ensure that independent shareholders can make a genuine decision on whether to renew the sunset on a corporate WVR beneficiary’s WVRs, we propose that, if the WVR attached to a corporate WVR beneficiary’s shares falls away at the end of a sunset period, the individual beneficiary will be required to convert part of his or her WVR shares into ordinary shares such that the individual beneficiary will control the same proportion of voting power in the issuer both before and after the corporate WVR beneficiary’s WVR fall away.

Question 27 Do you agree that the Exchange should not restrict an issuer from granting WVR to both corporate and individual beneficiaries provided that each meets the requisite suitability requirement?

Please give reasons for your views.

Question 28 Are there any additional measures that you would propose for the WVR beneficiaries or the WVR issuer to safeguard the interests of the WVR issuer (e.g. prevent a deadlock) if there were both corporate and individual beneficiaries?

Question 29 Do you agree that where an issuer has both a corporate WVR beneficiary and individual WVR beneficiaries, the time-defined sunset should only apply to the corporate WVR beneficiary?

Please give reasons for your views.

Question 30 Do you agree that, in the event that the WVR of the corporate WVR beneficiary falls away as a result of its time-defined sunset, the individual beneficiary should be required to convert part of his or her WVR shares into ordinary shares such that the individual beneficiary will control the same proportion of voting power in the issuer both before and after the corporate WVR beneficiary’s WVR fall away?

Please give reasons for your views.

In your response, you may propose additional or alternative measures to the ones discussed in this paper.

186. If the sunsets that apply to corporate and individual WVR beneficiaries of the same issuer are not inter-conditional, there is a risk that they are triggered at different times. This may happen unpredictably due to the “event-based” sunset applied to individual WVR beneficiaries.
187. Although this may cause disruption and a material change to the control of an issuer

when it occurs, this risk is currently tolerated for issuers that have multiple individual WVR beneficiaries. Also, an “event-based” sunset of an individual WVR beneficiary is not subject to a shareholder vote and so the concerns expressed above (see paragraph 184 and 185) do not arise. For these reasons we do not propose to change our approach in this regard.

188. The Exchange proposes that the WVR belonging to a corporate WVR beneficiary not be affected by the trigger of an individual WVR beneficiary’s “event-based” sunset. This means that, if the sunset on an individual’s WVR is triggered, the proportionate voting power enjoyed by the corporate WVR beneficiary (and any remaining individual WVR beneficiaries) may increase.
189. If an applicant decides to link the “event-based” WVR sunset of individuals with those of a corporate WVR beneficiary, it has the flexibility to do so under the proposed regime.

Question 31 Do you agree that the Listing Rules need not mandate that, if an individual beneficiary’s WVR falls away before a corporate WVR beneficiary’s WVR, the corporate WVR beneficiary should convert part of its WVR shares into ordinary shares such that the corporate WVR beneficiary will control the same proportion of voting power in the issuer both before and after the individual beneficiary’s WVR fall away? Please give reasons for your views.

In your response, you may propose additional or alternative measures to the ones discussed in this paper.

APPENDIX I: PRIVACY POLICY STATEMENT

Privacy Policy Statement

Hong Kong Exchanges and Clearing Limited, and from time to time, its subsidiaries (together the "**Group**") (and each being "**HKEX**", "**we**", "**us**" or "**member of the Group**" for the purposes of this Privacy Policy Statement as appropriate) recognise their responsibilities in relation to the collection, holding, processing, use and/or transfer of personal data under the Personal Data (Privacy) Ordinance (Cap. 486) ("**PDPO**"). Personal data will be collected only for lawful and relevant purposes and all practicable steps will be taken to ensure that personal data held by us is accurate. We will use your personal data which we may from time to time collect in accordance with this Privacy Policy Statement.

We regularly review this Privacy Policy Statement and may from time to time revise it or add specific instructions, policies and terms. Where any changes to this Privacy Policy Statement are material, we will notify you using the contact details you have provided us with and, where required by the PDPO, give you the opportunity to opt out of these changes by means notified to you at that time. Otherwise, in relation to personal data supplied to us through the HKEX website or otherwise, continued use by you of the HKEX website or your continued relationship with us shall be deemed to be your acceptance of and consent to this Privacy Policy Statement, as amended from time to time.

If you have any questions about this Privacy Policy Statement or how we use your personal data, please contact us through one of the communication channels set out in the "Contact Us" section below.

We will take all practicable steps to ensure the security of the personal data and to avoid unauthorised or accidental access, erasure or other use. This includes physical, technical and procedural security methods, where appropriate, to ensure that the personal data may only be accessed by authorised personnel.

Please note that if you do not provide us with your personal data (or relevant personal data relating to persons appointed by you to act on your behalf) we may not be able to provide the information, products or services you have asked for or process your requests, applications, subscriptions or registrations, and may not be able to perform or discharge the Regulatory Functions (defined below).

Purpose

From time to time we may collect your personal data including but not limited to your name, mailing address, telephone number, email address, date of birth and login name for the following purposes:

1. to process your applications, subscriptions and registration for our products and services;

2. to perform or discharge the functions of HKEX and any company of which HKEX is the recognised exchange controller (as defined in the Securities and Futures Ordinance (Cap. 571)) ("Regulatory Functions");
3. to provide you with our products and services and administer your account in relation to such products and services;
4. to conduct research and statistical analysis;
5. to process your application for employment or engagement within HKEX to assess your suitability as a candidate for such position and to conduct reference checks with your previous employers; and
6. other purposes directly relating to any of the above.

Direct marketing

Where you have given your consent and have not subsequently opted out, we may also use your name, mailing address, telephone number and email address to send promotional materials to you and conduct direct marketing activities in relation to HKEX financial services and information services, and financial services and information services offered by other members of the Group.

If you do not wish to receive any promotional and direct marketing materials from us or do not wish to receive particular types of promotional and direct marketing materials or do not wish to receive such materials through any particular means of communication, please contact us through one of the communication channels set out in the "Contact Us" section below. To ensure that your request can be processed quickly please provide your full name, email address, log in name and details of the product and/or service you have subscribed.

Identity Card Number

We may also collect your identity card number and process this as required under applicable law or regulation, as required by any regulator having authority over us and, subject to the PDPO, for the purpose of identifying you where it is reasonable for your identity card number to be used for this purpose.

Transfers of personal data for direct marketing purposes

Except to the extent you have already opted out we may transfer your name, mailing address, telephone number and email address to other members of the Group for the purpose of enabling those members of the Group to send promotional materials to you and conduct direct marketing activities in relation to their financial services and information services.

Other transfers of your personal data

For one or more of the purposes specified above, your personal data may be:

1. transferred to other members of the Group and made available to appropriate persons in the Group, in Hong Kong or elsewhere and in this regard you consent to the transfer of your data outside of Hong Kong;
2. supplied to any agent, contractor or third party who provides administrative, telecommunications, computer, payment, debt collection, data processing or other services to HKEX and/or any of other member of the Group in Hong Kong or elsewhere; and
3. other parties as notified to you at the time of collection.

How we use cookies

If you access our information or services through the HKEX website, you should be aware that cookies are used. Cookies are data files stored on your browser. The HKEX website automatically installs and uses cookies on your browser when you access it. Two kinds of cookies are used on the HKEX website:

Session Cookies: temporary cookies that only remain in your browser until the time you leave the HKEX website, which are used to obtain and store configuration information and administer the HKEX website, including carrying information from one page to another as you browse the site so as to, for example, avoid you having to re-enter information on each page that you visit. Session cookies are also used to compile anonymous statistics about the use of the HKEX website.

Persistent Cookies: cookies that remain in your browser for a longer period of time for the purpose of compiling anonymous statistics about the use of the HKEX website or to track and record user preferences.

The cookies used in connection with the HKEX website do not contain personal data. You may refuse to accept cookies on your browser by modifying the settings in your browser or internet security software. However, if you do so you may not be able to utilise or activate certain functions available on the HKEX website.

Compliance with laws and regulations

HKEX and other members of the Group may be required to retain, process and/or disclose your personal data in order to comply with applicable laws and regulations or in order to comply with a court order, subpoena or other legal process (whether in Hong Kong or elsewhere), or to comply with a request by a government authority, law enforcement agency or similar body (whether situated in Hong Kong or elsewhere) or to perform or discharge the Regulatory Functions. HKEX and other members of the Group may need to disclose your personal data in order to enforce any agreement with you, protect our rights, property or safety, or the rights, property or safety of our employees, or to perform or discharge the Regulatory Functions.

Corporate reorganization

As we continue to develop our business, we may reorganise our group structure, undergo a change of control or business combination. In these circumstances it may be the case that

your personal data is transferred to a third party who will continue to operate our business or a similar service under either this Privacy Policy Statement or a different privacy policy statement which will be notified to you. Such a third party may be located, and use of your personal data may be made, outside of Hong Kong in connection with such acquisition or reorganisation.

Access and correction of personal data

Under the PDPO, you have the right to ascertain whether we hold your personal data, to obtain a copy of the data, and to correct any data that is inaccurate. You may also request us to inform you of the type of personal data held by us. All data access requests shall be made using the form prescribed by the Privacy Commissioner for Personal Data ("**Privacy Commissioner**") which may be found on the official website of the Office of the Privacy Commissioner or via this link: <https://www.pcpd.org.hk/english/publications/files/Dforme.pdf>

Requests for access and correction of personal data or for information regarding policies and practices and kinds of data held by us should be addressed in writing and sent by post to us (see the "Contact Us" section below).

A reasonable fee may be charged to offset our administrative and actual costs incurred in complying with your data access requests.

Termination or cancellation

Should your account or relationship with us be cancelled or terminated at any time, we shall cease processing your personal data as soon as reasonably practicable following such cancellation or termination, provided that we may keep copies of your data as is reasonably required for archival purposes, for use in relation to any actual or potential dispute, for the purpose of compliance with applicable laws and regulations and for the purpose of enforcing any agreement we have with you, for protecting our rights, property or safety, or the rights, property or safety of our employees, and for performing or discharging our functions, obligations and responsibilities.

General

If there is any inconsistency or conflict between the English and Chinese versions of this Privacy Policy Statement, the English version shall prevail.

Contact us

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