

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/eng/newsconsul/mktconsul/Documents/cp2017092.pdf>

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

1. Do you agree with the proposal to disallow highly dilutive pre-emptive offers unless there are exceptional circumstances?

Yes

No

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

If there are only 1 or 2 reasons that fall within 'exceptional circumstances', such as "listed issuer is in financial difficulties", then the mere act by the Exchange waiving the restriction in 'exceptional circumstances' may cause the market to view the listed issuer as likely be in financial difficulties and may result in shareholders disposing the listed issuer's share, leading to depression of the listed issuer's share price.

2. Do you agree with the proposed 25% threshold on value dilution? If not, what is the appropriate percentage threshold and the reasons for this threshold?

Yes

No
(Please specify the appropriate percentage threshold 30%)

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

Para 38 states that "the Exchange retains the discretion to withhold approval for, or impose additional requirements on fundraising where the offer ratio or price discount appeared unfair to shareholders and the listed issuer (e.g. where the terms or structures of the fundraisings are oppressive to or unfairly prejudicial to the minority shareholders)."

In view that the Exchange still retains the discretion to withhold approval for, or impose additional requirements, we suggest raising the benchmark to 30% which can better balance the commercial requirement of listed issuers and the regulatory concerns by the Stock Exchange, so that Exchange can take a close look at those with value dilution between 25%-30% and can decide to impose additional requirements or withhold approval as it thinks fit, rather than ruling out all cases that result in value dilution exceeding 25%.

As 30% is the benchmark that may trigger the change in control of the Company, hence Exchange should take a closer look at value dilution that falls within 25% to 30% to consider if Exchange need to withhold approval or impose additional requirements as it think fits.

3. Do you agree that the proposed requirements should also apply to share issuance under a specific mandate?

Yes

No

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

The aim of listing is to allow the listed issuer to have a platform to raise fund by the listed issuer. Once listed, the decision making on fund raising should rest with the listed issuer depending on its funding requirement and business environment rather than regulatory authority. For specific mandate, shareholder approval is required and shareholder can vote whether they support the Company's fundraising activities or not.

4. Do you agree with the proposal to aggregate rights issues, open offers and specific mandate placings within a rolling 12-month period?

Yes

No

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

The fund raising should be a commercial decision left to the shareholders and managers of the listed issuer, and not a decision to be made by regulatory authority.

5. Do you agree with the proposed method of calculating cumulative value dilution? If not, what is the appropriate method?

Yes

No

(Please specify the appropriate method _____)

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

6. Do you agree with the proposal to extend the minority shareholder approval requirement to all open offers (unless the new securities are issued under the general mandate)?

Yes

No

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

7. Do you agree with the proposal to remove the underwriting requirement for pre-emptive offers?

Yes

No

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

Without underwriting requirement, if pre-emptive offers are undersubscribed, the fund raising cannot go ahead at all.

8. Do you agree with our proposal to require underwriters to be licensed persons independent from the issuers and their connected persons?

Yes

No

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

Underwriting itself is a risk taking exercise for any one, including licensed persons who are not independent from the issuers and their connected persons.

Underwriter need to have confidence in the Company and willing to take the financial risk to take up underwriting for the Company.

If this proposal go ahead, and if the listed issuer, eg. some small companies, is not able to find licensed persons who are independent from the issuers and their connected persons to be underwriters, and only licensed persons who are connected are willing to underwrite, then the whole fund raising cannot go ahead.

Hence underwriter should have broad bases and licensed persons who are not independent from the issuers and their connected persons should not be banned at start. Details of underwriter can be disclosed in the circular for shareholders to vote and decide whether to go ahead with proposed fund raising by the Company.

9. In view of paragraphs 72 and 73 of the Consultation Paper:

(a) do you agree that controlling shareholders should be allowed to act as underwriters?

Yes

No

If your answer is "Yes", please give reasons for your views.

1.If controlling shareholders are not allowed to act as underwriters, for some small companies and when the overall market is bad, the Company may not be able to find underwriters at all and the fund raising will not proceed at all. In addition, Controlling shareholders are also the investors of the Company and should be treated fairly alongside with minority shareholders.

2. In addition, other commercial underwriters, in particular licensed corporation may dispose shares shortly after completion of the offer, leading to the significant price volatility, while controlling shareholders which act as underwriter usually continue to hold the shares as there is alignment of interest, hence less volatility on listed issuer's share price and benefit Company in the long run.

(b) do you think that substantial (but not controlling) shareholders should be allowed to act as underwriters?

Yes

No

If your answer is "Yes", please give reasons for your views.

Same reason as in 9 (a) above.

10. Do you agree that compensatory arrangements should be mandatory when pre-emptive offers are underwritten by connected persons?

Yes

No

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

Even when pre-emptive offers are underwritten by connected persons, the underwriter take risk once he becomes an underwriter. Whether compensatory arrangement is required should be a commercial decision left to the underwriter and the Board and not made mandatory.

For shares that have low liquidity, such arrangement do not have much value added to minority shareholders but can just add unnecessary administrative cost to the listed issuer

11. Do you agree with the proposal to remove the connected transaction exemption for underwriting (including sub-underwriting) of pre-emptive offers by connected persons?

Yes

No

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

Underwriting (including sub-underwriting) ensures that the Company gets the cash when the listed issuer require it.

If this exemption for underwriting is removed, shareholder approval together with the 21 days Notice for EGM become mandatory. Market conditions can change quickly and share price may fluctuate greatly and go down within the 21 days, hence the additional requirement of shareholders approval can end up with the intended fund raising not able to go ahead.

12. Do you agree with the proposal to make it mandatory for issuers to adopt either the excess application arrangement or the compensatory arrangement in rights issues and open offers?

Yes

No

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

This should not be mandatory but a commercial decision.

13. Do you agree with the proposal to limit the excess applications by a controlling shareholder and his/her/its associates to a maximum number equivalent to the offer shares minus their pro rata entitlements?

Yes

No

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

All shareholders are given the chance to participate in the pre-emptive offers or rights issue, be it minority or major shareholders. When minority shareholders give up their right to participate in the pre-emptive offers, it is fair for the controlling shareholders to take up the shares so that company can get more fund for the unsubscribed shares by the minority shareholders.

Hence implementation of proposed step would not create additional value on fairness to all shareholders and just add administrative burden and cost to the listed issuer.

14. Do you agree with our proposal to disallow the use of general mandate for placing of warrants and options for cash consideration?

Yes

No

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

15. Do you agree with the proposal to disallow any price discount of the initial conversion price of convertible securities to be placed under general mandate?

Yes

No

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

16. Do you agree with the proposal to require disclosure of the use of proceeds from all equity fundraisings in interim and annual reports?

Yes

No

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

17. Do you agree with the proposal to impose a minimum price requirement on subdivision or bonus issue of shares?

Yes

No

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

18. Do you agree with the proposed minimum adjusted price of HK\$1? If not, what is the threshold you consider appropriate: (a) HK\$0.5; or (b) other?

HK\$1

HK\$0.5

Other (Please specify the appropriate threshold market price of share _____)

If your answer is "Other", please give reasons for your views.

It should be fair to all listed issuer to use market price of shares, as this will not automatically exclude shares with market price below benchmark price of HK\$1 or HK\$0.50

19. Do you support a demonstration period of six months? If not, please specify the period you consider appropriate.

Yes

No
(Please specify the appropriate demonstration period _____)

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

Since we state the reason for disagreeing to the proposal in answer to Q1, the demonstration period becomes not relevant.

- End -