Submitted via Qualtrics

Skadden, Arps, Slate, Meagher & Flom and affiliates

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.

The lowered financial eligibility thresholds would enable more innovative or novel companies, which may not otherwise meet the original high market valuations, to list with a WVR structure. Since market valuation, and revenue, are largely influenced by the performance of the economy generally in Asia and elsewhere over the past period, having a lower market valuation or revenue at a particular point in time does not necessarily reflect the applicant's business or future potential. A lowering of the financial eligibility thresholds would enable more high-quality applicants in new economy or novel industries to list in Hong Kong with a WVR structure, particularly during periods of market slowdown or recovery.

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.

The proposed financial eligibility thresholds align with international standards and would make Hong Kong a more competitive market.

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.

This would align with global exchange rules, in particular, the UK and US.

However, we would propose that this 20:1 cap increase also extend to existing issuers which either: (a) would have otherwise met the HK$40 billion market capitalization at the time of listing; or (b) is able to meet the HK$40 billion market capitalization threshold based on the 125-day volume-weighted average price (VWAP) calculation method applied for the alternative public float test (as a one-off test). This would treat all companies equally, irrespective of the time that they first applied for listing. For listed issuers, since a change in WVR voting threshold would, in general, require a separate class meeting of non-WVR holders, disinterested shareholders would have a meaningful say and act as the appropriate safeguard for determining whether such a change would be appropriate for the specific company. The Exchange should permit existing issuers an opportunity to propose this to their own shareholders.

<u>Question 4</u>

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 would allow flexibility to ensure that, for large-cap applicants, the WVR holder does not concentrate too much voting power (particularly, if their voting percentage is 20:1) whilst still maintaining a high economic interest in the company in terms of absolute value; and would enable non-WVR holders to have a greater proportion of economic interest. In practice, for many public and institutional investors, economic interest, rather than voting power, is their key concern. Additionally, since the current economic requirement only applies at listing, while after listing, the WVR holder may decrease their economic interest to below the initial minimum economic threshold, the current economic threshold does not necessarily address the original concern that it sought to address.

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.

This extends the WVR listing route to applicants that are not purely technology-native companies.

For Route B, whilst a quantified CAGR in revenue of 30% over the Track Record Period is a helpful metric, we suggest that the Exchange also permit alternative metrics, such as certain operating data that is meaningful within the relevant industry, to measure growth.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

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.

However, further guidance from the Exchange on what factors would be considered towards satisfying the Industry Position Characteristic under Route B would be welcome.

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.

The further guidance is welcome.

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 further guidance is welcome.

<u>Question 8</u>

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.

This aligns with the lowering of the financial eligibility thresholds for primary applicants seeking to list with WVR structures.

<u>Question 9</u>

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.

This aligns with the lowering of the financial eligibility thresholds for primary applicants seeking to list with WVR structures.

<u>Question 10</u>

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.

However, we would further propose that:

(a) the "good regulatory compliance" requirement for applicants with a market capitalization of HK$3 billion at listing of five years be reduced to three years (i.e., align with the Track Record Period); and

(b) the Exchange be open to assessing the "good regulatory compliance" on a Qualifying Exchange or Recognized Stock Exchange (as applicable) where such exchange is the applicant's secondary listing venue. For example, where an applicant is already dual-listed, the good regulatory compliance criteria should look at both the primary and secondary listing jurisdiction in combination, and where only the secondary listing venue is the Qualifying Exchange or Recognized Stock Exchange (as applicable), the Exchange be open to consider the applicant on a case by case basis. This would enable more applicants to list in Hong Kong. We welcome the Exchange's further guidance on a more flexible approach for existing dual-listed (or multiple-listed) applicants.

Additionally, we would appreciate guidance from the Exchange to clarify whether the "good regulatory compliance" time period of five years or two years (as applicable) needs to be satisfied by a particular date in the listing application process (e.g., date of initial listing application, date of hearing, date of listing).

<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)?

Greater waivers from specific listing rules where the issuer can identify actual difficulty in complying with them. For example:

(a) Enabling the issuer to publish its results announcement as soon as practicable (rather than immediately) after the relevant board meeting for approving the results, to take into account procedural timing and practical considerations when coordinating among multiple jurisdictions and taking into account the requirements of multiple listing rules/laws/market practice.

(b) Certain sensitive disclosures that are not otherwise required to be disclosed in the overseas listing venue be dispensed with (e.g., remuneration of directors, senior managers and top 5 individuals).

(c) Exemptions from the disclosure of interest requirements where similar/comparable rules exist in the overseas listing venue and publication of repetitive information in Hong Kong becomes unduly burdensome for the issuer's directors and substantial shareholders.

(d) Allowing issuers to adopt general mandates for repurchase plans and purchasing of wealth management products.

(e) Waiver from the connected transactions requirements where the overseas listing venue has a similar and comparable regime for related party transactions.

Additionally, we propose that the Exchange consider relaxing the requirements for overseas listed issuers that have corporate WVR structures, particularly in cases where revising its corporate WVR structure would be difficult in practice or where the overseas listed issuer has had the same corporate WVR structure for a period of time without actual concerns of disadvantaging minority or public shareholders.

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

See above response.

<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.

We would further propose that the Exchange consider removing the ownership and control continuity requirement altogether, as “packaging concerns” would be better addressed under the business/applicant suitability assessment, and looking at the listing business as a whole.

Additionally, we propose that the Exchange consider relaxing the management continuity requirement to a period shorter than three years (such as one year), as we note that major stock exchanges in the U.K. and U.S. have no equivalent management continuity requirement for listing, and concerns around “packaging” or “business sustainability” would be better addressed directly, as a three-year management continuity requirement does not directly address these concerns and, instead, may deter otherwise suitable companies from considering to list in Hong Kong.

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.

See response to Question 12 above.

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.

We agree with the reasons mentioned by the Exchange for this proposal. Additionally, even when an issuer delists from the U.S., it may still retain substantial U.S. investors as public shareholders who would be more familiar with the U.S. GAAP. Furthermore, permitting the issuer to continue using U.S. GAAP would make it easier for existing and future investors to compare future performance with historical performance prepared in accordance with U.S. GAAP.

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.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

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)?

Yes

Please give reasons for your views and any alternative suggestions.

<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.

This would bring the rules in line with other comparable listing jurisdictions. As more “new economy” or “high profile” applicants (particularly those with operations outside of Greater China) are considering a listing venue, the publication requirements are, in practice, a key concern that may deter such applicants from deciding to primary list in Hong Kong.

<u>Question 20(a)</u>

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.

<u>Question 20(b)</u>

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)?

No

Please give reasons for your views and any alternative suggestions.

Instead of displaying the names of all professional parties as suggested in Box 1, we suggest to display only the names of those professional parties considered to have actually contributed to the reason for the return of the initial listing application, as determined by the Exchange on a case by case basis.

<u>Question 21</u>

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)?

Yes

Please give reasons for your views and any alternative suggestions.

<u>Question 22</u>

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.

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