

LegCo Panel on Financial Affairs

List of issues raised by members at the meeting of the Financial Affairs Panel on 31 July 2002

Rationale for and bases of the delisting proposals

1. the rationale for the delisting proposals announced by the Hong Kong Exchanges and Clearing Limited (HKEx) and the bases for the proposed continuing listing eligibility criterion that a company will be considered as failing to meet the continuing listing eligibility if the market price of its shares over 30 consecutive trading days is less than HK\$0.50;

Roles and duties of Government officials, SFC and HKEx

2. the respective duties of the relevant parties and persons in relation to the preparation and release of the Consultation Paper, in particular, the proposed continuing listing eligibility criterion that a company will be considered as failing to meet the continuing listing eligibility if the market price of its shares over 30 consecutive days is less than HK\$0.50; such parties and persons should include:
 - the relevant Government officials, which should include the Financial Secretary and the Secretary for the Financial Services and the Treasury;
 - the management and key officials of the Securities and Futures Commission; and
 - the management and key executives of the HKEx;
3. whether in the process of the preparation and the announcement of the proposals, any of the parties/persons covered in point 2 above has/have failed to perform his/her/their duties;

(While FS and SFST both claimed that they had not been informed by SFC and HKEx of the details of the delisting proposals, given that the proposed "HK\$0.50" delisting threshold was widely reported in the local press during the days before the release of the Consultation Paper on 25 July, whether FS and SFST have a duty to get to know the details of the delisting proposals in view of its market sensitivity.)

(The Chairman of SFC stated that in the preparation of the Consultation Paper, SFC's participation was restricted to ensuring that the proposals are relevant to and effective in achieving the regulatory objectives and principles.

He considered that the conduct of the consultation exercise was a procedural matter, the responsibility of which vested with HKEx.)

Timing of announcement

4. Why did HKEx choose to announce the proposals in the afternoon of Thursday, 25 July, but not after the close of the market on Friday 26 July, bearing in mind that the latter timing option would allow more time for the market to digest or seek clarification of the proposals and for HKEx or other authorities to take appropriate actions in response to any reactions from market participants/investors?

Assessment of market response

5. whether there has been any conscious assessment by the Government/SFC/HKEx of the possible short-term and long-term impact of the proposed "HK\$0.50" delisting criterion on the market;
6. if the answer to the above is in the affirmative, which is the party that made the assessment; what are the assessment results and whether the assessment results have been brought to the attention of the Government;
7. to what extent are the assessment results and the expectations arose therefrom different from the actual market movements of penny stocks following the release of the Consultation Paper in the afternoon of 25 July;

(It was mentioned by the Chairman of SFC that HKEx had previously confirmed that if the HK\$0.5 continuing listing eligibility criterion was implemented, only about 20 listed companies would face the possibility of delisting.)

Compensation or remedy for affected investors and listed companies

8. whether there is any channel and course of actions for those persons and parties who/which have suffered losses/damages in the incident to seek recompense or remedy, and whether there is a case for such claims under the existing laws or rules of the HKEx;
9. What are the relevant legislation and/or rules of HKEx with regard to compensation/remedy for investors and listed companies suffering damages/losses as a result of misconduct or negligence of HKEx, SFC and/or the Government?
10. Are there any precedent cases of successful and unsuccessful claims for compensation/remedy by investors and listed companies against HKEx/SFC/the Government on grounds of misconduct or negligence of HKEx, SFC and/or the Government?

Independence and thoroughness of inquiry

11. How the independence and thoroughness of the inquiry conducted by the panel appointed by FS can be ensured bearing in mind that FS himself is responsible for overseeing the development of the financial market and soundness of the regulatory system and thus should be one of the subjects covered by the inquiry.

Investigation by SFC into the unusual market movements of penny stocks on 26 July 2002

12. The Chairman of SFC has confirmed that SFC is undertaking an investigation into the unusual market movements of penny stocks on 26 July. When will the investigation be completed? How would the investigation interface with the inquiry by the panel appointed by FS?

Improvements to be put in place

13. What improvements should be put in place to strengthen the mechanism in introducing changes to the regulatory system, enhancing the consultation process and the assessment of potential risks arising from the introduction of changes.

Legislative Council Secretariat

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