

14 April 2020

BY HAND

Our Ref: [REDACTED]

Hong Kong Exchanges and Clearing Limited
8/F, Two Exchange Square
8 Connaught Place
Central
Hong Kong

Dear Sir/Madam,

Re: Consultation Paper on Corporate WVR Beneficiaries

SHINEWING Risk Services Limited ("SHINEWING") has thoroughly studied the Consultation Paper on Corporate WVR Beneficiaries. Our detailed responses on it is set out in the questionnaire attached to this letter.

We support most of the proposals. We believe that these proposals can effectively enhance the efficiency of issuers which benefit from the WVR measures. Furthermore, the measures discussed in the consultation paper are useful in clarifying the difference between individual and corporate WVR beneficiaries, the requirement of being and maintaining these beneficiaries. Last but not least, this consultation paper clearly states the types of companies that are suitable for applying WVR; which increases the transparency of the measures.

Should you have any questions on the above comments, please do not hesitate to contact us at 3583 8000.

Yours faithfully,

[REDACTED]

SHINEWING Risk Services Limited

Part B Consultation Questions

Please reply to the questions below that are raised in the Consultation Paper downloadable from the HKEX website at: <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/January-2020-Corporate-WVR/Consultation-Paper/cp202001.pdf>. Please indicate your preference by ticking the appropriate boxes.

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

We encourage you to read all of the following questions before responding.

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?

☒ Yes

☐ No

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.

We agree that the Exchange should expand the existing WVR regime to enable corporate entities to benefit from WVR as many "innovative companies" normally operate in a broader "ecosystem" that includes other companies, both within the same corporate group and independent companies in which the "ecosystem" has materially contributed to and shaped the historical growth, strategy, development and prospects of the "innovative companies".

2. Do you agree that a corporate WVR beneficiary must be either the Eligible Entity or a wholly owned subsidiary of the Eligible Entity?

☒ Yes

☐ No

Please give reasons for your views. In your response, you may propose additional or alternative measures to the ones discussed in the Consultation Paper.

We agree that a corporate WVR beneficiary must be either the Eligible Entity or a wholly owned subsidiary of the Eligible Entity as 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.

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.

(a) 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 and be the single largest shareholder at listing?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal as it could help 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.

(b) Do you agree that a corporate WVR beneficiary's shares should lapse if it fails to maintain at least a 30% economic interest on an ongoing basis?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal as it could help 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.

4. (a) If your answer to Question 3(a) 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?

☐ Yes

☐ No

If so, please state these conditions/requirements.

N/A

(b) Do you believe that any other conditions and requirements should be imposed if a lower economic interest threshold is allowed?

☐ Yes

☐ No

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 the Consultation Paper.

N/A

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 below conditions are satisfied?

(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;

(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).

☒ Yes

☐ No

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 to the ones discussed in the Consultation Paper.

The four exceptions proposed for the permission of an issuance of shares on a non-pre-emptive basis to a corporate WVR beneficiary without shareholders' approval are appropriate if the issuance of shares is solely for the corporate WVR beneficiary to hold at least 30% of economic interest in the issuer on an ongoing basis. The exception will not erode the interests of other shareholders while it facilitates the corporate WVR beneficiary to subscribe for additional shares with the aim of compliance of the 30% economic interest requirement. Therefore, we agree with this proposal.

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 to the date of its application for listing?

☒ Yes

☐ No

Please give reasons for your views. If your answer to 6 is "no", do you agree that a historical holding requirement should be 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 the Consultation Paper.

The requirements of holding an economic interest of at least 10%, materially involving in the management or the business, and the time span of two financial years or above could ensure sufficient flexibility given to a prospective corporate WVR beneficiary. In addition, an economic interest of at least 10% would demonstrate that the corporate WVR beneficiary has had a material economic interest in the applicant during the period in addition to its material involvement in the applicant's management/business. In light of this, we agree with the proposed requirement.

7. (a) 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?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal as this could 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.

(b) Do you agree that this ratio should be set at no more than five times the voting power of ordinary shares?

☒ Yes

☐ No

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 the Consultation Paper.

N/A

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

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal in relation to the ecosystem requirement. The requirements give a basis for the board of the listing applicant to consider whether the mutual benefits from ecosystem dominated by the lead company are vital for granting WVR shares to the lead company.

9. Do you agree with the required characteristics of an ecosystem as set out below:

- (a) 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.

☒ Yes

☐ No

Please give reasons for your views. Please elaborate if you wish to propose an alternative or additional criteria.

From the perspective of a listing applicant, if the ecosystem dominated by a lead company can fulfill all of the above characteristics, it will be sufficient to prove that the material contributions from the corporate WVR beneficiary are nearly irreplaceable by other means. Thus, it would be in the interest of the listing applicant to grant WVR shares to the lead company in order to encourage the lead company to include the listing applicant in its common vision for the ecosystem. To conclude, we agree with the required characteristics.

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?

☐ Yes

☒ No

Please give reasons for your views.

We believe that the circumstances or requirements regarding the ecosystem discussed in the consultation paper are sufficient and reasonable.

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?

☒ Yes

☐ No

Please give reasons for your views.

We agree that the corporate WVR beneficiary can be a traditional economy company provided that it develops a similar ecosystem which can satisfy the eligibliity criteria as abovementioned. This proposal helps expand the scope of eligible companies to traditional companies.

12. If your answer to 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 and that its WVR should lapse if the corporate’s contribution to the WVR issuer is substantially terminated or materially disrupted or suspended for a period exceeding 12 months?

☒ Yes

☐ No

Please give reasons for your views.

We agree that the corporate WVR beneficiary should be required to provide a contribution to the WVR issuer on an ongoing basis as described in paragraph 160 of the Consultation Paper because one of the purposes of this regime is to allow listing applicant to benefit from new WVR structure while facilitating the listing companies from emerging an innovative sectors.

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?

☐ Yes

☒ No

Please give reasons for your views.

We think that the proposed conditions and requirements listed are adequate.

14. (a) If your answer to 0 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 and that this requirement be set out in the committee’s terms of reference?

☒ Yes

☐ No

Please give reasons for your views.

We agree that the corporate governance committee of WVR issuer should confirm that there has been no termination or material disruption, etc on a six month basis as this is the responsibility of the corporate governance committee to review and monitor the issuer's policies and practices on compliance with legal and regulatory requirements.

- (b) Alternatively, would you prefer there to be a different mechanism to check that this requirement is being met?

☐ Yes

☒ No

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 the Consultation Paper.

N/A

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?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposed requirement on minimum market capitalisation of HK\$200 billion for a prospective corporate WVR beneficiary since it helps to mitigate the impact of short-term volatility on the stock market.

16. Do you consider that any exceptions to the market capitalisation requirement should be provided?

☐ Yes

☒ No

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 the Consultation Paper.

N/A

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?

☒ Yes

☐ No

Please give reasons for your views.

We agreed with the proposed requirement as the purpose of this regime is to attract high-calibre innovative companies to list in Hong Kong. If the corporate WVR beneficiary is an Innovative Company or has sufficient business experience in emerging and innovative sectors, there will be a higher chance of creating mutual benefits when they are developing the ecosystem. The corporate WVR beneficiary is deemed to be familiar with the operation of the WVR Issuer, so that the corporate WVR beneficiary should be able to make favorable decisions for the WVR issuer. Thus, we agree with this proposed requirement.

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?

☒ Yes

☐ No

Please give reasons for your views. In your response, you may propose additional or alternative measures to the ones discussed in the Consultation Paper.

We agree with this proposed requirement, as corporates that are listing on the exchange or a qualifying exchange mean that they are subject to a degree of regulatory oversight under a reputable legal and regulatory regime.

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?

☒ Yes

☐ No

If not, do you prefer an alternative threshold? Please give reasons for your views. In your response, you may propose additional or alternative measures to the ones discussed in the Consultation Paper.

N/A

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

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposed requirement as it could help to mitigate the risk that the corporate WVR beneficiaries cannot owe fiduciary duties to the issuer and their management conduct and competence are not regulated under the Listing Rules.

- (b) 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?

☐ Yes

☒ No

Please give reasons for your views.

We think the measures mentioned in this consultation paper are sufficient.

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?

☒ Yes

☐ No

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 the Consultation Paper.

N/A

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

☒ Yes

☐ No

Please give reasons for your views.

Since corporate entities do not have a natural lifespan, it would be a risk of allowing them to benefit from WVR indefinitely. Therefore, we agree that the exchange should impose a time-defined sunset clause as a measure to reduce risks.

23. If your answer to 0 is "yes", do you agree with the proposed maximum 10 year length of the initial "sunset period"?

☒ Yes

☐ No

If not, what length of period would you prefer? Please give reasons for your views.

We think that the 10-year length is a fair sunset period.

24. (a) 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?

☒ Yes

☐ No

Please give reasons for your views.

We agree that a corporate WVR beneficiary could be renewed at the end of the sunset period with the approval of independent shareholders. It not only provides an opportunity to independent shareholders to exercise its rights and obligation to protect their interests, but also gives the rights to WVR issuer to extend the period of enjoying the benefits from corporate WVR beneficiaries.

(b) If so, do you agree with the maximum five year length of the renewal period or would you prefer an alternative renewal period length?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposed maximum five-year length of the renewal period since it is sufficient and fair.

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?

☒ Yes

☐ No

If not, what is the limit that you would propose? Please give reasons for your views.

There should be no limit on the number of times that the WVR of a corporate WVR beneficiary could be renewed. If a limit on the number of times of renewal has been set, the WVR issuer may lose its substantial benefit from the Ecosystem which is mainly controlled by corporate WVR beneficiary. Therefore, we agree with this proposal.

26. Should the Exchange impose any other requirements on a corporate WVR beneficiary as of a condition of renewing its WVR?

☐ Yes

☒ No

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 the Consultation Paper.

N/A

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?

☒ Yes

☐ No

Please give reasons for your views.

An issuer may materially benefit from the contributions of both an individual as well as a corporate WVR beneficiary. Therefore, we agree that the exchange should not restrict an issuer from granting WVR to both corporate and individual beneficiaries if they are able to meet the suitability and eligibility requirements applicable to them.

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?

☐ Yes

☒ No

Please give reasons for your views.

In our point of views, the measures listed in this consultation paper are sufficient to safeguard the interests of the WVR issuer if there were both corporate and individual beneficiaries.

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?

☒ Yes

☐ No

Please give reasons for your views.

The individual WVR beneficiary is already subject to an event-based sunset and so the WVR held by the individual will not exist indefinitely. Therefore, we agree that the time-defined sunset should only apply to the corporate WVR beneficiary.

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?

☒ Yes

☐ No

Please give reasons for your views. In your response, you may propose additional or alternative measure to the ones discussed in the Consultation Paper.

This measure can ensure 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 falls away. Therefore, we agree with this measure.

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?

☒ Yes

☐ No

Please give reasons for your views. In your response, you may propose additional or alternative measure to the ones discussed in the Consultation Paper.

An event-based sunset of an individual WVR beneficiary is not subject to a shareholder vote and so the concerns expressed in Question 30 do not arise. Also, an issuer has the flexibility to decide the linkage of WVR sunset between individual and corporate beneficiaries. Therefore, we agree with this measure.

- End -