

31 August 2018

Hong Kong Exchanges and Clearing Limited
10th Floor, One International Finance Centre
1 Harbour View Street, Central
Hong Kong

Submitted via email to: response@hkex.com.hk

RE: Consultation Paper on Backdoor Listing, Continuing Listing Criteria and Other Rule Amendments

Dear Sir/Madam,

BlackRock¹ is pleased to have the opportunity to respond to the “Consultation Paper on Backdoor Listing, Continuing Listing Criteria and Other Rule Amendments” (Consultation Paper)², issued by the Hong Kong Exchanges and Clearing Limited (“Exchange”).

BlackRock supports a regulatory regime that increases transparency, protects investors, and facilitates responsible growth of capital markets while preserving consumer choice and assessing benefits versus implementation costs.

We welcome the opportunity to comment on the issues raised by this Consultation Paper and will continue to contribute to the thinking of the Exchange on any issues that may assist in the final outcome.

Unless otherwise indicated, the terms used in this letter shall have the same meanings as in the Consultation Paper.

Executive summary

We welcome the Exchange’s effort in conducting a review of regulation of listed issuers in light of the increase in market activities related to backdoor listings and the creation of cash shell companies.

While we support all suggested amendments, we have concerns regarding the available actions of the Exchange once a company is identified as a cash shell. These include suspension from trading and potentially delisting. As an institutional investor, trade suspension would inevitably create difficulty in our transaction activities and hence impact our ability to realise value from investments. Though possible, transacting in a suspended company “off exchange” is a time consuming and opaque process from a price discovery perspective. Such hindrance to trading is particularly problematic for providers of index-tracking funds like BlackRock. We believe the rules on suspending the trading of a company on the sole basis of it being a cash company should be reviewed.

We note the recent changes to the Listing Rules relating to long term suspensions and delisting and agree the amended framework can more effectively address concerns about prolonged trading suspensions. Nonetheless, our view is that forced delisting from an exchange should only occur with sufficient dialogue and planning with investors. It is important that investors are provided an opportunity to sell their holdings prior to delisting, and that alternative arrangements are available for shareholders who are unable or do not want to dispose of their positions on exchange. An example of alternative arrangement includes mandatory

¹ BlackRock is one of the world’s leading asset management firms. We manage assets on behalf of institutional and individual clients worldwide, across equity, fixed income, liquidity, real estate, alternatives, and multi-asset strategies. Our client base includes pension plans, endowments, foundations, charities, official institutions, insurers and other financial institutions, as well as individuals around the world.

² Kindly refer to this link for the Consultation Paper: <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/February-2018-Emerging-and-Innovative-Sectors/Consultation-Paper/cp201802.pdf>

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shareholders' vote on cash disbursement (refer to our first recommendation below) which would put a "price floor" for the stock.

We would like the Exchange to consider two suggestions which we believe will act as a deterrent for companies becoming cash shells and result in a much better outcome for shareholders.

1. *Mandatory shareholder meeting for cash company six months into trading suspension*

Once a company has been suspended following its identification as a cash shell, we would expect the directors to develop plans to bring the operations of the company to a state that would qualify for continued listing. If within six months from suspension the company has not resolved the issues which has led to the suspension, it should be required to call a shareholder meeting to allow shareholders to vote on a distribution of cash by either a capital return or dividend to reduce the company's cash levels such that it would no longer be considered a cash company. Controlling shareholders and their affiliates would be prevented from voting on such a proposal. Support of such a proposal by minority shareholders would see cash returned to them and the company allowed to continue to trade. If the proposal fails then the Exchange may continue the company's suspension and/or delisting.

2. *Major transaction resulting in a significant change to principal business or the creation of a cash company to require supermajority shareholder approval*

We have observed a number of situations where a cash company is created as the result of a sale of a significant asset and the proceeds used to significantly change the company's principal business. Currently shareholder approval of such transactions requires support of a simple majority to pass. Shareholders have no say with respect to the change of a company's principal business. We would like the Exchange to consider such transactions (where either a cash shell will be created or the proceeds used to significantly change the principal business) to require a supermajority (i.e. 75%) support.

We welcome further discussion on any of the points that we have raised. Thank you.

Yours faithfully,

Pru Bennett
APAC Head of Investment Stewardship

Winnie Pun
APAC Head of Public Policy