

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.

The Financial Services Business Council of the European Chamber of Commerce (the "FSBC") strongly supports the proposed setting up of a new board providing a listing venue for technology companies and other "New Economy" industries. The absence of financial qualifying criteria for New Board Pro is likely to prove very attractive to New Economy companies as high research and development costs typically mean that these companies are not profitable and have low cash flow. These companies offer Hong Kong the opportunity to enhance its status as an international finance centre by innovating to attract listings of high growth companies and broadening investor choice. Otherwise, SEHK risks being perceived as outdated in comparison to its competitor exchanges, particularly NASDAQ, London's AIM, Singapore's Catalist and China's ChiNext and NEEQ. Technology companies account for some 12% of AIM-listed companies and notable Fintech IPOs on AIM include that of banking start-up Tide which raised US\$14 million in 2017. The establishment of New Board Pro could offer European start-ups a welcome alternative to AIM since a Hong Kong listing additionally offers technology companies a means to help them develop synergies with Asian business partners, consumers and shareholders.

Given Hong Kong's ambition to establish itself as a FinTech hub, it is vitally important that Hong Kong improves access to capital for FinTech companies which is especially critical for FinTech start-ups before their business becomes profitable. Hong Kong ranked sixth in terms of access to capital among seven global FinTech centres including the UK, California, New York, Singapore, Germany and Australia, according to Ernst & Young's 2015 Report, "UK Fintech on the cutting edge - An evaluation of the international Fintech sector". Hong Kong's venture capital industry is less developed than in other jurisdictions and Hong Kong also lags in allowing crowd-funding of FinTech start-ups within strict parameters.

The FSBC is keen to see more European companies admitted to listing in Hong Kong. As noted in the Concept Paper, international companies listed in Hong Kong in the last decade represent only 11% of the SEHK's market capitalisation. A key disincentive to listing in Hong Kong is the requirement for companies incorporated in jurisdictions that are not Recognised Jurisdictions or Acceptable Jurisdictions to demonstrate that their home jurisdiction provides standards of shareholder protection equivalent to those provided in Hong Kong. This is an expensive and time consuming process which adds to the already significant costs of listing in Hong Kong. Currently only six European countries are Acceptable Jurisdictions meaning that many European companies would be subject to this additional and costly process if they sought to list in Hong Kong. The proposed relaxation of this requirement for companies listing on the PRO segment is therefore welcomed. The FSBC would also suggest extending this relaxation to GEM-listed companies for whom the cost of listing in Hong Kong often represents a significant proportion of the funds raised.

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.

The FSBC agrees with listing start-ups/pre-profit companies on a separate board accessible only to professional investors. As regards companies with weighted voting rights (WVR), the priority is enabling these companies to list in Hong Kong so that local investors are able to invest in them. Given that WVR structures are commonly adopted by technology companies, listing WVR companies on a new board may be the best practical solution to allowing them to list in Hong Kong since the Main Board and GEM Listing Rules preclude the listing of companies with WVR structures.

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 proposed segmentation in terms of financial criteria and investor type is supported. New Board PRO could however offer access to a broader range of industries and there seems to be no obvious reason for restricting it to new economy companies. Given that investors will be limited to professionals, investor protection concerns are less significant. The term "New Economy" will change over time and opening access to all industry sectors would avoid the difficulties of determining eligibility.

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.

The FSBC would prefer to see the continuance of the streamlined process for GEM companies to transfer to the Main Board. This is a natural progression and potential abuse by shell manufacture could be dealt with by prohibiting transfer within a certain period after a change in the company's controlling shareholders or its principal business.

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.

New Board PRO-listed companies should have to satisfy the listing requirements for the board to which they wish to move.

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.

These are considered to be appropriate.

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.

Listing applicants should be permitted to list on the board which they consider to best suit their needs. An explanatory statement could be required to be included in the relevant listing document.

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 100 shareholders and a 25% public float may not be achievable for many start-ups and pre-profit companies. The FSBC would suggest lowering these requirements.

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.

This proposal is welcomed and should also be extended to companies with listings on other comparable exchanges such as the stock exchanges recognised under the SFC/SEHK Joint Policy Statement for the listing of overseas companies.

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.

A light touch regulatory approach to New Board Pro-listed companies would be highly beneficial. Given that New Board PRO will be restricted to professional investors, they should be sufficiently sophisticated to determine the risks of investing in these companies. Relaxation of the reliance on connected parties and demonstration of business sustainability should be considered.

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 FSBC supports the restriction on access to New Board PRO to professional investors within the existing definition of professional investors under the SFO and the Securities and Futures (Professional Investor) Rules.

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.

No special measures should be imposed on Exchange Participants. There is no objection to both the initial placing and secondary trading being restricted to professional investors.

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.

The existing sponsor regime would be prohibitively expensive for listings of start-ups and pre-profit companies. Market practice should apply to the conduct of due diligence by a 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.

The FSBC agrees that New Board PRO applications should be vetted and approved by the Listing Department while applications to the PREMIUM segment should be subject to Listing Committee approval in the same way as applications to the Main Board.

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.

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.

Companies listed on the PREMIUM segment should be subject to the same continuing obligations as Main Board-listed companies. Companies listed on the PRO segment should be subject to less stringent requirements which should be more in line with requirements for other exchanges for growth companies such as AIM. The requirements in relation to connected transactions in particular should be considerably less onerous than the comparable obligations of Main Board and GEM-listed companies.

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.

Yes. A disclosure-based approach should apply.

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.

Companies should be prohibited from adopting a WVR structure after listing which would deprive shareholders of, or reduce, their existing voting rights. Stock codes should clearly indicate which companies have WVR structures.

The FSBC strongly supports SEHK's efforts to facilitate the listing of companies with WVR structures.

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.

The FSBC agrees with a "disclosure only" regime for companies with WVR structures listed on any recognised exchange (as defined in the Joint Policy Statement for the Listing of Overseas Companies).

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

Please give reasons for your views.

The FSBC agrees with the proposals.

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.

No.

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.

For start-up and pre-profit companies listed on the PRO segment, this is considered appropriate. For the PREMIUM segment, however, the enforcement regime should be the same as for the Main Board.

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