



Hong Kong Institute of
Certified Public Accountants
香港會計師公會

By email (response@hkex.com.hk)

22 December 2023

Our Ref.: C/CFC, M138830

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

Dear Sirs,

[Re: Consultation Paper on Proposed Amendments to Listing Rules Relating to Treasury Shares](#)

The Hong Kong Institute of Certified Public Accountants has considered the Consultation Paper on Proposals Amendments to Listing Rules Relating to Treasury Shares (“CP”), which was referred to our Corporate Finance Committee (“CFC”).

CFC generally supports the Stock Exchange of Hong Kong Limited (“Exchange”)’s proposals to remove the requirement to cancel repurchased shares and to adopt a framework in the Listing Rules to govern the resale of these treasury shares, particularly given that this is the norm in the markets where the bulk of Hong Kong listed companies are incorporated, as well as other major markets.

As explained by the Exchange in the CP, the proposals should give listed issuers greater flexibility in managing their capital structure, in particular revising their share capital quickly, which may in turn lead to a reduction in their cost of capital, and help to strengthen Hong Kong’s attractiveness as a business-friendly market. For example, listed issuers could resell the treasury shares at full market price for cash quickly, as an alternative fund raising means to placings, where, by contrast, new shares are typically sold at a discount to market price.

Further, as noted in the CP, listed issuers could also use the treasury shares as consideration for satisfying their employees’ share schemes, or upon conversion of their convertible securities, which may enhance the issuers’ liquidity, subject to the company laws of issuers’ places of incorporation. Ultimately, the proposals support listed companies in reacting promptly to different market conditions and will facilitate them to consider repurchasing shares for their own particular needs, including to signal to the market that their shares are undervalued.

At the same time, from a corporate governance perspective, generally the CFC also supports the implementation of a framework to govern the resale of treasury shares that will ensure a fair and orderly market, and fair and equal treatment of all shareholders, upon the resale of treasury shares.

Some CFC members have specific comments on Questions 3 to 5 of the CP as outlined below.



Question 3 - Do you agree with the proposal to require a resale of treasury shares (whether on-market or off-market) to be subject to a moratorium period after a share repurchase? Please provide reasons for your views.

Question 4 - Do you agree with the proposal to require an on-Exchange share repurchase to be subject to a moratorium period after an on-Exchange resale of treasury shares? Please provide reasons for your views.

Question 5 - Do you consider that the moratorium periods (in either direction) should be shorter than 30 days? If so, please share with us your views on the appropriate duration of the moratorium periods and the reason for your suggestion including your views on how the considerations in paragraph 68 should be addressed.

CFC members accept the rationale for the proposals to require (i) a resale of treasury shares (whether on-market or off-market) to be subject to a moratorium period after a share repurchase; and (ii) an on-Exchange share repurchase to be subject to a moratorium period after an on-Exchange resale of treasury shares.

However, it is stated, in paragraph 52 of the CP:

"We consider that given a resale of treasury shares impacts existing shareholders in a similar manner as an issuance of new shares, it is appropriate to apply the framework for an issuance of new shares to govern a resale of treasury shares. This approach is consistent with the approach adopted in major markets including the UK, NYSE and TSX."

However, it is noted that, currently, there is no moratorium period for share repurchases after the issuance of new shares under the Listing Rules. So, some CFC members believe that there may be a perception of inconsistency of treatment here. As such, they suggest that the same approach could be adopted for on-Exchange repurchases after an on-Exchange resale of treasury shares as for the issuance of new shares.

In addition, some CFC members from the listed company sector consider that a 30-day moratorium period after any repurchase or resale may be somewhat long, particularly in a volatile market, and suggest that a shorter time period of, say, 10 - 15 days, may be adequate to serve the objective of having a moratorium.

If you have any questions on this submission, please feel free to contact me at the Institute by telephone on 2287 7084 or email <peter@hki CPA.org.hk>.

Yours faithfully,

Peter Tisman
Director, Advocacy & Practice Development

PMT/NCL/pk