

## 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 work is becoming more and more demanding, the responsibility and associated risk board directors take are on increase, the time and attention board members give duly to their role are essential to them performing them well and serve the interest of the company and its shareholders/stakeholders.

██████████ agrees with the above proposed amendment, and suggests for board chairman and/or nomination committee and the proposed INED to both follow procedures and be compliant with this requirement. In fact, at ██████████ we believe five board seats is the maximum any non-executive can take to give due attention to the boards these directors serve.

#### 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.

■■■■■■■■■■ highly welcomes and supports this proposed upgrade. Board diversity is a critical and strategic agenda in the boardroom the world over.

While Hong Kong has been making steady progress in this regard over the last few years, benefiting from the HKEX guidance and progress made by the boards, but we are lacking behind. The current requirements have served as encouraging measures in the last few years, it is time to move the dial to require and encourage companies to move board diversity higher on their agenda, and make the whole nominating and selection process more transparent.

■■■■■■■■■■ as a leading voice and facilitator in the leadership and talent development sphere, has, over the years, been a keen supporter and champion in many matters to the progress of board and governance, including diversity. Jointly with KPMG we support the Hong Kong chapter of the WomenCorporateDirectors which is a leading global organisation promoting women leadership, women directors on board and board diversity. We have, wherever appropriate and whenever we can, been supporting other organisations in Hong Kong for the same cause

To drive continuous meaningful change, and help Hong Kong companies to improve the vitality of their board, and the vitality of the business, we support this proposal.

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.

██████████ has published the Hong Kong Board Index, a study of the governance practices of the constituent companies in the Hang Seng Composite LargeCap Index, in 2013, and 2015 (The next one is due out in 2017). As a firm, we published board index in over 20 countries around the world. We observe that the nomination committee of Hong Kong companies are much less active than those in the UK and in the US, meeting half as often. The nomination committee often perform a crucial role in board succession planning and renewal, directly impacting the composition of the board, and therefore diversity of the board. By amending CPA.5.5, we believe it will nudge Hong Kong boards to put more attention and make more transparent the nomination, evaluation and appointment of directors, making more clear how new directors are expected to contribute within the board.

No better diversity can happen if there is no refreshment of boards. As such, ██████████ will also encourage the HKEX to consider encouraging setting term limits for Directors. In addition, while more companies are doing board evaluation, the number is still very low. We also will encourage the HKEX to use this opportunity to require HK companies to do annual internal board evaluation every year, and external board evaluation every three years. With external board evaluation, HKEX should also nudge the companies to do peer review, which gives data to the chair person for director development, and also data on who to encourage not to see reelection.

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.

Echoing Question 2 in Part I of this questionnaire, we support this amendment requiring issuers to have a diversity policy and to disclose the policy or a summary of it in their Corporate Governance Reports.

**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.

No comment

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.

No comment

**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.

**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.

It increases transparency of links.

**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.

██████████ agrees with the proposal to the above amendment. As discussed in Question 3 of Part I of this questionnaire. As companies aim to improve corporate governance, the vitality of the board is one of the most essential enablers. In that regard, the nomination policy a company applies provides strategic and practical guidance on how this can be achieved. Companies will benefit hugely from a more clearly spelt out nomination policy and disclosing such policy is not only best practice but a mechanism for collective progress of the market, and encourages companies to benchmark and learn from others.

Further to that, we would suggest for the nomination policy to be a key agenda discussed and agreed by the board, led by the nomination committee/chair, so that it has the strategic importance attached, and the buy-in of the board.

The content of the policy should cover: board size and composition;

- skills matrix,
- the director recruitment process,
- board evaluation,
- succession planning of the board,
- new directors onboarding,
- procedures to meet the board diversity requirement.

### **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.

That is best practice internationally.

**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.

No comment

**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.

No comment

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