

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.

We believe the New Board would in some ways bring on positive impact to HK's economy. We see that Hong Kong itself lacks the infrastructural support or the proper value chain such as private equity and angel funds in supporting the development of New Economy issuers compared to adjacent city like Shenzhen. We believe establishment of New Board would provide a proper platform to attract capital that active in the post-angel rounds of fund raising. While we welcome the Exchange's initiative to attract a more diverse range of companies (be it geographically or different industries), we find it difficult to understand what you mean by "New Economy industries". As you should know already, even traditional industries such as banking, transportation, logistics, restaurants etc. now require connectivity with their customers via mobile phones. Would such industries be considered "New Economy Industries" simply because they use mobile apps or computer connectivity in their operations?

Some would say that biotechnology is "New Economy industry". But biotechnology research has been around since 1940s when penicillin was first discovered by Alexander Fleming. Others may consider research on use of non-fossil fuels such as solar or wind "new". But then again, solar power (or photo voltaic) research started more than a century ago and wind farms started to appear decades ago. In other words, what is defined as "New Economy industries" may not be new in a few years' time.

Consequently, we are of the view that it would be futile for all, including executives at the Exchange who has little or no scientific background and experience, to make this call. We actually disagree there should be confinement to any industries, as that create prejudicial view to market and as well as to professional investors' and retail investors.

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.

As we believe it is also impossible to define “New Economy” companies, the question become irrelevant

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.

We do not think restriction is necessary to certain types of investors. This should be more of an open market. We do believe that proper disclosure requirements, plus a duly implemented vetting process would be sufficient to protect prospective investors.

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.

For the newly proposed listing requirements under GEM, except that we do not understand the basis in raising the aggregate cash flow requirements to HKD30mil, we agree with most of the proposed enhanced listing requirements. We see the proposed roles of GEM will be better.

For proposed listing requirements on Main Board, we have concerned particularly on the requirement of market capitalization of HKD500mil, which implies P/E ratio of 25 times for a perspective listing applicant which could just meet the minimum profit requirement of HK\$20 million under Rule 8.05. We understand that only 173 out of 1,746 Main Board listed companies as at 8 August 2017 were able to achieve that P/E ratio. For the newly proposed listing requirements under GEM, we do not understand the basis in raising the aggregate cash flow requirements from HKD20 million to HKD30 million, apart from stating that most of the GEM applicants already fulfilled the suggested new HKD30 million cash flow requirement. We should bear in mind that one of the objectives of HKSAR administration with regard to promoting local economy is to assist the development of local SMEs. Creating a higher entry bar for SMEs to tap equity funds from GEM Board runs counter to the Government’s stated objective.

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 disagree that New Board PRO should be subject to professional investors only. This is because doing so would stifle liquidity in the after-market, and the latter is important to attract public interest in the stock. In the event it is decided that New Board PRO's investors should only be confined to professional investors, both at the time of IPO and after, we are of the view that the Exchange should consider including the requirement for appointing market makers for such stocks, in order to introduce some sensible liquidity in the aftermarket.

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 do not see the separate need to create New Board Premium, as the listing requirements for both Main Board and New Board Premium applicants are the same, other than weighted voting rights (WVRs) applicable to New Board Premium applicants. We are neutral to the introduction of WVRs; however, we caution that, other than Listing Rules, there is current no efficient legal framework in Hong Kong governing WVRs, without which it would difficult for investors in such companies to seek legal redress here. We believe further consultation on this aspect may be needed.

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 agree that the Exchange should reserve the right to refuse a listing application for New Board PRO if the listing candidate could meet the eligibility requirements of New Board Premium, GEM or the Main Board, save for companies that cannot meet the market capitalization requirement. We wish to take the opportunity to state that we disagree with the proposal of appointing a Financial Adviser (instead of a sponsor) for the listing of New Board PRO companies. This is because we believe it is important to ensure and maintain integrity and standards of New Board companies which we believe is vital for the success of such New Board.

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 do not have opinion on 25% of public float. We suggest the introduction of market makers to increase liquidity and ensure a proper market.

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.

We do not agree the proposal of exemption, as there is no class action and no regulatory regime to protect investors in relation to WVRs.

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 agree a lighter touch approach. We propose that the New Board PRO should implement a disclosure based vetting process and regulator shall ensure proper disclosures are made by applicant. This would help lower the overall cost of listing for perspective New Board PRO applicants.

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.

Should not be restricted to professional investors only. There should be no separate definition on professional investors. We are of the view that New Board PRO should not be restricted to professional investors (as defined under the SFO) only. This is because doing so would restrict after-market liquidity which may either lead to a lack of investors' interest or create a situation prone to market manipulation of the stock. Also, we believe, if only professional investors can only invest in New Board PRO companies at the time of IPO, it would NOT make sense allowing the public (not professional investors) to buy New Board PRO stocks in the after-market. If the Exchange takes the view that only professional investors can buy such stocks BOTH at the time of and after IPO, then there is a need to ensure that all HKSE participants (brokers) have updated their trading system to identify who are the professional investors and how their status is maintained from time to time, given stock market volatility. As you may aware, few, if any, HKSE participants have such system in place for the time being.

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.

1) Introducing market makers even though it may not guarantee the enhancement of market liquidity.

2) No restriction to professional investors only.

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.

See our reply to (7) above.

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.

Firstly, we do not support the establishment of New Board Premium. We see that the Listing Committee should be able to demonstrate the same standard and same roles in current listing framework. If New Board PRO is of disclosure purposes only, Listing Committee may not be necessary.

15. Please give reasons for your views. 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 certainly believe the Listing Document should be disclosed at professional standard given the higher risks involved.

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 see the same standard should be applied to the proposed continuous listing obligations. More disclosures on business plans and development, as well as corporate governance should be adopted. Also, there must be proper mechanism to ensure proper implementation of business plan and business objectives, which we suggest to be renewed continually as part of the regular disclosure requirements.

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. As there is no class action and no regulatory regime in governing WVR structure, we highly suggest that additional restrictions should be imposed on the weighted voting rights transferability under WVR structure. For example, we believe the weighted voting rights should not be transferred to other shareholders.

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.

We suggest the weighted voting right should only be borne by designated individuals and should not be transferred to other shareholders. Super majority shareholders' approval is necessary if seeking transfer of the weighted voting rights or issue shares of weighted voting rights.

Furthermore, reference is made to Singapore Stock Exchange's Annual Report in measures in mitigating entrenchment and expropriation risks. We extrapolated a few points as below to safeguard the concerns in applying WVR structure in Hong Kong:

1. Requiring companies with WVR structure to provide clear disclosure of shareholders rights;
2. Restricting sales or transfer of WVR shares to permitted individuals;
3. Restricting holders with WVR to have voting power of one vote per WVR share when voting on election of independent directors to maintain the independence and provide assurance of INEDs in scrutinizing the company as a whole.;
4. Prohibiting of post-listing issuance of WVR shares in order to maintain a reasonable shareholding proportion between WVR shares to avoid reducing the right of the existing shareholders;
5. Restricting founders and senior management in holding certain number of WVR shares to mitigate the entrenchment risks (restrict one share- one vote) for the possibilities that non-controlling shareholders are unable to remove directors who try to extract private benefits, fail to manage business or act contrary to the wishes of the minority shareholders.

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.

No. Since there is no class action and well defined regulatory regime here in Hong Kong to govern WVR structure, investors are not well protected.

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

Please give reasons for your views.

Clarity is highly recommended in regards to the suspension of delisting criteria under the new proposals. Moreover, as the New Board PRO is supposed to be a platform for new startup companies, it should be mindful in imposing such requirements. It is also uncertain as to whether loss making companies would become a judgmental factor in assessing delisting criteria, rather than assessing the probable future business development for the proposed delisting proposals.

We propose that compliance advisers should be appointed to take up more role in advising on corporate governance and it is recommended to impose the disclosure requirement of business development plan for loss making companies. For example, annual update of business plans which should be subject to shareholders approval in general meeting, and restriction of voting of WVR should there be material change of such plans from prior years'.

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.

Yes. The suggested areas would be to maintain independent non-executive director numbers specifically defined for New Board-listed companies. These companies should be able to disclose clearly the business scale, research and development (if applicable), and market development progress as under the business plan. Companies failure to meet of such can be considered to be put under the watchlist.

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.

Please refer to answers of question nos. 15 and 16.

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