

September 12, 2016

Securities and Futures Commission
35/F Cheung Kong Centre
2 Queen's Road Central
Hong Kong

Dear Sir

Re: Consultation Paper on Proposed Enhancements to the Exchange's
Decision-Making and Governance Structure for Listing Regulation ("Consultation")

On behalf of the Board of Directors of the Hong Kong Association of Online Brokers ("HKAOB"), we write to express our deep concern with the proposals set out in the Consultation.

We believe the Consultation's basic premise and objectives to ensure the quality and efficiency of the Hong Kong market are already achievable under the existing regime and its proposals will do nothing to improve either the efficiency of listing procedures or the quality of listed companies. On the other hand, the proposals will significantly increase the SFC's powers to reject companies for listing on the Exchange and to determine policy while removing vital checks and balances on its powers. This is inconsistent both with the Exchange's role as front-line regulator and the SFC's statutory role as monitor and supervisor of the Exchange.

We believe the current three-tier regulatory regime comprising the government, the SFC and the Exchange has worked well: the Exchange was the world's top IPO fund-raising market in 2015 and in 2016, Hong Kong was ranked first worldwide for protection of minority investors' interests by the World Bank.* The current Listing Committee comprises 27 senior professionals representative of the interests of the Hong Kong IPO market (investors, market practitioners and listed companies) and the CEO of the Exchange. It acts both as an independent administrative decision maker and an advisory body for the Exchange.**

The existing regime has been in place for some 20 years and has proved itself to be resilient, having withstood a number of serious challenges including the listing of H-share companies, the Asian financial crisis of 1997 and the 2008 global financial crisis. The Hong Kong regime has been tried and tested; has proved itself capable of withstanding external shocks and has successfully adapted to market developments most obviously in establishing links with the Mainland markets and introducing new products such as RMB-traded and commodity-linked products.

We wish to highlight the rationale for the Listing Committee's role lies in its make-up by market practitioners. The Hay Davison Report, May 1988, was adamant in its view that a practitioner-based regulatory system was best suited to Hong Kong as it would *"avoid the danger of straight-jacketing the securities market by a strict regulatory regime which might all too easily lead to insensitive or heavy handed over-regulation".**** Noting that *"market management and regulation by practitioners offers scope for flexibility and adaptability in a rapidly changing market"* and that *"statutory regulators will not always have the necessary knowledge and expertise"*, the Hay Davison report concluded that there was no alternative to practitioner-based regulation.**** The presence of market practitioners, as well as investor and listed company representatives on the Listing Committee, means that the Listing Committee is close to the market and able to provide valuable input in formulating policy, which remains subject to the safeguard of final SFC approval. The highly experienced members of the independent Listing Committee contribute much to ensuring that the Exchange and Hong Kong financial market remain competitive.

Under the proposals, we are concerned that the Listing Committee will lose its decision making powers on the most important listing applications and matters (i.e. those involving suitability or broader policy concerns) and power to determine policy. Instead, these powers will be vested in two new super-committees, both of which will be under the effective control of the SFC. While the Listing Committee will comment on matters to be determined by the new committees, it is being side-lined for all intents and purposes since the new committees are under no obligation to take account of its comments or to give reasons for ignoring them. The Consultation's proposals will give the SFC new powers to control which companies are permitted to list, and remain listed on the Exchange, as well as the general policy direction for the Exchange.

We are concerned that the SFC's role will shift from the monitor and supervisor of the Exchange in exercising its listing function to become the Exchange's front-line decision-maker and policy setter. These are major changes which will fundamentally alter the process for all significant decisions relating to the Hong Kong listed securities market and may ultimately stifle Hong Kong financial market competitiveness as a whole.

We do not believe the rationale for these major reforms are convincingly articulated by the Consultation. On the contrary, they risk severely restricting the types of companies which seek listing in Hong Kong and imposing a stranglehold on market development and innovation.

We do not believe the proposals will improve the efficiency of the listing approval process and it is highly doubtful that they will succeed in the legitimate aim of tackling abusive practices, such as shell company and backdoor listings. Before undertaking the wholesale regime changes as proposed, we suggest the regulators should perhaps attempt more robust enforcement of the existing rules on cash companies, de-listings of long-suspended companies and reverse takeovers to clamp down on activities such as shell listings which have the potential to damage the market's reputation.

If, ultimately, the regulators feel that the SFC needs to play a more direct role in cases involving LRC Matters and policy setting, this could instead be facilitated by adding a small number of SFC representatives to the current Listing Committee. Their attendance at Listing Committee meetings considering LRC Matters or policy issues would make the Listing Committee fully representative of those involved in the IPO market, investors, listed companies, market practitioners and the regulators. The tremendous benefit of a fully representative Listing Committee is that it would give the SFC the early and direct involvement it requires on listing matters and policy, while ensuring that decisions continue to benefit from the Listing Committee members' broad commercial experience and expertise in Hong Kong's IPO market and regulatory regime.

Given our concerns over the impact of the proposals on the overall wellbeing and future competitiveness of the Hong Kong financial market, we are unable to support the SFC Consultation.

香港網上經紀協會有限公司

The Hong Kong Association of Online Brokers Limited

香港中環交易廣場第二座 506 室

506, Two Exchange Square, 8 Connaught Place, Central, Hong Kong
Tel: +852 2877 3638 Fax: +852 2845 0473 Website: www.hkaob.org

Yours sincerely,
For and on behalf of
The Hong Kong Association of Online Brokers Limited

Oliver Ng
Chairman

* The World Bank's report "*Doing Business 2016, Measuring Regulatory Quality and Efficiency*".
The Listing Committee's four principal functions are to: (a) oversee the Listing Department; (b) provide policy advice to the Department on listing matters and approve amendments to the Listing Rules; (c) take decisions of material significance for listing applicants, listed issuers and the individuals concerned, including listing application approvals and cancellations of listing and disciplinary matters; and (d) acting as a review body (as the Listing (Review) Committee) for decisions made by the Listing Department and the Listing committee.

** HKEC. "*Listing Committee Report 2015*". Page 26.

*** Hay Davison Report. May 1988. At paragraph 3.24

**** I bid. At paragraph 3.26