

Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below on the proposed change discussed in the Consultation Paper downloadable from the HKEx website at: <http://www.hkex.com.hk/eng/newsconsul/mktconsul/documents/cp2010124.pdf>.

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

CHAPTER 1: INTRODUCTION

Plain Writing Amendments

Question 1. Do you have any comments on the plainer writing amendments? Do you consider any part(s) of the plainer writing amendments will have unintended consequences?

Yes

No

Please give reasons for your views.

Plainer writing should be encouraged. However, one should allow different styles of writing.

CHAPTER 2: PROPOSED SUBSTANTIVE AMENDMENTS

PART I: DIRECTORS

1. Directors' Duties and Time Commitments

Question 2. Do you agree with our proposed change to Rule 3.08 to clarify the responsibilities the Exchange expects of directors?

Yes

No

Please give reasons for your views.

The first sentence "Directors do not.....only at formal meetings." is confusing and should be deleted. The second sentence should be amended to read : "Directors are expected to take an interest in the affairs of the issuer and obtain a general understanding of its business. They are expected to follow up anything improper that comes to their attention."

Question 3. Do you agree with our proposed addition of the Note to Rule 3.08 referring to the guidance issued by the Companies Registry and HKIOD?

Yes

No

Please give reasons for your views.

In the Note, why do we need to have the second sentence? Why is the publication of HKIOD regarded as the bible in this regard? Is the Exchange endorsing the publication of HKIOD because a listing committee member is the chairman of HKIOD?

Question 4. Do you agree to include a new duty (CP A.5.2(e)) in the nomination committee's written terms of reference that it should regularly review the time required from a director to perform his responsibilities to the issuer, and whether he is meeting that requirement?

Yes

No

Please give reasons for your views.

The duty imposed on the nomination committee is unreasonably burdensome since whether a director is performing his responsibilities should be decided by a court or the Exchange and this is an area involving subjective judgement which is difficult, if not impossible, to assess. Moreover, who is to assess those directors who are also nomination committee members?

In Hong Kong, unlike other jurisdictions, most of the issuers are controlled by a major individual or a family, such controlling shareholders' interests align with those of minority shareholders in that they would not want non-performing directors in their boards.

Question 5. Do you agree to include a new duty (CP A.5.2(f)) in the nomination committee's written terms of reference that it should review NEDs' annual confirmation that they have spent sufficient time on the issuer's business ?

Yes

No

Please give reasons for your views.

One is really missing the point here. If you have A.5.2(e), you do not need to have A.5.2(f) since the former will more than cover the latter. Moreover, if it is just to review, it serves no purpose; if it is to assess, then one is imposing an impossible task on the nomination committee.

Question 6. Do you agree to include a disclosure requirement in the Corporate Governance Report (paragraph L(d)(ii) of Appendix 14) that NEDs have made annual confirmation to the nomination committee that they have spent sufficient time on the issuer's business?

Yes

No

Please give reasons for your views.

Same as the answer to Question 5.

Question 7. Do you agree to expanding CP A.5.3(re-numbered CP A.6.3) to state that a director should limit his other professional commitments and acknowledge to the issuer that he will have sufficient time to meet his obligations?

Yes

No

Please give reasons for your views.

This is ridiculous. An individual is taking the trouble of being made a director of an issuer. He will either be a salaried employee, in which case, the issuer will definitely ensure that he will perform. If he is an INED, he will be exposed to all kinds of director's liability, whether he has other commitments is his own business. The Exchange should not be interfering in this area. A very competent person may take up 20 directorships and will still be a performing director while an incompetent one even if just taking up one directorship will mess up with things.

It is therefore best left to the market/individual issuer to judge and not dictated by the Exchange as to what's good to the issuer. I really wonder whether this one is proposed by HKIOD so that its members may have more chance of obtaining directorships in listed companies.

Question 8. Do you agree to expanding CP A.5.3 (re-numbered CP A.6.3) to state that an NED should confirm annually to the nomination committee that he has spent sufficient time on the issuer's business?

Yes

No

Please give reasons for your views.

Same as Question 7.

Question 9. Do you agree to upgrading RBP D.1.4 to a CP (re-numbered CP D.1.4) and amending it to state that an NED's letter of appointment should set out the expected time commitment?

Yes

No

Please give reasons for your views.

Same as above. To add further, for a capable director, one hour of his time may be worth 100 hours of that of an incompetent one. Time commitment will not improve corporate governance. It will just mean more directorship opportunities for other incompetent ones.

Question 10. Do you agree to upgrading RBP A.5.6 to a CP (re-numbered CP A.6.6) and to amending it to encourage timeliness of disclosure by a director to the issuer on any change to his significant commitments?

Yes

No

Please give reasons for your views.

Periodic disclosure already works very well. Why amend just for the sake of change.

Question 11. Do you consider that there should be a limit on the number of INED positions an individual may hold?

Yes

No

Please give reasons for your views.

In all the world , only China imposes a limit. If an individual is capable , let him take up as many directorships as possible. If he is not capable, just let him take up all the liability. Moreover, an issuer is in a much better position to judge than the Exchange. For example, the chairman of the Exchange, Mr. Arculli, has taken up quite a lot of public roles as well as directorships, why would one doubt his ability by limiting his directorships?

Question 12. If your answer to Question 11 is “yes”, what should be the number? Please give reasons for your views.

Question 13. If your answer to Question 11 is “yes”, do you think that it should be a Rule or a CP?

Rule

CP

Please give reasons for your views.

2. Directors’ Training and Independent Non-executive Directors

Question 14. Do you agree that we should upgrade RBP A.5.5 (requirement for continuous professional development) to a CP (re-numbered CP A.6.5)?

Yes

No

Please give reasons for your views.

*This will just mean more businesses for those course organizers.
This will also add unnecessary costs to the issuers. Moreover, one really finds those courses not very useful.*

Question 15. Do you agree that the minimum number of hours of directors training should be eight?

Yes

No

Please give reasons for your views.

There should not be any prescribed hours. The issuers and the directors as well as the controlling shareholders know what will be best for the issuers. Any sensible issuer will not appoint a Filipino maid to be a director and if one is appointed, the CPD courses will not help to improve corporate governance.

Question 16. What training methods do you consider to be acceptable for the requirements stated in the proposed CP (re-numbered RBP A.6.5)? Please give reasons for your views.

If there needs to be any training programme, they should be organized by the Exchange.

Question 17. Do you agree that we should upgrade RBP A.3.2 (at least one-third of an issuer's board should be INEDs) to a Rule (re-numbered Rule 3.10A)?

Yes

No

Please give reasons for your views.

This will just mean more directorship opportunities for members of HKIOD, increasing costs for the issuers and will not change anything since most of the issuers in HK are family controlled, the role of INEDs to monitor management performance is not as important since it will be in the controlling shareholders' interests to ensure a performing board. I also do not see how an increase in no of INEDs will ensure better compliance of listing rules, etc. If one is a crook, no matter what rules one imposes, he will still get round them. If one is a gentleman, even if no rules are imposed, the issuer will still have the best corporate governance. The Exchange seems to have formed the view that all those in control of the issuers are crooks and INEDs are the angels to save the issuers. This is totally wrong!

Question 18. Do you agree that this Rule (at least one-third of an issuer's board should be INEDs) be effective after a transitional period as described in paragraph 87 of the Consultation Paper?

Yes

No

Please give reasons for your views.

As in Question 17.

Question 19. Do you agree that we should upgrade RBP A.4.3 (shareholder to vote on a separate resolution for the further employment of an INED who has served more than nine years) to a CP (re-numbered CP A.4.3)?

Yes

No

Please give reasons for your views.

Same as above.

Question 20. Do you agree with our proposal to upgrade RBP A.4.8 (issuer should include explanation of its reasons for election and independence of an INED in a circular) to a CP (re-numbered CP A.5.5)?

Yes

No

Please give reasons for your views.

This is reasonable.

3. Board Committees

A. Remuneration Committee

Question 21. Do you agree with our proposal to move the requirement for issuers to establish a remuneration committee with a majority of INED members from the Code (CP B.1.1) to the Rules (Rule 3.25)?

Yes

No

Please give reasons for your views.

Not that relevant in HK context since most of the issuers are family /individual owned/controlled, the controlling shareholders will definitely want to pay less in remuneration in order to get more profits for the issuers. This is more so since in most cases the share price performance co-relates to the profits of the issuers.

Question 22. Do you agree with our proposal that the remuneration committee must be chaired by an INED?

Yes

No

Please give reasons for your views.

Same as Question 21.

Question 23. Do you agree with our proposal to move the requirement for issuers to have written terms of reference for the remuneration committee from the Code (CP B.1.1) to the Rules (Rule 3.26)?

Yes

No

Please give reasons for your views.

Same as Question 21.

Question 24. Do you agree with our proposal to add a new Rule (Rule 3.27) requiring an issuer to make an announcement if it fails to meet the requirements of proposed Rules 3.25, 3.26 and 3.27?

Yes

No

Please give reasons for your views.

Same as Question 21.

Question 25. Do you agree with our proposal that issuers that fail to meet Rules 3.25, 3.26 and 3.27 should have three months to rectify this?

Yes

No

Only if the Exchange really amend the rules as such but I am opposed to adding such rules.

Question 26. Do you agree that we should add “independent” to the professional advice made available to a remuneration committee (CP B.1.2, re-numbered CP B.1.1)?

Yes

No

Please give reasons for your views.

Same as above. To add ‘independent’ will just mean more business for companies like Wyatt etc, and will add more costs to the issuers.

Question 27. Do you agree that, in order to accommodate Model B, we should revise CP B.1.3 (re-numbered CP B.1.2) as described in paragraph 117 of the Consultation Paper?

Yes

No

Please give reasons for your views.

Same as above.

Question 28. (i) Do you agree that where the board resolves to approve any remuneration with which the remuneration committee disagrees, the board should disclose the reasons for its resolution in its corporate governance report)? (ii) If your answer is “yes”, do you agree that RBP B.1.8 should be revised and upgraded to a CP (re-numbered CP B.1.6).

(i) Yes No

(ii) Yes No

Please give reasons for your views.

This is reasonable.

Question 29. Do you agree that the term “performance-based” should be deleted from CP B.1.2(c) (re-numbered CP B.1.2(b)) and revised as described in paragraph 118 of the Consultation Paper?

Yes

No

Please give reasons for your views.

B. Nomination Committee

Question 30. Do you agree that RBP A.4.4 (establishment and composition of a nomination committee, re-numbered CP A.5.1) should be upgraded to a CP?

Yes

No

Please give reasons for your views.

I do not object it being upgraded to a CP but I do not understand why it should be chaired by INED in view of the fact that most issuers are family controlled as stated above. This is different from other jurisdictions where the shareholders and the management are totally different. The Controlling shareholder definitely will be in a better position to assess what the competitive remuneration package is.

Question 31. Do you agree that the proposed CP (currently RBP A.4.4) should state that the nomination committee’s chairman should be an INED?

Yes

No

Please give reasons for your views.

Same as Question 30. Please leave to the issuers to decide. If some want to have it chaired by INEDs let them do so. If some want it to be chaired by the Executive directors, let them do so. The Exchange is never in a position to judge what is the best for an individual issuer.

Question 32. Do you agree that RBP A.4.5 (nomination committee's terms of reference, re-numbered CP A.5.2) should be upgraded to a CP?

Yes

No

Please give reasons for your views.

Question 33. Do you agree that the proposed CP (currently RBP A.4.5(a)) should state that the nomination committee's review of the structure, size and composition of the board should be performed at least once a year?

Yes

No

Please give reasons for your views.

Same as above. An issuer is best left to judge for itself what is best for itself. Interference by the Exchange is totally unnecessary.

Question 34. Do you agree that the proposed CP (currently RBP A.4.5(a)) should state that the nomination committee's review of the structure, size and composition of the board should implement the issuer's corporate strategy?

Yes

No

Please give reasons for your views.

Same as Question 33

Question 35. Do you agree that RBP A.4.6 (availability of nomination committee's terms of reference) should be upgraded to a CP?

Yes

No

Please give reasons for your views.

Same as above.

Question 36. Do you agree that the proposed CP (currently RBP A.4.6, re-numbered CP A.5.3) should state that issuers should include their nomination committee's terms of reference on the HKEx website?

Yes

No

Please give reasons for your views.

Same as above.

Question 37. Do you agree that RBP A.4.7 (sufficient resources for the nomination committee, re-numbered CP A.5.4) should be upgraded to a CP?

Yes

No

Please give reasons for your views.

Please keep it in RBP.

Question 38. Do you agree that the proposed CP (currently RBP A.4.7, re-numbered CP A.5.4) should clarify that a nomination committee should be able to seek independent professional advice at the issuer's expense?

Yes

No

Please give reasons for your views.

Please leave it in RBP.

C. Corporate Governance Committee

Question 39. Do you agree with the proposed terms of reference listed in paragraph 141 of the Consultation Paper?

Yes

No

Please give reasons and alternative suggestions.

Corporate governance is not a show. It should be practised no matter what whether one has a dedicated committee or not. This proposal is therefore totally unnecessary.

Question 40. Do you consider that the committee(s) performing the proposed duties listed in paragraph 141 of the Consultation Paper should submit to the board a written report on its work annually?

Yes

No

Please give reasons for your views.

Same as Question 39.

Question 41. Do you consider that this report (as described in paragraph 140 of the Consultation Paper) should be published as part of the issuer's corporate governance report?

Yes

No

Please give reasons for your views.

Same as above.

Question 42. Do you agree with introducing RBP D.3.3 stating that an issuer should establish a corporate governance committee?

Yes

No

Please give reasons for your views.

Totally unnecessary.

Question 43. Do you agree the duties of an existing committee or committees can be expanded to include those of a corporate governance committee?

Yes

No

Please give reasons for your views.

The whole board should be concerned about corporate governance. The establishment of a committee in that regard will suggest that once a committee is there, the board just shifts the responsibility to the committee, which is not desirable.

Question 44. Do you agree with the addition of CP D.3.2 stating that the committee performing the proposed duties listed in paragraph 141 of the Consultation Paper should comprise a majority of INEDs?

Yes

No

Please give reasons for your views.

Same as question 43.

Question 45. Do you agree with the proposal to add a note to CP D.3.2 stating that the committee should include one member who is an executive director or non-executive director with sufficient knowledge of the issuer's day-to-day operations?

Yes

No

Please give reasons for your views.

But my view is still that this is totally unnecessary as stated above.

D. Audit committee

Question 46. Do you agree with our proposal to upgrade RBP C.3.7 (audit committee's terms of reference should include arrangements for employees to raise concerns about improprieties in financial reporting) to a CP?

Yes

No

Please give reasons for your views.

Question 47. Do you agree with our proposal to amend CP C.3.3(e)(i) to state that the audit committee should meet the external auditor at least twice a year?

Yes

No

Please give reasons for your views.

However, this will increase the costs for the issuers.

Question 48. Do you agree that a new RBP should be introduced to encourage audit committees to establish a whistleblowing policy?

Yes

No

Please give reasons for your views.

This is unnecessary since the present practice is doing well. Anything towards the proposed direction will just increase the costs of listing which is not desirable to maintain HK as a world class financial centre.

4. Remuneration of Directors, CEO and Senior Management

Question 49. Do you agree with our proposal that issuers should disclose senior management remuneration by band (Appendix 16, new paragraph 25A)?

Yes

No

Please give reasons for your views.

The existing requirement is already sufficient (namely, 5 highest paid individuals) . The proposal will encourage poaching of staff. Also, it may be an infringement of privacy. Please consult expert in this area, particularly, the senior management is not required to sign any undertaking to the Exchange.

Question 50. If your answer to Question 49 is yes, do you agree with our proposal that senior management remuneration disclosure should include sales commission?

Yes

No

Please give reasons for your views.

Question 51. Do you agree with our proposal to amend Appendix 16 to require an issuer to disclose the CEO's remuneration in its annual report and by name?

Yes

No

Please give reasons for your views.

Same as Question 51.

Question 52. Do you agree with our proposal to upgrade RBP B.1.6 to a CP (a significant proportion of executive directors' remuneration should be structured so as to link rewards to corporate and individual performance, re-numbered CP B.1.5)?

Yes

No

Please give reasons for your views.

Please stop interfering with the way issuers are conducting business. The management of an issuer is in the best position to determine how to structure pay packages for the issuer.

5. Board Evaluation

Question 53. Do you agree with our proposal to add new RBP B.1.8 that issuers should conduct a regular evaluation of its own and individual directors' performance?

Yes

No

Please give reasons for your views.

This will only increase costs, provide business opportunities for the professionals and increase time and effort spent on meaningless paper chase. This will not improve corporate governance at all. I don't think the Exchange should advocate appearance of good corporate governance on paper. Instead, it should provide education sessions.

6. Board Meetings

- A. Considering a matter where there is a conflict of interest by a physical board meeting rather than a written board resolution

Question 54. Do you agree that, except for plain language amendments, the wording of CP A.1.8 (re-numbered CP A.1.7) should be retained (issuers to hold a board meeting to discuss resolutions on a material matter where a substantial directors or a director has a conflict of interest)?

Yes

No

Please give reasons for your views.

The gist is not whether there is a physical meeting or not. The gist is whether the transaction is for the commercial best benefit of the issuer and the conflicted party has abstained from voting. As long as the interested party has abstained, why prevent an issuer from having a paper meeting? This is again totally unnecessary and a bit ridiculous.

Question 55. Do you agree with our proposals to add a note to CP A.1.8 (re-numbered CP A.1.7) stating that attendance at board meetings can be achieved by telephonic or video conferencing?

Yes

No

Please give reasons for your views.

This is really practical and recognizes the usefulness of modern technology.

B. Directors' Attendance at Board Meetings

Question 56. Do you agree with our proposal to add the notes to paragraph I(c) of Appendix 14 (on attendance at board meetings) as described in paragraph 195 of the Consultation Paper?

Yes

No

Please give reasons for your views.

The requirement to attend general meetings should not be extended to H share companies since voting at such general meetings are by way of electronic means and the physical presence of directors at such meetings may not be that relevant. Investors and shareholders can always attend investor/shareholder telephone conferences from time to time to obtain first hand information of such issuers.

Question 57. Do you agree with our proposal to introduce a new requirement (paragraph I(d) to Appendix 14) that attendance by an alternate should not be counted as attendance by the director himself?

Yes

No

Please give reasons for your views.

If the law allows such attendance by alternates, why impose additional requirement?

Question 58. Do you agree with our proposal that an issuer disclose, for each named director, the number of board or committee meetings he attended and separately the number of board or committee meetings attended by his alternate?

Yes

No

Please give reasons for your views.

This is a reasonable request.

C. Removing Five Percent Threshold for Voting on a Resolution in which a Director has an Interest

Question 59. Do you agree with our proposal to revise Rule 13.44 to remove the exemption described in paragraph 199 (transactions where a director has an interest)?

Yes

No

Please give reasons for your views.

The existing 5 % threshold works very well, why change it for the sake of change. Moreover 5% interest in a company can never afford the holder thereof any influence or control over that particular company. This threshold is a balanced approach to the conflict of interest situation.

7. Chairman and Chief Executive Officer

Question 60. Do you agree with our proposal to remove the words “at the board level” from Code Principle A.2 to clarify the division between management of the board and day-to-day management of an issuer’s business?

Yes

No

Please give reasons for your views.

This provides clarity.

Question 61. Do you agree with our proposal to amend CP A.2.3 to add “accurate” and “clear” to describe the information that the chairman should ensure directors receive?

Yes

No

Please give reasons for your views.

What is clear and not is very subjective. Something may be clear to a smart guy and unclear to a dumb one! Reliable is already meaning accurate. The addition of the two words is 多餘 and 畫蛇添足.

Question 62. Do you agree with our proposal to upgrade RBP A.2.4 to a CP to give greater emphasis to the chairman’s duty to provide leadership for the board, to ensure that the board works effectively and discharges its responsibilities, etc.?

Yes

No

Please give reasons for your views.

If Chairman is not performing and he is not the controlling shareholder, he will be removed. If the chairman is the controlling shareholder, he can never be unseated. So the present RBP is already sufficient to remind people of a chairman's functions.

Question 63. Do you agree with our proposal to upgrade RBP A.2.5 to a CP and amend it to state: "The chairman should take primary responsibility for ensuring that good corporate governance practices and procedures are established"?

Yes

No

Please give reasons for your views.

The whole board should ensure good corporate governance practices and procedures. So RBP requiring the chairman to take primary responsibility is already sufficient.

Question 64. Do you agree with our proposal to upgrade RBP A.2.6 to a CP to emphasise the chairman's responsibility to encourage directors with different views to voice their concerns, allow sufficient time for discussion of issues and build consensus?

Yes

No

Please give reasons for your views.

RBP is already doing fine.

Question 65. Do you agree with our proposal to upgrade RBP A.2.7 to a CP and amend it to state that the chairman should hold separate meetings with only INEDs and only NEDs at least once a year?

Yes

No

Please give reasons for your views.

No harm but what's the point?

Question 66. Do you agree with our proposal to upgrade RBP A.2.8 to a CP to highlight the chairman's role to ensure effective communication between the board and shareholders?

Yes

No

Please give reasons for your views.

Please leave it as a RBP .

Question 67. Do you agree with our proposal to upgrade RBP A.2.9 to a CP to emphasise the chairman's role to enable NED contributions and constructive relations between EDs and NEDs?

Yes

No

Please give reasons for your views.

What's the fuss? To boost the status of the NEDs?

8. Notifying directorship change and disclosure of directors' information

Question 68. Do you agree that we should amend Rule 13.51(2) to require issuers to disclose the retirement or removal of a director or supervisor?

Yes

No

Please give reasons for your views.

This is unreasonable. A removed director will definitely not agree with the other board members . Otherwise he will not be removed.

Question 69. Do you agree that we should amend Rule 13.51(2) to apply to the appointment, resignation, re-designation, retirement or removal of a CEO (and not only to a director or supervisor)?

Yes

No

Please give reasons for your views.

But not applicable to cases of removal.

Question 70. Do you agree that we should amend Rule 13.51(2)(o) to cover all civil judgments of fraud, breach of duty or other misconduct involving dishonesty?

Yes

No

Please give reasons for your views.

Question 71. Do you agree that we should amend Rule 13.51B(3)(c) to clarify that the sanctions referred to in that Rule are those made against the issuer (and not those of other issuers)?

Yes

No

Please give reasons for your views.

The exchange should also clarify by stating that private reprimand is not required to be disclosed.

Question 72. Do you agree with our proposal to upgrade RBP A.3.3 to a CP to ensure that directors' information is published on an issuer's website?

Yes

No

Please give reasons for your views.

Question 73. Do you agree with our proposed amendment to the CP (RBP A.3.3 upgraded) that directors' information should also be published on the HKEx website?

Yes

No

Please give reasons for your views.

9. Providing Management Accounts or Management Updates to the Board

Question 74. Do you agree that we should add CP C.1.2 stating issuers should provide board members with monthly updates as described in paragraph 240 of the Consultation Paper?

Yes

No

Please give reasons for your views.

This is reasonable.

10. Next Day Disclosure for a Director Exercising an Option in the Issuer or the Issuer’s Subsidiaries

Question 75. Do you agree with the proposed amendment to Rule 13.25A(2)(a)(viii) and (ix) removing the need for issuers to publish a Next Day Disclosure Return following the exercise of options for shares in the issuer by a director of a subsidiary?

Yes

No

Please give reasons for your views.

Question 76. Do you agree with the proposed amendment to Rule 13.25A(2)(b)(i) and (ii) to require issuers to publish a Next Day Disclosure only if options for shares in the issuer exercised by a director of its subsidiary or subsidiaries results in a change of 5% or more (individually or when aggregated with other events) of the issuer’s share capital since its last Monthly Return?

Yes

No

Please give reasons for your views.

11. Disclosing Long Term Basis on which an Issuer Generates or Preserves Business Value

Question 77. Do you agree that we should introduce the proposed CP (CP C.1.4) as described in paragraph 250 of the Consultation Paper?

Yes

No

Please give reasons for your views.

Best left this to the analysts to analyse. This proposal will just add additional costs to the issuers without corresponding benefits to investors/shareholders.

12. Directors' Insurance

Question 78. Do you agree with our proposal to upgrade RBP A.1.9 (issuers should arrange appropriate insurance for directors) to a CP (re-numbered CP A.1.8)?

Yes

No

Please give reasons for your views.

This is long awaited.

Question 79. Do you agree with our proposal to add the words “adequate and general” to RBP A.1.9 (upgraded and re-numbered CP A.1.8)?

Yes

No

Please give reasons for your views.

Same as Question 78.

PART II: SHAREHOLDERS

1. Shareholders' General Meetings

A. Notice of Meeting and Bundling of Resolutions

Question 80. Do you agree with our proposal to amend CP E.1.1 to state that issuers should avoid “bundling” of resolutions and where they are “bundled” explain the reasons and material implications in the notice of meeting?

Yes

No

Please give reasons for your views.

B. Voting by Poll

Question 81. Do you agree with our proposal to amend Rule 13.39(4) to allow a chairman at a general meeting to exempt procedural and administrative matters described in paragraph 274 of the Consultation Paper from voting by poll?

Yes

No

Please give reasons for your views.

This is sensible.

Question 82. Do you agree with the examples of procedural and administrative resolutions in paragraph 275 of the Consultation paper? Do you have any other examples to add?

Yes

No

Please give reasons for your views.

Question 83. Do you agree that our proposed amendments to Rule 13.39(5) clarify disclosure in poll results?

Yes

No

Please give reasons for your views.

Question 84. Do you agree with our proposal to amend CP E.2.1 to remove the words "at the commencement of the meeting" so that an issuer's chairman can explain the procedures for conducting a poll later during a general meeting?

Yes

No

Please give reasons for your views.

C. Shareholders' Approval to Appoint and Remove an Auditor

Question 85. Do you agree with our proposal to add new Rule 13.88 to require shareholder approval to appoint the issuer's auditor?

Yes

No

Please give reasons for your views.

Leave it the the law.

Question 86. Do you agree with our proposal to add, in new Rule 13.88, a requirement for shareholder approval to remove the issuer's auditor before the end of his term of office?

Yes

No

Please give reasons for your views.

Leave it to the law.

Question 87. Do you agree that the new Rule 13.88 should require a circular for the removal of the auditor to shareholders containing any written representation from the auditor and allow the auditor to make written and/or verbal representation at the general meeting to remove him?

Yes

No

Please give reasons for your views.

Leave it to the law.

D. Directors' Attendance at Meetings

Question 88. Do you agree with our proposal to upgrade RBP A.5.7 (NEDs' attendance at meetings) to a CP (re-numbered CP A.6.7)?

Yes

No

Please give reasons for your views.

If shareholders are not satisfied they can always vote him out of the board. So compulsory attendance at general meetings should not be prescribed as a CP.

Question 89. Do you agree with our proposal to upgrade RBP A.5.8 (NEDs should make a positive contribution to the development of the issuer's strategy and policies) to a CP (re-numbered CP A.6.8)?

Yes

No

Please give reasons for your views.

This goes without saying. He can be removed if he is not performing.

Question 90. Do you agree with our proposal to introduce a new mandatory disclosure provision in Appendix 23 (re-numbered paragraph I(c) of Appendix 14) stating that issuer must disclose details of attendance at general meetings of each director by name?

Yes

No

Please give reasons for your views.

Question 91. Do you agree with our proposal that CP E.1.2 state the issuer's chairman should arrange for the chairman of "any other committees" to attend the annual general meeting?

Yes

No

Please give reasons for your views.

Please only add the three words with the caveat "if the chairman thinks in his absolute discretion that such attendance is relevant to the businesses to be transacted at the relevant AGM."

E. Auditor's Attendance at Annual General Meetings

Question 92. Do you agree with our proposal that CP E.1.2 state that the chairman should arrange for the auditor to attend the issuer's annual general meeting to answer questions about the conduct of the audit, the preparation and content of the auditors' report, the accounting policies and auditor independence?

Yes

No

Please give reasons for your views.

2. Shareholders' Rights

Question 93. Do you agree with our proposal to upgrade the recommended disclosure of "shareholders' rights" under paragraph 3 (b) of Appendix 23 to mandatory disclosure (re-numbered paragraph O of Appendix 14)?

Yes

No

Please give reasons for your views.

3. Communication with Shareholders

A. Establishing a Communication Policy

Question 94. Do you agree with our proposed new CP E.1.4 stating that issuers should establish a shareholder communication policy?

Yes

No

Please give reasons for your views.

Don't put the cart before the horse. Effective shareholders' communication cannot be achieved in HK so long as we are still retaining the present CCASS system. Do not have this CP E.1.4 unless our central clearing system is overhauled. Otherwise, all issuers will say that they deviate from this CP because of the existing central clearing system which is the biggest stumbling block in effective shareholders' communications. HK will thus become the laughing stock of the financial world.

B. Publishing Constitutional Documents on Website

Question 95. Do you agree with our proposal to add a new Rule 13.90 requiring issuers to publish an updated and consolidated version of their M & A or constitutional documents on their own website and the HKEx website?

Yes

No

Please give reasons for your views.

C. Publishing Procedures for Election of Directors

Question 96. Do you agree with our proposal to add a new Rule 13.51D requiring an issuer to publish the procedures for shareholders to propose a person for election as a director on its website?

Yes

No

Please give reasons for your views.

D. Disclosing Significant Changes to Constitutional Documents

Question 97. Do you agree with our proposal to upgrade the recommended disclosure of any significant change in the issuer's articles of association under paragraph 3(c)(i) of Appendix 23 to mandatory disclosure (re-numbered paragraph P(a) of Appendix 14) ?

Yes

No

Please give reasons for your views.

PART III: COMPANY SECRETARY

1. Company Secretary's Qualifications, Experience and Training

Question 98. Do you agree with our proposal to introduce a new Rule 3.28 on requirements for company secretaries' qualifications and experience?

Yes

No

Please give reasons for your views.

Question 99. Do you agree that the Exchange should consider as acceptable the list of qualifications for company secretaries set out in paragraph 345 of the Consultation Paper?

Yes

No

Please give reasons for your views.

Question 100. Do you agree that the Exchange should consider the list of items set out in paragraph 346 of the Consultation Paper when deciding whether a person has the relevant experience to perform company secretary functions?

Yes

No

Please give reasons for your views.

Question 101. Do you agree with our proposal to remove the requirement for company secretaries to be ordinarily resident in Hong Kong?

Yes

No

Please give reasons for your views.

Question 102. Do you agree with our proposal to repeal Rule 19A.16 so that Mainland issuers' company secretaries would need to meet the same requirements as for other countries?

Yes

No

Please give reasons for your views.

Question 103. Do you agree with our proposal to add a Rule 3.29 requiring company secretaries to attend 15 hours of professional training per financial year?

Yes

No

Please give reasons for your views.

The company secretary has not signed an undertaking to the Exchange. If this rule is breached by the company secretary, why should the issuer and its directors be punished by a failure of the company secretary.

Question 104. Do you agree with the proposed transitional arrangement on compliance with Rule 3.29 in paragraph 350 of the Consultation Paper?

Yes

No

Please give reasons for your views.

Only if the breach will not constitute a breach by the issuer or the directors.

2. New Section in Code on Company Secretary

Question 105. Do you agree with our proposal to include a new section of the Code on company secretary?

Yes

No

Please give reasons for your views.

But only if any breach by the company Secretary will not be attributable to the issuer or its directors.

Question 106. Do you agree with the proposed principle as described in paragraph 362 of the Consultation Paper and set out in full in page 27 of Appendix II?

Yes

No

Please give reasons for your views.

But only if any breach by the company Secretary will not be attributable to the issuer or its directors.

Question 107. Do you agree with our proposed CP F.1.1 stating the company secretary should be an employee of the issuer and have knowledge of the issuer's day-to-day affairs?

Yes

No

Please give reasons for your views.

The proposal that a company secretary should be an employee of the issuer is fine. But how can he have day-to-day knowledge of the issuer's affairs? Does it mean company secretarial affairs? If it means all affairs, one is imposing an impossible task on the poor secretary, a task more onerous than the directors'.

Question 108. Do you agree with our proposal described in paragraph 364 of the Consultation Paper, that if an issuer employs an external service provider, it should disclose the identity of its issuer contact person?

Yes

No

Please give reasons for your views.

Question 109. Do you agree with our proposed CP F.1.2 stating that the selection, appointment or dismissal of the company secretary should be the subject of a board decision?

Yes

No

Please give reasons for your views.

One should not interfere with the internal management of the issuer.

Question 110. Do you agree with our proposed note to CP F.1.2 stating that the board decision to select, appoint or dismiss the company secretary should be made at a physical board meeting and not dealt with by written board resolution?

Yes

No

Please give reasons for your views.

Why not? A company secretary is just an employee of an issuer. What makes his status that special?

Question 111. Do you agree with our proposal to add CP F.1.3 stating that the company secretary should report to the Chairman or CEO?

Yes

No

Please give reasons for your views.

One should not interfere with the internal management of the issuer.

Question 112. Do you agree with our proposal to add CP F.1.5 stating that the company secretary should maintain a record of directors training?

Yes

No

Please give reasons for your views.

CHAPTER 3: PROPOSED NON-SUBSTANTIVE AMENDMENTS

1. Definition of “Announcement” and “Announce”

Question 113. Do you agree with our proposal to include a definition in the Rules for the terms “announcement” and “announce” as described in paragraph 371 of the Consultation Paper?

Yes

No

Please give reasons for your views.

2. Authorised Representatives' Contact Details

Question 114. Do you agree with our proposal to amend Rule 3.06(1) to add a reference to authorised representatives “mobile and other telephone numbers, email and correspondence addresses” and “any other contract details prescribed by the Exchange may prescribe from time to time”?

Yes

No

Please give reasons for your views.

3. Merging Corporate Governance Report Requirements into Appendix 14

Question 115. Do you agree with our proposal to merge Appendix 23 into Appendix 14 for ease of reference?

Yes

No

Please give reasons for your views.

Question 116. Do you agree with our proposal to streamline Appendix 23 and to make plain language amendments to it?

Yes

No

Please give reasons for your views.

- End -