

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.

As stated in the Consultation Paper, the Hong Kong stock market is heavily weighted by Old Economy companies and/or those from the Mainland. A good number of stock exchanges of other countries have long been catering their markets for a more diverse range of companies. They are ahead of Hong Kong in attracting high growth early stage companies which were not yet profitable and/or with a WVR shareholding structure at the time of listing, and many of those have now become a household name conglomerate. Hong Kong has actually fallen quite behind in this regard.

Hong Kong Investor Relations Association ("HKIRA") supports the view of the Exchange on the need for Hong Kong to attract a more diverse range of companies, and in particular those from New Economy industries, to list in Hong Kong. HKIRA believes that the proposed New Board can attract more issuers to the Hong Kong market and continue to secure its position as one of the leading financial centers in the world.

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.

HKIRA believes that the segmented approach can effectively address concerns on shareholder protection, corporate governance issues, and regulatory limitation, while at the same time, serve the purpose to attract a more diverse range of companies to list in Hong Kong. However, some issues may require further consideration. They are as follows:

1) The proposed "New Board" might create impression that it is a second/lower tier to those of the Main Board. Therefore, it may defeat the purpose of attracting large or reputable New Economy companies. For example, why would a sizeable pre-profit company, such as "UBER", list on the New Board PRO with other early stage start-ups?

2) GEM implements a more stringent set of listing rules which was originally tailored for early stage, high growth companies, including those without profit, at the beginning. Some may argue that it might not be necessary to create a New Board PRO for early stage companies as the GEM listing rules can be "re-amended" to suit for pre-profit companies. Waiver on the profit test listing requirement can be granted to pre-profit companies surpassing a minimum market cap or revenue threshold. Pre-profit companies can be identified by adding a special letter on their trading codes, etc.

3) While the proposed New Board could serve to distinguish the targeted companies by mean of different listing regulations, many investors (including those professional investors qualified by the size of their liquid assets rather than their knowledge on the stock market and the relevant regulations) are not sophisticated enough to truly understand the difference of rules governing the listing among the New Board, the Main board and GEM.

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.

HKIRA does not advocate that only "professional investors" are permitted to invest in companies listed on the Exchange.

HKIRA believes that the success of the Hong Kong capital market largely rests on its disclosure base listing regime. To protect the public, the best mean is to ensure that investors possess the knowledge of "where to look" for the difference between a pre-profit company, a GEM company, a WVR company, and a main board company. As long as "non-professional investors" know "where to look", and such information are easily accessible, they should be allowed to invest in all companies that are listed on the Exchange.

HKIRA advocates to expand the investor eligibility of New Board PRO beyond "professional investors" to include:

- 1) those who have attended prescribed trainings as to "where to look" for the difference between a pre-profit company, a GEM company, a WVR company, and a main board company, or
- 2) members of professional institutes such as HKICPA, HKSFA, and HKICS etc., or
- 3) investors which can demonstrate that they have been active trading Hong Kong listed companies for more than 6 months within the last three years, or
- 4) additional categories of investors deemed appropriate by the Exchange.

HKIRA also does not advocate the New Board be restricted to particular industries. The main purpose of the New Board is to attract companies with high growth but not yet profitable or with a WVR shareholding structure, so they can raise capital by listing in Hong Kong. Restricting the New Board to certain industries would subside the full potential of such new initiative.

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.

HKIRA believes that the proposed roles of the Main Board and GEM clearly distinguish the type of companies listed on the relevant boards, as evidenced by their profit level and market cap. Designating GEM as a board for small and medium size companies also seems appropriate as this actually reflects the true state of most companies currently listed on GEM, and avoiding the public to perceive GEM companies should have high growth potential.

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.

HKIRA supports the view that there should be no fast-track migration mechanism for the New Board listed companies to "upgrade" to the other boards. Issuers wish to list on the other boards should need to meet all the admission criteria and other listing requirements of the relevant boards to ensure adequate shareholder protection and legal safeguards as pointed out in the Consultation Paper.

As the Consultation Paper emphasized, total exclusion of retail investors from access to higher risk issuers may not be entirely desirable. HKIRA advocates the need to have a public offer requirement be imposed for all boards (i.e. including New Board PRO) to provide a fair chance for all investors, and to improve liquidity of the New Board issuers.

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.

HKIRA believes that the proposed financial and track record requirements for the New Board are appropriate in the overall context of the listing scheme and at the same time able to attract a more diverse range of companies to list in Hong Kong. Please refer to our response to Question No. 2 on some of our concerns that may need further consideration.

HKIRA does not support that all retail investors should be barred from the New Board Pro. Rather, HKIRA advocates to expand eligibility of investors beyond "professional investors" for the New Board. Please refer to our response to Question No. 3.

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.

As New Board PRO would encompass a much lower entry barrier to the Hong Kong capital market, HKIRA believes that it is essential for the Exchange to reserve the right to refuse application for listing on the New Board PRO to prevent issuers to abuse the "lighter touch" approach and circumvent the need to provide appropriate shareholder protection and sound corporate governance.

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.

HKIRA is in the view that the proposed requirements for minimum public float and minimum number of investors at listing are appropriate for New Board PRO. However, no explanation is provided by the Consultation Paper as to whether the same risk of volatility similar to GEM would not occur for the New Board listed companies.

To ensure sufficient liquidity, HKIRA advocates to expand eligible investors beyond "professional investors". Please refer to our response to Question No. 3. In addition, a market makers mechanism similar to those for trading stock warrants should also be considered for the New Board PRO to provide sufficient liquidity.

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.

HKIRA welcomes the exemption provided for companies already listed on a Recognised US Exchange. However, the Consultation Paper has not provided explanations why such exemption is not extended to companies listed on the exchanges of other countries such as Canada, which also has a strong regulatory environment and allows shareholders class actions.

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.

HKIRA support the use of a "lighter touch" suitability assessment on New Board PRO issuers.

Under the current practice, Main Board and GEM applicants would not be officially told by the Exchange whether their proposed listings are not suitable until they submitted the listing application. Many pre-profit companies may hesitate to list in Hong Kong, concerning the possibility that the Exchange will not commence the assessment of suitability of listing until a considerably amount of costs and time has incurred. Hence, HKIRA is inclined to suggest the Exchange to implement a formal consultation mechanism for the New Board issuers to seek preliminary indication on suitability of listing from the Exchange at early stage (e.g. before they start preparing listing documents)

HKIRA is supporting the relaxation of the following suitability criteria under GL68-13:

1) Deteriorating financial performance - Many high growth companies, including those of New Economy, rely heavily on research and development as well as capital investments to generate growth. To assess them based on short term volatility in profit may not be appropriate as their profit prospect may appear in a relatively longer term than those of industrial companies.

2) Reliance on connected person / major customer / captive business model - Quite often, when a knowhow is developed, the company may utilize the knowhow internally for a considerable period of time before they offer to external parties. Pre-profit companies usually are weaker in financial strength, and may not have the necessary resource to broaden their customer base until they can tap into the capital market. Also, many New Economy companies, such as e-gaming, rely heavily on a single large distribution entity with dominant position in gaming platform. In all such situations, a relaxation of the suitability criteria on reliance on connected person / major customer / captive business model may seem more suitable.

3) Contractual agreement ("VIE") - many New Economy companies, including those already listed on other international exchanges, have VIE ownership structure. Relaxation of the relevant suitability criteria is essential for attracting more New Economy companies to list in Hong Kong.

4) Reliance on unrealised fair value gains to meet profit requirement - since New Board PRO does not have a profit requirement, unrealised fair value gains or losses would be irrelevant in assessing listing suitability.

5) Unsustainable business model - Many New Economy companies have business models that are unprecedented. These companies may not be ready to generate significant revenue until they reached a critical mass. Their first mover advantage would provide them a solid entry barrier leading to exponential growth at a later stage. It would be difficult for the Exchange to judge whether such companies are suitable for listing based on its business model which may not necessarily be proven by the amount of revenue generated, before they reached a critical mass.

HKIRA is supporting the relaxation of the following suitability criteria under GL68-13A:

1) Almost all of the characteristics listed out in section 1.4 of GL68-13A are innate to New Economy companies. It would be appropriate to disregard GL68-13A in its entirety when assessing suitability of listing for New Board PRO applicants.

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.

HKIRA believes that New Board PRO should allow eligible investors beyond "Professional Investors" to trade. Please refer to our response to Question No. 3.

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.

If New Board PRO is restricted to "professional investors" only, it would be essential to impose the Exchange Participants to carry out special measure, such as signing a certification of professional investors upon due diligent, to ensure the eligibility of their clients. Exchange Participants currently have to ask GEM investors to sign a risk acknowledgement, and therefore a certification to authenticate "professional investors" for the New Board should not cast extra burden.

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.

HKIRA supports the proposal to appointing a Financial Adviser (instead of a Sponsor) by the New Board PRO listing applicants. As such Financial Adviser is regulated under the Type 6 license, we believes that the Financial Advisor show possesses professionalism and integrity necessarily to act diligently in the preparation of the Listing Documents.

HKIRA proposes that certain governance mechanisms currently imposed to the Sponsors by Exchange to facilitate their professionalism (such as imposing an 8-week moratorium on listing applications returned on the ground that the application proofs or other related documents are considered not substantially complete) should also be introduced for Financial Adviser engaged to prepare listing documents for New Board PRO applicants.

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 proposed role of the Listing Committee appears to be in line with the current practice for the Main Board and GEM. HKIRA has no further comments on this matter. Listing Committee however should ensure that the manpower of the Listing Division is sufficient from time to time, to avoid undue delay in approving applications of the New Board as a result of too many applications in the pipeline.

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.

Some contents in the Prospectus (in particular to those in the Appendice other than the accountant report) quite often are rarely used by professional investors to make their investment decision. In addition, as most contents in the Prospectus must be verifiable, the Prospectus is somehow limited from allowing companies to reveal useful business information such as why their companies or business models are superior to the others. HKIRA is in the view that a more detail disclosure on their long term business plan, key success factors, competitive advantages, use of proceeds and sustainability should be required to disclose in the New Board PRO Listing Document given their lack of near term profitability. Applicants should be encouraged to analyze their industry and business using strategic models frequently considered by investors such as Porter's Five Forces, Porter's Value Chain, and SWOT etc., although not necessarily verifiable but are recommended, because they are useful tools for investors in making 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.

HKIRA does not have any other view on the proposed continuous listing obligations for the New 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.

HKIRA supports the use of a disclosure-based approach for both segments of the New Board for the following reasons:

1) Some examples of restrictions and safeguards mentioned in the Consultation Paper are not currently being used by other international stock exchanges. Imposing such restrictions and safeguards will make listing to the New Board less attractive as compared to list in other international exchanges.

2) If New Board PRO is restricted to professional investors (and other eligible investors as proposed by HKIRA in our response to Question 3), they should be able to look up and understand the relevant WVR structure and the risks associated with it. Furthermore, imposing additional restrictions and safeguards does not really facilitate investors to be more informed.

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.

Please refer to our response to Question No. 17.

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.

HKIRA welcomes such initiative. However, the Consultation Paper is not clear why such initiative is not extended to companies listed on the exchanges of other countries such as Canada, which also has a strong regulatory environment and remedies shareholders via class action.

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

Please give reasons for your views.

HKIRA is in the view that the current mechanisms on suspension and delisting applicable to the Main board and GEM are effective. The Consultation Paper does not provide enough detail to explain why suspension and delisting should be different from those of Main Board and GEM. In particular, delisting after suspension of 3 months (for New Board PRO) and 6 months (for New Board PREMIUM) seems too short. There are many reasons for suspension to last more than 3 months. For example, when a short seller attacks a company during reporting season by publishing a negative report, the company may need to suspend its share trading for a period of time long enough to address the issues raised by the short seller's reports and may be forced to carry out additional audit procedures in light of the short seller report to fulfil the financial reporting requirements. The short delisting grace period may likely deter potential New Board applicants as well as the potential investors and creditors.

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.

HKIRA believes that share price performance of a company depends on a wide range of factors. Likewise, share price performance is quite often not in line with the operation performance of the company. Delisting or putting a listed company into a watch list might be seen as a negative signs by stakeholders and could possibly turn into a cause to detriment business prospect. Once a company is delisted, it is extremely difficult for investors to recover their investments afterward. Hence, HKIRA would like to suggest the Exchange to either extend the proposed delisting period and/or re-consider the use of quantitative measures other than share price performance as a criteria for delisting.

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.

HKIRA believes that the current regulatory regimes applicable to the Main board and GEM should be adopted by the New Board so a good reputation for the Hong Kong capital market can be preserved.

- End -