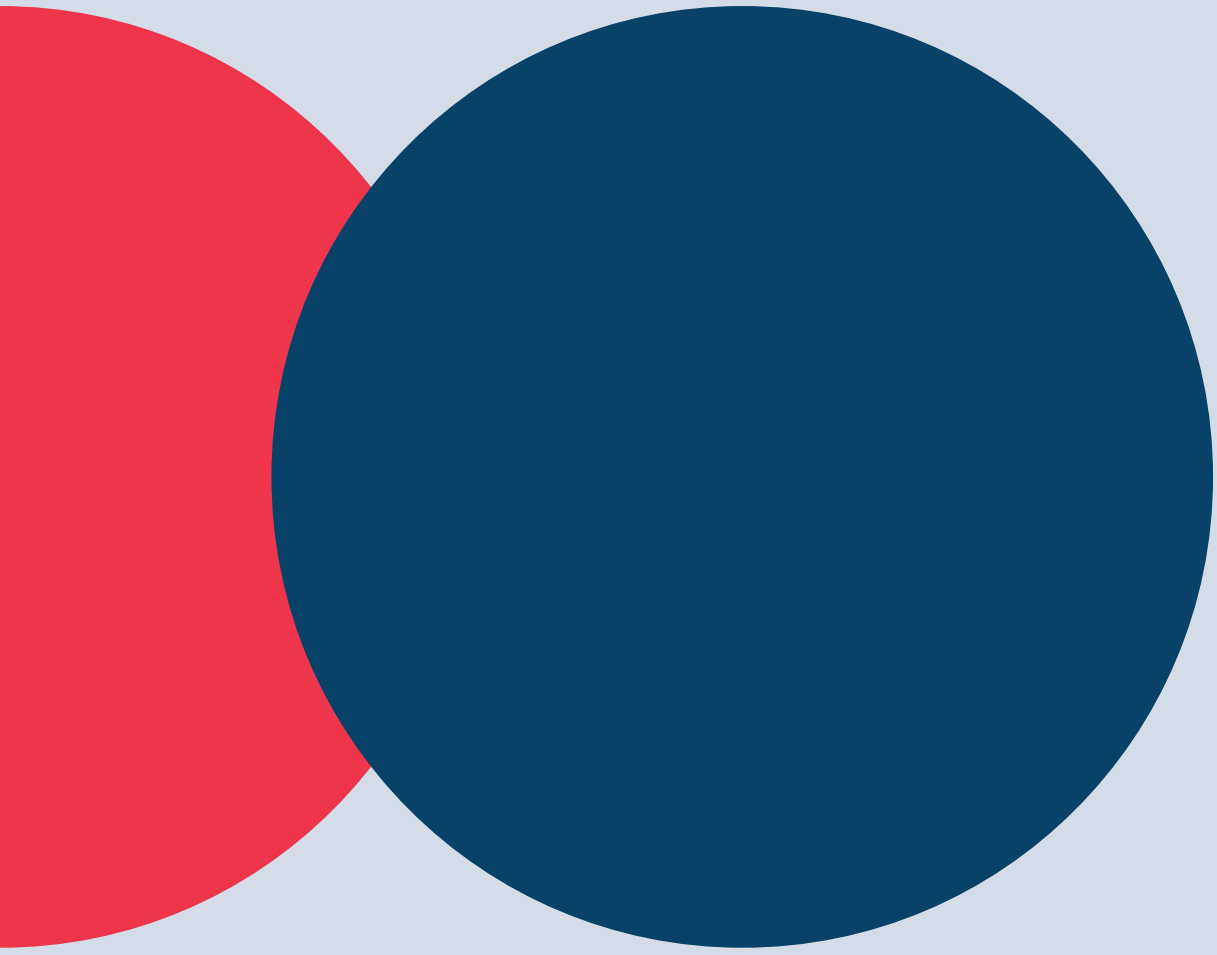
June 2017

HKEX
香港交易所

CONCEPT PAPER

NEW BOARD



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HOW TO RESPOND TO THIS CONCEPT PAPER

The Stock Exchange of Hong Kong Limited ("SEHK"), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited ("HKEX"), invites written comments on the matter discussed in this paper, or comments on related matters that might have an impact upon the matter discussed in this paper, on or before 18 August 2017. You can respond by completing the questionnaire which is available at:

http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp2017061q.doc

Written comments may be sent:

By mail or hand delivery to	Hong Kong Exchanges and Clearing Limited 12/F, One International Finance Centre 1 Harbour View Street Central Hong Kong **Re: New Board Concept Paper**
By fax to	(852) 2524-0149
By e-mail to	response@hkex.com.hk Please mark in the subject line: **Re: New Board Concept Paper**

Our submission enquiry number is (852) 2840-3844.

Respondents are reminded that we will publish responses on a named basis in the intended consultation conclusions. If you do not wish your name to be disclosed to members of the public, please state so when responding to this paper. Our policy on handling personal data is set out in **Appendix I**.

Submissions received during the consultation period by 18 August 2017 will be taken into account before SEHK decides upon any appropriate further action and a conclusions paper will be published in due course.

DEFINITIONS

TERM	DEFINITION
"2013 JPS"	The Joint Policy Statement Regarding the Listing of Overseas Companies jointly issued by the SFC and SEHK in September 2013
"Acceptable Jurisdictions"	Overseas jurisdictions that are acceptable as an issuer's place of incorporation for the purpose of listing in Hong Kong as published on the HKEX website (here)
"AIM"	London Stock Exchange's Alternative Investment Market
"Alibaba"	Alibaba Group Holding Ltd.
"Alphabet"	Alphabet Inc., whose subsidiaries include Google
"ASX"	Australian Securities Exchange
"Baidu"	Baidu, Inc.
"Belt & Road"	A development strategy launched by the PRC government with the intention of promoting economic cooperation among countries along the proposed belt and road routes, primarily between the PRC and the rest of Eurasia
"ChiNext"	A board of the Shenzhen Stock Exchange, which aims to attract innovative and fast-growing enterprises
"CWUMPO"	Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32. of the Laws of Hong Kong)
"DB"	Deutsche Boerse
"Exchange"	Refer to "SEHK"
"Exchange Participant"	An Exchange Participant is a corporation who may trade on or through the Exchange and is licensed under the Securities and Futures Ordinance to carry on securities/ futures/ options dealing activity
"Facebook"	Facebook Inc.
"Financial Adviser"	A proposed professional party to a New Board PRO applicant, who shall be a licensed corporation licensed for Type 6 regulated activity (advising on corporate finance) and subject to the SFC Code of Conduct
"Foreign Private Issuer"	A term defined under Rule 405 of the U.S. Securities Act of 1933, as amended, and Rule 3b-4 of the U.S. Securities Exchange Act of 1934, as amended. The term refers to an issuer incorporated or organised under the laws of a foreign country, except an issuer meeting both of the following conditions: (i) more than 50 per cent. of the outstanding voting securities of the issuer are directly or indirectly held of record by residents of the United States; and (ii) any one of the following: a. the majority of the executive officers or directors of the issuer are United States citizens or residents; b. more than 50 per cent. of the assets of the issuer are located in the United States; or c. the business of the issuer is administered principally in the United States.

"FSDC"	Financial Services Development Council
"GEM"	Growth Enterprise Market, an alternative market to the Main Board
"GEM CP"	A consultation paper dated 16 June 2017 seeking market comments on proposed further changes to the GEM Listing Rules and related changes to the Main Board Listing Rules
"Hang Seng Index Company"	Hang Seng Indexes Company Limited, a leading index compiler in Hong Kong
"HKEX"	Hong Kong Exchanges and Clearing Limited
"IOSCO"	International Organisation of Securities Commissions
"IOSCO MMOU"	IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information
"IPO"	Initial public offering
"JD.com"	JD.com, Inc.
"JPX"	Japan Exchange Group
"Listing Document"	A Prospectus, a circular or any equivalent document (including a scheme of arrangement and introduction document) issued or proposed to be issued in connection with an application for listing
"Listing Rules"	The Rules Governing the Listing of Securities on SEHK (both GEM and Main Board unless otherwise stated)
"LSE"	London Stock Exchange
"Main Board"	The main board of the SEHK
"NASDAQ"	NASDAQ Stock Market
"NEEQ"	National Equity Exchange and Quotations, an over-the-counter system for trading shares of public limited companies
New Board[1]	A new listing board in Hong Kong under SEHK, the details of the proposal for which are outlined in this paper
"New Economy"	Industries include Biotechnology, Health Care Technology, Internet & Direct Marketing Retail, Internet Software & Services, IT Services, Software, Technology Hardware, Storage & Peripherals
"NYSE"	New York Stock Exchange
"PRC"	The People's Republic of China
"Prospectus"	A prospectus as defined under CWUMPO
"Recognised Jurisdictions"	People's Republic of China, Bermuda, Cayman Islands and Hong Kong, as recognised by the Listing Rules for the purpose of eligibility of listing
"Recognised US Exchange"	NYSE and NASDAQ
"SEHK"	The Stock Exchange of Hong Kong Limited
"SFC"	Securities and Futures Commission
"SFC Code of Conduct"	Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission

[1] This term is used for the purposes of this proposal only. If this proposal is pursued, then work will be undertaken to determine an appropriate brand for the board.

"SFO"	Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong)
"SMEs"	Small- and medium-sized enterprises
"SSE"	Shanghai Stock Exchange
"SZSE"	Shenzhen Stock Exchange
"WVR"	Weighted voting rights
"WVR Concept Paper"	Concept Paper on Weighted Voting Rights, HKEX (August 2014) as published on the HKEX website (here)

1 EXECUTIVE SUMMARY

1.1 Purpose

1. This paper seeks market feedback on SEHK's proposed establishment of a New Board, separate from the Main Board and the GEM, to broaden capital markets access in Hong Kong by opening up to a more diverse range of issuers.

1.2 Background

2. Hong Kong has been highly successful in establishing itself as a leading IPO venue. In order to meet the evolving needs of investors and issuers and retain this leading position, it is necessary to continually review our market structure.

3. With this objective, HKEX has undertaken a review of Hong Kong's listing regime and has identified areas where the current regime could be strengthened and expanded to provide access to a more diverse range of companies, so as to better serve investors and issuers in our market, and to enhance Hong Kong as a global financial centre. This has resulted in two sets of proposals:

   (i) The creation of a New Board, which is the subject of this paper.

   (ii) Enhancements to GEM, which are the subject of the separate *Consultation Paper on the Review of the Growth Enterprise Market (GEM) and Changes to the GEM and Main Board Listing Rules* approved by the Listing Committee and issued by SEHK on 16 June 2017.

1.3 The New Board Proposal

4. A review of our current market structure has identified gaps within our current listing regime that need to be addressed in respect of companies from New Economy industries in order to provide greater diversity and investment opportunities to investors in Hong Kong, and to serve the needs of a wider range of issuers. Specifically, the Hong Kong regime currently does not accommodate:

   (a) Pre-profit companies;

   (b) Companies with non-standard governance features; and

   (c) Mainland Chinese companies that wish to secondarily list in Hong Kong.

5. In its paper on *Positioning Hong Kong as an IPO Centre of Choice* issued in June 2014, the FSDC advocated that, through a segmented approach, Hong Kong should seek to better accommodate the needs of different types of issuers:

   > *"Appropriate segmentation should be considered as one possible way to open up the market to investors with different risk appetites and issuers with different profiles. In particular, differentiation of the market according to the level of investors' experience and risk appetite will allow reputable large-cap companies to list with more compliance flexibility, as well as offering an opportunity to companies with small capitalisations which do not fulfill the general listing requirements to consider Hong Kong as a listing venue."*

6. Indeed, other international markets have successfully adopted multiple listing boards or differentiated segments within listing boards as a means of better catering to the needs of

different types of issuers while continuing to enforce effective regulation that protects shareholders.

7. We believe that a segmented approach to our listing board framework would be the best way to attract a greater diversity of issuers to list in Hong Kong, while being able to calibrate shareholder protection standards based on the level of perceived risk in each segment.

8. Accordingly, we have set out a "straw man" proposal for a New Board with two distinct segments:

   (i) New Board PRO, targeted at earlier stage companies that do not meet the financial or track record criteria for GEM or the Main Board; and

   (ii) New Board PREMIUM, targeted at companies that meet the existing financial and track record requirements of the Main Board, but which are currently ineligible to list in Hong Kong because they have non-standard governance structures.

9. New Board PRO would be open to professional investors only, and accordingly would provide a "lighter touch" approach to initial listing requirements. As New Board PREMIUM would be open to retail investor participation, a more stringent regulatory approach would apply.

10. The New Board would also feature an accelerated delisting mechanism for companies that do not adhere to the ongoing listing requirements of the New Board, so as to help ensure the quality of the market.

11. This paper sets out the rationale for and regulatory considerations in connection with setting up a New Board. We seek feedback and views from the public on whether it would be desirable to pursue a New Board in Hong Kong, and assuming such a New Board is to be introduced, we solicit suggestions from the public to help determine the detailed regulatory measures that should be adopted. Specific next steps will be communicated once all public feedback on the proposal has been reviewed.

1.4 Considerations on Hong Kong's Overall Listing Framework

12. A New Board is intended to complement and supplement our existing listing framework. A discussion of how the New Board would fit into the overall listing framework is set out in Section 4.3 of this paper.

13. By taking a segmented approach and accommodating the needs of different types of issuers on a New Board, rather than including them on the Main Board or GEM, we are also able to more easily mitigate concerns that have been raised previously, such as forced participation through inclusion in key benchmark indices.

14. In a separate consultation paper approved by the Listing Committee and published today pursuant to SEHK's regulatory powers and responsibilities, we set out proposals on changes to the GEM Listing Rules to ensure they address the regulatory and market concerns on GEM listing candidates and listed issuers.

15. The GEM CP includes proposals that (1) the concept of a "stepping stone" to the Main Board be removed; (2) initial listing requirements be increased (including raising the minimum market capitalisation from HK$100 million to HK$150 million and an increased cash flow test); and (3) open market requirements be enhanced[2].

16. The GEM CP also proposes an increase to the Main Board initial listing requirements, increasing the minimum market capitalisation from HK$200 million to HK$500 million, increase the minimum public float value from HK$50 million to HK$125 million, and lengthening the lock-up on controlling shareholders upon listing from one year to two years.

17. The proposals set out in this paper and the proposals set out in the GEM CP should be considered separately. However, SEHK recognises that there are certain interdependencies between the two proposals and that the responses to both papers will need to be considered holistically in the final approach.

1.5 Request for Comments

18. Questions related to the detailed policy considerations for the New Board are set out in Sections 4-5 of this paper.

19. As stated, we believe that the proposals set out in this paper are the best way of broadening capital market access in Hong Kong by opening up to a more diverse range of issuers. However, there may be alternative ways of achieving this aim, including but not limited to incorporating the target issuers on the Main Board. HKEX welcomes any suggestions on such alternatives and any further comments that are relevant to the New Board topic.

[2] For further details, please refer to the GEM CP.

2 ENSURING CONTINUED SUCCESS OF HONG KONG'S IPO MARKET

2.1 Hong Kong's Success as an IPO Centre

20. Hong Kong has successfully established itself as an international financial centre and as a leading listing venue. In the past two decades, the market capitalisation of all companies listed on SEHK has grown 790% to stand at HK$29 trillion as at 31 May 2017[3], and SEHK has been the top IPO venue by funds raised in five of the past eight years[4].

21. Factors underlying our success include:

    (a) Our common law system with rule of law upheld by an independent judiciary and a robust regulatory regime, providing confidence to issuers and investors.

    (b) A simple and transparent taxation system.

    (c) An established and large network of professionals, providing accounting, legal and other financial services.

    (d) Our special relationship with Mainland China, which has enabled Hong Kong to benefit from China's scale and growth.

22. The launch of Stock Connect in November 2014 could further enhance Hong Kong's attractiveness as a listing venue in the future as, for the first time, the huge Mainland investor base (who meet minimum criteria[5]) can invest in securities traded on SEHK via their domestic brokers.

23. While Stock Connect currently only provides for secondary trading of securities and international companies are not at present included among the eligible Southbound securities under the Stock Connect programs, HKEX has stated that the scheme is scalable in size, scope and market[6]. HKEX has also indicated that it is seeking to enable cross-border listings in the future through a "Primary Equity Connect" scheme[7].

24. Hong Kong has prospered by facilitating an environment in which Mainland and international issuers and investors are able to meet, and by continuing to innovate to cater to their needs.

[3] Source: HKEX
[4] Source: World Federation of Exchanges. Hong Kong ranked no.1 in 2009, 2010, 2011, 2015 and 2016.
[5] All Mainland institutional investors are eligible to use Stock Connect. Mainland individual investors who hold an aggregate balance of not less than RMB500,000 in their securities and cash accounts are also eligible.
[6] HKEX media presentation, 8 May 2014.
[7] HKEX Strategic Plan 2016-2018.

2.2 Challenges Facing the Hong Kong Market

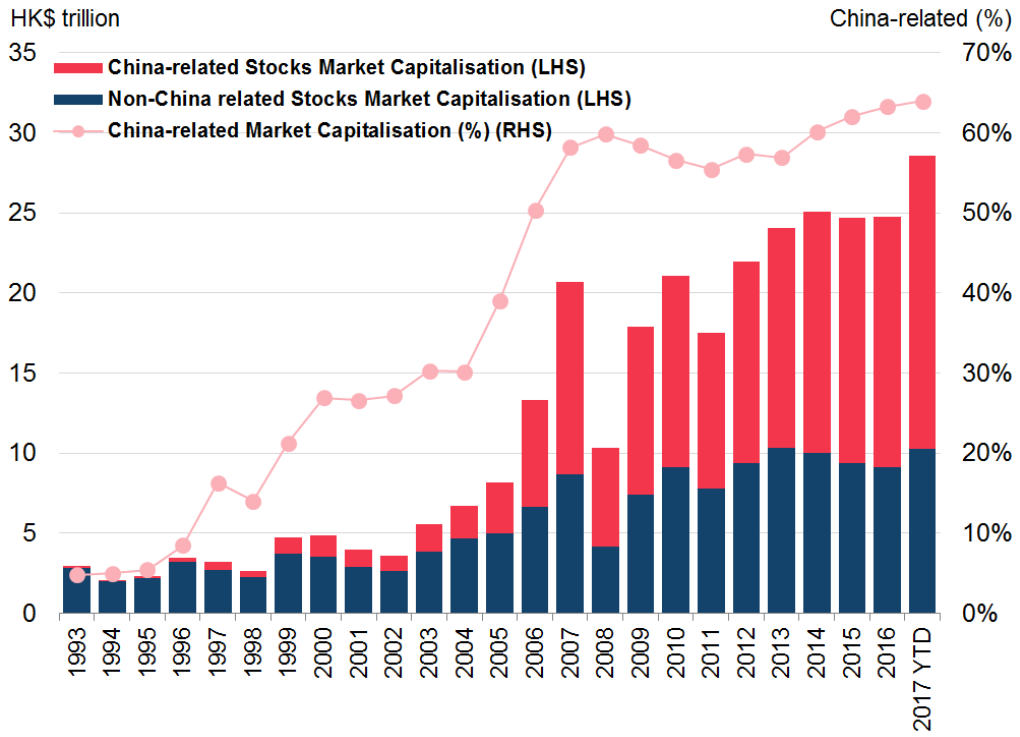
25. Notwithstanding Hong Kong's successes, we face a number of challenges that need to be addressed to secure our long-term future as a preeminent IPO centre.

Geographic Concentration

26. Whilst Mainland issuers have been the key driver of growth in our IPO market, a consequence of our success in attracting Mainland companies has been a significant and growing dependence on the Mainland.

27. From 2006 to May 2017, the concentration of Mainland issuers has increased from 50.3% of the market capitalisation of companies listed on SEHK to 64.0%[8] (see Figure 1). During the five years ending 2016, Mainland IPOs accounted for 60% of the total number of IPOs in the Hong Kong market and 91% of IPO funds raised[9].

Figure 1: Composition of the Hong Kong Market



Source: HKEX (YTD as at May 2017)

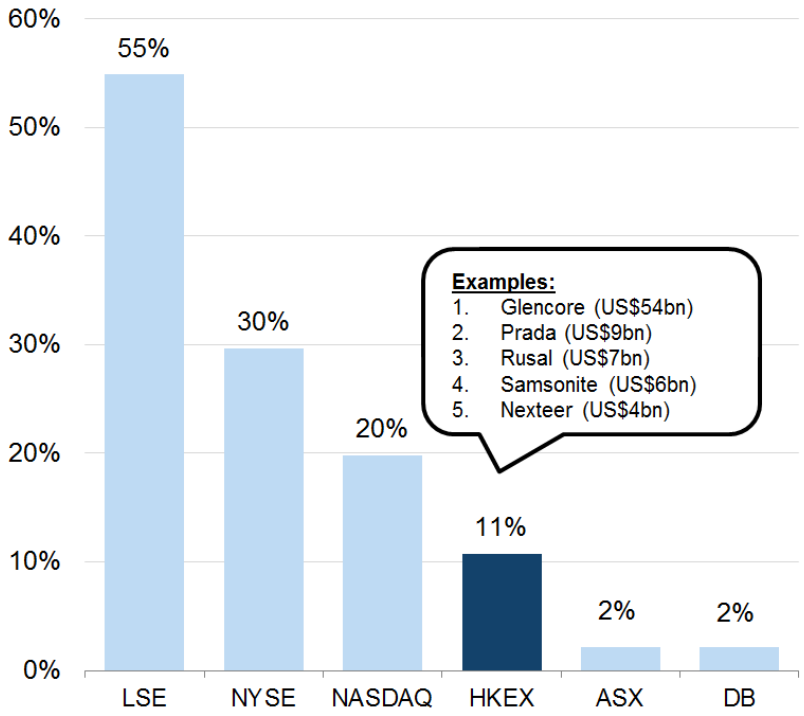
28. Through international marketing efforts, Hong Kong has sought to diversify the sources of listings, with some initial success, by attracting international companies such as Prada[10] and Samsonite[11] (both listed in 2011); however, these listings have tended to be by companies that have strong linkages with China.

[8] Source: HKEX
[9] Source: HKEX
[10] PRADA S.p.A. (Stock Code: 1913)
[11] Samsonite International S.A. (Stock Code: 1910)

29. International companies that have listed in Hong Kong in the past ten years account for only 11% of the total market capitalisation versus 55% for the LSE and 30% and 20% for NYSE and NASDAQ, respectively[12] (see Figure 2). Indeed, as noted by the FSDC[13]:

> *"Although Hong Kong can be justifiably proud of its successes so far, it is still some way from its stated goal of becoming a truly "international" IPO centre…"*

Figure 2: Proportion of International Listings (based on market capitalisation of companies listed in the past ten years)[14]



Source: Bloomberg (as of June 2017)

30. The SFC recently announced that, in support of China's "Belt & Road" initiative, it plans to relax certain jurisdictional requirements for "infrastructure project companies" that meet certain criteria[15]. Therefore, with regards to international companies, this paper only focuses on those that are also New Economy companies.

Concentration in Low Growth Sectors

31. In addition to Hong Kong's high level of dependency on Mainland listings, our market also features high sector concentrations, notably in the financial and property sectors which together make up 44% of the total market capitalisation of the Hong Kong market[16].

32. Companies from New Economy industries that have listed on our market in the past ten years make up only 3% of our total market capitalisation, as compared with 60%, 47% and 14% for NASDAQ, NYSE and LSE, respectively[17] (see Figure 3).

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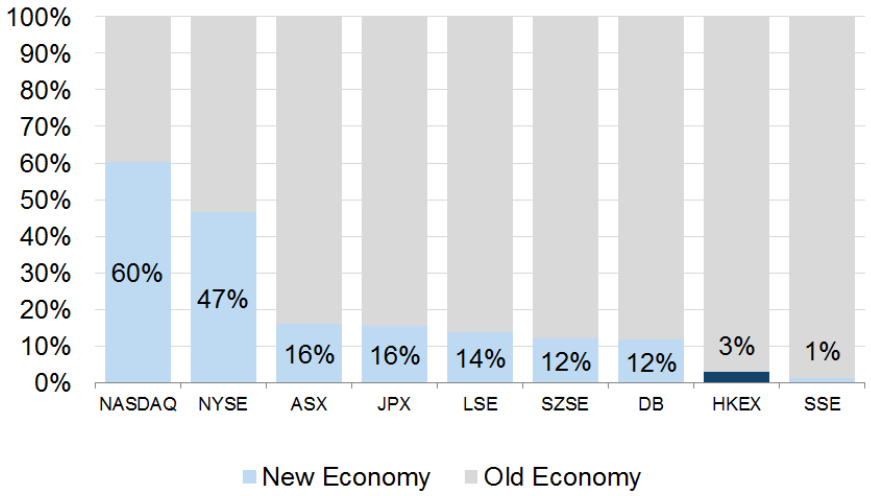
[12] Source: Bloomberg
[13] FSDC Paper No. 9: "Positioning Hong Kong as an IPO Centre of Choice" (June 2014)
[14] Glencore plc (Stock Code: 805); United Company RUSAL Plc (Stock Code: 486); Nexteer Automotive Group Ltd. (Stock Code: 1316)
[15] Statement on the SFC's approach to certain project companies seeking a listing in Hong Kong and the exercise of powers under the Securities and Futures (Stock Market Listing) Rules, 11 April 2017.
[16] Source: HKEX (based on Hang Seng Industry Classification) as of May 2017

Figure 3: **Composition of New Economy and Old Economy Companies Listed in the Past Ten Years (based on market capitalisation)**

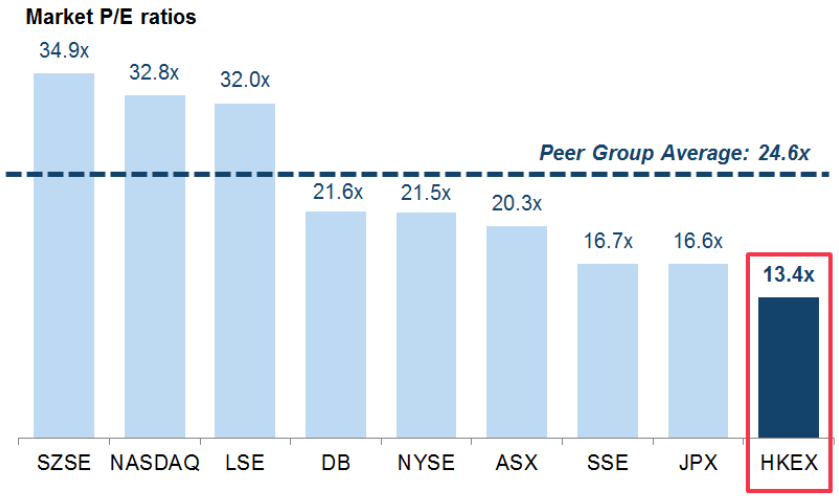


Source: Bloomberg (as of June 2017)

33. Moreover, Hong Kong has minimal weightings in some of the fastest growing industries globally: Pharmaceuticals, Biotechnology & Life Sciences (1%); Healthcare Equipment & Services (1%); and Software & Services (9%, or 1% if Tencent[18] is excluded).

34. Hong Kong's market valuation in terms of price-to-earnings ratio is the lowest among its major peers, trading at 13.4x versus a peer group average of 24.6x[19] (see Figure 4).

Figure 4: Market Valuation of Major Financial Markets



Source: Bloomberg (as of June 2017)

[17] Source: Bloomberg
[18] Tencent Holdings Ltd. (Stock Code: 700)
[19] Peer group includes Shenzhen Stock Exchange (34.9x), NASDAQ (32.8x), London Stock Exchange (32.0x), Deutsche Boerse (21.6x), New York Stock Exchange (21.5x), Australian Securities Exchange (20.3x), Shanghai Stock Exchange (16.7x) and Japan Exchange Group (16.6x). Source: Bloomberg (13 June 2017)

35. There is a significant risk that our market's low exposure to higher growth sectors will lead to stagnation and a lack of investor interest, further depressing valuations and in turn dampening appeal to prospective new issuers.

Competition for IPOs of Large Mainland New Economy Firms

36. In recent years, the Mainland listing venues and regulator have pursued a series of measures to improve the attractiveness of Mainland venues for raising equity capital. Among these were the launch of ChiNext[20] and NEEQ[21] in 2009 and 2012, respectively, to target emerging and innovative companies; the recent announcement of a path to step-up from NEEQ to a listing on ChiNext[22]; and plans for registration-based reform to improve the listing process[23].

37. Taken in aggregate, steps to widen the Mainland markets' offering to prospective issuers and to simplify the onshore listing process are likely to pose an increasing competitive challenge to Hong Kong – particularly when the valuation premium of the Mainland market is taken into account[24].

38. As well as the rising competitive threat from Mainland listing venues outlined above, Hong Kong has faced heavy competition from the US for the listings of some of the most sought after Mainland companies from the information technology sector.

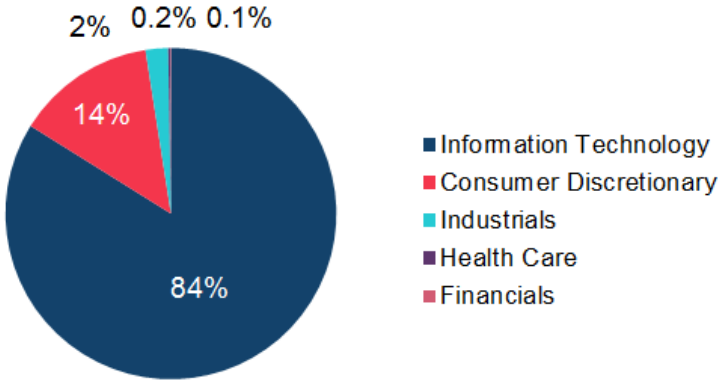
39. One major attraction of the US market for many such companies is that WVR structures are permitted there, whereas the Hong Kong market does not allow them.

40. Although only 33 out of 116 (28%) Mainland companies with primary listings in the US have WVR structures[25], their combined market capitalisation of US$561 billion represents 84% of the market value of all US-listed Mainland companies[26]. Their market capitalisation is equivalent to 15% of the entire market capitalisation of the Hong Kong market[27].

41. Moreover, 18 out of 33 (55%) US-listed Mainland Chinese companies with WVR structures[28], accounting for 84% of market capitalisation (see Figure 5), are from precisely the information technology industry that the Hong Kong market is underweight in.

[20] ChiNext is a board of the Shenzhen Stock Exchange, which aims to attract innovative and fast-growing enterprises, especially high-tech firms. Its listing standards are less stringent than those of the Main and SME Boards of the Shenzhen Stock Exchange.
[21] The National Equities Exchange and Quotation (NEEQ), also known as "New Third Board" is an over-the-counter ("OTC") market that provides a greater depth of financing options for Mainland Chinese small-to-medium enterprises.
[22] The plan was mentioned by the State Council in the "13th Five Year" Plan for the Development of Strategic Emerging Industries (published in December 2016). In February 2017, the Shenzhen Stock Exchange said it would positively promote the pilot programme of the qualified NEEQ-listed companies to go public via the ChiNext board.
[23] A registration-based regime is expected to have a lower threshold and simplified listing process while having greater emphasis on post-listing information disclosure. It is believed that this would reduce the backlog of IPO applications under the current approval-based regime.
[24] As at 13 June 2017, onshore A-shares traded at a 24% valuation premium to Hong Kong-listed H-shares of the same issuers – based on Hang Seng China AH Premium Index.
[25] Source: Bloomberg (as of 13 June 2017)
[26] Source: Bloomberg (as of 13 June 2017)
[27] Source: Bloomberg (as of 13 June 2017)
[28] 18 out of 33 Mainland Chinese companies listed in the US with WVR structures belong to the information technology sector. Source: Bloomberg (as of June 2017).

Figure 5: Breakdown of US-listed Chinese WVR Companies by Sector (by market capitalisation)



Source: Bloomberg (as of June 2017)

42. Of course, there may be other factors for these companies when choosing the US as a listing venue, such as an established investor ecosystem familiar with the technology sector. However, the fact that these include "titans" of the Mainland internet sector such as Alibaba, Baidu and JD.com could be a significant influencing factor for other Mainland issuers from this sector in their selections of a listing venue, which in turn may be stifling the development of sector expertise among Hong Kong-based investors.

43. At the time of writing, Singapore is actively considering allowing the listing of companies with WVR structures, while London is considering an "international segment" on which large international companies with WVR structures can list[29]. If they do choose to adopt these, they could pose an additional threat to Hong Kong as an IPO centre.

2.3 How to Ensure the Hong Kong Market's Continued Success

44. To address these challenges, Hong Kong needs to improve its competitiveness by pursuing strategies to increase the diversity of our offering to investors and our attractiveness to issuers.

45. As the capital markets needs of issuers evolve, Hong Kong needs to adapt to maintain its relevance, while ensuring that appropriate and robust regulatory standards are maintained to protect the interests of investors.

46. Stock Connect positions Hong Kong as the primary venue for Mainland investors to gain exposure to non-Mainland equities. As financial market liberalisations in the Mainland continue, only by offering a wide range of investment exposures will Hong Kong be able to reduce the risk of being bypassed by Mainland investors going directly to overseas markets.

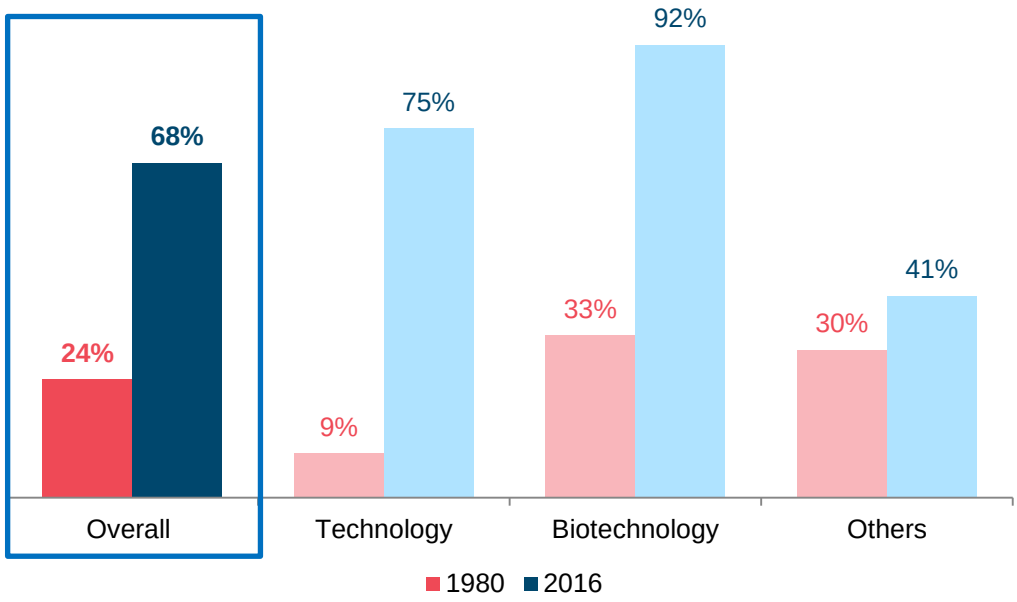
47. HKEX has identified a number of significant barriers to listing in Hong Kong faced by New Economy companies, which need to be addressed to maintain our competitiveness.

[29] The UK Financial Conduct Authority published a "Review of the Effectiveness of Primary Markets: The UK Primary Markets Landscape" on 14 February 2017. SGX issued a market consultation paper entitled "Possible Listing Framework for Dual Class Share Structures" on 16 February 2017.

Pre-profit Companies

48. Technological innovation and globalisation have radically altered the face of entire industries over the past few decades. The internet age in particular has seen managers in innovative industries prioritise market share over profits, with the apparent support of public market investors. As a testament to this, the proportion of "pre-profit" issuers listing in the US has climbed from 24% in 1980 to 68% in 2016[30] (see Figure 6).

Figure 6: Percentage of US IPOs that are Pre-profit Companies[31]



49. In certain high growth sectors, such as Biotechnology, listings of companies without a long track record of profitability is the norm, with over 90% of US listings in this sector in 2016 being of companies that have yet to make a profit. This is because many of the companies engaged in this field raise capital for the specific purpose of research and development of products that have not yet reached the commercialisation stage. They are therefore, in many instances, without revenue – let alone profits or positive cash flow.

50. To list on the Main Board in Hong Kong, an issuer must have a trading record of at least three years and fulfill one of three financial tests[32]. At the very minimum, an issuer must have aggregate profits of HK$50 million in the most recent three financial years and a market capitalisation of HK$200 million at the time of listing. If not profitable, alternative criteria require at least HK$500 million of revenue on the latest financial year.

51. GEM's lower thresholds require a trading record of at least two years and aggregate cash flow of HK$20 million in the two years prior to listing, subject to a minimum market capitalisation of HK$100 million[33]. However, given that the minimum cash flow requirement on GEM implicitly

[30] Professor Jay Ritter, University of Florida, IPO Statistics (2016)
[31] Last 12 months' earnings per share at IPO is negative
[32] (1) Main Board profit test: Profit of at least HK$50 million in the last three financial years (with profits of at least HK$20 million in the most recent year, and at least in aggregate HK$30 million recorded in the two preceding years); (2) Main Board market capitalisation / revenue test: at least HK$4 billion of market capitalisation with HK$500 million in revenue in the latest financial year; (3) Main Board market capitalisation / revenue / cash flow test: at least HK$2 billion in market capitalisation with HK$500 million of revenue in latest financial year and positive cash flow from operating activities of at least HK$100 million in aggregate for the three preceding financial years.
[33] Source: HKEX

dictates that an issuer must have revenues, in practice around 95% of the companies listing on GEM were profitable at the time of listing[34].

52. In contrast, all three tiers of NASDAQ allow companies without profit or revenue records to list[35], while LSE's AIM and Singapore's Catalist impose no financial or track record criteria whatsoever[36].

53. For issuers from overseas markets that are not from one of three Recognised Jurisdictions[37], the 2013 JPS requires an issuer to demonstrate that the jurisdiction of incorporation has shareholder protection standards at least equivalent to those under Hong Kong law[38]. If this is not the case, overseas companies can achieve equivalent standards by varying their constitutional documents to provide these protections.

54. Typically, the first issuer from any market that is not already an Acceptable Jurisdiction under the 2013 JPS is required to provide analysis to demonstrate its ability to provide such equivalence. For a pre-profit company, this not only increases the cost burden of a Hong Kong listing, but also entails uncertainty as to whether they can satisfy our requirements before incurring such cost. It is therefore a significant disincentive to listing in Hong Kong.

55. 78 out of the 106 jurisdictions with regulatory cooperation arrangements in place are not, for the purposes of listing in Hong Kong, currently designated as Recognised Jurisdictions or Acceptable Jurisdictions.

56. By comparison, competitor venues have regimes that are able to accommodate many of these companies. The US has an established special "Foreign Private Issuer" regime that accommodates overseas companies by acknowledging the difficulties they often face in meeting the rules for domestic companies, because of their origin. In the UK, a "level-playing field" is applied and the same requirements are applicable to both overseas companies and domestic companies; however, both have the choice of meeting either a higher "premium" tier of regulation or minimum "standard" requirements.

57. If the Hong Kong market is to serve the needs of New Economy companies, it may therefore, be necessary to offer these companies a venue that provides an alternative to the financial and trading record requirements of our existing Main Board and GEM. In addition, it may be necessary to not require these companies to vary their constitutional documents to provide equivalent shareholder protection standards to those in Hong Kong.

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[34] Based on GEM listings between 2010 to 2016 (Source: HKEX)

[35] Source: listing rules of respective exchanges
- NASDAQ Global Market – Market Value Standard Test: Minimum market capitalisation of US$75 million
- NYSE – Global Market Capitalisation Test: Minimum market capitalisation of US$200 million

[36] Source: listing rules of respective exchanges
- LSE (AIM): No minimum criteria in relation to company size, track record, country of origin or set number of shares to be in public hands but the company must be appropriate for the market as determined by the nominated advisor
- SGX (Catalist): no minimum operating track record, profit or share capital requirement but is expected to meet the following conditions:
  1. Public float of at least 15%;
  2. At least 200 public shareholders; and
  3. Allocation value of the shares at IPO for each investor must be at least S$200

[37] People's Republic of China, Bermuda and Cayman Islands

[38] Listing Rule 19.05(1)(b) and note.

Companies with Non-Standard Governance Structures

58. Entrepreneurial company founders sometimes seek to avoid dilution of control after raising equity capital through venture capital funding rounds. A method of doing so is via WVR structures that give them voting control disproportionate to their economic interest in the company.

59. WVR structures have been prevalent in innovative companies in the technology sector, including such well-known names as Alphabet and Facebook, which rely heavily on the technical expertise and market knowledge of their owner managers.

60. It is argued that companies employing these structures empower those who have the long-term interests of the company at heart to exercise that control in the long-term best interests of the company, rather than to bow to the whims of the short-term interests of public market shareholders.

61. Hong Kong's de facto ban on listings of companies with WVR structures rules out all such potential issuers from seeking a listing in Hong Kong. Unless this is repealed, we will not be able to compete for listings of these companies.

Mainland Companies Already Listed Elsewhere

62. As noted in Section 2.2, a number of large Mainland Chinese companies from the New Economy sectors have already sought listings elsewhere.

63. Currently, under the 2013 JPS, companies with a "centre of gravity" in Greater China are prohibited from pursuing a secondary listing in Hong Kong. The intention of this prohibition is to discourage such companies from seeking to avoid the more stringent rules that apply to primary listings by listing via an overseas listed shell. Since this restriction was applied, several Mainland Chinese companies have listed on overseas markets, principally the US, for reasons other than "regulatory arbitrage" (see paragraph 42). The application of the "centre of gravity" prohibition now prevents these Mainland companies from accessing Hong Kong investors via a secondary listing.

64. As stated in paragraph 53, the 2013 JPS requires prospective issuers to demonstrate equivalent shareholder protection standards to those in Hong Kong. In practice, however, for companies that are already listed elsewhere, the practical requirements for varying their constitutional documents can be arduous (including calling a general meeting to request majority or super-majority shareholder approval for the relevant variations), and this can deter companies from pursuing a dual primary or secondary listing in Hong Kong.

65. In order to attract Mainland New Economy issuers that have already listed elsewhere to list in Hong Kong, therefore, it also is likely to be necessary to not apply the "centre of gravity" test stipulated in the 2013 JPS. In addition, where such companies have listed elsewhere, it may be necessary, in some circumstances, to not impose a requirement for equivalent shareholder protection standards to those in Hong Kong (and, by implication, rely on the standards of their jurisdiction of primary listing), so as to allow these companies to list in Hong Kong without requiring extensive changes to their existing governance structures.

2.4 Scale of the Opportunity

66. Amendments to our listing criteria and eligibility are no guarantee that additional listings will come to Hong Kong. As pointed out above, issuers' selection of listing venue will take into account

many considerations including aftermarket liquidity, analyst coverage, investors' familiarity with the issuer's brand or industry, and other factors that make up the overall market ecosystem. In enhancing Hong Kong's attractiveness and competitiveness as an IPO centre, it will be necessary to address all of these factors and it will take time.

67. That being said, without a framework that makes it possible to list in Hong Kong, it will not be possible for certain types of issuers to even consider a Hong Kong listing. Therefore, to assess the scale of the opportunity, we have analysed the size of the addressable market that changes to our listing eligibility criteria would enable Hong Kong to compete for.

68. Since the pipeline of future listings is difficult to fully capture, we have looked at the amount of IPO funds raised over the past ten years by issuers in our target categories that would not have been able to list in Hong Kong due to our listing eligibility criteria.

Pre-profit Companies

69. In the past ten years, over 6,000 Mainland companies that did not meet our Main Board profitability test or GEM cash flow test have listed on NEEQ, NYSE and NASDAQ[39]. The number of those with a minimum market capitalisation of at least HK$200 million (the minimum for the Main Board) amounted to 1,502.

70. Of these, 42 listed on NYSE or NASDAQ and 1,460 listed on NEEQ, respectively raising US$7.2 billion and US$7.8 billion, in aggregate equivalent to 5% of the IPO funds raised in Hong Kong over the same period[40]. In terms of sector breakdown, 55% of these funds raised were by companies in New Economy sectors[41].

71. In addition to Mainland companies, there are also a notable number of non-Mainland Chinese New Economy companies with significant revenue from Mainland China that would not have met the financial eligibility criteria requirements of the Main Board that could have otherwise been attracted to list in Hong Kong.

Companies with Non-Standard Governance Structures

72. The amount of funds raised by Mainland companies with WVR structures that listed in the US in the past decade totalled US$34 billion, or 11.5% of the IPO funds raised in Hong Kong over this period[42].

73. As highlighted above, 83% of these by market capitalisation are from the information technology sector. The median stock price performance since listing of these companies has been 11% versus 5% for the Hang Seng Index[43].

2.5 Conclusions

74. While Hong Kong has been highly successful as an IPO centre, our market has high industry concentrations and is underweight in high growth sectors, meaning that an investor in a passive fund tracking the Hong Kong market would have had limited exposure to the performance of high growth industries.

[39] Source: Bloomberg, WIND
[40] Source: Bloomberg, HKEX
[41] Source: Bloomberg, WIND
[42] Source: Bloomberg, HKEX
[43] Source: Bloomberg

75. For pre-profit companies and issuers with WVR structures, there is little or no possibility of pursuing a listing in Hong Kong. However, attracting issuers from these categories is necessary to help address the lack of growth exposures in our market, and to maintain our competitiveness as an IPO venue.

76. In order to allow Mainland New Economy companies that have already listed elsewhere to list in Hong Kong, it is also likely to be necessary to not apply the "centre of gravity" test for those wishing to secondary list, and – at least in some circumstances – not apply the requirement for equivalent shareholder protection standards under the 2013 JPS.

77. In aggregate, the IPO funds raised by companies in categories targeted by the New Board for which Hong Kong was unable to compete for the listings totalled US$49 billion in the past ten years, or 17% of the IPO funds raised in Hong Kong over the same period. The opportunity for Hong Kong is therefore large.

78. If Hong Kong is to be able to compete for such listings, then changes to broaden our listing eligibility criteria will be required. At the same time, however, we need to ensure that Hong Kong's robust regulatory framework is maintained. This is examined in the following section.

3 MAINTAINING ROBUST REGULATORY STANDARDS WHILE EXPANDING OUR LISTING CRITERIA

3.1 Striking the Right Balance

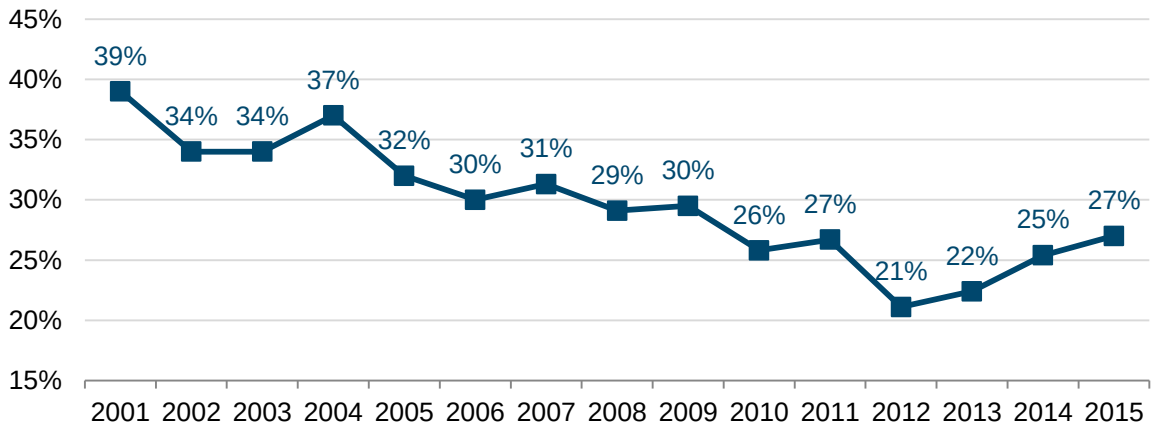
79. Regulation in financial markets should balance the needs of business against the need to protect those that may be vulnerable. In general, the more sophisticated the investor, the less regulatory protection is required.

80. At one end of the spectrum, the US market, where trading is dominated by large institutional investors[44], the regulatory framework follows a "disclosure-led" approach, whereby so long as investors are given full information, there is a high degree of flexibility in the governance and other standards that a listed company can choose to adopt.

81. At the other end of the spectrum, 80% of the Mainland equity market's turnover is accounted for by retail investors[45]. Given the predominance of relatively unsophisticated market users, the Mainland follows a more highly controlled regulatory approach.

82. Hong Kong's regulatory approach falls somewhere between the US and the Mainland. The proportion of retail participation in our market has declined from 39% of our secondary trading turnover in 2001 to 27% in 2015 (see Figure 7), or near the middle of the range of other major international markets[46]. Accordingly, the regulatory regimes for the Main Board and GEM provide some flexibility to issuers while imposing more prescriptive shareholder protection standards.

Figure 7: Hong Kong Retail Investor Participation (Percentage of market turnover)



Source: HKEX Cash Market Transaction Survey

[44] Source: U.S. Securities and Exchange Commission – Institutional Investors: Power and Responsibility (April 2013)
[45] Source: Bloomberg
[46] HKEX Cash Market Transaction Survey 2014/15. Other markets' retail participation (Source: Respective exchanges' disclosure, research reports, press comments):

- Mainland China: 42% (based on equity value held)
- United States: 37% (based on equity value held)
- Singapore: 30% (based on turnover)
- Japan: 18% (based on equity value held)
- United Kingdom: 11% (based on equity value held)
- Australia: 10% (based on turnover)

83. In determining the regulatory approach to the New Board, it will be necessary to consider who the investors will be and the potential risks associated with the issuers on that board to strike an appropriate balance.

3.2 Key Investor Protection Measures in Hong Kong

84. In addition to having to meet minimum initial listing eligibility criteria, there are five broad means through which shareholder protection is upheld on GEM and the Main Board:

1. Sponsor Regime

85. A listing applicant is required to formally appoint a sponsor, who is responsible for carrying out due diligence, ensuring appropriate disclosure in the Listing Documents, verifying compliance with the Listing Rules, determining an issuer's suitability for listing and notifying regulators in any instances of non-compliance.

86. Given the high standards of care expected of sponsors, the sponsor due diligence process can add significantly to the time and professional costs involved in listing.

2. Listing Committee Supervision

87. Under delegated authority from the SEHK Board, the Listing Committee[47] is responsible for approval of Main Board listing applications and ensuring the suitability of listing candidates and the quality of disclosures. The Listing Committee also makes decisions on cancellations of listings, disciplinary matters and is responsible for hearing appeals against decisions of the Listing Committee or Listing Department.

88. For GEM applications, vetting of listing applications and approvals are delegated to the Listing Department with the aim of allowing faster handling of listing applications.

3. Disclosure Standards at Listing

89. Under CWUMPO, a Prospectus is required for a public offering of shares in Hong Kong. Both CWUMPO and the Listing Rules prescribe detailed disclosures that are required to be made in a Prospectus, including a statement of risks, management discussion and analysis, financial statements, use of proceeds, biographies of officers and directors, material agreements, a property report and any other information required for an investor to make a fully informed investment decision.

90. Under the SFO and CWUMPO, directors bear civil and potential criminal liability for misstatements in the Prospectus, thereby encouraging a high standard of disclosure.

91. Given the prescriptive nature of the contents of a Prospectus and high standards of disclosure, the time and cost of preparation can be significant. For example, the property report may require the engagement of a professional property surveyor, which adds to the overall professional costs.

92. If a listing takes place without a public offering, such as via a placement to professional investors under Chapter 37 of the Listing Rules for debt issuance, a Prospectus is not required. In such

[47] The Listing Committee is composed of 28 members. These include market professionals drawn from asset management, legal and accounting circles with the relevant experience to oversee the listing functions of SEHK. The Chief Executive of HKEX is also an ex officio member of the Listing Committee.

instances, an issuer is only required to prepare a less prescriptive Listing Document that contains all material information that would be required by a professional investor in order to make an investment decision.

4. Continuous Listing and Corporate Governance Obligations

93. In addition to rights afforded to shareholders by Hong Kong law (including SFO requirements), the Main Board Listing Rules require that issuers comply with certain ongoing obligations:

(a) **Timely disclosure of material information** affecting the financial performance of the company and of any material transactions.

(b) **Publication of financial statements** for the half-year and full-year under prescribed accounting standards within set deadlines.

(c) **Notifiable and connected party transaction rules** apply where the issuer is engaged in (1) a notifiable transaction; or (2) a transaction involving a connected person, under which transactions over certain thresholds require shareholder approval and any connected person is not entitled to vote on the transaction.

(d) **Directors** are expected to satisfy the Exchange that they are suitable to be a director of a listed company[48]. A minimum of three independent non-executive directors must be appointed and must comprise at least one third of the board.

(e) **A qualified company secretary** must be appointed to help advise on corporate governance matters.

(f) **General meetings** are required to be held at least every 15 months, with members given reasonable notice of the meeting and the right to speak and vote. Shareholders have the right to vote on the appointment of directors, issuance of further securities and large and/or connected transactions at general meetings, among other things. Further, shareholders holding 10% or more of the outstanding shares have the right to convene an extraordinary general meeting and add resolutions to a meeting agenda.

(g) **Super-majority voting** is required from shareholders on certain fundamental matters such as changes to rights of any class of shares, material changes to constitutive documents, and voluntary winding up.

(h) **Minimum quantitative criteria** including requirements to maintain at least 25% of the total number of issued shares in the hands of the "public".[49]

(i) **Pre-emption rights** for existing shareholders to protect investors from dilution.

94. These continuous listing obligations impose restrictions on listed companies and, to some extent, can reduce management flexibility.

5. Suspension and Enforcement

95. SEHK will suspend a listed company's securities if:

(a) it fails to publish financial information within the deadlines set out in the Listing Rules;

[48] This includes being deemed to have the necessary character, experience and integrity and being able to demonstrate a necessary standard of competence.
[49] The Exchange may, at its discretion, accept a lower percentage between 15% and 25% in case the issuer's expected market capitalisation at the time of listing is over HK$10 billion.

(b) SEHK considers that the company or its business are no longer suitable for listing;

(c) it has insufficient securities in the hands of the public; or

(d) it has an insufficient level of operations and assets to warrant continued listing of the company's shares.

96. In addition to the reasons for suspension set out above, the SEHK will suspend if directed to by the SFC under the SFO (known as a "Rule 8" suspension)[50] .

97. In the event that an offence leading to suspension is not remedied, delisting proceedings would commence following a three-stage process. SEHK can also delist a company in other circumstances and can also delist without a preceding suspension.

98. In addition to the role of SEHK in regulating companies seeking admission to or listed on the Main Board and GEM through the Listing Rules, the conduct of listed companies is also regulated by the SFC. The SFC plays a leading role in market regulation and certain areas of listing regulation and a complementary role through the exercise of its statutory powers of investigation and enforcement in cases involving corporate misconduct.

3.3 Potential Risks Associated with the Targeted Issuers

Low Company Success Rates

99. New Economy companies without a track record of business operations or profitability are likely to involve higher risks. While early stage companies are recognised widely as essential engines for economic growth with the potential to produce very high returns for their investors in the long term, many such companies will not succeed and could cause shareholders to lose part or possibly all of their investment.

100. The US Bureau of Labor Statistics[51] data on survival rates of Silicon Valley high-tech firms between 1991 and 2009 shows that about 50% of these firms survived five years after starting (i.e. about 50% fail). After 10 years of starting, about 25% of these firms had survived. After 15 years of starting, only about 13% of these firms were still in business[52].

Risk of "Old Economy" Companies Listing on the New Board

101. The intention of the New Board proposal is to attract more high growth companies from innovative sectors, or so-called New Economy companies. However, it is hard to define such companies, since they may encompass a range of different sectors. Moreover, innovation is not necessarily restricted to technology-related industries and the definition of such companies is likely to evolve over time.

102. That being said, if there is no sector or other definition of such companies, it could be possible for companies from industries that we are not seeking to attract to list on the New Board. These "old economy" companies may take advantage of the pre-profit entry requirements but have less

[50] The SFC's power under Section 8(1) of the Securities and Futures (Stock Market Listing) Rules (Cap. 571V) to suspend trading.
[51] US name and American spelling.
[52] United States Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, "Survival and Growth of Silicon Valley high-tech businesses born in 2000" (September 2011), Chart A1, page 27 (link here).

potential for future growth. Over time this may lower the actual or perceived quality of the New Board and weaken its purpose.

Entrenchment and Expropriation Risks Associated with WVR Structures

103. If a company has a WVR structure, its managers are insulated (to a degree that depends on the nature of the WVR structure) from the threat of removal. Shareholders with WVR structures have a greater ability, for example, to vote down takeover proposals at general meetings. This means that no matter how poorly they perform, it is difficult for the company's fortunes to be revived by an outside bidder replacing management, without management consent.

104. Some empirical studies argue that controlling shareholders may be more likely to extract benefits from a company for themselves at the expense of other shareholders, as their economic interest in a company falls[53]. This is on the basis that they can enjoy 100% of the benefits they take out of a company whilst suffering a smaller downside (through the reduction in the value of their equity stake in the company resulting from their extraction of private benefits).

Exemption from Requirement for Hong Kong Shareholder Protection Standards

105. All overseas companies[54] listed on the Main Board and GEM are currently required to provide standards of shareholder protection that are equivalent to those of Hong Kong.

106. However, as stated in paragraph 54, this often creates a cost burden and becomes a disincentive to list in Hong Kong. If companies are able to list in Hong Kong without having to meet equivalent standards, Hong Kong shareholders may not have the same level of protection as they would for existing listed companies.

3.4 Considerations on Investor Eligibility

107. The FSDC has previously advocated segmentation of our listing boards to accommodate the needs of riskier issuers through segregation between retail and professional investors[55]:

> *"… the market can accommodate transactions and issuers that do not suit a typical retail investment profile – for example, issuers with a high-risk business or corporate profile, or proposed deal structures that do not give all of the normal protections to investors equally."*

108. Total exclusion of retail investors from access to higher risk issuers may not be entirely desirable, however, and may in itself give rise to other risks. For example, a market comprised entirely of professional investors may lack liquidity, which poses greater risks of volatility and may make the market less attractive to issuers.

[53] For example, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer and Robert W. Vishny, "Investor Protection and Corporate Governance" (1999); Stijn Claessens, Simeon Djankov and Larry H.P. Lang , "The separation of ownership and control in East Asian Corporations" (2000); and Mara Faccio and Larry H.P. Lang, "The ultimate ownership of Western European corporations" (2002).
[54] Companies incorporated in a jurisdiction outside Hong Kong.
[55] FSDC Paper No. 9: "Positioning Hong Kong as an IPO Centre of Choice", (June 2014)

109. Furthermore, retail investors may oppose being excluded from investing in companies that may be perceived to be higher growth or as offering greater opportunities for investment gains, as happened in the first GEM consultation[56]. Only two junior markets among major equity markets we have examined exclude retail investors: TOKYO PRO and NEEQ.

110. Therefore, we are seeking views from the market as to the investor eligibility criteria for a New Board and, where retail investors are permitted to access the market, this will necessary entail a stringent regulatory regime for issuers, and vice versa. Segmentation, or tiering, within the New Board could be adopted to differentiate between the regulatory approach to different categories of issuers.

111. Some regulatory requirements will be "non-negotiable" if retail investors are to be included. For example, the requirement to issue a Prospectus under the CWUMPO in the case of a public offering is not something that is within the power of SEHK or the SFC to alter without legislative amendments.

112. In the following sections, we set out a "straw man" proposal and invite feedback from the market to help determine the detailed regulatory measures to be adopted.

[56] Before its launch, GEM was intended to be a professionals-only market, in view of the high risk of growth company shares. However, by the time the market opened, retail investors were allowed to participate as it was envisaged that there would be retail interest in growth companies.

4 THE NEW BOARD PROPOSAL

4.1 "Straw Man" Proposal

113. For the sole purpose of soliciting feedback, we set out here a "straw man" proposal for the admission criteria and regulatory approach to a potential New Board.

114. It is proposed that the New Board be divided into two segments to cater to the different needs of different types of issuers and investors.

115. The general characteristics of each segment are set out below.

(a) New Board PRO[57]

(i) Open to professional investors only.

(ii) No track record or minimum financial criteria, subject to a minimum market capitalisation at the time of listing of HK$200 million[58].

(iii) Regulatory cooperation requirement under the 2013 JPS would continue to apply but issuers will not be required to provide equivalent shareholder protection standards.

(iv) No restriction on secondary listings by Mainland Chinese companies.

(v) WVR structures permitted.

(vi) A "lighter touch" approach to initial listing requirements.

(b) New Board PREMIUM[59]

(i) Open to both retail and professional investors.

(ii) Quantitative entry requirements equivalent to those of the Main Board[60] in force from time to time.

(iii) Regulatory cooperation requirement under the 2013 JPS would continue to apply but listings by companies listed on Recognised US Exchanges (NYSE and NASDAQ) will be exempted from having to provide equivalent shareholder protection standards.

(iv) No restriction on secondary listings by Mainland Chinese companies.

(v) WVR structures permitted.

(vi) A more stringent approach to initial listing requirements.

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[57] This term is used for the purposes of this proposal only. If this proposal is pursued, then work will be undertaken to determine an appropriate brand for the board.
[58] This is the prevailing minimum market capitalisation for the Main Board.
[59] This term is used for the purposes of this proposal only. If this proposal is pursued, then work will be undertaken to determine an appropriate brand for the board.
[60] Including a requirement that applicants meet one of three current financial eligibility tests: (a) the Profit Test; (b) the Market Capitalisation / Revenue / Cash Flow Test; and (c) the Market Capitalisation / Revenue Test. As described in paragraph 16 of this paper, SEHK proposes in the GEM CP changes to the eligibility requirements of GEM and the Main Board.

116. The SFC recently announced that, in support of China's "Belt & Road" initiative, it would take into account a number of factors where no regulatory cooperation agreement is in place with the jurisdiction of the issuer in the case of "infrastructure project companies"[61]. For this reason, it is felt that our "straw man" proposal does not need to provide further for companies from jurisdictions that are not signatories to the IOSCO MMOU.

4.2 Why a New Board?

117. One possible approach is to include the targeted types of issuer on the Main Board or GEM via new chapters to the Listing Rules. However, by establishing a New Board, we would clearly distinguish and segment the targeted new issuers and, in doing so, address the following concerns.

1. Market quality concerns

118. The Main Board is currently positioned as a board for the largest companies that can meet the highest standards. It has been expressed that it is desirable to preserve and enhance the reputation of the Main Board as our "premier" board and not include the targeted issuers that carry risks that are new and different. Segregating these companies to the New Board would address these concerns and would also ensure that there is no confusion as to the purpose and perception of the Main Board.

2. Satisfies regulatory expectations

119. In its June 2015 public statement, the Board of the SFC expressed concern that SEHK's draft proposal on WVR structures would not restrict the extent to which WVR structures would be permitted to list on the Main Board and questioned whether the proposals would be effective to prevent circumvention by ineligible applicants. Restricting WVR structures to a New Board, rather than the Main Board, would mean the Main Board would not be affected by any attempt at circumvention.

3. Index inclusion

120. Hang Seng Index Company's index inclusion criteria for Hong Kong's main local benchmark indices[62] state that companies are only eligible for inclusion if they are listed on the Main Board. In its June 2015 public statement on SEHK's draft proposal on WVR structures, the Board of the SFC cited this as one of the reasons it did not support the Main Board listing of companies with WVR structures. It stated that large WVR companies would be likely to become index components which will compel index funds and other types of "passive" institutional investors (which invest public money) to buy and hold their stocks even if fund managers disagree with their WVR structures. Segmentation via a New Board, therefore, would allow such investors greater flexibility as to their indexation strategies; however, it is acknowledged that index inclusion criteria are determined by the index providers and, as such, could change in the future.

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[61] Statement on the SFC's approach to certain project companies seeking a listing in Hong Kong and the exercise of powers under the Securities and Futures (Stock Market Listing) Rules, 11 April 2017. Factors considered other than regulatory cooperation agreements would include (but not be limited to):

- A large shareholding by a relevant Mainland state-owned enterprise, sovereign wealth fund, substantial listed company or substantial and globally-active institutional investor;
- A sizeable Mainland, Development or International Bank committed to providing ongoing project finance; and
- A direct involvement or shareholding by the relevant state government (i.e., where the project assets are located).

[62] "Constituent stocks of the Hang Seng Index are selected by a rigorous process of detailed analysis. Only companies with a primary listing on the Main Board are eligible potential constituents", Source: Hang Seng Index Company

4. Application of a discount to the whole Hong Kong market

121. In the conclusions to our WVR Concept Paper we noted that the Asian Corporate Governance Association had surveyed its members and claimed that investors would likely apply an average discount to the Hong Kong market of around 13% if non-standard shareholding structures became common. The Board of the SFC expressed similar concerns in its June 2015 statement on SEHK's WVR proposals.

122. We do not see any factual or analytical basis to this argument. In any event, however, by limiting WVR structures to a New Board, the likelihood that the Hong Kong market becomes synonymous with WVR structures would be reduced.

Question 1:	What are your views on the need for Hong Kong to seek to attract a more diverse range of companies and, in particular, those from New Economy industries to list here? Do you agree that the New Board would have a positive impact on Hong Kong's ability to attract additional New Economy issuers to our market? Please give reasons for your views.
Question 2:	What are your views on whether the targeted companies should be segregated onto a New Board, rather than being included on the Main Board or GEM? Please give reasons for your views.
Question 3:	If a New Board is adopted, what are your views on segmenting the New Board into different segments according to the characteristics described in this paper (e.g. restriction to certain types of investor, financial eligibility etc.)? Should the New Board be specifically restricted to particular industries? Please give reasons for your views.

4.3 How the New Board Fits Within Our Overall Listing Framework

123. The New Board is intended to fill identified gaps in Hong Kong's listing framework, so that the needs of New Economy companies can be accommodated, while maintaining appropriate regulatory standards. The overall listing framework under the combined proposals is shown in Figure 8.

124. If pursued as proposed by the GEM CP, the Main Board will be positioned as a "premier board" with a proposed increase of minimum market capitalisation requirement to HK$500 million (raised from HK$200 million), along with existing financial and track record criteria.

125. New Board PREMIUM will provide a listing venue for companies that meet the Main Board's financial eligibility criteria and track record requirements, but which have non-standard governance structures that would preclude listing on the Main Board.

126. New Board PRO will additionally provide a listing venue for companies that do not meet the existing financial and track record eligibility requirements of the Main Board or GEM and companies that are unable or unwilling to meet the equivalent shareholder protection requirements under the 2013 JPS. Given the higher risks potentially arising from such issuers, New Board PRO would be open to professional investors only. A minimum market capitalisation

of HK$200 million is accordingly proposed, since it is viewed as unlikely that professional investors would wish to invest in companies smaller than this due to liquidity and other considerations.

127. There would be no fast-track migration mechanism between the New Board and the Main Board or GEM, or from New Board PRO to New Board PREMIUM. For a listed company on New Board PRO wishing to list on these platforms to attract retail investors, it would have to meet all the admission criteria and other listing requirements of the relevant board (e.g. issuing a prospectus). A requirement to raise additional capital via a public offer may also be imposed.

GEM Review

128. In the GEM CP that has been concurrently issued with this paper, it is proposed that GEM be reformed to require a public offer of shares. The new minimum market capitalisation for GEM would be HK$150 million and the GEM cash flow test would be raised[63].

129. Going forward, GEM will therefore serve the needs of established small and mid-sized issuers that meet the requisite financial and track record criteria, and which desire to attract retail as well as professional investors.

Private Market

130. For companies with a market value below HK$150 million, HKEX is exploring the creation of a Private Market, which would be a platform on which unlisted, or pre-listing companies could be registered.

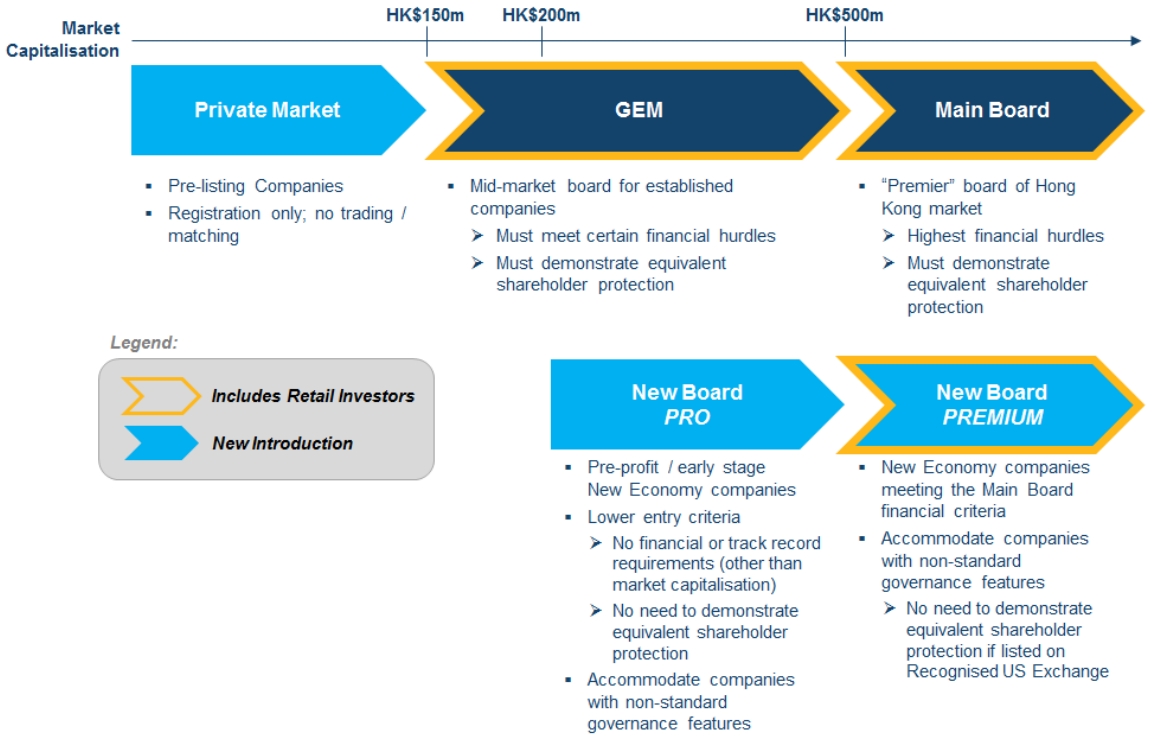
131. Registration on the Private Market would enable private companies to manage their shareholder registers, investor communications and corporate actions, and would help prepare companies for an eventual transition to listed status.

132. As this would be a registration-only service with no trading or matching functions, the Private Market would not be regulated under the SFO.

Question 4:	What are your views on the proposed roles of GEM and the Main Board in the context of the proposed overall listing framework? Please give reasons for your views.
Question 5:	What are your views on the proposed criteria for moving from New Board PRO to the other boards? Should a public offer requirement be imposed for companies moving from New Board PRO to one of the other boards? Please give reasons for your views.

[63] The GEM CP proposes to increase the cash flow test from HK$20 million to HK$30 million.

Figure 8: Vision for Hong Kong's Future Listing Framework



5 DETAILED REGULATORY CONSIDERATIONS AND FEEDBACK SOUGHT

5.1 Introduction

133. SEHK would monitor and enforce compliance with the New Board Listing Rules relying on powers within the prevailing legal and regulatory framework. Where not specifically discussed here, there is a presumption that the prevailing listing requirements will apply on major matters.

134. In addition to SEHK's oversight over New Board-listed companies, the SFC will also monitor and enforce compliance with the SFO and its subsidiary legislation within the prevailing legal and regulatory framework. The SFC's oversight applies to both the listing application and to the conduct of a New Board-listed company post listing.

5.2 Admission Criteria

135. It is proposed that New Board PRO will not require an issuer to have a track record or to meet any minimum financial hurdles, except that it should have an expected minimum market capitalisation of at least HK$200 million at the time of listing. New applicants to New Board PREMIUM would be required to meet financial track record requirements equivalent to those of the Main Board in force from time to time.

136. In addition to suitability considerations, the Exchange also proposes to reserve the right to refuse an application for listing on the New Board PRO if the Exchange has reason to believe that the applicant could meet the eligibility requirements for New Board PREMIUM, GEM or the Main Board and/or the applicant is unable to demonstrate that it has the characteristics of a New Economy company. This proposal should help ensure that only pre-profit companies with high growth potential or New Economy companies can apply to list on the New Board.

137. To help ensure adequate liquidity in secondary trading, New Board PREMIUM would follow Main Board open market requirements in force from time to time[64].

138. To help ensure adequate liquidity in secondary trading for New Board PRO issuers we propose to require a listing applicant to have a minimum of 100 investors at the time of listing and a minimum public float at listing of 25%. These proposed requirements are the same as those that currently apply for GEM issuers at the point of listing. We acknowledge that, in certain cases, these measures may not have been adequate to ensure an open market and that some GEM-listed companies have experienced high volatility immediately post-IPO[65]. In the case of New Board PRO, however, we view the risk of such volatility (and the risks arising from such volatility) as being lower on a professionals-only board, as professional investors should be better placed to carry out fundamental analysis to determine the intrinsic value of securities listed on New Board PRO and should have greater holding power than the retail investors that are prevalent on

[64] The equity securities must be held by at least 300 holders with a public float requirement of 25% of the total number of issued shares. The securities for which listing is sought held by the public must also have an expected market capitalisation at the time of listing of not less than HK$50 million (or as required by the Main Board Listing Rules in force from time to time).

[65] On 20 January 2017, the SFC and SEHK published a "Joint statement regarding the price volatility of GEM stocks". This stated that both the SFC and SEHK were concerned that the shares of many GEM issuers lacked an open market and were concentrated among a small group of shareholders. This had resulted in the shares not being freely tradeable on the Exchange and had caused sharp movements in the share prices of such GEM issuers. To address this issue, we are proposing in the GEM CP to mandate a public offering mechanism for GEM listings.

GEM. We seek respondents' views on whether additional measures are necessary to help ensure liquidity in the trading of New Board PRO issuers' shares and, if so, what measures should be adopted.

139. It is proposed to require the place of incorporation and place of central management and control (as defined by the 2013 JPS) of applicants to the New Board to be in jurisdictions with regulatory cooperation measures in place with the SFC. Applicants to New Board PRO, which is limited to professionals only, will, however, not be required to provide equivalent shareholder protection standards to those of Hong Kong under the 2013 JPS. Applicants to New Board PREMIUM will be required to provide those equivalent shareholder protection standards; however, an exemption from them is proposed for companies already listed on a Recognised US Exchange (see paragraph 156). The "centre of gravity" test under the 2013 JPS would not apply to either segment, meaning that there would be no restriction on the secondary listing of companies from Greater China.

140. We would apply a "lighter touch" suitability assessment for new applicants to New Board PRO. This would mean not applying our existing suitability guidance set out in Guidance Letters GL68-13 and GL68-13A to applicants to New Board PRO[66]. We would, however, retain the right to deny listing or apply additional or more stringent suitability criteria based on any event, condition or circumstance that makes the listing of the applicant inadvisable or unwarranted in the opinion of SEHK (for example, if the applicant operates an illegal business).

141. We would publish guidance on the proposed "lighter touch" suitability regime after we had gained more practical experience of its application.

Question 6:	What are your views on the proposed financial and track record requirements that would apply to issuers on New Board PRO and New Board PREMIUM? Do you agree that the proposed admission criteria are appropriate in light of the targeted investors for each segment? Please give reasons for your views.
Question 7:	What are your views on whether the Exchange should reserve the right to refuse an application for listing on New Board PRO if it believes the applicant could meet the eligibility requirements of New Board PREMIUM, GEM or the Main Board? Please give reasons for your views.
Question 8:	What are your views on the proposed requirements for minimum public float and minimum number of investors at listing? Should additional measures be introduced to ensure sufficient liquidity in the trading of shares listed on New Board PRO? If so, what measures would you suggest? Please give reasons for your views.
Question 9:	What are your views on whether companies listed on a Recognised US Exchange that apply to list on the New Board should be exempted from the requirement to demonstrate that they are subject to shareholder protection standards equivalent to those of Hong Kong? Should companies listed

[66] GL68-13 and GL68-13A state the factors that SEHK currently takes into account when considering whether an applicant *is suitable for listing*. These factors include reliance upon a parent group / connected person / major customer and the sustainability of the applicant's business model.

	elsewhere be similarly exempted? Please give reasons for your views.
Question 10:	What are your views on whether we should apply a "lighter touch" suitability assessment to new applicants to New Board PRO? If you are supportive of a "lighter touch" approach, what relaxations versus the Main Board's current suitability criteria would you recommend? Please give reasons for your views.

5.3 Investor Eligibility

142. It is proposed that New Board PRO be open to professional investors only[67], given the additional risks posed by issuers on that segment and the proposed "lighter touch" regulatory requirements that would apply to it. New Board PREMIUM would be open to both retail and professional investors.

143. Exchange Participants would be expected to ensure that their investor clients (including clients trading through an affiliate or intermediary) investing in New Board PRO-listed securities meet the standard of professional investor under the SFO.

Question 11:	What are your views on whether the New Board PRO should be restricted to professional investors only? What criteria should we use to define a professional investor for this purpose? Please give reasons for your views.
Question 12:	Should special measures be imposed on Exchange Participants to ensure that investors in New Board PRO-listed securities meet the eligibility criteria for both the initial placing and secondary trading? Please give reasons for your views.

5.4 Role of the Sponsor

144. It is proposed that the existing sponsor regime would apply to New Board PREMIUM.

145. Since New Board PRO would be open to professional investors only, it is proposed that less onerous standards could apply for this segment. Specifically, it is proposed that an applicant to list on New Board PRO should be required to appoint a Financial Adviser[68], who would be expected to exercise their own professional judgement as to what investigations are appropriate for the applicant and to ensure that the Listing Document provides accurate and sufficient information to enable professional investors to make an informed investment decision.

[67] Persons prescribed as professional investors in Part 1 of Schedule 1 of the SFO, including those prescribed as professional investors under the Securities and Futures (Professional Investor) Rules (Cap. 571D of the Laws of Hong Kong).

[68] It is proposed that the Financial Adviser shall be a licensed corporation licensed for Type 6 regulated activity (advising on corporate finance). As a licensed entity the Financial Adviser will be subject to the SFC Code of Conduct.

Question 13:	What are your views on the proposal for a Financial Adviser to be appointed by an applicant to list on New Board PRO, rather than applying the existing sponsor regime? If you would advocate more prescriptive due diligence requirements, what specific requirements would you recommend be imposed? Please give reasons for your views.

5.5 Role of the Listing Committee

146. It is proposed that listing applications for the New Board PRO be vetted and approved by the Listing Department under delegated authority from the Listing Committee.

147. The listing application for applicants to list on New Board PREMIUM would be presented to the Listing Committee for approval, following vetting by the Listing Department, so that such applications will have the benefit of the collective input of the Listing Committee. This is in line with the Main Board practice.

148. The Listing Committee would make decisions on cancellation of listings, disciplinary matters and be responsible for hearing appeals for both segments.

Question 14:	What are your views on the proposed role of the Listing Committee in respect of each segment of the New Board? Please give reasons for your views.

5.6 Listing Document

149. Since New Board PREMIUM includes retail investors and issuers would be expected to conduct a public offering, a listing applicant would have to adhere to the Prospectus requirements of CWUMPO and also existing Main Board requirements for a Prospectus.

150. The Prospectus requirements would not apply to New Board PRO. Given the professionals-only nature of New Board PRO, it is proposed that an applicant would only be expected to ensure that it produces a Listing Document that provided accurate information sufficient to enable professional investors to make an informed investment decision.

Question 15:	Do you agree that applicants to listing on New Board PRO should only have to produce a Listing Document that provided accurate information sufficient to enable professional investors to make an informed investment decision, rather than a Prospectus? If you would advocate a more prescriptive approach to disclosure, what specific disclosures would you recommend be required? Please give reasons for your views.

5.7 Continuous Listing and Corporate Governance Obligations

151. Companies listed on the New Board would be expected to comply with the standards applicable to Main Board-listed companies in respect of:

(a) Timely disclosure of material information;

(b) Publication of financial statements under prescribed accounting standards;

(c) Notifiable and connected party transaction rules;

(d) Director suitability and independent non-executive director representation;

(e) Requirement to appoint a company secretary;

(f) General meetings;

(g) Super-majority voting on certain fundamental matters; and

(h) Pre-emption rights for existing shareholders.

Question 16:	What are your views on the proposed continuous listing obligations for the New Board? Do you believe that different standards should apply to the different segments? Please give reasons for your views.

5.8 Additional Requirements for WVR Companies

Ring-fencing and safeguard measures

152. We propose two possible approaches to regulating companies with, or seeking, a listing on the New Board with a WVR structure.

153. One option would be to take a disclosure-based approach. This would require such companies to prominently disclose that they have a WVR structure and the risks associated with the structure. In addition, we could potentially require them to disclose other matters, such as the identities of WVR holders, their voting activities and the details of any transfers of WVR.

154. An alternative approach would be to impose mandatory safeguards for companies with WVR structures in addition to disclosure requirements[69]. The safeguards that we could impose could vary according to whether the company was listed on PREMIUM or PRO. Examples of such safeguards include restrictions on the types of persons that can hold WVR, the minimum equity that they must hold in the company on an ongoing basis and restrictions on the transfer of WVR to other persons. We could also require that the WVR structure fall away after a pre-determined period of time (i.e., a "sunset clause").

[69] In August 2014, HKEX published a "Concept Paper on Weighted Voting Rights" that described some of the safeguards currently in use, on a voluntary basis, by US-listed companies. In its conclusions paper, published in June 2015, HKEX described the safeguards that could potentially be imposed in Hong Kong if companies with WVR structures were to be permitted to list here. Please refer to these papers for a detailed analysis of WVR structures.

Question 17:	For companies that list on the New Board with a WVR structure, should the Exchange take a disclosure-based approach as described in paragraph 153 of this Concept Paper? Should this approach apply to both segments of the New Board? Please give reasons for your views.
Question 18:	If, in addition, you believe that the Exchange should impose mandatory safeguards for companies that list on the New Board with a WVR structure, what safeguards should we apply? Should the same safeguards apply to both segments of the New Board? Please give reasons for your views.

Concession for Companies Listed on a Recognised US Exchange

155. Some respondents to the WVR Concept Paper stated that the introduction of a class action regime was a necessary pre-requisite to allow companies with WVR structures to be listed in Hong Kong[70].

156. On the basis that the US has in place a robust regulatory environment coupled with strict private enforcement mechanisms, we propose that companies with unconventional governance features, including companies with WVR structures, could list on either PREMIUM or PRO if they are also listed on a Recognised US Exchange and demonstrated, to SEHK's satisfaction, a good compliance record during that time.

157. Companies seeking to primary or secondary list in this way would be allowed to maintain their current WVR structure and follow the "disclosure only" regime described in paragraph 153 above even if safeguards were imposed on companies with WVR structures generally (as described in paragraph 154). However, the Exchange would reserve the right not to approve the listing of a company, on suitability grounds, if their departure from Hong Kong governance norms was extreme (see paragraph 140).

Question 19:	Do you agree that the SEHK should allow companies with unconventional governance features (including those with a WVR structure) to list on PREMIUM or PRO under the "disclosure only" regime described in paragraph 153 of the Concept Paper, if they have a good compliance record as listed companies on NYSE and NASDAQ? Should companies listed elsewhere be similarly exempted? Please give reasons for your views.

[70] HKEX, "Consultation Conclusions to Concept Paper on Weighted Voting Rights", (June 2015), paragraph 20.

5.9 Suspension, Delisting and Enforcement

158. This section applies equally to both New Board PREMIUM and New Board PRO.

159. SEHK would suspend a New Board-listed company's securities for a material breach of the New Board Listing Rules. For instance, SEHK would suspend a New Board-listed company if, for example:

    (a) it fails to publish periodic financial information within the deadlines set out in the New Board Listing Rules; or

    (b) SEHK considers that the company or its business is no longer suitable for listing. We propose to only exercise this judgement in extreme circumstances. For example, if a New Board-listed company commits an act that brings SEHK and/or Hong Kong into disrepute but that would otherwise not trigger a suspension.

160. It is proposed that SEHK would immediately cancel the listing of a company listed on the New Board PRO if it had been suspended for a continuous period of 90 calendar days.

161. Where retail investors are exposed, it is seen as desirable to give a suspended company additional time to rehabilitate itself, so as not to be delisted. It is proposed therefore that SEHK would cancel the listing of a company listed on the New Board PREMIUM if it had been suspended for a continuous period of 6 months.

162. SEHK would retain the right to cancel the listing of a New Board-listed company before the expiration of the prescribed periods above and the right to cancel a listing without an intervening suspension period, if SEHK considered the listed company or its business is no longer suitable for listing.

163. For a voluntary withdrawal of a listing, a company listed on the New Board would be expected to follow the current requirements of the Main Board[71].

164. We also seek views on whether to require companies listed on the New Board to meet quantitative criteria on a continuous basis (e.g. share price above a threshold). Failure to meet these criteria over a set period of time would result in the company being placed on a "watchlist". If the company was subsequently not able to meet the required thresholds after a period on the "watchlist", the company's securities would be delisted. Continuing quantitative listing criteria would help to improve market quality by facilitating the removal of poorly performing companies and reduce the possibility of such companies becoming "shells".

165. The SFC would continue to play a leading role in market regulation and certain areas of listing regulation for the New Board, in the same way as it does today for the Main Board and GEM. The SFC would likewise continue to hold statutory powers of investigation and enforcement in cases involving corporate or market misconduct.

[71] An issuer with an alternative listing could voluntarily withdraw its listing on the SEHK with the approval of its shareholders by way of an ordinary resolution and after having given its shareholders at least three months' notice of the proposed withdrawal. An issuer without an alternative listing is required to obtain the approval of a super-majority of its shareholders (75%, and not more than 10% must have voted against the proposal). The controlling shareholder and its associates are required to abstain from voting on the proposal. The shareholders must also be offered a reasonable alternative.

Question 20:	What are your views on the suspension and delisting proposals put forward for the New Board? Please give reasons for your views.
Question 21:	Should New Board-listed companies have to meet quantitative performance criteria to maintain a listing? If so, what criteria should we apply? Do you agree that companies that fail to meet these criteria should be placed on a "watchlist" and delisted if they fail to meet the criteria within a set period of time? Please give reasons for your views.
Question 22:	Do you consider that an even "lighter touch" enforcement regime should apply to the New Board (e.g. an exchange-regulated platform)? Please give reasons for your views.

APPENDIX I. PRIVACY POLICY

Privacy Policy Statement

Hong Kong Exchanges and Clearing Limited and from time to time, its subsidiaries, affiliated companies controlling it or under common control with it and its joint ventures (each such entity, from time to time, being "**HKEX**", "**we**", "**us**" or an "**affiliate**" for the purposes of this Privacy Policy Statement as appropriate) recognises its responsibilities in relation to the collection, holding, processing, use and/or transfer of personal data under the Personal Data (Privacy) Ordinance (Cap. 486) ("**PDPO**"). Personal data will be collected only for lawful and relevant purposes and all practicable steps will be taken to ensure that personal data held by HKEX is accurate. HKEX will use your personal data in accordance with this Privacy Policy Statement.

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If you have any questions about this Privacy Policy Statement or how we use your personal data, please contact us through one of the communication channels below.

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From time to time we may collect your personal data such as your name, mailing address, telephone number, email address and login name for the following purposes:

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2. to perform or discharge the functions of HKEX and any company of which HKEX is the recognised exchange controller (as defined in the Securities and Futures Ordinance (Cap. 571));
3. to provide you with our products and services and administer your account in relation to such products and services;
4. to conduct research and statistical analysis; and
5. other purposes directly relating to any of the above.

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Except to the extent you have already opted out or in future opt out, we may also use your name, mailing address, telephone number and email address to send promotional materials to you and conduct direct marketing activities in relation to our financial services and information services, and related financial services and information services offered by our affiliates.

If you do not wish to receive any promotional and direct marketing materials from HKEX or do not wish to receive particular types of promotional and direct marketing materials or do not wish to receive such materials through any particular means of communication, please contact us through one of the communication channels below.

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We may also collect your identity card number and process this as required under applicable law or regulation, as required by any regulator having authority over us and, subject to the PDPO, for the purpose of identifying you where it is reasonable for your identity card number to be used for this purpose.

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Except to the extent you have already opted out or in future opt out, we may transfer your name, mailing address, telephone number and email address to our affiliates for the purpose of enabling our affiliates to send promotional materials to you and conduct direct marketing activities in relation to their financial services and information services.

Other transfers of personal data

For one or more of the purposes specified above, the personal data may be:

1. transferred to our affiliates and made available to appropriate persons in our affiliates, in Hong Kong or elsewhere and in this regard you consent to the transfer of your data outside of Hong Kong; and
2. supplied to any agent, contractor or third party who provides administrative or other services to HKEX and/or any of our affiliates in Hong Kong or elsewhere.

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Requests for access and correction or for information regarding policies and practices and kinds of data held by HKEX should be addressed in writing and sent by post to us (see contact details below).

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Should your account with us be cancelled or terminated at any time, we shall cease processing your personal data as soon as reasonably practicable following such cancellation or termination, provided that we may keep copies of your data as is reasonably required for archival purposes, for use in relation to any actual or potential dispute, for the purpose of compliance with applicable laws and regulations and for the purpose of enforcing any agreement we have with you, for protecting our rights, property or safety, or the rights, property or safety of our affiliates and employees.

Contact us
By Post:
Personal Data Privacy Officer
Hong Kong Exchanges and Clearing Limited
12/F., One International Finance Centre
1 Harbour View Street
Central
Hong Kong

By Email:
pdpo@hkex.com.hk

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

info@hkex.com.hk
t: +852 2522 1122 f: +852 2295 3106
hkexgroup.com | hkex.com.hk