



April 26, 2018

Attention: Listing Policy & Product Admission  
Singapore Exchange Limited,  
11 North Buona Vista Drive,  
#06-07, The Metropolis Tower 2,  
Singapore 138589

Via Email: [listingrules@sgx.com](mailto:listingrules@sgx.com)

**Response to the Consultation Paper: Proposed Listing Framework for Dual Class Share Structures**

Dear Sir or Madam,

We welcome the opportunity to respond to the consultation paper.

British Columbia Investment Management Corporation (BCI) is an asset manager with more than \$135 billion Canadian dollars in assets under management, one of the largest institutional investors in Canada. Our investment activities help finance the pensions of approximately 554,000 people in our Canadian province. On behalf of these pension beneficiaries, we provide long term capital to companies around the world that we believe will provide strong and stable financial returns.

As a long-term investor, BCI relies on well-functioning capital markets. We see it as our responsibility to contribute to the overall stability of the financial system. As an active participant in the capital markets, we address systemic risks with the expectation that our efforts will lead to greater stability and integrity within the markets. We regularly engage with regulators and advocate for legal and regulatory changes to ensure that principles of good governance are integrated into the regulatory framework.

Given our previously-stated lack of support for dual class share (DCS) structures, we have chosen to focus our response on the following sections of the consultation: Safeguards and Entrenchment Risks, Safeguards and Expropriation Risks, Measures to Increase Clarity to Investors.

However, for the avoidance of doubt, BCI believes that DCS structures result in inequality between classes of shareholders, especially when some shareholders have greater voting rights and powers than others. BCI has long advocated for companies to adopt a single class of shares with a one share one vote structure where economic interest and voting interest are the same, and over the years, we have lobbied for the collapse of such structures in different jurisdictions.

Concerns over DCS are widely held by investors, as evidenced in the decisions last year by S&P Dow Jones and FTSE Russell to largely bar dual class share companies from inclusion in their benchmark indices – indices that guide the investments of trillions of dollars in assets. Such decisions send a strong signal to the market that the one share one vote principle is the bedrock of corporate governance.

### **Maximum Voting Differential**

*Question 4(a):* Do you agree that the voting rights attaching to Multiple Voting (MV) shares should be capped at 10 votes per share?

*BCI Response:* We see the implementation of a cap on MV powers, such that MV shares carry no more than ten times the voting power of ordinary shares, as a positive step, however, we are concerned that this ratio will become a de facto norm.

*Question 4(b):* Do you agree that the issuer should not be allowed to change the ratio post-listing?

*BCI Response:* We do not believe that the ratio should be increased post-listing (subject to the maximum cap of 10 votes per share for MV shares), however, we would not be opposed to reducing the ratio, as this would be beneficial to shares that carry one vote (OV shares).

### **Rights of OV Shareholders**

*Question 5(a):* With regard to the total voting control that OV shareholders can collectively exercise, do you think that OV shareholders must hold: at least 10% the total voting rights of the issuer on a one-share-one-vote basis (Option 1); or at least 10% of the total voting rights of the issuer (Option 2)?

*BCI Response:* We believe Option 1 is an appropriate method to use as a basis for calculating total voting rights. As the consultation points out, this is justified from an equity alignment point of view, as each share would count as one vote, irrespective of its voting power. Furthermore, we believe Option 2, which would base the calculation on the number of votes attributable to all MV and OV shares, would place a higher burden on OV shareholders, as they would be required to hold a greater number of shares in order to meet the 10% threshold.

*Question 5(b):* Do you agree that OV shareholders holding at least 10% of the total voting rights on a one-share-one-vote basis must be able to convene a general meeting?

*BCI Response:* We are supportive of this threshold, which is consistent with our proxy voting guidelines.

### **Restriction on Issuance of MV Shares Post-Listing**

*Question 6(a):* Do you agree that an issuer shall not be allowed to issue MV shares post-listing except in the event of a rights issue? Should the exception be extended to bonus issue, scrip dividends and subdivision and consolidation of shares which do not raise new funds?

*Question 6(b):* Do you agree that the issuance of MV shares must be approved by a special resolution of shareholders at a general meeting?

*Question 6(c):* In undertaking any corporate action (including a share buy-back), do you agree that the issuer must ensure that the proportion of the total voting rights of the MV shares as a class against those of the OV shares after the corporate action will not increase above that proportion existing prior to the corporate action?

*BCI Combined Response:* We believe that the proportion of MV shares for each issuer should be set at IPO, and issuers should not be able to issue additional MV shares in subsequent fund-raising. If MV shares are allowed to be issued, we believe such issuance should be approved by a special resolution of shareholders at a general meeting, and such approval should also be obtained on a one share one vote basis for both MV and OV shareholders. In addition, the proportion of total voting rights of MV shares as a class against those of OV shares should not increase after undertaking any corporate action. We believe this is fundamental to protect OV shareholders.

### **Automatic Conversion of MV Shares**

*Question 7(a):* Do you agree that initial holders of MV shares must be directors of the issuer?

*BCI Response:* We recognise the intent of the requirement that initial holders of MV shares be limited to directors of the issuer who are subject to fiduciary duties, which is to provide a "layer of protection of the interests of minority shareholders in that holders of MV shares will be obliged to act in the best interests of the issuer in their capacity as directors."

However, in our recent submission to the Corporate Governance Council of the Monetary Authority of Singapore, we highlighted our concerns over board independence levels at issuers in Singapore. We are concerned that the one third listing requirement is too low for a board to effectively exert authority over management's recommendations and to objectively evaluate company and executive performance. Therefore, given these concerns, we are not convinced that boards will be capable of holding DCS shareholder directors accountable.

To be able to effectively perform its oversight duties, the board must be comprised of members who are independent of management and accountable to shareholders, and we do not see one third as a significant enough portion of the board to fulfil this. Therefore, BCI's voting policy is to vote against all non-independent nominees (except the CEO), where the proposed board (or

shareholder elected portion of the board) will not be comprised of at least two-thirds independent directors.

Question 7(b): Do you agree with the automatic conversion events set out in paragraphs 4.3(a) and 4.3(b) of this Part III?

*BCI Response:* We agree with the automatic conversion events, namely if the holder of MV shares sells or transfers part or all of any interest in respect of their MV shares to any party, and if the holder of MV shares ceases to be a director (whether through death, incapacity, retirement, resignation or otherwise).

The one safeguard not included in the consultation paper is the concept of a sunset clause. While we do not support DCS structures, best practice has evolved to include a sunset clause. Indeed, recent academic research<sup>1</sup> on the life cycle of DCS structures has shown that premium valuations for issuers in the United States with these structures become discounts after around six years. This is consistent with a limit of seven years, which is increasingly being seen as the fairest possible compromise between issuers/exchanges.

Question 7(c): Do you agree that the shareholders can waive the conversion through the Enhanced Voting Process?

*BCI Response:* We agree that the conversion can be waived through the Enhanced Voting Process, given that this requires that MV shares are limited to the one share one vote standard.

Question 7(d): Do you agree that the relevant holder of the MV shares, and his associates, should be required to abstain from voting on the resolution?

*BCI Response:* We agree that the relevant holder of the MV shares, and their associates, should be required to abstain from voting on a resolution that would determine whether or not MV rights will be retained. Such a proposal would present a conflict of interest to the holder of the MV shares (or their associates), and therefore only disinterested shareholders should vote on this issue.

#### **Independence Element on Board Committees**

*Question 8:* Do you agree that the majority of the Audit Committee, Nominating Committee and Remuneration Committee, including the respective chairmen, must be independent?

*BCI Response:* BCI strongly believes that the key committees of the board (the Audit, Nominating and Remuneration Committees) should be composed entirely of wholly independent directors. Given the crucial role that these committees play in overseeing management, we believe that every committee member should be independent of

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<sup>1</sup> "The Life-Cycle of Dual Class Firms" (2018) by Cremers, Lauterbach, Pajuste. (Online).  
[http://www.ecgi.global/sites/default/files/working\\_papers/documents/finalcremerlauterbachpajuste.pdf](http://www.ecgi.global/sites/default/files/working_papers/documents/finalcremerlauterbachpajuste.pdf)

management and accountable to shareholders. BCI's proxy voting guidelines therefore state that we will vote against any non-independent board nominees who serve on any of the key committees.

### **Reserved Matters under the Enhanced Voting Process**

*Question 9:* Do you agree that the matters listed in paragraph 2.2 of this Part IV should require the Enhanced Voting Process?

*BCI Response:* While we agree with the key matters that will be decided on a one share one vote basis i.e. MV beneficiaries will not be able to exercise MV rights on these matters, we are concerned that the consultation paper has failed to include a one share one vote requirement for major and connected transactions. Such transformative matters clearly affect all shareholders, and as such, the impact of any MV shares should be neutralised.

### **Disclosure of Rights of Shareholders**

*Question 10:* Do you agree that an issuer with a DCS structure should disclose the additional information in paragraphs 1.1 and 1.2 of this Part V?

*BCI Response:* We support the additional disclosure required of an issuer by the consultation paper, particularly the risks of DCS structures and the rationale for the adoption of such a structure, which are to be included in the issuer's listing prospectus. Furthermore, we believe it would be appropriate to provide disclosure on the inclusion of a sunset clause for the DCS structure, and in cases where a sunset clause does not exist, a rationale for this decision.

Thank you for the opportunity to respond to this consultation. Please feel free to reach out to our Senior Manager, ESG Integration, Jennifer Coulson ([jennifer.coulson@BCI.ca](mailto:jennifer.coulson@BCI.ca)) as you consider these comments or if you require further clarification. I appreciate your time and consideration.

Regards,



Daniel Garant  
Senior Vice President, Public Markets