

Issued on: 2 March 2023

## The Exchange's Consultation Paper

### Proposals to Expand the Paperless Listing Regime (December 2022)

In relation to the captioned consultation paper, The Hong Kong Institute of Directors has the following views and comments.

#### **General Comments**

The Exchange has in 2021 adopted and rolled out various paperless initiatives to improve efficiency and lower the costs for issuers. The current proposals are a continuation of those efforts to further simplify the listing application procedures. We support the proposals.

#### **Streamlining the document submission process**

The proposals will seek to achieve this by:

- Reducing the number of submission documents
  - This will be by way of removing submission documents that duplicate or overlap with other obligations or disclosure requirements or which are no longer necessary for regulatory purposes.
- Codifying and consolidating obligations in various undertakings, confirmations and declarations.
  - Of interest to the director community would be the proposed removal of the DU Form requirements after incorporating the directors' and supervisors' obligations in the Listing Rules. The lack of a separate DU Form should not mean directors or supervisors have less of a duty or responsibility; they should be well aware of their obligations. As the Consultation Paper points out in para 32, each director is individually expected to fulfil fiduciary duties and duties of care, skill and diligence per Rule 3.08.
  - There will, however, be a new Form FF004 for personal details of directors and supervisors. Consultation Paper para 40.
- Consolidating a set of overarching obligations of listing applicants and sponsors in Form A1
  - The aim is to remove duplication and to give the requirements more prominence. Consultation Paper para 39.
- Removing unnecessary signature and certification requirements
  - This goes to situations where the signature and certification is only to evidence the sponsor's approval of the contents or to certify that the submissions are true copies of their originals. Consultation Paper para 43.
- Mandating electronic only submission
  - To facilitate the move towards electronic submission, the Exchange plans to launch a designated online platform with e-signature capability and which meets Electronic Transaction Ordinance compliance requirements. Consultation Paper para 50-55.
- Digitalising the prospectus authorisation and registration processes
  - The current practice requires the applicant to physically deliver two sets of documents to the Exchange on the date of prospectus registration. Extreme weather or incidents causing road and/or office closures can disrupt or delay the listing timetable. The move should help reduce such occurrences. Consultation Paper para 59.

#### **Mandating electronic dissemination of corporate communications to securities holders**

The proposals are to tweak the deemed consent mechanism to facilitate a move towards all- electronic dissemination. The Exchange intends to mandate listed issuers to disseminate corporate

communications to their securities holders electronically to the extent permitted by the laws and regulations applicable to them and their constitutional documents.

Most issuers on the Exchange are incorporated in jurisdictions with no prohibition on implied consents for purpose of corporate communications dissemination. Hong Kong, however, remains a jurisdiction which does not permit such implied consent, and therefore Hong Kong-incorporated issuers must follow the procedures in HKCO Sections 831, 833 and 837. The Exchange, stakeholders and policy-makers can further explore if a law change in this area would benefit Hong Kong. Consultation Paper para 79; 95-96

Where a security holder makes the specific request, the issuer must send corporate communications in printed form still. Consultation Paper para 85. On this aspect, Print-on-Demand technology may be a solution. The Exchange may want to explore if such technology is useful and available to issuers as means to fulfil those requests.

#### *Actionable corporate communications*

Under the proposals issuers must send Actionable Corporate Communications to securities holders individually in electronic form to the extent permitted by the laws and regulations applicable to them and their own constitutional documents. Where the issuer does not have functional electronic contact details of a securities holder the issuer must send hard copies with a request of electronic contact details for future. Consultation Paper para 89.

We do expect more and more securities holders will be willing to provide an email address, but some may just not respond to that request. The Exchange may want to explore ways to entice even require these holders to have registered an email address first before receiving the substantive documents. Any such way or scheme cannot be seen as interfering with the ability of those holder to exercise their rights in the security, however.

#### *Choice of language*

We tend to agree with the Exchange that, with electronic dissemination of corporate communications there will be much less a need for issuers to ascertain a holder's language preference. Consultation Paper para 100.

### **Simplifying the appendices of the Listing Rules**

The publication and updating of the Listing Rules have gone online since January 2021. To improve the user experience of the Listing Rules online, the Exchange will tweak the organization and display of the appendices to the Listing Rules.

### **Minor Rule Amendments**

*Removing the physical attendance requirement for members of the Listing Committee and Listing Review Committee for purpose of quorum.*

This would formally enable the conduct of proceedings in hybrid mode.

*Reference to "bulk-printing" to become "finalisation of listing documents for publication"*

This reflects the move towards a Paperless Listing Regime.

ENDS