香港董事學會
The Hong Kong Institute of Directors
FOUNDED 1997

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The Securities and Futures Commission's Consultation Paper

Proposed Amendments to the
Securities and Futures (Stock Market Listing) Rules (March 2025)

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

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General comments

HKIoD supports the proposals.

The amendments are to give the SFC targeted tools with more flexibility to address misconduct. Existing SMLR provisions limit the SFC to objecting to a listing, suspending trading or cancelling the listing. The SFC is left with less room to accommodate particular facts and circumstances, to make adjustments to the intervention as situation changes and evolves, or to minimize disruption to trading.

One major aspect of the amendments is to enable the SFC to impose continuing and post-listing conditions. The existing rules are not clear that conditions imposed prior to listing can continue to have effect post-listing, which could result in circumvention of dubious acts or deeds that the conditions sought to proscribe. To require continuing disclosure and reporting on the suspicious matter after listing is an appropriate device To allow SFC to impose post-listing conditions should make available an alternative to suspending trading which could be disruptive.

The majority of conditions to be imposed will be disclosure-based. See Consultation Paper para 25. Requiring enhanced disclosure is consistent with a disclosure-based regulatory regime enabling investors to make informed decisions.

The amendments aim at addressing the more serious and egregious behaviour. We tend to agree that listed issuer or listing applicant boards which pay attention to governance and which ensure accurate and complete disclosure of their business activities and transactions are not likely to see much impact on them.

Listed issuer or listing applicant boards should always be attentive in staying clear of dubious transactions or schemes that could cause harm to the investing public.

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Consultation questions

Subject to the general comments above, we state below our response to specific questions as set out in the Consultation Paper.

Question 1

Please comment on the proposal to allow for the imposition of continuing conditions on a listing applicant which will be applicable upon and after listing.

HKIoD Response:

- We agree with the concept of continuing conditions post-listing. The existing rules are not clear that conditions imposed prior to listing can continue to have effect post-listing, which could result in circumvention of dubious acts or deeds that the conditions sought to proscribe. To require continuing disclosure and reporting on the suspicious matter after listing is an appropriate device.
- The majority of conditions to be imposed will be disclosure-based in nature. Consultation Paper para 25. Requiring enhanced disclosure post-listing is consistent with a disclosure-based regulatory regime enabling investors to make informed decisions.
- On the Explanatory Note, we do not have specific comments at this time.

Question 2
Please comment on the proposal to allow for a withdrawal of an objection notice under section 6(2) of the SMLR.

HKIoD Response:

- We agree with the proposal to allow for a withdrawal of an objection notice. If concerns can be and are indeed addressed, the applicant should not be required to make a fresh application.

Question 3
Please comment on the following proposals:

(a) to add a new section 7A to the SMLR pursuant to which the SFC may impose conditions on a listed issuer; and
(b) the grounds under which conditions could be imposed on a listed issue under the new section 7A

HKIoD Response:

- As to (a), we agree with the proposal enabling the SFC to impose conditions on a listed issuer. Imposing conditions driving at more complete disclosure as an alternative to suspension will be less disruptive, workable in appropriate cases, and is consistent with a disclosure-based regulatory regime enabling investors to make informed decisions.
- As to (b), we believe the grounds set out in Consultation Paper para 35 are appropriate.

Question 4
Do you think that the explanatory note in Appendix 2 [of the Consultation Paper] will help issuers and their advisors to understand the scope and purpose of the proposed amendments to the SMLR?

HKIoD Response:

- On the draft Explanatory Note, we do not have specific comments at this time. We do believe the Explanatory Note when finalised will help issuers and advisor to understand the scope and purpose of the proposed amendments.

Question 5
Please comment on the proposals to add new sections 6(3A)(a), 7A(3) and 9(2)(a) to the SMLR pursuant to which the SFC may amend or revoke any conditions imposed by it and new sections 6(3A)(b) and 9(2)(b) to allow the SFC to impose new conditions.

HKIoD Response:

- Agree. SFC should have discretion to amend or revoke conditions imposed to move with changes in circumstances.

Question 6
Please comment on the proposals to add a new section 7B to the SMLR under which the SFC may require listed issuers to supply information to the SFC that it may reasonably require for the performance of its functions.

HKIoD Response:
- Agree. It is reasonable (and necessary) for an issuer to supply information that the proper performance of SFC's regulatory function would reasonably require.

Question 7
Please comment on the following proposals:

(a) amendments to section 9 and 10 to (i) simplify and streamline the procedures for lifting a suspension (with or without conditions); and (ii) provide an issuer with a reasonable opportunity of being heard before the SFC makes a decision leading to the refusal of trading resumption or cancellation of listing; and

(b) removing the restriction under the current section 9(6) of the SMLR on non-delegability of the SFC's power under section 9

HKIoD Response:
- As to (a), we agree with the proposal to simplify and streamline the procedures for lifting a suspension to make the resumption of trading more efficient. We also agree that conditions may be imposed as necessary. Issuers should be given an opportunity to be heard should there be a refusal of trading resumption or a cancellation of trading.
- As to (b), we agree with the proposal to remove the restriction against non-delegation of SFC power under section 9 in uncontroversial cases. The SFC, however, may still want to have specific policy statements (or explanatory notes) to set out the parameters for permitted delegation.

Question 8
Please comment on the proposal for the SFAT to assume the role of the review body for the SFC's decisions under the SMLR as set out in paragraphs 52 and 53 above.

HKIoD Response:
- Agree. It is reasonable for SFAT to assume the role of the review body.

Question 9
Please comment on the proposal to remove the circumstances relating to pre-emptive issuance pro rata to existing shareholders and exercise of options under employee share option schemes under sections 4(b) and 4(d) of the SMLR so that they would fall within the scope of a "listing application"?

HKIoD Response:
- We agree with the proposal to remove the automatic exemptions. The purpose is to reduce the prospect of certain issuers taking advantage of the automatic exemptions to engage in highly dilutive transactions to disadvantage minority shareholders.

Question 10

Please provide comments on the proposed amendments to the SMLR in the indicative draft at Appendix 1 to the Consultation Paper

HKIoD Response:

- We do not have specific comments at this time.

Ends