

Joint Consultation Paper on Issue of Paper Application Forms

with Electronic Prospectuses

Response from CLIFFORD CHANCE

Question 1

Do you agree with the Proposal? If not, please explain your reasons for disagreement.

Our Response

We agree with the proposal, which is sensible from an environmental conservation perspective.

That said, we have observed, over the years, that IPO prospectuses are becoming longer and longer with the result that investors become so overwhelmed with the detailed information available to them that they are unable to focus on the material disclosures required to make an informed investment decision, or they just have no interest in reading the document at all. Whilst it is sensible to reduce copies of prospectuses printed by way of the e-Prospectus regime, we believe, perhaps more importantly, that the Exchange could consider reforming the content requirements on prospectuses with a view to facilitate more effective disclosure of information to the investors, and avoid overlap and repetition of various parts of prospectuses. By doing so, the public can truly have better access to material IPO information.

Question 2

Do you agree:-

- (a) that adequate disclosure can be regarded as having been made if an announcement the contents of which are as set out in paragraph 35 above is published by a CO Offeror?
and
- (b) with the timetable on and the frequency and method of making such disclosures?

Our Response

- (a) We anticipate that disclaimers commonly included in a pre-IPO announcement e.g. subject to registration, this announcement is not a prospectus and does not constitute an offer to sell or purchase securities, the offer may or may not proceed pending price determination etc., will also be included in the announcement.
- (b) We agree.

Questions 3A and 3B

Do you agree that copies of the paper prospectus should be made available for collection throughout the Offer Period, free of charge, upon request by any member of the public? If not, please provide suggestions on how to assure that those prospective investors who do not have

access to the Internet and those who face technological limitations can obtain copies of the Paper Prospectus before submitting an application.

Do you agree with the locations at which copies of the Paper Prospectus should be made available?

Our Response

We believe that Paper Prospectuses should be made available (upon request by public) at all locations where paper application forms are distributed.

Question 4

Do you agree that ready accessibility to, and the ability to download by the public free of charge, the e-Prospectus on and from the company's website and the HKEx website, together with availability of copies of the Paper Prospectus for collection at specified locations, also free of charge, upon request by any member of the public as discussed in paragraphs 38 to 42 above, are sufficient for access purposes by prospective investors?

Our Response

We agree. In addition, we would suggest the following:

(1) at present, hyperlinks are available for the public to access the different sections of a prospectus on the HKEx website. However it would not be possible to download the full prospectus at one single time, by just clicking one hyperlink. In other words, in order to download or print out the full prospectus, one would need to click on different hyperlinks which takes considerable time. In our view, it would be more user-friendly to the public if one could print out the **whole** prospectus as well as the **individual sections** of the prospectus (as it is under the current layout) by simply clicking just **one** hyperlink.

(2) the Exchange may also consider that hard copies of the summary section of the prospectuses are made available at the specified locations **in addition to** hard copies of the full prospectus, such that the public can choose which version they would want to obtain.

Question 5

Do you anticipate any problems with the requirement to provide a written confirmation to SEHK, prior to the commencement of the Offer Period, that the typeface, format and contents of the e-Prospectus are identical to those of the Paper Prospectus except to the extent that any differences are permitted or required by SEHK? If so, please explain what these may be.

Our Response

We believe that the existing prospectus liability, together with the prominent warning as contemplated in Question 6 to be stated in the cover of the prospectus, is sufficient. The proposed obligation will only create additional burden on the parties while not necessarily providing any genuine benefit to anyone.

Question 6

Do you agree that an e-Prospectus should contain in a prominent place on the face of it the statements and information discussed in paragraph 50 above?

Should any other statement and/or information be included on the face of the e-Prospectus to ensure genuine access?

Our Response

We agree, except that we reiterate our views on the written confirmation to SEHK that the typeface, format and contents of the e-Prospectus are identical to those of the Paper Prospectus (except to the extent that any differences are permitted or required by SEHK).

Question 7

Do you anticipate any systemic and/or logistical problems with the requirement to publish revised CO Paper Application Forms in the event an addendum or a replacement prospectus is issued? If so, please explain what these may be.

Our Response

Our view is that the e-Prospectus regime should also apply to the issue of the revised CO Paper Application Forms, as well as the addendum or a replacement prospectus.

Question 8

Do you agree with the Proposal being implemented in the manner described in paragraphs 55 and 56 above in respect of a CIS Offeror making a public offer of interests in an SFC-authorized listed CIS using the Mixed Media Approach? If not, please explain what your views are and suggest alternative manner(s) in which the Proposal may be implemented for such purposes.

Our Response

Yes, we agree with this proposal. Generally, we see no reason why the regulatory approval required for listed CIS should be distinguished from that required for listed companies. However, we also see no reason why such proposal should only be available for SFC-authorized listed CISs - for the avoidance of doubt, please could the Exchange clarify that the e-Prospectus regime will also be extended to listed investment vehicles under Chapter 21 of the Listing Rules.

Question 10A

What are your views on the requirements to:-

- (a) suspend a Mixed Media Offer in the event the public cannot download the electronic listing document from both (i) the HKEx website and (ii) the company's website or the CIS Offeror's website, as the case may be; and
- (b) promptly notify prospective investors of a CO Offeror's or CIS Offeror's suspension of a Mixed Media Offer?

Question 10B

Do you agree that continuous inaccessibility of an electronic listing document for downloading from the aforementioned websites for at least 4 consecutive hours constitutes a prolonged failure warranting suspension of a Mixed Media Offer?

If not, please specify a period of time which should have lapsed when an electronic listing document cannot be downloaded from such websites before a Mixed Media Offer should be required to be suspended and your reasons therefor.

Our Response to Questions 10A and 10B

We believe that these are technical and logistical questions for which the printers should be consulted as printing of paper prospectuses takes time. We believe shifting of timetable should be allowed in such circumstances (similar to the black rainstorm arrangement). It would also be helpful if the Exchange / SFC could issue FAQs to provide practical guidance in dealing with such situation.

Question 11

Do you agree with our approach on how the Guidelines should be interpreted following implementation of the Proposal? If not, please explain what your views are.

Our Response

Our view is that it would be more appropriate for the Exchange to amend the Guidelines for the sake of clarity, rather than just relying on an interpretation. Whilst we agree that the interpretation set out in Part F of the Consultation Conclusion makes most sense in the prevailing circumstances, we believe there will bound to be circumstances for which specific rules will be necessary. Accordingly, the Exchange might consider amending the Guidelines now such that they will fit in with the e-Prospectus regime once it is in force.

Question 12

Do you consider it appropriate to give sponsors the flexibility to determine the manner in which they fulfil their responsibilities under the CFA Code of Conduct in light of the Proposal?

Our Response

We believe it will be appropriate.