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BY EMAIL (response@hkex.com.hk)

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Dear Sirs

Response to the Consultation Paper on “Proposals to Optimise IPO Price Discovery and Open Market Requirements”

The Chamber of Hong Kong Listed Companies is pleased to make a submission to the Consultation Paper “Proposals to Optimise IPO Price Discovery and Open Market Requirements” (CP).

The subject matters of this CP are Price Discovery during the IPO process concerning the distribution between institutional and retail investors, and the review of the present 25% public float requirement. In these two areas, we appreciate the Exchange’s attempts to reduce restrictions to provide more flexibility to issuers in determining their shareholder base and the amount of shares to float based on their funding needs. We agree that in the distribution of IPO shares, institutional investors should account for a higher proportion of the allocation. As the CP pointed out, they have a bigger influence in determining the final IPO price, and their higher inclusion would better reflect the value of the deal, and also help with a stable aftermarket. By the same token, we agree that the ratio of clawback to the public tranche can also be reduced. These adjustments are relevant at a time when Hong Kong attempts to lure international institutional investors back to our market.

We do not intend to go into details of answering the more technical questions individually, and would defer that to experts of the investment banking and financial advisory communities.



Our Chamber would like to turn our discussion to the question of whether Hong Kong should establish an OTC market.

The consultation paper brings out this question when discussing suspension and cancellation of listing of securities caused by an insufficient public float of an issuer. Under Rule 6.01 of HKEX Listing Rules, the Exchange may at any time suspend or cancel the listing of any securities to protect investors or maintain an orderly market. Circumstances under which the Exchange may do so also include where an issuer fails to maintain sufficient operations or assets; and is no longer suitable for listing.

The position of our Chamber is we welcome the setting up of an OTC for securities whose listing have been cancelled under the insufficient public float situation or delisting not consequent of frauds. It is our belief that delisting a company deprives shareholders the right to dispose of their shares to salvage their investments. The effects of this on minority shareholders are particularly serious. Setting up an OTC where delisted shares can continue to trade provides a platform for minority shareholders a chance to trade out of their position and retrieve the remnant value of their investments.

Light touch regulation

We believe that issuers whose securities are traded on the OTC shall be subjected to light touch regulation. The compliance and disclosure requirements shall be lighter than the Main Board or GEM, in order to lesser their compliance costs.

Investor-Beware

The objective of the OTC is to allow existing shareholders to offload their shareholdings, we expect buyers are likely to be “distressed” investors who have their own investment objective and a high degree of risk tolerance. All investors dealing in the OTC would be made aware of the risks associated with the market, including poor liquidity and the potential evaporation of value of the shares. The market operates on an investor-beware basis.



Migration Channel

Another purpose of the OTC market could be to provide a temporary shelter for delisted issuers who fail to restructure their business in the specified time period given. Once on the OTC, they would have a prolonged period of time to continue with their restructuring plans. The Exchange should provide a mechanism for these companies to resume their listing status on the Main Board or GEM Board as long as they can resolve the problems that caused their delisting in the first place, and be able to re-comply with the listing requirements. In other words, there should be a channel of migration in upwards.

To do that would require the HKEX to adopt a more open approach in assessing the re-listing conditions. In many instances companies seeking re-compliance to resume listing relies on injection of new businesses. But currently these arrangements will be deemed as Reverse Takeovers and need to go through near-IPO process which is costly, and the time required may make the deal impractical. We believe the Exchange should relax their regulatory approach with regard to injection of business. This will facilitate delisted companies, usually the smaller ones, to regain their listing status and continue to have access to the capital markets for business growth. This is of particular importance to small listed companies during this slow economy.

The above are some broad-brush views and recommendations for the OTC market. We understand HKEX will have a separate consultation on this matter. We look forward to that and will answer the specific questions contained in that consultation in more concrete manner and offer more elaborated thoughts on our recommendations.

Your sincerely

The Financial and Regulatory Affairs Committee
The Chamber of Hong Kong Listed Companies