



The British
Chamber of Commerce
in Hong Kong
香港英商會

Mr. Charles Li Xiaojia
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Corporate Communications Department
Hong Kong Exchanges and Clearing Limited
12/F, One International Finance Centre
1 Harbour View Street
Central
Hong Kong

18th August 2017

Dear Mr. Li,

New Board Concept Paper; and
Consultation on Review of the Growth Enterprise Market (GEM) and Changes to the
GEM and Main Board Listing Rules: Response of British Chamber of Commerce

The British Chamber of Commerce in Hong Kong agrees on the importance of maintaining Hong Kong's premier status as an international financial centre, and of exploring opportunities to extend our capital markets to newly emerging companies and less conventional corporate structures. However the Chamber has a number of questions and observations relating to the HKEX's specific proposals, as set out below.

A threshold question to ask is: does Hong Kong need four boards? If the New Board (which in reality comprises two different boards: Premium and PRO) is established, is there a reason to keep GEM? Any decision on the New Board should include a comprehensive approach to GEM. If GEM is to be maintained, it must continue to be relevant, and then the question is whether there is a need for the New Board. If the New Board is to be established, its value-add to Hong Kong must be clear.

It seems that the New Board Premium is meant for applicants with weighted voting rights (WVR) structures but which, in all other respects, are the same as Main Board applicants. Would an alternative approach be to ask such applicants to list on the Main Board? Their WVR structure could be clearly differentiated by a special code or other unique features.

We believe that Hong Kong's regulatory framework must be relevant to the current environment and it should also be forward-looking. Hong Kong should be able to meet the needs of "new economy" companies without compromising investor protection. For example, in the case of WVR companies, this would entail full and transparent disclosure of the WVR structures and safeguards as mentioned in our response to the HKEX "Weighted Voting Rights Concept Paper" consultation of August 2014. Similarly, 'pre-profit' and new economy companies should still prepare offer documents to prospectus standards.

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We believe that Hong Kong capital markets should embrace both "established economy", and "new economy" companies, each group with a different and separate infrastructure and regulatory framework appropriate to the companies' business models, corporate structures and investor base. We urge HKEX and the Hong Kong Government to look to successful regulations in other jurisdictions; for example, in the US, where different exchanges cater for different markets.

To meet the funding needs of small start-ups, we would also ask if it would be more appropriate to encourage or permit some form of crowdfunding? In this regard, we refer to the views and recommendations of the Financial Services Development Council in their paper "Introducing a Regulatory Framework for Equity Crowdfunding in Hong Kong" of March 2016.

And in considering options, it is vital that Hong Kong markets retain the full confidence of the international investment community, this being a key point of differentiation and competitive advantage.

We have not 'ticked the box' on all of the detailed questions relating to proposed regulations or conditions for the various boards. Instead, these fundamental matters should be considered, before a deep dive into detailed regulations and conditions for listing.

We do wish to make a specific comment about shell companies and a GEM listing being considered as a stepping stone to the Main Board. We believe that any substantial change of business, or substantial change of shareholder within a short period of time from listing should only be allowed after a vigorous pre-approval process. Any subsequent transfer to Main Board will be treated as a new application.

Last but not least, we hope the HKEX will continue to take a global approach to market innovation; for example, to look beyond Mainland Chinese companies as potential listing applicants and encourage the listing of debt instruments.

Yours sincerely,



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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.

Please see our cover letter.

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.

Please see our cover letter.

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.

Please see our cover letter.

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.

Please see our cover letter.

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.

On principle, all companies on the same board should be subject to the same standards and requirements, to maintain a level playing field.

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 would like HKEX to further explain their rationale for the financial and track record requirements and why they are considered appropriate for the New Board.

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.

We believe it is more appropriate for an applicant to be able to choose the board on which it wants to be listed.

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.

We would like the HKEX to further explain their rationale for the proposals. Given the acknowledgment that these requirements may not been adequate to ensure an open market in many GEM companies, these requirements may be in need of review generally.

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.

Companies should not be exempted from these requirements entirely as HKEX must maintain standards to ensure high quality listings. However, a fast-track system may be considered, to duly recognise that these companies have been through a robust vetting process in other jurisdictions with established and reputable regulatory regimes. There should not be automatic exemptions.

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.

Without further information on what exactly a "lighter touch" entails, we cannot comment.

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.

Yes.

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.

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.

All fund raisings through IPO should be subject to prospectus and sponsorship standards.

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 Chamber notes that there are no consultation conclusions yet to the joint HKEX/SFC consultation paper in June 2016 on Listing Regulation. Please also see our cover letter.

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.

Generally, we believe a document to prospectus standards should be produced. If a "less comprehensive" standard via a Listing Document is produced, HKEX should provide clear guidance on what a Listing Document should contain.

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 do not see why different standards should apply.

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.

Please see our cover letter. We believe HKEX should adopt both paragraphs 153 and 154 of the Concept Paper. We believe this should apply 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.

Please see our cover letter and our answer to Question 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.

Please see our cover letter and our answer to Question 17.
In addition, we do not agree that companies listed on a Recognised US Exchange (or any other recognised exchange) should be "automatically" list in Hong Kong. They should meet Hong Kong standards.

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

Please give reasons for your views.

We generally agree.

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.

Generally we do not agree; the market and investors can decide if companies are doing well or not.
Further, depending on what quantitative performance standards apply, listed companies may then be at the mercy of volatile market conditions, which may affect performance only temporarily.

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 have no further details on this and invite the HKEX to explain what is meant by "an even "lighter touch" enforcement regime".

- End -