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9 September 2016

BY FAX (2810 5385) AND BY POST

Corporate Finance Division
Securities and Futures Commission
35/F., Cheung Kong Center
2 Queen's Road Central
Hong Kong

and

BY FAX (2524 0149) AND BY POST

Corporate Communications Department
c/o Hong Kong Exchanges and Clearing Limited
12/F., One International finance Centre
1 Harbour View Street
Central, Hong Kong

Dear Sirs,

**Re: Consultation Paper on Proposed enhancements to the Exchange's
Decision-Making and Governance Structure for Listing Regulation**

We refer to the Consultation Paper on the captioned subject.

We appreciate the efforts of the Securities and Futures Commission ("SFC") to review the current listing regulatory regime as Hong Kong should not be complacent about being a major international financial centre and premier capital formation centre for Mainland and other overseas companies.

The existing decision-making and governance structure of The Stock Exchange of Hong Kong Limited (the "Exchange") has been working efficiently and effectively with check and balance between SFC and the Exchange in place and striking a good balance of maintaining Hong Kong as one of the leading financial centres for IPOs in the world on one hand and protection of the investors on the other hand. We have to be very careful if we want to make any changes to it.



In our opinion, the proposal as mentioned in the Consultation Paper is detrimental to Hong Kong market. We are worried that (1) the proposed structure will give SFC all-encompassing control in Regulatory Listing matters, with power concentrated in a few hands; (2) if you look at the REIT market which is solely regulated by SFC and remains exceptionally inactive, it is not unreasonable to expect that the regulatory mindset of the SFC will stifle the market; (3) the proposal will move Hong Kong backwards while the world's markets are all moving to the Disclosure Based Regime; and (4) our stock market will be further stifled as a regulator based regime would not promote market development. In the following paragraphs, we will elaborate more of our views and comments on the proposal.

The proposed structures give no Check-and-Balance between SFC and the Stock Exchange as enshrined in the existing structure

- the proposed structures destroys the existing regulatory system

The proposed structure gives SFC the front- and back-line regulatory authority without check-and-balance of its all-encompassing power. It destroys the existing regulatory structure whereby front-line regulation is handled by the Exchange; IPO approvals and listing rules formulation and amendments are handled by the Listing Committee of the Exchange ("LC") composed of market participants and professionals; and the back-line regulator is SFC which under SFO has veto powers and rule-change powers. This system has been working well and Hong Kong was No. 1 in the world in 2015 and 2016 in capital raised and its position as a leading capital formation centre has been well recognized.

- SFC will have dominant control under the proposed structures

We note that two new committees will be established above the Listing Committee: the Listing Policy Committee ("LPC") and Listing Regulatory Committee ("LRC"). These committees will be dominated by SFC through its nomination and approval of who can become members. We would like to remind that separation of powers is a fundamental principle to all systems. It provides safeguards against one party exercising the essential functions of another. The proposed structures have failed to address this issue.



- ***SFC will be given outright power on top of its veto power***

The proposal give SFC outright power on top of its veto power. At present, decisions by the LC, be it about IPO applications or Listing Rules, are made after thorough discussion by seasoned market practitioners. Unless there is a compelling reason, the SFC veto power cannot be exercised arbitrarily, and the basis for exercising such power must be well-substantiated. Under the new structures however, the LC will be bypassed (at most LC members offering their non-binding views), and the LRC and LPC will make final decisions by a few persons, without the valuable and active input by a group of 28 market practitioners of a diverse background including investors, lawyers, accountants and fund managers. It is the quality of the decision that matters most.

- ***The proposed structures will make the Listing Department a subordinate of SFC***

LPC will appraise performance of senior staff of the Listing Department of the Exchange and its senior executives. Giving these powers to a SFC-led committee is like making the Listing Department a subordinate of SFC, effectively giving SFC full control with no check-and-balance.

- ***The proposed structures will suffocate the Listing Committee***

The Listing powers are now reduced to presiding over common routine IPO and Post IPO matters. Although the LC would be invited to give opinions to matters considered by LPC, their views are non-binding. The LC members have diverse expertise, experience and market perspectives, which can complement the regulator's perspective. However, under the proposals, the LC's role will be limited and its contribution to the market minimized. It is doubtful any one of stature in the markets and society would be interested to take up the post of Listing Committee member.

Proposed Structures Unnecessary for Combating Current Market Problems

- ***Coordination and cooperation mechanisms between SFC and the Exchange are in place***

At present, there are various channels and mechanisms (including regular meetings between the representatives of the Exchange and SFC) under the current regulatory system for coordination and cooperation between SFC and the



Exchange on policy formulation. SFC is being kept fully informed of any listing application through the dual filing system, can intervene at an early stage, and has oversight and control of the formulation and administration of the Listing Rules and listing policies. In this respect, we cast doubt on the need to introduce the proposed structures.

The reorganization of listing function has no real jurisdiction over market misconduct

It is believed that the proposed structures aim to combat the widespread reverse takeovers and suspected manufacturing of listed shell companies. However, the aforesaid market problems should be tackled by focused and targeted methods rather than changing the fundamental policy/IPO approvals structures. It is the job of the SFC to police, monitor, and punish wrong doers and indeed, the reorganization of listing function has no real jurisdiction over market misconduct.

Inherent problems in the proposed structures

The mandate of the LRC is not clear

The proposed LRC will oversee, give guidance and decide matters that involve the suitability for listing of a new applicant and its business. But there is no clear definition for novelty or suitability notwithstanding that guidance letters were or will be issued. On the other hand, the vetting and approval process for IPO applications under the proposed structure is rather confusing. According to paragraph 90 of the Consultation Paper, Listing Department will decide whether an IPO application is an LRC IPO Case and according to paragraph 93 of the Consultation Paper, the LRC hearing for each LRC IPO case will be held following the relevant LC hearing. That means LC is required to review all IPO cases no matter whether they are LRC cases or non-LRC cases.

In view of the above, it is very likely that the Listing Department has tendency to classify more IPO applications as LRC IPO cases and from the perspective of the applicant of the IPO case, the proposed structure would mean a more lengthy and uncertain vetting and approval process. Since the LC's view on the LRC IPO cases is non-binding, it will also demotivate LC to act as proactively as under the existing structures.



- ***The primary role of the SFC is to regulate and not to lead market development.***

The proposed structures will concentrate power in a few hands under control of SFC which is regulator-minded, which is tending to be risk-averse. It will protect the regulator by shutting off the door to many companies, or raising the threshold to such high level that less and less potential listed issuers will be attracted to Hong Kong. This would compromise Hong Kong's position as an international financial centre. The primary role of the SFC is to regulate and not to lead market development.

- ***Merit-based Regime to Takeover***

A Merit- or Regulator-based regime will inevitably move Hong Kong backwards in regulation for listing matters. In contrast, the Disclosure-based regime allows the market to decide, and educate investors to be responsible for their investment decisions.

The Merit- (Regulator-) based regime will make the regulator assume the responsibility of investment, which is not ideal since the regulator cannot possess all the knowledge and experience to judge whether a company is suitable for listing.

The proposed structures give SFC all-encompassing control over regulatory and listing matters, with power concentrated in a few hands without proper checks and balance; they are detrimental to market development, and would reel Hong Kong back to a merit-based regime where decisions are made in a small-circle without valuable market input. We worry that the regulator-mindset would stifle the market if the proposal is enacted.

In conclusion, we would like to iterate that the decision-making and governance structure of the Exchange under the existing regime has been working efficiently and effectively with check and balance between SFC and the Exchange in place. We strongly recommend that the proposal as mentioned in the Consultation Paper shall be withdrawn as it will not be an enhancement to, but a setback of, the regulatory system in Hong Kong.



Thank you for your kind attention.

Yours faithfully,
For and on behalf of
GREAT EAGLE HOLDINGS LIMITED

Lo Ka Shui
Chairman and Executive Director