



ACGA Members' responses on Sci-Tech Innovation Board in Shanghai

Comment 1

“The provisions that allow unequal voting rights in the listing rules for the Sci-Tech Innovation Board under the Shanghai Stock Exchange will prove to be a race to the bottom in corporate governance with Hong Kong, Singapore and other capital markets allowing or soon to allow similar discriminatory share structures.

“We do not agree with the notion that suggests the provision of unequal voting rights (or weighted/differential voting rights, as some markets call them to downplay their negative nature) is an appropriate means to enhance an equity market's inclusiveness and thus competitiveness and quality, nor do we appreciate the argument that unequal voting rights is a right and proper shareholding structure for publicly-listed companies. Rather, it is a structure that would cradle a culture of inequity and lead to an end where bad governance practices and decisions can prevail more easily, since only a few shareholders can already dominate the vote results.”

Comment 2

“We find the stock exchange's explanation of the characteristics of sci-tech enterprise ownership structures contradictory and the rules derived from such premises illogical – on one hand, the stock exchange suggests that sci-tech enterprises are highly reliant on their founders and core members, and thus need a stable shareholding structure to ascertain the companies' development; on the other hand, it provides greater flexibility to changes in their controlling ownership, core businesses, as well as directors and senior executives, given 'more frequent ownership changes and business consolidations' allegedly evident in sci-tech enterprises.

“It is also considered unjustifiable to allow sci-tech enterprises to implement stock incentive schemes of an aggregate dilution of up to 20%, and at a steep discount of more than 50%, to beneficiaries that also include significant shareholder(s) individually or collectively holding 5% or more shares of the listed company, its ultimate controllers and their spouses, parents and children, so long as they hold directorship or key positions at the company – this is in contrary to existing regulations governing companies listed on the main board. Such individuals, being insiders and connected to the major shareholders, should have their interests largely aligned with the success of the companies already, without additional shares from incentive schemes that will further and greatly dilute the voting rights of independent shareholders who are disenfranchised and deprived of their equal rights in the first place.”

Comment 3

“We would generally advocate a balanced view of this new board: it's great to promote equity funding for smaller technology companies that may lack profitability, but they must also realise that being listed confers a greater requirement for improved governance and decision-making. This is particularly important for those companies with very short track records.”



Comment 4

“For companies with WVR, I believe there should be more stringent rules on share pledging activities by the controlling shareholder, especially when they pledge the shares with superior voting rights. It could be argued that they should lose the superior voting rights (or all voting rights) for any shares they have pledged;

“For pre-revenue and pre-profits companies in innovative sectors, there should be enhanced disclosure requirement on the contractual agreement with the core R&D staff or any other core staff that are considered critical in delivering the growth prospects of these companies.”

Comment 5

“Overall a very good development for the A share market as the new science and technology board is trying to mimic Hong Kong Stock Exchange rules (more market oriented).

“However, we would remain fundamentally opposed to dual class structures. If they exist, we would expect there to be a sunset clause as well as tag-along rights.”

Comment 6

“The new board proposal seems to have mixed up some positive changes with adaptations that may bring longer term governance issues. Positive changes address several bottlenecks such as access to finance for smaller companies, streamlined IPO processes and requiring sponsoring banks to have ‘skin in the game’ through a buy and hold shares regime. However, the more accommodating listing rules, such as more flexibility on pricing and dual class shares, run the risk of validating comments on the ‘race to the bottom’ when SGX and HKEX adopted weighted voting rights share structure.

“We would expect all companies to have a dividend policy and that it should be made available publicly. The current wording in 4.3.1 allows companies to arbitrarily decide whether they can afford to provide cash or strip dividend before making an explanation to investors. We expect established companies to commit to a reasonable percentage of their free cash flow (not profit) to dividend payment. The dividend policy must be robust, and the board should over time commit to meeting best practices in transparency and fairness to shareholders.

“We also encourage companies with multi class structure to appoint a lead independent director who is accountable to minority shareholders; establish annual shareholder roundtable where all directors are asked to attend and at least the audit committee chair should be available to meet with and to engage with key institutional investors.”