Submitted via Qualtrics

Company/Organisation view

Question 1

Do you agree with the proposal to amend Chapter 17 to also govern share award schemes involving the grant of new shares of listed issuers?

Yes

Please provide reasons for your views.

It provides consistent treatment for all Share Schemes and allows issuers to grant all Share Schemes under the same general mandate.

However, for pre-revenue biotech companies and new economy companies, where share schemes are crucial to talent acquisition and retention, we believe more flexibility should be allowed in terms of eligibility of participants, scheme mandate, vesting period and grant price for share award schemes. We observe that NASDAQ, as a key competing listing venue for such companies, adopts a much more flexible share award scheme governance framework, which is very attractive to prospect issuers.

Biotech companies face many challenges different from other companies, including larger pharmaceutical companies and other tech start-ups. It will not be in the best interest of the biotech companies to apply typical compensation practices. We want to highlight the following overarching points:

- Stock volatility: Pre-revenue biotech companies typically face high volatility in stock prices because the valuation of a company is based on perceived strength of pipeline programs, instead of using more stable valuation approach such as p/e or p/s ratio. Therefore setting appropriate level of equity-based compensation and providing long-term incentive to retain talents require more discretion and flexibility.

- Target-setting is challenging: Pre-revenue biotechnology companies will not be able to use typical profit or revenue based performance target. They will instead use milestones, such as pipeline development and regulatory filings, to measure performance. However, linking compensation to the happening of such events may mis-incentivize. For example, the team may choose to set lower target end points in clinical trials and make it easier to hit the target. Or the team may focus on speed instead of quality of the R&D work. The biotech companies need to avoid switching to performance-based equity rewards too soon. The use of time-based options may be more appropriate.

- Formula-based performance evaluation should be avoided: Given the fluid and highly unpredictable nature of the biotechnology business, discretionary rather than formula-based stock-based compensation may better align the interest of the employees and that of the organization.

<u>Question 2</u>

Do you agree with the proposed definition of eligible participants to include directors and employees of the issuer and its subsidiaries (including persons who are granted shares or options under the scheme as an inducement to enter into employment contracts with these companies)?

Yes

Please provide reasons for your views.

The Employee Participants should be broadly defined to serve the purpose of attracting and retaining talents.

<u>Question 3</u>

Do you agree with the proposal that eligible participants shall include Service Providers, subject to additional disclosure and approval by the remuneration committee?

No

Please provide reasons for your views.

We recommend the definition of Service Providers to include consultants and contractors as well to be comparable to market practice in Australia, Canada and the US. Given the disclosure requirement on an individual basis for Share Grants to a Service Provider of over 0.1% of the issued shares over any 12-month period, we also believe remuneration committee's approval on each grant is not necessary as long as the categories of Service Providers and the criteria for determining a person's eligibility identified in the scheme document and pre-approved by remuneration committee.

<u>Question 4</u>

Do you agree with the proposal that eligible participants shall include Related Entity Participants, subject to additional disclosure and approval by the remuneration committee?

Yes

Please provide reasons for your views.

We agree that pre-revenue biotech companies and new economy companies need the flexibility to make Share Grants to directors and employees of related entities as their contributions may enhance the long term value of the issuer group.

<u>Question 5</u>

Do you agree with the proposal to allow the scheme mandate to be refreshed once every three years by obtaining shareholders' approval?

No

Please provide reasons for your views.

The issuer should have the flexibility to adjust the pacing of the grants under the scheme mandate based on the issuer's business needs and seek approval from shareholders to refresh the scheme mandate as necessary. In addition, we recommend the scheme mandate limit to be increased to 20% to reflect the inclusion of all share awards for pre-revenue biotech companies and new economy companies. As a reference point, the listing rules in Canada and the US do not impose a scheme mandate limit but allow shareholders to approve the number of shares issuable under the scheme.

<u>Question 6</u>

Do you agree with the proposal to allow the scheme mandate to be refreshed within three years from the date of the last shareholders' approval by obtaining independent shareholders' approval?

No

Please provide reasons for your views.

Please refer to the response to Question 5.

<u>Question 7</u>

Do you agree with the proposal to remove the 30% limit on outstanding options?

No

Please provide reasons for your views.

We believe a 30% limit on total dilutive share awards is better approach to balance the flexibility desired by issuer for granting share awards and the anti-dilution protection desired by the minority shareholders.

<u>Question 8</u>

Do you agree with the proposal to require a sublimit on Share Grants to Service Providers?

No

Please provide reasons for your views.

We believe that as long as 1) the categories of Service Providers and the criteria for determining a person's eligibility are identified in the scheme document and pre-approved by remuneration committee; 2) disclosure on an individual basis for Share Grants to a Service Provider of over 0.1% of the issued shares over any 12-month period is made; and 3) the overall anti-dilution protection is in place, there is sufficient assurance that the grants to the Service Providers are based on the issuer’s business needs and won’t pose additional risk to minority shareholders.

Question 9

Do you agree with the proposal to require a minimum of 12-month vesting period?

No

Please provide reasons for your views.

We agree with a minimum of 12-month vesting period for time-based vesting but recommend making an exception for milestone-based vesting. The 12-month minimum vesting requirement decreases the incentive for participants to achieve the milestones within 12 months.

Question 10

Do you agree with the proposal that Share Grants to Employee Participants specifically identified by the issuer may vest within a shorter period or immediately if they are approved by the remuneration committee with the reasons and details disclosed?

Yes

Please provide reasons for your views.

In addition to the milestone-based vesting mentioned in Q9, we think it is necessary to provide some flexibility, subject to remuneration committee approval and proper disclosure, around the vesting for the issuer to serve a particular business purpose. Moreover, we recommend the accelerated vesting to be made available to both Employee Participants and non-employee participants.

Question 11a

Do you agree with the proposed disclosure requirements relating to performance targets?

No

Please provide reasons for your views.

We agree to the disclosure requirements relating to the performance targets. However, we don’t agree to the disclosure requirement as to why performance targets are not necessary. The inclusion of performance targets should be viewed as additional investor protection instead of baseline requirement for Share Schemes.

Question 11b

Do you agree with the proposed disclosure requirements relating to clawback mechanism?

No

Please provide reasons for your views.

We agree to the disclosure requirements relating to the clawback mechanism. However, we don't agree to the disclosure requirement as to why a clawback mechanism is not necessary. The inclusion of a clawback mechanism should be viewed as additional investor protection instead of baseline requirement for Share Schemes.

Question 12

Do you agree that it is not necessary to impose a restriction on the grant price of shares under share award schemes?

Yes

Please provide reasons for your views.

This is consistent with the market practices that share awards are usually granted at nil consideration.

Question 13

Do you agree with the proposal to apply the 1% Individual Limit to Share Grants (including grants of shares awards and share options) to an individual participant?

Yes

Please provide reasons for your views.

It provides consistent treatment for all Share Schemes.

Question 14

Do you agree with the proposal to require approval from the remuneration committee instead of INEDs for all Share Grants to Connected Persons?

Yes

Please provide reasons for your views.

It is in line with the Corporate Governance Code.

Question 15

Do you agree with the proposal to relax the current shareholder approval requirement for grants of share awards to a director (who is not an INED) or a chief executive set out in paragraph 65 of the Consultation Paper?

Yes

Please provide reasons for your views.

We don't think shareholder approval is required for insignificant amount of grants of share awards under approved Share Schemes in the ordinary course of business.

Question 16

Do you agree with the proposal to also relax the current shareholder approval requirement for grants of share awards to an INED or substantial shareholder of the issuer set out in paragraph 68 of the Consultation Paper?

Yes

Please provide reasons for your views.

We don't think shareholder approval is required for insignificant amount of grants of share awards under approved Share Schemes in the ordinary course of business.

<u>Question 17</u>

Do you agree with the proposal to relax the current shareholder approval requirement for grants of share awards to a controlling shareholder of the issuer set out in paragraph 69 of the Consultation Paper?

Yes

Please provide reasons for your views.

We don't think shareholder approval is required for insignificant amount of grants of share awards under approved Share Schemes in the ordinary course of business.

<u>Question 18</u>

Do you agree with the proposal to remove the HK$5 million de minimis threshold for grants of options to an INED or substantial shareholder of the issuer?

Yes

Please provide reasons for your views.

We agree that such monetary threshold cannot meaningfully reflect the extent of dilution on an issuer.

<u>Question 19</u>

Do you agree with the proposals to require disclosure of Share Grants to Related Entity Participants or Service Providers on an individual basis if the grants to an individual Related Entity Participant or Service Provider exceed 0.1% of the issuer's issued shares over any 12-month period?

Yes

Please provide reasons for your views.

This should provide sufficient anti-dilution protection to minority shareholders.

<u>Question 20</u>

Do you agree with the proposed disclosure requirement for the grant announcement?

No

Please provide reasons for your views.

For reasons stated in Question 3, we don't think the duration of the relevant service contract with the issuer is relevant for Service Providers. For reasons stated in Q11, we don't think the justification of why performance targets and/or a clawback mechanism is/are not necessary needs to be part of the disclosure.

<u>Question 21</u>

Do you agree with the proposed disclosure requirements for Share Grants in an issuer's interim reports and annual reports?

Yes

Please provide reasons for your views.

The disclosure required is sufficient for shareholders to assess the reasonability of the Share Schemes and the dilution impact on their interests in the issuer.

<u>Question 22</u>

Do you agree with the proposal to require disclosure of matters reviewed by the remuneration committee during the reporting period in the Corporate Governance Report?

No

Please provide reasons for your views.

The level of detail required in the disclosure may cause concerns about commercial sensitivity. In addition to all matters relating to Share Schemes reviewed by the remuneration committee during the year, a summary of the work performed by the remuneration committee to arrive at the approvals is more appropriate.

<u>Question 23</u>

Do you agree with the proposal to require changes to the terms of share award or option granted be approved by the remuneration committee and/or shareholders of the issuer if the initial grant of the award or option requires such approval?

Yes

Please provide reasons for your views.

This proposal would ease the compliance burden of issuers without compromising investor protection.

<u>Question 24</u>

Do you agree with the proposal to provide a waiver for a transfer of share awards or options granted under Share Schemes as described in paragraph 86 of the Consultation Paper?

Yes

Please provide reasons for your views.

This proposal would provide some flexibility to scheme participants without compromising the intent of the Rule.

<u>Question 25</u>

Do you agree with the proposal to restrict the voting rights of unvested shares held by the trustee of a Share Scheme and require disclosure of the number of such unvested shares in monthly returns?

Yes

Please provide reasons for your views.

This proposal would address the concerns about undue influence over the exercise of voting rights of unvested shares by management of the issuer.

<u>Question 26</u>

Do you agree with the proposed disclosure requirements for Share Schemes funded by existing shares of listed issuers?

Yes

Please provide reasons for your views.

This proposal is in line with the market practice in other markets.

<u>Question 27</u>

Do you agree with the proposal to restrict the voting rights of unvested shares held by the trustee of a Share Scheme and require disclosure of the number of such unvested shares in monthly returns?

Yes

Please provide reasons for your views.

This proposal would address the concerns about undue influence over the exercise of voting rights of unvested shares by management of the issuer.

<u>Question 28</u>

Do you agree with our proposal to amend Chapter 17 to also govern share award schemes funded by new or existing shares of subsidiaries of listed issuers?

Yes

Please provide reasons for your views.

However we would recommend exceptions should be made to subsidiaries that are listed on other stock exchanges where there might be different governance requirements on Share Schemes.

Question 29

Do you agree with the proposed exemption for Share Schemes of Insignificant Subsidiaries?

Yes

Please provide reasons for your views.

This proposal would reduce compliance burdens without compromising shareholders protection.

Question 30

Do you agree with our proposal to amend Chapter 17 to also govern Share Schemes involving grants of shares or options through trust or similar arrangements for the benefit of specified participants?

Yes

Please provide reasons for your views.

This proposal would provide further clarity on the interpretation of the listing rules.

Question 31

Do you agree with our proposal to remove the recommended disclosure requirement for the fair value of options as if they have been granted prior to the approval of the scheme?

Yes

Please provide reasons for your views.

The previously-required disclosure is not accurate and can be misleading.

Question 32

Do you agree with our proposals to amend the Rules described in paragraph 100 of the Consultation Paper?

Yes

Please provide reasons for your views.

These proposals provide consistent treatment for options and share awards.