

For information

Legislative Council Panel on Financial Affairs

**Enhancements to the Stock Exchange of Hong Kong Limited's
Decision-making and Governance Structure for Listing Regulation**

Purpose

This paper updates Members on the implementation of the key recommendations of the conclusions from the joint consultation conducted by the Securities and Futures Commission (“SFC”) and the Stock Exchange of Hong Kong Limited (“the Exchange”) on the proposed enhancements to the Exchange’s decision-making and governance structure for listing regulation.

Consultation on the Proposed Enhancements

Background

2. Hong Kong has developed into a major international financial centre and premier fund raising centre for Mainland and other overseas companies. In tandem with this development, we need to ensure that our listing environment and regulatory system would evolve with the market so that the quality of our market can be maintained and that market participants continue to have confidence in our system which is fair, efficient, orderly, transparent and competitive.

3. As far as the listing regulatory structure in Hong Kong is concerned, our structure has been in use since the earlier days when our listing market was much smaller and more local in nature. While the regulatory structure has been serving the market well, we are mindful that the market has become increasingly large and complex, and it may be exposed to a wider variety of risks. Back in June 2016, we came to the view that it was necessary to review the listing regulatory structure in Hong Kong and take forward suitable enhancements that would enable the SFC and the Exchange to better coordinate and address future regulatory needs, thereby upholding the quality and standards of our market, and maintaining Hong Kong’s competitiveness as an international financial centre.

4. Against the above considerations, the SFC and the Exchange issued on 17 June 2016 a joint consultation paper on the proposed enhancements to the Exchange's decision-making and governance structure for listing regulation ("the Consultation Paper"). The Consultation Paper sought the market's views on the proposed structural and procedural enhancements to a number of areas, including (i) development of listing policy; (ii) processing of listing applications; (iii) review and publication of listing decisions; and (iv) oversight of the listing function.

Consultation outcome

5. A total of 8,793 submissions from different sectors of the market and individuals were received in response to the Consultation Paper. They covered a wide spectrum of views, with some indicating general support, while some expressing objections to the proposals contained in the Consultation Paper.

6. Based on the responses received, the SFC and the Exchange published the consultation conclusions on 15 September 2017 ("the Consultation Conclusions") which set out the way forward in putting in place suitable enhancements to the listing regulatory structure in Hong Kong.

7. Specifically, the SFC and the Exchange indicated in the Consultation Conclusions that a new Listing Policy Panel ("LPP") would be established as an advisory, consultative and steering body on listing policy with broader regulatory or market implications. In terms of processing IPO applications, the SFC would continue to be engaged in targeted intervention at an early stage and would increase its direct presence in more serious listing matters that fall within the scope of the Securities and Futures Ordinance and the Securities and Futures (Stock Market Listing) Rules, while the Exchange would continue to make all decisions under the Listing Rules and the role of the Listing Committee ("LC") would remain unchanged.

8. To discharge its statutory oversight of the Exchange's listing function, the SFC would introduce an enhanced audit approach, with focus on assessing whether the Exchange has discharged its statutory duties under the Securities and Futures Ordinance in performing its listing function.

9. The Consultation Conclusions also stated that, the Exchange would conduct a separate consultation on the review system for decisions of the LC (including whether review decisions would be published) in 2018. The Exchange would, separately, conduct a further consultation on the disciplinary powers and sanctions.

Latest Position in Implementing the Consultation Conclusions

10. Following the publication of the Consultation Conclusions in September 2017, the latest position of implementing the specific structural and procedural enhancements to the listing regulatory structure in Hong Kong is summarised in the ensuing paragraphs.

(a) *Policy development*

11. On 9 March 2018, the SFC and the Exchange signed an addendum to the Memorandum of Understanding Governing Listing Matters which was entered into between the parties in 2003. Pursuant to the arrangements under the addendum, a new LPP would be established as an advisory, consultative and steering body to initiate and centralise discussions on listing policy with broader regulatory or market implications.

12. The establishment of the new advisory, consultative and steering body will ensure that the development of listing policy with broader regulatory or market implications will be conducted more efficiently and effectively through a central platform with representatives of the relevant organisations (namely, the SFC, the Takeovers and Mergers Panel, the Board of Hong Kong Exchanges and Clearing Limited and the LC).

(b) *Decision-making and oversight*

13. In terms of the procedural enhancements to the decision-making and oversight of listing applications, the following specific actions have been / will be taken –

- (i) the SFC, as the statutory regulator, continues to be engaged in targeted intervention in more serious issues that are within the scope of the Securities and Futures Ordinance and the Securities and Futures (Stock Market Listing) Rules

at an early stage to protect the market and investors;

- (ii) while the Exchange continues to make decisions under its Listing Rules (including decisions on suitability for listing), the Chief Executive of Hong Kong Exchanges and Clearing Limited no longer attends LC meetings on individual cases, and will only attend LC meetings where listing policy matters are to be discussed; and
- (iii) the Exchange's overall performance in vetting listing applications has continued to be subject to statutory oversight by the SFC. An enhanced audit approach by the SFC in reviewing LC and Listing Department's performance of listing function, focusing on whether the Exchange has discharged and is discharging its duties under the Securities and Futures Ordinance, is being conducted. The SFC will publish such audit report from time to time in accordance with current procedures.

(c) *Review and publication of Listing Decisions*

14. As mentioned in paragraph 9 above, the Consultation Conclusions published in September 2017 stated that the Exchange would conduct a separate consultation on the review structure of LC's decisions within 2018. Accordingly, the Exchange published a consultation paper on 10 August 2018 ("Review Consultation Paper") with proposals to establish a new independent committee to replace the existing Listing (Review) Committee and Listing Appeals Committee, and to routinely publish decisions of the new review committee for non-disciplinary matters. The Exchange will take into account the responses to the Review Consultation Paper in mapping out the way forward.

Advice Sought

15. Members are invited to note the content of this paper.

**Securities and Futures Commission
The Stock Exchange of Hong Kong Limited
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