

November 16, 2016

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

Dear Sir/Madam,

Comment on the Joint Consultation paper on Proposed Enhancements to the Stock Exchange of Hong Kong Limited's Decision-Making and Governance Structure for Listing Regulation

BlackRock represents the interests of its clients by acting in every case as their fiduciary. It is from this perspective that we engage on all matters of public policy. BlackRock supports policy changes and regulatory reform globally where it increases transparency, protects investors, and facilitates responsible growth of capital markets.

BlackRock¹ is pleased to have the opportunity to comment on the abovementioned joint consultation paper.

General comments

Ideally we would prefer to see a system along the lines of the US, UK and Australian models, where listing regulations are overseen by a single statutory regulator (with the support of advisory panels such as the Listing Authority Advisory Panel in the UK) and which avoids the current conflict of interest arising out of the involvement of Hong Kong Exchanges and Clearing Limited (itself a listed company) in the oversight of listings.

Apart from that, we believe the proposed changes will be a significant improvement over the current arrangement and will be positive for investors by instilling more confidence in the listing process and maintaining the quality and reputation of the Hong Kong market.

We support the concept of the Securities and Futures Commission (SFC) and the Stock Exchange of Hong Kong (HKEx) working together to streamline the processes for making listing decisions. We also support the enhanced disclosure of listing decisions and their rationale. We believe this will help improve the efficiency, accountability and transparency of decision-making in relation to listing matters. We also support the principle that listing policy response should be more agile and policy formulation should be more forward-looking, taking into account new market developments and global trends. We therefore welcome the establishment of a separate committee to focus on this.

¹ BlackRock is one of the world's leading asset management firms. We manage assets on behalf of institutional and individual clients worldwide, across equity, fixed income, liquidity, real estate, alternatives, and multi-asset strategies. Our client base includes pension plans, endowments, foundations, charities, official institutions, insurers and other financial institutions, as well as individuals around the world.

Below are our detailed comments:

Listing Committee (LC)

This is by far the most important decision-making body, as under the proposal it will decide on the majority of the listing applications and provide non-binding views on the remainder as well as post-IPO matters. In addition, the Chair and Deputy Chairs of the LC will become members of the new Listing Policy Committee and the Listing Regulatory Committee. We have therefore focused our comments on the composition of the LC.

We believe it is critical that the LC possesses the relevant expertise and a diversity of perspectives to ensure the robustness of its decision making. It is particularly important that investors' views are represented in the listing decision-making process, as investors have a continuing interest in the performance of the listed companies post IPO.

We would therefore like to see greater transparency with respect to the nomination process for the Listing Committee. Members of the Listing Committee should have the required skills and expertise and have the time to commit to their role. In addition, a clear process to identify and manage conflicts of interest should be made public. We also would like to see the Listing Nominating Committee (LNC) publish the skills matrix used to determine membership as well as a clear public articulation of the role of the members. In addition we would like to see disclosure of the criteria for selecting the Chair and Deputy Chairs of the LC and their term limit. Given the importance of the role of the LC, we would also like to see transparency around the governance of LC and, in particular, how the performance of LC members is evaluated.

We understand that currently 8 out of the 28 LC members are designated as investor representatives but there is no disclosure of the policy for their designation. We would therefore like to see transparency around the definition of "investor representative" (IR). Further, we believe the Listing Committee would be better served with at least 50% representation of investors to ensure a stronger voice for investors. We encourage the LNC to recruit investor representatives from a wider pool of candidates, such as current or retired practitioners in the asset management industry and investment committee members of insurance and pension funds.

Listing Policy Committee (LPC)

BlackRock is supportive of the creation of the LPC to undertake work on Listing Rule amendments and overall listing policy. We believe the proposed structure will facilitate a more proactive approach to take account of market developments and more co-ordination and efficiencies for policy reform.

For significant changes to the Listing Rules we would expect the LPC to issue a consultation paper to seek the views of relevant stakeholders.

We are supportive of the Listing Committee's ability to put forward non-binding views on policy matters coming before the LPC. To ensure the LPC has the benefit of the Listing Committee's input and expertise, and that investors have an appropriate say in policy development, we would like to see a process that would allow any member of the Listing Committee to bring issues to the LPC (rather than the full Listing Committee). It is not clear from paragraph 13 of the Consultation Paper if this is the case.

Listing Regulatory Committee (LRC)

BlackRock supports the creation of the LRC to handle listing applications that may have suitability concerns or broader policy implications. Similar to above, to ensure that the LRC benefits from the input and expertise of the industry and that investors have an appropriate say, we would like to see a process that would allow any member of the Listing Committee (rather than by consensus of the full Listing Committee) to bring cases and issues to the LRC. It is not clear from the Consultation Paper if this is the case.

Composition of the above proposed committees

We are supportive of the proposed committee structures for both the LPC and LRC, which we believe will bring a balance of views from both the regulators and the industry. We agree with the recommendation that at least one of the three Listing Committee members on the LPC and LRC should be an IR. We are also supportive of the chairman not having a casting vote on any matter.

As the Chair and Deputy Chairs of the LC will play an enhanced role in the new structure, we would like to see greater transparency in the criteria for their selection. We understand there may be concerns that power and influence may be concentrated in a small circle (i.e. the Chair and Deputy Chairs of the LC) under the proposed structure. In order to draw upon the wider range of skills in the LC, we recommend the SFC and HKEx set a staggered 3-year term limit on the Chair and Deputy Chairs of the LC so that the committees will be able to benefit from the input of a new Chair or Deputy Chair of LC every year.

We appreciate that given the potential conflicts of interest there is a need for alternates. At the same time we need to beware of extensive reliance on alternates which may undermine the effectiveness of the committees, particularly as most decisions are expected to be reached by consensus. We would therefore like to see the use of alternates by LC members limited to only situations where there is a conflict of interest. There is an expectation that the principal LC nominees to the committees are able to devote time to the process and this should be one of the selection criteria. In addition, we would also like to see greater transparency on the selection criteria of the designated alternate individuals / pool.

Listing applications by new applicants

BlackRock is supportive of the continuing role of the Listing Committee and Listing Department with respect to matters that do not involve suitability concerns or broader policy implications which should be the majority of cases. Having said that, we have made comments above regarding the process to determine the composition and governance of the Listing Committee which we believe requires review.

We note that under the current proposal, the Listing Department will be responsible for deciding whether an IPO application or a post IPO matter with suitability concerns or broader policy concerns should be referred to the LRC and the Listing Committee can provide non-binding views to the LRC on the same issues. The current proposal allows the Listing Committee to refer any matter presented to it to the LRC. However, the SFC should also have discretion to refer IPOs and post-IPO matters to the LRC if the SFC considers they raise suitability or broader policy concerns.

Matters involving listed issuers

We note that listing applications are considered on the basis of suitability and the Listing Department has provided guidance on the factors to be considered. For the protection of investors and maintenance of the quality of the Hong Kong market, we believe it is equally important that the suitability evaluation continues post-IPO. The current Listing Rules already empower the LC to test suitability post listing and they outline the action that may be taken if the suitability threshold ceases to be met but we note that this power is seldom used. We strongly recommend that suitability be reviewed on a continuing basis.

Review of listing decisions

No further comment.

Disciplinary matters

No further comment.

Oversight of listing function

BlackRock supports the proposal that the Listing Policy Committee replace the Listing Committee as the body responsible for the oversight of the listing function and, generally, the performance of the Listing Department of its regulatory responsibilities within the Exchange.

With respect to the remuneration of senior management of the Listing Department, we would like to see more transparent disclosure around performance based remuneration and, in particular, the actual performance measures used.

Publication of decisions

No further comment.

Yours faithfully,

Winnie Pun
APAC Head of Government Relations and Public Policy