



CONSULTATION CONCLUSIONS
ON PROPOSED CHANGE TO MINIMUM
NUMBER OF SHAREHOLDERS FOR THE
MARKET CAPITALISATION/REVENUE TEST

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Hong Kong Exchanges and Clearing Limited
香港交易及結算所有限公司

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EXECUTIVE SUMMARY

1. This paper presents the results of our public consultation on a change to the Main Board Listing Rules (“**the Rules**”) for the Market Capitalisation/Revenue Test.
2. On 10 September 2010, The Stock Exchange of Hong Kong Limited (“**Exchange**”), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited (“**HKEx**”), published a Consultation Paper on Proposed Changes to Minimum Number of Shareholders for the Market Capitalisation/Revenue Test.
3. Our consultation paper sought market views on whether to change the minimum shareholder requirement of the Market Capitalisation/Revenue Test, to 300.
4. We also took the opportunity in our consultation paper to re-draft, in plainer language, the Rules affected by our proposal. These amendments do not change existing policy.
5. The consultation period ended on 12 November 2010. We received a total of 11 responses from listed issuers, professional and industry associations, market practitioners and individuals. A list of respondents is provided in the **Appendix**. The full text of all submissions is available on the HKEx website at: <http://www.hkex.com.hk/eng/newsconsul/mktconsul/responses/cp2010092r.htm>.
6. We received unanimous support from the market for our proposals and we have decided to adopt them.
7. The Rule amendments are available on the HKEx website at: http://www.hkex.com.hk/eng/rulesreg/listrules/mbrulesup/mb_ruleupdate.htm. They have been made by the Board of the Exchange and approved by the Securities and Futures Commission. They will become effective on Tuesday 1 February 2011.
8. We would like to thank all those who shared their views with us during the consultation process.
9. This paper should be read in conjunction with the consultation paper, which is posted on the HKEx website at: <http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp2010092.pdf>.

MARKET FEEDBACK AND CONCLUSIONS

Proposal to Require a Minimum of 300 Shareholders for the Market Capitalisation/Revenue Test (Consultation Question 1)

Comments received

10. All respondents supported this proposal.
11. Three respondents stated that applicants listing under the Market Capitalisation/Revenue Test may be riskier investments. This is because they are larger issuers who are unable to meet the profit or cash flow requirements of the other eligibility tests and may have a track record of less than three years. So, it may not be reasonable to require these applicants to have more retail investors to meet a higher minimum shareholder requirement than the other two eligibility tests.
12. One respondent stated that, at the start of the listing process, the requirement for substantial retail interest makes it difficult for an applicant listing under the Market Capitalisation/Revenue Test to know whether it will meet the listing criteria. An applicant's ability to attract sufficient investor interest depends upon general market conditions and sentiment as well as the quality of the issuer.
13. The same respondent said the requirement for an applicant listing under this test to have a public float of at least HK\$1 billion and 300 shareholders should ensure an open market in the issuer's shares.
14. One respondent stated that the proposed change could help facilitate the use of the Market Capitalisation/Revenue Test by applicants with large market capitalisation and revenue.

Our response

15. In response to this unanimous support we have decided to adopt the proposal.

Proposed Draft Rule Amendments (Consultation Question 2)

16. All respondents agreed that the proposed draft Rule amendments would implement our proposal.

Other Comments (Consultation Question 3)

Comments received

17. Two respondents mentioned the possible difficulties of determining the actual distribution of shares for the purpose of the minimum shareholder requirement.
18. Many investors submit an initial public offering application through their brokers or bank. Their shares are then registered in the name of Hong Kong Securities Clearing Company Nominees Limited (“**HKSCC Nominees Limited**”) and held in electronic form in the Central Clearing and Settlement System. As all shares applied for in this way are registered in one name, HKSCC Nominees Limited, the two respondents questioned whether it is difficult to determine the actual distribution of shares to individual investors.
19. One respondent asked for the Rules to be clarified to say that the number of shareholders counted for the purpose of the minimum shareholder requirement were those individuals who had been successfully allotted and issued shares.

Our response

20. For the purpose of the minimum shareholder requirement, we rely upon a sponsor's due diligence and its declaration¹ on the number of investors (i.e. beneficial shareholders) to whom shares are distributed at the time of listing. We have not experienced any problems with this practice. For this reason we do not believe there is a need for clarification of the Rules on this matter.

¹ Main Board Rules, Appendix 5, Form E

APPENDIX LIST OF RESPONDENTS

Listed Issuers

1. Cathay Pacific Airways Limited (stock code: 293)
2. CLP Holdings Limited (stock code: 2)
3. Hong Kong Aircraft Engineering Company Limited (stock code: 44)
4. Swire Pacific Limited (stock codes: 19 & 87)

Market Practitioner Firms

5. Baker & McKenzie
6. Norton Rose Hong Kong
7. SBI E2-Capital (HK) Limited

Professional and Industry Associations

8. The Chamber of Hong Kong Listed Companies
9. The Hong Kong Institute of Certified Public Accountants
10. The Law Society of Hong Kong

Individuals

11. Suen Chi Wai (solicitor)

