

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.

No comments on plain writing amendments.

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 proposed changes clearly state the duties and responsibilities of directors. We agree that directors are in general expected to take an active interest in the company's affairs, obtain a general understanding of the company's business and follow up anything untoward 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.

Referring to the guidance issued by the Companies Registry and HKIOD provides more details on duties of directors and how the duties are carried out in practice. The Guidelines for Directors issued by the HKIOD are currently not available on the Institute's website and this may limit the pervasiveness of the guidelines.

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.

One of the major duties of nomination committee is to consider appropriate appointment of directors. We agree that nomination committee should assess if the directors are spending adequate time to perform his responsibilities on the issuer's business. However, the nomination committee may lack objective basis to determine the appropriate or benchmark level of required effort for each director to perform his responsibilities. Moreover, it is difficult to verify the time spent by each director so as to conclude whether s/he is meeting that requirement.

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.

Nomination committee has a duty to review if the individual has committed sufficient time to perform his responsibilities as a director when considering re-appointment.

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.

A NED should devote necessary time and attention to his duties. Disclosure of the annual confirmation assists shareholders and public in monitoring the effectiveness of the board.

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.

We agree that all directors should acknowledge to the issuer that s/he will have sufficient time to meet his obligations. However, we have reservations about imposing a limit to number of his/her other professional commitments.

To assess a director's contribution to the issuer, we believe whether sufficient time has been spent on the issuer's business is one of the important factors rather than what s/he has been doing outside the issuer's business. It should also be carefully considered about the extent that the issuer meddles in a director's personal affairs.

The proposed amendments only highlight directorship held in other companies as an example of professional commitment. It is also challenging to fairly outline the boundaries for "professional commitments" which may cover positions in various aspects. This will thus arouse controversy over the number of professional commitments a director can take.

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.

A NED should devote necessary time and attention to his duties. The nomination committee should take this into account when considering re-appointment of directors.

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.

Please refer to our response to Question 4 for basis of our views.

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.

We believe it is the director's responsibility to timely inform the issuer about any change to his/her significant commitments. This enables the issuer to timely assess the impact of such change and plan for mitigation, if necessary.

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.

The maximum number of INED positions an individual may hold depends on a number of factors including the individual's capabilities, his/her other commitments other than INED positions and etc. It lacks an objective basis to determine such limit. As long as an individual has spent adequate time and effort in the issuer's business and the quality of independence is not sacrificed, the limit on the number of positions may not be necessary.

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

Not applicable.

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.

Not applicable.

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.

The requirement for continuous professional development helps directors keep abreast of new developments and updated knowledge and skills. Enhancing the quality of directors is a public concern. The new proposal encourages directors to attend continuous professional development every year.

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.

HKIOD stipulated that its members should have a minimum of 5 CPD (Continuing Professional Development) hours per year and is recommended to have 10 CPD hours per year. As for directors of public interest companies, a higher standard that exceeds minimum requirements is appropriate.

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.

As directors might be travelling frequently or based overseas, a broader range of training methods should be accepted. With reference to the guidelines issued by the HKIOD and Institute of Directors, training could be formal or informal.

Formal training includes attending courses, seminars and conferences by outside training providers, e.g. professional institutes, registered education providers, or any other competent organisations. Giving speeches at seminars and conferences or facilitating training courses could also be counted as formal training.

Informal training included training courses provided by in-house, e.g. in-house counsel, self-study on books/ articles, article writing, attending online courses e-seminars, webcasts etc.

We recommend that directors should have a balanced curriculum between formal and informal training. We suggest that formal training should account for at least 4 hours of directors training annually.

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.

We agree with the proposal that enhances corporate governance and better protects interests of minority shareholders.

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.

This arrangement is to allow issuer to have sufficient time to appoint additional INEDs.

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.

Independence of an INED is a concern of the public. Shareholders should have the right to evaluate the level of independence of an INED and express their views on re-election through the right to vote on a separate resolution for the further employment of an INED who has served more than nine years.

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 proposal provides shareholders with more information regarding the appointment of the nominated INED.

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.

One of the major objectives of the remuneration committee is to ensure board members do not determine their own remuneration. Independence of the remuneration committee is an issue of public concern.

Other than the examples of other jurisdictions quoted in the consultation paper, the NYSE even requires all listed companies must have a compensation committee composed entirely of independent directors (Section 303A.05 (a) of NYSE Listed Company Manual).

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.

This proposal is to enhance the independence of the remuneration committee which is crucial for the effectiveness of the committee.

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.

Provided that the establishment of remuneration committee will be Rules, the respective requirements of written terms of reference should also be in place to ensure the duties, purpose and responsibilities of the committee are clearly stipulated.

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.

Announcement should be made for failing to have an independent remuneration committee for public's interests.

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

It is reasonable to require issuers to rectify the issue within 3 months.

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.

Remuneration committee should be allowed to access to “independent” professional advice if necessary.

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.

Provided that disagreements with the board are disclosed, Model B is adequate in ensuring board members do not determine their own remuneration.

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.

One of the major functions of the remuneration committee is to ensure no director determines his/her own remuneration. Where remuneration committee disagrees with the remuneration or compensation arrangement of a director, shareholders should have the rights to know the background and reasons behind. The proposal helps enhance remuneration committee’s authority in exercising its duties.

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.

Agree not to require remuneration committee to assess the performance of each individual director as the requirement on board evaluation is only a RBP.

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.

Nomination committee is crucial to the effective functioning of the board as it is responsible for appointments of directors. The establishment of a nomination committee would allow the board to assess to independence advice on the structure, size and composition of the board and identify suitable candidate to the board. Besides, in order for a nomination committee to be effective, the independence of the committee is important. We agree that the nomination committee members should comprise majority of INEDs.

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.

As mentioned in our response to Question 30, nominating qualified new director and board members is highly essential in effective functioning of the board. An independent nomination committee can enhance the independence and quality of nominees. To enhance the independence of the nomination committee, it should be chaired by an INED.

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.

We agree to upgrade nomination committee's terms of reference to a CP. In addition, we suggest that the nomination committee should also review and monitor the training and continuous professional development of directors and senior management.

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.

This proposal provides a clearer guideline for issuers on the frequency of review.

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.

The structure, size and composition of the board should be commensurate with the issuer's corporate strategy. Agree to the changes to the proposed CP.

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.

Provided that the establishment of nomination committee will be CP, the respective requirements of written terms of reference should also be in place to ensure the duties, purpose and responsibilities of the committee are clearly stipulated.

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.

No comments.

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.

To assist nomination committee to perform its duty, nomination committee should be provided with sufficient resources. Agree to upgrade the RBP to CP.

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.

Committees should be given sufficient resources in carrying out its duty when necessary.

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.

We support the intention of the proposals to foster good corporate governance practices of listed companies. With reference to proposed terms of reference listed in paragraph 141 of the CP, we have furnished our comments below.

(a) to develop and review an issuers' policies and practices on corporate governance and make recommendations to the board

We agree that a set of policies and practices on corporate governance (“CG policies”) should be in place whereas it is imperative to develop a general consensus among public regarding the scope of such policies and practices – i.e., what does it all mean by “Corporate Governance”. Without resolving this issue, it is difficult to ensure the effectiveness and the relevance of the CG policies to the issuer’s operations.

Corporate Governance in general refers to the strategies, processes, organizational structure and other related elements of infrastructure of an organization that affect the way it is directed, administered and controlled. Issuers may have difficulties in comprehending the idea of CG and linking CG to daily business operations.

We thus suggest that a framework of Corporate Governance for Listed Companies (“CG framework”) should be released as an importance guidelines and reference for issuers to develop their own CG policies.

The Report of the Committee on the Financial Aspects of Corporate Governance – generally referred to as Cadbury Report – was released in 1992, which laid down three important classic principles of corporate governance, namely Openness (or Transparency), Integrity and Accountability. The can be adopted as baselines for the CG framework.

In fact, the International Federations of Accountants and the HKICPA have separately released report and framework of corporate governance for public sectors in 2001 and 2004, respectively. Both literatures suggested a scope of corporate governance that encompasses Standards of Behaviour, Organization Structures and Processes, Risk Management and Control as well as Accountability, Reporting and Disclosure.

Accordingly, we suggest the HKEx to invite an appropriate professional body to develop the CG framework before enforcement of the requirements of CG policies.

(b) to review and monitor the training and continuous professional development of directors and senior management

Considering the nature of this responsibility, we suggest this should fall within the scope of nomination committee instead of CG committee. This is also consistent with the respective requirements of the NYSE Listed Company Manual.

(c) to review and monitor the issuer's policies and practices on compliance with legal and regulatory requirements

We agree to include this in the terms of reference of CG committee, just that this may not necessarily be presented as a separate line item but as one of the components of the CG policies.

(d) to develop, review and monitor the code of conduct and compliance manual (if any) applicable to employees and directors

We agree to include this in the terms of reference of CG committee, just that this may not necessarily be presented as a separate line item but as one of the components of the CG policies.

(e) to review the issuer's compliance with the Code and disclosure in the corporate governance report section of its financial statements

We agree to include this in the terms of reference of CG committee.

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.

Subject to our response to Question 39, we agree that a written report on its work should be submitted to the board annually. This is also consistent with the requirements of other board committees.

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.

Paragraph 140 of the CP discussed requirements in other jurisdiction. The Nominating/Governance Committee as required by the NYSE focuses more on the nominating functions rather than corporate governance initiatives. Neither the NYSE manual nor sample charters for the nominating/governance committee provide clear guidelines for the scope of CG that an issuer should cover.

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.

Since CG committee is a new initiative with little reference in other capital markets, we agree that a RBP should be introduced so as to encourage issuers to focus more on CG standards.

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 roles of CG committee can be shared among audit committee, nomination committee, the board of directors and senior management.

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.

Corporate Governance in general refers to the strategies, processes, organizational structure and other related elements of infrastructure of an organization that affect the way it is directed, administered and controlled. This should thus comprise involvements at both board level and management level. As such, the CG committee should be composed of INEDs as well as executive directors and representative of senior management.

Having said that, the CG committee in general assumes monitoring roles and thus independence is also one of the most critical qualities. We thus agree that the CG committee should comprise a majority of INEDs.

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.

Please refer to our response to Question 44.

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.

We agree to upgrade audit committee's terms of reference on arrangements for employees to raise concerns about improprieties in financial reporting to a CP to raise the prominence for fair and independent investigations on improprieties.

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.

As the Audit Committee's role include progressively evaluate the performance of the external auditor during its term of appointment and the progress of the audit, meeting the external auditor at least twice a year allows the Audit Committee to better understand the role and scope of an external audit, engage more effectively with the external auditor and consider the drivers of audit quality.

According to the Guide for Effective Audit Committee published by HKICPA, meetings with external auditors shall be held not less than twice a year. With the consideration of range and complexity of the issues that the Committee faces, the frequency of meetings may vary. Meeting at least twice per year is considered reasonable as the Committee normally meet prior to the finalisation of the interim and year end accounts to discuss any issues arising from them.

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.

A sound whistleblowing system can help unveil and deter misconduct acts in the company. Audit committee, as an oversight board of company's internal controls, is the most appropriate committee to be responsible for the policy.

Following the Dodd-Frank Wall Street Reform and Consumer Protection Act ("DF Act") in August 2010, the importance of whistleblowing program has been emphasized and the SEC of the US has also proposed relevant new listing rule accordingly.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

Full board and individual director evaluation has been a hot discussion topic in the U.S. and many listed companies have been performing board self-assessment. We agree to add new RBP B.1.8 that issuers should conduct a regular evaluation of its own and individual directors' performance. Our view on the evaluation method is to include self assessment and each director should comment on the full board's and committees' performance as well as self-assess individual performance. Questionnaires could be used and results should be properly discussed and follow-up actions should be taken to ensure board evaluation adds value.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No further comments.

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.

No comments.

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.

This proposal is to help the chairman improve communications with INEDs and NEDs. We agree with the proposed amendments.

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.

No comments.

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.

No comments.

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.

Change in directorship is an important piece of information for shareholders. Besides, as there would not be frequent update of directorship change, the requirement should not be burdensome to the issuers.

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.

Please refer to our response to Question 68 above.

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.

We agree to broaden the scope of disclosure.

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.

No comments.

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.

No comments.

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.

No comments.

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.

Board members might not be involved in the daily management and operations of the company. For the board to be effective, they require adequate information and updates from management regarding the company's major issues, problems or any major indicators of the business. We suggest that at least descriptive management updates should be provided to the board and this would help board members to perform its fiduciary duties.

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.

No comments.

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.

No comments.

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.

It is shareholders' interests to know the long term business models of the issuer. Any changes to the long term business models should be disclosed in the annual report. This proposal also helps shareholders to assess the performance of the issuers.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

Attendance of NED to meetings is the expectation of the shareholders. To promote good corporate governance, NED should be encouraged to attend meetings.

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.

No comments.

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.

This proposal is the encourage directors to attend meetings.

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.

No comments.

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.

No comments.

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.

No comments.

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.

Shareholders should be held to appropriate levels of transparency. A policy ensuring on-going communications between the board and shareholders would allow shareholders to access to accurate and timely information and enhance participation of shareholders in the annual general meetings.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

No comments.

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.

This is consistent with the presentation of other listing rule requirements.

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.

No comments.