

Corporate Communications Department  
Hong Kong Exchanges and Clearing Limited  
12/F, One International Finance Centre  
1 Harbour View Street  
Central  
Hong Kong

4 December 2017

Dear Sir

**Re: Consultation Paper on Review of the Corporate Governance Code and Related Listing Rules (Consultation Paper)**

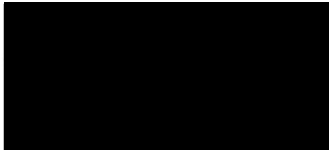
To maintain investors' confidence, Hong Kong Exchanges and Clearing Limited (HKEx) is obliged to ensure standards of listed issuers' corporate governance is acceptable and comparable to international practices.

ACCA (the Association of Chartered Certified Accountants) supports the majority of the proposals in the Consultation Paper. For certain proposed rule changes such as factors affecting INED's independence and cooling off periods, the HKEx should clarify whether those proposed changes will equally apply to the existing INEDs. If they do, we consider that appropriate transitional arrangements should be put in place. We also note that the transitional arrangement for INEDs appointed before March 2004 set out in Rule 3.15 has been outdated. The Exchange may need to remove such outdated transitional arrangement.

We note in paragraphs 9, 10 and 12 of the Consultation Paper that the HKEx proposes to issue guidance regarding the timing of appointment of INEDs for new listing applicants, the considerations in assessing overboarding of an INED and listed issuers' diversity policy. It would have been more appropriate and transparent for the HKEx to set out the proposed guidance upfront in the Consultation Paper for reference and comments.

Should you wish to clarify any of the above issues, please do not hesitate to contact the undersigned at [REDACTED].

Yours faithfully,

A large black rectangular redaction box covering the signature area.

Teresa Tso  
Chairman  
*ACCA Hong Kong*

Encl

## 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:

<https://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp2017111.pdf>.

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

### PART I: INDEPENDENT NON-EXECUTIVE DIRECTORS

#### Overboarding and INED's time commitment

1. Do you agree with our proposed amendment to Code Provision ("CP") A.5.5 (on a "comply or explain" basis) so that in addition to the CP's current requirements, the board should also explain, if the proposed independent non-executive director ("INED") will be holding his seventh (or more) listed company directorship, why he would still be able to devote sufficient time to the board?

Yes

No

Please give reasons for your views.

#### Board diversity

2. Do you agree with our proposals to upgrade CP A.5.6 (on a "comply or explain" basis) to a Rule (Rule 13.92) requiring issuers to have a diversity policy and to disclose the policy or a summary of it in their corporate governance reports?

Yes

No

Please give reasons for your views.

3. Do you agree with our proposal to amend CP A.5.5 that it requires (on a “comply or explain” basis) the board to state in the circular to shareholders accompanying the resolution to elect the director:

- (i) the process used for identifying the nominee;
- (ii) the perspectives, skills and experience that the person is expected to bring to the board; and
- (iii) how the nominee would contribute to the diversity of the board.

Yes

No

Please give reasons for your views.

4. Do you agree with our proposal to amend Mandatory Disclosure Requirement L.(d)(ii) to reflect the upgrade of CP A.5.6 (on a “comply or explain” basis) to a Rule (Rule 13.92) requiring issuers to have a diversity policy and to disclose the policy or a summary of it in their Corporate Governance Reports?

Yes

No

Please give reasons for your views.

## Factors affecting INED's independence

### A. Cooling off periods for former professional advisers

5. Do you agree with our proposal to revise Rule 3.13 (3) so that there is a three-year cooling off period for professional advisers before they can be considered independent, instead of the current one year?

Yes

No

Please give reasons for your views.

6. Do you agree with our proposal to revise CP C.3.2 (on a "comply or explain" basis) so that there is a three-year cooling off period for a former partner of the issuer's existing audit firm before he can be a member of the issuer's audit committee?

Yes

No

Please give reasons for your views.



**B. Cooling off period in respect of material interests in business activities**

7. Do you agree with our proposal to revise Rule 3.13(4) to introduce a one-year cooling off period for a proposed INED who has had material interests in the issuer's principal business activities in the past year?

Yes

No

Please give reasons for your views.

While we agree to the proposal, we cannot see the rationale why the proposed one-year the cooling period is inconsistent with the proposed three-year cooling off period for professional advisers. In respect of the proposed cooling off period for professional advisers, we can see a stricter approach is proposed, making reference to the benchmark in other jurisdictions. However, the proposal is only to introduce a one-year cooling off period for persons who have had material interests in the issuer's principal business activities. We note that the UK and Australia (both on a "comply or explain" basis) require a three-year cooling off period for both professional advisers and persons who have had material interests in the issuer's principal business activities.

**C. Cross-directorships or Significant Links with other Directors**

8. Do you agree with our proposal to introduce a new Recommended Best Practice A.3.3 (i.e. voluntary) to recommend disclosure of INEDs' cross-directorships in the Corporate Governance Report?

Yes

No

Please give reasons for your views.

We consider it more appropriate to require the disclosure under a Code Provision, subject to the "comply or explain" regime.

**D. Family ties**

9. Do you agree with our proposal to introduce a Note under Rule 3.13 to encourage inclusion of an INED’s immediate family members in the assessment of the director’s independence?

Yes

No

Please give reasons for your views.

10. Do you agree with our proposal to adopt the same definition for “immediate family member” as Rule 14A.12(1)(a) which defines an ‘immediate family member’ as “his spouse, his (or his spouse’s) child or step-child, natural or adopted, under the age of 18 years”?

Yes

No

Please give reasons for your views.

**PART II: NOMINATION POLICY**

11. Do you agree with our proposal to amend Mandatory Disclosure Requirement L.(d)(ii) of Appendix 14 to require an issuer to disclose its nomination policy adopted during the year?

Yes

No

Please give reasons for your views.

**PART III: DIRECTORS' ATTENDANCE AT MEETINGS**

**Directors' attendance at general meetings**

12. Do you agree with our proposal to amend CP A.6.7 (on a "comply or explain" basis) by removing the last sentence of the current wording (i.e. they should also attend general meetings and develop a balanced understanding of the views of shareholders.)?

Yes

No

Please give reasons for your views.

**Chairman's annual meetings with INEDs**

13. Do you agree with our proposal to revise CP A.2.7 (on a "comply or explain" basis) to state that INEDs should meet at least annually with the chairman?

Yes

No

Please give reasons for your views.

The revised wordings in CP A.2.7 do not reflect the rationale for the proposal under paragraph 106 where it explicitly states that a meeting of INEDs including NEDs may not serve the purpose of meeting without the management.



**PART IV: DIVIDEND POLICY**

14. Do you agree with our proposal to introduce CP E.1.5 requiring (on a “comply or explain” basis) the issuer to disclose its dividend policy in the annual report?

Yes

No

Please give reasons for your views.

**PART V: ELECTRONIC DISSEMINATION OF CORPORATE COMMUNICATIONS – IMPLIED CONSENT**

15. Do you think that the Rules should be amended to allow shareholders’ consent to be implied for electronic dissemination of corporate communications by issuers?

Yes

No

Please give reasons for your views.

- End -