

Singapore Exchange Limited
11 North Buona Vista Drive
#06-07, The Metropolis Tower 2
Singapore 138589
(Attention: Listing Policy & Product Admission)
Via email: listingrules@sgx.com

13 April 2017

Dear Sir or Madam,

We welcome the opportunity to provide comments on the possible listing framework for dual class share structures. Hermes Investment Management is an asset manager in the City of London, and is wholly owned by the BTPS, one of the UK's largest corporate pension schemes. As part of our Equity Ownership Services (Hermes EOS), we also respond to consultations on behalf of many clients including EAPF and Coal Pension Trustees (UK), PNO Media (The Netherlands) and VicSuper (Australia). In all, Hermes EOS advises over 40 clients with regards to assets worth a total of £264bn (SGD459bn) as at 31st March 2017.

We strongly believe in the principle of 'one share one vote', where all shareholders are given equal rights and voting rights are aligned with economic interests and investment risks. Therefore, we are not supportive of the proposed introduction of a dual class share framework in Singapore, a position we have argued on different occasions including during the proposed revision to the Companies Act in 2011. We do however, appreciate the thorough consideration that the SGX has given this matter in consultation with the Listings Advisory Committee and the mitigating steps suggested to address the various risks inherent with a DCS structure. While we continue to believe that allowing DCS structures would be a step backwards and potentially harmful for market integrity, we do believe that the suggestions are mostly reasonable and, if implemented correctly, could be effective in mitigating much of the risk of abuse by owner managers. We therefore urge the SGX to mandate all of these suggested criteria and safeguards should it decide to proceed with the introduction of a DCS structure in Singapore.

We have answered specific questions below. Should you have any questions, please do not hesitate to contact me at Sachi.Suzuki@hermes-investment.com or +44(0)20 7680 2196.

Yours faithfully,



Sachi Suzuki
Manager – Engagement

Question 1: DCS Framework

We strongly believe that all shareholders should be given equal rights and that voting rights should be aligned with their economic interests and investment risks. For that reason we are in favour of maintaining the current rule of 'one share one vote'. We are concerned about the risk that such a DCS structure may be abused by company management to the detriment of shareholders, as evidence suggests that has been the case in other markets. Where DCSs have been introduced, these have commonly been associated with the entrenchment of management, higher executive pay and conflicts of interests around major transactions with value extracted in the interests of management and to the detriment of minority shareholders. Indeed, there is clear evidence that the vast majority of long-term investors do not support differential voting rights and some would go so far as to not invest in such companies.¹

Not only do DCSs present risks to shareholders, they may disadvantage the companies themselves. There are studies to suggest that controlled companies underperform "non-controlled" companies over various periods of time and other studies suggest that non-voting shares tend to trade at lower prices than voting shares.²

While some investors will have the choice of not investing in companies with a DCS structure because of the known risks, index investors will not have such an option when DCS companies are included in key indices. In countries like the UK, companies with a DCS are not allowed to list on the premium section of the stock exchange and as a result do not gain entry to FTSE (and other) indices, but the SGX's proposal is to allow such companies on the Mainboard, which would likely mean their inclusion in indices. This could have a wider impact on the market performance and its attractiveness to foreign investors while forcing some investors to become forced buyers of those companies which adopt DCS structures.

Question 2: Additional Admission Criteria

We agree that there should be additional admission criteria for issuers with DCS structures and the above suggestions are mostly reasonable. We however, think judgements on (c) could be subjective because what would constitute a 'compelling' reason is not clear and this would therefore benefit from clear and explicit guidance in advance. Industries such as information technology and life sciences are mentioned as examples of industries where a dual class share structures is often considered, but it would be difficult to demonstrate that these – or any other industries – deserve the right to adopt the DCS more than others.

Question 3: Maximum Voting Differential

We strongly urge SGX to provide the proposed safeguards, should it decide to introduce the DCS despite various concerns and risks to investors. We support the idea of setting a maximum voting differential between MV share and OV share, rather than a fixed ratio, so that issuers can choose a smaller ratio should they wish to, which would represent a greater alignment of ownership and control. Given our fundamental belief in the principle of one share, one vote, we think the ratio should be as small as possible and certainly not more than 10 to 1. In addition, when an issuer seeks to list with a DCS, the SGX should ensure that OV shares in DCS are properly designated as limited voting or restricted voting shares so that investors may clearly identify that they are part of a DCS structure.

¹ ICGN Viewpoint 'Differential share ownership structure: mitigating private benefits of control at the expense of minority shareholders', February 2017

² ISS Governance Insights 'Snap Inc Reportedly to IPO with Unprecedented Non-Voting Shares for Public', January 2017

Question 4: Restriction on Issuance of MV Shares Post-listing

We agree that the issuance of MV shares post-listing should be prohibited in order to prevent companies from expanding their control. We also agree that a rights issue may be an exception to such a prohibition so that companies which listed with a DCS will be given the option to maintain the structure through a rights issue.

Question 5: Automatic Conversion of MV Shares

We think that the eligibility to hold MV shares should be limited to those who are in the position to make decisions from a long-term perspective for the business's sustainability and these are likely to be founder-owner managers who are in charge of making executive decisions. We agree that it is important that there be an automatic conversion of MV shares into OV shares upon certain events such as the transfer of MV share to a third party, which would alter the relationship between the owner and the company and leave significantly weaker justification for a DCS structure to exist. This would effectively prevent transfers of MV shares to third parties.

Question 6: Sunset Clause

We strongly support the proposal to mandate the adoption of a sunset clause and five years would be a reasonable length. Should the issuer wish to extend the period post-voting, it should seek shareholder approval through a vote excluding the MV shareholders. Change of principal business or ownership makeup should also be a criteria for a sunset provision because the rationale for a DCS structure would be weakened in these events. In particular, we believe that the sunset clause should be triggered if the economic interest of the founder or controlling shareholder drops below a certain level. It would be unfair to other shareholders if the owner was to maintain control of the company while having minimal economic exposure. Companies should propose certain economic interest thresholds when they put forward a prospectus for adopting a DCS.

Question 7: Independence Element on the Board

We strongly support the enhanced independence requirements for issuers which wish to adopt a DCS as it would provide an additional safeguard. We urge SGX to apply all of the criteria suggested by the LAC. We further recommend that the companies have majority of independent director, regardless of whether chairman is independent or not, and they facilitate investor access to independent directors.

Question 8: Enhanced Voting Process on Appointment of Independent Directors

We agree that minority shareholders should have an equal say in appointing independent directors, as these directors are expected to represent the interest of minority shareholders. However, we think that some other decisions that can have a material impact on the investment case for the company deserve the use of the Enhanced Voting Process. These may for example include major M&A transactions and change of control provisions in which minority shareholders should be given an equal say.

Question 9: Risk Committee

We support the idea of the mandatory establishment of a risk committee at issuers with a DCS framework to ensure the effective oversight of the owner manager's actions by the board, particularly independent directors. We recommend that the committee should be formed entirely of independent directors and that it approve of significant related party transactions with MV shareholders.

We refer to an example from the UK, where a controlling shareholder is required to have a relationship agreement in place which stipulates what rights they have in respect of certain matters and imposes obligations on the controlling shareholder to ensure that transactions between the listed company and the controlling shareholder or its associates are on arm's length terms. The independent directors are required to annually confirm that the relationship agreement has been abided by or note if any independent director is not able to support a clean statement of compliance.

Question 10: Coat-tail Provision

We strongly support the requirement for a coat-tail provision to prevent the risk of abuse of the DCS structure by owner managers.