

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.

In general, we believe the implementation of New Board is positive in helping to attract more New Economy companies to come to Hong Kong for listing. Enabling such companies to be listed in Hong Kong is considered an important factor to enhance Hong Kong's competitiveness in the international market. The New Board also provides an alternative listing platform for, in particular New Economy businesses, which will benefit HKSAR's long term development.

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 New Board caters for the New Economy companies that have controversial structure including weighted voting rights to list currently such structures are prohibited as it has been traditionally considered unfair to investors. Some overseas exchanges, however allow such companies to list on the principle that the disproportionate voting rights is made known to investors prior to listing. It is reasonable for HKEx and SFC to reconsider whether for such companies to be allowed to list.

Firstly, investors who accept the principle of weighted voting rights will have the opportunity to invest in a segregated New Board, if they do choose.

Secondly, the New Board would be available to Mainland Chinese companies which would like to list in Hong Kong but through secondary listing venue. Mainland Chinese companies with untraditional shareholding structures have been able to raise fund from other exchanges.

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 risk profile of a start-up versus a mature New Economy company is significantly different thus we believe segmenting the New Board is possible but it will make the New Board very complex and difficult to implement or operate. Due diligence by just a "financial advisor" (as opposed to a sponsor) as recommended in New Board PRO, it is unclear whether there will be adequate protection of investors.

We are of the view that there should be clear guidance and requirements of listing documents for New Board PRO, such as what criteria meets the New Economy definition, the need for audited financial statements for a historical track record and review of prospective financial information. Should the directors of listing applicant be solely responsible for review of perspective financial information which is believed critical for New Board PRO companies, there will be a big question mark on the adequacy of safeguards of investors' interests.

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 roles of GEM and Main Board should continue as they have been proved successful in assisting companies raise capital and provide different avenues of investment for investors.

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.

One of the key concerns in the market is highly concentrated shareholdings and the potential manipulation of share prices. Since New Board PRO should be limited to professional investors, moving from New Board PRO to "other board" should come with the minimum entry requirements of the "other board".

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 are considered appropriate except for the minimum market capitalization requirement of New Board PRO. Under the proposed requirement, the minimum capitalization of New Board PRO of HK\$200M is higher than GEM of HK\$150M but it is subject to less stringent other requirements as compared to GEM (appointment of sponsor is required).

The detailed requirements of financial and track record requirements for New Board PRO were not mentioned in detail in the concept paper. We recommend any prospective financial information, which will be crucial for investment decisions, should be properly reviewed and both directors of the listing applicant and financial advisor should be held responsible.

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 that in principle the Exchange should have the right to refuse an applicant for any reason so long as the reason can be explained or disclosed.

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.

No comment other than the Exchange should distinguish pre-listing and post-listing requirements and if they are different, the Exchange should explain the rationale.

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.

In principle the norm should be that all companies listed in Hong Kong should be subject to the same shareholder protection standards equivalent to those of Hong Kong, irrespective of the fact that they are also listed outside Hong Kong.

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.

The proposal of "lighter touch" suitability assessment should be considered, but the relaxation must be applicable generally and not applied on a case by case basis as this would make it difficult to operate in practice. For example, a "light tangible asset" criteria may appropriate to listing applicants of New Board PRO.

Under the current proposals, New Board PRO applicants are required to have minimum market capitalization of HKD200 million, which is even higher than minimum market capitalization of HK\$150 million under the proposed change of GEM listing rules. The minimum market capitalization requirement for New Board PRO may not look reasonable for a start-up company and it may be worthwhile to revisit the purpose of the minimum market capitalization requirement. Perhaps a minimum number of unconnected shareholders could be an alternative objective.

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.

Under the proposal, professional investors could be defined as those prescribed under Securities and Futures (Professional Investors) Rules (Cap 571D of Laws of Hong Kong). They include trust corporation with total assets not less than HK\$40 million, individual investor with portfolio not less than HK\$8 million and corporation or partnership having a portfolio not less than HK\$8 million or total assets not less than HK\$40 million. We agree with such criteria of defining professional investor for such purpose.

The criteria to satisfy the "professional investor" definition should be set out clearly. In order to avoid dishonesty professional investors, the disclosure of controlling shareholders or beneficial owners of professional investors could be considered in addition to minimum monetary criteria.

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 principle the exchange participants should know their "real investors" or customers are as the issue is linked to money laundering, terrorism and tax avoidance schemes.

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.

We believe that minimum due diligence by qualified persons should be set as basic investor protection measure. From financial perspectives, the specific requirements we recommend be imposed are audit of financial statements for historical track record and review of perspective financial information by independent professional accountant.

In addition, the appointment of financial advisor for New Board PRO should come with an appropriate level of legal liability. An appropriate starting point would be to look at the current sponsor regime and carefully determine which requirements can be relaxed.

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.

As we do not have full details of the new regime, we are not in a position to comment on the role of the Listing Committee in respect of each segment of the New Board. In any event the role of the Listing Committee should subject to regular review.

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.

Given the lack of details of the "information" required to be produced for "professional investor", we are uncertain whether disclosure based approach will provide appropriate investor protection. Care must be taken to ensure that a "professional investor" is narrowly defined so that certain experience and qualifications are necessary. We believe perhaps a prospectus should be a starting point and after careful study certain disclosures could be exempted to reduce the burden and cost to listing applicants.

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 are of the view that the New Board should be subject to substantially the same continuous listing obligations for GEM. Given a different risk profile of New Board PRO, we recommend quarterly reporting as currently required by GEM to ensure more frequent reporting to enable informed investment decision by investors.

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.

Under the proposal, there are two approaches to WVR structure. First one is disclosure approach as described in paragraph 153 and the second one is an alternative approach with mandatory safeguards including restrictions on type of investors that can hold WVR, the minimum equity they must hold, restrictions on transfer and sunset clause as described in paragraph 154.

We believe the Exchange should take the alternative approach and apply to both segments of the New Board from the perspective of protection of interests of non WVR investors.

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 with WVR should be easily identified and perhaps a simple method of doing this is to incorporate an identifier in the company's stock code number and all publications/announcements made by the company. Other safeguard that may be worth considered is to include in the Listing Rules where there can be an override of WVR, such as where the interest of WVR holders can be overridden by the interest of the company as a whole.

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.

See comments to Question 13. We believe minimum due diligence by a responsible qualified person should be set as a basic investor protection measure.

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

Please give reasons for your views.

No comment at this stage.

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.

Quantitative performance criteria should be applied for New Board Premium and we agree that if the company fails to meet certain criteria it should be placed on a "watchlist" and delisted after a prescribed period of time.

We agree a "watchlist" approach should also apply to existing Main Board companies to ensure the Exchange has consistent approach to delisting.

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.

"Lighter touch" enforcement regime could affect the quality of listed companies in New Board and the impact to the stock market and investor confidence could be significant.

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