

24 November 2017

Hong Kong Exchanges and Clearing Limited
12/F, One International Finance Centre
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Dear Sir/Madam,

**RE: CONSULTATION PAPER ON CAPITAL RAISINGS BY LISTED
ISSUERS AND DELISTING AND OTHER RULE AMENDMENTS**

As a market participant in the Hong Kong securities market with more than 20 years experiences, [REDACTED] would like to reply to the captioned papers as below:

1. **We think highly dilutive pre-emptive offers could be allowed if the listed companies have genuine capital needs with concrete business plan that is in relation to its principal line of business, and this should be included in the exceptional circumstances in the proposal.**

We respect the right and responsibility of the Exchange in reviewing the listing rules and amend the rules when needed so as to better perform its regulatory functions and ensure that the Hong Kong securities market operates efficiently and remains healthy. Meanwhile, it is also important for the Exchange to work with SFC to educate shareholders that they should fully understand and exercise their right and responsibilities of attending shareholders' meetings as well as voting on the company's affairs.

According to the Consultation Paper, about 65% of the pre-emptive offers had value dilution effect below the 25% threshold during 2013 to 2016, which means around 35% of the pre-emptive offers had the value dilution effect above 25%. It is proposed in the Paper that an issuer may not undertake highly dilutive pre-emptive offers that would result in a material value dilution to non-subscribing shareholders, unless the issuer can satisfy the Exchange that there are

exceptional circumstances. According to point 33 in the proposal, the Exchange may exercise its discretion to waive the restriction in exceptional circumstances. An example is where the issuer is in financial difficulty.

However, we consider that apart from financial difficulty, listed companies might have genuine capital needs to expand or strengthen its business. In this case, we hope that such capital raising activities should not be disallowed as long as the listed companies can provide concrete business plans which are in relation to its principal line of business. Besides, as these highly dilutive pre-emptive offers would need to be approved by minority shareholders, it is important for listed companies to disclose and strictly follow the use of proceeds. Whenever there is any change on the use of proceeds, the listed companies could be required to need to obtain approval again from regulatory authorities as well as the shareholders.

Additionally, setting a bright line cap of 25% dilution may be restrictive to the free market model of the current market. It is very difficult to set an overarching protectionist rule without jeopardizing the freedom for capital raising by companies. We believe the regulators should conduct an in-depth research on this issue before deciding the cap. Besides, since pre-emptive offers need to be voted on by all shareholders, any approved offer can be deemed to be the will of the majority. The Exchange can instead place greater emphasis on educating minority investors on the topic, to ensure that turnout at shareholders meetings represent an accurate indication of the will of all company shareholders.

2. **We agree with the proposal to require underwriters to be licensed persons independent from the issuers and their connected persons. We also agree that controlling shareholders and substantial shareholders should be allowed to act as underwriters. Compensatory arrangements should be mandatory when pre-emptive offers are underwritten by connected persons.**

We agree with the proposal that if issuers choose to engage underwriters to underwrite the pre-emptive offers, they should be corporations licensed by the SFC, and they should be independent from the issuers and their connected persons. The involvement of an independent, licensed underwriter will introduce greater discipline in the pricing and allocation of such offerings.

Meanwhile, it is also reasonable to allow controlling shareholders to continue to act as underwriters, subject to mandatory compensatory arrangements for the unsubscribed shares. Where controlling or substantial shareholders are allowed to act as underwriters, mandatory compensatory arrangements would provide an additional safeguard to address the concern that controlling or substantial shareholders may deliberately price the offer shares at an artificially discounted price and increase their stakes at low cost.

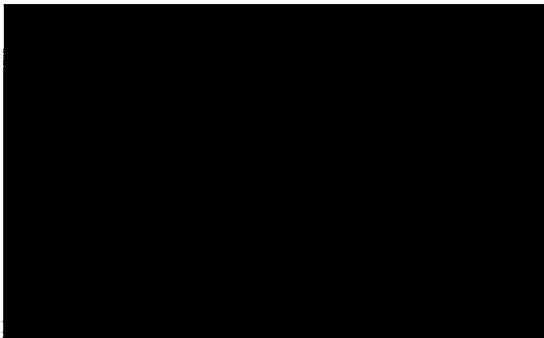
3. We agree with the proposed Main Board Rule amendment to add a fixed period delisting criterion, and we think 36 months is the appropriate period under the fixed period delisting criterion.

Sufficient time is required for issuers to rectify concerned issues (e.g. negotiating with creditors in financial crisis cases, restructuring group's business to attain operation sufficiency for the purpose of listing rules). In most cases, the preparation work for rectifying issues and demonstration of rectification by showing a full financial year record takes around 36 months in general.

92% of the long suspended issuers resumed trading within 36 months of their initial suspensions between 2012 and 2016. This period may seem reasonably long enough for issuers to remedy the suspension issues while providing an incentive for early resumption. This could apply to both Main Board and GEM Board.

We hope that the above opinions could be helpful for the Stock Exchange of Hong Kong to improve the relevant listing rules and regulations. We have trust and confidence in your guidance, and we look forward to having a more competitive investment environment in Hong Kong.

Yours faithfully,



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.

We think highly dilutive pre-emptive offers should be allowed if the listed companies have genuine capital needs with concrete business plans that are in relation to its principal line of business.

The consultation paper has suggested a range of protective measures for minority shareholders such as excess application and compensatory arrangements, thus there would be equal opportunity for those who choose not to take the offers (e.g. they may sell their nil-paid rights).

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 _____)

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

Setting a bright line cap of 25% dilution may be restrictive to the free market model of the current market. It is very difficult to set an overarching protectionist rule without jeopardizing the freedom for capital raising by companies. We believe the regulators should conduct an in-depth research on this issue before deciding the cap. Besides, since pre-emptive offers need to be voted on by all shareholders, any approved offer can be deemed to be the will of the majority. The Exchange can instead place greater emphasis on educating minority investors on the topic, to ensure that turnout at shareholders meetings represent an accurate indication of the will of all company shareholders.

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.

On one hand, we agree that the regulators should monitor the dilution effect of share issuance under a specific mandate but at the same time also take into consideration whether there is genuine capital needs and concrete business plan for the fund raising activities.

On the other hand, sometimes specific mandate placings are different from rights issues and open offers in the way that minority shareholders might not have the chance to participate in specific mandate placings, while there won't be any compensatory mechanisms. It is reasonable to better protect the minority shareholders' interests from being overly diluted. Therefore, we think the Exchange can consider imposing a 25% threshold on value dilution for specific mandate placings but most importantly it should take a practical approach and give exemptions to cases where the companies are in dire financial troubles and the placings are part of a corporate rescue attempt.

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.

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 preemptive offers?

- Yes
 No

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

We agree with the existing rules - all rights issues and open offers must be fully underwritten in normal circumstances. If such fund raising activities are not fully underwritten, the shortfall might create market chaos and lead to share price fluctuations.

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.

We agree that underwriters should be licensed persons independent from the issuers and their connected persons, but there should be no such limitation on sub-underwriters as long as they are financially qualified to sub-underwrite the shares.

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.

It is acceptable for controlling shareholders to act as underwriters, subject to mandatory compensatory arrangements for the unsubscribed shares and connected transaction requirements. They should be allowed to act as underwriters in the event that the issuers are unable to procure securities houses to fully underwrite.

(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.

There may be cases where there is no controlling shareholder but substantial shareholders. It is acceptable for substantial shareholders to act as underwriters when the issuers are unable to procure securities houses to fully underwrite.

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.

Only when the underwriters are connected persons and are underwriting more than half of the offer shares.

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.

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.

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.

Minority shareholders shall have the priority over controlling shareholders to subscribe for the excess shares.

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.

It shall be allowed only if it is priced at a reasonable premium.

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 HK\$0.1)

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

Currently, the low end of the trading price limit on AMS/3 is HK\$0.01. Not only is the suggested price of HK\$0.1 higher than the minimum trading price of HK\$0.01, but such price level would seem to attract more investors to participate in the trading of the relevant shares as compared to HK\$1 and HK\$0.5, thus increasing liquidity in the shares and market activities.

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.

- End -

