

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.

A person's available time and attention are affected by different factors. Further, each individual's level of competence and the scale of his/her personal business and social commitments vary widely and hence the amount of time he/she has available to the job. It is not justified to draw a conclusion that an INED having just a few directorships and business commitment would have been maximized in terms of his capability. The focus of disclosure should be put on the proposed INED's capability, experience and contribution to the issuer rather than the number of other directorships he holds.

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.

We agree with the proposed amendments in light of the increasing importance of board diversity as a factor for investors in making their investment decisions. In addition, the CP has been introduced for quite some time and it would be an appropriate time now to upgrade the CP to a rule.

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.

We agree with the proposed amendments which will enhance transparency on the considerations given by the nomination committee and allow shareholders to make informed voting decisions. In fact, the disclosure requirements are more or less similar to those set out in the Mandatory Disclosure Requirement L.(d)(ii).

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.

See reasons stated in question 2 above

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.

One-year cooling off period is sufficient for reducing the impact of the connection with previous professional advisers and their ability to exercise independent judgement will not be impaired.

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.

See reasons stated in question 5 above.

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.

The proposed amendments give a clear cooling off period for material interests in the issuer's principal business activities. The proposed one-year cooling off period also strikes a balance between international best practice and practical issues of reducing the pool of available INEDs.

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.

The definitions of "cross directorships" or "significant links" are very vague which will cause confusion and ambiguities.

Moreover, given that there are no restrictions on cross-directorships or significant links with other directors in the overseas jurisdictions examined except for the UK code (as stated in the Exchange's consultation paper), it appears that these issues may not substantially jeopardize a director's ability in exercising independent judgement and the introduction of the Recommended Best Practice is not necessary.

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.

We agree with the Exchange's view that the independence of a director may be affected by the independence of the director's immediate family members' connection with the issuer. Moreover, the proposed amendments are in line with the independence assessments adopted in Australia, Singapore, PRC and USA.

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.

This gives a standard definition of "immediate family member".

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.

The proposed amendments give clear indication that INEDs' and NEDs' absence from general meeting is not a deviation from CP and removes confusion caused by inconsistencies in the interpretation of the code.

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.

INEDs should meet at least annually with the chairman even if the Chairman is not an INED.

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.

<p>We agree with the Exchange's view that the issuer's dividend policy is an important piece of information for the investors in determining their investment decisions. Moreover, the proposed disclosure of the dividend policy conforms with international practice.</p>

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.

<p>- We agree to the proposal, subject to the amendments to the HK Companies Ordinance to allow implied consent for electronic dissemination of corporate communication by issuers.</p>

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