

Hong Kong Capital Markets Update

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HKEX's consultation conclusions on corporate weighted voting rights beneficiaries

On 30 October 2020, the Stock Exchange of Hong Kong Limited (the "Exchange") published the [conclusions](#) of its consultation on corporate weighted voting rights ("WVR") beneficiaries ("Conclusions"). The Conclusions are summarised as below:

Highlights

- The Exchange decided not to implement the proposals set out in the consultation at the current stage to give more time for the market and the regulators to understand and monitor the operations of existing WVR regime, which will help to inform any future amendments.
- The Exchange will additionally treat Greater China Issuers that are (a) controlled by corporate WVR beneficiaries and (b) already primary listed on a Qualifying Exchange as at 30 October 2020 ("Qualifying Corporate WVR Issuers") in the same manner as Grandfathered Greater China Issuers for the purposes of Main Board Listing Rules ("MBLR") Chapter 19C to secondary list in HK.
- To normalise the eligibility requirements for Greater China Issuers without WVR structures to secondary list in HK under MBLR Chapter 19C, the Exchange will consult the market and is currently considering whether to (a) revise the minimum market capitalisation requirement to USD400 million (~HKD 3 billion) as set out in the JPS and (b) remove the "innovative company" requirement.

Background

On 31 January 2020, the Exchange published a consultation paper seeking market views on a proposal to extend the Exchange's current WVR regime to permit corporates to benefit from WVR, subject to appropriate safeguards (for a summary of the consultation, please refer to our [Capital Market Update Issue 2020-01](#)). The consultation period was originally ended on 1 May 2020, but it was extended to 31 May 2020 in light of the COVID-19 outbreak.

The Exchange, after considering the feedback from the respondents, decided not to implement the proposals set out in the consultation at the current stage to give more time for the market to develop a better understanding of Hong Kong's regulatory approach towards regulating listed companies with WVR structures and their controllers, and for the regulators to monitor the existing WVR regime operates as intended, which will help to inform any future amendments. While a majority of respondents agree in principle that corporate WVR beneficiaries should be permitted, there are very diverse views and expectations as to how the proposed regime would operate in practice and whether modifications, and if so what modifications, were required for it to operate as intended.

Addition to Existing Grandfathering Arrangement

In the Conclusions, the Exchange also set out the way forward on the secondary listings by Greater China Issuers that have corporate WVR holders under MBLR Chapter 19C.

The Exchange will additionally treat Greater China Issuers that are (a) controlled by a single corporate WVR beneficiary (or a group of corporate beneficiaries acting in concert) which is the largest shareholder in terms of shareholders' votes and at least 30% of votes are under its control and (b) already primary listed on a Qualifying Exchange as at 30 October 2020 ("Qualifying Corporate WVR Issuers") in the same manner as the existing Grandfathered Greater China Issuers for the purposes of MBLR Chapter 19C to secondary list in HK in view that their primary listings could not have been an attempt to circumvent Hong Kong's WVR regime and it is consistent

with the Exchange's conventional approach to defer to the rules of primary market to regulate the secondary listed issuers. However, Qualifying Corporate WVR Issuers would still be subject to all other existing requirements of MBLR Chapter 19C.

For those Greater China Issuers that primary list on a Qualifying Exchange after 30 October 2020, they would not be eligible for the same grandfathering arrangement as Qualifying Corporate WVR Issuers.

If trading in the shares of a Qualifying Corporate WVR issuers migrates to the Exchange's market on permanent basis as defined by MBLR Chapter 19C.13, the Exchange would allow these issuers to retain their existing corporate WVR structures at that time, as already permitted for all Grandfathered Greater China Issuers.

Forthcoming Consultation

To normalise the eligibility requirements for Greater China Issuers without WVR structures to secondary list in HK under MBLR Chapter 19C, the Exchange plans to consult the market on the dual-primary and secondary listing regimes as a whole in a separate consultation paper. The Exchange are currently considering whether these issuers should:

- (a) meet the same expected market capitalisation requirements as non-Greater China Issuers at the time of listing of at least USD 400 million (~HKD 3 billion) as set out in the Joint Policy Statement Regarding the Listing of Overseas Companies (the "JPS"); and
- (b) not have to demonstrate that they are an "innovative company".

If you have any questions about the matters discussed in this publication, please feel free to contact the following capital markets partners and directors.

Paul Lau

Partner, Head of Professional Practice/Capital Markets
KPMG China
+852 2826 8010
paul.k.lau@kpmg.com

Louis Lau

Partner, Capital Markets Advisory Group
KPMG China
+852 2143 8876
louis.lau@kpmg.com

Terence Man

Partner, Capital Markets Advisory Group
KPMG China
+86 10 8508 5548
terence.man@kpmg.com

Mike Tang

Partner, Capital Markets Advisory Group
KPMG China
+852 2833 1636
mike.tang@kpmg.com

Elton Tam

Director, Capital Markets Advisory Group
KPMG China
+852 2978 8188
elton.tam@kpmg.com

kpmg.com/cn

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