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Submitted via Qualtrics

LINKLATERS

Company/Organisation view

Law Firm

Question 1

Do you agree that the WVR Financial Eligibility Test thresholds should be lowered?

Please give reasons for your views and any alternative suggestions.

We support and encourage the regulators in Hong Kong to conduct regular reviews of the Hong Kong Listing Regime to maintain and enhance its competitiveness in relation to other leading international financial centres.

Question 2

Do you agree with the proposed WVR Financial Eligibility Test thresholds (as set out in paragraph 91 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

Question 3

Do you agree with the proposal to accept a 20:1 WVR Ratio Cap if an applicant has a market capitalisation of at least HK$40 billion at the time of listing (see paragraph 103 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 1.

Question 4

Do you agree with the proposal to clarify that the Exchange may be prepared to accept the listing of an applicant whose WVR beneficiaries collectively hold a lower minimum economic interest at listing only if such lower underlying economic interest, at the time of the applicant's initial listing: (a) represents at least 5% of the applicant's total issued share capital; and (b) has an amount of at least HK$4 billion (see paragraph 105 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 1.

Question 5

Do you agree with the proposal to provide a choice of Route A and Route B that applicants can use to meet the Innovative Company Requirements (as set out in paragraph 126 of the Consultation Paper)?

Yes

Please give reasons for your views and any alternative suggestions.

See response to Question 1. We do not hold strong views on this proposal. Please note our observation in Question 6.

Question 6(a)

In respect of Route A, do you agree with the proposed retention of the current Specialist Company Presumptions (as set out in paragraph 127(a) of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Q.1.

Under the proposed definition of a Qualified Biotech Applicant set out in paragraph 132(a) of the Consultation Paper, the "innovative" presumption under Route A would apply only to those biotech applicants that have commercialised at least one Core Product ("Commercialisation Requirement"). Paragraph 133 of the Consultation Paper provides that Qualified Biotech Applicants remain subject to, among others, the

"success of the company" requirement, which requires a demonstration of a track record of high business growth as can be objectively measured by operational metrics such as business operations, users, customers, unit sales, revenue, profits and/or market value, and that the applicant's high growth trajectory is expected to continue.

The Commercialisation Requirement may give rise to a degree of overlap with the "success of the company" requirement, given that commercialisation of a Core Product would, in practice, typically be expected to be reflected in the operational and financial metrics against which the "success of the company" requirement falls to be assessed.

In light of the above, clarification would be welcomed as to the extent to which the Commercialisation Requirement, as a standalone limb of the Qualified Biotech Applicant definition — which applies solely in the context of a WVR structure — is intended to serve a purpose that is materially distinct from that already served by the "success of the company" requirement.

Further clarification would also be welcomed as to how the Commercialisation Requirement will be reconciled with the requirement under limb (ii) of the definition of Qualified Biotech Applicant (see paragraph 132(a)(ii) of the Consultation Paper) that an applicant must have continued the research and development of the Core Product during the 12 months prior to listing (“12-month R&D Requirement”). It is unclear whether the 12-month R&D Requirement refers to continued development of the same Core Product that has been commercialised — and if so, what would constitute "continued R&D development" of a Core Product that has already been brought to market, given that the nature and intensity of R&D activity in respect of a commercialised Core Product may differ materially from that conducted prior to commercialisation — or whether the 12-month R&D Requirement can be applied to a Core Product that is yet to be commercialised, such that the two requirements together would have presumed that an applicant must have at least two Core Products in order to satisfy the definition of a Qualified Biotech Applicant for adopting a WVR structure.

Question 6(b)

In respect of Route A, do you agree with the proposed “innovative” presumption for Qualified Biotech Applicants and Qualified Specialist Technology Applicants (as set out in paragraphs 127(b), 132 and 133 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 6(a).

Question 6(c)

In respect of Route A, do you agree with the proposed refinements to the Innovative Characteristics that are applicable to Route A (as set out in paragraphs 127(c), 129 and 130 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 6(a).

Question 7(a)

Do you agree with the proposed refinements to the Innovative Characteristics that are applicable to Route B (as set out in paragraphs 129 and 131 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 1.

Question 7(b)

Do you agree with the proposed guidance on the meaning of a "sophisticated investor" for the purpose of the "external validation" requirement (as set out in paragraph 134 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 1.

Question 7(c)

Do you agree with the proposed guidance on what constitutes "meaningful third-party investment" for Route B applicants for the purpose of the "external validation" requirement (as set out in paragraph 135 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 1.

Question 8

Do you agree with the proposal to lower the financial eligibility thresholds for a secondary listing of an overseas issuer with a WVR structure to align them with those proposed for WVR issuers with a primary listing (see paragraph 173 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

Question 9

Do you agree with the proposal to lower the market capitalisation threshold under Criteria B from HK$10 billion to HK$6 billion (see paragraph 177 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

Question 10

Do you agree with the proposal to retain the market capitalisation threshold under Criteria A (see paragraph 178 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 1.

Question 11

What measures (if any) do you think the Exchange should implement to further facilitate the listings, in Hong Kong, of issuers listed overseas (see paragraphs 198 and 199 of the Consultation Paper)?

We note that major international financial centres' stock exchanges, including the NYSE, LSE, Euronext and Deutsche Börse, permit disclosure of inside information during trading hours.

In this regard, we note that HKEX indicated in its March 2013 conclusions to the consultation paper entitled "Trading Halts" that it would implement trading halts and permit issuers listed overseas to disclose inside information during trading hours, in conjunction with the introduction of other significant market infrastructure initiatives. Given the continued development and modernisation of the relevant IT infrastructure in the intervening period, it may be appropriate to revisit whether the conditions necessary to support such a change have now been met.

Please give reasons and specify any accompanying conditions for your suggested measures.

Question 12

Do you agree with the proposal to codify the existing guidance into a Rule to state that an applicant will be considered to have satisfied the Ownership Continuity Requirement if it can demonstrate, to the Exchange's satisfaction, that there was no material change in influence on management during the Relevant Period despite the change in controlling shareholder over that period to address any packaging concerns (see paragraphs 205 and 206 of the Consultation Paper)?

Yes

Please give reasons for your views and any alternative suggestions.

Question 13

Do you agree with the proposed consequential updates to our guidance (as set out in paragraph 207 of the Consultation Paper)?

Yes

Please give reasons for your views and any alternative suggestions.

Question 14

Do you agree with the proposal to expand the permitted use of US GAAP (as set out in paragraph 213 of the Consultation Paper)?

Yes

Please give reasons for your views and any alternative suggestions.

Question 15

Do you agree with the proposal to remove the requirement that a US-listed issuer using US GAAP must revert to preparing financial statements using HKFRS or IFRS if it subsequently delists from the US (see paragraph 214 of the Consultation Paper)?

Yes

Please give reasons for your views and any alternative suggestions.

Question 16

Do you agree with the proposal to remove the requirement for a Reconciliation Statement produced for the purpose of unaudited financial results to be reviewed by auditors (see paragraph 215 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 1.

Question 17

Do you agree with the proposal to allow Eligible Specialist Companies to seek a listing under the applicable Specialist Chapters (see paragraph 232 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

See response to Question 1.

Question 18

Do you agree with the proposed modifications to the additional requirements under the Specialist Chapters to be imposed on Eligible Specialist Companies (as set out in paragraph 233 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

Question 19

Do you agree with the proposal to remove the Publication Requirements for all listing applicants, such that a listing applicant (including a listing applicant associated with an Issuer-related Listing Application) may choose not to publish its AP at the time it submits its listing application, in which case it would only be required to publish an OC Announcement on the same date as it publishes its PHIP (as set out in paragraph 260 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

While we do not hold strong views on this proposal, we wish to make the following two observations:

 First, the A1 filing return mechanism for applications deemed not substantially complete was a key component of the sponsor regime overhaul in 2013, which also introduced the requirement to publish the redacted application proof prospectus ("AP proof") on the HKEX website. Under the current framework, where the AP proof or other application documents are not substantially complete, and following the exhaustion of all applicable review procedures or the expiry of the timeframe to invoke such

procedures, the HKEX's decision to return an A1 application, together with the prescribed return details, is published on the HKEX website. Combined with the listing decisions published by the HKEX from time to time on reasons for rejection and return of listing applications, the public has access to a publicly released AP proof and listing decisions, enabling identification of the relevant professional parties and any shortcoming in the returned listing applications.

Should confidential A1 filings be permitted for all listing applications, we recommend that HKEX, in addition to identifying the professional parties involved and their respective roles in confidentially submitted and subsequently rejected or returned A1 filings, simultaneously disclose the factors and reasons underlying the decision to reject or return each A1 application in sufficient detail. In particular, any A1 proof that was originally filed on a confidential basis should be made public in the event that it is rejected or returned. Such measures would promote fairness and transparency in the IPO process.

 Second, we would propose that HKEX consider making confidentially submitted APs public at the same time as the publication of the applicant's PHIP. This is not the current practice for the limited types of listing applications where confidential filings are permitted. Should this option become available to all listing applications, however, this would become a broader issue and warrant a close consideration. When a proposed listing is close to launch when PHIP becomes available, the publication of the previously submitted confidential AP proof would not prejudice the issuer in a way that the confidential treatment is designed to protect against. On the contrary, the publication of the previously submitted confidential AP proof would promote transparency and accountability, allowing the public to see what the document looked like initially and what amendments have been made, to better understand the regulatory standards during the vetting process, as well as to ensure equality with listing applicants who choose to file publicly. It would also help enhance the quality of the AP proofs by avoiding undue passivity. For reference, on the New York Stock Exchange and NASDAQ where confidential filing is routine, non-public draft submissions must be made public at least 15 days prior to any road show or the requested effective date of the registration statement.

Question 20(a)

Do you agree with the proposal that, in addition to the existing Return Application Details, the identities of other professional parties responsible for the Application Materials also be displayed on the designated webpage of the Exchange (as set out in paragraphs 264 to 265 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

Question 20(b)

Do you agree with the list of professional parties proposed to be considered as responsible for the Application Materials for the above purpose (as set out in Box 1 under paragraph 265 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

Question 21

Do you agree with the proposal to amend the starting point of the 8-week moratorium to either: (a) the date on which all applicable review procedures in respect of the Listing Division's decision to return the listing application have been completed; or (b) the date on which the time period for invoking any such review procedures has lapsed (as set out in paragraph 266 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

We are supportive of option (b), on the basis that it provides greater certainty by commencing the 8-week moratorium from a fixed and ascertainable point in time. By contrast, option (a) introduces an element of uncertainty, as the duration of review procedures may not be readily determinable in advance.

Question 22

Do you agree with the consequential changes to issuers' disclosure obligations in relation to Issuer-related Listing Applications (as set out in paragraph 268 of the Consultation Paper)?

Please give reasons for your views and any alternative suggestions.

Please provide your overall comments (if any) regarding the Consultation Paper which have not been covered in the questions above.