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By email (response@hkex.com.hk)

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Our ref



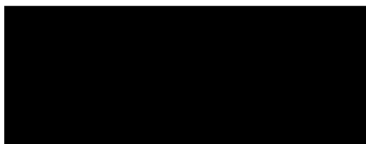
Dear Sirs

RE: NEW BOARD CONCEPT PAPER

We refer to the New Board Concept Paper published on 16 June 2017 and enclose our comments for your attention.

If you have any questions on the enclosed, please do not hesitate to contact Sammy Li or Nelson Tang through the contact details set out above.

Yours faithfully



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QUESTIONNAIRE ON THE NEW BOARD PROPOSAL

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 support the proposals which will open Hong Kong to a wider and more diverse range of companies for listing. This is also timely in the light of the Belt & Road initiative as it will afford potential listing applicants more flexibility in terms of meeting the listing criteria. Hong Kong's inability to accept companies with WVR structures is seen by some as a barrier to entry for large technology companies (such as Alibaba).

The proposals demonstrate that the Exchange is supportive of expanding and strengthening our listing regime to reflect international trends and market standards, and help Hong Kong compete with other international listing venues. By expanding the range of potential companies for investment, this will also serve to develop the expertise of local investors through exposure to more diversity.

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.

In general, we agree that targeted companies should be segregated into the New Board. These should comprise New Economy companies that fail to meet the Main Board or GEM Board listing requirements and companies with WVR features. However, New Economy companies that meet the Main Board or GEM Board listing requirements should have a choice as to whether it chooses to list on the Main Board, GEM Board, or the New Board.

Given there will be no definition of New Economy companies and with ultimate discretion to determine listing eligibility resting with the Listing Committee, further guidance and regular updates are needed as to what the Exchange considers acceptable (for example, regular reports or guidance on the Listing Committee's decisions to accept or reject an applicant (similar to the current Listing Decisions providing guidance on why the Exchange rejected certain listing applications)). Many of the New Economy companies will be from the technology related or innovative industries which also means that there should be transparency in understanding how the Exchange decides on what is acceptable in the light of the evolving nature of companies in those industries.

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.

It seems reasonable to divide the New Board into two segments which cater for different types of issuers and investors.

In general, we agree that the New Board should be restricted to New Economy companies as they represent the future economy associated with higher growth potential and risks which the Exchange is hoping to capture by creating a new set of listing requirements. However, as mentioned in our response to Q2 above, we have concerns as to what constitutes a New Economy company. The Concept Paper states that for the New Board PRO, the Exchange is proposing a flexible and principle-based approach to determining the type of entity that would qualify for listing on that board. The paper also mentions that guidelines will be developed with the Listing Committee having ultimate decision as to eligibility. We understand the need to retain flexibility by not defining a New Economy company, but guidelines will take time to develop and for the initial batch of listings, our concern is that without something more concrete at the outset, this may cause difficulties for issuers and their advisers when determining whether a potential listing applicant falls within such definition.

One further concern is that if the New Board proposals are implemented, whether there are corresponding plans to increase the Exchange and SFC's resources to cater for this New Board without affecting the existing manpower allocated to the Main Board and GEM Board.

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 New Board aims to provide new options to the investing public to invest in companies which are currently barred from listing in Hong Kong as they do not satisfy the listing requirements (eg. pre-profit companies or companies with WVR structure). As such, we do not believe that the roles of the Main Board and GEM Board require significant adjustments.

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 are flexible as to whether a public offer requirement should be imposed for companies moving from the New Board PRO to one of the other boards because we feel that the determining factor should be whether the company is able to meet the more stringent disclosure requirements applicable to the targeted board.

If there is no requirement for a public offer, then the company should, at the very least, issue a prospectus at the disclosure standard expected of the targeted board and also confirm sufficiency of spread of public investors.

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 generally agree with the current proposals except that the minimum market capitalisation requirement for New Board PRO should be the same as the requirement for GEM 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.

Issuers should be given an option to select which board they prefer as long as they satisfy the applicable listing requirements. Any discretion to refuse an application for listing on New Board PRO simply because the applicant can also meet the eligibility requirements of other boards would add uncertainty to the listing applicants, which is undesirable.

In respect of eligibility requirements for the boards, we also view that the proposed increase to the Main Board minimum market capitalisation requirement from HK\$200 million to HK\$500 million is steep and may negatively impact or exclude potential listing applicants with market capitalisation falling within that threshold and who, based on current market sentiments, may prefer to list on the Main Board rather than GEM.

We understand and agree that there is a need to delineate applicants between the GEM Board and Main Board but believe a more progressive approach may be more appropriate. We would therefore suggest that the Main Board market capitalisation requirement be increased progressively, for example, to HK\$300 million initially, so as to lessen the immediate impact on the market and potential pool of listing applicants.

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 believe that trading liquidity may be improved when investor education is enhanced, rather than just raising the requirements for minimum public float or minimum number of investors at listing. As investors in Hong Kong are not

particularly familiar with New Economy companies due to a smaller proportion of these companies in the local market, more marketing efforts and investor education is needed in order to garner interest and increase confidence in investing these companies.

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 concession for companies listed on a Recognised US Exchange is on the basis of the US having in place a robust regulatory requirement coupled with strict private enforcement mechanisms. Companies will also need to demonstrate a good compliance record which is again dependent on clear guidance as to what this comprises.

The Exchange is looking to attract more companies to list here but given the strong views of the SFC previously expressed – it is a question of balancing market protection with attracting new companies and ring-fencing related risks to this New Board. The proposed changes to the listing regime are forward thinking and will enable Hong Kong to maintain its reputation as a top IPO hub and compete with a number of other international listing venues. However, there must also be an underlying cautious approach so that the New Board is not seen as a short-cut to listing by New Economy companies which may ultimately cost investors who invest in companies without the equivalent shareholder protection standards.

Furthermore, while issuers must comply with post-listing continuing obligations, more clarity is needed as to the compliance framework proposed, particularly for companies with WVR structures.

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.

We would support a “lighter touch” proposal so long as those relaxations do not involve the integrity of the company or its directors and officers, but relate only to commercial matters.

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.

We are of the view that the New Board PRO should allow the applicants to choose if they would prefer offering shares to professional investors only or to include a public tranche as well. If a public tranche is included, then there should be additional safeguards in place to ensure that the retail investors understand and acknowledge the risks involved, for example, by signing a standard confirmation of understanding that they are fully aware of the higher risks involved in investing in companies listed on the New Board PRO. While there are pros and cons for including public investors, we believe that the decision should rest on the applicants and the investors. A complete ban on a public tranche for New Board PRO may be seen by the retail investors as an unfair deprivation of an opportunity to invest in high growth companies.

We also believe that the current definition of professional investor under the SFO is appropriate for this purpose.

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.

Yes, we agree that the Exchange Participants should ensure that investors in New Board PRO-listed securities meet the eligibility criteria for both the initial placing and secondary trading. As mentioned in our response to Q11 above, if a public tranche is included, then the Exchange Participants should ask retail investors to sign a standard confirmation of understanding that they are fully aware of the higher risks involved in investing in companies listed on the New Board PRO.

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.

Our preference is to have in place a form of "sponsor" regime as the role of Financial Advisers in this context is potentially unclear and Financial Advisers may end up carrying out sponsor-style diligence anyway. Sponsor firms are generally better placed to advise the applicants as they are more familiar with the due diligence standards required for a listing in Hong Kong even though a sponsor regime in its (Main Board listing) current form may not be suitable for the New Board. Any sponsor regime proposed for the New Board PRO should be less cumbersome as compared to the Main Board regime.

This is an issue of substance over form and ultimately, there needs to be in place safeguards and standards to ensure adequacy of due diligence and that disclosure

requirements are satisfied. This may be achieved by streamlining the current sponsor regime which is used and understood by market practitioners.

If the sponsor regime is replaced by the appointment of a Financial Adviser, further guidance should be provided on the difference between the two, and the exact roles and duties expected of 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.

We are generally agreeable to the proposals in this respect.

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.

We agree that if only professional investors are involved then it would be sufficient to issue a listing document which may be less prescriptive than a prospectus. However, if the listing applicant chooses to include public tranche, then a prospectus complying with the requirements of CWUMPO and the existing listing rules should be issued.

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.

While each board is proposed to cater for different types of companies, there should be a consistent approach in terms of their continuous listing obligations.

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.

Hong Kong's legal regime and litigation culture vastly differs from that of the US. The US is known to have a very litigious culture and class actions are common. However, Hong Kong's legal framework does not cater for class actions (save for representative proceedings) and culturally, Hong Kong is less aggressive than the US. This differentiation alone would indicate that following the US approach and relying only on a disclosure based approach may be insufficient protection for our investors.

We therefore propose a combination of full disclosure of all associated risks and at the same time impose certain key safeguards on these applicants to be further discussed below.

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.

Hong Kong's listed companies include a large number of family owned companies. Those companies often comprise a small group of controlling shareholders or involve complex family trusts structures. If such companies are permitted WVRs, there is a risk that such rights may not be exercised in the best interests of the company and instead, are exercised for the benefit of the owner controllers. Unlike the US, Hong Kong also lacks the highly litigious culture in the context of class actions which may in the US act as a deterrent to any corporate activities to the detriment of the wider class of shareholders.

In addition to those safeguards suggested in paragraph 154 of the Concept Paper, we would also suggest the following:

- restrictions as to class and percentage holdings of those with weighted voting rights
- enhanced corporate governance procedures (including higher number of INEDs)
- beneficiaries of WVR to be deemed connected persons
- requirement to seek minority shareholders' approval in relation to certain major decisions such as amendments to articles or shareholders' rights or very significant acquisitions or disposals.

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 have reservations on automatically allowing these companies from listing on the New Board as a high degree of reliance will be placed on the listing status of the applicant in US which will be uncertain in the future.

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

Please give reasons for your views.

We welcome the suspension and delisting procedure proposals but we have concerns whether this may lead to an initial floodgate of companies identified for such procedure. With potential increases in suspensions or delistings, further consideration must be given to the adequacy of protecting investors of those companies and to ensure there is sufficient manpower within the regulators to efficiently deal with the workload.

The Exchange and SFC should also provide clearer guidelines on how it would enforce the proposed rules to delist undesirable listings / underperforming companies and how exactly minority shareholders will be treated or bought out.

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.

We do not agree that there should be fixed criteria to be met by New Board listing companies. The companies listed on the New Board will have a range of different backgrounds hence it would be difficult to advocate a "one size fits all" approach by having a prescribed performance criteria. Instead, we prefer the Exchange to set out a clear framework as to what it considers acceptable performance in order to maintain a listing. For example, this framework should take into account whether the company continues to satisfy the New Board's listing criteria as well as its continuing obligations (eg. timely publication of financial statements and sufficient business operations etc). The company should also be obliged to put in place sufficient guidelines so that it can demonstrate what is acceptable in terms of monitoring, governance and notification procedures. In this respect, we also flag our earlier concerns as to adequacy of resources within our regulators to ensure effective monitoring and compliance.

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.

In general, we are against an even "lighter touch" enforcement regime for the New Board as a strict and efficient enforcement regime serves as a deterrent to the

issuers from carrying out corporate misconduct. There also seems to lack plausible explanation as to why different enforcement regime applies to different boards.