Chapter 1 – Board and Directors

- The board and its directors are central to an issuer's decision making and are pivotal in establishing good corporate governance, which enables the issuer to achieve long-term success.
- In discharging its responsibilities and implementing its plans, the board operates through specific board committees assisted by management (and other important internal functions of the issuer) and external professional advisers.

The board

Role of the Board

1. Under the Listing Rules, the board of directors is collectively responsible for an issuer's management, operations and decisions. The key functions of the board include the following:

    - **Leadership:** The board leads, directs and supervises the issuer's affairs to enable the long-term success of the issuer[1].
    - **Corporate culture:** The board shapes and monitors the issuer's culture in the form of clear objectives, values, ethics and integrity (see also the section on Corporate Culture)[2].
    - **Setting objectives:** The board identifies and defines the issuer's long-term strategic objectives[3]:
        i. **Operational objectives** aim to facilitate effective and efficient operation for the purpose of achieving performance goals.
        ii. **Reporting objectives** aim to safeguard the quality of the issuer's internal and external reporting, including through the maintenance of proper records and processes that assist in generating timely, relevant and reliable information.
        iii. **Compliance objectives** aim to assist the issuer in achieving regulatory compliance (and compliance with applicable local laws) and adhering to internal policies with respect to the operation of the issuer's business.
    - **Risk management:** The board defines the issuer's risk tolerance and oversees the issuer's risk identification and management with a view to achieving the issuer's objectives[4].

[1] Principle A.1 of the CG Code.
[2] Code Provision (**CP**) A.1.1 of the CG Code.
[3] Principle D.2.
[4] Mandatory Disclosure Requirement (**MDR**) paragraph H and Principle D.2 of the CG Code.

- **Internal controls:** The board ensures that the issuer has a system of appropriate and effective internal controls in place and monitors and reviews the effectiveness of the internal controls at least annually[5].
- **Information management / disclosure:** The board should agree on and oversee the flow of information to and from the board, and ensure that it has access to relevant and timely information that is of sufficient quality to enable effective decision-making[6]. The board should also ensure appropriate and adequate reporting and disclosures for regulatory compliance and transparency to stakeholders[7].
- **Resources / qualifications:** The board evaluates its performance through regular board performance reviews and considers its existing qualifications and expertise against the issuer's long-term objectives[8]. The board also ensures adequacy of resources, qualifications and experience for management and staff[9].
- **Shareholder / stakeholder engagement:** The board provides transparent and timely disclosure to shareholders and maintains appropriate communication channels for shareholders / other key stakeholders to express their ideas, feedback and concerns[10].

Directors

Directors' duties

2. All directors, namely the executive directors (**EDs**), non-executive directors (**NEDs**) and independent non-executive directors (**INEDs**), are collectively responsible for the issuer's management and operations[11]. Directors have to fulfil their duties both collectively and individually. An individual director may be liable (through the collective liability of the board) for the issuer's Listing Rule breaches, even if that director did not participate in the relevant conduct that led to the issuer's breach, or the breach arose from a part of the issuer's business or operations that was not covered by that director's role.

3. All directors are subject to the same duties under the law and the Listing Rules[12]. Among other duties, directors must (i) act in the interest of the issuer and avoid any actual or potential conflict of interest; (ii) apply such degree of skill, care and diligence as may reasonably be expected of a person with such director's knowledge and experience; and (iii) comply with the Listing Rules and procure the issuer's compliance with the Listing Rules (and other relevant laws and regulations).

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[5] MDR paragraph H and CP D.2.1.
[6] CPs C.5.9 and D.1.2.
[7] CG Code and Appendix D2 to the Main Board Rules (**MB Rules**) (Disclosure of Financial Information). MB Rule 13.91(5)(d) / GEM Rule 17.103(5)(d) and paragraph 4(2)(d) of the ESG Code (Appendix C2 to the MB Rules / Appendix C2 to the GEM Rules).
[8] CP B.1.4.
[9] CP D.2.1(f).
[10] MDR paragraph L.
[11] MB Rule 3.08 / GEM Rule 5.01.
[12] MB Rule 3.08 / GEM Rule 5.01.

4. To properly discharge their duties, it is not sufficient for directors, regardless of their position or role, to only attend to the issuer's affairs at formal meetings (e.g. board meetings). Each director must take an active interest in the issuer's affairs and have a general understanding of the issuer's business. This includes following up on any issues that come to a director's attention.

5. While the duties under the Listing Rules are the same for all directors, EDs, NEDs and INEDs fulfil different roles and functions within an issuer.

Chair of the board

6. The chair of the board leads the board. The chair is essential in driving the board's agenda, setting the tone for establishing good corporate governance practices and procedures, and, ultimately, enabling the board to function effectively[13].

7. The role of the chair is separate from the role of the chief executive officer, who is responsible for leading the issuer's operations. There should be a clear division between these two roles, which should be performed by separate individuals[14]. This is to ensure (among other things) a balance of power and authority, and to provide a check and balance on the exercise of power. Issuers with the same director fulfilling both roles should have alternative arrangements in place to address potential governance issues (e.g. an internal control framework that assists the issuer in scrutinizing important decisions and monitoring the exercise of power by the chair cum chief executive).

8. The chair also fulfils the important role as a point of contact on the board with (i) the INEDs and (ii) the shareholders. The chair should meet (at least annually) with the INEDs (without the presence of other EDs) to ensure that INEDs can share their independent opinions [15]. The chair should also ensure that there are effective communication channels with shareholders and attend the issuer's annual general meetings to address shareholders' queries and receive feedback[16].

9. Due to the chair's pivotal role in leading the board and providing checks and balance to the role of the chief executive officer, issuers may consider appointing an INED as board chair. Where the board chair is not an INED, the Exchange encourages issuers to designate one INED as a Lead INED[17].

Executive directors

10. EDs are involved in the day-to-day operations of the issuer's business. As members of the issuer's senior management, they work closely with and supervise other management staff and ensure that management is accountable to the board in implementing the issuer's objectives.

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[13] CPs C.2.2 to C.2.9.
[14] CP C.2.1.
[15] CP C.2.7.
[16] CPs C.2.8 and F.1.3.
[17] Recommended Best Practice (**RBP**) C.1.8 of the CG Code.

11. While individual EDs may have a specific role and responsibilities (e.g. for a particular aspect of the issuer's business or operations), each ED has the same duties as the other board members.

12. EDs should update the board on their work and maintain an ongoing dialogue with other board members by responding to enquiries or challenges from other board members and ensuring that they have the opportunity to share their views[18].

Non-executive directors and independent non-executive directors

13. NEDs are not part of an issuer's management and are not considered independent. INEDs are independent NEDs who fulfill the independence criteria under the Listing Rules. As with EDs, NEDs and INEDs have to fulfil their duties as directors both collectively and individually.

14. While EDs are normally industry practitioners or experts in the issuer's business, NEDs and INEDs provide valuable skills and experience (e.g. legal, accounting, real estate and IT) to enhance the board's balance of skills and expertise and further promote a diversity of perspectives on the board.

15. NEDs and INEDs have to be able to devote sufficient time to their role to meaningfully contribute to the board[19]. Potential candidates should carefully consider whether their existing commitments allow them to devote such time and effort before accepting a new board appointment.

16. NEDs and INEDs should ensure that they have a sufficient understanding of the issuer's business and affairs to monitor and scrutinise the issuer's performance in achieving its goals and objectives and oversee the issuer's risk management and internal control systems.

17. To discharge their duties, NEDs and INEDs need to have access to timely and quality information. An issuer's management should provide all members of the board with such information, and if it fails to do so, then any director is entitled to and should request for that information[20]. Such information may include (where available) monthly management accounts and management updates, background or explanatory information relating to matters to be brought before the board, copies of disclosure documents, budgets, forecasts and other relevant internal financial statements.

18. As the independent voice on the board, INEDs are key to the effective functioning of the board. Issuers must have at least three INEDs[21] and INEDs must constitute at least one-third of the board[22]. In addition, the Listing Rules require the remuneration

[18] CP C.2.9.
[19] Principle B.1.
[20] CP D.1.2.
[21] MB Rule 3.10(1) / GEM Rule 5.05(1).
[22] MB Rule 3.10A / GEM Rule 5.05A.

committee and the audit committee to be chaired by INEDs (the nomination committee has to be chaired by the board chair or an INED) [23].

19. INEDs fulfil important roles on the board, including[24]:

- Bringing independent judgement to bear in board meetings on issues of strategy, policy, performance, accountability, resources, key appointments and standards of conduct.
- Taking the lead where potential conflicts of interests arise.
- Supervising the issuer's risk management and internal controls.
- Serving on the board committees (if invited).
- Scrutinising the issuer's performance in achieving agreed goals and objectives, and monitoring performance reporting.
- Acting as a pivotal contact point on the board for shareholders and investors (see also the section on the Lead INED).

20. To learn more on topics relevant to the INEDs' exercise of their roles and duties, please visit the relevant subpages of the Exchange's INED Corner as well as "A Snapshot of INEDs' Roles and Responsibilities" published by the Exchange. Please also refer to the section titled Specific requirements for INEDs for specific regulatory requirements for INEDs.

Specific requirements for INEDs

Tenure of INEDs

21. Board independence with periodic refreshment, in particular the appointment of new INEDs, contribute to good corporate governance and help prevent "groupthink".

22. To promote board renewal and diversity of perspectives in the boardroom, the tenure of INEDs is capped at nine years (**Cap on INED Tenure**) [25]. This Cap on INED Tenure is applied in two phases over a transition period:

	Timing	Requirement
Phase one	Compliance by the first annual general meeting (**AGM**) held on or after 1 July 2028	The majority of INEDs on an issuer's board (i.e. > 50%) must be INEDs who have served on the board for less than nine years
Phase two	Compliance by the first AGM held on or after 1 July 2031	An issuer must not have any INED who has served on the board for nine years or more (**Long Serving INED**) on their board

[23] MB Rules 3.21, 3.25 and 3.27A / GEM Rules 5.28, 5.34 and 5.36A.
[24] Principle C.1 and CP C.1.2.
[25] MB Rule 3.13A / GEM Rule 5.09A.

23. The nine-year tenure of an INED is calculated from the issuer's listing date (where the INED is appointed prior to the issuer's listing) or the INED's date of appointment (where the INED is appointed after the issuer's listing). For further guidance on the calculation of INED tenure, please refer to FAQ1.1-No.12 - 16 published by the Exchange.

24. Issuers should conduct comprehensive succession planning to allow sufficient time for the recruitment of suitable replacement INEDs. An orderly phase-out of Long Serving INEDs can avoid abrupt changes to board composition and minimise the impact on board continuity and any gaps in experience and governance.

25. Issuers may re-designate a Long Serving INED as a NED to enable them to continue to contribute to the board.

26. There should be a fair and open recruitment process to select the most suitable candidate to fill a board vacancy. Where a former Long Serving INED is reappointed as an INED after a three-year cooling-off period, the issuer must ensure that the former Long Serving INED satisfies the independence guidelines set out in Main Board Listing Rule 3.13 (**Independence Guidelines**). During the cooling-off period, the former Long Serving INED must not serve as a director of the relevant issuer, its holding company or any of their respective subsidiaries or core connected person of the issuer[26].

Re-election of Long Serving INEDs during transition period

27. During the transition period, the current requirements in respect of Long Serving INEDs will apply as follows: (i) the current requirements on tenure disclosure in shareholder circulars and the requirement for new INED appointment where all INEDs are Long Serving INEDs[27] will apply to any relevant general meeting held on or before 30 June 2028 (i.e. up to the expiry of phase one); and (ii) the current requirements on the re-election of Long Serving INEDs[28] will apply to any relevant AGMs held on or before 30 June 2031 (i.e. up to the expiry of phase two).

28. An issuer who decides to re-elect a Long Serving INED during the transition period (i.e. prior to the expiry of phase two) should disclose the steps taken by the nomination committee to nominate that individual (e.g. how it conducted a review of the Long Serving INED's performance and that individual's ability to contribute objectively to the board) and how the board assessed the nomination committee's recommendation.

29. Satisfaction of the Independence Guidelines should not be quoted as the sole reason to justify the re-election of a Long Serving INED – the board's focus should be on the INED's ability to contribute objectively.

Overboarding and INEDs' time commitment

30. INEDs should devote sufficient time and attention to the affairs of the issuer(s) to safeguard high quality decision making on the board. Taking on too many directorships

[26] Note 3 to MB Rule 3.13A / Note 3 to GEM Rule 5.09A.
[27] CP B.2.4.
[28] CP B.2.3.

(in particular, listed issuer directorships) and/or significant outside commitments may compromise their ability to properly discharge their duties.

31. The number of Hong Kong listed issuer directorships that an INED may concurrently hold is capped at six[29]. Compliance with the cap is required by the first AGM held on or after 1 July 2028 by any issuer that an overboarding INED serves. To facilitate succession planning by affected issuers, discussions as to which directorship(s) an overboarding INED should vacate should be held well in advance of the compliance deadline.

32. Before accepting any new listed issuer directorship role, directors should consider their pre-existing time commitments and the expected additional time commitment of the new role. If an INED is invited to join the board of an issuer that has the same financial year-end as the INED's other issuer(s), that INED should consider whether he / she may be over-burdened during certain periods of the year (e.g. prior to the release of annual and interim reports and during the AGM season).

Annual nomination committee assessment

33. The nomination committee must annually assess and disclose its assessment of each director's time commitment and contribution to the board, taking into consideration their professional qualifications and work experience, listed issuer directorships, other significant external time commitments and other factors or circumstances relevant to their character, integrity, independence and experience[30].

34. The nomination committee's assessment is separate from the board performance review, which covers the board as a whole and has a broader scope and different timeframe. Nonetheless, its findings can provide insights that may inform the board performance review.

35. The nomination committee should apply a consistent set of assessment criteria to evaluate all directors (including members of the committee) in a holistic manner and ensure that an impartial assessment is conducted. In respect of the assessment of a member of the nomination committee, the relevant member may consider excusing themselves from the discussion or inviting an additional board member to join the assessment.

[29] MB Rule 3.12A / GEM Rule 5.07A.
[30] MDR paragraph E(d)(iii) and notes 1 and 2 thereto.

Table 1: Annual nomination committee assessment

	Factors that the nomination committee may consider when assessing	
	Directors' time commitment	**Directors' contribution to the board**
Involvement on the board	• The level of time commitment may vary for different board / board committee positions (e.g. whether the director is a chair or a member of a board committee, and whether the director is a full-time executive director)	• Preparation for meetings – whether the director is well prepared for board and board committee meetings • Participation in meetings – the director's attendance rate and whether he / she contributes his / her views and actively participates in discussions • Contribution to board dynamics - whether the director maintains a constructive working relationship with other board members and with management
Familiarity with / knowledge of the issuer and its business	• A newly appointed director may encounter a steep initial learning curve and so should be expected to devote time to understanding the affairs of the issuer	• Whether the director has spent time and effort to learn and understand the issuer's business model, industry and strategic aims • Continuous learning - whether the director takes responsibility for managing their ongoing professional development and staying abreast of relevant regulatory developments
Other factors	• Multiple board directorships - number of directorships held by the director, size and complexity of the issuers, whether the other issuer(s) are experiencing increased activity (e.g. an acquisition, takeover or period of distress) • Significant external time commitments - evaluated by their nature and complexity	• Communication skills - whether the director communicates effectively, and has the willingness to listen to and acknowledge other viewpoints • Integrity - whether the director demonstrates integrity through timely conflict of interest disclosures, maintenance of confidentiality etc. • Promotion of corporate culture - whether the director upholds and adheres to the issuer's corporate culture and values

36. When assessing a director's contribution to the board, the nomination committee should not simply focus on the number of hours spent by the director on matters related to the issuer. The factors that it considers should cover the essential responsibilities of an effective director. It may also assess individual directors against further criteria, depending on the director's capacity and/or specific expertise.

Expected disclosure

37. While the Exchange does not expect the disclosure in the corporate governance report[31] to be on an individual named basis, issuers should, as a minimum, (i) disclose the process that the nomination committee used to conduct its assessment, including its assessment criteria, and (ii) state whether the nomination committee regards the directors' time commitment and contribution to the board (as a whole) to be adequate, with supporting reasons. Issuers are also encouraged to provide further information for enhanced transparency, for example, disclosure of the hours contributed by each director on an unnamed basis, and/or disclosure of the average hours / range of hours contributed by EDs, NEDs and INEDs respectively.

Lead INED

38. A Lead INED can instill investors with greater confidence in the governance of an issuer by fostering a more proactive independent voice on the board and enabling stakeholders to better understand INEDs' contributions.

39. Where the board chair is not an INED, issuers are strongly encouraged to designate one INED as a Lead INED[32].

Roles and responsibilities of the Lead INED

40. The primary responsibility of the Lead INED is to facilitate and strengthen communication: among INEDs; between INEDs and the rest of the board; and with shareholders (in particular, minority shareholders). Examples of how the Lead INED can perform this function are set out below:

Communication among INEDs

- Arrange meetings among INEDs without the presence of the chair and the other directors and provide their feedback to the board and/or the chair as appropriate.

Communication between INEDs and the rest of the board

- Ensure active INED participation in board deliberations and activities.
- Act as a moderator between INEDs and other board members on board-level issues.

Communication with shareholders

- Provide shareholders with independent insight on matters such as governance, board effectiveness, corporate strategy and capital management; and how the INEDs have discharged their responsibilities (e.g. the scrutiny of loans granted by the issuer to external parties and connected transactions).
- As they are not responsible for day-to-day management, investors should not expect to discuss the issuer's results or operational matters with the Lead INED. However, for example, in a proposed privatization, where the details of the

[31] MDR paragraph E(d)(iii).
[32] RBP C.1.8.

proposal are already set out in the issuer's shareholder circular, investors may wish the Lead INED to shed light on the board deliberation process (e.g. why the proposed privatization was structured in a particular manner and what other financing alternatives the board had considered).

- Be available to shareholders if they have concerns that their contact through normal communication channels (with the chair or management) has failed to resolve, or for which such contact is inappropriate or inadequate.
- Develop a balanced understanding of key stakeholder views and concerns and convey the same to the board.

41. Issuers may choose to define additional functions for the Lead INED, for example:

- To act as a sounding board for the chair, including on matters such as board dynamics and stakeholder concerns, and support the chair in the delivery of their objectives.
- To provide leadership in situations where the chair is conflicted (e.g. evaluate the chair's performance and work with the nomination committee on the chair's orderly succession).
- To oversee the division of responsibility between the chair and the chief executive, where the two roles are separate.
- To liaise with the chair and other directors / shareholders to resolve significant issues during challenging times for the board / issuer (e.g. where there is a dispute between the chair and the chief executive, or decisions are being made without the approval of the full board).

42. Issuers should brief and prepare the Lead INED for their role. Topics that should be covered include the Lead INED's roles and responsibilities, the issuer's expectations for the Lead INED and guidelines on the disclosure of price sensitive / inside information. The Lead INED should be equipped through training or provided with appropriate support to enable them to engage meaningfully with shareholders and investors without disclosing material, non-public information.

43. The Lead INED designation is not intended to create a hierarchy among INEDs, nor does the Lead INED have a separate or higher level of liability relative to other INEDs. While a Lead INED may have specific roles and functions, they (as with all other directors) are subject to the same fiduciary duties in respect of the issuer and its shareholders.

Interaction between Lead INED, board chair, board committee chairs and IR function

44. The Lead INED should not duplicate other roles, and should instead complement and co-exist with, the roles of other board members and shareholder communication channels.

45. The board chair has overall responsibility for ensuring the effective functioning of the board and constructive shareholder communication. The Lead INED supports this by strengthening the effectiveness of the INEDs and facilitating a two-way dialogue with

investors. The Lead INED also serves as an independent contact point for sensitive issues to be raised on the board.

46. Each board committee chair oversees the work of their committee. The Lead INED may liaise with the chairs to understand how each committee has discharged its responsibilities. Each board committee chair and the Lead INED should attend the issuer's AGM to answer queries from shareholders.

47. While day-to-day investor communications is an investor relations (**IR**) function, the Lead INED can address more specific "asks" from investors by providing independent insight into the workings of the board. The IR function may provide guidance on the type of information that the Lead INED can disclose and accompany the Lead INED in his / her engagements.

Practical considerations for boards

- **Selection of Lead INED** – various factors should be considered, including the director's knowledge and understanding of the issuer, board dynamics and diversity, and their leadership and interpersonal skills. Issuers should not automatically appoint the longest serving INED as Lead INED without considering their suitability for the role.
- **Mechanics of Lead INED role** – issuers can consider designating joint Lead INEDs or having a rotation mechanism / tenure limit for the Lead INED. However, the Lead INED is not a position that should change on a frequent basis (e.g. annually), as the role should be held by an INED for a length of time that is sufficient to build the necessary relationships and skills.
- **Communication with Lead INED** – to facilitate communication, issuers may provide and disclose a designated communication channel with the Lead INED, for example, a dedicated mailbox.
- **Remuneration of Lead INED** – issuers should determine the appropriate level of remuneration for all directors based on their roles, including the Lead INED.
- **Time commitment of Lead INED** – issuers should ensure that the Lead INED is able to dedicate sufficient time to fulfilling his / her role and responsibilities, bearing in mind that his / her time obligations may increase during periods of heightened board or corporate activity.
- **Public disclosures in relation to Lead INED designation** –
    - Issuers should publish the roles and responsibilities of the Lead INED as agreed by the board.
    - Issuers should publicise any change in Lead INED designation as soon as possible through an updated list of directors and their roles and functions on the issuer's website and the Exchange's website.
    - Issuers may provide further disclosure on the INEDs' work done in the annual report, including how the Lead INED fulfilled his / her duties on areas including shareholder communication. Such disclosure could enhance INED accountability.

Board committees

Delegation of duties

48. While the board may delegate certain responsibilities to board committees, it retains ultimate responsibility for the issuer's corporate governance and should reach its own conclusions regarding the recommendations that it receives from the board committees. The core committees of the board are the nomination, audit and remuneration committees[33].

49. To perform its duties effectively, each board committee should:

- Have clear written terms of reference setting out its responsibilities and delegated authority.
- Comprise of members with relevant expertise and experience.
- Be provided with sufficient information and reasonable resources to carry out its role and functions.
- Maintain clear communication channels with other board committees and the board.

Nomination committee

50. **Composition:** The nomination committee is chaired by the chair of the board or an INED and comprises a majority of INEDs[34]. It should have at least one director of a different gender[35].

51. **Board recruitment:** The nomination committee's key role is board recruitment. It must assess the optimal composition of the board, taking into account the issuer's culture, strategies, objectives, the operation of the existing board and its collective skillset[36], and prepare a description of the role and capabilities required for a particular board appointment (e.g. skills, experience, expected time commitment) accordingly. The committee should consider different recruitment channels e.g. networking, recruitment agencies and board appointment platforms, and referrals from business acquaintances and peer industry circles. A fair and open recruitment process should be conducted to select the most suitable candidate to fill a board vacancy.

52. **Annual assessment of directors' time commitment and board contribution:** The nomination committee is responsible for conducting this assessment, which will help strengthen director accountability. Please refer to the section on the Annual nomination committee assessment for further details.

53. **Board skills matrix:** To focus the search effort for a new director, the board should develop a list of desirable skills, perspectives and experience at the outset of the selection process. Reference should be made to the board skills matrix, which the

[33] MB Rule 3.21 to 3.27C / GEM Rules 5.28 to 5.36C.
[34] MB Rule 3.27A / GEM Rule 5.36A.
[35] CP B.3.5.
[36] Principle B.3.

nomination committee helps to maintain. Please refer to the section on the Board skills matrix for further details.

54. **Board performance review:** The nomination committee supports the issuer's regular board performance reviews. It should use the findings from the reviews to inform its thinking on whether, and how, the board composition should be adjusted to optimise performance. Please refer to the section on Board performance review for further details.

55. **Board refreshment:** The nomination committee should be mindful of the need to refresh the board regularly to avoid entrenchment and attract fresh thinking.

56. **Succession planning:** The nomination committee must consider succession planning to ensure the long-term success of the issuer[37]. A robust long-term succession plan considers the skills that the board currently has and is likely to need in the future. It also asks what professional and personal attributes may be missing from the boardroom. The committee should periodically review the succession plan as the needs of the company and the board may change over time.

57. **Nomination policy:** There should be an established policy on how potential directors can be identified[38]. The director selection process should be rigorous, transparent and fair[39].

Practical considerations when formulating the nomination policy

- State the objectives of the policy. This should include ensuring the board has a suitable balance of skills, experience and diversity of perspectives relevant to the issuer's business and strategic objectives.
- Emphasise that the ultimate responsibility for appointment of directors rests with the entire board.
- Set out the procedure and criteria for the selection, appointment and re-appointment of directors. This should include the potential contributions a candidate can bring to the board in terms of qualifications, skills, experience, independence and diversity of perspectives. Issuers should consider a broad range of candidates in accordance with their diversity policy. The director search process should be fair and open.
- Board succession planning considerations and periodic reviews of the plan.
- The way in which the issuer will disclose its nomination policy and the progress made towards achieving the objectives therein (e.g. in the corporate governance report).
- A formal process for monitoring and reviewing the policy to ensure that it remains relevant to the issuer's needs and reflects current regulatory requirements and good corporate governance practice.

[37] Principles B.2 and B.3.
[38] CP B.3.4.
[39] Principle B.2.

Audit committee

58. **Composition:** The audit committee is chaired by an INED and comprises a majority of INEDs[40].

59. **Integrity of financial statements:** One important function of the audit committee is to monitor and assess the integrity of the issuer's financial statements, annual and interim reports and accounts[41]. It should critically consider any significant or unusual items reflected therein or raised by internal staff or the external auditor, and whether the financial reporting disclosures are consistent and transparent. The audit committee should hold thorough discussions with the external auditors at least twice a year regarding the review of the issuer's financial information.

60. **Monitor internal audit function:** The audit committee should ensure that the internal audit function (where such function exists) is adequately resourced and has appropriate standing within the issuer, and review and monitor its effectiveness[42]. "Adequately resourced" means that relevant staff have appropriate qualifications, experience, integrity and independence of mind.

61. **Oversight of risk management and internal controls:** The audit committee should review and monitor the issuer's risk management and internal controls (unless such duties are delegated to another committee). Its work includes discussing with management to ensure that management has performed its duty to implement and maintain effective systems; considering investigation findings on risk management and internal control matters; and reporting to the board.

62. **Work with management:** The audit committee must be proactive in understanding the affairs of the issuer and investigating any red flags that it has identified or been made aware of. The committee should form a good working relationship with management, who should explain to it the judgments of key assumptions underlying critical accounting estimates, as these can significantly impact the key balances in an issuer's financial statements.

63. **Engagement of external auditors:** The audit committee is responsible for making recommendations to the board on the appointment, re-appointment and removal of the external auditor, based on factors such as the auditor's ethics, knowledge, experience and capacity. It is also responsible for approving the remuneration and terms of engagement of the external auditor and handling any questions of its resignation or dismissal[43].

64. **Oversight of the issuer's relationship with the external auditors:** The following are suggestions on how the audit committee may achieve good oversight:

    - Establish procedures to review and monitor the independence of the external auditors, which may include:

[40] MB Rule 3.21 / GEM Rule 5.28.
[41] Principle D.3, CPs D.3.3(d) and (e).
[42] MDR paragraph E(d)(i) and CP D.3.3(i).
[43] CP D.3.3.

- Consider all relationships between the issuer and the audit firm (including non-audit services);
- Obtain from the audit firm, annually, information about policies and processes for maintaining independence and monitoring compliance with relevant requirements, including those for rotation of audit partners and staff; and
- Meet with the auditor, at least annually in the absence of management, to discuss matters relating to its audit fees, any issues arising from the audit and any other matters the auditor may wish to raise.

- Agree with the board the issuer's policies on hiring employees or former employees of the external auditors and monitor the application of these policies. The audit committee should then be in a position to consider whether there has been, or appears to be, any impairment of the auditor's judgement or independence for the audit.
- Ensure that the external auditor's provision of non-audit services does not impair its independence or objectivity. The audit committee is encouraged to consider:
  - Whether the skills and experience of the audit firm make it a suitable supplier of non-audit services;
  - Whether there are safeguards in place to ensure that there is no threat to the objectivity and independence of the audit because the external auditor provides non-audit services;
  - The nature of the non-audit services, the related fee levels and fee levels, individually and in total, relative to the audit firm; and
  - The criteria for the compensation of the individuals performing the audit.

65. **Disagreement with the board:** Where the board disagrees with the audit committee's views on the selection, appointment, resignation or dismissal of the external auditor, the CG Code requires the issuer to explain this disagreement in the corporate governance report[44].

66. For further guidance on the terms of reference for an audit committee and its relationship with the external auditor, issuers may refer to the "Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence" issued by the Technical Committee of IOSCO and the "Guidelines for Effective Audit Committees – Selection, Appointment and Reappointment of Auditors" published by the Accounting and Financial Reporting Council.

Remuneration committee

67. **Composition:** The remuneration committee is chaired by an INED and comprises a majority of INEDs[45].

[44] CP D.3.5.
[45] MB Rule 3.25 / GEM Rule 5.34.

68. **Advise on remuneration:** The remuneration committee assists and advises the board on the remuneration of the board and the senior management[46]. It should formulate a clear remuneration strategy and policy, and a set of formal and transparent procedures to implement the policy. This should aim to motivate, retain and attract the best talent for the issuer to maximise shareholder value.

69. **Factors for consideration:** The remuneration committee should consider all aspects of remuneration, including[47]:

- Salaries paid by comparable issuers, time commitment and responsibilities and employment conditions in the group.
- The fairness of the appointment and termination terms for directors and senior management.
- Compensation arrangements relating to dismissal or removal of directors for misconduct to ensure they are reasonable and appropriate.
- Company culture and other non-financial key performance indicators, such as climate related performance indicators.
- Whether the remuneration package for an INED may affect their objectivity and independence.

70. **Disagreement with board:** If the board resolves to approve any remuneration or compensation arrangements with which the remuneration committee disagrees, the board is encouraged to disclose the reasons for its resolution in the next corporate governance report.

Other board committees

71. The board may establish other board committees depending on the issuer's individual circumstances and business needs, for example, a corporate governance committee, a risk management committee and/or a sustainability committee.

72. **Corporate governance committee:** The board may set up a corporate governance committee to oversee the issuer's corporate governance policies and practices[48]. A dedicated corporate governance committee may help ensure that an issuer devotes appropriate attention, time and resources to compliance issues. It is important for issuers to continuously tailor their compliance to evolving corporate governance standards to fit their own circumstances.

73. **Risk management committee:** The board may set up a risk management committee to oversee the issuer's risk management and internal controls framework, policies and systems (other than those which are overseen by the audit committee). The committee's work may include monitoring management's implementation of effective systems and considering investigation findings on risk management and internal control matters. The

[46] CP E.1.2.
[47] CP E.1.2.
[48] MDR paragraph E(d)(v) and Principle A.2.

committee should advise the board on significant business and regulatory risks (current and emerging); oversee the development of risk mitigation strategies; and make recommendations on the risk appetite, profile and tolerance of the group.

74. **Sustainability committee:** The board may form a sustainability committee to oversee the management of sustainability and ESG (including climate-related) issues. The committee's responsibilities may include overseeing the implementation of the group sustainability strategy; reviewing and monitoring sustainability reporting; assessing emerging sustainability trends, risks and opportunities that could impact the business operations and performance of the group; and reviewing the group's sustainability performance, including progress made against relevant goals and targets.

Company secretary

Role and functions

75. Company secretaries have a wide range of functions[49], including:

- Helping the issuer develop and maintain a sound and effective corporate governance framework and periodically reviewing whether its corporate governance processes are fit for purpose.
- Keeping abreast of developments in laws, rules and regulations that may affect the issuer's business and operations, and briefing the board on these developments.
- Managing the logistics of board and board committee meetings and ensuring that board and committee policies and procedures are followed.
- Facilitating induction training and continuous professional development of directors.
- Providing advice to the board and senior management on compliance and governance matters in their decision-making process.
- Helping the board formulate and foster a robust compliance culture to meet both regulatory and investor expectations and helping ensure that good governance practices and culture are upheld by the company.

76. Company secretaries also serve as a crucial conduit of communication between:

- **The board and the management:** The company secretary facilitates good information flow by, on one hand, updating the chief executive officer and the board (including INEDs) on the information provided by senior management, and on the other hand, conveying the board's decisions to senior management.
- **The issuer and its shareholders:** The company secretary ensures a good channel of communication through emails or at the issuer's general meetings.

[49] Principle C.6.

- **The issuer and the regulators:** When the issuer receives enquiries from a regulator (e.g. the Exchange), the company secretary should work with the board and senior management and assist in responding to the regulator in a timely manner.

Selecting the company secretary

77. Company secretaries should possess technical knowledge (which may include knowledge in company and securities laws, accounting and finance, governance, tax obligations and company secretarial matters); and specialised skills and experience regarding corporate governance, internal control and regulatory compliance. They should also have the relevant qualifications and competence to effectively discharge the duties required. Note 1 to Main Board Rule 3.28[50] sets out a list of academic or professional qualifications acceptable to the Exchange. Please also refer to Guidance Letter HKEX-GL108-20 published by the Exchange for further guidance.

External service provider as company secretary

78. If the board engages an outsourced professional or an external service provider as its company secretary, it must ensure that such outsourced professional or external service provider has the resources to closely follow the issuer's daily affairs so that it can perform its duties properly.

79. An issuer that engages an external service provider as its company secretary should consider and take appropriate steps to mitigate the following potential issues:

- The external service provider may not have day-to-day knowledge of the issuer's affairs.
- There may be time gaps in communication, particularly where the matter is time sensitive (e.g. the Exchange's enquiries to the issuer on potentially price sensitive market rumours).
- The external service provider may be acting as company secretary for a large number of issuers, which may affect its ability to devote sufficient time to the issuer's affairs.

80. Where an issuer engages an external service provider as a company secretary, it should designate a senior executive (e.g. chief legal counsel or chief financial officer) as a contact person to work closely with the external service provider[51].

81. For more guidance on the company secretary's role and functions, in particular where an external service provider is engaged as such, please refer to the "Company Secretary Appointment Guidelines for HKICS Members – Good Practice as to the Number of Appointments as 'Named' Company Secretaries of Hong Kong Listed Issuers" published by The Hong Kong Chartered Governance Institute.

[50] GEM Rule 5.14.
[51] MDR paragraph F(a) and CP C.6.1.