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Question 1

Do you agree that the Equivalence Requirement and the concept of “Recognised Jurisdictions” and “Acceptable Jurisdictions” should be replaced with one common set of Core Standards for all issuers?

Yes

Please give reasons for your views.

The proposal meets the objective of streamlining and simplifying the listing application process, as well

as making the Hong Kong Stock Exchange “jurisdiction-neutral” with one set of objective criteria for listing applicants, rather than relying on listing suitability being determined by reference to a subjective assessment of particular jurisdictions.

However, we note that the proposal to withdraw the JPS in paragraph 139(b) is accompanied by a proposal nevertheless to retain the Country Guides issued under the JPS per paragraph 294. We disagree with this proposal. It is submitted that the Country Guides should be withdrawn together with the JPS, for the following reasons:

* If the purpose of the reforms is to avoid regulating being “fragmented” and “scattered in various places”, it is submitted that this purpose is not served by retaining the Country Guides, which leave in place legacy aspects of that fragmented/scattered regulation (as noted in paragraph 66), with the potential for unnecessary confusion and complexity. To the extent that the Exchange feels that particular material in the Country Guides remains relevant, this should be reproduced in the new Guidance Letter accordingly.

* If the Exchange retains the existing Country Guides but does not issue any new Country Guides, this will create an inconsistency in the regulation of those jurisdictions for which Country Guides have already been issued with those for which there are not currently existing Country Guides.

* The Country Guides refer specifically to JPS shareholder protection standards, which will be withdrawn and superseded by the new Core Standards. This is likely to lead to confusion as to how they should be read and interpreted in light of the new Core Standards.

* Retaining the Country Guides is inconsistent with a “jurisdiction-neutral” regulatory philosophy which should refer only to one set of objective standards and not to the subjective circumstances of particular jurisdictions.

Therefore it is submitted that, in the interests of meeting the objectives of the proposed reforms, the Country Guides should be withdrawn together with the JPS.

In addition, the acceptance of a regulatory philosophy which is truly jurisdiction-neutral in the manner proposed and presupposes that adherence to a certain agreed set of Core Standards shall be sufficient for the purposes of safeguarding investor interests, implies that any further analysis of the regulatory provisions of the place of jurisdiction and comparisons with those of Hong Kong are now a superfluous and unnecessary exercise. Accordingly, we would submit that the following Listing Rules should be repealed at the same time as the present amendments:

* Listing Rule 19.05(6)(a)(i) and (ii)

* Listing Rule 19.10(3)

* Listing Rule 19A.27(3) (Investors in Hong Kong are now familiar with relevant PRC laws and this requirement is outdated and superfluous)

* Proposed Listing Rule 19C.10C(7)(b)

Such general summaries of laws and regulations are of either of such a pro forma and general nature as to provide no meaningful information to investors, or produced at significant time and expense to the issuer and its advisors not commensurate with the utility such material affords investors. It is submitted that these materials are superfluous and unnecessary under the new proposals.

Question 2a

Do you agree with the proposed Core Standards set out in paragraphs 79 to 137 of the Consultation Paper?

No

Please give reasons for your views.

We agree with the proposed Core Standards set out in paragraphs 79 to 137, subject to the following reservations/comments:

Removal of directors (paragraph 79)

We assume that this provision is not intended to affect the rights of WVR holders under Chapter 8A: we note that the removal of directors, other than independent non-executive directors, is not a matter referred to in Listing Rule 8A.24. It is submitted that a clarifying note to the rule to this effect in the relevant Core Standard would be helpful.

Right to speak and vote at general meetings (paragraph 97)

We do not agree with the proposed Core Standard as it is currently drafted. The Core Standard in its proposed form could be read as implying an unqualified right of members to speak at general meetings. This may very easily become unwieldy and impracticable if, for example, large numbers of shareholders purport to be exercising such right, making a general meeting of unnecessarily long duration, or where shareholders rely upon such right in seeking to disrupt a meeting, over-riding the chair of meeting's prerogative to maintain order.

We note that paragraph 98 refers to HKCO s584 in justifying this Core Standard. It is submitted that, while s584 contemplates that members may speak at a general meeting, it does not give members any such unqualified right to speak.

Accordingly, we would submit that the Core Standard be worded as follows:

“An issuer should provide members a reasonable opportunity to speak at a general meeting.”

Right to convene an extraordinary general meeting (paragraph 102)

We agree with the proposed Core Standard. We note the wording of the proposed Core Standard mirrors that of Listing Rule 8A.23. We submit that there is an ambiguity in this wording as to whether the required minimum 10% interest is an individual or an aggregate interest. It is submitted that wording mirroring HKCO s 566 would be clearer and avoid ambiguity, and accordingly would suggest that the Core Standard be worded as follows:

““Members must be afforded the right to request the issuer and/or its directors to convene an extraordinary general meeting and add resolutions to a meeting agenda. The issuer and/or its directors must comply with any such request made by shareholders holding shares representing in aggregate at least 10% (or any such lower threshold as an issuer may determine) of the voting rights of all the members having a right to vote at general meetings, on a one vote per share basis.”

Variation of class rights (paragraph 105)

We agree with the proposed Core Standard. It is respectfully submitted that the proposed drafting of the Core Standard is clearer if inverted, given that the subject of the sentence is the class rights, not the members. We would propose wording as follows:

“Any proposal to amend the rights attached to a particular class of shares in the issuer must be subject to the approval of a super-majority vote of the members of the affected class.”

HKSCC’s right to appoint proxies or corporate representatives (paragraph 126)

We agree with the proposed Core Standard. However we note the reference to creditors meetings in the proposed wording, echoing Listing Rule 19C.07(8) and JPS paragraph 40. We observe that Paragraph 6 under Section 1 in both Parts A and B respectively of Appendix 13 of the Listing Rules refers only to meetings of the company attended in the capacity as shareholders. It is submitted that shareholders do not generally enjoy the right to participate in creditors' meetings and this requirement should be qualified accordingly, for example as follows:

"HKSCC must be entitled to appoint proxies or corporate representatives to attend the issuer's general meetings and (to the extent shareholders generally have the right to attend) creditors meetings..."

Question 2b

Do you agree that the existing shareholder protection standards set out in Schedule C of the Consultation Paper should be repealed?

Yes

Please give reasons for your views.

Question 3

Do you agree to codify the current practice that all issuers must conform their constitutional documents to the Core Standards or else demonstrate, as necessary for each standard, how the domestic laws, rules and regulations to which the issuer is subject and its constitutional documents, in combination, provide the relevant shareholder protection under the Core Standards?

Yes

**Please give reasons for
your views.**

Question 4

Do you believe any other standards or Listing Rules requirements, other than those set out in paragraphs 79 to 137 or Schedule C of the Consultation Paper, should be added or repealed?

No

Please provide these other standards with reasons for your views.

Question 5

Do you agree that existing listed issuers should be required to comply with the Core Standards?

Yes

Please give reasons for your views.

Question 6a

Do you agree that existing listed issuers should have until their second annual general meeting following the implementation of our proposals to make any necessary amendments to their constitutional documents to conform with the Core Standards?

Yes

Please give reasons for your views.

We agree. Please note that this grace period should not be shortened, as it can take some time for issuers to make the necessary preparations and amend their constitutional documents, such that a period shorter than the second annual general meeting following implementation may be impracticable.

Question 6b

Do you agree that the application of the Core Standards will not cause existing listed issuers undue burden?

Yes

Please give reasons for your views.

We agree, subject to our response to question 6(a) above.

Question 7

Do you agree with the principles set out in paragraph 155 of the Consultation Paper for use when

considering waiver applications from Overseas Issuers applying for a dual primary listing in Hong Kong?

Yes

Please give reasons for your views.

Question 8

Do you agree to codify certain Common Waivers and the prescribed conditions as described in paragraph 158 of the Consultation Paper?

Yes

Please give reasons for your views.

We agree. In addition it is submitted that the following Common Waivers from the JPS should also be codified as part of the new proposals:

* Listing Rule 8.12 for dual primary listings. Indeed, this requirement is anachronistic given the global/online nature of business in the 21st century, and it is submitted that, given a waiver from this rule is granted more often than not, this rule be repealed in its entirety.

* Listing Rule 10.04 (and paragraph 5(2) of Appendix 6) for dual primary listings, subject to appropriate conditions.

Question 9

Do you agree that Grandfathered Greater China Issuers and Non-Greater China Issuers with Non-compliant WVR and/ or VIE Structures should be able to apply for dual primary listing directly on the Exchange as long as they can meet the relevant suitability and eligibility requirements under Chapter 19C of the Listing Rules for Qualifying Issuers with a WVR structure?

Yes

Please give reasons for your views.

We strongly endorse the proposal.

Question 10

Do you agree that Grandfathered Greater China Issuers and Non-Greater China Issuers referred to in Question 9 above be allowed to retain their Non-compliant WVR and/ or VIE Structures (subsisting at the time of their dual primary listing in Hong Kong) even if, after their listing in Hong Kong, they are de-listed from the Qualifying Exchange on which they are primary listed?

Yes

Please give reasons for your views.

We strongly endorse the proposal.

Question 11

Do you agree with our proposal to codify requirements (with the amendments set out in the Consultation Paper) relating to secondary listings in Chapter 19C of the Listing Rules and re-purpose Chapter 19 of the Listing Rules as one dedicated to primary listings only?

Yes

Please give reasons for your views.

Question 12

Do you agree that the Exchange should implement the quantitative eligibility criteria as proposed in paragraphs 199 and 201 of the Consultation Paper for all Overseas Issuers without a WVR structure (including those with a centre of gravity in Greater China) seeking to secondary list on the Exchange?

No

Please give reasons for your views.

The proposed criteria are unnecessarily complex and misguided in seeking to adhere to the imperative to combine all of the existing regulations into the new regulatory framework. Given one of the primary purposes of the current proposals is to “reduce complexity” (paragraph 195), the Exchange should take this opportunity to set down just one, brightline set of criteria for all secondary listings for issuers without a WVR structure, rather than create a melange of the existing criteria.

It is submitted that the sole set of criteria should be as follows:

* A track record of good regulatory compliance of at least TWO full financial years: It is submitted that there is no inherent correlation between market capitalization and compliance record. Accordingly, if two years is considered sufficient for the purposes of investor protection for proposed Criteria B, there appears to be no logical or regulatory reason to require five years under Criteria A.

* Listed on any Recognised Exchange: It is unclear why the Exchange differentiates between the listing forum for Greater China issuers and non-Greater China issuers for the purpose of secondary listings. The sole relevant matter for assessment in such cases should be whether the Exchange considers the regulatory framework of the relevant exchange, as the secondary listing candidate's primary regulator, to be sufficient for the purposes of investor protection in Hong Kong. If a "Recognised" exchange is considered sufficient for this purpose in the case of Overseas Issuers, then there seems to be no regulatory justification not to accept listings also from Greater China Issuers listed on Recognised exchanges. In the alternative, the Exchange should abolish the concept of Recognised exchanges and only accepted secondary listings from companies listed on Qualifying Exchanges. There does not appear to be any reason otherwise articulated for this inconsistency. (We also do not share the Exchange's concern over "regulatory arbitrage", which could be regarded as a purely protectionist policy on the part of the Exchange.)

* Expected market capitalization of HK\$8 billion: To the extent that market capitalization is being taken as a proxy for quality, if one single set of criteria is to be imposed then it makes sense to find a level that is somewhere between the two sets of existing criteria. It is submitted that HK\$3 billion is too low for this purpose, and HK\$8 billion (slightly above US\$1 billion) is a reasonable standard to apply.

Question 13

Do you agree that an exemption from the listing compliance record requirement be introduced, similar to the current JPS exemption, to cater for secondary listing applicants without a WVR structure that are well-established and have an expected market capitalisation at listing that is significantly larger than HK\$10 billion?

Yes

Please give reasons for your views.

We agree, however the Exchange should specify a qualitative test for this purpose, rather than relying on the subjective measure of "significantly larger".

Question 14

Do you agree that new secondary listing applicants without a WVR structure (including those that have a centre of gravity in Greater China) should not have to demonstrate to the Exchange that they are an “Innovative Company”?

Yes

Please give reasons for your views.

We strongly endorse the proposal.

Question 15

Do you agree that a Rule should be introduced to make it clear that the Exchange retains the discretion to reject an application for secondary listing if it believes the listing constitutes an attempt to avoid the Listing Rules that apply to primary listing?

No

Please give reasons for your views.

Such a rule would confer on the Exchange overly broad discretionary powers without reference to objective criteria. We also disagree generally with the Exchange’s concern over “regulatory arbitrage”. In any event we note that the Exchange retains its general discretion to reject any listing on suitability grounds: there is no need for an additional discretionary power for the Exchange to achieve the same result.

Question 16

Do you agree that the Exchange should apply the test for a reverse takeover, as described in paragraph 210 of the Consultation Paper, if the Exchange suspects that an issuer’s secondary listing application is an attempt to avoid the Listing Rules that apply to primary listing?

No

Please give reasons for your views.

The test for reverse takeovers has become overly broad and has resulted in the Exchange obstructing genuine and legitimate commercial transactions. We disagree with any proposal to extend the application of the reverse takeover rules.

Question 17

Do you agree that the scope of the Trading Migration Requirement should be extended to cover all issuers with a secondary listing?

Yes

Please give reasons for your views.

Question 18

In your opinion, will the extension of the Trading Migration Requirement to all secondary listed issuers be unduly burdensome for those that are not currently subject to this requirement?

Yes

Please give reasons for your views.

We consider that this requirement would be unduly burdensome in that it was not in contemplation at the time such issuers were listed on the Exchange. Accordingly we submit that there should be appropriate grandfathering arrangements for already-listed issuers.

Question 19

Do you agree with the codification of the principles set out in paragraph 215 of the Consultation Paper on which exemptions/ waivers are granted to secondary listed issuers?

No

Please give reasons for your views.

It is not clear what purpose such codification serves, since in any event the exercise of the Exchange's power under Listing Rule 2.04 is discretionary in nature. It is not understood to be the case that the Exchange would only exercise this discretion if all of the factors set out in proposed Listing Rule 19C.11A are present. The proposed codification, if not intended to fetter the Exchange's discretion, therefore serves only as guidance which is not appropriate to be codified into the Listing Rules, and is more appropriately contained in guidance materials.

We in any event note a typographical error in the draft of proposed Listing Rule 19C.11A(2): we believe the reference should be to rule 8.02A, not 8.01A.

Question 20

Do you agree to codify the Automatic Waivers and conditional Common Waivers in the Listing Rules

for all issuers with, or seeking, a secondary listing?

Yes

Please give reasons for your views.

Question 21

Do you agree with the removal of the current condition for granting a waiver from the shareholders' consent requirement relating to further issues of share capital for secondary listed issuers as described in paragraphs 218 and 219 of the Consultation Paper?

Yes

Please give reasons for your views.

Question 22

Do you agree that secondary listed issuers should comply with the requirements for a diversity policy and for such policy to be disclosed in their annual reports (for the reasons set out in paragraph 223 of the Consultation Paper)?

Yes

Please give reasons for your views.

We observe that this requirement is not consistent with the overall regulatory approach to secondary listed issuers, which if followed strictly would defer to the regulations on diversity by the issuer's primary regulator. However, given the importance of diversity and given that the obligation – one of disclosure only – is not onerous, we agree with the proposal.

Question 23

Do you have any comments on the content of the Guidance Letter in relation to trading migration and de-listing of secondary listed issuers from their overseas exchanges of primary listing set out in Schedule E of the Consultation Paper?

Yes

Please give reasons for your views.

As noted in our response to Question 1, above, we disagree with retaining the Country Guides and references to the Country Guides in the Guidance Letter, which are inconsistent with the new regulatory framework. If the Exchange wishes to retain certain content from the Country Guides, that content should be selectively reproduced within (or as an appendix to) the Guidance Letter, and the Country Guides themselves repealed. This would also be consistent with the Exchange's stated desire to reduce the "fragmented" and "scattered" nature of the current regulations.

Also, as noted in our response to Question 1, above, we disagree with paragraph 12 of the Guidance Letter which extends the scope of regulation beyond the Core Standards. If the new regulatory approach is to be applied with consistency, any further analysis of the regulatory provisions of the place of jurisdiction and comparisons with those of Hong Kong beyond the Core Standards should be superfluous and unnecessary.

Paragraph 13 of the Guidance Letter refers to the possibility of the Exchange further updating the Country Guides. Again we note this is inconsistent with the desire to avoid fragmented regulations, and also inconsistent with the Exchange's stated intention that no new Country Guides will be issued, causing confusion as to whether Country Guides are "living" documents or to be considered purely historical documents for reference purposes only. This further suggests that, for the sake of clarity and good order, the Country Guides in their previous form should be withdrawn and new documents fit-for-purpose for the new regime prepared.

Question 24

Do you agree that the Exchange should codify the Regulatory Co-operation Requirement (with modification as described in paragraph 242 of the Consultation Paper) into Chapter 8 of the Listing Rules for all issuers?

Yes

Please give reasons for your views.

Question 25

Do you agree that the Exchange should retain as guidance the alternative auditing standards listed in paragraph 249 of the Consultation Paper that can be used to audit the financial statements of Overseas Issuers?

Yes

Please give reasons for your views.

Question 26

Do you agree to codify the JPS requirement that the suitability of a body of alternative financial reporting standards depends on whether there is any significant difference between that body of standards and IFRS, and whether there is any concrete proposal to converge or substantially converge the standards with IFRS?

Yes

Please give reasons for your views.

Question 27

Do you agree to retain, as guidance, the list of acceptable alternative financial reporting standards that can be used to prepare the financial statements of Overseas Issuers subject to the current limitations on their use as set out in Table 7 (see Schedule E of the Consultation Paper)?

Yes

Please give reasons for your views.

Question 28

Do you agree to codify the JPS requirement that a dual primary or secondary listed issuer that adopts a body of alternative financial reporting standards for its financial statements (other than issuers incorporated in an EU member state which adopted EU-IFRS) must adopt HKFRS or IFRS if it de-lists from the jurisdiction of the alternative standards?

No

Please give reasons for your views.

We disagree with the proposal for the following reasons:

* Taking as a starting point the assumption that the adoption of non-HKFRS/IFRS accounting standards was considered acceptable from an investor protection/information disclosure point of view in Hong Kong while the company was dual-primary listed, there is no logical or regulatory reason why such disclosure should suddenly be rendered unacceptable from an investor protection/information disclosure point of view if the issuer's listing status changes.

* We consider that comparability of accounts across accounting periods is important for investors, and accordingly it is desirable for an issuer to be able to retain consistent accounting standards even if its listing status changes.

* A change to accounting standards involves significant expense and administrative burden for an issuer in terms of changing their internal financial reporting processes and systems, and training relevant staff, which is an unnecessary burden and expense in the absence of compelling reason to do so.

Accordingly, we are of the view that an issuer should be permitted to retain the accounting standards adopted at the time of its first listing in Hong Kong regardless of any subsequent changes to the status of its listing on other exchanges.

Question 29a

Do you agree that issuers that de-list from a jurisdiction of an alternative financial reporting standard should be given an automatic grace period (i.e. an application to the Exchange is not required) within which to adopt IFRS or HKFRS?

Yes

Please give reasons for your views.

As stated above, we do not agree with the proposal referred to in Question 28. However, if the Exchange proceeds with the proposal, then we agree a grace period is necessary.

Question 29b

Do you agree that this grace period should end on the issuer's first anniversary of its de-listing?

No

Please give reasons for your views.

We submit that this grace period should end on the issuer's SECOND anniversary of its delisting, giving the listed issuer the opportunity to have at least one complete financial year under its existing accounting standards before being compelled to change, and to enable sufficient time for internal systems, processes and staff training to be put in place.

Question 30

Do you agree that, for the sake of consistency of approach, an issuer must demonstrate a reason for adopting US GAAP for the preparation of its financial statements (including annual financial statements and the financial statements included in its accountants' reports) and adopt IFRS or HKFRS if the circumstances underpinning those reasons change (e.g. it de-lists from a US exchange)?

No

Please give reasons for your views.

We disagree for the reasons set out in our response to Question 28, above. To put the matter directly: either US GAAP is considered acceptable from a shareholder protection/information disclosure point of view, or it is not. If US GAAP is acceptable for a dual-primary listed issuer, there is no logical reason or regulatory rationale for it to cease to be acceptable if the issuer subsequently becomes sole-primary listed in Hong Kong.

Question 31

Do you agree that any issuer that wishes to adopt US GAAP for the preparation of its annual financial statements must include a reconciliation statement showing the financial effect of any material differences between its financial statements and financial statements prepared using HKFRS or IFRS?

No

Please give reasons for your views.

The preparation of such reconciliation statements incurs both time and costs for the issuer and its advisers, for no discernable benefit. It is unclear for whose benefit such reconciliation statements are intended, given that (a) retail investors are unlikely to understand or have the knowledge necessary to interpret such statements, and (b) institutional/professional investors are already thoroughly familiar with US GAAP and have the ability to conduct their own analysis without the need for such reconciliation statements. As a result, it is submitted that such statements provide no additional meaningful information for either retail or professional investors.

Question 32

Do you agree to codify the amendment to the FRCO that established the PIE Engagement regime into the Listing Rules?

Yes

Please give reasons for your views.

Question 33

Do you agree to amend the Listing Rules to codify the requirement that an issuer normally appoint a firm of practising accountants that is qualified under the PAO and is a Registered PIE Auditor under the FRCO to prepare an accountants' report that constitutes a PIE Engagement under the FRCO?

Yes

Please give reasons for your views.

Question 34

Do you agree to amend the Listing Rules to allow Overseas Issuers to appoint an audit firm that is not qualified under the PAO (but it is a Recognized PIE Auditor of that issuer under the FRCO) for PIE Engagements to prepare an accountants' report for a reverse takeover or a very substantial acquisition circular relating to the acquisition of an overseas company?

Yes

Please give reasons for your views.

Question 35

Do you agree to amend the Listing Rules to codify the JPS requirement that, in relation to the PIE Engagements and notifiable transactions, overseas audit firms must normally fulfil the characteristics described in paragraph 271 of the Consultation Paper?

Yes

Please give reasons for your views.

Question 36

Do you agree to amend the Listing Rules to codify the amendments to the FRCO on the collection of levies by the Exchange on behalf of the FRC as described in paragraphs 280 and 281 of the Consultation Paper?

Yes

Please give reasons for your views.

Question 37

Do you agree to codify the JPS requirement for Company Information Sheets as described in paragraphs 283 to 288 of the Consultation Paper?

No

Please give reasons for your views.

We consider that Company Information Sheets create unnecessary administrative burden for issuers and their advisors, and provide limited additional information for investors, and should be abolished.

Question 38

Do you agree that the Company Information Sheet requirement should be applied to: (a) secondary listed issuers; and (b) any other Overseas Issuer, at the Exchange's discretion, where it believes the publication of a Company Information Sheet would be useful to Hong Kong investors?

No

Please give reasons for your views.

We consider that Company Information Sheets create unnecessary administrative burden for issuers and their advisors, and provide limited additional information for investors, and should be abolished rather than extended to cover even more issuers.

Question 39

Do you agree to amalgamate the guidance described in paragraphs 289 and 290 of the Consultation Paper into one combined guidance letter for overseas issuers (see Schedule E of the Consultation

Paper)?

Yes

Please give reasons for your views.

We agree, subject to our response to Question 23, above.

Comment