The British
Chamber of Commerce
in Hong Kong
香港英商會

Hong Kong Exchanges and Clearing Limited
8th Floor, Two Exchange Square
8 Connaught Place
Central
Hong Kong

8 February, 2021

Re: Consultation on the Main Board Profit Requirement

Q1. Do you agree that the Profit Requirement should be increased by either Option 1(150%) or Option 2 (200%)? Please give reasons for your views.

As a business Chamber in Hong Kong, we are supportive of measures that enhance the position of Hong Kong as a leading global financial centre. This is good for Hong Kong and good for our members as a part of the business community there. Accordingly, we support measures that enhance the quality of the market and restrict the activities of bad actors.

However, any measures taken to achieve this laudable objective must be measured against the harm they might do to the market and, as a consequence, Hong Kong. Such negative consequences inevitably come if legitimate businesses are unable to access the capital they need to survive and thrive and, in a heavily service based economy, the demand for such services will also be significantly impacted.

Overall, we are concerned that the scale of the impact of the proposal on the ability of businesses needing capital to come to the market, which based on the historic data provided by the Exchange in its consultation would affect over half of currently eligible future issuers, may not be striking the right balance. Put simply, the proposal may be a disproportionately drastic measure.

We are not convinced that significant new measures are needed to target the creation of "shell companies". We believe that the measures that have already been taken over the past few years, particularly in regards to the significant rule changes that have been made to strengthen the ability of the Exchange to distinguish between what it considers to be legitimate business activities and attempts to evade due process and list by the "back door", have already had a very significant impact in this area.

We do however acknowledge that it is stated that in the consultation paper that it is believed by the Hong Kong regulators that at times market abusive practices are being undertaken in the way shares are being sold in order for low profitability companies to be able to meet the market capitalization requirements. If this is true, and if the enforcement agencies are unable in a targeted manner to identify and prosecute the perpetrators of such activities, then we would support the taking of broader but measured steps to further restrict the propensity for this to happen.

We would therefore urge the Exchange, if they believe that increasing the profit requirement is the only way that the market abuse they have identified can be tackled, to reconsider whether the scale of the increase in the requirements is appropriate and proportionate particularly at the current time. As an alternative, consideration might, for example, be given to a significantly more modest increase in the profit requirement combined with enhanced scrutiny of applicants whose profitability is below the sorts of

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levels that the Exchange is considering for the current thresholds. This could include an obligation to have to include a profit forecast in the prospectus which inevitably exposes issuers, their directors and their professional advisers to both greater scrutiny and greater consequences if they fail to deliver.

Q2. Besides the proposed increase in the Profit Requirement, is there any other alternative requirement that should be considered? Please give reasons for your views.

We would strongly urge that a review is carried out, on an urgent basis, as to how the market in Hong Kong might be better able to cater for the needs of issuers and in particular those of the size that would be affected by the current proposal. This review should consider how GEM should be positioned given that, since it ceased to be "stepping stone" to the main board, there is little if any differentiation between it and the Main Board in terms of the type of issuer it is catering for as regards the applicable body of rules and the costs of listing on it, but there is a significant difference in terms of the perception between a Main Board and GEM listing. This is resulting in GEM's current seemingly continuous slide to irrelevance. We also note that the Exchange's 2017 New Board Concept Paper included a professionals' only board as part of its straw man concepts although at the time this received relatively low support. However, given that that paper was principally concerned with how to cater for issuers from the "new economy", issuers that were pre-revenue and issuers which had weighted voting rights structures, it would be of merit to consider this again, as part of an holistic review of the needs of the market in Hong Kong. We would also urge that such a review should draw at an early stage on expert input not only from Hong Kong but also internationally, and that consideration be given to the formation of an expert group to assist in the process of formulating any proposals.

Q3. Do you agree that the Exchange should consider granting temporary relief from the increased Profit Requirement due to the challenging economic environment? Please give reasons for your view.

We would agree with the granting of temporary relief, in light of the current stresses resulting from the COVID-19 pandemic, on the conditions set out in paragraph 55 of the Consultation Paper.

Q4. If your answer to Question is yes, do you agree with the conditions to the temporary relief as set out in paragraph 55? Please give reasons for your views.

Please refer to the answer to Question 3.

Your Sincerely,

Financial Markets Committee

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