

## 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.

Given the geographical dependency on Mainland Chinese companies and high sector concentration, Hong Kong should seek to attract New Economy companies in order to stay competitive as an international IPO centre. Yet, a few concerns arises from the proposal.

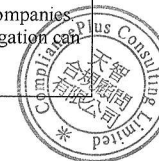
The New Board would allow pre-profit companies and companies with non-standard governance structures (like WVR structures) to list in Hong Kong. With reference from the US IPOs in 2016, 75% of technology companies and 92% of biotechnology companies are pre-profit due to their funding needs for research and development. WVR structures have been prevalent in innovative companies in the technology sector as well. Less restrictions with the New Board Proposal would definitely provide a more convenient regime for these New Economy issuers. However, it is doubtful whether that may lead to positive impacts on the attractiveness of the Hong Kong market, which is influenced by factors including investors' protection and a promising legal and regulatory framework. Another concern is the lacking of an established ecosystem of New Economy companies in Hong Kong. Where investors are not adapted to invest in these new industries, the purpose of raising capital will be defeated. Therefore, prior investors' education is needed.

Under the new proposal, secondary listings of Mainland companies would also be permitted. This raises questions as to whether the New Board could diversify the current geographical concentration in Mainland China.

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 generally agree with the segregation as a gesture to show support for New Economy companies and to establish a new investment ecosystem of these companies. Also, since targeted companies are subject to different thresholds, such segregation can achieve administrative convenience.



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 are generally in support of the approach of segmenting issuers with less stringent financial eligibility requirements into New Board PRO which is open to professional investors only. Companies with no track record or lower financial criteria are of higher risk. Also, where retail investors are engaged, more stringent regulatory standards shall apply. Therefore, a tiering approach within the New Board is more desirable in terms of investors' protection.

On the other hand, the New Board should be specifically restricted to particular industries, like companies in technology sector. Companies in finance and real estate industries are unfit for the purpose of New Board even with WVR structures.

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.

In the GEM Consultation Paper, it is proposed that GEM should be re-positioned as a "stand-alone board" as the "stepping stone" positioning has achieved limited success over the past years. The GEM Streamlined Process is proposed to be abandoned given its contradiction with the sponsor regime and the emergence of shell companies on GEM.

However we believe that one of the major role of the GEM Board is to serve as a "stepping stone" to foster growth of companies. When GEM Transfer applicants are not subject to comprehensive due diligence check, we are of the view that it is the responsibility of HKEX to scrutinize the companies more carefully prior to their listing on GEM to avoid the above-mentioned issues, rather than changing the GEM Board's role as a whole.

Meanwhile, the Main Board should be positioned as a "premier board". We agree that it is a satisfactory position, as it reflects the highest financial and track record criteria, as well as regulatory standards.

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.

We agree that there would be no fast-track migration mechanism from New Board PRO to GEM and Main Board. However, there should be a fast-track mechanism from New Board PRO to New Board PREMIUM to encourage the growth of target companies in New Economies.

Also, a public offer requirement should be imposed for companies moving from New Board PRO to one of the other boards, otherwise the financially and/or structurally ineligible companies may take advantage of the procedural loophole, leaving retail investors unprotected.



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.

The proposed financial and track record requirements, as well as admission criteria, applicable to issuers on New Board PREMIUM are comparable to that of Main Board. As both are facing retail investors, these requirements are reasonable.

For New Board PRO, lower financial and admission thresholds are reasonable when it is confined to professional investors with relevant expertise. So long as the HKEx remains gate keeper with the right to deny listing or apply additional criteria, a "lighter touch" suitability assessment is acceptable.

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.

The Exchange should not reserve such right, so long as investors are clear about the requirements and risks of each board. HKEx should respect the market mechanism and allow the companies to make their listing decisions based on their own advantages and disadvantages. Also, we believe that one company will not dominate the whole market.

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.

The current proposed requirement for minimum public float is 25%, same as the main board, and the minimum number of investors is 100, same as the GEM current requirement. Thus, the proposed requirements shall have sufficient power to achieve the objectives and purposes. Still, HKEx may consider adjusting, or slightly reducing, the minimum number of investors at listing in PRO board, as the current GEM requirement is targeting the retail market, which have more number of investors than PI. Meanwhile, to ensure the liquidity within the market, a favourable market-maker policy can be introduced. This can allow investors to conduct faster transactions through the market.



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.

As regards admission criteria of New Board PREMIUM, companies are not required to demonstrate equivalent shareholders' protection if listed on recognised US Exchange. It is more convenient for targeted New Economy issuers currently listed on US Exchange which account for a significant proportion, but shareholders' protection is compromised. One thing is that the US law and regulations may not be applicable in HK, while another is that Hong Kong's regulation and protections may need to passively follow the US. This might result in uncertainty especially when the public tend to focus more on financial status of a company rather than protection clauses and alert to the consequences of such changes is insufficient.

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.

It is not a bad idea to introduce a "lighter touch" approach to new applicants to New Board PRO. The New Board PRO is suggested to follow an "easy in, easy out" principle to attract more companies. However, reviews on the companies and standards should be taken regularly to prevent potential abuses on the lighter standards.

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.

The New Board PRO should be restricted to professional investors, as there are less financial eligibility requirements for companies to be listed and hence less protection and higher risks for investors. In addition, the definition of professional investor should follow that laid down in SFO.



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.

To become professional investors, initial assessments are conducted to ensure the qualification and ability of the investors. Therefore, there are sufficient existing measures to ensure that investors in New Board PRO meet the criteria for both initial placing and secondary trading.

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.

Comparing with a sponsor, a Financial Adviser is subject to a lower responsibility and it is not compulsory for a Financial Adviser to provide a comprehensive due diligence test.

However, we are of the view that it shall be the most basic task to ensure the every information of the listed company is trustworthy and its revenue doesn't come from doubtful sources. Even the target of New Board PRO are only professional investors, minimum due diligence requirements should still be imposed to ensure the stability of the New Board PRO.

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.

The financial track record requirements of New Board PREMIUM are equivalent to those of the Main Board in force from time to time. The practice of submitting applications to list on New Board PREMIUM to the Listing Committee, which is in line with the Main Board practice, is better in reaching a more consistent decision-making process.

However, regarding New Board PRO, the Listing Department might not be able to fully perform the role of gate keeper. It has been suggested in the current proposal the replacement of sponsors by Financial Advisors, which can influence a company's incentive to provide credible and trustworthy information. We are of the view that the Listing Committee should take part in the assessment process of New Board PRO listing applications.



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.

We do not agree that New Board PRO can be exempt from prospectus requirement. Although professional investors can bear higher risk, they should not be deprived of critical information in Prospectus to make an informed decision. CWUMPO and HKEX listing rules have specific requirements as to the content of prospectus. The standardized content structure can facilitate regulation in order to ensure all necessary information is disclosed to investors. The proposed relaxation is problematic in implementation. It may lead to subjective and arbitrary enforcement when deciding whether a Listing Document is sufficient to enable informed investment decision.

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 agree with the proposed continuous listing obligations for the New Board. The suggested obligations are basic to maintain an organised and fair market. The listing requirements for New Board Pro have already been relaxed in many aspects, so there is no need to further differentiate from Main Board.

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.

Although the disclosure-based approach is consistent with free market principles, the higher investment risk associated with WVR structure must be recognised. Therefore, they should be subject to enhanced disclosure requirement. For example, the disclosure of the identities of WVR holders or transfers of WVR should be made compulsory for all companies on the New Board. This approach should be applied 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.

The proposed safeguard measures are too harsh. HKEX should not meddle in companies' internal affairs like transfer of WVR to other persons and sunset clause. However, we agree that the requirement of minimum equity is necessary to hold the senior management accountable in consideration of their disproportionate power in decision-making.

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.



We have reservation about the proposed arrangement. The Hong Kong standards are not identical to those in NYSE and NASDAQ. Good compliance in those markets is insufficient to justify exemption of full compliance of the regulations and laws of Hong Kong. Mandatory safeguards that are not impracticable for the company to comply will ensure maintenance of sound level of corporate governance. A mere disclosure approach would put investors on an onerous position to understand the relevant risks and matters. The ability to raise capital in Hong Kong is the core reason for these companies to second list here. Excessive surrenderance of regulatory power and standards to foreign jurisdictions would deter investors and is clearly unfavorable for the development of the New Board.

Furthermore, it is difficult to define good compliance records. Absence of enforcement action from regulators or litigation cases do not necessarily mean good compliance to the relevant laws, as breaches may be settled through other means such as deferred prosecution agreements, arbitrations or other out-of-court settlements which may do be publicly announced and documented

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

Please give reasons for your views.

We agree that material breaches of the New Board Listing Rules, including the failure to publish periodic financial information within the deadline and being deemed not suitable for listing by the SEHK in extreme circumstances. This practice is in coherence with that in place with the Main Board and GEM Board.

As for delisting criteria, the concept paper proposes that companies on PRO and PREMIUM will be delisted after a suspension period of 90 days and 6 months respectively. This is to allow for more time for companies retail investors are exposed that can have additional time to rehabilitate itself. We can see no reason why such additional time for rehabilitation should not be applicable also to the PRO segment. A longer rehabilitation period would be beneficial to both the company and the investors as a delisting action would be the worst scenario for all parties involved.

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 disagree to any proposals that would render a company subject to any consequences, including suspension, delisting or watchlist placement, due to failure to meet any quantitative performance. Quantitative performance of a stock may be influenced by many other factors other than poor company governance. The suspension of the Chinese Market Circuit Breakers System in early 2016 has demonstrated that the system that aims to prevent fear and panic selling may be the source of the problem itself. The proposal is also a coarse intervention of the market system and is inconsistent with Hong Kong's Laissez-faire policy.

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.

The open of Hong Kong's market to non-standard governance structures itself is a great test to Hong Kong's ability to safeguard investors' interests. The current proposals have provided sufficient incentives for target companies to raise capital through the New Board of Hong Kong without being unnecessarily burdened with procedural, regulatory and financial requirements. An even "lighter touch" regime may tip the balance and adversely affect Hong Kong's market stability and investors' confidence in its regulatory regime.

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