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18 August 2017

Dear Sirs

**Re: New Board Concept Paper**

**Re: Consultation Paper on Review of the Growth Enterprise Market (GEM) and Changes to the GEM and Main Board Listing Rules**

We welcome the Hong Kong Exchange's important set of consultation papers and we thank you for the opportunity to provide our feedback. Fidelity International is a global institutional investor with over US\$300bn in assets under management and we are large and active investors in Hong Kong listed securities.

We share the Exchange's goal of maintaining Hong Kong's position as an international financial centre and leading listing venue for mainland Chinese companies seeking to raise international capital. The concept paper clearly sets out competitive challenges and commercial opportunities available to the Exchange. However, we note that the paper appears to assume that the Hong Kong market is best improved by an increase in quantity of new listings, to be achieved primarily by offering greater regulatory flexibility, rather than on an alternative premise that seeks to improve market quality through governance, regulation and investor protection.

We have given due consideration to whether Hong Kong needs to establish a New Board separate from the Main Board and GEM in order to attract "New Economy" listings. **We conclude that a New Board is not necessary and could prove ultimately detrimental to Hong Kong's market structure.** Our reasons are as follows:

1. **Weighted voting rights:** a key rationale for the creation of the New Board is to permit companies with “non-standard governance structures” to list in Hong Kong. This is a proposal which was only recently debated in 2014, during which consultation we wrote to express our opposition to the introduction of weighted voting rights in Hong Kong and to encourage the Exchange to defend the fundamental principle of “one share one vote”. We continue to affirm that view, notwithstanding that the current proposals seek to segregate these companies to a separate Board. In our view, such segregation is unlikely to be an effective investor safeguard, given that these companies will still be administrated, regulated, traded and settled in the same way and on the same platforms as Main Board and GEM companies. Over the long term, we believe that the pressure on the Exchange to “uplist” successful companies to the Main Board will intensify and to this extent, the New Board may become perceived as a “backdoor” way of introducing the concept of weighted voting rights to the Hong Kong market.
2. **“New Economy” definition:** the sector based approach<sup>1</sup> adopted by the paper to define “New Economy” only highlights the difficulty, from a regulatory perspective, in creating and enforcing such an inherently subjective label in the first place. In our view, it is not possible to use this term to define with clarity the set of attractive listing candidates which the Exchange hopes to attract. An attempt to enforce this definition will leave the Exchange open to accusations of regulatory inconsistency and uncertainty.
3. **Segmentation:** we believe that segmenting the Hong Kong market into four separate boards undermines the value of the Main Board and results in unnecessary complexity. The various iterations of GEM over the years serves as an example of how market segmentation has led to regulatory arbitrage, poor liquidity, a disorderly market (in some cases) and a general investor perception that the companies listed on GEM are of inferior quality to those companies on the Main Board. Whilst this should be the subject of a separate consultation, we believe that a long term solution may instead be to consolidate Hong Kong’s equities marketplace into a single Board which is able to accommodate all variety of companies at different stages of their life cycles.

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<sup>1</sup> Industries include Biotechnology, Health Care Technology, Internet & Direct Marketing Retail, Internet Software & Services, IT Services, Software, Technology Hardware, Storage & Peripherals

4. **Retail investor eligibility:** in general, we are skeptical of proposals which aim to restrict investor access to markets on a view that different classes of investors have different risk tolerances or investment profiles. We note that there are very few markets globally which successfully achieves this and in any event, we question whether the current definition of “professional investor” is adequate for this purpose. As an institutional investor, we would be concerned that any “professionals-only” market would lack sufficient liquidity, investor protection and normal regulatory oversight, while retail investors may regard themselves as excluded from “higher growth” opportunities. In our view, the appropriate way to protect all investor groups, retail and institutional, is to have and enforce stronger regulatory standards on disclosure, governance and shareholder rights across all listed companies.
5. **Secondary listings:** the proposed revisions to the secondary listing regime will substantially dilute the long-standing “centre of gravity” test and shareholder protections contained in the 2013 JLS. We believe it is an important point of principle that a company seeking a listing in Hong Kong - whether primary or secondary - be prepared to offer equivalent shareholder protection standards for Hong Kong investors, particularly as they relate to connected party transactions, privatizations and pre-emption rights. Secondary listings should not become a way to undermine the quality of investor protection in Hong Kong generally. Over the longer term, we are concerned that this will lead to an outsourcing of the regulatory function to regulators in competing jurisdictions even in cases where the bulk of trading activity has migrated to Hong Kong.
6. **Pre-profit companies:** our views on the New Board notwithstanding, we believe that there is a case to review Main Board listing requirements in their entirety. As the concept paper rightly points out, “pre-profit” companies may be companies, large or small, operating in industries in which their managers have elected to prioritize market share over profitability, with the support of the shareholder base. The Main Board listing requirements make certain inherent assumptions about size, growth and profitability which may not necessarily hold true anymore. We believe that there is a good case to permit pre-profit companies to list in Hong Kong, but far from a “light touch” vetting process, the listings of these companies should be supported by an enhanced governance framework around board oversight (particularly independent directors), continuous disclosure, minority shareholder rights,



shareholder enforcement mechanisms and an efficient delisting process. We would be pleased to engage in constructive dialogue with the Exchange to enhance these proposals.

Whilst these proposals represent in some ways a continuation of the 2014 debate, we note that the investment landscape has changed since then. In particular, since last year's listing of Meitu, we have observed an increase in the number of technology companies considering Hong Kong as a listing venue, a fact borne out by a number of these companies having made public A-1 filings even without the lure of non-standard governance structures. At the same time, investor stewardship has continued to grow in importance, both in terms of commercial and investment expectations on asset owners and asset managers and supported by the growth of stewardship and responsible ownership principles in many Asian markets, including here in Hong Kong. Finally, we note that this consultation precedes the conclusion of the joint consultation on listing regulation announced last year, which we expect may have a significant impact on the development of listing policy in the future.

We therefore urge the Exchange not to act hastily and compromise its well earned reputation as a leading market for corporate governance and investor standards by proceeding with the New Board proposal.

Please do not hesitate to contact us if you wish to discuss further.

Yours faithfully

A black rectangular box redacting the signature of Jenn-Hui Tan.

Jenn-Hui Tan

Director of Corporate Finance