

Part B Consultation Questions

Please reply to the questions below that are raised in the Concept Paper downloadable from the HKEX website at:

<http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp2017061.pdf>

Please indicate your preference by checking the appropriate boxes.

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

1. What are your views on the need for Hong Kong to seek to attract a more diverse range of companies and, in particular, those from New Economy industries to list here? Do you agree that the New Board would have a positive impact on Hong Kong's ability to attract additional New Economy issuers to our market?

Please give reasons for your views.

We consider it important for Hong Kong to attract listing applicants from a diverse range of industries, including but not limited to those from the New Economy industries. New Economy industries are engine of high growth in both real economy and the capital market. Apart from the New Economy industries mentioned in the Concept Paper, it is also important for Hong Kong to attract green economy as part of the financial services world (source: FSDC Paper No. 23 published by Hong Kong Financial Services Development Council in May 2016).

A substantial proportion of New Economy companies adopt non-standard governance structure (including WVR structure), which are currently not eligible for Main Board or GEM listing. As such, we agree that introducing a New Board which allows issuers with non-standard governance structure would attract New Economy issuers to raise funds in Hong Kong.

2. What are your views on whether the targeted companies should be segregated onto a New Board, rather than being included on the Main Board or GEM?

Please give reasons for your views.

We agree that the targeted companies should be segregated onto a New Board, rather than being included on the Main Board or GEM.

Main Board and GEM pre-existed well before the rapid development of the New Economy industries and the recent growth in number of companies with non-standard governance structure. Hence, the Main Board and GEM regimes may not cater for New Economy companies and may require a substantial change in regulatory framework in order to accommodate the new governing structure which is common in New Economy.

The setting up of a New Board would allow flexibility for the regulators to tailor a new regime for such companies.

3. If a New Board is adopted, what are your views on segmenting the New Board into different segments according to the characteristics described in this paper (e.g. restriction to certain types of investor, financial eligibility etc.)? Should the New Board be specifically restricted to particular industries?

Please give reasons for your views.

We support the concept of setting up a New Board to cater for New Economy companies, however, we caution SEHK to reconsider the New Board PRO which allows listing of pre-profit companies with no track record. The uncertainty on the business prospects of these targeted companies may increase the market risks and share price volatility.

We consider New Board should be specifically restricted to New Economy industries. Just as our response to question 2 above, the setting up of the New Board aims to accommodate the needs of companies in the non-traditional industries.

SEHK should define the term "New Economy" precisely so that the market can understand such fundamental listing requirement. As an alternative, we suggest SEHK to consider providing a negative definition, telling the markets what kind of companies do not fall under the definition of the term "New Economy".

4. What are your views on the proposed roles of GEM and the Main Board in the context of the proposed overall listing framework?

Please give reasons for your views.

Main Board can target at mature, well-established companies in all kind of industries that can fulfill the conventional requirements including the financial eligibility, track record criteria and standard governance structures.

The introduction of the New Board, GEM can position itself as an alternative to the Main Board for SMEs which offers less stringent admission requirements on the financial eligibility and track record criteria.

5. What are your views on the proposed criteria for moving from New Board PRO to the other boards? Should a public offer requirement be imposed for companies moving from New Board PRO to one of the other boards?

Please give reasons for your views.

As referenced to our response to question 3, we urge SEHK to reconsider setting a junior board of New Board, but if a New Board PRO issuer decides to move to other boards (Main board, GEM board and New Board PREMIUM), it should go through the standard requirements (including the public offer and prospectus requirements) applicable to these main stream markets.

This is because when a company first listed on New Board PRO, it is only required to issue a non-prospectus standard listing document without going through proper due diligence by an independent sponsor. This arrangement is acceptable as the target investors are professional investors. However, when they move to other boards, retail investors will come into play. It is therefore necessary to ensure the standard level of disclosure and shareholders' protection are available before they can be admitted to these main stream markets.

6. What are your views on the proposed financial and track record requirements that would apply to issuers on New Board PRO and New Board PREMIUM? Do you agree that the proposed admission criteria are appropriate in light of the targeted investors for each segment?

Please give reasons for your views.

New Board PRO: We support the market capitalisation requirement at HK\$200 million as currently proposed, or even less at HK\$150 million, on the basis that (i) HK\$200 million is higher than GEM's requirement of HK\$150 million under the new proposal, and equal to Main Board's current requirement; and (ii) New Board PRO targets to attract companies that currently cannot meet GEM/ Main Board's requirements, and therefore, the requirements of New Board PRO should not be more stringent than current requirements in GEM/ Main Board.

New Board PREMIUM: We consider the proposed financial and track record requirements appropriate, on the assumption that New Board PREMIUM is target to attract mature companies who can not list on Main Board mainly due to their non-standard governance structure (including WVR structure).

7. What are your views on whether the Exchange should reserve the right to refuse an application for listing on New Board PRO if it believes the applicant could meet the eligibility requirements of New Board PREMIUM, GEM or the Main Board?

Please give reasons for your views.

We consider the choice of listing venue should primarily rest with the listing applicants as they may have other commercial consideration in selecting a listing platform.

For example, high tech companies meeting the Main Board standards may prefer to list on the New Board PRO for better investors profile (e.g. professional investors may better understand their business and is less sensitive to temporary share price movement) or analyst coverage.

8. What are your views on the proposed requirements for minimum public float and minimum number of investors at listing? Should additional measures be introduced to ensure sufficient liquidity in the trading of shares listed on New Board PRO? If so, what measures would you suggest?

Please give reasons for your views.

We consider the current proposal of having a 25% public float to be appropriate.

As to the requirement of having 100 professional investors, given that New Board PRO already has a smaller investors population, we suggest Exchange to conduct soft consultation with fund managers / professional investors to understand the local market appetite for New Economy companies before finalising the figure.

Regarding the second question, we do not consider it necessary to introduce additional measures to ensure sufficient liquidity as:

- (i) professional investors of New Economy companies are expected to have a longer holding period as it takes time for these company to grow. Focusing on liquidity may go against the fundamental nature of investing in early stage companies; and
- (ii) if the subject company has good potential (such as those "titan" high tech companies), it can naturally attract interests a board spectrum of investors such that liquidity should not be a problem.

9. What are your views on whether companies listed on a Recognised US Exchange that apply to list on the New Board should be exempted from the requirement to demonstrate that they are subject to shareholder protection standards equivalent to those of Hong Kong? Should companies listed elsewhere be similarly exempted?

Please give reasons for your views.

We do not agree such exemption to be granted in the New Board PREMIUM. If companies are able to list in Hong Kong without having to meet equivalent standards, Hong Kong shareholders may not have the same level of protection as they would for existing listed companies. Such reduction in protection may not be the expectation of retail investors.

We urge SEHK to reconsider setting up the proposed New Board PRO. Nonetheless, if New Board PRO is to be set up, we consider exemption can be granted in the New Board PRO subject to prominent disclosure, on the basis that professional investors are sophisticated to understand the risk behind. Companies listed in other well-recognized exchanges can similarly be exempted.

10. What are your views on whether we should apply a “lighter touch” suitability assessment to new applicants to New Board PRO? If you are supportive of a “lighter touch” approach, what relaxations versus the Main Board’s current suitability criteria would you recommend?

Please give reasons for your views.

We urge SEHK to consider adopting a disclosure-based approach for New Board listing applications. To achieve this, SEHK vetting teams need to have a new mindset to emphasize on “disclosure” rather than applying the exact same “merits” principles as in Main Board or GEM.

11. What are your views on whether the New Board PRO should be restricted to professional investors only? What criteria should we use to define a professional investor for this purpose?

Please give reasons for your views.

Issuers listing on the New Board PRO are not required to fulfill the traditional financial eligibility or track record criteria. They could be companies with light-asset or minimal revenue. Clearly, the potential risk associated with investing in companies listed on the New Board PRO would be much higher than other boards of SEHK, including GEM. The greater risk profile and other characteristics of New Board PRO mean that it is a market more suited to sophisticated professional investors. Restricting the New Board PRO to professional investors only is an effective way to protect retail investors. Besides, such kind of restriction is not uncommon in Hong Kong. For example, debt securities under Chapter 37 are also targeted at professional investors only. This demonstrates that the restriction mechanism is feasible.

To avoid market confusion, the definition of professional investors would better align with the definition in the SFO, including authorized financial institutions, insurance companies and high net worth individuals or corporations having investment portfolio of not less than certain prescribed amounts.

12. Should special measures be imposed on Exchange Participants to ensure that investors in New Board PRO-listed securities meet the eligibility criteria for both the initial placing and secondary trading?

☒ Yes

☐ No

Please give reasons for your views.

We support that Exchange Participants should have proper measures for both the initial placing and secondary trading, to ensure only professional investors are invested in securities listed on New Board PRO.

13. What are your views on the proposal for a Financial Adviser to be appointed by an applicant to list on New Board PRO, rather than applying the existing sponsor regime? If you would advocate more prescriptive due diligence requirements, what specific requirements would you recommend be imposed?

Please give reasons for your views.

If a Financial Adviser, instead of a sponsor, is to be appointed, the regulators should clearly set out what due diligence is expected to be performed by the Financial Adviser, and impose obligations to new applicants and their directors to assist the Financial Adviser to perform its work, given that the current Listing Rules only oblige issuer to assist the work of sponsor, but not Financial Adviser.

14. What are your views on the proposed role of the Listing Committee in respect of each segment of the New Board?

Please give reasons for your views.

We suggest listing application for New Board PRO to be presented to the Listing Committee for approval for a certain period of time before delegating the authority to the Listing Department. This is because more uncertain issues may come up at the trial-run stage of the New Board PRO, and the collective input from the Listing Committee with different industry experience would contribute to the listing approval process.

15. Do you agree that applicants to listing on New Board PRO should only have to produce a Listing Document that provided accurate information sufficient to enable professional investors to make an informed investment decision, rather than a Prospectus? If you would advocate a more prescriptive approach to disclosure, what specific disclosures would you recommend be required?

☒ Yes

☐ No

Please give reasons for your views.

This arrangement is acceptable as investors to New Board PRO are restricted to professional investors only. Given the higher standards of disclosure required in a Prospectus, the time and cost of preparation of a Prospectus can be much higher than that needed for a Listing Document.

Notwithstanding that we agree the extent of disclosure can be relaxed, we consider verification is important to ensure the accuracy and the reliability of the information provided to investors.

We are of the view that the Listing Document should include disclosures that more relate to the listing applicants's business rather than its industry, such as information on the listing applicant's ownership and governing structure, business, directors, financials, use of proceeds and risk factors.

16. What are your views on the proposed continuous listing obligations for the New Board? Do you believe that different standards should apply to the different segments?

Please give reasons for your views.

We propose applying similar governance requirements as set out in paragraph 115 of the Concept Paper, but with different thresholds for transaction announcement/shareholder's approval requirements for each of the New Board PREMIUM and New Board PRO, given the board spectrum of the size between companies listing on the New Board PREMIUM and New Board PRO.

17. For companies that list on the New Board with a WVR structure, should the Exchange take a disclosure-based approach as described in paragraph 153 of this Concept Paper? Should this approach apply to both segments of the New Board?

Please give reasons for your views.

We support adopting a disclosure-based approach. According to the statistics provided in the Concept Paper, WVR structure is not an uncommon characteristic of the New Economy industries, especially the information technology industry. It would be impractical to impose restrictions on such arrangement if it is an industry norm.

The setting up of the entire New Board aims to accommodate the needs and attract the listing of New Economy companies. Given that WVR is one of the characteristics of the New Economy companies, we support applying the same approach to both segments of the New Board.

18. If, in addition, you believe that the Exchange should impose mandatory safeguards for companies that list on the New Board with a WVR structure, what safeguards should we apply? Should the same safeguards apply to both segments of the New Board?

Please give reasons for your views.

As stated in 17, we support adopting a disclosure-based approach.

19. Do you agree that the SEHK should allow companies with unconventional governance features (including those with a WVR structure) to list on PREMIUM or PRO under the "disclosure only" regime described in paragraph 153 of the Concept Paper, if they have a good compliance record as listed companies on NYSE and NASDAQ? Should companies listed elsewhere be similarly exempted?

Please give reasons for your views.

As stated in 17 above, we support adopting a disclosure-based approach, rather than strictly relying on compliance record on other exchanges.

20. What are your views on the suspension and delisting proposals put forward for

the New Board?

Please give reasons for your views.

We support the proposal to delist a company listed on the New Board PRO and the New Board PREMIUM if it had been suspended for a continuous period of 90 calendar days and 6 months, respectively. The prolonged delisting procedures in Main Board and GEM encumber the overall quality of the securities market.

As for the proposal in paragraph 162 of the Concept Paper that "SEHK would retain the right to cancel the listing of a New Board-listed company without an intervening suspension period, if SEHK considered the listed company or its business is no longer suitable for listing", we consider SEHK should communicate the criteria for exercising such right more precisely to the market.

21. Should New Board-listed companies have to meet quantitative performance criteria to maintain a listing? If so, what criteria should we apply? Do you agree that companies that fail to meet these criteria should be placed on a "watchlist" and delisted if they fail to meet the criteria within a set period of time?

Please give reasons for your views.

We do not agree the quantitative criteria proposed (e.g. share price above a threshold). Such criteria may encourage the New Board-listed companies to artificially manipulate the share price/trading volume of their securities so as to meet the criteria, which may cause damage to the open market principle.

22. Do you consider that an even "lighter touch" enforcement regime should apply to the New Board (e.g. an exchange-regulated platform)?

☒ Yes

☐ No

Please give reasons for your views.

We do not agree applying a "lighter touch" enforcement regime to New Board PREMIUM because such platform involves retail investors. The enforcement regime should align with Main Board and GEM for shareholder protection.

Just as our response to question 3 above, we do not support setting up the proposed New Board PRO. Nonetheless, if New Board PRO is to be set up, we consider it can be an exchange-regulated platform, on the basis that (a) New Board PRO companies can anyway be a pre-profit company with no track record; (b) New Board PRO companies can anyway have no "merits" so long as full disclosure is made; and (c) investors to New Board PRO are restricted to be professional investors only, who should be sophisticated to understand the risk behind.

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