

## 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 Group very much welcomes the Concept Paper's proposals. It considers it essential that Hong Kong should seek to attract a broader range of companies, including those in New Economy industries. As highlighted by the Concept Paper, increasing competition from the Mainland exchanges as well as from the US exchanges, and potentially also from the Singaporean and London exchanges, for the listing of Mainland New Economy companies with WVR structures, risks marginalising the SEHK. As well as providing investors with a broader range of investment opportunities, Hong Kong needs to offer a comprehensive and diversified market for smaller growth companies as well as large, established companies to raise funds. A public platform offers the most efficient method of raising funds and since SEHK is Hong Kong's only trading platform, it must innovate to ensure it meets the needs of companies and investors alike. If investment opportunities on the Hong Kong market are limited, Hong Kong investors are likely to invest on overseas markets which may offer lower standards of protection than the Hong Kong regulatory regime.

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 Group agrees with the proposals to segregate the listings of the targeted companies 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 Group supports segmentation in terms of investor type and financial eligibility. However, it considers that the New Board need not necessarily be limited to so-called New Economy industries. New Board PRO could for example provide an attractive listing venue for mineral exploration companies which are unable to list on the Main Board and GEM. Widening eligibility to all sectors would avoid the difficulty of defining "New Economy" and the need to update the definition as new sectors emerge. With regard to the PREMIUM segment, while the technology sector currently makes the most use of WVR structures, this may change in the future with the result that the restriction could undermine Hong Kong's future competitiveness.

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 Group considers that GEM's position as a stepping stone to the Main Board should be consolidated rather than removed. Concerns regarding its stepping stone status being abused as a means of easy access to the Main Board could be dealt with by imposing restrictions on the transfer to the Main Board of GEM issuers which have experienced a change in control or change in their principal business within a specified period prior to transfer.

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.

The Group agrees that New Board PRO issuers should be required to meet all relevant listing criteria for the board on which they seek to list. There is no objection to the requirement for a public offer.

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 for both segments are considered 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.

The Group's view is that listing applicants should be free to list on whichever board they wish, subject to appropriate disclosure of the reasons for listing on the board they have chosen.

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.

Imposing the current GEM requirements on New Board PRO applicants may be too stringent and the minimum public float and minimum number of investors requirements should be relaxed. As acknowledged by the Concept Paper, GEM no longer caters for the emerging high-risk companies for which it was originally intended, but has become a market for established SMEs which are subject to continuing obligations equally as stringent as those applicable to Main Board issuers. It may therefore be unrealistic to expect start-up companies to meet the requirements that currently apply to GEM applicants. The Group would also request written guidance on the regulators' specific requirements in relation to shareholder concentration on GEM IPOs, in particular the increasingly common requirement that the top 25 shareholders should not hold more than 90% of the shares.



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.

The Group agrees with the proposed exemption for applicants with a primary listing on Recognised US Exchanges since the time and expense involved in establishing equivalent standards of shareholder protection may otherwise act as a disincentive to companies seeking a secondary listing in Hong Kong. A similar exemption should be available to applicants with primary listings on other developed markets, such as the "Recognised stock exchanges" listed under paragraph 91 of the Joint Policy Statement.

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.

New Board PRO should be a disclosure-based, lightly regulated market with no obligation to meet the suitability requirements of Guidance Letters 68-13 and 68-13A which were designed for Main Board and GEM listing applicants. Since PRO is intended for start-ups, it would be inappropriate, for example, if an applicant could be refused listing due to questions as to business sustainability. Restrictions on reliance on the parent company are also likely to be inappropriate. Suitability should instead be determined on a far simpler basis, namely that the listing of the applicant's business must not be contrary to public policy or the interests of the investing public.

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.

If the proposed restriction to professional investors is adopted, it should be defined in accordance with Schedule 1 to the Securities and Futures Ordinance (SFO) and the Securities and Futures (Professional Investor) Rules (i.e. professional investors should be defined to include the categories of high net worth investors specified in those rules). The Group would oppose restricting the definition of professional investors to the categories of institutional professional investors falling within paragraphs (a) to (i) of Part 1 to Schedule 1 to the 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.

The Group agrees that both the initial placing and secondary trading of New Board PRO-listed securities should be restricted to professional investors within the existing SFO definition of professional investors (including high net worth investors under the Securities and Futures (Professional Investor) Rules) and procedures for determining eligibility should apply. No additional special measures for Exchange Participants are required.

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.

A requirement for compliance with the existing sponsor regime, particularly the due diligence obligations, would make listing on New Board PRO prohibitively expensive. The required due diligence standard should be due diligence conducted in accordance with normal market practice and applicable legal requirements. In the event any additional requirements as to due diligence were to be imposed, these should be clearly defined. The Group suggests that applicants should be required to appoint a sponsor, although the sponsor regime would not apply to New Board PRO listings. Alternatively, the appointment of a Financial Adviser could be permitted subject to appropriate qualification (e.g. for the work to be supervised by a Responsible Officer(s) with a specified period of experience in the Hong Kong securities industry).

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.



It is agreed that the Listing Department should be responsible for vetting and approving listing applications to New Board PRO. Similarly, the Group supports the proposals for applications to the PREMIUM segment to be approved by the Listing Committee after vetting by the Listing Department since this is in line with the Main Board listing approval process, and for the Listing Committee to be responsible for decisions on listing cancellations, delistings and the hearing of appeals.

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.

The Group would prefer a requirement for a prospectus with requirements broadly in line with the current requirements of the Companies (Winding Up and Miscellaneous Provisions) Ordinance. It recommends however that consideration be given to the use of an e-prospectus in order to reduce the printing costs which may be prohibitive for start-ups.

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.

For the PREMIUM segment, issuers' ongoing obligations should be the same as for the Main Board. For the PRO segment, however, the Group suggests adopting continuing obligations more in line with international practice, with less stringent requirements for connected transactions.

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.

WVR structures and their inherent risks should be subject to full disclosure on 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 Group considers that such companies should be subject to additional safeguards which could include restrictions on companies adopting a WVR structure post-listing unless approved by a sufficiently high percentage of shareholders with a cap on the number of disinterested shareholders voting against. It is especially important that potential investors are able to easily identify companies with WVR structures and this should be achieved through demarcation in their stock codes.

As a general comment, while the Group strongly supports the Concept Paper's proposals, it is conscious that a separate board (or segment of a third board (i.e. New Board PREMIUM)) solely for the listing of New Economy companies with WVR structures might not be the most attractive option. Ideally, companies in all industry sectors with WVR structures would be allowed to list on the Main Board or GEM if they met the relevant listing criteria. Nevertheless, given the history of HKEx's efforts to allow the listing of companies with WVR structures, the Concept Paper's proposals may offer the best practical option for broadening the range of companies listing in Hong Kong and the best chance of ensuring SEHK's continued competitiveness.

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.

Yes. Companies with WVR structures listed on other "Recognised stock exchanges" listed under paragraph 91 of the Joint Policy Statement regarding the listing of overseas companies should also be exempted.

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

Please give reasons for your views.

The Group agrees with the proposals subject to clear definition of the ongoing obligations of issuers.

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.

A disclosure-based light touch regulatory regime is considered appropriate for the PRO segment given that it would be a professionals only market.

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