

31 May 2021

By email to: [REDACTED] and [REDACTED]

ASIFMA's Comments Regarding HKEX's Consultation Paper on Listing Regime for Overseas Issuers

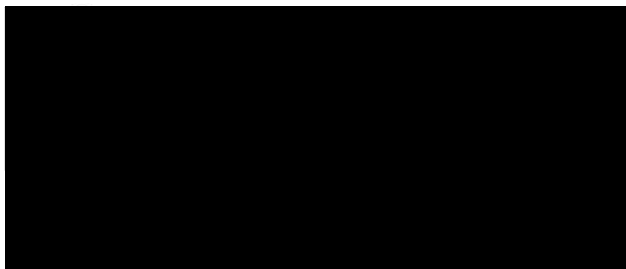
Dear [REDACTED] and [REDACTED],

Thank you for providing market participants the opportunity to respond to the Hong Kong Exchanges and Clearing Limited's (HKEX's) consultation paper on the "Listing Regime for Overseas Issuers".

We must first apologise that we are unable to provide a comprehensive response given the timeline and the extraordinarily high level of existing commitments that we and our members have had to manage. However, given the significance of this consultation, our members wish to share our comments on at least the key issues which our members have identified within the consultation paper. As a result, we have prepared a targeted response (appended in the following pages), which has been prepared on behalf of the members of the Equity Capital Markets Committee of the Asia Securities Industry and Financial Markets Association ("ASIFMA")¹.

We look forward to continued future engagement with you on these important issues and should you have any questions, please do not hesitate to contact me via email [REDACTED] or via telephone [REDACTED]

Sincerely,



Asia Securities Industry and Financial Markets Association

¹ ASIFMA is an independent, regional trade association with over 135 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, professional and consulting firms, and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

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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? Please give reasons for your views.

Our members are generally supportive of the proposal in question 9 to allow Grandfathered Greater China Issuers and Non-Greater China Issuers with Non-compliant WVR and/ or VIE structures to apply for dual primary listing directly on the Exchange provided that they can meet the relevant suitability and eligibility requirements.

We, however, note that the proposals and the questions 7 to 10 in the Consultation Paper do not address the situation where a secondary listed issuer under Chapter 19C wishes to voluntarily convert to a primary listing without a voluntary delisting or triggering the Trading Migration Requirement.

With the success of the Exchange's Chapter 19C regime, and the expected strong pipeline of secondary listings (especially if the proposal to remove the "innovative company" requirement comes into effect as proposed), there are strong arguments for a framework to facilitate the orderly transition of certain qualifying Chapter 19C issuers to a primary listing while maintaining their current Chapter 19C compliance profile under the Listing Rules.

- The Chapter 19C shareholder protection framework, in conjunction with the regulatory regime in the issuer's overseas primary listing jurisdiction, is robust and offers strong protection for Hong Kong investors. In fact, there is no change to the compliance profiles of these qualifying issuers before and after the migration to a primary listing.
- Grandfathered Greater China Issuers have a long listing and compliance record and have demonstrated their compliance record as a dual listed company following their secondary listing in Hong Kong.
- The Grandfathered Greater China Issuers represent some of the largest and most actively traded stocks in Hong Kong, and it is in the interest of the Hong Kong market that its largest and most active stocks are primary listed.
- The transition of Grandfathered Greater China Issuers to a primary listing would open these stocks to the Stock Connect program and further enhance the success of the Stock Connect program and increase trading volumes in the Hong Kong market.
- It is in the interest of the market to facilitate an orderly transition of Grandfathered Greater China Issuers, which represent some of the largest issuers on the Exchange, to a primary listing in light of recent geopolitical developments and the potential de-listings of a large number of dual listed companies from the U.S. exchanges.

Our members therefore recommend that the Exchange expand its Guidance Letter to permit Grandfathered Greater China Issuers (i.e., those issuers listed on a qualifying overseas exchange on or before 15 December 2017) which remain primary listed on a qualifying overseas exchange be permitted to convert to a primary listing while maintaining all the automatic and special waivers as a Chapter 19C issuer.

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? Please give reasons for your views.

Our members are generally supportive of the exemption proposed in Paragraph 204 of the consultation paper if the company is well established and the expected market capitalization at listing is significantly larger than HK\$10 billion. However, we would like to clarify why Criteria B is limited to issuers on Qualifying Exchanges and not available for

issuers on Recognised Exchanges that meet the two-year track record and the expected HK\$ 10 billion market capitalization requirement.

As noted in paragraph 199 of the consultation paper, an Overseas Issuer without WVR may be allowed seek a secondary listing with Automatic Waivers if it is able to meet one of the Exchange's two proposed quantitative eligibility requirements (Criteria A and Criteria B).

To qualify under Criteria A, issuers would need to have a track record of good regulatory compliance for at least five full financial years on a Qualifying Stock Exchange or a Recognised Stock Exchange and meet a market capitalization of at least HKD 3 bn at the time of secondary listing.

Under Criteria B, issuers would only need to have a track record of good regulatory compliance for only two full financial years on a Qualifying Exchange and an expected market capitalization of at least HKD 10 bn at the time of secondary listing. We however note that excluding Recognised Exchanges would prevent, for example, an Amsterdam listed company with a two year track record and an expected HK\$ 10 billion market capitalization at the time listing, from seeking a secondary listing in Hong Kong. Given that Paragraph 96 of the JPS outlines Recognised Exchanges as Primary Listings Venues which would qualify for Automatic Waivers and given that there is also an exemption to the track record requirement under the JPS for overseas issuers with a market capitalization that is significantly larger than HK\$ 3 billion, it is unclear why there is a different treatment for Recognised Stock Exchanges.