



SECURITIES AND
FUTURES COMMISSION
證券及期貨事務監察委員會

Consultation Conclusions on Proposals for a Scripless Securities Market

Hong Kong
September 2003

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1. EXECUTIVE SUMMARY

- 1.1 The Securities and Futures Commission (SFC) is publishing Consultation Conclusions on Proposals for a Scripless Securities Market following a Scripless Consultation Paper published in February 2002.
- 1.2 The Consultation Conclusions describe the choice of the split register scripless model as proposed in the 2002 Consultation Paper. This means there will be a CCASS Register operated by Hong Kong Exchanges and Clearing Ltd. (HKEx) linked electronically with an Issuer Register operated by approved share registrars. The model provides for various scripless registered shareholder accounts on the CCASS Register and scripless Issuer Register Accounts with the registrars. The Issuer Register is updated with the CCASS Register to form the complete register of members. Section 3 describes the main features and operations of the scripless accounts and other features of the scripless model. The Consultation Conclusions model is largely the same as that proposed in the 2002 Consultation Paper.
- 1.3 Section 4 discusses some of the main issues raised by the consultation. In greater detail, Appendix 2 describes comments received along with our responses. These Consultation Conclusions do not deal with the legislative amendments to support the scripless model. We are continuing to work with Government to finalize the amendments, which will be the subject of a separate consultation.
- 1.4 Section 4 also notes that HKEx will soon be publishing a “Consultation Paper on a Proposed Operational Model” that will detail the operations of the split register model. The HKEx paper follows the scripless model outlined in these Consultation Conclusions and adds additional operational details. In a few areas it proposes different features. These are described in paragraphs 4.12 and 4.13.

2. BACKGROUND

- 2.1 In February 2002, the SFC published a Consultation Paper on Proposals For A Scripless Securities Market (the **2002 CP**). The Executive summary of that Paper set out the objectives for a

scripless market. The Background section described the current situation in Hong Kong concerning use of physical share certificates and instruments of transfer, the role of registrars, and the operation of the CCASS clearing and depository system (paragraphs 10 to 26). The Paper described the high level features of the model, in particular scripless registration in CCASS and scripless registration on the issuer register (paragraphs 27 to 42). The Paper also described in Part 5 the Implications for market participants and in Part 6 the Legislative changes to support a scripless market (paragraphs 43 to 62). An Appendix provided a summary of scripless market systems overseas and in the Mainland.

- 2.2 Following the Consultation Paper, an Implementation Working Group was formed to further develop the scripless model and implementation plan. Three Focus Groups were also formed - Market Participants, Listed Companies, and Legal and Regulatory Practitioners – to consider the scripless model. Finally, a Technical Working Group developed the technical and operational details of the model and its implementation. The membership of these groups is at Appendix 1 to this Paper. The SFC also provided briefings on the scripless model to the SFC Advisory Committee, the SFC Shareholders Group, the Standing Committee on Company Law Reform, and the Hong Kong Stockbrokers Association.

3. CONSULTATION CONCLUSIONS ON PROPOSALS FOR A SCRIPLESS SECURITIES MARKET

- 3.1 Under the scripless model, changes to the law will allow Hong Kong listed companies and other specified companies to issue scripless shares. Scripless shares will be issued and transferred without issuing physical share certificates and for the most part without using physical instruments of transfer – issues and transfers will be done electronically. At the outset, listed companies may elect to issue all shares in scripless form. They may also continue to offer certificated shares during a transition period, but will be required by the Listing Rules to also offer scripless shares to all registered holders who elect to hold in scripless form. Once the scripless model gains wide acceptance, the law will require scripless holdings only.¹

¹ The discussions here and in the 2002 CP focus on shares. However, the legislative amendments will apply to debentures as well.

Split Register Model

- 3.2 Scripless shares will be held in accounts maintained with a recognized clearing house (also known as being on the **CCASS Register**) or with the company's approved share registrar (also known as being on the **Issuer Register**). As noted above, the Issuer Register will be updated with the details of the CCASS Register to form the complete register of members, which will be open for public inspection at the registrar. Title and movements of title to scripless shares will be recorded as electronic credit and debit entries on the respective registers. Instructions to transfer title to scripless shares will also be electronic.

Scripless Accounts on the CCASS Register

- 3.3 On the **CCASS Register** there will be 3 types of account for registered shareholdings. These are the **CCASS Participant Account**, the **CCASS Participant Sponsored Account**, and the **Investor Participant Account**. As described in the 2002 CP, these are similar to the existing CCASS accounts with modifications to support the scripless model. The main new feature of these accounts under the scripless model is that the named account holders will be registered shareholders.
- (a) The **CCASS Participant Account** will be the account of the CCASS broker or custodian participant and the shares in it registered in its name. A segregated nominee account may be used to hold clients' shares, but such clients will be beneficial owners and not registered owners of the shares. Many clients' shares are often held in 1 nominee account. Such clients must look to their CCASS Participants to receive account statements and corporate communications and entitlements and to process corporate actions. The CCASS Participants will receive corporate communications directly from the registrar. The responsibility for corporate actions is still under discussion (see paragraph 4.13).
- (b) The **CCASS Participant Sponsored Account** will be an account opened by the CCASS Participant for a client whereby the client will be recorded as the registered owner of shares in the account. A separate account will be opened for each sponsored client. However, the authority to move shares in and out of Sponsored Accounts will be with the CCASS

Participant rather than the named account holder. The account holder will be informed of all account movements. CCASS will provide the client with statements of the holdings in the account and movements in and out of the account. Registrars will send corporate communications directly to the named client. The responsibility for corporate actions is still under discussion (see paragraph 4.13).

- (c) The **Investor Participant Account** at CCASS will be an account opened by an investor directly with CCASS with the investor being the registered owner of all shares in the account. The investor will have the authority to operate the account, which is not associated with a broker or custodian. The account may be operated with a user name and password assigned by CCASS or a digital signature. CCASS will provide the investor with statements of holdings and movements in and out of the account. Registrars will send corporate communications directly to the investor. The responsibility for corporate actions is still under discussion (see paragraph 4.13). This paragraph describes how the current Investor Participant Account would operate under the scripless model. HKEx is now considering a new Investor Participant Account, which we understand will be the subject of separate HKEx consultation paper.

Scripless Accounts on the Issuer Register

- 3.4 On the Issuer Register, there will be 1 type of new account being a scripless **Issuer Register Account** in the name of the shareholder maintained directly with the registrar. We term this an “account” for ease of reference, although it might be better described as an arrangement for holding and transferring scripless shares. The account will be operated by means of a shareholder reference number (**SRN**) assigned to the shareholder by the registrar. The shareholder gives the SRN to a broker or custodian to transfer shares to settle a sale. The transfer will then be processed via CCASS and through the CCASS electronic interface with the registrars. The shareholder will relate directly with the registrar for purposes of receiving account statements, receiving corporate communications and entitlements, and for processing corporate actions.
- 3.5 The Issuer Register will also continue to contain the names and other details of all certificated shareholders. Prior to a fully scripless

market, certificated shareholdings will continue to be transferable using a written instrument of transfer. The scripless model is depicted below in Diagram 1.

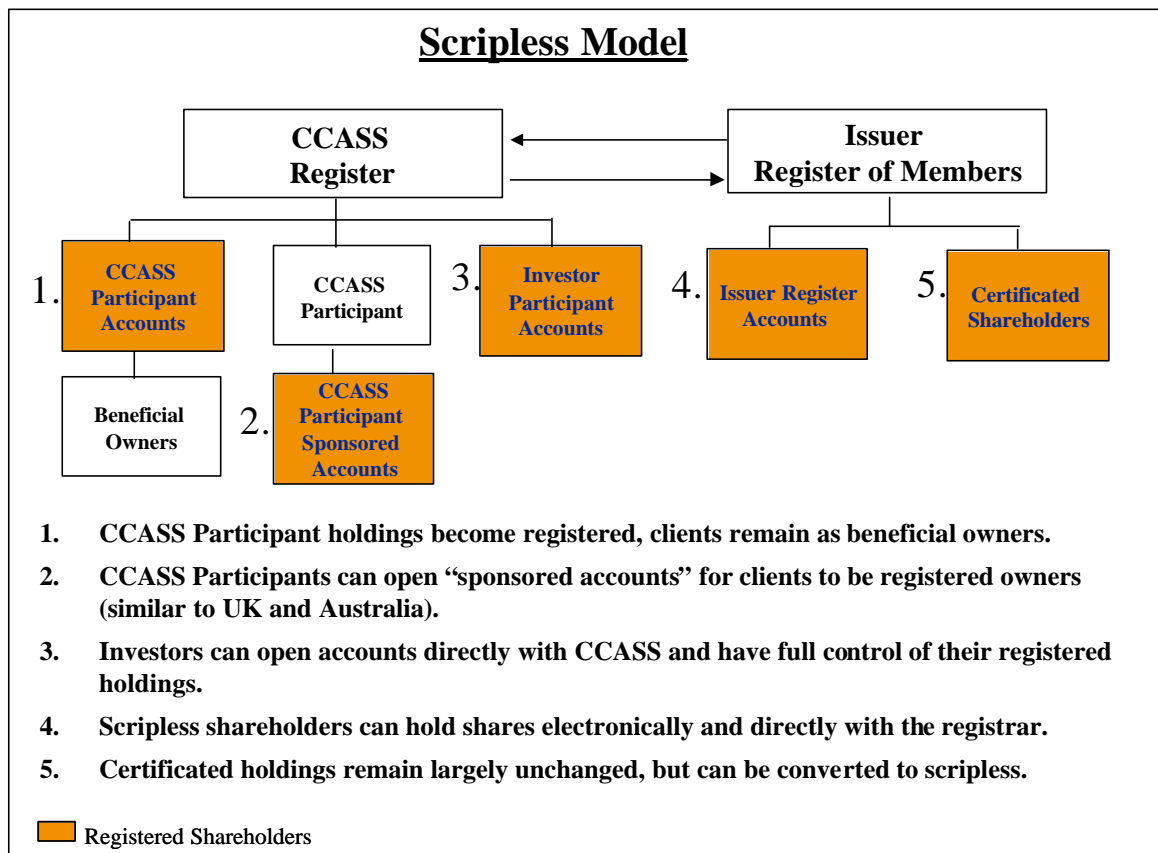


Diagram 1

Dematerialization/Rematerialization

3.6 The scripless model will enable certificated shareholders to convert or “dematerialize” their holdings to one of the various types of scripless accounts. Dematerialization will be possible either through CCASS or the registrar. In the light of comments received on the 2002 CP, a rematerialization service will also be provided initially. This will enable an investor who purchases scripless shares to request certificates from the registrar. As mentioned in the 2002 CP, the investor will be required to pay for this service and the cost could be higher than the cost of certificates today.

Examples of the Operation of the Scripless Model

3.7 The paragraphs below illustrate how the scripless model will work in practice for various common transactions.

- 3.8 An investor subscribes for scripless shares in an initial public offering and wishes to be a registered shareholder. The investor will have 3 choices reflected in Boxes 2, 3, and 4 in Diagram 1. If the investor does not wish to enable a broker or custodian to operate the account, the investor can choose Box 3 or Box 4. Box 3 requires opening an Investor Participant Account in CCASS, which will be operated by a user name and password or digital signature. If the investor chooses Box 4, the registrar will automatically open an Issuer Register Account in the investor's name and provide the investor with an SRN needed to operate the account. If the investor wishes to enable a broker or custodian to operate the account, the investor can ask a CCASS Participant to open for the investor a CCASS Participant Sponsored Account in CCASS, or Box 2 as described further in the following example.
- 3.9 An investor buys shares on the Stock Exchange through a CCASS Participant. The investor may choose any of Boxes 1, 2, 3 or 4.
- (a) If Box 1 is chosen, the investor will not be a registered shareholder, rather the shares will be registered in the CCASS Participant's name (see paragraph 3.3(a)).
 - (b) If the investor chooses Box 2, the CCASS Participant will instruct CCASS to open a CCASS Sponsored Account in the investor's name and transfer the shares from Box 1 to that Box 2 account (see paragraph 3.3(b)).
 - (c) For Box 3, the investor must open an Investor Participant Account with CCASS. The investor then asks its CCASS Participant to instruct CCASS to transfer the shares from Box 1 to the investor's Box 3 account in CCASS (see paragraph 3.3(c)).
 - (d) For Box 4, the investor asks its CCASS Participant to instruct CCASS to transfer the shares from Box 1 to Box 4. The CCASS Participant will include the investor's name and address for registration details. CCASS debits Box 1 and relays the instruction to the relevant registrar. The registrar will credit the shares to the shareholder's Box 4 account (opening a new account if necessary) and mail an SRN to the shareholder (see paragraph 3.4).

- 3.10 A shareholder with a registered holding in Box 2, 3, or 4 sells shares on the Stock Exchange through a CCASS Participant. Note that there is no change if the sale is from a Box 1 nominee account where the investor is not registered.
- (a) For a Box 2 CCASS Participant Sponsored Account, the CCASS Participant has the ability to transfer the shares rather than the shareholder. The CCASS Participant can check on the availability of the shares. For settlement of the sale it instructs CCASS to transfer the shares from Box 2.
 - (b) For a Box 3 Investor Participant Account the shareholder will authorize a transfer of the shares from Box 3 to the CCASS Participant's Box 1 account. This requires the user name and password and may be done by telephone, Internet or in person, or alternatively via digital signature. As mentioned, CCASS is currently working on a new Investor Participant Account Structure.
 - (c) For a Box 4 Issuer Register Account, the shareholder will give the SRN to a CCASS Participant. The CCASS Participant inputs an instruction to CCASS including the SRN to transfer the shares from Box 4 to its Box 1 account. CCASS relays this to the registrar who will confirm the transfer if the shares are available and the SRN is correct.

4. CONSULTATION CONCLUSIONS DISCUSSION

- 4.1 This section discusses some of the main issues raised by the consultation. For a summary of all comments received with our responses see Appendix 2, which also includes comments from the 3 Focus Groups and the various bodies to whom the SFC presented briefings on the scripless model (see paragraph 2.2).
- 4.2 Most commentators supported the split register model for the scripless market. It makes use of much of the existing infrastructure at CCASS and the share registrars, thus lessening the need for completely new infrastructure. The model provides a variety of choices for investors and has proven its effectiveness in overseas markets.
- 4.3 Some commentators preferred a single register to the split register model. Markets such as Singapore and Mainland China have a

single register, which is effectively the records of the clearing house. After thorough consideration and discussion of the pros and cons of the alternatives, we have decided not to pursue a single register model. The main reasons are because we believe it would restrict investor choice and restrict competition. The split register model enables investors to choose between registered accounts in CCASS or directly with the registrar. It also promotes competition among share registrars in the maintaining of listed companies' registers of members. In addition, a single register would appear to require legislative interference with the relationships between listed companies and their registrars and the granting of a new monopoly, which we do not believe is necessary or desirable.

- 4.4 Some other commentators suggested that even if there is not a single register, it would be desirable for there to be a central database containing the registers of all listed companies. This would enable investors and others to access shareholder information at a single location rather than at multiple share registrars. Whilst we agree this would be nice, we are not prepared to propose it be required in legislation, because it would add extra costs to the scripless model and raise questions over who would own and operate the central system. If a central database has value for the market it can be developed through the private sector and we would participate in its consideration and the assessment of related costs and benefits.
- 4.5 Commentators generally supported the choice of account types available to investors under the model as well as the benefits to be provided to shareholders with their names on register. However, some commentators noted that shareholders may still face risk of intermediary default or misappropriation.
- 4.6 In this regard we note first that the scripless model will be a significant improvement over the existing situation. For investors with accounts registered in their own names (Boxes 2, 3, and 4) the investors' holdings will be readily identifiable as belonging to them thus avoiding the years of uncertainty following the C.A. Pacific Securities Ltd (In liquidation) default in 1998. Moreover, investors with these types of accounts will be informed independently (for boxes 2 and 3 the notice will come from CCASS and for box 4 the notice will come from the Registrar) when there is a movement in the account, thus greatly enhancing investors' ability to monitor their shareholdings.

- 4.7 Further to the paragraph above, several commentators asked that consideration be given to the adequacy of the investor compensation arrangement. As of 1 April 2003, a new investor compensation arrangement took effect under the Securities and Futures Ordinance (Cap. 571). Among other things, the new arrangement provides compensation of up to \$150,000 per person per default, it covers banks as well as brokers, it covers non-exchange members as well as exchange participants, it is administered by the SFC and the Investor Compensation Company Ltd rather than the exchanges, and it has assets in the new Investor Compensation Fund of approximately \$1 billion.
- 4.8 Comments were mixed on whether and if so for how long share certificates should continue to be made available after the scripless model begins operating. But a clear majority of commentators believed certificates should continue to be available for a transition period, including the option to rematerialize a scripless holding. They suggested that reasonable fees should apply. Allowing for certificates during a transition period was felt to be particularly important for retail investors. We accept this approach.
- 4.9 Several commentators noted the importance under the scripless model of maintaining the integrity and reliability of the CCASS and approved share registrars' automated systems. We agree. The CCASS system has been subject to SFC oversight for many years. The registrars' systems are now covered by the SFC's Code of Conduct for Share Registrars. In this regard, we will seek to apply best practices for financial services institutions.
- 4.10 We received various comments concerning SRNs, which are the numbers sent by registrars to shareholders with Issuer Register Accounts. One commentator noted that an investor would likely receive a different SRN for each line of stock held and wondered whether these could be consolidated into 1 SRN. The registrars have said they will consider enabling shareholders to change their SRNs, thus enabling a shareholder to use a single number (assuming the number is not already in use by another shareholder). Another commentator noted that when a shareholder provides his SRN to an intermediary to sell only part of his shares, the intermediary would be able to use the SRN to misappropriate the remaining shares. A shareholder concerned with this risk might then consider changing his SRN. We intend to work with the registrars to enhance the

security of SRNs with a view to achieving security at least as good as that of PIN numbers provided to bank customers.

- 4.11 We received numerous comments concerning fees and charges in the scripless market. In discussions concerning the dematerialization of the many millions of share certificates held in and outside CCASS, it was noted that if the existing Listing Rule fee of \$2.00 or \$2.50 per certificate was applied the total fees payable to registrars might exceed the reasonable costs of this one-off dematerialization. We will discuss this further in the Implementation Working Group meetings with a view to ensuring that if fees and charges apply they are reasonable.
- 4.12 HKEx proposes that at least initially share transfers between the CCASS Register and the Issuer Register be processed in a single batch at the end of each day for operational reasons. The SFC prefers such transfers to be made more frequently and preferably in real time, since otherwise investors using Issuer Register accounts (Box 4) and their intermediaries may find trading to be cumbersome. The SFC understands that real-time processing may be more costly and that demand for such services may be uncertain. As discussions continue on these details, we will support operational decisions that will provide choices that work for investors on either the CCASS Register or the Issuer Register.
- 4.13 HKEx believes that CCASS should be the provider of corporate action processing services (e.g. dividend collection, voting) for shareholders on the CCASS Register, including for CCASS Participant Sponsored Accounts or Box 2 where the CCASS Participant should be the conduit to provide these services. On the other hand, the registrars believe they should provide such services, as they will for shareholders on the Issuer Register. The SFC prefers to allow the registered shareholders to choose. This matter will be the subject of further discussion among the parties involved.
- 4.14 Apart from the shares held by CCASS, another issue is the fees to apply to dematerialization and rematerialization by shareholders. For dematerialization via CCASS or the registrars, any fee payable could discourage the move to scripless holdings. We intend to raise this in the Implementation Working Group meetings and will work to ensure that if any fee is payable it is reasonable and facilitates the scripless market. As for rematerialization and scrip-to-scrip

transactions, we would not be opposed to higher fees if these are necessary to avoid subsidizing the continued use of certificates.

- 4.15 Concerning dematerialization, several commentators asked how long the process will take, noting that today CCASS provides immediate credit for certificate deposits whilst registrars take up to 10 business days to transfer scrip. In Technical Working Group discussions it was felt that this could be shortened and discussions will continue toward this end.
- 4.16 Not all commentators agreed with the suggestion in the 2002 CP that scripless shareholders not be required to pay registration fees to the registrars. Although most commentators appear to have accepted our proposal, a registrar and a listed company felt that shareholders should pay. We continue to believe there should be no fee payable by shareholders to the registrar for scripless holdings. Such a fee would discourage investors from becoming registered and exercising their rights as shareholders. We believe this is why most overseas markets do not require investors to pay registrars for transfers.
- 4.17 For CCASS registered accounts (i.e. Boxes 1, 2, and 3) various CCASS fees and charges apply and we expect that these will continue. If shareholders do not wish to use CCASS registered accounts, they may choose an Issuer Register Account. We would oppose a CCASS “registration fee” as this would be a disincentive to investors being on the register of members. For similar reasons, we are of the view that any fees (if at all) that CCASS might charge for transferring shares to or from CCASS and uncertificated shareholding on the Issuer Register should be reasonable and not pose a danger of discouraging registration (see paragraph 4.12).
- 4.18 One commentator noted that the Federation of Share Registrars publishes recommended fees and charges for its member registrars and expressed the concern that these might inhibit competition among share registrars. We agree and intend to amend the SFC’s Code of Conduct for Share Registrars to prohibit recommended fees or other practices that unnecessarily inhibit competition.
- 4.19 HKEx has decided to publish in early October 2003 a consultation paper on the operational details of the scripless model. The HKEx paper follows the split register scripless model outlined in these Consultation Conclusions and adds operational details. In a few areas it proposes different features. The 2 main operational

differences are discussed in paragraphs 4.12 and 4.13 of these Consultation Conclusions.

- 4.20 We are continuing to discuss the operational details of the scripless model with the Implementation Working Group and the Focus Groups, including the HKEx operational details. Meanwhile, we are working with Government on the legislative amendments to facilitate the scripless model and these will be the subject of future consultation.

SCRIPLESS GLOSSARY

2002 CP - the SFC's Consultation Paper on Proposals for a Scripless Securities Market, published in February 2002.

approved share registrar - a registrar (or a listed company which is its own registrar) that is a member of the Federation.

CCASS - the Central Clearing and Settlement System operated by HKSCC, which is a recognized clearing house and a wholly owned subsidiary of HKEx.

CCASS Participant Account - a registered scripless account in CCASS as further described in paragraph 3.3(a). For this account, shares are registered in the name of the CCASS Participants and not their clients.

CCASS Participant Sponsored Account - a registered scripless account in CCASS operated by the CCASS Participant but with shares registered in the name of the "sponsored" client shareholders as further described in paragraph 3.3(b).

CCASS Register - that part of the register reflecting holdings through a CCASS, and which together with the Issuer Register will form the complete register.

certificate - a physical share certificate evidencing the holder's title to the shares and **certificated** in relation to shares, shareholders, and shareholdings shall be construed accordingly.

corporate actions/corporate communications - communications which listed companies publish for information or action of registered shareholders.

corporate entitlements - things to which registered shareholders are entitled, such as dividends, the right to vote, the right to participate in a general offer, etc.

dematerialization - the process whereby a certificated shareholding is converted to a scripless shareholding.

Federation - the Federation of Share Registrars approved by the Securities and Futures Commission under the Securities and Futures (Stock Market Listing) Rules.

HKEx - Hong Kong Exchanges and Clearing Company Ltd. a recognized exchange controller, a listed company, and the owner of among others, HKSCC and SEHK.

HKSCC - Hong Kong Securities Clearing Company Ltd. a recognized clearing house and a wholly owned subsidiary of HKEx.

instrument of transfer - a physical instrument needed to transfer title to shares.

Investor Participant Account - a registered scripless account in CCASS in the investor's name and operated by the investor as further described in paragraph 3.3(c).

Issuer Register - that part of the register maintained by the registrar for the company, and which together with the CCASS Register will form the complete register.

Issuer Register Account - a registered scripless account held directly with the registrar as further described in paragraph 3.4.

member - unless the context otherwise requires, means a member of a company with a registered shareholding in the company as reflected on the company's register of members.

register - a recording of all the registered holders and their respective holdings; for shares the register is a recording of all the members of the company and their holdings and is known as the register of members.

registrar - the person who maintains a register of members.

rematerialization - the process whereby a scripless shareholding is converted to a certificated shareholding.

scripless - a security holding that does not have a physical certificate and which may be transferred without an instrument of transfer.

SEHK - the Stock Exchange of Hong Kong Ltd., which is an Exchange Company and a wholly owned subsidiary of HKEx.

SFC - the Securities and Futures Commission.

Shareholder Reference Number (SRN) - a number provided by the registrar to a holder of an Issuer Register Account as further described in paragraph 3.4.

Shares - under the scripless model, shares of a listed company or other specified company that can be held in scripless form.

split register model - a scripless model involving registers maintained both by the central clearing house CCASS and share registrars.

Scripless Implementation Working Group - Member List

Federation of Share Registrars
Financial Services and the Treasury Bureau
Hong Kong Exchanges and Clearing Limited
Securities and Futures Commission

Scripless Model Technical Working Group - Member List

Federation of Share Registrars
Hong Kong Exchanges and Clearing Limited
Securities and Futures Commission

Market Participants Focus Group - Member List

ABN AMRO (Asia) Ltd
BOC International Holding Limited
Citibank
Hong Kong Investment Funds Association
Hong Kong Securities Industry Group
Hong Kong Stockbrokers Association Ltd
Mr. Alan Lee
Morgan Stanley Dean Witter Asia Limited
Securities and Futures Commission
State Street Bank & Trust Co
The Hongkong and Shanghai Banking Corporation Limited
The Hong Kong Association of Banks
The Institute of Securities Dealers Ltd

Listed Companies Focus Group - Member List

CLP Holdings Limited
COSCO Pacific Limited
Giordano International Limited
Global China Technology Group Limited
Gold Peak Industries (Holdings) Limited
Hong Kong Exchanges and Clearing Limited
Hong Kong General Chamber of Commerce
John Swire & Sons (HK) Ltd
MTR Corporation Limited
Phoenix Satellite Television Holdings Limited
Securities and Futures Commission
The Chinese General Chamber of Commerce
The Hongkong and Shanghai Banking Corporation Limited
The Hong Kong Institute of Company Secretaries
The Hong Kong Institute of Directors
Wah Sang Gas Holdings Limited

Legal and Regulatory Practitioners Focus Group - Member List

Companies Registry
Hong Kong Exchanges and Clearing Limited
Hong Kong Monetary Authority
Johnson Stokes & Master For the Federation of Share Registrars
Mandatory Provident Fund Schemes Authority
Office of the Commissioner of Insurance
Securities and Futures Commission
The Law Society of Hong Kong

Summary of Comments on Proposals for a Scripless Securities Market

(Note: This table compiles all comments received from the public consultation and main points raised at discussions of the Focus Groups and by other bodies who received briefings on the proposals.)

General Comments

Item No 1	Respondent's Comments	<p><i>The Consumer Council:</i></p> <p>Highlights 4 main issues which should be addressed to gain consumer's acceptance of the scripless proposals:</p> <ul style="list-style-type: none"> (i) Investors should be able to get physical documents on request. (ii) Investor education efforts are necessary. (iii) Cost savings from scripless trading should be passed to consumers. (iv) System integrity. <p>The SFC's Shareholders Group also made points (ii) and (iii) in particular.</p>
	SFC's Response	<p><i>Noted, and:</i></p> <ul style="list-style-type: none"> (i) <i>Agreed and will apply in the initial stage. Please see responses to Item Nos.20 to 22, below.</i> (ii) <i>Agreed. Please see response to Item No.12, below.</i> (iii) <i>Agreed. Please see responses to Item Nos.10 and 52, below.</i> (iv) <i>Agreed. Please see responses to Item Nos. 47 to 48, below.</i>
Item No 2	Respondent's Comments	<p><i>The Federation of Share Registrars:</i></p> <p>Supports scripless initiatives in particular the proposal for bringing names on register. Believes that they would allow more effective investor relationship programmes for listed companies and facilitate corporate governance.</p>
	SFC's Response	<p><i>Noted. This is one of the objectives of the proposals in the 2002 Consultation Paper.</i></p>
Item No 3	Respondent's Comments	<p><i>The Hong Kong Association of Online Brokers:</i></p> <p>Supports the initiative, which would help expedite online trading, as well as address processing impediments to a fully electronic trading environment. Current processes are cumbersome, time-consuming, costly and (not) user-friendly.</p>
	SFC's Response	<p><i>Noted. One of the objectives of the proposals in the 2002 Consultation Paper is to provide an efficient means for securities registration and more efficient transactions processing.</i></p>
Item No 4	Respondent's Comments	<p><i>The Hong Kong Association of Bankers:</i></p> <p>Views the initiative as conducive to the development of Hong Kong as a financial centre.</p>
	SFC's Response	<p><i>Agreed.</i></p>

Item No 5	Respondent's Comments	<i>The Hong Kong Institute of Directors:</i> Agrees with the proposals as an important step to enable STP across worldwide financial markets. Believes that maintenance of 2 registers will help facilitate electronic registration transfer and corporate actions. Highlights the 3 options for holding shares, and believes that more shareholders will elect to have name on register for greater information flow and transparency.
	SFC's Response	<i>Noted and agreed.</i>
Item No 6	Respondent's Comments	<i>The Hong Kong Society of Accountants:</i> Agrees in principle with the general direction of the proposals. Suggests that market practitioners are better placed to comment on detail.
	SFC's Response	<i>Noted.</i>
Item No 7	Respondent's Comments	<i>HSBC Holdings Plc:</i> Supports the proposal to move towards a scripless securities market, with the benefits discussed in the Consultation Paper. Believes this will bring Hong Kong in line with international practices.
	SFC's Response	<i>Noted.</i>
Item No 8	Respondent's Comments	<i>The Law Society of Hong Kong:</i> Welcomes the initiatives for the reasons set out in the Consultation Paper. More detail on legislative proposals is needed before specific comments can be made on those aspects. Also considers it logical to split the functions of HKSCC as guarantor of trade and the functions it performs as operator of CCASS, so that the system operator would not be exposed to financial risks in the event of an exchange participant's default.
	SFC's Response	<i>From a cost-benefits perspective a separate entity may not be justifiable. First it should be noted that the proposed scripless system merely builds on HKSCC's current role today. The SFC already requires HKSCC as a central counterparty to prudently manage its risks as the operator of the clearing and settlement system and regulates it closely. Secondly HKSCC will not be the sole operator of the proposed registration system. While there will be legal finality to transfers on entry in CCASS books, the transfers will be replicated in the share registrar's records by the end of each day. Under such circumstances, it may not be justifiable to create a separate entity for registration purposes and to duplicate regulatory efforts.</i>
Item No 9	Respondent's Comments	<i>Standard Chartered Bank plc:</i> Supports the general direction of going scripless and enabling shares to be issued and transferred electronically. Notes that the technical details for transfers between the 2 registers are a critical success factor but cannot comment in the absence of such detail.
	SFC's Response	<i>Noted. The Implementation Working Group (IWG) will publish technical and operational details.</i>

Item No 10	Respondent's Comments	A member of the <i>Listed Companies Focus Group</i> expressed concern over the raising of the cost of registration over the short term.
	SFC's Response	<i>The question of the short term costs and fees for registration is still under consideration. Discussions will be held with the IWG with a view to assuring that any applicable fees and charges are reasonable. The experience in other jurisdictions such as the UK and Australia is that over the medium to long term scripless transfers cost less than paper transfers.</i>
Item No 11	Respondent's comments	The <i>Hong Kong Stockbrokers Association</i> also raised possible cost implications to brokers.
	SFC's Response	<i>Agreed. The costs may depend on the structure of the proposed model and the brokers will be in a better position to assess the costs implications once the operational and technical details are finalized. However it might be noted that the scripless proposals attempt to leverage as far as possible on existing infrastructure to minimize changes as far as possible.</i>

Implementation Working Group, Page 3, paragraph 5(g)

Item No 12	Respondent's Comments	<i>The Consumer Council:</i> Notes the importance of investor education to prevent confusion and that the working of the scripless proposals should be as transparent as possible. Supports the proposal that the Implementation Working Group should assist in a widespread community education plan to prepare the market. Stresses the importance of taking into account the views of small shareholders in the plans for implementation.
	SFC's Response	<i>Agreed. The IWG intends to publish the technical and operational details of the proposals before implementation and follow up with investor education programs.</i>
Item No 13		The <i>Hong Kong Association of Stockbrokers</i> also expressed the concern that retail investors will find the scripless environment confusing.
	SFC's Response	<i>Noted. See response to Item No 12</i>
Item No 14	Respondent's Comments	<i>HSBC Holdings Plc:</i> The SFC should consider inviting a representative from a listed issuer to ensure all parties' interests are represented.
	SFC's Response	<i>Agreed. There is now a Listed Companies Focus Group with representatives from the listed companies (including HSBC). The comments of the Focus Group feed into the main IWG.</i>

Fee structure, page 10, paragraph 18

Item No 15	Respondent's Comments	<i>The Hong Kong Institute of Online Brokers:</i> Cautions that the success of the scripless securities market would depend on the cost structure put forward by HKEx as franchisee of the clearing and settlement system.
	SFC's Response	<i>Noted. HKEx and SFC are currently working together to consider an appropriate fees structure for CCASS.</i>

Item No 16	Respondent's Comments	<i>The Hong Kong Institute of Directors:</i> Notes that the success of the proposals is dependent on the cost to be imposed by CCASS as franchisee (of the system) under the Securities Ordinance.
	SFC's Response	<i>Noted. HKEx and SFC are currently working together to consider an appropriate fees structure for CCASS.</i>
Item No 17	Respondent's Comments	<i>Standard Chartered Bank plc:</i> Emphasises that transfers between the CCASS and Issuer Registers should be electronic and on a free of charge basis to gain market acceptance.
	SFC's Response	<i>Noted. The IWG is still working on the question of costs for transfers, which is dependent to some degree on the fees structure of CCASS.</i>

Proposed registration on the CCASS Register, page 13, paragraph 27

Item No 18	Respondent's Comments	<i>The Law Society of Hong Kong:</i> Proposes that consideration be given to ensuring that procedures address potential securities shortfall because of the extensive nature of the dematerialization/conversion exercise. Also seeks clarification as to whether the CCASS nominee will be transferring all listed shares held by it as legal owner in the register of members of each listed company, as the CCASS nominee is potentially exposed to liabilities in respect of such transfers. Considers that since the transfers will be to CCASS Participants who are liable for defective title, the risk to CCASS is significantly reduced but not eliminated.
	SFC's Response	<i>The IWG will draw from the experience of the other jurisdictions, such as UK and Australia, which have undergone a dematerialization exercise to ensure that the possible issue of securities shortfall will be dealt with. For holdings within CCASS there will also be processes for the submission of certificates to share registrars for authentication and reconciliation.</i> <i>Noted. CCASS Nominee will transfer shares held by it into the names of CCASS Participants. As correctly pointed out, it will be exposed to the same risks for transfers as it is today.</i>
Item No 19	Respondent's Comments	<i>The Hong Kong Securities Institute:</i> Questioned if CCASS Participants will need to have an account in CCASS or a share registrar if he wishes to own stock. Proposes that CCASS' Investor Participant facility should allow investors to hold stock transferred from CCASS Participants at a cost no higher than he would incur with certificates.
	SFC's Response	<i>Yes. The Consultation Paper contemplates in paragraph 30(e) that fees for electronic registration will be less than fees for registration of the certificated transfers. The costs of electronic transfers within CCASS will be dependent on the CCASS fees structure.</i>

Option for scrip/rematerialization, page 14, paragraph 30(a); pages 19 and 20, paragraph 39

Item No 20	Respondent's Comments	<i>The Consumer Council:</i> Is of the view that retail investors should still be able to obtain some form of physical document, for investor confidence especially for broker default. This was also a concern noted by <i>the Hong Kong Stockbrokers Association</i> . The Consumer Council suggested that physical documents should be available on request and for a reasonable fee.
	SFC's Response	<i>Investors will be able to obtain scrips from the issuer, at least during the initial stages until the scripless environment gains acceptability. Investors will also receive statements of account and of securities movements from CCASS, the registrar, or a CCASS Participant depending on the type of account held.</i>
Item No 21	Respondent's Comments	<i>HSBC Broking Nominees (Asia) Limited:</i> Is of the view that to only permit withdrawals of physical scrip from the Issuer Register through CCASS Participants would be cumbersome. Proposes that CCASS retains its current system of withdrawals through CCASS with an added administrative cost. This would discourage the use of scrip while eliminating administrative burdens.
	SFC's Response	<i>As explained in paragraph 30(a) of the 2002 Consultation Paper certificates within CCASS will have been cancelled and its inventory depleted. However, we understand that CCASS is considering a service to facilitate withdrawals for pick up at the registrar.</i>
Item No 22	Respondent's Comments	<i>The Law Society of Hong Kong:</i> Questions whether this is a real issue and whether it was more of a retail investor concern. Not clear whether the proposal is that (i) withdrawal of shares from CCASS, will not be possible (at all) once shares are deposited into CCASS after the scripless market has been adopted or (ii) whether withdrawals from CCASS will be possible but in <i>some</i> cases only, with the result that CCASS might still need to retain physical scrips in order to deal with rematerialisation cases.
	SFC's Response	<i>Noted. However, many respondents including those in the Listed Companies Focus Group consider that the retail shareholders would prefer to have the option to hold share certificates, at least in the initial stages of implementation.</i> <i>There is no intention for CCASS to retain physical scrips once shares have been deposited into CCASS though shares may be withdrawn from the Issuer Register. In respect of CCASS' possible role in withdrawals, please see response to Item No 21.</i>
Item No 23	Respondent's Comments	The <i>Market Participant Focus Group</i> also raised the question of rematerialization. There were diverging comments expressed about whether clients would like to keep physical scrips or not.
	SFC's Response	<i>Noted. See response to Item No 22</i>

Finality of transfers on CCASS, page 14, paragraph 30(c)

Item No 24	Respondent's Comments	<i>The Hong Kong Society of Accountants and the Standing Committee on Company Law Reform:</i> Observe that the proposed amendment to remove the power of the court to rectify the register would be a significant legal change. Considers that more justification is needed for this proposal.
	SFC's Response	<i>Noted. At the moment the thinking is that the legislation will not remove the court's powers to rectify the register. A consultation will be conducted on the proposed legislative amendments.</i>
Item No 25	Respondent's Comments	<i>HSBC Holdings Plc:</i> Proposal for restrictions on rectification should be considered carefully, to deal with genuine mistakes and the laws applicable to overseas- incorporated companies with listings on the Hong Kong Stock Exchange.
	SFC's Response	<i>Noted and agreed.</i>
Item No 26	Respondent's Comments	<i>The Law Society of Hong Kong:</i> Supports the proposal subject to: (i) an adequate investor compensation regime; (ii) rectification being allowed if CCASS has a malfunction causing erroneous transfers.
	SFC's Response	<i>Views accepted. (i) A new investor compensation scheme took effect from 1 April 2003. (ii) At the moment the thinking is that the legislation will not remove the court's powers to rectify the register. See also response to Item 24.</i>
Item No 27	Respondent's Comments	<i>Standard Chartered Bank plc:</i> The timing for finality of transfer is extremely important for investors.
	SFC's Response	<i>Agreed.</i>

Choice of accounts and risks of brokers, page 15, paragraph 30(d); page 16, paragraph 30(f); page 21, paragraph 40

Item No 28	Respondent's Comments	<p><i>The Consumer Council:</i></p> <p>Considers this matter as an issue to be addressed from the perspective of system integrity. Does not recommend nominee holdings given the risks of broker default.</p> <p>Notes: -</p> <p>(i) the benefits of having names on register from the perspective of shareholder communications;</p> <p>(ii) that the “sponsored account” option involves a trade-off between trading efficiency and the risk of misappropriation by an intermediary;</p> <p>(iii) the “investor participant” type account would still entail a risk of misappropriation if investors give control of shareholdings to an intermediary for trading purposes.</p>
	SFC's Response	<p><i>Noted. The scripless proposals were not specifically designed to eliminate all credit risks or possibility of misappropriation by brokers. However, investors will have better options than exist today. First, they may choose to hold shares in their own name for better monitoring of account activity, for direct communications from the issuer, and at the same time for convenience of trading by authorizing brokers to move shares. Second, keeping shares in their own name reduces the risk of losing shares through an insolvent nominee who has commingled them. Third, the CCASS Investor Participant Account does provide a delivery versus payment option designed to protect investors from broker credit risk. Finally, some investors prefer a nominee so for this reason the option remains.</i></p>
Item No 29	Respondent's Comments	<p><i>The Hong Kong Institute of Online Brokers:</i></p> <p>Fully supports the options for holding shares to be made available to investors. Advocates “sponsored account” with broker on CCASS Register for trading convenience.</p>
	SFC's Response	<p><i>Noted.</i></p>
Item No 30	Respondent's Comments	<p><i>The Hong Kong Association of Banks:</i></p> <p>Believes that the proposal to allow investors to give authority to brokers to move stocks for trading/settlement does not alleviate concern regarding the credit risk of brokers.</p>
	SFC's Response	<p><i>Noted. Please see comments on Item No 28 above.</i></p>
Item No 31	Respondent's Comments	<p><i>Standard Chartered Bank plc:</i></p> <p>Believes that the option for investors to give brokers authority to transfer stocks for trading and settlement gives rise to investor protection concerns and should be discouraged.</p>
	SFC's Response	<p><i>Noted. The IWG intends to highlight the advantages and disadvantages of each of the options in the course of the investor education program.</i></p>

Taking security over securities, page 16, paragraph 30(g)

Item No 32	Respondent' s Comments	<i>The Law Society of Hong Kong:</i> Considers that the proposals should not limit the ways in which security may be given.
	SFC' s Response	<i>Noted. We do not believe these proposals limit the ways in which security may be given.</i>

Real time gross settlement and end of the period/day settlement, paragraph 30(i)

Item No 33	Respondent' s Comments	<i>The Law Society of Hong Kong:</i> The Consultation Paper does not really address this and questions whether the continuous net settlement and gross settlements regime will continue.
	SFC' s Response	<i>Noted. The CNS and gross settlement regime will continue.</i>
Item No 34	Respondent' s Comments	<i>The SFC Shareholders Group:</i> Notes the need to address the question of real time updating rather than in batches.
	SFC' s Response	<i>Noted and agreed. As explained in paragraph 4.12 of this paper, the SFC prefers the principle of real time processing and movements between registers during standard business hours. HKEx however has expressed its preference that share transfers between the CCASS Register and the Issuer Register be processed in a single batch at the end of each day. This matter will be the subject of further discussion among all parties involved.</i> <i>For the purposes of updating the Issuer Register with the details of movements within CCASS, while there may be more than one movement within CCASS, only the net movement at the end of the day will be reflected on the Issuer Register. An audit trail will remain in CCASS records.</i>

Amendments to listing rules, page 17, paragraph 31

Item No 35	Respondent' s Comments	<i>The Law Society of Hong Kong:</i> Notes that changes to the listing rules will also be necessary.
	SFC' s Response	<i>Noted. Discussions will be held with the Stock Exchange for the changes to listing rules.</i>

Overseas companies, page 17, paragraph 31

Item No 35	Respondent' s Comments	<i>HSBC Holdings Plc:</i> Highlights the importance of allowing movements between principal registers maintained by overseas companies and overseas branch registers to continue to operate as they do today.
	SFC' s Response	<i>Noted. It is not proposed that the current practices involving foreign and branch registers of overseas companies should be affected, especially where they involve foreign law requirements, but this comment will be drawn to the attention of the IWG.</i>

Item No 36	Respondent's Comments	<p><i>The Law Society of Hong Kong:</i></p> <p>Emphasizes the necessity to address conflicts of laws issues. Notes that there must be changes to foreign laws.</p> <p>If changes are not possible, then some of the benefits of the proposals could be achieved by enforced, rather than voluntary, immobilization. In particular consideration must be given regarding the movement of securities across the principal and branch registers, especially in the context of the dual-listed overseas-incorporated company.</p>
	SFC's Response	<p><i>Noted. The Legal and Regulatory Practitioners Group in particular will be consulted on these issues. Initial steps have been taken, such as obtaining legal advice on overseas laws and discussions with certain authorities overseas. This is with a view to harmonizing the laws of those jurisdictions with Hong Kong's proposed regime. This will include changes to the Articles of overseas companies.</i></p>
Item No 38	Respondent's Comments	<p><i>UBS Warburg:</i></p> <p>Suggests that a new arrangement should be put in place to address movements between Hong Kong registers and overseas registers. The SFC's Shareholders Group also raised this issue.</p> <p>Suggests that HKSCC should provide a removal service through the Issuer Register or be authorized to deal directly with the overseas register. Believes that this may entail a new functionality in CCASS.</p>
	SFC's Response	<p><i>Noted. It is not proposed that the current practices involving foreign and branch registers of overseas companies should be affected, but the IWG will consider whether new arrangements will be necessary. From the perspective of what legislative changes need to be made, the Legal and Regulatory Practitioners and Listed Company Focus Groups will be better able to consider these issues after consideration of the technical and operational details of the proposed scripless system.</i></p>

Issuer Register, page 18, paragraphs 35-38

Item No 39	Respondent's Comments	<p><i>The Hong Kong Institute of Online Brokers:</i></p> <p>Fully supports the proposal for 2 registers.</p>
	SFC's Response	<p><i>Noted.</i></p>
Item No 40	Respondent's Comments	<p><i>The Law Society:</i></p> <p>(i) Expresses surprise at the proposal for an Issuer Register which makes it more difficult to implement. Also notes the risks of operational failure and of theft and fraud. Considers that the proposal protects existing share registrars and is not in line with international practice. On concerns regarding HKEx's monopoly, considers that the concern could be minimized by having the system operated by an independent entity separate from HKEx such as CRESTCo. Limited in the UK.</p> <p>Notwithstanding its reservations, if the scripless proposals in the Consultation Paper goes forward, the Law Society makes the following comments:</p> <p>(ii) Paragraph 37: Consideration should be given to having a single unique name and password for all share registers on which a shareholder holds shares. This is more user-friendly and can help market surveillance.</p>

		(iii) Consideration should be given to allow CCASS Investor Participants to give written requests for transfers.
	SFC's Response	<p><i>Noted.</i></p> <p><i>(i) Much consideration has been given to this question. The Working Group and the Focus Groups have however agreed that the proposed split register model will best provide choice for investors and other market participants without upsetting longstanding relationships between listed companies and their registrars. We expect that it will be possible to follow the experience of CHES in Australia and Crest in the UK, both of which are split register models and have been successfully implemented without operational or other failures.</i></p> <p><i>(ii) The issue of single unique name and password for all share registrars is still under consideration. Registrars have indicated that investors may be able to change their passwords referred to as SRNs so that an investor who wishes to do so could use a single number.</i></p> <p><i>(iii) Written instructions will be possible with CCASS Investor Participant Accounts and possibly required with gifts or private off-market sales and purchases.</i></p>
Item No 41	Respondent's Comments	<p><i>UBS Warburg:</i></p> <p>Sought clarification on the following:</p> <p>(i) Will share registrars be consolidated into one?</p> <p>(ii) Suggests a single contact point for investors to enquire about all registrar-related matters.</p> <p>(iii) Whether an investor holding securities on the Issuer Register needs to submit transfer instructions to the Issuer to effect a transfer.</p> <p>(iv) Will holdings on CCASS Register and the Issuer Register be consolidated into one record. Will both CCASS and Issuer provide periodic statements to investors. Proposes a single periodic statement.</p> <p>(v) How will registrars maintain and verify the signatures of investors and the procedure for investors to set up a new account with the registrars. Note: The Listed Companies Focus Group also raised the question as to whether or not physical signatures of proxies will continue to be required and verified.</p> <p>(vi) Whether there will be a unique identifier in the form of the ID or passport number. Proposes that the ID/passport number should be filed with registrars when opening accounts to deal with identical names.</p> <p>(vii) Whether registrars charge a safekeeping fee to investors.</p>
	SFC's Response	<p><i>(i) The scripless proposals do not contemplate compelling registrars to be consolidated and it is intended that any consolidations will be left to market forces. Since the publication of the Consultation Paper in February 2002, out of 14 share registrars, there have been two major consolidations. Abacus Share Registrars Ltd, Friendly Registrars Ltd, Progressive Registration Ltd, Secretaries Ltd, Standard Registrars Ltd and Tengis Ltd. are consolidated under "Tricor Holdings Limited" and Central Registration Hong Kong Limited and Hong Kong Registrars Limited have been merged to form "Computershare Hong Kong Investors Services Limited".</i></p> <p><i>(ii) Noted. The IWG will consider this comment. For specific information regarding an investor's accounts across Issuer Registers, the share registrars have indicated the</i></p>

		<p><i>possibility of consolidating all the information relating to his various shareholdings on different share registers operated by the share registrar.</i></p> <p><i>(iii) The current proposal is that the investor will need to provide his SRN to authorize a CCASS Participant to give transfer instructions.</i></p> <p><i>(iv) Yes, the CCASS Register will be sent to the registrar by the end of the day. This will be available for public inspection. CCASS, the registrar, or the CCASS Participant will provide periodic statements to investors depending on the account type.</i></p> <p><i>(v) Under the scripless proposals, once the investor has been assigned an SRN or user name and password, or chooses to use a digital signature, the electronic submissions rather than manual signatures, will verify the instruction. New accounts for CCASS Participant Sponsored Accounts will be set up by the CCASS Participants and CCASS. New Issuer Register Accounts will be opened via subscription for IPO shares or transfer to such an account; the registrars will open accounts automatically in these circumstances after receiving the shareholder's name and address.</i></p> <p><i>(vi) Please see response to Item No 40, paragraph (ii).</i></p> <p><i>(v) It is not contemplated that registrars will charge a safekeeping fee to investors.</i></p>
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Proposed Scripless Registration on Issuer Register, page 18, paragraph 35

Item No 42	Respondent's Comments	<p><i>HSBC Holdings Plc:</i></p> <p>Shareholders who wish to have scripless holdings who are unable to locate share certificates should be allowed to provide a simple declaration rather than go through the process of first obtaining replacement scrips. If the proposal for immediate credit is revisited, the risks of cancelled certificates being used mistakenly or fraudulently is the same as they are today in relation to a certificate previously reported lost but which is subsequently used.</p>
	SFC's Response	<p><i>Noted. It is proposed that conversions will take place in accordance with the rules of the recognized clearing house or the procedures of the approved shares registrars. This comment will be drawn to the attention of the IWG.</i></p>
Item No 43	Respondent's Comments	<p><i>The Consumer Council:</i></p> <p>Supports a transitional approach towards the scripless system and believes it necessary to allow market participants to adjust and manage changes. Note: Differing views were expressed by members of the <i>Listed Companies Focus Group</i>, with one listed company supporting a longer transition period for companies with large shareholder base and another suggesting a mandatory scripless environment at the outset.</p>
	SFC's Response	<p><i>Noted and agreed.</i></p>
Item No 44	Respondent's Comments	<p><i>The Hong Kong Securities Institute:</i></p> <p>(i) Notes that it is important that electronic shares in CCASS must be fully backed by proper title of certificates before they are dematerialized.</p> <p>(ii) Proposes also that share registrars should have guidelines as to how to encourage the conversion into scripless securities to existing issuers operating on a certificated basis.</p>

	SFC's Response	<p><i>Noted.</i></p> <p><i>(i) There will be procedures for submission of certificates for authentication by registrars and the reconciliation of records.</i></p> <p><i>(ii) The proposal for guidelines to share registrars on encouraging conversions to scrips will be drawn to the attention of the IWG for consideration.</i></p>
Item No 45	Respondent's Comments	<p><i>UBS Warburg:</i></p> <p>(i) Asks for the timeline for rollout of the scripless securities market.</p> <p>(ii) Seeks clarification as to whether there will be an initial conversion period during which physical scrips will be cancelled. Proposes no charge for cancellation during the initial period.</p> <p>(iii) Proposes that the conversion cost after the initial conversion period will be at a reasonable rate.</p>
	SFC's Response	<p><i>(i) Noted. The rollout of the scripless market will depend on having the technical and operational aspects of the system in place, on the readiness of market participants and on the enactment of legislative amendments.</i></p> <p><i>(ii) There will be an initial conversion period during which scrips within CCASS will be cancelled, and investors may submit scrips for cancellation through CCASS or the share registrar directly.</i></p> <p><i>(iii) The IWG is considering the question of costs.</i></p>
Item No 46	Respondent's Comments	<p>The <i>Listed Company Focus Group</i> also noted that members should be able to keep scrip for souvenir purposes.</p>
	SFC's Response	<p><i>Noted. It is currently contemplated that the law would be flexible enough to permit this to take place.</i></p>

System integrity, paragraph 38

Item No 47	Respondent's comments	<p>The <i>Consumer Council</i> has 2 comments under this sub-head:</p> <p>(i) Comments on the options for shareholders to hold shares (this was discussed above). Considers that the system should have clear guiding principles and high standards of security and risk management.</p> <p>(ii) It proposes that the system should have independent auditing procedures and safeguards. This is to ensure that there is no loss of confidence in the system.</p> <p>The <i>Consumer Council</i> cites the <i>Electronic Transactions Ordinance</i> and the powers of the <i>Director of the Information Technology Services Department</i> as an example. Auditing takes place with assurances of technical aspects of the system and procedural issues.</p>
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	SFC's Response	<i>As far as CCASS is concerned, the SFC and securities laws already provide for regulation of CCASS. As for the share registrar systems, the Federation of Share Registrars and their systems are already regulated through the Code of Conduct for Share Registrars. The SFC will revisit the Code to ensure that it deals with all aspects of the system once the details are close to finalization.</i>
Item No 48	Respondent's comments	<p><i>The Law Society of Hong Kong:</i></p> <p>Considers that the protection of shareholders' interests is important given the proposals for finality of transfers. Recommends that consideration be given to adopting a suitable investor compensation regime, suggesting bank deposit insurance schemes, compulsory insurance by share registrars and the use of investor compensation company under Part III, Division 5 of the SFO.</p> <p>Note: This is an issue also noted by the <i>Listed Companies Focus Group</i>. Additionally the <i>Legal and Regulatory Practitioners Group</i> has also raised the question as to the future regulation of Share Registrars.</p>
	SFC's Response	<i>On the issue of system integrity generally, please see SFC's response to Item No 47. A new investor compensation scheme took effect on 1 April 2003. A bank deposit insurance scheme is being handled by the Hong Kong Monetary Authority. Compulsory insurance will be drawn to the attention of the IWG.</i>

Certificates, page 19, paragraph 39(a)

Item No 49	Respondent's comments	<p><i>The Law Society of Hong Kong:</i></p> <p>(i) Recommends that shareholders should be able to surrender physical shares directly to the registrar for entry on the Issuer Register.</p> <p>(ii) Recommends compulsory dematerialization/conversion of all securities to take effect either on a single date or to impose a long stop date. This is on the basis that there will be pools of shareholders who will not respond or cannot respond, with potential implications in terms of costs and time of running two parallel systems.</p>
	SFC's Response	<p><i>(i) Noted. This is the proposal.</i></p> <p><i>(ii) Noted. It is currently contemplated that the law would allow the SFC, after consultation with the Financial Secretary, to declare a date by which the securities of any issuer must operate on a completely dematerialized basis.</i></p>
Item No 50	Respondent's comments	<p><i>UBS Warburg asks:</i></p> <p>(i) If the confirmation of a transfer for physical stock will remain 10 days or be shortened?</p> <p>(ii) How soon will CCASS grant credit for physical share deposits.</p> <p>(ii) How shares with special legends in physical form (which today would not be accepted by CCASS) will be dealt with.</p>
	SFC's Response	<p><i>(i) For market trades, it is contemplated that physical stock will have to first be dematerialized and with a view to shortening significantly the current time frames.</i></p> <p><i>(ii) CCASS and the registrars are discussing how quickly credit can be given.</i></p> <p><i>(iii) Except for limited issues where restrictions on the transferability of shares were permitted and "grandfathered", HKEx requirements generally mean that special</i></p>

		<i>legends for listed securities will be obsolete in future. For those few shares with legends, it is expected that they will continue to exist in certificated form until the restrictions are removed or are otherwise dealt with under the listing rules or CCASS rules.</i>
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Registration fees on Issuer Register, page 20, paragraph 39(d)

Item No 51	Respondent's comments	<i>The Consumer Council:</i> Supports the proposal that the registration fees should be borne by the listed companies, which is also in line with international practice. Believes that shareholders should also benefit from any consequent cost reductions.
	SFC's Response	<i>Noted and agreed. The 2002 Consultation Paper contemplates that registration costs for scripless shares be dealt with in service agreements between the listed companies and the share registrar. The 2002 Consultation Paper contemplates that shareholders should benefit from any cost savings that result from implementing a scripless system.</i>
Item No 52	Respondent's comments	<i>The Federation of Share Registrars:</i> Does not agree that the registration fees should be dealt with by service contracts between listed issuers and share registrars. It believes that fees should operate on a user-pay basis. It is of the view that the scripless proposals would raise listing expenses for the issuer and may weaken HKEx's competitiveness and asks that they be reconsidered.
	SFC's Response	<i>Disagree. Our research into overseas practice indicates that in most markets overseas the listed issuer bears the costs of registration fees. If additional fees are charged for scripless registrations, this may incentivise investors to hold nominee accounts through brokers. The principle guiding the IWG and proposals on fees is that investors should not be discouraged from having scripless accounts in their own names.</i>
Item No 53	Respondent's comments	<i>The Law Society of Hong Kong:</i> Disagrees with the proposal that transfer and registration fees should be borne by the issuer, since it means that passive long term shareholders are asked to subsidize the trading activities of more active investors. Considers that the overseas practice where transfer costs are borne by transferring shareholders is more equitable.
	SFC's Response	<i>Disagree. Please see our response to Item No 52.</i>

Issuer's scripless option, page 20, paragraph 39(e)

Item No 54	Respondent's comments	<i>The Law Society of Hong Kong:</i> Recommends that issuers that are not prevented by overseas laws from issuing scripless securities must do so.
	SFC's Response	<i>Noted. When the laws of foreign jurisdictions no longer impede the issuance of scripless securities, it is contemplated that the listing rules will require those companies to operate on a scripless basis in the same ways as Hong Kong-incorporated listed companies. Foreign legal advice has been obtained so that steps can be taken to harmonize the laws of other jurisdictions with proposed amendments to Hong Kong laws.</i>

E-IPO, page 21, paragraph 39(f)

Item No 55	Respondent's comments	<i>The Law Society of Hong Kong:</i> Recommends that paper prospectuses and application forms should be made available to investors since they would not all have access to electronic submission facilities.
	SFC's Response	<i>Noted. The scripless proposals have no implications on this issue.</i>

FinNet, page 21, paragraph 41

Item No 56	Respondent's comments	<i>The Law Society of Hong Kong:</i> Requires more information about FinNet, proposing that participants need to have full confidence in the system integrity. Suggests publications about relevant procedures and safeguards, and suggests that the issue should be considered in connection with the investor compensation regime. The <i>SFC Shareholders Group</i> also commented on the benefits of having a common database to enable shareholders to obtain information readily and to synchronize information between the registrars and CCASS.
	SFC's Response	<i>Noted and agreed. The SFC and other regulatory authorities regulate participants having access to FinNet, and will regulate CCASS, share registrars and other persons who operate a system for electronic transfers of listed securities. Accordingly, we will closely monitor system integrity. Procedures and safeguards will be found in the CCASS rules and the Code of Conduct for Share Registrars will be reviewed and revised accordingly. On investor compensation, a new regime has since come into force on 1 April 2003. As explained, an enhanced Investor Participant Account is being studied as an option to address concerns over broker default.</i>

Legislative changes, pages 25-26, paragraphs 57 and 62

Item No 57	Respondent's comment	<i>The Standing Committee on Company Law Reform.</i> Expressed concern over reliance on making rules to facilitate the implementation of scripless proposals, rather than dealing with them in primary legislation.
	SFC's Response	<i>Noted. The approach we have adopted in the current draft legislation differs from what was previously proposed in that legislative provisions will be in the primary legislation rather than relying heavily on subsidiary legislation. We have proposed a residual rulemaking power for the SFC, but we do not expect there to be much of a need to rely on this to implement the scripless model.</i>
Item No 58	Respondent's comments	<i>The Law Society of Hong Kong:</i> Highlights the following necessary changes to legislation: - <ul style="list-style-type: none"> ● Stamp Duty Ordinance, section 19; ● Probably Part III of the SFO in relation to clearing houses; ● Possibly Part XV of the SFO (disclosure of interests). If an investor is on the uncertificated register of members but uses a sponsor, will the "sponsor" be treated as having a discloseable interest in the investor's shares.

		<p>(ii) Supports the proposal to allow scripless holdings to be created and transferred without amendments to a company's constitution.</p> <p>(iii) Supports the proposal to limit the court's power to rectify the register of members for the reasons stated in the Consultation Paper.</p> <p>In addition to the proposal for damages, recommends that there must be other remedies. This is because damages are an often inadequate or illusory remedy. These remedies should be in conjunction with (i) other procedures to safeguard the integrity of electronic share registers and transfers, (ii) a sufficient investor compensation regime.</p> <p>(iv) To support the finality of transfers, suggests amendments to Part III of the SFO, so that transfers of securities in accordance with the scripless system cannot be set aside under the laws on insolvency, regardless of whether the transaction is a market contract (i.e. executed on the Stock Exchange).</p>
	SFC's Response	<p>(i) <i>Noted.</i></p> <ul style="list-style-type: none"> • <i>The proposed amendments to deal with stamp duty issues will be dealt with in a consultation paper on legislative amendments.</i> • <i>On Part III of the SFO, the issue of insolvency protection extending beyond market contracts is being considered.</i> • <i>We do not believe it is necessary to amend Part XV of the SFO. Section 323(1)(i) of the SFO exists for avoidance of doubt, and makes it clear that Part XV does not apply to brokers acting as agents for settlement of securities transactions on the basis that they do not have any economic interests in the shares. We are of the view that Section 323(1)(i) and the rationale still applies in the scripless environment although CCASS Participants will have legal, rather than beneficial title under the scripless proposals.</i> <p>(ii) <i>Noted. It is currently contemplated that the law will proceed on this basis.</i></p> <p>(iii) <i>Several respondents to the Consultation Paper expressed concern over a proposal that the register cannot be rectified. As such, it is currently contemplated that the law will not remove the court's powers to rectify the register.</i></p> <p>(iv) <i>As mentioned above, the issue of insolvency protection extending beyond market contracts is being considered.</i></p>
Item No 59	Respondent's comments	<p><i>The Hong Kong Securities Institute</i></p> <p>Notes the need to address legal implications for listed companies incorporated overseas. Note: The <i>Legal and Regulatory Practitioners Focus Group</i> also raised these issues regarding overseas companies.</p>
	SFC's Response	<p><i>Noted. Foreign legal advice has been obtained so that steps can be taken to harmonize foreign laws with proposed amendments to Hong Kong laws.</i></p>

Refusal to transfer, page 26, paragraph 59

Item No 60	Respondent's comments	<p><i>Standard Chartered Bank plc:</i></p> <p>The circumstances under which the transfers may be refused should be clearly defined, and the period of 2 months (for giving notice of refusal) is too long and should be shortened to eliminate uncertainty.</p>
	SFC's Response	<p><i>The CCASS or listing rules and Code of Conduct for Share Registrars will deal with the notification of refusal, where there is a need for a time frame for notification of a refusal that is shorter than that required under section 69 of the Companies Ordinance. However, we expect there to be few if any refusals to register transfers of scripless shares.</i></p>

Stamp duty

Item No 61	Respondent's comments	<p><i>UBS Warburg:</i></p> <p>Currently, registrars check that transfers are stamped before transfer of title.</p> <p>(i) How will this be dealt with in future if a transfer form is not necessary?</p> <p>(ii) Also, how will a transfer (off market) from one registered investor to another be dealt with if there is no physical instrument?</p> <p>Note: The <i>Legal and Regulatory Focus Group</i> also notes the need to address stamp duty in relation to companies with dual-listings.</p>
	SFC's Response	<p><i>A physical instrument may still be necessary for off-market transfers between individuals but not for transfers processed by brokers and banks that are carried out within the scripless system. A consultation paper on legislative amendments will discuss in greater detail the relevant amendments to the Stamp Duty Ordinance.</i></p>

Procedure on proxy voting/corporate representatives

Item No 62	Respondent's comments	<p><i>UBS Warburg:</i></p> <p>HKSCC Nominee will no longer be the registered holder under the scripless proposals. Proposes that issuers should consider accepting corporate representative details or voting instructions from investors directly through CCASS and the Issuer Register system, since only these systems can verify the instructions.</p>
	SFC's Response	<p><i>Noted. The details for corporate action processing are still under discussion. This comment will be drawn to the attention of the IWG.</i></p>

Complete List of Respondents

1. Consumer Council
2. Federation of Share Registrars
3. The Hong Kong Association of Online Brokers
4. The Hong Kong Association of Banks
5. The Hong Kong Institute of Directors
6. Hong Kong Society of Accountants
7. Hong Kong Securities Institute
8. HSBC Holdings plc
9. HSBC Broking Nominees
10. The Law Society of Hong Kong
11. Standard Chartered Bank plc
12. UBS Warburg

Focus Groups

13. The Listed Companies Focus Group
14. The Legal and Regulatory Practitioners Focus Group
15. The Market Participants Focus Group

Bodies who received briefings

16. Hong Kong Stockbrokers Association Ltd
17. The Standing Committee on Company Law Reform
18. SFC Shareholders Group
19. SFC Advisory Committee