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The Hong Kong Institute of Directors

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31 December 2003

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Financial Services Branch
Financial Services and the Treasury Bureau
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Attention: Proposals to Enhance the Regulation of Listing

Dear Sirs

FSTB Consultation Paper – Proposals to Enhance the Regulation of Listing

We refer to the above consultation paper and would like to enclose herewith comments from the Hong Kong Institute of Directors.

- (I) Whether statutory backing should be given to certain fundamental requirements in the Listing Rules of SEHK ?

In order to remain flexible to rapid changes in the market, we believe that should statutory backing be given to the Listing Rules, it should be confined to :

- (A) Rules relating to disclosures of issuers (such power has been given to SFC through the “dual filing” mechanism of the new SFO); and
(B) Rules relating to connected transactions (this is an area which causes overwhelming concern in the public domain).
- (II) How the existing regulatory structure governing the performance of listing functions should be improved after certain fundamental listing requirements are given statutory backing ?

Model A

If we give the listing functions to SFC, not only it will lose their vibrance, flexibility and marketing dynamics as most quasi-government bodies demonstrate, it will give undue concentrated power to SFC to approve, remove, regulate and enforce on listing candidates and listed issuers at the same time which by nature will produce conflicts among all these different functions.

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Model B

This model bears little difference to model D. The purpose of the model is solely to address the perceived conflict of interest issue with the existing arrangement.

Model C

It is dangerous to move along this line. The creation of an additional body to deal with listing functions will cause unforeseeable overlap in its working with the SFC and HKEx. The efficiency of the market which Hong Kong is always proud of, will be compromised.

Model D

This is a preferred model which causes the least disturbance to the market. With the enactment of the new SFO on 1st April 2003, the effect of which is currently being felt by the market, any substantial change to the structure of the market may not be in the best interest of the market participants as a whole.

(III) What sanctions should be imposed for breach of statutory listing requirements?

The sanctions should depend on the nature and seriousness of the relevant breaches. It could go the criminal or civil routes and for minor offences, it could go for current available sanctions such as private / public reprimands, censures, cold shoulder orders, warning etc.

With best regards



Herbert Hui
Chairman



Peter S H Wong
Chairman
Corporate Governance
Policies Committee