

# Hong Kong Capital Markets Update

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## HKEX's consultation on further expanding paperless listing regime

On 16 August 2024, the Stock Exchange of Hong Kong Limited (the "Exchange") published a **consultation paper**<sup>1</sup> ("Consultation") seeking market feedback on the proposals to further expand the paperless listing regime and other rule amendments. The deadline for submission is 18 October 2024.

### Key Proposals

#### Electronic instructions from securities holders to issuers

- Provide securities holders with the option to send Requested Communications<sup>2</sup> to issuers electronically.

#### Real-time electronic payment of corporate action proceeds

- Provide securities holders with the option to receive Corporate Action Proceeds<sup>3</sup> electronically via CHATS<sup>4</sup>.

#### Electronic subscription monies

- Provide securities holders with the option to pay subscription monies for offers<sup>5</sup> electronically.

#### Abolition of mixed media offers

- Remove availability of Mixed Media Offers<sup>6</sup> for public offers of equity securities, debt securities and collective investment schemes.

#### Hybrid general meeting & e-voting

- Help ensure online participation at general meetings is possible and securities holders can vote electronically.

#### Web accessibility of issuer's corporate communications

- Seek market feedback on the incorporation of web accessibility guidelines into listing requirements.

### Background

Over the past few years, the Exchange has introduced various initiatives to digitalise and modernise listing processes, which have helped improve efficiency and reduce the market's impact on the environment through the reduction of the use of paper.

During previous consultations, it was suggested that the Exchange should consider expanding the use of electronic channels to further enhance operational efficiencies and sustainability. In response, the Exchange published a Consultation on 16 August 2024, seeking feedback on proposals to further expand the paperless listing regime by introducing more digital and web-based options to their listing framework.

<sup>1</sup> HKEX's consultation paper, <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/August-2024-Further-Expand-the-Paperless/Consultation-Paper/cp202408.pdf>

<sup>2</sup> Requested Communications include instructions regarding a meet of securities holders, including an indication as to attendance at such meeting and proxy-related instructions ("Meeting Instructions"); and instructions made in response to actionable corporate communications ("Non-Meeting Instructions").

<sup>3</sup> Corporate Action Proceeds are proceeds paid by an issuer to securities holders in connection with its corporate actions, including but not limited to the distribution of dividends and other entitlements, refunds in respect of applications for, and/or (where applicable) excess applications in connection with rights issues, open offers and preferential offers; and payment in connection with takeovers and privatisations.

<sup>4</sup> Clearing House Automated Transfer System, a payment system in Hong Kong operated by Hong Kong Interbank Clearing Limited for settling inter-bank payments on a real-time gross settlement basis.

<sup>5</sup> Including open offers, rights issues, preferential offers and bonus issue of securities to existing securities holders.

<sup>6</sup> Mixed Media Offer is an offer process whereby an issuer can distribute paper application forms for public offer of certain securities without a printed prospectus, as long as the prospectus is available online and printed prospectuses are publicly available free of charge upon request at specified locations.

## Key proposals

### A. Electronic Instructions from Securities Holders to Issuers

Currently, issuers are required to send actionable corporate communications to their securities holders by electronic means but are not required to put in place mechanisms to electronically **receive** instructions from securities holders in response to those actionable corporate communications. This means that issuers may, in practice, require securities holders to return these instructions to them in printed form only.

The Exchange has proposed to amend the Listing Rules to require issuers to provide an option for securities holders to send their Requested Communications to issuers electronically. The Exchange does not specify the mechanism that issuers must use, and the issuer would be expected to place appropriate arrangements to verify the authenticity of Requested Communications and ensure compliance with all laws and regulations. This would improve the speed and efficiency of receiving and actioning securities holders' instructions, allowing for receipt even during severe weather, while minimising issuers' impact on the environment and natural resource.

### B. Real-time Electronic Payment of Corporate Action Proceeds

There are currently no Listing Rules specifying the method that an issuer must use to pay Corporate Action Proceeds to its securities holders. Distribution of paper cheques by post and electronic payment through autopay or FPS often result in delayed payment due to cheque clearance procedures and batching of payments. Only 8% of Corporate Action Proceeds were paid through CHATS, despite the enablement of real-time settlement of payments through CHATS.

The Exchange has proposed to amend the Listing Rules to require issuers to provide an option for securities holders to receive Corporate Action Proceeds by CHATS by the announced payment date, without prohibiting issuers from providing additional payment options, such as cheque, autopay and FPS. The Exchange also proposes that the issuer must inform its securities holders of the payment options available and seek instructions from them on their choice. The shift towards greater use of CHATS would help reduce the use of paper, minimise the risk of loss and theft and align with global practice and trends to phase out the use of physical cheques.

### C. Electronic Subscription Monies

While all subscription for IPOs, preferential offerings and employee offerings are handled electronically either through FINI<sup>7</sup> or by the issuers' securities registrars, there is currently no Listing Rule requirement stipulating how subscription monies must be paid to listed issuers for offers made to their existing securities holders.

The Exchange has proposed to require listed issuers to provide an option for securities holders to pay subscription monies via electronic means for offers conducted by listed issuers to existing securities holders. The Exchange does not require a specific electronic payment option, so individual securities holders should have the flexibility to use electronic payment methods readily available to them (such as autopay or FPS). Similar to the above, shifting away from physical cheques would help reduce the use of paper, minimise the risk of loss and theft and align with global practice and trends.

### D. Abolition of Mixed Media Offers ("MMOs")

In view of large wastage of paper arising from printed prospectuses, MMOs were introduced in 2011 to allow paper applications to be made available with electronic copies of prospectuses for a public offering of shares and debentures to be listed on the Exchange. In July 2021, the first paperless listing reform required listing documents to be published in electronic format only, which meant MMOs would no longer serve a useful purpose. Consequently, the Exchange has proposed to remove MMOs such that (i) paper application forms for a public offer of equity securities, Collective Investment Scheme and debt securities will be removed; and (ii) subscription for a public offer of equity securities and by a Collective Investment Scheme are made through online electronic channels only.

### E. Hybrid General Meetings and E-voting

While issuers must ensure their securities holders' right to speak and vote at general meetings, the Listing Rules do not stipulate the form in which a general meeting must be held or the means by which votes must be cast for the purpose of the meeting. In April 2020, the SFC and the Exchange issued a Joint Statement in relation to general meetings in response to the COVID-19 pandemic, encouraging issuers to explore and assess measures to reduce the need for securities holders to physically attend general meetings through the use of technology. With effect from 28 April 2023, the Companies Ordinance and its Model Articles were amended to allow Hong Kong-incorporated companies to hold fully virtual or hybrid general meetings. However, issuers incorporated in other jurisdictions may still be governed by laws expressly prohibiting hybrid general meetings and e-voting.

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<sup>7</sup> Fast Interface for New Issuance, an online platform operated by the Hong Kong Securities Clearing Company Limited that is mandatory for admission to trading and, where applicable, the collection and processing of specified information on subscription in and settlement for all new listings.

The Exchange has proposed to require that issuers ensure their constitutional documents provide them with an option to hold hybrid general meetings and allow e-voting, to the extent permitted by laws and regulations. The issuer may choose to continue holding general meetings and make voting mechanisms available in forms and manners that best suit their circumstances and securities holders' needs.

#### F. Web Accessibility of Corporate Communications

Web Content Accessibility Guidelines ("WCAG") are an international standard for web content accessibility developed by World Wide Web Consortium. During previous consultations, the Exchange received stakeholder feedback suggesting that the Exchange incorporate the conformance of corporate communications with web accessibility guidelines, such as WCAG, into the Listing Rules or CG Code. Compliance with such standards would increase accessibility to issuers' corporate communications by persons with disabilities, ensuring they are able to exercise their rights as securities holders.

The Exchange is seeking views on whether WCAG should be incorporated into, or referred to, in the Listing Rules (including for example, the CG Code) or the Exchange's guidance, such that any corporate communications made available on issuers' website under the Rules should conform with such guidelines.

#### **Applicability and Effective Date**

Please refer to Appendix I for a table listing out the applicability of each proposal for different types of issuers.

Proposals A, B and C will become effective on the date on which the uncertificated securities market in Hong Kong<sup>8</sup> is implemented, currently expected to be around the end of 2025. Proposal D will become effective following the repeal of the Class Exemption Notice permitting MMOs. Proposal E will become effective shortly after the conclusion to this Consultation is finalised and published.

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<sup>8</sup> The Securities and Futures Commission published their consultation conclusion on implementing an uncertificated securities market in Hong Kong in July 2024. Based on the consultation conclusion, the implementation of the uncertificated securities market will be implemented around the end of 2025, which is approximately 9 to 12 months after the enactment of various legislations with the Government of Hong Kong.

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Proposal	A		B	C	D	E
Type of Issuer	Electronic instructions from securities holders to issuers		Real-time electronic payment of Corporate Action Proceeds	Electronic subscription monies	Abolition of Mixed Media Offers	Hybrid general meeting and E-voting
	Meeting Instructions	Non-Meeting Instructions				
Issuer of equity securities	✓	✓	✓	✓	✓	✓
Collective Investment Scheme	N/A	N/A	✓	✓	✓	N/A
Issuer of structured products	N/A	✓	N/A	N/A	N/A	N/A
Public Debt Issuer	✓	N/A	N/A	N/A	✓	N/A
Professional Debt Issuer	N/A	N/A	N/A	N/A	N/A	N/A