

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/cp201406.pdf>

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

1. Do you agree with our proposal to amend the title of Section C.2 of the Code to “Risk management and internal control”?

Yes

No

Please give reasons for your views.

We agree with the proposal to amend the title of Section C.2 to reflect the emphasis of internal control being an integrated part of risk management.

2. Do you agree with the proposed amendments to Principle C.2 to define the roles of the board and the management, and state that the management should provide assurance to the board on the effectiveness of the risk management systems? Is the intention of the proposed wording sufficiently clear?

Yes

No

Please give reasons for your views.

We agree with the proposed amendments to define the roles of the board and the management and state that management should provide assurance to the board on the effectiveness of the risk management systems for the reasons set out in paragraphs 36 and 37 of the Consultation Paper. In respect of the proposed wording in the revised Code Provision C.2.2, we suggest replacing the word “ensure” with “evaluate” or “assess” to reflect that the board’s annual review is a process, the outcome of which can only be addressed subsequently.

3. Do you agree with our proposal to introduce an amended RBP (C.2.6) to provide that the board may disclose in the Corporate Governance Report that it has received assurance from management on the effectiveness of the issuer's risk management and internal control systems? Is the intention of the proposed wording sufficiently clear?

Yes

No

Please give reasons for your views.

We agree with the proposal to introduce an amended RBP C.2.6 for the reasons set out in paragraphs 36 to 50 of the Consultation Paper.

4. Do you agree with the proposed amendments to CP C.2.1 to state that the board should oversee the issuer's risk management and internal control systems on an ongoing basis? Is the intention of the proposed wording sufficiently clear?

Yes

No

Please give reasons for your views.

We agree with the proposed amendments to CP C.2.1 for the reasons set out in paragraphs 57, 66 and 67 of the Consultation Paper.

5. Do you agree with our proposal to upgrade to a CP the existing RBP C.2.3, which sets out the matters that the board's annual review should consider?

Yes

No

Please give reasons for your views.

We agree with the proposal to upgrade RBP C.2.3 to a CP for the reasons set out in paragraphs 56 and 58 to 65 of the Consultation Paper.

6. Do you agree with our proposal to upgrade to a CP the existing RBP C.2.4, which sets out the particular disclosures that issuers should make in their Corporate Governance Reports in relation to how they have complied with the internal control CPs during the reporting period?

Yes

No

Please give reasons for your views.

We agree with the proposal to upgrade to a CP the existing RBP C.2.4 for the reasons set out in paragraph 69 of the Consultation Paper.

7. Do you agree with our proposal to amend the wording of proposed CP C.2.4 to simplify the requirements and remove ambiguous language, and to make clear that the risk management and internal control systems are designed to manage rather than eliminate risks? Is the intention of the proposed wording sufficiently clear?

Yes

No

Please give reasons for your views.

We agree with the proposal to amend the wording of proposed CP C.2.4 for the reason set out in paragraph 70 of the Consultation Paper.

8. In relation to proposed CP C.2.4, do you agree with our proposal to upgrade the existing recommendation that issuers disclose their procedures and internal controls for handling and disseminating inside information (Section S., paragraph (a)(ii)), and amend it to include the handling of “other regulatory compliance risks”?

Yes

No

Please give reasons for your views.

Subject to clarification on what “other regulatory compliance risks” are, we agree with the proposal.

9. Do you agree with our proposal to upgrade to Mandatory Disclosures the following existing Recommended Disclosures in relation to internal controls (Section S.):

- (a) whether the issuer has an internal audit function;
- (b) how often the risk management and internal control systems are reviewed, the period covered, and where an issuer has not conducted a review during the year, an explanation why not;
- (c) a statement that a review of the effectiveness of the risk management and internal control systems has been conducted and whether the issuer considers them effective and adequate; and
- (d) significant views or proposals put forward by the audit committee?

Yes

No

Please give reasons for your views.

This seems to be a logical move consequent to the proposal to upgrade RBP C.2.4.

10. Do you agree with our proposal to move the existing recommendation that issuers disclose details of any significant areas of concern (Section S., paragraph (a)(ix)) to a new RBP C.2.7, and to amend the provision to widen its application by removing the reference to areas of concern “which may affect shareholders”?

Yes

No

Please give reasons for your views.

We agree with the proposal to widen the application of C.2.7 as disclosure of significant areas of concern which may affect other stakeholders of a company is equally important.

11. Do you agree with our proposal to remove RBP C.2.5, which states that issuers should ensure their disclosures provide meaningful information and do not give a misleading impression?

Yes

No

Please give reasons for your views.

We agree with the proposal to remove RBP C.2.5 for the reason set out in paragraph 76 of the Consultation Paper.

12. Do you agree with our proposals to remove the recommendations that issuers include in their Corporate Governance Reports:

(a) an explanation of how the internal control system has been defined for them (Section S., paragraph (a)(i)); and

(b) the directors' criteria for assessing the effectiveness of the internal control system (Section S., paragraph (a)(vii))?

Yes

No

Please give reasons for your views.

We agree with the proposals which help to clarify the disclosure requirements.

13. Do you agree with our proposal to upgrade RBP C.2.6 to a CP (re-numbered C.2.5) and amend it to state that an issuer should have an internal audit function, and issuers without an internal audit function should review the need for one on an annual basis and disclose the reasons for the absence of such function in the Corporate Governance Report? Is the intention of the proposed wording sufficiently clear?

Yes

No

Please give reasons for your views.

We agree with the proposal to upgrade RBP C.2.6 to a CP (re-numbered C.2.5) for the reasons set out in paragraphs 79 to 86 of the Consultation Paper.

In addition, if an issuer outsources internal audit activities, the outsourced internal audit service provider should not provide external audit services to the issuer.

14. Do you agree with our proposal to introduce new Notes to the proposed CP C.2.5 to clarify that:

(a) the role of the internal audit function is to carry out the analysis and independent appraisal of the adequacy and effectiveness of an issuer's risk management and internal control systems; and

(b) a group with multiple listed issuers may share group resources of the holding company to carry out the internal audit function for members of the group?

Yes

No

Is the intention of the proposed wording sufficiently clear? Please give reasons for your views.

We agree with the proposal to introduce new Notes to the proposed CP C.2.5 for the reasons set out in paragraphs 80 and 88 of the Consultation Paper.

15. Do you agree with our proposal to amend the existing CP C.2.2 to state that the board's annual review should ensure the adequacy of resources, staff qualifications and experience, training programmes and budget of the issuer's internal audit function (in addition to its accounting and financial reporting functions)?

Yes

No

Please give reasons for your views.

We agree with the proposal to amend the existing CP C.2.2 to review the adequacy of resources etc. of the issuer's internal audit function in addition to its accounting and financial reporting functions. However, we suggest replacing the word "ensure" with "evaluate" or "assess" to reflect that the board's annual review is a process, the outcome of which can only be addressed subsequently.

16. Do you agree with our proposal to amend Principle C.3 in respect of audit committees and CP C.3.3 in respect of their terms of reference to incorporate “risk management” where appropriate?

Yes

No

Please give reasons for your views.

We agree with the proposal to amend Principle C.3 and CP C.3.3 for the reason set out in paragraph 102 of the Consultation Paper.

17. Do you agree that the matter of establishing a separate board risk committee should be left to issuers to decide in accordance with their own circumstances?

Yes

No

Please give reasons for your views.

We agree with the reasonings as set forth in paragraphs 92 and 95 of the Consultation Paper.

18. What would be an appropriate period of time between the publication of the consultation conclusions and the implementation of the amendments set out in the Consultation Paper?

Six months

Nine months

12 months

Others (please specify:)

Please give reasons for your views.

Given that issuers may need to develop and put in place measures to check and ensure the effectiveness of risk management and internal control systems in order to comply with the proposals, sufficient lead time (of at least 12 months) for readiness should be allowed before the amendments are implemented. In any event, it is preferably that amendments will only be introduced in a new accounting year following the announcement of the amendments after allowing sufficient lead time.

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