

**CONSULTATION**  
**ON**  
**CONTINUING LISTING CRITERIA**  
**AND**  
**RELATED ISSUES**  
  
**(QUESTIONNAIRE)**

**November 2002**



**Hong Kong Exchanges and Clearing Limited**

## NOTICE

Dear Sir/Madam,

You are invited to complete and return this questionnaire booklet to us if you wish to comment on our Consultation on Continuing Listing Criteria and Related Issues.

If you choose to voluntarily supply any personal data to us, you should note the following:

### **Provision of Personal Data**

1. Personal Data is collected on a voluntary basis.
2. **Please note that HKEx will make the original of all submissions to this consultation exercise available for public inspection at the office of HKEx at 11th Floor, One International Finance Centre, 1 Harbour View Street, Central, Hong Kong for a period of 14 days from the date of publication of the consultation results. In this connection, please read the Personal Information Collection Statement below.**
3. **If you do not wish your name to be disclosed along with your submission, please state that you wish your name to be withheld when you make your submission, in which case HKEx will make available a copy of your submission for public inspection and any references to your name will be blanked out.**

### **Personal Information Collection Statement**

4. This Personal Information Collection Statement (“PICS”) is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. The PICS sets out the purposes for which the Personal Data of respondents will be used after collection, what these respondents are agreeing to in respect of HKEx’s use of their Personal Data and their rights under the Personal Data (Privacy) Ordinance.

### **Purpose of Collection**

5. HKEx may use the Personal Data of respondents collected by HKEx in connection with the Consultation Paper for one or more of the following purposes:
  - for performing HKEx's functions and those of its subsidiaries under the relevant laws, rules and regulations
  - for research and statistical purposes
  - for any other lawful purposes

### **Transfer of Personal Data**

6. Personal Data collected may be disclosed by HKEx to members of the public in Hong Kong and elsewhere, as part of the public consultation on the Consultation Paper.

### **Access to or Correction of Data**

7. You have the right to request access to and correction of your Personal Data in accordance with the provisions of the Personal Data (Privacy) Ordinance. If you wish to request access to and/or correction of your Personal Data provided in your submission on the Consultation Paper, you may do so in writing addressed to:

Personal Data Privacy Officer  
Hong Kong Exchanges and Clearing Limited  
11th Floor, One International Finance Centre  
1 Harbour View Street  
Central  
Hong Kong  
[cvw@hkex.com.hk](mailto:cvw@hkex.com.hk)

HKEx has the right to charge a reasonable fee for processing any data access request.

## **Privacy Policy Statement**

8. HKEx is firmly committed to preserving the privacy of respondents in relation to Personal Data supplied to HKEx on a voluntary basis. Personal Data may include names, addresses, e-mail addresses, login names etc. HKEx uses the information for the stated purposes when your Personal Data is collected. The Personal Data will not be used for any other purposes without your consent unless such use is permitted or required by law.
  
9. HKEx has security measures in place to protect the loss, misuse and alteration of the Personal Data of respondents. HKEx will strive to maintain Personal Data as accurately as reasonably possible and Personal Data will be retained for such period as may be necessary for the proper discharge of the function of HKEx and those of its subsidiaries.

Hong Kong Exchanges and Clearing Limited

**Please complete this questionnaire and return to Hong Kong Exchanges and Clearing Limited by no later than the close of business on 28 February 2003.**

Your contact information

Name : \_\_\_\_\_  
Company : \_\_\_\_\_  
Telephone no. : \_\_\_\_\_  
E-mail address : \_\_\_\_\_

Please tick one of the following:

- Listed company – Main Board
- Listed company – GEM
- Professional association
- Market practitioner (accountant, legal adviser, financial adviser and sponsor, etc)
- Institutional investor
- Retail investor
- Other (please specify: \_\_\_\_\_)

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## GENERAL

This questionnaire contains proposals and options which are intended to facilitate public debate on the relevant issues as highlighted in our Consultation Paper issued on 18 November 2002. We have designed this questionnaire to facilitate your response to the matters of consultation set out in the Consultation Paper. This would help the Exchange in analysing the result with more accuracy and ensure a better understanding of public opinions for the formulation of listing policy for the Main Board. You are requested to elaborate your views and comments in the space provided after each question. We will analyse responses and comments on our proposals based on the completed questionnaires. **You are recommended to read the Consultation Paper in detail when completing this questionnaire.**

We acknowledge that the use of this questionnaire alone may not be adequate for you to fully communicate your comments on complex issues. You are therefore welcome to supplement your comments and views by attaching additional sheets to this questionnaire booklet.

The consultation period will close on 28 February 2003.

This questionnaire booklet is also available for completion and submission at the website of HKEx: [www.hkex.com.hk](http://www.hkex.com.hk).

Comments and completed questionnaire booklet should be addressed to Listing Division and sent by post to:

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

Alternatively, you may complete and submit the electronic questionnaire available at: [www.hkex.com.hk](http://www.hkex.com.hk). You may also download a soft copy of the questionnaire from the website of HKEx and thereafter submit the completed copy via e-mail at [cvw@hkex.com.hk](mailto:cvw@hkex.com.hk).

**PART B**  
**MINIMUM STANDARDS**  
**FOR MAINTAINING LISTING**

Paragraph 39 of Part B of the Consultation Paper

We would like to seek market views on whether, in addition to the initial listing eligibility, the Main Board Rules should contain any objective ongoing minimum standards for an issuer to comply with for maintaining its listing on the Exchange.

*Q1. Do you consider it necessary to have certain ongoing minimum standards for an issuer to comply with for the purpose of maintaining its listing on the Exchange?*

*Yes (please answer Q2)*

*No*

*Please state reason(s) for your view.*

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**Please note that the discussions in Parts C and D are based on the premise that, for the purpose of maintaining the quality of the market, certain minimum objective and quantitative continuing listing standards are considered appropriate for issuers to comply with for the purpose of continuing listing on the Exchange. If your answer to Q1 is negative, you may wish to proceed directly to Part E.**

*Q2. If your answer to Q1 is positive, do you consider that the minimum standards under the Main Board Rules that an issuer has to meet should be as clearly defined, transparent and objective as possible?*

- Yes (please proceed to Part C)*
- Yes, but the current provision under the Main Board Rules is sufficient to serve the purpose. There is no need for changes. (Please proceed to Part E)*
- No (please explain your view and proceed to Part E)*

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## PART C

### MINIMUM CONTINUING LISTING STANDARDS

Paragraph 48 of Part C of the Consultation Paper

We discuss below the possible continuing listing standards. There are comments that if continuing listing standards are to be put in place, they should be kept as simple and minimal as possible, so as to facilitate understanding and application.

*Q3. Do you agree that the continuing listing standards should be as simple and minimal as possible?*

*Yes (please answer Q4)*

*No*

*Q4. What in your opinion should be the appropriate continuing listing standard(s)? Please state reason(s) for your view.*

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## **FINANCIAL STANDARDS**

### Paragraphs 58 and 59 of Part C of the Consultation Paper

We propose for consideration that each of the following minimum standards should trigger remedial action to be taken by an issuer:

- (a) loss making for three consecutive years and with negative equity; or
- (b) loss making for three consecutive years and the average market capitalisation being less than HK\$50 million over 30 consecutive trading days; or
- (c) the average market capitalisation being less than HK\$50 million over 30 consecutive trading days and shareholders' equity being less than HK\$50 million.

As at 31 August 2002, there were 12, 20 and 18 issuers, representing approximately 1.5%, 2.5% and 2.3% respectively of the total issuers listed on the Main Board, that would have failed the minimum standard of paragraphs 58(a), 58(b) and 58(c) respectively. Of these issuers, 3 issuers would have failed only paragraphs 58(b) and (c), and 5 issuers would have failed paragraphs 58(a), (b) and (c).

*Q5. What do you consider are the appropriate indicator(s) for the assessment of an issuer's financial performance in its industry and level of investors' acceptance?*

*Profit*

*Market capitalisation*

*Shareholders' equity*

*Others. Please specify:*

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Q6. *Do you consider that each of the indicators on its own is sufficient to trigger remedial action to be taken by an issuer to maintain its listing status?*

*Yes*

*No. The combinations of indicators should be (please tick one of the following):*

*Profit and Market capitalisation*

*Profit and Shareholders' equity*

*Market capitalisation and Shareholders' equity*

*Other combinations. Please specify: \_\_\_\_\_*

*Please state reason(s) for your view.*

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***Profit***

*Q7. If you agree that profit is an appropriate indicator, whether alone or jointly with other indicators, what in your opinion would be a reasonable benchmark for a prolonged period of loss making?*

- 2 years of consecutive losses*
- 3 years of consecutive losses*
- Others. Please specify: \_\_\_\_\_*

*Please state reason(s) for your view.*

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*Q8. If you agree that profit is an appropriate indicator, whether alone or jointly with other indicators, when in your opinion should the prolonged period of loss making commence?*

- Forward looking from the effective date of any proposed rule amendment that may result from this consultation*
- Backward looking from the effective date of any proposed rule amendment that may result from this consultation*
- Others. Please specify: \_\_\_\_\_*

*Please state reason(s) for your view.*

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***Market Capitalisation***

*Q9. If you agree that market capitalisation is an appropriate indicator, whether alone or jointly with other indicators, what in your opinion would be the appropriate threshold for the minimum market capitalisation?*

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*Q10. Do you consider that the period of 30 consecutive days is a reasonable benchmark for observing the moving trend of an issuer's market capitalisation?*

*Yes*

*No. The appropriate duration should be \_\_\_\_ days.*

*Please state reason(s) for your view.*

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***Shareholders' Equity***

*Q11. If you agree that shareholders' equity is an appropriate indicator, whether alone or jointly with other indicators, what in your opinion would be the threshold for the minimum shareholders' equity?*

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*Please state reason(s) for your view.*

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## **ABSOLUTE MINIMUM MARKET CAPITALISATION**

### Paragraphs 63 and 64 of Part C of the Consultation Paper

We propose for consideration that an issuer should be required to take appropriate remedial action, if the average market capitalisation of its securities listed and traded on the Exchange is less than a certain absolute amount, say, HK\$30 million, for 30 consecutive trading days, irrespective of the level of its shareholders' equity.

As at 31 August 2002, 25 issuers, representing approximately 3% of the total issuers listed on the Main Board, had average market capitalisation below HK\$30 million for 30 consecutive trading days. Of these 25 issuers, 2 issuers would also have failed paragraphs 58(a), (b) and (c), 1 issuer would also have failed paragraphs 58(b) and (c) and 11 issuers would also have failed either paragraph 58(b) or (c).

*Q12. Do you consider that the absolute minimum market capitalisation on its own is an appropriate indicator to trigger remedial action to be taken by an issuer to maintain its listing status?*

*Yes (please answer Q14)*

*No (please answer Q13)*

*Please state reason(s) for your view.*

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*Q13. Do you consider that the absolute minimum market capitalisation should be considered in conjunction with other indicators to demonstrate sufficient investors' interest?*

*Yes. Please specify what the indicator should be and the threshold you consider reasonable.*

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*No.*

*Please state reason(s) for your view.*

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*Q14. If you think that the absolute minimum market capitalisation is on its own an appropriate indicator, what threshold would you consider reasonable? Please specify and state reason(s) for your view.*

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## INSOLVENCY

### Paragraphs 71 and 72 of Part C of the Consultation Paper

We propose for consideration that where the court has served on an issuer a winding up order (or equivalent action in the issuer’s country of incorporation) and that order (or action) becomes effective, the issuer would be subject to immediate cancellation of listing.

We also propose for consideration that each of the following events should trigger remedial action to be taken by an issuer if:

- (a) it goes into receivership or provisional liquidation; or
- (b) its Principal Subsidiaries have been served with a winding up order by the court (or equivalent action in the country of incorporation of the Principal Subsidiaries), or go into receivership or provisional liquidation, and the remaining business of the issuer is unable to meet all the initial listing eligibility criteria, except for the market capitalisation requirement and the spread of shareholders requirement which the issuer would have to comply with on a continuing basis.

The term “provisional liquidation” refers to the period after the presentation of a winding up petition and before the making of a winding up order by the court (or equivalent period in the country of incorporation of the issuer or its Principal Subsidiaries).

*Q15. Do you consider it important that an issuer must be operating on a going concern basis?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q16. Do you consider it appropriate to subject an issuer to immediate cancellation of listing where a winding up order by the court, which has been served on an issuer, becomes effective?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q17. When an issuer goes into receivership or provisional liquidation, do you think it appropriate to treat the issuer differently from the case where a winding up order by the court, which has been served on an issuer, becomes effective?*

*Yes (please answer Q18)*

*No*

*Please state reason(s) for your view.*

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*Q18. Do you think it appropriate that where an issuer goes into receivership or provisional liquidation, the issuer should be given an opportunity to take remedial action to bring itself back to long-term compliance with the minimum standards?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q19. Would you be concerned about the viability of the business of an issuer if any of the issuer's Principal Subsidiaries have been served with a winding up order by the court, or go into receivership or provisional liquidation?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q20. Do you consider it appropriate to require an issuer to take remedial action if its Principal Subsidiaries have been served with a winding up order by the court, or go into receivership or provisional liquidation?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q21. Do you think it more justified to require an issuer to take remedial action if its Principal Subsidiaries have been served with a winding up order by the court, or go into receivership or provisional liquidation, and the remaining business of the issuer is unable to meet the initial listing eligibility criteria (other than the market capitalisation requirement and the spread of shareholders requirement which the issuer would be required to comply with on an ongoing basis)?*

*Yes*

*No*

*Other views. Please specify: \_\_\_\_\_*

*Please state reason(s) for your view.*

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## **DISCLAIMER OF AUDIT OPINION OR ADVERSE AUDIT OPINION**

Paragraphs 75 and 76 of Part C of the Consultation Paper

We propose for consideration that an issuer should be required to take remedial action if its most recent auditor's report contains a disclaimer opinion or an adverse opinion.

A total of 56 annual reports issued by issuers in respect of financial years ended between 31 January 2000 to 28 February 2002 contained a disclaimer opinion. Out of these 56 disclaimer opinions, 23 were given on fundamental uncertainty relating to going concern only, and 25 were given on fundamental uncertainty relating to going concern and other accounting matters. 16 issuers' annual reports contained disclaimer opinions which are for two consecutive financial years.

*Q22. Would the fact that the most recent auditor's report of an issuer contains a disclaimer opinion or an adverse opinion affect one's investment decision?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*N/A (if you are not an investor)*

*Q23. Do you consider it appropriate to require an issuer to take remedial action if its most recent auditor's report contains a disclaimer opinion or an adverse opinion?*

*Yes (please answer Q24)*

*No*

*Please state reason(s) for your view.*

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*Q24. How much time should be given for the remedial action to be taken? Please state reason(s) for your view.*

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## **MINIMUM TRADING ACTIVITY LEVEL**

Paragraph 81 of Part C of the Consultation Paper

We do not propose that an issuer should be required to take remedial action based on trading volume.

*Q25. Do you agree that trading volume is not an appropriate indicator to trigger remedial action to be taken by an issuer to maintain its listing status?*

- Yes, trading volume is an appropriate indicator (please answer Q26)*
- No, trading volume is not an appropriate indicator.*
- No, trading volume should be considered in conjunction with other indicators. Please specify what are these other indicators:*

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*Please state reason(s) for your view.*

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*Q26. What in your opinion should be the appropriate threshold for trading volume? Please state reason(s) for your view.*

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## **REDUCTION IN OPERATING ASSETS AND/OR LEVEL OF OPERATIONS**

Paragraph 87 of Part C of the Consultation Paper

We propose for consideration that:

- (a) an issuer should be required to take appropriate action, if after a corporate action proposed to be undertaken by the issuer, there would be a decrease in its net assets or total assets or operations or turnover or after tax profits by 75% or more of those of the immediately preceding financial year, and its remaining business would be unable to meet all the initial listing eligibility criteria, except for the market capitalisation requirement and the spread of shareholders requirement which the issuer would be required to comply with on a continuing basis; and
- (b) the approval of the shareholders of the issuer should be sought prior to the issuer undertaking any such corporate action. For the purpose of enabling the issuer's shareholders to vote on the resolution regarding whether to proceed with the corporate action, the issuer should follow the Main Board Rules regarding privatisation by:
  - (i) obtaining independent shareholder's approval, which under the current Main Board Rules is a majority in number representing three-fourths in value of the shareholders present and voting either in person or by proxy at a general meeting. However, if our proposal for shareholders' approval for privatisation in the Corporate Governance Consultation Paper is adopted, an issuer will be required to obtain:
    - the approval of at least 75% of the votes attaching to the shares held by independent shareholders cast either in person or by proxy in a general meeting of independent shareholders; and
    - the number of votes cast against the resolution must not be more than 10% of the votes attaching to all the shares held by independent shareholders; and

- (ii) offering to its shareholders and holders of any other class of listed securities, if applicable, other than the directors, chief executive and controlling shareholders, a reasonable cash alternative or other reasonable alternative.

*Q27. Do you consider it appropriate to require an issuer to take remedial action where its net assets or total assets or operations or turnover or after tax profits have been or are to be substantially reduced or depleted as a result of a corporate action, and its remaining business will be unable to meet all the initial listing eligibility criteria (other than the market capitalisation requirement and the spread of shareholders requirement which the issuer would be required to comply with on a continuing basis)?*

*Yes (please answer Q28)*

*No*

*Please state reason(s) for your view.*

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*Q28. Would you regard a decrease in net assets or total assets or operations or turnover or after tax profits by 75% or more of those of the immediately preceding financial year as a result of a corporate action as substantial?*

*Yes*

*No (please answer Q29)*

*Please state reason(s) for your view.*

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*Q29. What percentage decrease do you think is appropriate?*

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*Q30. Should there be any such corporate action, do you consider it necessary for shareholders' protection that the approval of the issuer's independent shareholders should be sought prior to the issuer undertaking such corporate action?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q31. For shareholders' protection, do you think the issuer should be required to follow the Main Board Rules regarding privatisation to obtain the approval of the independent shareholders in respect of any such corporate action?*

*Yes*

*No*

*Please state reason(s) for your view.*

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## **CASH COMPANIES**

### Paragraph 91 of Part C of the Consultation Paper

We propose for consideration that:

- (a) an issuer should be required to take appropriate remedial action if by completion of the proposed corporate action, it would become a cash company. An issuer (except for investment companies, banks, insurance and other similar financial services companies) having 90% of its assets in cash or short dated securities or portfolio shares investment or other marketable securities would for the purpose of this requirement be considered as a cash company; and
- (b) the approval of the shareholders of the issuer should be sought prior to the issuer undertaking any such corporate action. For the purpose of enabling the issuer's shareholders to vote on the resolution regarding

whether to proceed with the corporate action, the issuer should follow the Main Board Rules regarding privatisation by:

- (i) obtaining independent shareholder's approval, which under the current Main Board Rules is a majority in number representing three-fourths in value of the shareholders present and voting either in person or by proxy at general meeting. However, if our proposal for shareholders' approval for privatisation in the Corporate Governance Consultation Paper is adopted, an issuer will be required to obtain:
  - the approval of at least 75% of the votes attaching to the shares held by independent shareholders cast either in person or by proxy in a general meeting of independent shareholders; and
  - the number of votes cast against the resolution must not be more than 10% of the votes attaching to all the shares held by independent shareholders; and
- (ii) offering to its shareholders and holders of any other class of listed securities, if applicable, other than the directors, chief executive and controlling shareholders, a reasonable cash alternative or other reasonable alternative.

*Q32. Do you think it necessary to introduce an objective criterion to determine what constitutes a cash company?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q33. Would you consider an issuer (except for investment companies, banks, insurance and other similar financial services companies) to be a cash company if it undertakes any corporate action that results in 90% of its assets being cash or short dated securities or portfolio shares investment or other marketable securities?*

*Yes*

*No (please answer Q34)*

*Please state reason(s) for your view.*

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*Q34. What other factors and percentage decrease would you take into account? Please state reason(s) for your view.*

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*Q35. Should there be any such corporate action, do you consider it necessary for shareholders' protection that the approval of the issuer's independent shareholders should be sought prior to the issuer undertaking such corporate action?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q36. For shareholders' protection, do you think the issuer should be required to follow the Main Board Rules regarding privatisation to obtain the approval of the independent shareholders in respect of any such corporate action?*

*Yes*

*No*

*Please state reason(s) for your view.*

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## PROLONGED SUSPENSION

### Paragraph 94 of Part C of the Consultation Paper

We propose for consideration that an issuer should be required to take appropriate remedial action, if for whatever reasons, its securities have been suspended from trading for a continuous period of 12 months. We do not propose to treat issuers that have been suspended for more than 12 months because of a delay in publishing their results as, prima facie, failing to meet the minimum standards. However, where there is any indication that an issuer is likely to fail to meet other minimum standards and there are no acceptable or justifiable reasons for the issuer's prolonged delay in the publication of its results, the Exchange may require the issuer to take appropriate remedial action to bring itself back to long-term compliance with the minimum standards, failing which the issuer may face cancellation of the listing of its securities.

*Q37. Under the current Main Board Rules, the continuation of a suspension for a prolonged period without the issuer taking adequate action to restore its listing may lead to the Exchange cancelling the listing of its securities. Do you think it necessary to specify what constitutes a prolonged period?*

*Yes (please answer Q38)*

*No*

*Please state reason(s) for your view.*

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*Q38. What period do you consider to be a reasonable benchmark? Please state reason(s) for your view.*

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*Q39. Do you think it reasonable to treat an issuer whose securities have been suspended from trading for a prolonged period (other than a delay in publishing financial results) as failing to meet the minimum standards for maintaining a listing?*

- Yes (please answer Q40)*
- No*

*Please state reason(s) for your view.*

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*Q40. Would your view differ where there is any indication that an issuer is likely to fail to meet other minimum standards for maintaining a listing, and there are no acceptable or justifiable reasons for the issuer's prolonged delay in the publication of its results?*

*Yes*

*No*

*Please state reason(s) for your view.*

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## **PARAGRAPH 38 OF LISTING AGREEMENT**

### Paragraph 96 of Part C of the Consultation Paper

We propose for consideration to retain Paragraph 38 of the Listing Agreement as a reserved general ongoing minimum standard for maintaining listing to supplement the proposed quantitative criterion on reduction in operating assets and/or level of operations (paragraph 87). We propose for consideration that an issuer should be required to take appropriate remedial action if it fails to comply with Paragraph 38 of the Listing Agreement.

*Q41. It is currently a continuing obligation, under Paragraph 38 of the Listing Agreement, that an issuer has to carry out a sufficient level of operations or have sufficient assets to warrant its continuing listing. Do you think the sufficiency of operations or assets is more an issue of continuing listing standards (failure to comply with which would give rise to a requirement for an issuer to take appropriate remedial action to maintain its listing status) than a continuing obligation (failure to comply with which would result in breaches of the Main Board Rules and give rise to disciplinary action)?*

*Yes*

*No*

*Please state reason(s) for your view.*

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## **PERSISTENT BREACHES OF THE MAIN BOARD RULES**

Paragraph 98 of Part C of the Consultation Paper

We propose for consideration that the Exchange may in its discretion, having taken into account the frequency and nature of the breaches, subject those issuers that have persistently failed to comply with the Main Board Rules to the cancellation of listing procedures.

*Q42. How should awareness of the importance of strict compliance with the Main Board Rules be promoted among issuers? Please explain your view.*

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*Q43. Do you think it appropriate to subject an issuer that has persistently breached the Main Board Rules to the cancellation of listing procedures, rather than to disciplinary procedures?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q44. In considering what constitutes persistent breaches, what factors should be taken into account? Frequency and nature of the breaches? Or any other factors?*

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## ILLEGAL OPERATION

### Paragraph 101 of Part C of the Consultation Paper

We propose for consideration that an issuer should be required to take appropriate remedial action, if there exists or occurs any event, condition or circumstances that makes further dealings or listing of the issuer's securities, in the opinion of the Exchange, contrary to the Exchange's general principles.

*Q45. Do you think it appropriate if an issuer that operates a focused line of activity which is illegal or contrary to the Exchange's general principles should remain listed on the Exchange?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q46. If an issuer operates such activities, do you think it appropriate for the protection of investors or the promotion of fair trading to require it to take appropriate remedial action?*

*Yes*

*No*

*Please state reason(s) for your view.*

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## **EXCHANGE'S DISCRETION**

### Paragraph 102 of Part C of the Consultation Paper

We recognise that the introduction of objective and transparent continuing listing standards may present opportunities for the controlling shareholders of an issuer to circumvent minority shareholders protection under the Main Board Rules and the Takeovers Code. Given that once an issuer is delisted, it would no longer be subject to the Main Board Rules or may not be subject to the Takeovers Code and the Share Repurchases Code, and delisting may lead to a lower degree of minority shareholders protection. To act as a deterrent against abuse of the delisting process, we propose that the Exchange should retain a discretionary power to deviate from the application of the cancellation of listing procedure.

*Q47. What is your view on such discretion of the Exchange and how should it be exercised? Please state reason(s) for your view.*

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## **TRANSITIONAL PERIOD**

### Paragraph 104 of Part C of the Consultation Paper

There are, indeed, views that it would be unfair to existing issuers given that these standards did not exist at the time when they got listed. To these commentators, if after consultation it is decided to introduce continuing listing standards, existing issuers should be given a longer transitional period to achieve compliance. Accordingly, we propose for consideration that:

- (a) there should be a transitional period of 12 months for issuers to bring themselves to compliance with the following minimum standards:
  - (i) financial standards; and
  - (ii) absolute minimum market capitalisation;
- (b) there should be no transitional period for the following:
  - (i) reduction in operating assets and/or level of operations;
  - (ii) cash companies;
  - (iii) prolonged suspension;
  - (iv) Paragraph 38 of the Listing Agreement;

- (v) persistent breaches of the Main Board Rules;
  - (vi) illegal operation;
  - (vii) insolvency; and
  - (viii) disclaimer of audit opinion or adverse audit opinion; and
- (c) all listing applicants that are approved after the amendment of the Main Board Rules should be subject to the new continuing listing eligibility criteria immediately upon listing of their securities on the Exchange. There should be no transitional period.

*Q48. In respect of existing issuers, do you agree that there should be transitional periods for them to achieve compliance with the continuing listing standards, if adopted?*

*Yes (please answer Q49)*

*No*

*Please state reason(s) for your view.*

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*Q49. In respect of each of the continuing listing standards that you consider issuers should be allowed time to comply with, how long do you consider the transitional periods should be? Please state reason(s) for your view.*

*Financial Standards*

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*Absolute Minimum Market Capitalisation*

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*Insolvency*

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*Disclaimer of Audit Opinion or Adverse Audit Opinion*

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*Reduction in Operating Assets and/or Level of Operations*

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*Cash Companies*

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*Prolonged Suspension*

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*Paragraph 38 of Listing Agreement*

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*Persistent Breaches of the Main Board Rules*

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*Illegal Operation*

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*Others. Please specify:*

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*Q50. All listing applications that are approved after the amendment of the Main Board Rules should be subject to the new continuing listing eligibility criteria immediately upon listing. Do you consider this to be reasonable?*

*Yes*

*No*

*Please state reason(s) for your view.*

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**PART D  
ALTERNATIVE TREATMENTS OF  
SECURITIES DELISTED FROM THE MAIN BOARD**

**COMPULSORY PRIVATISATION OR BUY-BACK BY  
CONTROLLING SHAREHOLDERS**

**COMPULSORY WINDING-UP**

Paragraphs 108 to 111 of Part D of the Consultation Paper

*Q51. What is your view on the feasibility of compulsory buy-back and compulsory winding-up?*

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*Please state reason(s) for your view.*

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*Q52. What other practical and legal difficulties would you anticipate with compulsory buy-back or compulsory winding-up?*

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*Q53. In view of the difficulties mentioned above with the proposals for compulsory buy-back and compulsory winding-up, do you have any suggestions on how to overcome these problems or any alternative suggestions?*

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*Please state reason(s) for your view.*

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## **ESTABLISHMENT OF AN ALTERNATIVE BOARD FOR THE LISTED MARKET**

Paragraphs 112 to 115 of Part D of the Consultation Paper

*Q54. Do you consider it appropriate that the Main Board and the GEM should continue to cater for companies with different objectives and features and that securities delisted from the Main Board should not be allowed to list immediately on the GEM?*

*Yes (please answer Q55)*

*No (please answer Q56)*

*Please state reason(s) for your view.*

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*Q55. Should there be any conditions for issuers removed from the Main Board to meet before their securities can be listed on the GEM?*

*Yes. The conditions should be: \_\_\_\_\_*

*No (please answer Q56)*

*Please state reason(s) for your view.*

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*Q56. Do you consider it appropriate to set up an alternative board for the trading of listed securities of issuers that are removed from the Main Board?*

*Yes*

*No*

*Please state reason(s) for your view.*

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## MARKET FOR TRADING UNLISTED SECURITIES

Paragraphs 116 to 128 of Part D of the Consultation Paper

*Q57. Do you think that there should be an organised open market or ATS for trading of all unlisted equity securities or just equity securities delisted from the Main Board?*

- Yes, for all unlisted equity securities (inclusive of equity securities delisted from the Main Board)*
- Yes, but only for equity securities that are delisted from the Main Board*
- No, it is not necessary to have an alternative trading venue*

*Please state reason(s) for your view.*

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*Q58. What should be the appropriate level of disclosure for companies traded on the alternative trading venue?*

- Requirements for periodic (semi-annual) and ongoing reporting of price-sensitive events*
- Periodic (semi-annual) reporting only*
- Others. Please specify: \_\_\_\_\_*

*Please state reason(s) for your view.*

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*Q59. To whom do you consider that the periodic reports of financial information should be filed?*

- SFC*
- The Exchange*
- Others. Please specify: \_\_\_\_\_*

*Please state reason(s) for your view.*

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Q60. *By whom do you think that the alternative trading venue in Hong Kong should be operated?*

- The Exchange*
- An independent marketplace provider regulated by the SFC*

*Please state reason(s) for your view.*

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Q61. *Do you think that the mode of trading on the alternative trading venue in Hong Kong should adopt the market maker system?*

- Yes*
- No, it should use the automatching system*
- Others. Please specify: \_\_\_\_\_*

*Please state reason(s) for your view.*

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*Q62. How would you suggest clearing and settlement arrangement for any alternative trading venue be addressed?*

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*Please state reason(s) for your view.*

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## PART E LOW-PRICED SECURITIES

### Corporate governance related matters

Paragraphs 131 to 143 of Part E of the Consultation Paper

*Q63. Do you consider it necessary to restrict an issuer from undertaking any share consolidation and sub-division?*

*Yes (please answer Q64)*

*No*

*Please state reason(s) for your view.*

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*Q64. If you consider that it is necessary to restrict issuers from undertaking share consolidation and sub-division, please state what should be these restrictions and under what circumstances?*

*The restrictions should be:*

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*The circumstances should be:*

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*Please state reason(s) for your view.*

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*Q65. For share sub-divisions, do you consider that no sub-divisions of shares should be undertaken if the share price is below a minimum benchmark? Should the benchmark price make reference to a period of time?*

- Yes. The minimum benchmark should be HK\$\_\_\_\_\_ over a period of \_\_\_\_\_ days.*
- No*

*Please state reason(s) for your view.*

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*Q66. Do you consider that it is necessary for the Exchange to intervene by prohibiting any rights issue within a specified period after a share consolidation or sub-division, given that (a) rights issue is made on a pre-emptive basis, (b) the Main Board Rules require full disclosure of the particulars of the rights issue including the use of proceeds and (c) independent shareholders' approval is required for rights issue that will increase the market capitalisation or issued share capital of the issuer by more than 50%?*

*Yes. Please state:*

*(a) what you consider the Exchange should do to intervene?*

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*(b) what should the specified period be?*

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*No*

*Please state reason(s) for your view.*

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*Q67. Are there any other alternative safeguard measures in relation to share consolidation and sub-division you consider necessary to protect the interests of shareholders?*

*Yes. Please state what these measures should be:*

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*No*

*Please state reason(s) for your view.*

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*Q68. Are there any other measures you consider is appropriate to improve issuers' corporate governance practices in the areas discussed in paragraphs 131 to 143?*

*Yes. Please state what you consider these measures should be:*

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*No*

*Please state reason(s) for your view.*

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## Fair and orderly market related issues

### Paragraphs 144 to 153 of Part E of the Consultation Paper

*Q69. Do you consider that the prevalence of low-priced securities creates an adverse impact on the perception of the quality of the market from the fair and orderly market perspective?*

*Yes*

*No*

*Please state reason(s) for your view.*

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*Q70. What do you consider would be the most appropriate remedial action that an issuer should take if its share is low-priced?*

*Compulsory share consolidation if the share price reaches a predetermined benchmark*

*Share buy-back by the issuer until the share price reaches a predetermined benchmark*

*Others. Please state what this remedial action should be:*

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*No action required*

*Please state reason(s) for your view.*

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*Q71. If you consider that issuers should be compelled to consolidate its shares if its share price reaches a predetermined benchmark, what do you consider this benchmark value should be? Should such benchmark value make reference to a period of time? Please state reason(s) for your view.*

*The benchmark should be HK\$\_\_\_\_\_ over a period of \_\_\_\_\_ days.*

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*Q72. Should an issuer fail to take any remedial action for its low-priced shares, what do you consider should be the most appropriate action to be taken by the Exchange, for example, taking no action, issuing a warning letter, taking disciplinary action, or considering cancellation of listing status?*

*No action is considered necessary.*

*The most appropriate action should be:*

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*Please state reasons for your view.*

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*Q73. Do you have any other views on the issue of low-priced securities?*

*Yes. My views are* \_\_\_\_\_.

*No*

*Please state reason(s) for your view.*

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*Q74. What other measures in relation to the maintenance of a fair and orderly market do you consider are appropriate to safeguard the interest of shareholders? Please state reason(s) for your view.*

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