

## Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below that are raised in the Consultation Paper downloadable from the HKEX website at:

<http://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/November-2017-Exemption-for-Aircraft-Leasing-Activities/Consultation-Paper/cp2017113.pdf>

Where there is insufficient space provided for your comments, please attach additional pages.

1. Do you agree with the proposal to provide a general exemption for aircraft leasing activities?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

In order to increase the competitiveness of Hong Kong as an aircraft leasing and financing hub, it is of critical importance that the Rules do not impose any burdensome obligations on listed issuers engaging in aircraft leasing activities as compared to our competitors. As the Exchange has noted in paragraph 22 of the Consultation Paper, the listing rules of overseas markets (e.g. the US, the UK, Singapore and Ireland) do not impose similar disclosure and shareholders' approval requirements for aircraft leasing activities as we do in Hong Kong, as their rules exempt transactions that are in the issuer's ordinary course of business (and not only those of a revenue nature). Taking BOC Aviation Limited ("BOC Aviation") as an example, since its listing on the Main Board of the Exchange on 1 June 2016, BOC Aviation has published announcements relating to 13 notifiable transactions, all in relation to purchase of aircrafts, one of which is a major transaction where shareholders' approval is required. All of the notifiable transactions disclosed were in relation to its usual and ordinary course of business. We agree that the existing requirements under the Rules may pose practical difficulties of listed aircraft lessors in complying with the requirements under the Rules and it would be unduly burdensome for them to be obtaining shareholders' approval for transactions that are in their ordinary and usual course of business.

2. Do you agree with the proposed Rule amendments to define a Qualified Aircraft Lessor to be an issuer that is actively engaged in aircraft leasing with aircraft operators as a principal activity in its ordinary and usual course of business?

☒ Yes

☐ No

If your answer is “No”, please give reasons for your views.

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3. Do you agree with the proposed criteria for determining a Qualified Aircraft Lessor set out in paragraphs 27(a) and (b) of the Consultation Paper?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

We agree with the proposed criteria for determining a Qualified Aircraft Lessor set out in paragraphs 27(a) and (b) of the Consultation Paper. However, to prevent abuse of the exemption by newly established aircraft lessors, the Exchange may consider adding an additional requirement that a Qualified Aircraft Lessor must have actively engaged in aircraft leasing for certain number of years. The proposed criteria appears to focus on aircraft leasing being a current principal business activity and continuing going forward, but there is no requirement on an established history of engaging in aircraft leasing activities.

4. (a) Do you agree with the proposed requirement that a Qualified Aircraft Lessor's directors and senior management, taken together, shall have sufficient experience relevant to the aircraft leasing industry?

☐ Yes

☒ No

If your answer is "No", please give reasons for your views.

We disagree with the proposed requirement that a Qualified Aircraft Lessor's directors and senior management, taken together, shall have sufficient experience relevant to the aircraft leasing industry. We do not consider having directors and senior management with sufficient experience relevant to the aircraft leasing industry as one of the indicators that the issuer is actively engaging in aircraft leasing business. In any event, Rules 3.08(f) and 3.09, among other things, require every director to have the experience and be able to demonstrate a standard of competence commensurate with his position as a director of an issuer. The requirement that directors must have sufficient experience is already adequately dealt with under the existing Rules. Using the existing framework of the exemption available for qualified property acquisitions, the criteria for an issuer to satisfy the requirement of "Qualified Issuer" under Rule 14.04(10B) also does not impose any requirement on the experience of the issuer's directors and senior management.

- (b) Do you agree that the individuals relied on must have a minimum of five years' relevant industry experience?



☐ Yes

☒ No

If your answer is "No", what is the appropriate period?

As the Exchange has correctly pointed out in paragraph 14 of the Consultation Paper that aircraft leasing is a niche business and that it is dominated by a small number of players. Given the unique nature of this business, the number of individuals with relevant experience in the industry is very limited. The purpose of this exemption will be defeated if a listed issuer who, in fact, actively engages in aircraft leasing activities but failed to fulfil the criteria solely because of the lack of candidates in the market who possess 5 years of relevant industry experience to take up roles on its board or senior management team. We consider a requirement for at least 5 years of relevant industry experience possessed by the board or senior management is overly burdensome on the aircraft leasing issuers. As discussed in our answers to question 3, we propose to impose a requirement that a Qualified Aircraft Lessor must have an established history of engaging in aircraft leasing activities, the number of years of industry experience of the individuals relied on should not be any longer than such proposed track record period.

5. Do you recommend other criteria or factors for determining an issuer as a Qualified Aircraft Lessor?

Please refer to our answers to question 3.

6. Do you agree with the proposed Rule amendments to define Qualified Aircraft Leasing Activities to include acquisitions, disposals and finance leases of aircraft?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

We agree that the proposed definition of "Qualified Aircraft Leasing Activities" should be broad enough to cover the aircraft leasing activities by the industry players in the market.

7. Do you agree that we should limit the exemption for finance leases of aircraft to only those entered into by the aircraft lessors with aircraft operators?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

We agree that in the majority of cases, finance leases of aircraft will be entered into by the aircraft lessors with aircraft operators. Finance leases of aircraft entered into with other parties may not be in the ordinary and usual course of business and if they are of a material size, they should not be exempted under the proposed exemption. Further, one of the reasons why aircraft lessors are demanding for an exemption under Chapter 14 is the confidential nature of the contract terms with aircraft operators. If the commercial terms of the aircraft lessors' contract with other parties are not as sensitive, they should not be allowed to rely on the exemption.

8. Do you agree that the proposed exemption should not apply to operating leases (see paragraph 32 of the Consultation Paper)?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

9. Do you agree with the proposed disclosure requirements for announcement of exempted aircraft leasing activities?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

The Rules should strike a balance between protection being given to the shareholders and also the practicable difficulties being faced by the listed aircraft lessors. We agree with the proposed disclosure requirements for announcement of exempted aircraft leasing activities as these are important information for the shareholders to assess the material development of the Qualified Aircraft Lessor.

10. Do you agree with the proposed disclosure requirements for annual and interim reports to provide information about aircraft leasing activities on an aggregated basis?

☒ Yes

☐ No

If your answer is "No", please give reasons for your views.

The Rules should strike a balance between protection being given to the shareholders and also the practical difficulties being faced by the listed aircraft lessors if they were required to disclose information regarding the aircraft purchase price and other financial information which may be considered confidential and commercially sensitive. We agree with the proposed disclosure requirements for annual and interim reports as these will enable shareholders to assess the impact of the Qualified Aircraft Leasing Activities on an aggregate basis, without disclosing commercially sensitive information of each individual transaction as that may place the listed issuer at a disadvantage in negotiating terms of each transaction compared with the other counterparties listed on other exchanges.

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