

## 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.

It is a good corporate governance of requiring the board to explain why a director concurrently holds the position of INED in a number of companies and will be able to devote sufficient time to hold further position as INED.

But in view of the consultation paper mentioned that no other jurisdictions draw a line on the number of listed company's boards a director may hold except the Mainland imposing a maximum of five INED positions for an individual. It seems that the rationale of those jurisdictions (other than the Mainland) is to provide sufficient information to shareholder to understand whether an INED can have sufficient time devote to a listed company.

The current proposal from the Exchange seems to be a parent-child monitoring arrangement. I have a query on how the Exchange to set holding seventh (or more) position as INED is required to explain for application to all listed companies. It is not an international practice; and time to be devoted by INED will vary according to the size and business of different listed companies.

If a maximum number should be fixed, it will be better to adopt the practice in Singapore for Hong Kong, that is the board of listed company to determine the maximum number of listed company's boards a director may hold and disclose this in company's annual report. It is better to allow the board of listed company to fix the maximum number because each company will have its own reason to the number.

## 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.

Agreed. There is no different of having the requirements as a code provision or as a rule. Currently, most of listed companies comply with CP A.5.6.

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.

Agreed. This will enhance the transparency to the shareholders with the option for company to comply or explain

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.

Agreed. The amendment is necessary after CP A.5.6 has been upgraded to a rule.

## 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.

Agreed. It is good to align with international practice. I think 3-year cooling off period is reasonable. The consultation paper stated that some stakeholders suggested to have additional two-years cooling off period as CP. I think this can be re-considered later

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.

Please see my reason in above no.5.

**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.

Agreed. It is good to align with international best practice. But in view of consultation paper does not provide the number of year of cooling off period in other jurisdictions, I am not sure if one-year of cooling off period reasonable. I think one year is a bit short. If a proposed director has material interest in business activity of or material business dealing with the listed issuer, the relationship may not be clear cut in one-year cooling off period. In any case, the current proposal is already a good improvement in corporate governance.

**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.

Agreed. It is an improvement of corporate governance by introducing RBP of INED's cross-directorship in CG Report. Suggest to give a simple elaboration (similar to foot note 55 of the consultation paper) of the term "cross-directorship" in A.3.3

**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.

Agreed. This enhance the independence of INED. But the current proposed wording in the last Note of Rule 3.13 seems not clear and easily overlook. Please consider to place the words "director's immediate family members" immediately at the end of first paragraph of 3.13 (i.e. "... more likely to be questioned if the director and director's immediate family members:-"

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.

Agreed. The definition is reasonable.

**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.

It is not an international practice of disclosing the nomination policy. There are still a number of listed companies do not have nomination committee. Also there is no reason to just disclosing nomination policy but not other committees' policies (say, remuneration policy) in the CG Report

### **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.

Totally agreed. This is a correction which should be done earlier and no consultation is required. This sentence has caused confusion amongst the listed companies after the current Appendix 14 has come into effect. The Exchange has further imposed the confusion to listed companies in way that, on one hand there is FAQ expressly stated that Exchange does not consider any directors' absence from a general meeting a deviation of the CP, and on the other hand its Annual Review on the CG Report included this point as one of CP deviations.

#### **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.

No comment since the information provided in the consultation paper cannot clearly explain the reason of the proposal. But in any case, there is not much difference of having a separate meeting between the chairman and NED (including INED) and the current proposal.

**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.

Agreed. To enhance the transparency to public with the option for company to comply or explain

**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.

Agreed. This could simplify the administration of company

- End -