Hong Kong General Chamber of Commerce
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23 May 2025

Ms Julia Leung, SBS, JP
Chief Executive Officer
Securities and Futures Commission
54/F, One Island East
18 Westlands Road, Quarry Bay
Hong Kong

Dear Ms Leung,

Re: Consultation Paper on Proposed Amendments to the Securities and Futures (Stock Market Listing) Rules

The Hong Kong General Chamber of Commerce welcomes the opportunity to express our views on the subject consultation.

We support the SFC's proposed reforms to the Stock Market Listing rules, which enhances market efficiency, transparency, investor protection, and accountability. Hong Kong's competitive standing as a premier global listing hub and international financial centre rests on these principles.

In practice, to mitigate market uncertainties and ensure consistent application in accordance with international best practices, the Chamber recommends the need for the SFC to furnish clear and comprehensive guidance detailing the interplay between the proposed new listing rule powers and the existing provisions of the Securities and Futures Ordinance (Cap. 571). The SFC's post-listing powers should also be exercised judiciously and reserved only for instances presenting a clear and demonstrable risk to investors, to safeguard the delicate balance between regulatory oversight and maintaining Hong Kong's appeal to high-quality listings.

We hope you will find our comments useful.

Yours sincerely,

Patrick Yeung
CEO

Encl.

Securities and Futures Commission *Consultation Paper on Proposed Amendments to the Securities and Futures (Stock Market Listing) Rules* (28 March 2025)

Response by The Hong Kong General Chamber of Commerce (HKGCC)

General comments

HKGCC welcomes the opportunity to respond to this consultation paper (CP). The initiative reflects a timely and thoughtful response to the evolving dynamics of the Hong Kong listing market, with an emphasis on balancing regulatory efficiency, market transparency, and investor protection. In particular, we support the SFC's objectives of increasing the efficiency of the current listing regime, filling gaps in it, protecting the interests of the investing public, and increasing accountability. We agree with most of the CP's proposals, which seem broadly in line with international regulatory developments. However, we have a number of suggestions to make them more effective, which we hope will be useful. We answer the specific questions in the CP below.

Q1: 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. Please state and provide reasons for your views.

1. We agree with this proposal. The proposal to clarify that certain listing conditions can continue to apply post-listing is a pragmatic step. This approach allows the SFC to address specific disclosure or governance concerns without necessarily objecting to an IPO. It introduces greater flexibility in the regulatory toolkit and may facilitate a more efficient listing process in appropriate cases. Imposing appropriate continuing conditions, if done reasonably and proportionately, should allow potential issuers to raise funds and allow their shares to be traded on the market, whilst increasing investment opportunities for the investing public, and at the same time protecting their interests. We welcome the SFC's recognition that "it is required to act reasonably and proportionately in exercising the powers under section 6(3)(b) to impose continuing conditions on a listing applicant".

   We have no objection to disclosure-based conditions such as:

   - The listing applicant and any relevant capital market intermediary should be required to confirm that no side agreements or arrangements exist beyond those disclosed in the formal documentation.

- Requiring timely announcements of any subsequent transactions between the parties, as well as disclosure of such transactions in the listed issuer's first annual report post-listing

- We support the provision of a right to be heard and that powers must be exercised reasonably and proportionately. We also welcome Appendix 2 and are happy to support its wide dissemination to reinforce the importance of market integrity.

2. That said, it would be helpful if the SFC could provide clearer guidance on the types of conditions that may be imposed post-listing, and the criteria used to assess their necessity. This would provide issuers and their advisers with greater certainty and enable them to better prepare for compliance expectations during and after the listing process. While we support the enhanced powers, SFC's gatekeeping should primarily remain a pre-IPO responsibility. It would also be helpful if the SFC could clarify what constitutes "a reasonable opportunity to be heard" - whether this includes written submissions only or also oral hearings.

Q2: Please comment on the proposal to allow for a withdrawal of an objection notice under section 6(2) of the SMLR. Please state and provide reasons for your views.

3. We agree with this proposal, on the grounds of reasonableness and efficiency. It would seem unreasonable and inefficient that a listing applicant should have to make a fresh application for listing once it addresses the SFC's concerns in the objection notice, as is currently the case.

Q3: Please comment on the following proposals: 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 issuer under the new section 7A.

4. Regarding (a), we agree in principle with the proposal that the SFC should be given the power to impose conditions on an issuer as an alternative to suspension, in appropriate cases. If investors' interests can be protected by less draconian means than suspension, i.e., by imposing conditions, this seems reasonable and proportionate. This approach prioritizes disclosure and investor decision-making over disruptive regulatory action. By maintaining market access while ensuring necessary transparency, such a mechanism can mitigate market disruption and reputational damage to issuers, while still achieving the regulatory objective. To ensure consistent application, the SFC may consider developing a framework outlining when such post-

listing conditions would be applied instead of a suspension, as well as mechanisms to communicate clearly with the market when these conditions are in effect.

5. Regarding (b), however, we have difficulties. The CP presents (as noted above) that the imposition of conditions *is an alternative to* suspension.[1] This suggests that in circumstances where the SFC would be entitled to impose a suspension, it may choose in certain cases to impose conditions instead. This would be somewhat analogous, for example, to the situation under the Competition Ordinance (CO). Where the Competition Commission suspects a breach of the CO, it can accept a commitment from the business(es) concerned to take certain actions to address the Commission's concerns, as an alternative to the Commission taking more formal proceedings.[2]

6. The CP suggests however that the possible conditions can be imposed not only where the existing grounds for suspension under section 8(1) are satisfied. It proposes *new grounds* on which such conditions could be imposed. So the ability to impose conditions is not strictly an alternative to suspension. The proposal would allow conditions to be imposed, under the proposed new section 7A, even if suspension was not justified.

7. This would create a confusing situation, as there is a substantial amount of duplication between the proposed new grounds for imposing conditions under section 7A and the existing grounds for suspension under section 8(1), and even within section 7A itself. For example, the proposed section 7A(2)(c) is identical to section 8(1)(c), and overlaps at least with section 8(1)(a) and the proposed section 7A(2)(a).

8. In our view, the best solution would be to provide that conditions can only be imposed as an alternative to suspension where the *existing* grounds for suspension under section 8(1) are satisfied. In other words, the proposed new section 7A(2) is, in our view, unnecessarily confusing and superfluous. Guidelines or an Explanatory Note could be issued on the circumstances in which the SFC would consider the imposition of conditions rather than suspension would be appropriate, giving practical hypothetical examples.

9. It will be good for the SFC to set out under a policy document (whether in Appendix 2 or elsewhere) why in cases involving misconduct or improper practices the use of

[1] CP Executive Summary para 2(b), heading to para 34, para 34 itself.
[2] Competition Ordinance s 60.

SMLR powers is preferred over the existing provisions under the Securities and Futures Ordinance (Cap.571) (SFO).

Q4: Do you think that the explanatory note in Appendix 2 will help issuers and their advisors to understand the scope and purpose of the proposed amendments to the SMLR? Please provide any comments on the draft explanatory note in Appendix 2 to this Consultation Paper.

10. An explanatory note, or guidelines (whether in Appendix 2 or not) will be very helpful, if not necessary, in assisting existing and potential issuers and investors to understand the new rules. But it would be helpful to resolve first the issue we identified in our answer to Q3 above.

Q5: 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. Please state and provide reasons for your views.

Given the CP's proposals to allow for the imposition of conditions as an alternative to refusing listing, or suspension, we agree that it is logical and appropriate for the SFC to be able to amend or revoke existing conditions, and impose new conditions, provided that the same procedural safeguards (including consultation with the issuer in question) are in place. Nevertheless, we emphasise the need for a fresh regulatory process if an amendment effectively amounts to a new exercise of powers.

Q6: 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. Please state and provide reasons for your views.

11. Although the intent behind this measure is supported, we believe that this proposed power as drafted is overly broad and vague, and potentially places an undue burden on listed issuers. The CP notes that this power of the SFC already exists for listing applications, but does not exist post-listing, and it proposes to extend the power to include the latter. But in our view these two situations are not comparable. In an application for listing, it is appropriate that the SFC should be entitled to require all information that it may reasonably deem relevant to make a decision on the application. Post-listing, however, any need for information is more likely to concern whether the issuer is complying with the conditions that have been imposed on it, or

its other regulatory obligations. In these circumstances, the SFC may exercise its existing powers under the SFO to perform its functions. The existing wording of section 179(1) of the SFO is more appropriate, namely "where it appears to the SFC that there are circumstances suggesting" … [for example, that the issuer is not complying with a condition that has been imposed on it]. Without such suspected grounds for investigation, the proposed power to require the provision of information seems unduly intrusive.

Q7: Please comment on the following proposals:

(a) amendments to sections 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 powers under section 9.

Please state and provide reasons for your views.

12. We agree with these proposals, in the interests of increasing efficiency. The proposed streamlining of trading resumption procedures, the delegation of authority to senior executives for non-controversial cases, and the introduction of simplified processes are welcome developments. These changes are likely to reduce unnecessary delays in trading resumption and enhance regulatory responsiveness. To support transparency and maintain market confidence, it would be advisable for the SFC to clearly define what constitutes a non-controversial case, and to consider publishing anonymised summaries or aggregated data that reflect how such discretion is exercised in practice.

Q8: 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. Please state and provide reasons for your views.

13. We agree with this proposal. It is entirely appropriate, logical, and reasonable that all decisions of the SFC affecting other parties should be subject, on application, to a full merits review by the SFAT, which is a reputable and learned tribunal.

Q9: 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"? Please state and provide reasons for your views.

14. Given the potential for abuse of the existing exemptions relating to the above which the CP identifies, we agree with the proposed removal of the existing automatic exemptions of the above matters, and that such matters should fall within the scope of the listing application regime.

Q10: Please provide comments on the proposed amendments to the SMLR in the indicative draft at Appendix 1 to this Consultation Paper.

15. We have no comments on these minor proposed amendments.

Conclusion

The proposed reforms represent in general a positive and appropriate evolution in the regulatory framework governing Hong Kong's listing regime. By enhancing disclosure requirements, improving process efficiency, and strengthening investor protections through calibrated and transparent measures, the SFC's proposals have the potential to restore confidence and drive long-term improvements in market quality. As the SFC noted in paragraph 3 of the Consultation Paper, we stress that the post-listing powers must be carefully measured and used only in serious cases where there is a clear risk of harm to the investing public. This is essential to preserve the fine balance between robust oversight and maintaining Hong Kong as a market attractive to quality listings. In parallel, we recommend that the SFC provide guidance - preferably through a policy statement (in Appendix 2 or elsewhere) - clarifying how these new SMLR powers interact with existing provisions under the SFO. This would mitigate uncertainty, support consistent application, and align with best practice internationally by enhancing regulatory clarity and transparency.

We appreciate this opportunity to provide comments, and look forward to having the continued opportunity to comment on future developments in the regulation of Hong Kong's capital markets.

HKGCC Secretariat

May 2025