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特許秘書

The Hong Kong Institute of Chartered Secretaries

Submission:

Consultation Paper on Proposal relating to Listed Issuers
with Disclaimer or Adverse Audit Opinion on Financial
Statements

07 November 2018

By Email Only: response@hkex.com.hk

Hong Kong Exchanges and Clearing Limited
8th Floor, Two Exchange Square
8 Connaught Place, Central
Hong Kong

Dear Sirs

Consultation Paper (CP) on Proposal relating to Listed Issuers with Disclaimer or Adverse Audit Opinion on Financial Statements

About HKICS

The Hong Kong Institute of Chartered Secretaries (HKICS) is an independent professional institute representing Chartered Secretaries and Chartered Governance Professionals as governance professionals in Hong Kong and Mainland China with over 5,800 members and 3,200 students. HKICS originates from The Institute of Chartered Secretaries and Administrators (ICSA) in the United Kingdom with 9 divisions and over 30,000 members and 10,000 students internationally. HKICS is also a Founder Member of Corporate Secretaries International Association Limited (CSIA), an international organisation comprising 14 national member organisations to promote good governance globally.

Overall Support

From the governance perspective, the issues identified under the CP has to be considered from a risk perspective. Where a listed issuer issues financial statements with disclaimer or adverse audit opinion and is therefore automatically suspended, then current investors cannot sell into the market and potential investors cannot buy the shares at a discounted price where there is a risk appetite. This affects the market mechanism. But to allow the trading of securities of a poor or distressed quality gives rise to a much larger risk to Hong Kong as quality and regulated market. From this perspective, HKICS supports the proposals being put forward by HKEX.

A factor that weighed in for the support is the opportunity provided to listed issuers, once suspended, to take action to resolve the issues giving rise to the disclaimer or adverse opinion to bring itself into Rule re-compliance and resume trading. The timing allowed ties into the current delisting Rules where issuers may be delisted after their continuous suspension for 18 months (or 12 months for a GEM issuer). Further, by adoption of the CP proposals, listed issuers would be incentivised to comply with disclosure of inside information regime under Part XIVA of the Securities and Futures Ordinance as suspension would no doubt trigger regulatory scrutiny by the Securities and Futures Commission. In addition, as identified under the CP, it would also encourage issuers to strengthen their risk management and internal control systems, and to resolve audit issues promptly with their auditors.

Overall, we submit that the CP proposals will ensure that they address developments in the market and international best practice, and also represent acceptable standards which help promote investor confidence, and we support the CP proposals.

Specific Questions

As to the specific questions raised under the CP, our submissions are as follows.

Q1 Do you agree with the proposal to add a Rule to require trading suspension if an issuer has published a preliminary annual results announcement and its auditor has issued, or has indicated that it will issue, a disclaimer or an adverse opinion on the issuer's financial statements? If not, why?

We agree with the proposal for the reasons identified above.

Q2 Do you agree with the proposed Rule 13.50A to require the issuer to address the issues giving rise to the disclaimer or adverse opinion, provide comfort that a disclaimer or adverse opinion in respect of such issues would no longer be required, and disclose sufficient information for investors to assess its updated financial position before trading resumption (as described in paragraph 32 above)? If not, why?

We agree with the proposal for the reasons identified above.

Should you have any questions, please feel free to contact [REDACTED]
[REDACTED]
[REDACTED]

Yours faithfully,

[REDACTED]

David Fu FCIS FCS(PE)
President
The Hong Kong Institute of Chartered Secretaries