

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 note from paragraphs 27, 31 and 32 of the Concept Paper that currently:

- (a) there is a high concentration of Mainland issuers listed on the Exchange;
- (b) Mainland IPOs account for a high percentage of the total number of IPOs in Hong Kong and a high percentage of IPO funds raised;
- (c) the Hong Kong market has high sector concentrations particularly in the financial and property sectors; and
- (d) compared to NASDAQ, NYSE and LSE, the Hong Kong market has a low concentration of issuers from New Economy industries.

In light of the above, we agree that there is a need for Hong Kong to seek to attract a more diverse range of companies.

We agree that the New Board would have a positive impact on Hong Kong's ability to attract additional New Economy issuers to our market. This is because the proposed New Board would accommodate the special features of New Economy companies (i.e. pre-profit and non-standard governance) and enable Mainland companies already listed elsewhere to list 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.

Given that the targeted companies include pre-profit companies that do not fit into the current financial requirements of the Main Board or GEM board and in light of the concerns with WVR structures mentioned in paragraphs 118 to 121 of the Concept Paper, targeted companies should be segregated onto a New Board.

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.

The New Board should not be segmented.

One board should be sufficient to accommodate: (a) pre-profit companies; (b) companies with non-standard governance features; and (c) Mainland Chinese companies that wish to secondarily list in Hong Kong.

One of the main difference between New Board PRO and New Board Premium is investor eligibility where retail investors cannot invest in New Board PRO issuers. However, from a potential issuer's perspective, we question the attractiveness of a board that offers no non-professional investors.

Another reason for the two segments is the view that the more sophisticated the investor, the less regulatory protection is required. However, regulatory investor protection should not be compromised and should be the same regardless of the level of sophistication of the investor to protect the integrity of the market and protect Hong Kong's reputation as leading financial market.

Lastly, the New Board should not be specifically restricted to particular industries. The classification of applicants into different industries will prove to be a very challenging exercise during the listing application process. It would also be challenging from an ongoing regulation and enforcement perspective. For example, would New Economy issuers be able to acquire businesses from non-New Economy industries after listing? If not, potential issuers may view this as an impediment to expanding their business in the future and therefore, make the New Board less attractive.

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.

We have no objections to the proposed roles of GEM and the Main Board in the context of the proposed overall listing framework.

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 respond to this question in light of our view above that the New Board should not be segmented. Any transfer from the New Board to the other boards should satisfy all the admission criteria and other listing requirements for those other boards. Furthermore, any special features (e.g. WVR structures) that are permissible in the New Board but not permissible in the other boards should fall away after the transfer.

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.

We respond to this question in light of our view above that the New Board should not be segmented.

If the purpose of the New Board is to attract pre-profit companies, then the financial and track record requirements should reflect that. Imposing financial and track record requirements that are the same as the Main Board requirements would mean that the only difference between the New Board and the Main Board is the ability for companies with WVR structures to list. If that is the intention of the Exchange, then we invite the Exchange to consider whether it is possible to create a new segment on the Main Board instead of creating a New Board that targets: a) pre-profit companies; (b) companies with non-standard governance features; and (c) Mainland Chinese companies that wish to secondarily list in Hong Kong.

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.

In light of our view above that the New Board should not be segmented, we offer no views as to whether the Exchange should reserve the right to refuse an application for listing on New Board PRO if it believes that the applicant could meet the eligibility requirements of New Board Premium.

As to whether the Exchange should reserve the right to refuse an application for listing on the New Board if it believes that the applicant could meet the eligibility requirements of GEM or the Main Board, our view is that a listing applicant should have the freedom to decide which board they wish to list on.

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 requirements for minimum public float and the minimum number of investors at listing for the New Board should be the same as the requirements for the Main Board to ensure adequate liquidity in the secondary market.

In light of our view above that the New Board should not be segmented, the second and third part of the question is not applicable.

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 agree that this exemption is in line with the spirit of the JPS. Whether companies listed elsewhere should be similarly exempted should be evaluated on a case-by-case basis.

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.

In light of our view above that the New Board should not be segmented, our view is in respect of the New Board rather than New Board PRO. We see no reasons why the Exchange should apply a "lighter touch" suitability assessment to new applicants to the New Board. We believe that adopting the Main Board's current suitability criteria is necessary to ensure the quality of New Board issuers.

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.

In light of our view above that the New Board should not be segmented, our view is in respect of the New Board rather than New Board PRO. From a potential issuer's perspective, we question the attractiveness of a board that offers no retail investors. Therefore, access to the New Board should not be restricted to professional investors only.

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.

In light of our response to question 11, we offer no views on this.

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.

In light of our view above that the New Board should not be segmented, our view is in respect of the New Board rather than New Board PRO. The existing sponsor regime should apply to the New Board. We see no reasons why the regime should differ.

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 role of the Listing Committee in respect of the New Board should be the same as its role in respect of the Main Board. We see no reasons for the role of the Listing Committee to differ.

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.

In light of our view above that the New Board should not be segmented, our view is in respect of the New Board rather than New Board PRO. A Prospectus should be produced as the New Board would be accessible to both retail and professional investors.

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.

The continuous listing obligations for the New Board should be largely consistent with the obligations for the Main Board. We see no reasons for the obligations to differ materially or at all.

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.

The Exchange should take a disclosure-based approach such that investors are warned of the risks associated with investing in a company with a WVR structure and are informed of the details of such WVR structure.

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 Exchange should also impose mandatory safeguards for companies that list on the New Board with a WVR structure to ensure there would be corporate governance checks and balances on issuers with WVR structures.

We note from the Consultation Conclusions to Concept Paper on Weighted Voting Rights June 2015 that the following restrictions received the most support from respondents and we support the adoption of these restrictions as mandatory safeguards:

(a) restrictions on transfers - the loss of superior voting rights on transfer of multiple voting shares to parties un-affiliated with the original holder;

(b) minimum equity threshold held by founders or others - the loss of superior voting rights if the beneficiary holds less than a particular proportion of the equity in the company;

(c) sunset clause - the loss of superior voting rights at a pre-set future date;

(d) shareholder vote - the loss of superior voting rights after a vote by independent shareholders;

(e) continued active involvement of the founder in the management of the company; and

(f) cap on votes per share - a limit on the number of votes that could be cast by the holder, per share.

However, the Exchange should have the ability to waive these safeguards in certain circumstances and should have the ability to impose additional obligations where required to ensure investor protection.

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 do not think that a disclosure-based approach provides adequate protection for investors. As mentioned in question 18 above, we think that the Exchange should also impose mandatory safeguards for companies that list on the New Board with a WVR structure to ensure there would be corporate governance checks and balances on issuers with WVR structures. Therefore, we disagree that the Exchange should allow companies with unconventional governance features to list on the New Board under the "disclosure only" regime.

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

Please give reasons for your views.

Similar to the Main Board Listing Rules, we agree that the Exchange may suspend a New Board-listed company's securities for a material breach of the New Board Listing Rules.

However, we disagree with the proposal to cancel the listing of a company listed on the New Board if it had been suspended for a specified period. Instead, there should be no time period specified, which is similar to the current regime where the Exchange may cancel the listing of an issuer where there has been a continuation of a suspension for a "prolonged period" without the issuer taking adequate action to obtain restoration of the listing. This would give the Exchange more flexibility and discretion when it enforces this right.

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.

New Board-listed companies should not have to meet quantitative performance criteria. Investors should be able to trade on the basis of the quantitative performance of such companies and the quantitative performance of such companies will ultimately be reflected in the share price.

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 see no reasons why an even "lighter touch" enforcement regime should apply to the New Board and the Consultation Paper has not provided any reasons.

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