

Hong Kong Exchanges and Clearing Limited
12/F One International Financial Centre
1 Harbour View Street
Central
Hong Kong

Sent via email

1 December 2017

Dear Sirs

Re: Consultation Paper on Delisting and Other Rule Amendments (September 2017)

The Alternative Investment Management Association¹ ("**AIMA**") writes further to the Consultation Paper on Delisting and Other Rule Amendments (the "**Consultation Paper**") dated September 2017 issued by The Stock Exchange of Hong Kong Limited (the "**SEHK**") and inviting written comments on the matters discussed in the Consultation Paper.

We are grateful to the SEHK for the opportunity to provide written commentary on the matters presented in the Consultation Paper and for the SEHK's willingness to address in the Consultation Paper issues raised during previous discussions. The purpose of this letter is to outline in general terms our members' views regarding the proposals as opposed to providing detailed response to all of the questions set out in Part B of the Questionnaire on the Delisting and Other Rule Amendments ("**Questionnaire**") attached to the Consultation Paper.

Overview

AIMA is desirous of supporting all initiatives which are expected to promote the ongoing development and success of the capital market ecosystem in Hong Kong, including those initiatives which seek to improve the efficiency of the markets for the trading of securities in Hong Kong and to enhance investor protection.

This includes ensuring that appropriate powers exist to allow for the suspension of a listed entity, and where appropriate cancellation, where it: (i) is in material breach of the listing rules; (ii) fails to maintain sufficient public

¹ AIMA is the global representative of the alternative investment industry, with more than 1,900 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than US\$2 trillion in assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA set up the Alternative Credit Council (ACC) to help firms focused in the private credit and direct lending space. The ACC currently represents over 80 members that manage US\$500 billion of private credit assets globally. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors). For further information, please visit AIMA's website, www.aima.org.

float; (iii) fails to maintain sufficient operations or assets; or (iv) is no longer suitable for listing.

Fixed Period Delisting Criterion

General Overview

AIMA is broadly in favour of introducing a fixed period delisting criterion.

AIMA agrees that the suspension and delisting procedures currently available under the Listing Rules (which place a primary focus on a defaulting issuer remedying defects and taking steps to resume trading) facilitate an environment in which SEHK can find it challenging to delist a defaulting issuer in a timely manner.

Balance of Priorities

Whilst the protection of minority shareholder interests is of course important and one which AIMA fully supports, it is in the interests of neither minority shareholders nor the market in general for defaulting issuers to remain suspended for long periods of time (18 months and longer) and without a genuine likelihood of resuming trading.

It is paramount that the SEHK is properly empowered to efficiently take all necessary steps to delist a defaulting issuer that has failed to demonstrate an intention and/or an ability to remedy defects and/or to resume trading.

AIMA considers that providing the SEHK with a clear power to delist an issuer after its continuous suspension for a prescribed fixed period of time would allow the SEHK to actively manage such defaulting issuers.

AIMA also considers that consolidating SEHK's existing powers (currently contained in the Main Board Listing Rules ("**MB Rules**") Para 6.1 and Practice Note 17 ("**PN17**")) will provide a clearer framework for suspended issuers (and other interested parties, such as shareholders).

AIMA Views on Fixed Period Delisting

In terms of the fixed period in the MB Rule amendment, in the interests of efficiency and incentivising a defaulting issuer to promptly resolve relevant problems, AIMA is broadly in favour of the imposition of a shorter fixed period (12 months), rather than a more protracted period. AIMA is generally of the view that such a time period provides a defaulting issuer with sufficient time to remedy all relevant defects and complete the resumption of trading.

Those defaulting issuers who do not resume trading by the end of the fixed time period would be automatically delisted at the end of the fixed time period.

AIMA is of the view that a set 24-month fixed period does not sufficiently incentivise suspended issuers to take steps to resume trading / delist. Furthermore, a 24-month fixed period does not really offer a satisfactory remedy (compared with the existing delisting / suspension framework) in terms of reducing the period of time during which suspended issuers are able to remain in "suspended" status.

Optional Extension to Fixed Period Delisting

That said, in order to allow for flexibility in the case of a suspended issuer that has demonstrated (to the satisfaction of the SEHK) that it is actively taking steps to remedy the default position, the SEHK might wish to consider an ability to grant an appropriate extension, from and after the fixed time period, in order to allow for all matters to be satisfactorily completed. Such a power would be exercisable at the discretion of the SEHK.

We consider that the imposition of a fixed period should not result in a situation in which a defaulting issuer is subject to an automatic delisting (again, this is neither in the interest of the market, nor minority shareholders) where the defaulting issuer is able to demonstrate that it is taking genuine steps to remedy relevant defects and to resume trading, but requires some additional time to fully complete the process.


Accordingly, in such circumstances SEHK might consider having a power to grant an extension to the fixed period delisting. The purpose of such an extension would be to allow the suspended issuer sufficient additional time to remedy any final defects before the resumption of trading. The duration of any such extension would be determined by the SEHK.

SEHK's power to grant an extension should be clearly set out in the MB Rules, with the requirement that any application for extension must be filed prior to the end of the set 12-month period (for example not less than 30 days before the end of the 12-month period). This is in order to avoid the time delays which exist under the current PN17 mechanism as a result of the two-level viability assessment at the each 6-month period.

Conclusion

We hope that the SEHK will find the points set out above helpful. We would be very happy to further discuss the responses provided in this letter if needed.

Yours faithfully,



Lee Kher Sheng
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Co-Head of APAC
Deputy Global Head of Government Affairs