Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below that are raised in the Consultation Paper downloadable from the HKEX website at:
http://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/June-2018-Backdoor-and-Continuing-Listing/Consultation-Paper/cp201806.pdf

Where there is insufficient space provided for your comments, please attach additional pages.

1. Do you agree with the proposal to codify the assessment criteria under the principle based test in a Note to the proposed Rule 14.06B?

   ☐ Yes

   ☑ No

   If your answer is "No", please give reasons for your views.

Please see "Reasons for the reply to Question 1" in the attachment.

2. Do you agree with the proposal to extend the current criterion "issue of restricted convertible securities" in the principle based test to include any change in control or de facto control of issuers?

   ☐ Yes

   ☑ No

   If your answer is "No", please give reasons for your views.

Please see "Reasons for the reply to Question 2" in the attachment.

3. (a) As regards the “series of arrangements” criterion, do you agree with the proposal to include transactions and arrangements that take place in reasonable proximity or are otherwise related and normally within a three-year period?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

Please see "Reasons for the reply to Question 3(a)" in the attachment.

(b) Do you agree with the proposal to amend the RTO Rule 14.06B to clarify that a series of acquisitions may include proposed and/or completed acquisitions?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

Please see "Reasons for the reply to Question 3(b)" in the attachment.

4. (a) Do you agree with the proposal to retain the bright line tests under Rules 14.06(6)(a) and (b) in a Note to the proposed Rule 14.06B?

☑ Yes

☐ No

If your answer is “No”, please give reasons for your views.

(b) Do you agree with the proposal to extend the aggregation period from 24 months to 36 months under the bright line test currently set out in Rule 14.06(6)(b)?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

As explained in the "Reasons for the reply to Question 3b"above, the 24 months period under the current rules already represent an adequate period for the purpose of RTO assessment. A 36 months period is a very long period to limit changes in the fast changing operating environment.

5. (a) Do you agree with the proposed changes to Rule 14.92 (proposed Rule 14.06E) as described in paragraph 56 of the Consultation Paper?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

We have no objection in principle to the inclusion of "distribution in spcie" as a form of disposal.

As explained in the the "Reasons for the reply to Question 3b", a two year period is adequate. Moreover, there is no clear definition of what is a "material" disposal and creates therefore uncertainty for compliance. We would disagree to subjecting listed issuers to more stringent requirements than is already in place for very substantial acquisitions, as the effect would simply require an issuer to continue to divert resources to a non performing business over at least three years and curtails the ability of an issuer to seek to improve performance for the benefit of its shareholders, simply because it had a change of control.

(b) Do you agree with the proposal to add a Note to proposed Rule 14.06E as described in paragraph 59 of the Consultation Paper?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

We disagree for the reasons already explained in "Reasons for the reply to Question 2" (in relation to change in single largest substantial shareholder) and the "Reasons for the reply to Questions 3a", and the reasons for the reply to Question 4(b) and Question 5 (in relation to three years and what constitutes "material disposal").

6. (a) Do you agree with the proposal to add a new Rule 14.06C for “extreme transactions” as described in paragraph 62 of the Consultation Paper?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

The existing regime already provides adequate checks and balances. The creation of "extreme" transactions (which does not reference to any of the existing size based categories of transaction) and the vague reference in paragraph 62 as to what constitutes a business of 'substantial size' (apart from the suggestion that reference to a HK$1 billion revenue/ total assets in paragraph 63) or a "large business enterprise" lends further to the uncertainty as to what transactions are to be caught and simply restricts the ability of an issuer to seek to improve its business when faced with a downturn. We note from GL78-41 the acknowledgement that the Exchange normally do not consider acquisitions for expansion of existing business as "extreme", but the proposed new rules can be construed to allow such expansions to be treated as extreme.

The implication of the HK$1 billion test in the context of the basic track record requirements under Chapter 8 means that the regime simply favours large companies in terms of revenue (even if it does not make profit) or assets (i.e. favouring real estate developers or investors, infrastructure, mining companies or SOEs), but does not allow an asset light but profitable companies to expand through mergers and acquisition without going into full RTO mode. In this regard, based on information published in Bloomberg (including latest published financial information), of the 95 companies that were newly listed on the Stock Exchange between 30 June 2017 and 30 June 2018, the majority of them (53) do not meet the HK$1 billion test. The proposed test also does not afford any opportunity to the management of an issuer who sees a need to adjust strategy to create value for shareholders to do so. We consider this highly unreasonable considering the new listing qualification thresholds.

The "Reasons for the reply to Question 1" also apply.

(b) Do you agree with the disclosure requirements for circulars of extreme transactions set out in proposed Rules 14.53A(1) and 14.69?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

We do not have objections generally to the "enhanced disclosure" requirements that is in line with the existing regime. However, the extension to historical transactions and/or arrangements that have been completed will create disproportionate burden on issuers and does not create added value to shareholders, given the robust annual and interim reporting regime and the inside information disclosure regime that are already in place.

(c) Do you agree with the due diligence requirements for extreme transactions under proposed Rule 14.53A(2)?

☐ Yes

☑ No

If your answer is "No", please give reasons for your views.

We disagree for the reasons already explained in the reply to question 6(b) with respect to the extension to historical transactions / arrangements.

7. (a) Do you agree with the proposal to amend Rule 14.54 and to add Rule 14.06C(2) as described in paragraph 69(i) of the Consultation Paper?

☐ Yes

☑ No

If your answer is "No", please give reasons for your views.

While draft Rule 14.06C(2) appears to refer to the acquisitions target as a group, draft Rule 14.54 appears to require each acquisition target separately to meet listing requirements. In addition, it requires the enlarged group to meet listing requirements. There is no date reference - clearly not every acquisition would fulfil new listing requirements and where the issuer itself has gone through a period of financial difficulties, it would be inappropriate to combine or aggregate the historical performance of both the issuer and the new business (which is to be tested on new listing basis). If the intention is not to allow companies that goes downhill to turn around but only to face delisting, then the Excahge should simply make that clear instead of over-complicating the compliance requirements.

As regards "all new listing requirements", investor and shareholder interests can be considerably different pre- and post deal, and therefore we suggest that the shareholder spread requirement would be inappropriate in this context.

(b) Do you agree with the proposal to amend Rule 14.54 to impose additional requirements on RTOs proposed by Rule 13.24 issuers as described in paragraph 69(ii) of the Consultation Paper?

☐ Yes

☑ No

If your answer is "No", please give reasons for your views.

We disagree for the reasons already explained in the reasons for our response to Question 7(a) above.

8. (a) Do you agree with the proposed Rule 14.57A to clarify the track record requirements for extreme transactions and RTOs that involve a series of transactions and/or arrangements?

☐ Yes

☑ No

If your answer is "No", please give reasons for your views.

We disagree for the reasons already explained in the reasons for our response to Question 6(b) above.

(b) Do you agree with the proposed Rule 4.30 that sets out the requirements for preparing pro forma income statement of all the acquisition targets in the entire series of acquisitions (where applicable, would include any new business developed by the issuer that forms part of the series) for the track record period?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

Pro forma financial statements are forward looking financial tools to present the financial impact of proposed transactions to the latest reported financial position of the issuer. We do not see any benefit to shareholders and investors by producing prior year pro forma statements given that the existing financial reporting regime more than adequately shows post transaction financial impact to an issuer.

9. Do you agree with the proposal to add a new Rule 14.06D to codify, with modification, the practice under Guidance Letter GL84-15 as described in paragraph 81 of the Consultation Paper?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

The fund raising regime is already restrictive enough as it is. In terms of absolute value and fund raising costs (e.g. commission) the effect of entrenching the rules is to create further severe restrictions on the fund raising activities by smaller issuers which seeks to raise cash in order to ffund investments.

10. Do you agree with the proposal to require issuers to have a business with a sufficient level of operations and assets of sufficient value to support its operations to warrant the continued listing of the issuer’s securities?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

The requirement of "assets of sufficient value" bias against asset light, new economy business models and we submit that you should remove that test altogether, and simply adopt a "sufficient level of sustainable operations" test.

11. (a) Do you agree with the proposal to add a Note to the proposed Rule 13.24(1) as described in paragraphs 107 to 109 of the Consultation Paper?

☑ Yes

☐ No

If your answer is “No”, please give reasons for your views.

(b) Do you agree with the proposal to remove the Note to Rule 13.24 as described in paragraph 112 of the Consultation Paper?

☑ Yes

☐ No

If your answer is “No”, please give reasons for your views.

12. Do you agree with the proposal to exclude an issuer’s securities trading and/or investment activities (other than a Chapter 21 company) when considering the sufficiency of the issuer’s operations and assets under Rule 13.24?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

As stated in reply to question 10, we suggest that the "assets" test is inappropriate.

13. Do you agree with the proposal to extend the definition of short-dated securities in the cash company Rules to cover investments that are easily convertible into cash (“short-term investments”)?

☐ Yes

☑ No

If your answer is "No", please give reasons for your views.

Advances to third parties which are repayable within 1 year may be part of a lending business where loans invariably having a reducing life. You already have amendments in Rule 13.24 to deal with those lending busineses that are not viable operations.

14. Do you agree with the proposal that the exemption under Rule 14.83 shall only be confined to clients' assets relating to the issuer's securities brokerage business?

☐ Yes

☑ No

If your answer is "No", please give reasons for your views.

The rules should also allow exemption for businesses that in the ordinary course would have higher cash or cash equivalents assets, e.g. fund management businesses.

15. Do you agree with the proposal to confine the revenue exemption to purchases and sales of securities only if they are conducted by banking companies, insurance companies and securities houses within the listed issuers' group?

☐ Yes

☑ No

If your answer is "No", please give reasons for your views.

Should also need to include fund management groups as well.

16. Do you agree with the proposal to require issuers to disclose in their annual reports details of each securities investment that represents 5% or more of their total assets (as described in paragraph 134 of the Consultation Paper)?

☑ Yes

☐ No

If your answer is “No”, please give reasons for your views.

17. Do you agree with the proposal to codify the requirements set out in Listing Decision LD75-4 (as described in paragraph 137 of the Consultation Paper) for significant distribution in specie of unlisted assets into the Rules?

☑ Yes

☐ No

If your answer is “No”, please give reasons for your views.

18. Do you agree with the proposal to require disclosure on any subsequent change and the outcome of any financial performance guarantee of a target acquired by the issuer in a notifiable or connected transaction as set out in paragraph 140 of the Consultation Paper?

☑ Yes

☐ No

If your answer is “No”, please give reasons for your views.

19. (a) Do you agree with the proposal to require disclosure on the identity of the parties to a transaction in the announcements and circulars of notifiable transactions?

☐ Yes

☑ No

If your answer is “No”, please give reasons for your views.

This is unduly restrictive as certain counterparties including individuals and corporates may have a legitimate interest in wishing to keep their identities confidential. However, we have no objection to a rule requiring the disclosure of the identity of that person to the Exchange at the same time as the submission of the "five tests" checklist.

(b) Do you agree with the proposal to require the disclosure on the identities and activities of the parties to the transaction and of their ultimate beneficial owners in the announcements of connected transactions?

☑ Yes

☑ No

If your answer is “No”, please give reasons for your views.

The disclosure should be restricted to identifying the connected person and his/is interest as ultimate beneficial owner, as there may be legitimate reasons why other parties (e.g. if they are simply passive minority co-investors) who are indirect beneficial owners and who do not have a say in the transaction would wish not to have their identities published. We suggest that disclosure to the Exchange to the extent that the identities are available can be made at the same time as the submission of the 'five tests" checklist.

We also suggest that there should be clarification the application of the requirement to disclose ultimate beneficial owners of a counterparty that is owned by a discretionary managed funds. Reputable fund managers generally are under obligations of confidentiatlity to their investors/ limited partners contractually and under law and would not be in a position to disclose their client identities.

20. Do you agree with the proposal that if any calculation of the percentage ratios produces an anomalous result or is inappropriate to the sphere of activities of the issuer, the Exchange (or the issuer) may apply an alternative size test that it considers appropriate to assess the materiality of a transaction under Chapter 14 or 14A?

☑ Yes

☐ No

If your answer is “No”, please give reasons for your views.

- End -

REASONS FOR THE REPLY TO QUESTION 1

The current regime provides a clear and flexibility framework and level playing field for listed issuers

1. We accept that limiting the Exchange purely to bright line tests may create undue rigidity that prevents the Exchange from preventing circumvention of the rules. Paragraph 32 of the Consultation Paper that Guidance Letter GL78-41 is to provide a framework without "*imposing undue restrictions on legitimate business activities of issuers*" and has proven to be a useful tool to address circumvention of RTO rules.

2. We believe that the existing regime under Chapter 14 of the Listing Rules (in conjunction with guidance letters that are published from time to time) provide a clear framework and level playing field that allows issuers (and its managers to help issuers):

    a. to grow and diversify and create more value to its shareholders; and

    b. to confront adversity and make changes necessary in response to impacts on business due to changes in operating environments, including those less predictable (e.g. trade wars, global financial crisis, SARs crisis) or more predictable over time (e.g. due to changes in technology, markets, market demographics that rendered businesses that were "advanced" at the time of listing become at risk of becoming obsolete). There are ample examples of companies had successfully diversified or reinvented itself [without a material change in its shareholders/ with funds from a substantial investor] with or without restructuring. Apart from PCCW being the obvious example (having transformed from Tricom Holdings Limited, a phone manufacturer), other examples include:

        i. the expansion by Road King Infrastructure Limited (stock code: 1098) into property development operations through a series of major transactions and very substantial acquisitions in 2006/ 2007 as well as disposals of interest in highway joint ventures that over the years transferred the group that reported HK$388.5 million profit before tax and HK$7.3 billion total assets for the financial year ended 31 December 2005 to one that reported HK$5.5 billion profit before tax and HK$69.7 billion total assets for the financial year ended 31 December 2017; and

        ii. more recently, Rare Earth Magnesium Technology Group Holding Limited (stock code: 601) has transformed itself from reporting loss before tax of HK$86.8 million and total assets of HK$349.8 million for the year ended 31 December 2014 to one that reported HK$239.4 million profit before tax and total assets of HK$2.6 billion for the year ended 31 December 2017 by expanding into magnesium business.

    c. to facilitate transitions of ownership/ management to younger generations which can also present its challenges and may manifest in the inevitable changes in a company.

3. We believe to maintain the Exchange's standing as an operator of one of the leading robust and liquid world class financial markets in the world, it is important for the Exchange to provide rules that are clear and certain so that issuers can plan compliance and, apart from necessary check and balances, allows issuers the freedom to conduct and develop their lawful business. It is important that in seeking to counter speculative

"shell" activities, the Exchange does not stifle growth and versatility of issuers to do what they need to do to preserve shareholders value.

Excessive regulatory measures do not mean quality

4. To codify existing guidance in the Listing Rules is to impose a rigidity that would make Hong Kong less competitive as a world class centre. We need a regime that would stand up to abuse but also have the versatility to accommodate changes without the time and consultation needed for procedural changes of the Listing Rules or securing waivers in the meantime.

5. Paragraph 33 of the Consultation Paper states that the "*RTO Rules should not restrict listed issuers form business expansion or diversification that are part of the issuer's business strategies, or are consistent with the issuer's size and resources*".

6. However, the proposed amendments to Listing Rule 14.06B (with modifications in Proposals A(2) and A(3)) which are directed at certain perceived "shell arrangements" if codified would be unduly restrictive and creates a high level of uncertainty that can snuff out impetus of bona fide issuers to be confident of their business decisions to expand and grow:

   a. the inclusion of the "six assessment criteria" on an expanded basis ahead of (and effectively side lining) the "bright line" tests, effectively makes **any transaction of any size** open to the subjective assessment of the Exchange as to what investments is "consistent" with an issuer's size and resources or a suitable business strategy. The proposed rule as drafted suggests that any size of acquisition which the acquisition target is engaged in a business that is different or deviate from the principal business of the listed issuer (even if the acquisition is intended to achieve vertical or horizontal expansion, e.g. by way diversification from OEM to retailing and distribution) will be open to the subjective assessment by the Exchange and could be treated as reverse takeover or extreme transactions. The current form of the proposed rules can give the Exchange disproportionate discretion to second guess the intentions of an issuer and impose undue restrictions on an issuer's capability to diversify and expand. **This can directly affect and constrain the ability of the issuer's management to make bona fide commercial decisions and can operate to the detriment of the interests of the issuer's shareholders**;

   b. Proposal A(1) when read in conjunction with the proposal to add the "change of control" or change of "de facto" control criteria under Proposal A(2) and the "series of arrangements" criteria over at least a three year period under Proposal A(3) can render any bona fide business adjustment and development activities be treated as a reverse takeover or extreme transaction under the proposed rules at the outset or worse, some time over the next three years, which is a long time for business that seek to implement beneficial changes to their businesses whether by diversification or rationalisation or both. Rather than imposing further contraints on issuers' ability to invest or disvest, we believe that attention should be paid on post acquisition monitoring and continuing operations of issuer's business to deter and address the Exchange's concern on "shell creation and maintenance activities" (and the Listing Rules already have a robust financial reporting/delisting regime in place and it has also been proposed in the Consultation Paper to tighten the Continuing Listing Criteria). Excessive regulatory measures can undermine opportunities for legitimate

business investments when issuers are constrained by the lack of clarity on compliance requirement and spend too much time and/or money on the regulatory processes. **Contrary to assurances, the proposed rules introduce significant regulatory uncertainties and limitations that hinder the business development of listed issuers**.

The proposed rules are discriminatory to smaller listed companies

7. The proposed rules are particularly restrictive for the smaller listed companies, which is already subject to the existing Chapter 14 compliance requirements and restrictive fund raising requirements after the Exchange's implementation of 25% restriction on value dilution effect for fund raising activities, when they seek to grow or make adjustments to face challenges of operating environment.

8. If the Exchange's policy is now to allow only listed companies only to pursue its original business and not allow it the flexibility to make changes but instead would then delist them if they face a downturn in their business sector or performance (which appears to be a very possible consequence of the rule changes), then the Exchange should make that clear to public investors given that such changes can be materially detrimental to the ability of public passive investors to rely on the management of the listed companies to improve return by growth or by turning around faltering business. Warning should be given to the public investors for the high risk for their total loss of the investments in the listed companies which will be delisted due to the downturn in their business sector without having an opportunity for diversification. **The proposal will discourage genuine investors to invest in middle and small-cap companies as strategic investors**.

9. There are invariably ups and downs on normal business cycles. Our market should allow room for the issuers to undergo and respond accordingly to these stages.

No. of listed companies reported consecutive losses in the last three financial years

Market Cap (HK$) 30 August 2018	No. of companies	Approx %
Less than 0.5 billion	158	47%
0.5 - 1 billion	77	23%
1 - 2 billion	47	14%
2 - 5 billion	33	10%
> 5 billion	20	6%
	335	100%

Source: Bloomberg

As shown above, there are total 335 companies listed on the Main Board and GEM that have reported consecutive losses for the last three financials years, of which [158] listed companies have market capitalisation (as at [30 August 2018]) under HK$[500 million] . Under the proposed regime, we believe that those small and mid-cap listed issuers, who are struggling with their existing business/financial performance, will be left with limited room for diversification and business rationalisation. Moreover, the market capitalisation of an issuer is not only reflected by its fundamental value i.e. financial/business performance and assets size but are also by other market factors like investor sentiments, market outlook of an issuer's sector or industry. **It is unfair to an issuer, due to its size**

and resources, effectively to be subject to more stringent scrutiny in conducting M&A and fund raising activities.

10. In addition to the immense constraints potentially placed on issuer, the proposed changes also adds greatly to execution uncertainty that can discourage / eliminate certain mergers and acquisition potentials because the principals may not be prepared to incur the expense and time to engage in due diligence and negotiation of terms without reasonable certainty that a transaction can take place or the time required for it to take place. The Exchange must also bear in mind that practically, no meaningful consultation of the Exchange as to the applications of the notes to Rule 14.06B can properly be made unless the parties are fairly advanced in due diligence / transaction discussions. We do not believe it is appropriate to place on the Exchange the burden of blessing or blocking business decisions that issuers' management should make and take responsibility for, nor should the Exchange be making those decisions which can have a material impact on the return to investors in the issuers.

REASONS FOR THE REPLY TO QUESTION 2

Controversy of "change in de facto control"

1. We recognise that the proposed extension of the current criterion "issue of restricted convertible securities" to include any change in control (as that term is defined in the Takeovers Code) and any change in "de facto" control of the listed issuer (other than at the level of its subsidiaries) by the addition of (i) any substantial change in the issuer's board of directors and key management and (ii) any change in its single largest substantial shareholder in the context of assessment of reverse takeovers/ extreme transactions, may be intended to address perceived characteristics of certain "shell" arrangements.

2. The current rule has already addressed the criterion of change in control (as that term is defined in the Takeovers Code) in assessing RTO. Along with our disagreement to the addition of the "six assessment criteria" under the proposed Rule 14.06B, we disagree with the proposal of expanding the current criterion to include any "change in de facto control".

   (i) There is a lack of clarity of what constitutes "substantial change" in the issuer board and a lack of recognition that substantial changes in board and key management could as much be the result of a beneficial clean-up of "dead wood" management or a bona fide change of business strategy or other commercial reasons, such as the recent US-China trade violation issues surrounding of ZTE Corporation (stock code: 763) which led to the replacement of the full board of ZTE [and reshuffle of management of Chinese companies due to political reasons] which are out of the context of "change in de facto control" that the Exchange may perceive as characteristics of certain "shell" arrangements. We believe that a listed issuer should be allowed to freely manage and operate its business and affairs, including composition of the board members, subject to the appropriate rules and regulations.

   (ii) A change of single largest substantial shareholder ignores:

      a. the widely accepted control threshold of 30% voting rights, which already is considerably lower than statutory control, as a meaningful and reasonable mark of de facto control taking into account the fact that shareholders normally have one vote for each share held;

      b. the aim of listing is to allow the listed issuer to have a platform to raise fund for business expansion and issuers who have limited cash resources (in view of uncertain credit environment and the difficulties/ restrictions in equity fund raising) may resort to issues of consideration shares to achieve growth through acquisition; and

      c. the fact that it can be easily circumvented by appointing nominees for relatively small stake which would render the Exchange's stated aim of tightening up anti-circumvention of new listing regime meaningless.

Based on the above, we do not see any valid rationale for subjecting listed issuers to unnecessary and unjustified scrutiny by expanding the criterion to change in de facto control.

3. Our objection lies in that the combination of this proposed extension together with Proposals A(1) and A(3) create so much uncertainty that renders it impractical for all but the largest listed issuers to seek expand or adjust their operations without the spectre of a reverse takeover or extreme transaction hanging over them. The Exchange has to strike a balance between its regulatory objectives and the genuine needs of the listed issuers. It appears that the proposed amendments is based on a presumption that all listed issuers intend to circumvent new listing requirement instead of endeavouring with resources available to operate their business and manage expansion (even though not always successfully). **We believe that with excessive restrictive regulation such as that being proposed, Hong Kong will likely lose attractiveness as a listing and fund raising platform for middle and small cap companies**. Please see also the Reply to Question 1 which also applies.

REASONS FOR THE REPLY TO QUESTION 3(A)

The existing 2-year period is adequate

1. It is clear that the extension of the period for which "transactions and arrangements that take place in reasonable proximity or are otherwise related" are to be regarded as a "series of arrangement" to three years is directed at certain "shell" arrangements. [We agree that speculative "shell activities" should be discouraged but] it seems that the parameters that the Exchange seeks to use would also restrict meaningful growth / adjustments of business unless:-

    a. each acquisition is small (on a standalone) and that "new" business (by way of diversification or otherwise) never grows faster or larger than the original business for at least three years if not more (which may indicate that the original investment decision could in itself be faulty, depending on the nature of the original business);

    b. the original business keeps growing (in all respects) at a pace that is at least equal to or faster than any new business – while this is an ideal that each business owner would want to achieve, as mentioned in the Reasons for reply to Question 1 above, certain businesses may experience downturn or low growth through no fault of its managers; or

    c. the acquisition targets (on an individual or aggregated basis) can meet new listing requirements – acquisition decisions are invariably based on a complex combination of availability and suitability targets, willing sellers, the quality of target management, the resources available to the listed issuer and terms (including) pricing and that are acceptable to parties. It may not be commercially beneficial to an issuer to invest in a fully grown company, there easily situations where it is more beneficial to an issuer to invest at a more reasonable cost into a business/ management team that it can integrate, improve and grow in-house.

2. The existing 24 months period is a long enough period in the fast changing business world. Hong Kong, as an international financial centre and one of the fastest-changing cities in the world, has to keep pace with the changing world and promote a financial arena for business growth and diversification. Our market should allow an issuer to find ways of improving its business, compensating for any downturn, rationalise existing businesses and investing in better return to its shareholders, without the risk of being treated as a reverse takeover/ extreme transaction three years down the line. **We believe it can be detrimental to the interests of public investors to over regulate and second guess management decisions and restrict listed issuers' ability to change and grow**.

3. As a parameter to restrict shell activities, the existing regime of 24 months period should be adequate to allow the Exchange and the public to assess whether the corporate actions taken by the issuer are consistent with business strategy of and in the best interest of a listed issuer and its shareholders, where the listed issuers need to satisfy significant number of reporting requirements and to make timely disclosure of its operational and financial matters to the public. We do not see any practical benefits for the extension to 36-month period – it only imposes more restrictions on listed issuers' genuine business activities.

REASONS FOR THE REPLY TO QUESTION 3(B)

Unfair Aggregation Basis

1. The proposed change presumes that transactions over a period of years are always the result of "pre-ordained strategy" to circumvent the Listing Rules. It seems to ignore the fact that the Listing Rules require that a director must closely monitor and keep himself/herself appraised of the issuer's business, and make decisions in the best interests of the issuer and its shareholders. These decisions must include decisions to improve the performance of the issuer group's existing business, to explore new opportunities, to determine whether new areas of investments deserves further investments and to divest or curtail parts that are non performing, based on the facts and circumstances then existing. **It is unfair to the directors of the listed company who need to consider, among all other commercial factors, whether each transaction, on individual and aggregated basis, conducted by their companies (no matter how small scale it is and completed or not) may subjectively be deemed as a RTO by the Exchange three years down the road**. The proposed change will definitely hinder the normal commercial decision making of listed issuers and adversely affect the interests of the shareholders as a whole.

2. The proposed extension to "proposed and/or complete acquisitions (and other arrangements)" entrenches the power to the Exchange to assess issuer activities with the benefit of hindsight and to require an issuer to prove to the contrary. This is a draconian, disproportionately and grossly unfair approach to take and goes against the most basic human right to the presumption of innocence, even taking into account the intended evil of "shell" activities the proposed rule changes purport to address.

3. We also disagree to the inclusion of aborted transactions in the context described in paragraph 52 of the Consultation Paper, because there could be a plethora of reasons that a transaction ruled to be a reverse takeover is aborted. Not in the least it could be that the transaction was not a "pre-ordained" series of transaction even though the Exchange might take the view that it is.

4. Finally, we do not see what is the benefit to shareholders and investors other than satisfying Exchange's regulatory process of requiring a financial adviser to conduct due diligence and make enhanced disclosures on completed transactions based on the hindsight test when the Listing Rules already have a robust annual and interim reporting regime in place. **It appears to us that it operates as a penalty against all listed issuers, because of the small amount of shell activities in the market, which significantly increasing their costs of compliance to the detriment to its shareholders as a whole**.