



By email < response@hkex.com.hk > and by post

5 October 2009

Our Ref.: C/CFC, M65833

Corporate Communications Department
Hong Kong Exchanges and Clearing Limited
12th Floor, One International Finance Centre
1 Harbour View Street, Central
Hong Kong

Dear Sirs,

Re: [Consultation paper on proposals to accelerate rights issues and open offers](#)

The Hong Kong Institute of Certified Public Accountants has considered the above-referenced consultation paper and our comments on the issues raised in the consultation paper are set out in the questionnaire attached to this letter.

If you have any questions on this submission or wish to discuss it further, please feel free to contact me at the Institute on 2287 7084.

Yours faithfully,

A handwritten signature in black ink that reads 'Peter Tisman'. The signature is written in a cursive, flowing style.

Peter Tisman
Director, Specialist Practices

PMT/ML/ay
Encl.

QUESTIONNAIRE ON PROPOSALS TO ACCELERATE RIGHTS ISSUES AND OPEN OFFERS

We invite interested parties to respond to the Consultation Paper on Proposals to accelerate rights issues and open offers, which can be downloaded from the HKEx website at http://www.hkex.com.hk/consul/paper/cp200907_e.pdf.

This Questionnaire contains the Personal Information Collection and Privacy Policy Statement; Part A: General Information of Respondents; and Part B: Consultation Questions.

All responses should be made in writing by completing and returning to HKEx both Part A and Part B of this Questionnaire no later than **30 September 2009** by one of the following methods:

By mail or hand delivery to	Corporate Communications Department Hong Kong Exchanges and Clearing Limited 12 th Floor, One International Finance Centre 1 Harbour View Street Central Hong Kong
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**Re: Consultation Paper on
Proposals to accelerate rights issues and open offers**

By fax to	(852) 2524-0149
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By e-mail to	response@hkex.com.hk
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Please mark in the subject line:
**“Re: Consultation Paper on
Proposals to accelerate rights issues and open offers”**

Our submission enquiry number is (852) 2840-3844.

The names of persons who submit comments together with the whole or part of their submissions may be disclosed to members of the public. If you do not wish your name to be published please indicate so in Part A.

Personal Information Collection and Privacy Policy Statement

Provision of Personal Data

1. Your supply of Personal Data to HKEx is on a voluntary basis. “Personal Data” in these statements has the same meaning as “personal data” in the Personal Data (Privacy) Ordinance, Cap 486, which may include your name, identity card number, mailing address, telephone number, email address, login name and/or your opinion.

Personal Information Collection Statement

2. This Personal Information Collection Statement is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. It sets out the purposes for which your Personal Data will be used after collection, what you are agreeing to in respect of HKEx’s use, transfer and retention of your Personal Data, and your rights to request access to and correction of your Personal Data.

Purpose of Collection

3. HKEx may use your Personal Data provided in connection with this consultation paper for purposes relating to this consultation and for one or more of the following purposes:
 - administration, processing and publication of the consultation paper and any responses received;
 - performing or discharging HKEx’s functions and those of its subsidiaries under the relevant laws, rules and regulations;
 - research and statistical analysis; and
 - any other purposes permitted or required by law or regulation.

Transfer of Personal Data

4. Your Personal Data may be disclosed or transferred by HKEx to its subsidiaries and/or regulator(s) for any of the above stated purposes.
5. To ensure that the consultation is conducted in a fair, open and transparent manner, any response together with your name may be published on an “as is” basis, in whole or in part, in document form, on the HKEx website or by other means. In general, HKEx will publish your name only and will not publish your other Personal Data unless specifically required to do so under any applicable law or regulation. If you do not wish your name to be published or your opinion to be published, please state so when responding to this paper.

Access to and Correction of Data

6. You have the right to request access to and/or correction of your Personal Data in accordance with the provisions of the Personal Data (Privacy) Ordinance. HKEx has the right to charge a reasonable fee for processing any data access request. Any such request for access to and/or correction of your Personal Data should be addressed to the Personal Data Privacy Officer of HKEx in writing by either of the following means:

By mail to: Personal Data Privacy Officer
Hong Kong Exchanges and Clearing Limited
12th Floor, One International Finance Centre
1 Harbour View Street
Central
Hong Kong

**Re: Consultation Paper on
Proposals to accelerate rights issues and open offers**

By email to: pdpo@hkex.com.hk

Retention of Personal Data

7. Your Personal Data will be retained for such period as may be necessary for the carrying out of the above-stated purposes.

Privacy Policy Statement

8. HKEx is firmly committed to preserving your privacy in relation to the Personal Data supplied to HKEx on a voluntary basis. Personal Data may include names, identity card numbers, telephone numbers, mailing addresses, e-mail addresses, login names, opinion, etc., which may be used for the stated purposes when your Personal Data are collected. The Personal Data will not be used for any other purposes without your consent unless such use is permitted or required by law or regulation.
9. HKEx has security measures in place to protect against the loss, misuse and alteration of Personal Data supplied to HKEx. HKEx will strive to maintain Personal Data as accurately as reasonably possible and Personal Data will be retained for such period as may be necessary for the stated purposes and for the proper discharge of the functions of HKEx and those of its subsidiaries.

Part A General Information of the Respondent

All fields are mandatory, except the fields with an asterisk (*) if you are an individual respondent.

Name/ Company Name*	:	Hong Kong Institute of Certified Public Accountants
Contact Person*	:	Mr. Peter Tisman
Title*	:	Director, Specialist Practices
Phone Number	:	(852) 2287 7084
E-mail Address	:	peter@hkicpa.org.hk

If you **do not wish** to disclose the above information to the public, please check the box here:

I do not wish to disclose the information above.

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please make your comments by replying to questions below against proposed changes discussed in the Consultation Paper at the hyperlink: http://www.hkex.com.hk/consul/paper/cp200907_e.pdf.

Where there is insufficient space provided for your comments, please attach additional pages.

Consultation Questions on Notice Period for Book Closure

1. Do you agree to our proposal to shorten the notice period for book closure for a rights issue or an open offer from 14 calendar days to five business days?

Yes (for rights issues)

No (for open offers)

Please provide reasons to support your view.

The Institute considers that the proposal to shorten the notice period for book closure for a rights issue from the existing 14 calendar days to five business days, as the minimum notice period requirement, is acceptable. It will help to reinforce Hong Kong's position as a major international equity fund-raising centre, without unduly disadvantaging retail investors.

In an uncertain economic climate, such as the current environment, where market volatility and significant price fluctuations are not uncommon, shortening the rights issue timetable will facilitate listed companies to raise funds more quickly and minimise the market risks of the parties concerned, including the listed company itself, underwriters, and existing and potential shareholders.

Notwithstanding our support for the proposals in relation to rights issues, we have concerns about applying the same changes to open offers. In the case of rights issues, the rights to subscribe for shares, allotted to shareholders by way of provisional allotment letters, can be traded in the market. As such, if a shareholder is away, for example, and misses the chance to sell his cum-rights securities during the notice period, he will still have another window to sell his subscription rights in the market, if he does not wish to take up the new shares. However, shares under an open offer are allotted on a non-renounceable basis, i.e., the entitlements cannot be separated from the existing shares and therefore shareholders cannot sell the subscription rights. As such, if a shareholder misses the window for selling his cum-entitlement securities during the notice period, he will have to subscribe for the allotted shares or suffer a dilution of his interest without any compensation.

Under the current proposal, for an open offer, shareholders may have only two trading days to sell the shares during the notice period before they go ex-entitlement. This is unlikely to be sufficient in all cases, in particular, where there are a number of parties, e.g., global custodian, fund managers, beneficial owners, etc., involved in the process. We are also concerned that if a large number of shareholders rush to offload their shares during two trading days, given the potentially large volume of transactions, some shareholders could run out of time and be prevented from making a sale.

In view of the above, we consider that additional trading days during the notice period may be required for an open offer.

2. In the case of a rights issue or an open offer, do you agree to our proposal to require extension of the notice period by postponing the book closure date, if necessary, to provide the market with a minimum of two uninterrupted trading days for trading in cum-rights securities during the notice period if, for example, trading on the Exchange is interrupted due to typhoon and/or a black rainstorm warning or trading of the issuer's securities is suspended?

Yes

No

Please provide reasons to support your view.

This will protect shareholders against any further narrowing of the window for trading in cum-rights securities during the notice period.

3. If your answer to question 2 is "Yes", do you agree that the proposed draft rule amendments in Appendix II will implement our proposal(s)?

Yes

No

Please provide reasons to support your view.

4. Do you agree to our proposal to amend the notice period for book closure (in cases other than a rights issue or an open offer) from 14 calendar days to 10 business days?

Yes

No

Please provide reasons to support your view.

The proposal will not reduce the practical length of the notice period and is more specific and certain than the current situation. Currently, public holidays may fall during the notice period and so, in practice, reduce the period available for action to be taken. In addition, specifying the notice period by reference to business days instead of calendar days is broadly in line with other markets, including the United Kingdom (“UK”), Australia and Singapore.

5. Do you agree to our proposal to amend the notice period for alteration of book closure date from six calendar days to five business days?

Yes

No

Please provide reasons to support your view.

See reasons indicated in our response to Question 4 above.

6. Do you agree to our proposal to clarify the rule that if an issuer changes the book closure date, it must give notice at least five business days before the originally announced closure or the newly proposed closure, whichever is earlier?

Yes

No

Please provide reasons to support your views.

7. Are there any other comments you would like to make?

Yes

No

If your answer is “Yes”, please state below.

It is noted that, in respect of rights issues and open offers, in Hong Kong, the companies concerned do not have to calculate the value of the shareholders' entitlements where shareholders do not subscribe for them. As a result, if shareholders do not reply before the deadline that they will subscribe for the rights shares, they receive nothing. The unsubscribed rights will go to the underwriters, or will be allocated by the board to other shareholders under “excess applications”. It is understood that, in similar circumstances, the listing rules in the UK require companies to pay shareholders the value of their unsubscribed rights. This appears to represent a measure of protection for shareholders if they are unaware of a rights issue or open offer, or have missed the exit windows or the deadline for subscription. We would suggest that the Stock Exchange considers studying relevant investor protection measures in place in comparable financial markets, as these may form an important part of the overall framework of rights issues, obligations and protections in those markets, which should be borne in mind when comparisons are being made between particular elements of the framework. The Exchange may wish to consider whether measures that may exist in other markets should be applied in Hong Kong in order to strengthen the investor protection regime here.

Consultation Questions on Subscription Period

8. Do you agree to our proposal to amend the minimum subscription period for rights issues and open offers from 14 calendar days to 10 business days?

Yes

No

Please provide reasons to support your view.

The proposal will not reduce the practical length of the notice period. Specifying the subscription period by reference to business days, as opposed to the current situation, will provide greater certainty, in particular when there are public holidays falling during the relevant period.

9. Do you agree to our proposal to amend the maximum subscription period for rights issues and open offers (over which the issuer must consult the Exchange) from 21 calendar days to 15 business days?

Yes

No

Please provide reasons to support your view.

See reasons indicated in our response to Question 8 above.

10. Are there any other comments you would like to make?

Yes

No

If your answer is “Yes”, please state below.

- End -