Submitted via Qualtrics

Freshfields

Company/Organisation view

Law Firm

Question 1

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

Yes

Please give reasons for your views and any alternative suggestions.

Lowering the thresholds enhances the Exchange’s attractiveness as a listing venue for high-growth companies with WVR structures.

Question 2

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

Yes

Please give reasons for your views and any alternative suggestions.

Modifying WVR Test A to a minimum expected market capitalisation of HK$20 billion, and WVR Test B to HK$6 billion alongside at least HK$600 million in revenue, appropriately aligns Hong Kong with the SSE and SZSE main boards and specialist markets. These thresholds are significantly above the Chapter 8 thresholds and remain sufficiently rigorous to help ensure companies of a certain size and quality are eligible for WVR.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

A 20:1 cap provides a competitive alternative to the US and the UK (which recently removed its WVR cap entirely). We also consider that the appropriateness of the WVR ratio is, in large part, a commercial matter that should ultimately be determined by investors. Accordingly, we recommend that the Exchange keep this requirement under periodic review to ensure it remains fit for purpose in light of evolving market conditions and international practices.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

This codification provides regulatory certainty for founders whose equity has been heavily diluted over multiple pre-IPO funding rounds. We also support the Exchange's reservation of discretion to refuse a listing where the WVR structure represents an extreme case of non-conformance with corporate governance norms, which provides an appropriate safeguard.

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.

Bifurcating the Innovative Company Requirements into Route A (technologies) and Route B (business model) is a practical refinement. Formalising Route B as a distinct pathway will ensure the Exchange remains competitive for the listing of companies whose value proposition is driven by business model innovation rather than core technology.

<u>Question 6(a)</u>

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)?

Yes

Please give reasons for your views and any alternative suggestions.

Retaining the Specialist Company Presumptions ensures consistency with the existing framework and the rationale underlying the specialist Chapters 18A and 18C.

<u>Question 6(b)</u>

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)?

Yes

Please give reasons for your views and any alternative suggestions.

Commercialised biotech companies and specialist technology companies that meet the qualifying criteria share the same specialist characteristics as those listing under the specialist chapters. The requirements – including continued R&D development, ownership of IP rights (for biotech applicants), and the R&D expenditure test (for specialist technology applicants) – are sufficiently rigorous to justify the presumption.

It is noted that footnote 117 of the Consultation Paper requires an applicant to demonstrate that it owns and will own all IP independently developed by the applicant for in/out-licensed or jointly developed Core Products. It would be helpful to clarify in the Exchange's guidance (i) whether co-development and co-ownership of IP and (ii) whether and how the third-party licensor/licensee owning some of the IP rights with respect to the Core Product would impact the satisfaction of this criterion.

<u>Question 6(c)</u>

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)?

Yes

Please give reasons for your views and any alternative suggestions.

We agree with the refinements to the Innovative Characteristics, in particular, the Novelty Characteristic plus more than one of the R&D, IP, or Outsized Market Cap characteristics, which is consistent with the current expectations of characteristics an innovative company with novel technologies should possess.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

The new CAGR Growth (30%) characteristic provide clear, measurable benchmarks for business model innovation. For the Industry Position characteristic, we would welcome further guidance from the Exchange on how it will assess a “relatively prominent position in its industry” in practice, for example, by market share data from an independent industry or market research report.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

Referencing the existing SPAC and Specialist Technology Company guidance on what constitutes a “sophisticated investor” provides helpful clarity and alignment.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

The 10% minimum investment threshold (or a lower percentage if the dollar amount is substantial) for meaningful third-party validation provides a transparent metric to gauge institutional confidence in the applicant.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

Aligning the secondary listing thresholds with the proposed primary listing thresholds maintains logical consistency of the listing requirements and encourages homecoming listings for robust issuers. A secondary listed issuer benefits from the regulatory oversight of its primary listing market, and the financial eligibility thresholds for secondary listing should not be higher than that for primary listing.

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)?

Yes

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)?

Yes

Please give reasons for your views and any alternative suggestions.

<u>Question 11</u>

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 agree with the stakeholders' suggestions of: (a) formalising a grace period for secondary listing applicants to rectify non-compliant WVR structures, allowing them to list first and transition into compliance over a set timeframe; and (b) establishing a dedicated advisory channel to provide prospective issuers with more direct guidance and advisory services to explore Hong Kong listing options at an earlier stage. Additionally, we recommend allowing incorporation by reference of documents filed under national regimes (similar to practices in other markets), which would drastically reduce duplicative prospectus drafting costs for issuers already accustomed to robust overseas disclosure regimes.

As the compliance burden under Chapters 14 and 14A of the Listing Rules is a key factor that impacts overseas-listed issuers' consideration of a primary listing in Hong Kong, we would also suggest more accommodative waivers for connected transactions and continuing connected transactions, and exploring whether a waiver regime (similar to that for continuing connected transactions) for notifiable transactions under Chapter 14 would be appropriate. These will minimise the gap in the compliance burden between Hong Kong and other major listing venues such as the US and the UK.

We would also suggest the facilitative measures for overseas-listed issuers to list in Hong Kong be extended to spin-offs by overseas-listed issuers of subsidiaries in Hong Kong.

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

<u>Question 12</u>

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.

Codifying this into the Listing Rules is commercial and practical. High-growth companies frequently execute late-stage pre-IPO financing rounds that trigger technical changes in controlling shareholders. Providing a codified mechanism to rebut the "packaging" presumption based on actual management influence removes a major regulatory roadblock, providing greater certainty to applicants. We note that the proposal preserves the Exchange's power to reject an application where genuine packaging concerns arise, which provides an appropriate safeguard.

<u>Question 13</u>

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.

Updating the guidance to emphasise the applicant's responsibility to prove no material change in management influence, while reserving the Exchange's right to reject applications exhibiting genuine "packaging" concerns, maintains market integrity while providing flexibility. We would welcome further guidance on what the Exchange would consider a "material change in influence on management".

<u>Question 14</u>

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.

Expanding the permitted use of US GAAP to subsidiaries of US-listed parents and to companies with substantial US operations is a practical reform. Requiring dual sets of financial statements (HKFRS/IFRS and US GAAP) is a significant deterrent for potential listing applicants to list in Hong Kong due to the time and costs involved. The requirement to prepare a Reconciliation Statement would ensure that investors can make meaningful comparisons with HKFRS/IFRS issuers. We would welcome further guidance from the Exchange on what constitutes “substantial business operations in the US”, for example, whether this is assessed by reference to revenue, assets, employees or a combination of the factors.

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.

Transitioning accounting standards post-delisting is an incredibly time and resource-intensive exercise and could actually reduce comparability of financial information across periods. So long as a Reconciliation Statement is provided to ensure comparability for Hong Kong investors, forcing a transition yields little benefit.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

Aligning the treatment of Reconciliation Statements with standard interim financial results reduces unnecessary compliance burdens and auditor fees for listed issuers.

The requirement for review by the audit committee provides an appropriate level of oversight.

<u>Question 17</u>

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)?

Yes

Please give reasons for your views and any alternative suggestions.

Allowing commercialised Biotech and Specialist Technology Companies to list under Chapters 18A and 18C, even if they satisfy the standard Rule 8.05 financial tests, gives them access to benefits like the TECH channel and the WVR presumptions.

<u>Question 18</u>

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)?

Yes

Please give reasons for your views and any alternative suggestions.

Disapplying pre-revenue requirements – such as the warning statements, third-party investment requirements, the mandated R&D use of proceeds, and the shorter 12-month remedial period for insufficient operations – is appropriate given these issuers are already commercially viable and satisfy Rule 8.05.

<u>Question 19</u>

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)?

Yes

Please give reasons for your views and any alternative suggestions.

We agree with expanding the confidential filing option to all applicants, aligning with practices in other key international markets. It will level the playing field between applicants eligible for confidential filing and those that are ineligible. We note that applicants will still retain the option to publish their Application Proof if they wish to do so, preserving flexibility for those who see the commercial advantage in early public disclosure.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

We recognise that the quality of an Application Proof is a collective effort involving multiple professional parties. Displaying the identities and roles of the professional parties responsible for the Application Materials upon a return decision is a reasonable measure that reinforces the incentive for all parties involved to ensure that Application Proofs meet the expected standard of disclosure at the time of filing, regardless of whether the filing is made confidentially.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

We also agree with the proposed list of professional parties in Box 1.

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)?

No

Please give reasons for your views and any alternative suggestions.

We do not agree with the proposal to defer the commencement of the eight-week moratorium until after completion or lapse of review procedures. Under the proposals, listing applicants that invoke a review face a longer total exclusion period (the full review process plus eight weeks) than those that do not (review invocation period plus eight weeks). In our view, this effectively penalises listing applicants for exercising their legitimate due process rights to appeal a Return Decision. An applicant who exercises its right to a review and is ultimately unsuccessful would face a compounded delay.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

For transactions such as spin-offs and GEM Transfers, delaying the mandatory announcement until the PHIP is published (or formal in-principle approval is obtained) protects the confidentiality of the overarching transaction in tandem with the confidential filing of the Application Proof.

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