

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: <http://www.hkex.com.hk/eng/newsconsul/mktconsul/documents/cp2010124.pdf>.

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

CHAPTER 1: INTRODUCTION

Plain Writing Amendments

Question 1. Do you have any comments on the plainer writing amendments? Do you consider any part(s) of the plainer writing amendments will have unintended consequences?

Yes

No

Please give reasons for your views.

I absolutely agree that plainer language should be adopted. I did not see any plainer writing would have unintended consequences.

CHAPTER 2: PROPOSED SUBSTANTIVE AMENDMENTS

PART I: DIRECTORS

1. Directors' Duties and Time Commitments

Question 2. Do you agree with our proposed change to Rule 3.08 to clarify the responsibilities the Exchange expects of directors?

Yes

No

Please give reasons for your views.

Please also see my comments on Rule 3.08 in Attachment 1.

Question 3. Do you agree with our proposed addition of the Note to Rule 3.08 referring to the guidance issued by the Companies Registry and HKIOD?

Yes

No

Please give reasons for your views.

The first part of the proposed note, namely the reference to "A Guide on Directors' Duties" issued by the Companies Registry and "Guidelines for Directors and the Guide for Independent Non-executive Directors" published by Hong Kong Institution of Directors ("HKIOD") is not necessary.

As far as I am aware, the Listing Rules rarely make reference to rules/guidelines published by third parties unless these rules/guidelines were published by professional institutions where such rules/guidelines have statutory or quasi-statutory backing, for example, the accounting standards issued by the Hong Kong Institution of Certified Public Accountants ("HKICPA") (see Chapter 4 of the Listing Rules), A Guide for Effective Audit Committee published by HKICPA (see Appendix 14) and the valuation standards on properties published by the Hong Kong Institute of Surveyors (see Chapter 5 of the Listing Rules).

If the Stock Exchange is minded to make reference to the guidelines published by HKIOD, I was wondering why no reference is made to other useful materials such as the "CLP Code on Corporate Governance" issued by CLP Holdings Limited (#002) or the "Director's Handbook" issued by the Hong Kong Exchanges and Clearing Limited (#388) which provide very detailed and good guidelines for responsibilities for directors of issuers.

Further, references to these guidelines may give the wrong impression to the directors that the guidelines are exhaustive.

I agree that the materials published by the Companies Registry and the HKIOD are good reference materials but I do not believe that these materials should be incorporated into the Listing Rules.

In view of the above, please delete the first part of the proposed note to Rule 3.08. Please also see my comments on Rule 3.08 in Attachment 1 for my suggested drafting.

Question 4. Do you agree to include a new duty (CP A.5.2(e)) in the nomination committee's written terms of reference that it should regularly review the time required from a director to perform his responsibilities to the issuer, and whether he is meeting that requirement?

Yes

No

Please give reasons for your views.

I agree with the proposal set out in paragraphs 52 and 53(a).

Question 5. Do you agree to include a new duty (CP A.5.2(f)) in the nomination committee's written terms of reference that it should review NEDs' annual confirmation that they have spent sufficient time on the issuer's business ?

Yes

No

Please give reasons for your views.

I agree with the proposal set out in paragraph 53(b).

Question 6. Do you agree to include a disclosure requirement in the Corporate Governance Report (paragraph L(d)(ii) of Appendix 14) that NEDs have made annual confirmation to the nomination committee that they have spent sufficient time on the issuer's business?

Yes

No

Please give reasons for your views.

I agree with the proposal set out in paragraph 54.

Question 7. Do you agree to expanding CP A.5.3(re-numbered CP A.6.3) to state that a director should limit his other professional commitments and acknowledge to the issuer that he will have sufficient time to meet his obligations?

Yes

No

Please give reasons for your views.

I agree with the proposal set out in paragraph 55.

Question 8. Do you agree to expanding CP A.5.3 (re-numbered CP A.6.3) to state that an NED should confirm annually to the nomination committee that he has spent sufficient time on the issuer's business?

Yes

No

Please give reasons for your views.

I agree with the proposal set out in paragraph 55.

Question 9. Do you agree to upgrading RBP D.1.4 to a CP (re-numbered CP D.1.4) and amending it to state that an NED's letter of appointment should set out the expected time commitment?

Yes

No

Please give reasons for your views.

No, I do not agree with this proposal. Time commitment of any non-executive directors would depend on ability and experience of the director concerned. The quality of contribution made by any non-executive director to an issuer may not be judged solely by reference to his or her time commitment. I think so long as the proposal set out in paragraphs 52 to 55 were adopted, there is no need to set out the expected time commitment in the non-executive director's appointment letter.

Please also see my mark up in CP D.1.4 in Attachment 1.

Question 10. Do you agree to upgrading RBP A.5.6 to a CP (re-numbered CP A.6.6) and to amending it to encourage timeliness of disclosure by a director to the issuer on any change to his significant commitments?

Yes

No

Please give reasons for your views.

I agree with the proposal set out in paragraph 57.

Question 11. Do you consider that there should be a limit on the number of INED positions an individual may hold?

Yes

No

Please give reasons for your views.

Yes, I absolutely agree with this proposal. Limiting the number of INED positions a person may hold would discourage such person from treating part-time INED as being his or her full-time job. If a person is living solely on the income from his or her offices of INED, this may affect his independence status in the board.

Based on the information provided in Web-site.com, an independent commentary on corporate, economic governance and regulatory affairs in Hong Kong, some individuals may hold as many as 11 to 16 offices of INED without taking into account other government appointed offices and/or other non-governmental organisations.

I consider that there should be a maximum number of INED a person may hold at any point of time.

Question 12. If your answer to Question 11 is “yes”, what should be the number? Please give reasons for your views.

I think, initially, we may adopt Mainland's approach: maximum 5.

Question 13. If your answer to Question 11 is “yes”, do you think that it should be a Rule or a CP?

Rule

CP

Please give reasons for your views.

I think we may, initially, start with CP first. We may then review this CP after post-implementation of, say 3 years.

2. Directors' Training and Independent Non-executive Directors

Question 14. Do you agree that we should upgrade RBP A.5.5 (requirement for continuous professional development) to a CP (re-numbered CP A.6.5)?

Yes

No

Please give reasons for your views.

Subject to my answer in Q15 below, I agree with this proposal.

Question 15. Do you agree that the minimum number of hours of directors training should be eight?

Yes

No

Please give reasons for your views.

Based on paragraph 67, I think this eight-hour-training was proposed by reference to the current HKIoD's requirement on its members. However there is no quantitative analysis on the number of or percentage of issuers' directors who are also members of HKIoD. Unless and until relevant data or information was provided, it cannot be ascertained whether this proposal would place an onerous burden on directors who are not members of HKIoD. I suspect majority of issuers's directors may not be members of HKIoD.

It is also worth noting that, unlike professional accountants or lawyers or surveyors, members of HKIoD cannot be checked in HKIoD's web-site (www.hkiod.com).

Further, individuals have different ability, experience and background. A standard eight-hour-training for all directors is not necessary at all to those who have experience and/or are fully conversant with listing rules and corporate governance issues. I believe may retired lawyers and accountants are very experienced in corporate governance issues.

I also note that persons carrying type 6 regulated activities are only required to achieve a minimum of 5 CPT hours per calendar year (see Guidelines for Continuous Professional Training, March 2003, issued by SFC. Type 6 regulated activities refers to those activities of advising listing rules, takeovers, corporate governance matters, etc. approved by SFC. If the Stock Exchange were minded to set minimum training hours for directors, I suggest that the Stock Exchange should also take the licensed persons' CPT requirements for consideration.

In order to address the issue of directors' reasons for breaching the Listing Rules, I think the Stock Exchange may require all directors (executive or non-executive directors) to provide annual confirmation (either under a new Rule or a new CP) to the Stock Exchange that they understand and are aware of the requirements of the Listing Rules. If directors do not understand or are not aware of the Listing Rules, they must not sign this confirmation. Otherwise, giving false or misleading information to the Stock Exchange is an offence under section 384 of the SFO.

After all, in reality, issuers normally have retained company lawyers and auditors which the board may access if they need professional advice in relation to corporate governance matters. I also note that it is a general practice that a newly appointed director would undergo director's training by the issuer's Hong Kong legal advisers. If a director claims that he did not understand or is not aware of the Listing Rules, such director should not have been appointed in the first place.

Individual directors may also seek assistance from the issuer's company secretary if they come across any questions in relation to corporate governance issues. I will deal with this issue in my responses to Part III - Company Secretary of the Consultation Paper below.

Unless the Stock Exchange do not believe that continuous professional development could be achieve through work experience or "on the job" training, I believe that it will not generally be necessary for directors to undertake compulsory minimum training hours per year if they are to remain competent.

To conclude, I do not agree with this proposal.

Question 16. What training methods do you consider to be acceptable for the requirements stated in the proposed CP (re-numbered RBP-CP A.6.5)? Please give reasons for your views.

I consider that relevant work experience and "on the job" training is acceptable for the requirements set out in proposed CP A.6.5. Please also see my answers to Q15 above.

It is worth noting that some directors may hold multiple directorships where the relevant issuers may not be related to one another. If an issuer should be responsible for arranging and funding the director's training, it may be difficult for these unrelated issuers to share the costs and administrative work in respect of such training.

I think an issuer should only be held responsible for assisting the director to find a suitable training. The ultimate responsibility for attending and funding the continuous professional development should rest upon themselves. Of course, in the case of full time executive directors, they may require the issuers to reimburse the cost of attending the training. In the case of part-time non-executive directors, it is up to them to negotiate with the issuers for funding the cost of training. If no agreement was set out in the non-executive director's engagement letter regarding who would bear the cost of director's training, the level of the non-executive director's fees should reflect the fact that the director shall bear the cost himself or herself.

It is not only the issuer which should ensure that its director is competent, the director concerned (whether executive or non-executive) should also ensure himself or herself is competent to act as such.

However, if the Stock Exchange were minded to require a minimum 8 hours of training, please see my proposed drafting for CP A.6.5 in Attachment 1.

Question 17. Do you agree that we should upgrade RBP A.3.2 (at least one-third of an issuer's board should be INEDs) to a Rule (re-numbered Rule 3.10A)?

Yes

No

Please give reasons for your views.

Yes, but please see my drafting comments on Rule 3.10A in Attachment 1.

Question 18. Do you agree that this Rule (at least one-third of an issuer's board should be INEDs) be effective after a transitional period as described in paragraph 87 of the Consultation Paper?

Yes

No

Please give reasons for your views.

Yes, the transition period is appropriate.

Question 19. Do you agree that we should upgrade RBP A.4.3 (shareholder to vote on a separate resolution for the further employment of an INED who has served more than nine years) to a CP (re-numbered CP A.4.3)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 88.

Question 20. Do you agree with our proposal to upgrade RBP A.4.8 (issuer should include explanation of its reasons for election and independence of an INED in a circular) to a CP (re-numbered CP A.5.5)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 89.

3. Board Committees

A. Remuneration Committee

Question 21. Do you agree with our proposal to move the requirement for issuers to establish a remuneration committee with a majority of INED members from the Code (CP B.1.1) to the Rules (Rule 3.25)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 113.

Question 22. Do you agree with our proposal that the remuneration committee must be chaired by an INED?

Yes

No

Please give reasons for your views.

I absolutely agree with the proposal set out in paragraph 113.

It has come to my attention since the implementation of the Code in 2005 that in many occasions, an executive director who is also chairman of the board and may even be controlling shareholder of an issuer takes the chair of the issuer's remuneration committee.

Question 23. Do you agree with our proposal to move the requirement for issuers to have written terms of reference for the remuneration committee from the Code (CP B.1.1) to the Rules (Rule 3.26)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 114.

Question 24. Do you agree with our proposal to add a new Rule (Rule 3.27) requiring an issuer to make an announcement if it fails to meet the requirements of proposed Rules 3.25, 3.26 and 3.27?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 115.

Question 25. Do you agree with our proposal that issuers that fail to meet Rules 3.25, 3.26 and 3.27 should have three months to rectify this?

Yes

No

I generally agree with the proposal set out in paragraph 115.

Question 26. Do you agree that we should add "independent" to the professional advice made available to a remuneration committee (CP B.1.2, re-numbered CP B.1.1)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 116.

Question 27. Do you agree that, in order to accommodate Model B, we should revise CP B.1.3 (re-numbered CP B.1.2) as described in paragraph 117 of the Consultation Paper?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 117.

Question 28. (i) Do you agree that where the board resolves to approve any remuneration with which the remuneration committee disagrees, the board should disclose the reasons for its resolution in its corporate governance report? (ii) If your answer is "yes", do you agree that RBP B.1.8 should be revised and upgraded to a CP (re-numbered CP B.1.6).

(i) Yes No

(ii) Yes No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 117.

Question 29. Do you agree that the term "performance-based" should be deleted from CP B.1.32(c) (re-numbered CP B.1.2(b)) and revised as described in paragraph 118 of the Consultation Paper?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 118.

B. Nomination Committee

Question 30. Do you agree that RBP A.4.4 (establishment and composition of a nomination committee, re-numbered CP A.5.1) should be upgraded to a CP?

Yes

No

Please give reasons for your views.

I absolutely agree with the proposal set out in paragraph 131.

Question 31. Do you agree that the proposed CP (currently RBP A.4.4) should state that the nomination committee's chairman should be an INED?

Yes

No

Please give reasons for your views.

I absolutely agree with the proposal set out in paragraph 131.

Question 32. Do you agree that RBP A.4.5 (nomination committee's terms of reference, re-numbered CP A.5.2) should be upgraded to a CP?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 132.

Question 33. Do you agree that the proposed CP (currently RBP A.4.5(a)) should state that the nomination committee's review of the structure, size and composition of the board should be performed at least once a year?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 132.

Question 34. Do you agree that the proposed CP (currently RBP A.4.5(a)) should state that the nomination committee's review of the structure, size and composition of the board should implement the issuer's corporate strategy?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 132.

Question 35. Do you agree that RBP A.4.6 (availability of nomination committee's terms of reference) should be upgraded to a CP?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 133.

Question 36. Do you agree that the proposed CP (currently RBP A.4.6, re-numbered CP A.5.3) should state that issuers should include their nomination committee's terms of reference on the HKEx website?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 131.

In addition to this, I think the terms of reference of audit committee and that of the remuneration committee should also be made available for the public viewing by including them on the HKEx website and issuer's website.

Question 37. Do you agree that RBP A.4.7 (sufficient resources for the nomination committee, re-numbered CP A.5.4) should be upgraded to a CP?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 134.

Question 38. Do you agree that the proposed CP (currently RBP A.4.7, re-numbered CP A.5.4) should clarify that a nomination committee should be able to seek independent professional advice at the issuer's expense?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 134.

C. Corporate Governance Committee

Question 39. Do you agree with the proposed terms of reference listed in paragraph 141 of the Consultation Paper?

Yes

No

Please give reasons and alternative suggestions.

I generally agree with the proposal set out in paragraph 141.

Question 40. Do you consider that the committee(s) performing the proposed duties listed in paragraph 141 of the Consultation Paper should submit to the board a written report on its work annually?

Yes

No

Please give reasons for your views.

Yes, I consider it necessary to submit a written report on its work annually. This report provides a good evidence or record of the work done by this committee.

Question 41. Do you consider that this report (as described in paragraph ~~140-142~~ of the Consultation Paper) should be published as part of the issuer's corporate governance report?

Yes

No

Please give reasons for your views.

Yes, I am sure the shareholders and the public at large would be interested in reading this report if it is to be published as a part of the issuer's corporate governance report.

Question 42. Do you agree with introducing RBP D.3.3 stating that an issuer should establish a corporate governance committee?

- Yes
 No

Please give reasons for your views.

It is not necessary to introduce this RBP D.3.3. Please see my comments on RBP D.3.3 in Attachment 1.

Question 43. Do you agree the duties of an existing committee or committees can be expanded to include those of a corporate governance committee?

- Yes
 No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 143.

Question 44. Do you agree with the addition of CP D.3.2 stating that the committee performing the proposed duties listed in paragraph 141 of the Consultation Paper should comprise a majority of INEDs?

- Yes
 No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 144.

Question 45. Do you agree with the proposal to add a note to CP D.3.2 stating that the committee should include one member who is an executive director or non-executive director with sufficient knowledge of the issuer's day-to-day operations?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 145.

D. Audit committee

Question 46. Do you agree with our proposal to upgrade RBP C.3.7 (audit committee's terms of reference should include arrangements for employees to raise concerns about improprieties in financial reporting) to a CP?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 156.

Question 47. Do you agree with our proposal to amend CP C.3.3(e)(i) to state that the audit committee should meet the external auditor at least twice a year?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 157.

Question 48. Do you agree that a new RBP should be introduced to encourage audit committees to establish a whistleblowing policy?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 158. However, since the whistleblowing policy is very important, I suggest that the Stock Exchange should introduce it as a new CP instead of merely a new RBP.

Please also see my mark up in CP C.3.8 in Attachment 1.

4. Remuneration of Directors, CEO and Senior Management

Question 49. Do you agree with our proposal that issuers should disclose senior management remuneration by band (Appendix 16, new paragraph 25A)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 172.

Question 50. If your answer to Question 49 is yes, do you agree with our proposal that senior management remuneration disclosure should include sales commission?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 172.

Question 51. Do you agree with our proposal to amend Appendix 16 to require an issuer to disclose the CEO's remuneration in its annual report and by name?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 173.

Question 52. Do you agree with our proposal to upgrade RBP B.1.6 to a CP (a significant proportion of executive directors' remuneration should be structured so as to link rewards to corporate and individual performance, re-numbered CP B.1.5)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 174.

5. Board Evaluation

Question 53. Do you agree with our proposal to add new RBP B.1.8 that issuers should conduct a regular evaluation of its own and individual directors' performance?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 180.

6. Board Meetings

- A. Considering a matter where there is a conflict of interest by a physical board meeting rather than a written board resolution

Question 54. Do you agree that, except for plain language amendments, the wording of CP A.1.8 (re-numbered CP A.1.7) should be retained (issuers to hold a board meeting to discuss resolutions on a material matter where a substantial directors or a director has a conflict of interest)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 187

Question 55. Do you agree with our proposals to add a note to CP A.1.8 (re-numbered CP A.1.7) stating that attendance at board meetings can be achieved by telephonic or video conferencing?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 188.

However, I believe the proposed note should have been incorporated into CP A.1.7.

For plainer drafting purposes, I suggest that the Stock Exchange should reduce using "note(s)" to Rule or CP or RBP. If a note is important to clarify the meaning of a Rule or CP or RBP, such note should be incorporated into the Rule or CP or RBP itself.

In proposed draft Appendix 14, I note that significant number of "notes" were either deleted (because these notes are not necessary or no longer relevant) or incorporated into CP or RBP itself.

Please consider incorporating the note into CP A.1.7. Please also see my mark up on CP A.1.7 in Attachment 1.

- B. Directors' Attendance at Board Meetings

Question 56. Do you agree with our proposal to add the notes to paragraph I(c) of Appendix 14 (on attendance at board meetings) as described in paragraph 195 of the Consultation Paper?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 195. But please also see my comments in my answer to Q55 above.

Question 57. Do you agree with our proposal to introduce a new requirement (paragraph I(d) to Appendix 14) that attendance by an alternate should not be counted as attendance by the director himself?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 196.

Question 58. Do you agree with our proposal that an issuer disclose, for each named director, the number of board or committee meetings he attended and separately the number of board or committee meetings attended by his alternate?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 196.

C. Removing Five Percent Threshold for Voting on a Resolution in which a Director has an Interest

Question 59. Do you agree with our proposal to revise Rule 13.44 to remove the exemption described in paragraph 199 (transactions where a director has an interest)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 202.

7. Chairman and Chief Executive Officer

Question 60. Do you agree with our proposal to remove the words “at the board level” from Code Principle A.2 to clarify the division between management of the board and day-to-day management of an issuer’s business?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 219(a).

Question 61. Do you agree with our proposal to amend CP A.2.3 to add “accurate” and “clear” to describe the information that the chairman should ensure directors receive?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 219(b).

Question 62. Do you agree with our proposal to upgrade RBP A.2.4 to a CP to give greater emphasis to the chairman’s duty to provide leadership for the board, to ensure that the board works effectively and discharges its responsibilities, etc.?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 220.

Question 63. Do you agree with our proposal to upgrade RBP A.2.5 to a CP and amend it to state: "The chairman should take primary responsibility for ensuring that good corporate governance practices and procedures are established"?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 220(a).

Question 64. Do you agree with our proposal to upgrade RBP A.2.6 to a CP to emphasise the chairman's responsibility to encourage directors with different views to voice their concerns, allow sufficient time for discussion of issues and build consensus?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 220(b).

Question 65. Do you agree with our proposal to upgrade RBP A.2.7 to a CP and amend it to state that the chairman should hold separate meetings with only INEDs and only NEDs at least once a year?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 220(c).

Question 66. Do you agree with our proposal to upgrade RBP A.2.8 to a CP to highlight the chairman's role to ensure effective communication between the board and shareholders?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 220(d).

Question 67. Do you agree with our proposal to upgrade RBP A.2.9 to a CP to emphasise the chairman's role to enable NED contributions and constructive relations between EDs and NEDs?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 220(e).

8. Notifying directorship change and disclosure of directors' information

Question 68. Do you agree that we should amend Rule 13.51(2) to require issuers to disclose the retirement or removal of a director or supervisor?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 232(a).

Question 69. Do you agree that we should amend Rule 13.51(2) to apply to the appointment, resignation, re-designation, retirement or removal of a CEO (and not only to a director or supervisor)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 232(b).

Question 70. Do you agree that we should amend Rule 13.51(2)(o) to cover all civil judgments of fraud, breach of duty or other misconduct involving dishonesty?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 232(c).

Question 71. Do you agree that we should amend Rule 13.51B(3)(c) to clarify that the sanctions referred to in that Rule are those made against the issuer (and not those of other issuers)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 233.

Question 72. Do you agree with our proposal to upgrade RBP A.3.3 to a CP to ensure that directors' information is published on an issuer's website?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 234 subject to the fact the issue have had its own website.

Question 73. Do you agree with our proposed amendment to the CP (RBP A.3.3 upgraded) that directors' information should also be published on the HKEx website?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 234.

9. Providing Management Accounts or Management Updates to the Board

Question 74. Do you agree that we should add CP C.1.2 stating issuers should provide board members with monthly updates as described in paragraph 240 of the Consultation Paper?

Yes

No

Please give reasons for your views.

Whilst it is universally true that provision of regular management accounts or management updates to directors would help them perform their duties and responsibilities, however, provision of these information to directors are part of internal control and/internal management of an issuer.

It should be at the liberty of an issuer to provide so-called management accounts, management updates, management briefings, management presentations, or simply management breakfast briefing or lunch meeting to its directors. So long as the issuer has a proper internal control system or management information system in place, the Stock Exchange must not interfere the issuer the way in which it conducts its internal management.

I suggest that the Stock Exchange should defer this issue to the separate consultation of the internal control part of the Code later this year or early next year.

Please also see my mark up on CP C.1.2 in Attachment 1.

10. Next Day Disclosure for a Director Exercising an Option in the Issuer or the Issuer's Subsidiaries

Question 75. Do you agree with the proposed amendment to Rule 13.25A(2)(a)(viii) and (ix) removing the need for issuers to publish a Next Day Disclosure Return following the exercise of options for shares in the issuer by a director of a subsidiary?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 245.

Question 76. Do you agree with the proposed amendment to Rule 13.25A(2)(b)(i) and (ii) to require issuers to publish a Next Day Disclosure only if options for shares in the issuer exercised by a director of its subsidiary or subsidiaries results in a change of 5% or more (individually or when aggregated with other events) of the issuer's share capital since its last Monthly Return?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 246 but the drafting of the revised Rule 13.25A(2)(b)(ii) was not good.

I suggest the two sub rules, namely Rule 13.25A(2)(b)(i) and Rule 13.25A(2)(b)(ii) be combined as one single sub rule. Please also see my mark up on Rule 13.25A(2)(b) in Attachment 1.

11. Disclosing Long Term Basis on which an Issuer Generates or Preserves Business Value

Question 77. Do you agree that we should introduce the proposed CP (CP C.1.4) as described in paragraph 250 of the Consultation Paper?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 250. But I did not quite agree with the statement in the last sentence of paragraph 249.

Whilst it might be true that some smaller issuers might not have a corporate strategy and long term business model, however, I believe large majority of issuers in Hong Kong have corporate strategy and, at least, medium term (if not long term) business model. The question is simply whether the issuer is willing to disclose its strategy and business model in its annual report.

The Consultation Paper did not define what it means by "long term". What an issuer in IT industry considers "long term" could well be "short term" in another industry (eg forestry or mining industry).

I think we should base on the assumption that all issuers have had corporate strategy and long term business model and the focus should be on the requirement to disclose such strategy and business model in its annual report.

Please also see my mark up on CP C.1.4 in Attachment 1.

12. Directors' Insurance

Question 78. Do you agree with our proposal to upgrade RBP A.1.9 (issuers should arrange appropriate insurance for directors) to a CP (re-numbered CP A.1.8)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 255. But I think insurance should also cover the directors of the issuer's subsidiaries.

Please also see my mark up on CP A.1.8 in Attachment 1.

Question 79. Do you agree with our proposal to add the words "adequate and general" to RBP A.1.9 (upgraded and re-numbered CP A.1.8)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 255.

PART II: SHAREHOLDERS**1. Shareholders' General Meetings****A. Notice of Meeting and Bundling of Resolutions**

Question 80. Do you agree with our proposal to amend CP E.1.1 to state that issuers should avoid "bundling" of resolutions and where they are "bundled" explain the reasons and material implications in the notice of meeting?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 260.

Please also see my mark up on CP E.1.1 in Attachment 1.

B. Voting by Poll

Question 81. Do you agree with our proposal to amend Rule 13.39(4) to allow a chairman at a general meeting to exempt procedural and administrative matters described in paragraph 274 of the Consultation Paper from voting by poll?

Yes

No

Please give reasons for your views.

I think the current voting requirements work well. I do not believe that there is a need to revise the rules so as to cater for the "rare circumstances" such as respond to emergency of fire, serious accident, tropical typhoon, etc.

Question 82. Do you agree with the examples of procedural and administrative resolutions in paragraph 275 of the Consultation paper? Do you have any other examples to add?

Yes

No

Please give reasons for your views.

N/A

Please also see my answer to Q81 above.

Question 83. Do you agree that our proposed amendments to Rule 13.39(5) clarify disclosure in poll results?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 277.

Please also see my minor drafting comments on Rule 13.39(5) in Attachment 1.

Question 84. Do you agree with our proposal to amend CP E.2.1 to remove the words "at the commencement of the meeting" so that an issuer's chairman can explain the procedures for conducting a poll later during a general meeting?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 279.

C. Shareholders' Approval to Appoint and Remove an Auditor

Question 85. Do you agree with our proposal to add new Rule 13.88 to require shareholder approval to appoint the issuer's auditor?

Yes

No

Please give reasons for your views.

I absolutely agree with the proposal set out in paragraph 290.

Question 86. Do you agree with our proposal to add, in new Rule 13.88, a requirement for shareholder approval to remove the issuer's auditor before the end of his term of office?

Yes

No

Please give reasons for your views.

I absolutely agree with the introduction of new Rule 13.88. I am sure this new Rule would discourage any unfair removal of auditors. It may also increase the bargaining power of the auditors when they are dealing with the issuer's management in respect of irregularities or unusual matters which may arise during the course of their audit.

Question 87. Do you agree that the new Rule 13.88 should require a circular for the removal of the auditor to shareholders containing any written representation from the auditor and allow the auditor to make written and/or verbal representation at the general meeting to remove him?

Yes

No

Please give reasons for your views.

I absolutely agree with the proposal set out in paragraph 290.

D. Directors' Attendance at Meetings

Question 88. Do you agree with our proposal to upgrade RBP A.5.7 (NEDs' attendance at meetings) to a CP (re-numbered CP A.6.7)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 298.

Question 89. Do you agree with our proposal to upgrade RBP A.5.8 (NEDs should make a positive contribution to the development of the issuer's strategy and policies) to a CP (re-numbered CP A.6.8)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 298.

Question 90. Do you agree with our proposal to introduce a new mandatory disclosure provision in Appendix 23 (re-numbered paragraph I(c) of Appendix 14) stating that issuer must disclose details of attendance at general meetings of each director by name?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 299.

Question 91. Do you agree with our proposal that CP E.1.2 state the issuer's chairman should arrange for the chairman of "any other committees" to attend the annual general meeting?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 300.

E. Auditor's Attendance at Annual General Meetings

Question 92. Do you agree with our proposal that CP E.1.2 state that the chairman should arrange for the auditor to attend the issuer's annual general meeting to answer questions about the conduct of the audit, the preparation and content of the auditors' report, the accounting policies and auditor independence?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 309.

2. Shareholders' Rights

Question 93. Do you agree with our proposal to upgrade the recommended disclosure of "shareholders' rights" under paragraph 3 (b) of Appendix 23 to mandatory disclosure (re-numbered paragraph O of Appendix 14)?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 312.

3. Communication with Shareholders

A. Establishing a Communication Policy

Question 94. Do you agree with our proposed new CP E.1.4 stating that issuers should establish a shareholder communication policy?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 317.

B. Publishing Constitutional Documents on Website

Question 95. Do you agree with our proposal to add a new Rule 13.90 requiring issuers to publish an updated and consolidated version of their M & A or constitutional documents on their own website and the HKEx website?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 323.

C. Publishing Procedures for Election of Directors

Question 96. Do you agree with our proposal to add a new Rule 13.51D requiring an issuer to publish the procedures for shareholders to propose a person for election as a director on its website?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 328.

D. Disclosing Significant Changes to Constitutional Documents

Question 97. Do you agree with our proposal to upgrade the recommended disclosure of any significant change in the issuer's articles of association under paragraph 3(c)(i) of Appendix 23 to mandatory disclosure (re-numbered paragraph P(a) of Appendix 14) ?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 331.

PART III: COMPANY SECRETARY**1. Company Secretary's Qualifications, Experience and Training**

Question 98. Do you agree with our proposal to introduce a new Rule 3.28 on requirements for company secretaries' qualifications and experience?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 341.

Question 99. Do you agree that the Exchange should consider as acceptable the list of qualifications for company secretaries set out in paragraph 345 of the Consultation Paper?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 345.

Question 100. Do you agree that the Exchange should consider the list of items set out in paragraph 346 of the Consultation Paper when deciding whether a person has the relevant experience to perform company secretary functions?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 346.

Question 101. Do you agree with our proposal to remove the requirement for company secretaries to be ordinarily resident in Hong Kong?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 347.

But I think an additional condition of "full-time employee of the issuer" should be incorporated into the new Rule 3.28. Since the role of company secretary becomes more important, the company secretary should be a full-time employee of the issuer. The function of company secretary must not be contracted out to an agent who is unlikely to have day-to-day knowledge of the issuer's affairs. Further, this agent would unlikely to be a part of the senior management of the issuer concerned.

Please also see my mark up on Rule 3.28 in Attachment 1.

Question 102. Do you agree with our proposal to repeal Rule 19A.16 so that Mainland issuers' company secretaries would need to meet the same requirements as for other countries?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 348.

Question 103. Do you agree with our proposal to add a Rule 3.29 requiring company secretaries to attend 15 hours of professional training per financial year?

Yes

No

Please give reasons for your views.

A member of HKICS or a solicitor or a barrister or a professional accountant is already required to complete continuing professional development programme under his or her respective professional governing body.

Rule 3.29 is not necessary if not redundant. Please consider deleting this proposed new rule.

Please also see my mark up on Rule 3.29 in Attachment 1.

Question 104. Do you agree with the proposed transitional arrangement on compliance with Rule 3.29 in paragraph 350 of the Consultation Paper?

Yes

No

Please give reasons for your views.

N/A

Please also see my answer to Q103 above.

2. New Section in Code on Company Secretary

Question 105. Do you agree with our proposal to include a new section of the Code on company secretary?

- Yes
- No

Please give reasons for your views.

I am not quite sure whether the proposal set out in paragraph 362 would promote corporate governance.

What I was concerning about was that setting out clearly the roles and responsibilities of company secretary in the CP would mislead people into believing that directors' responsibilities could be shifted to such company secretary. The main purpose of Appendix 14 should focus on the board's role and responsibilities in relation to corporate governance where normally company secretary is not a member of the board. Unless a company secretary is also an executive director, a chief executive officer or a chief financial officer, it seems that company secretary's duties and responsibilities should not be too onerous in light of the rewards/remuneration/benefits he or she is receiving from the issuer.

Anyway, if the Stock Exchange is minded to adopt the proposal set out in paragraph 362, please kindly consider my comments on CP F - Company Secretary in Attachment I.

Question 106. Do you agree with the proposed principle as described in paragraph 362 of the Consultation Paper and set out in full in page 27 of Appendix II?

- Yes
- No

Please give reasons for your views.

Please see my comments in answer to Q.105 above.

Question 107. Do you agree with our proposed CP F.1.1 stating the company secretary should be an employee of the issuer and have knowledge of the issuer's day-to-day affairs?

- Yes
- No

Please give reasons for your views.

Please see my comments in answer to Q.101 and Q.105 above.

Question 108. Do you agree with our proposal described in paragraph 364 of the Consultation Paper, that if an issuer employs an external service provider, it should disclose the identity of its issuer contact person?

Yes

No

Please give reasons for your views.

Please see my comments in answer to Q.101 and Q.105 above.

Question 109. Do you agree with our proposed CP F.1.2 stating that the selection, appointment or dismissal of the company secretary should be the subject of a board decision?

Yes

No

Please give reasons for your views.

Please see my comments in answer to Q.105 above.

Question 110. Do you agree with our proposed note to CP F.1.2 stating that the board decision to select, appoint or dismiss the company secretary should be made at a physical board meeting and not dealt with by written board resolution?

Yes

No

Please give reasons for your views.

Please see my comments in answer to Q.105 above.

Question 111. Do you agree with our proposal to add CP F.1.3 stating that the company secretary should report to the Chairman or CEO?

- Yes
 No

Please give reasons for your views.

Please see my comments in answer to Q.105 above.

Question 112. Do you agree with our proposal to add CP F.1.5 stating that the company secretary should maintain a record of directors training?

- Yes
 No

Please give reasons for your views.

Please see my comments in answer to Q.105 above.

CHAPTER 3: PROPOSED NON-SUBSTANTIVE AMENDMENTS

1. Definition of "Announcement" and "Announce"

Question 113. Do you agree with our proposal to include a definition in the Rules for the terms "announcement" and "announce" as described in paragraph 371 of the Consultation Paper?

- Yes
 No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 371.

2. Authorised Representatives' Contact Details

Question 114. Do you agree with our proposal to amend Rule 3.06(1) to add a reference to authorised representatives "mobile and other telephone numbers, email and correspondence addresses" and "any other contract details prescribed by the Exchange may prescribe from time to time"?

Yes

No

Please give reasons for your views.

I generally agree with the proposal set out in paragraph 374.

3. Merging Corporate Governance Report Requirements into Appendix 14

Question 115. Do you agree with our proposal to merge Appendix 23 into Appendix 14 for ease of reference?

Yes

No

Please give reasons for your views.

I absolutely agree with this proposal. I always find the separation of Appendix 14 and Appendix 23 unnecessary.

Question 116. Do you agree with our proposal to streamline Appendix 23 and to make plain language amendments to it?

Yes

No

Please give reasons for your views.

I absolutely agree with this proposal. In fact all chapters of the Listing Rules should have been drafted in plainer language (in particular, Chapter 14A of the Listing Rules).

- End -

Attachment 1

(1/15)

APPENDIX I: PROPOSED AMENDMENTS TO THE RULES

(Unless otherwise specified, set out below are the draft Main Board Rule amendments. The Exchange proposes to make equivalent amendments to the GEM Rules.)

The marked-up parts represent the proposed amendments to the Main Board Rules.

Chapter 1

INTERPRETATION

1.01 Throughout this book, the following terms, save where the context otherwise requires, have the following meanings:

"announcement or announce" means announcement published under rule 2.07C

Chapter 3

AUTHORISED REPRESENTATIVES, AND DIRECTORS, BOARD COMMITTEES AND COMPANY SECRETARY

Authorised Representatives

...

3.06 The responsibilities of an authorised representative ~~will be as follows~~ are:—

- (1) at all times (particularly ~~prior to~~ before commencement of trading in the morning) to be the principal channel of communication between the Exchange and the listed issuer and to supply the Exchange with details in writing of how ~~he can be contacted to contact him~~ including home, and office, mobile and other telephone numbers, and, where available, email address and correspondence address (if the authorised representative is not based at the registered office), facsimile numbers if available, and any other contact details prescribed by the Exchange from time to time;

Directors

3.08 The board of directors of a ~~listed~~ an issuer is collectively responsible for ~~its~~ the management and operations of the ~~listed issuer~~. The Exchange expects the directors, both collectively and individually, to fulfil fiduciary duties and duties of skill, care and diligence to a standard at least commensurate with the standard established by Hong Kong law. This means that every director must, in the performance of his duties as a director:—

Q1

among others

(2/15)

Q3

- (a) act honestly and in good faith in the interests of the company as a whole;
- (b) act for proper purpose;
- (c) be answerable to the listed-issuer for the application or misapplication of its assets;
- (d) avoid actual and potential conflicts of interest and duty;
- (e) disclose fully and fairly his interests in contracts with the listed-issuer; and
- (f) apply such degree of skill, care and diligence as may reasonably be expected of a person of his knowledge and experience and holding his office within the listed issuer.

the issuer's

Directors do not satisfy the required levels of skill, care and diligence by delegating their responsibilities to colleagues or management in the issuer and paying attention to its affairs only at formal meetings. At a minimum, they must take an active interest in its affairs and obtain a general understanding of its business. They must follow up anything untoward that comes to their attention.

✓

It is important to note that the above duties are equally important and that are not intended to be

Note: ~~These duties are summarised in "A Guide on Directors' Duties" issued by the Companies Registry in July 2009. In addition, directors are generally expected by the Exchange to follow the Guidelines for Directors and the Guide for Independent Non-executive Directors published by the Hong Kong Institute of Directors (www.hkiad). In determining whether a director has met the expected standard of care, skill and diligence, courts will generally consider a number of factors. These include the functions that are to be performed by the director concerned, whether he is a full-time executive director or a part-time non-executive director and his professional skills and knowledge.~~

3.10A An issuer must appoint independent non-executive directors representing at least one-third of the board.
Exhaustive, Directors should seek legal advice if they are

round up to the nearest whole number

Note: The issuer must comply with this rule by 31 December 2012.

Remuneration Committee

unclear on any aspect of their duties and responsibilities

3.25 An issuer must establish a remuneration committee chaired by an independent non-executive director and comprising a majority of independent non-executive directors.

3.26 The board of directors must approve and provide written terms of reference for the remuneration committee which clearly establish its authority and duties.

3.27 If the issuer fails to set up a remuneration committee or at any time has failed to meet any of the other requirements in rules 3.25, 3.26 and 3.27, it must immediately publish an announcement containing the relevant details and reasons. Issuers must set up a remuneration committee and/or appoint appropriate members to it to meet the requirement(s) within three months after failing to meet them.

✓
✓
✓

Q17

(3/15)

~~3.25 (1) The Code on Corporate Governance Practices contained in Appendix 14 sets out the principles of good corporate governance and two levels of recommendations: (a) code provisions; and (b) recommended best practices. Issuers are expected to comply with, but may choose to deviate from, the code provisions. The recommended best practices are for guidance only.~~

~~Note: Issuers may also devise their own code on corporate governance practices on such terms as they may consider appropriate.~~

~~(2) Issuers must state whether they have complied with the code provisions set out in the Code on Corporate Governance Practices for the relevant accounting period in their interim reports (and summary interim reports, if any) and annual reports (and summary financial reports, if any).~~

~~Note: For the relevant requirements governing preliminary results announcements, see paragraphs 45 and 46 of Appendix 16.~~

~~(3) Where the issuer deviates from the code provisions set out in the Code on Corporate Governance Practices, the issuer must give considered reasons:~~

~~(a) in the case of annual reports (and summary financial reports), in the Corporate Governance Report which must be issued in accordance with Appendix 23; and~~

~~(b) in the case of interim reports (and summary interim reports), either:~~

~~(i) by giving considered reasons for each deviation; or~~

~~(ii) to the extent that it is reasonable and appropriate, by referring to the Corporate Governance Report in the immediately preceding annual report, and providing details of any changes together with considered reasons for any deviation not reported in that annual report. Such references must be clear and unambiguous and the interim report (or summary interim report) must not only contain a cross-reference without any discussion of the matter.~~

~~(4) In the case of the recommended best practices, issuers are encouraged, but are not required, to state whether they have complied with them and give considered reasons for any deviation. [Moved to Rule 13.89]~~

Company Secretary

full time

3.28 The issuer must appoint as its company secretary an individual who, by virtue of their academic or professional qualifications or relevant experience, is, in the opinion of the Exchange, capable of discharging the functions of company secretary.

his or her

Notes: 1. The Exchange considers the following academic or professional qualifications to be acceptable:

(a) a Member of The Hong Kong Institute of Chartered Secretaries;

(not being a servicing agent)

Q101

(4/15)

Q103

(b) a solicitor or barrister (as defined in the Legal Practitioners Ordinance);

(c) a professional accountant (as defined in the Professional Accountants Ordinance).

2. In assessing "relevant experience", the Exchange will consider the individual's:

(a) length of employment with the issuer and other issuers;

(b) familiarity with the Exchange Listing Rules;

(c) relevant training taken and/or to be taken in addition to the minimum requirement under rule 3.29; and

(d) professional qualifications in other jurisdictions.

3.29 In each financial year an issuer's company secretary must take no less than 15 hours of relevant professional training.

Note: A person who was a company secretary:

(a) on 1st January 2005 does not need to comply with rule 3.29 until 1st August 2011;

(b) between 1st January 2000 to 31st December 2004 does not need to comply with rule 3.29 until 1st August 2013;

(c) between 1st January 1995 to 31st December 1999 does not need to comply with rule 3.29 until 1st August 2015; and

(d) on or before 31st December 1994 does not need to comply with rule 3.29 until 1st August 2017.

Chapter 8

EQUITY SECURITIES

QUALIFICATIONS FOR LISTING

8.17 The issuer must appoint a company secretary who satisfies rule 3.28. The secretary of the issuer must be a person who is ordinarily resident in Hong Kong and who has the requisite knowledge and experience to discharge the functions of secretary of the issuer and who:

(5/15)

~~(1) in the case of an issuer which was already listed on 1st December 1989 held the office of secretary of the issuer on that date;~~

~~(2) is an Ordinary Member of The Hong Kong Institute of Chartered Secretaries, a solicitor or barrister as defined in the Legal Practitioners Ordinance or a professional accountant; or~~

~~(3) is an individual who, by virtue of his academic or professional qualifications or relevant experience, is, in the opinion of the Exchange, capable of discharging those functions.~~

Chapter 13

GENERAL MATTERS RELEVANT TO THE ISSUER'S SECURITIES Changes In Issued share capital

13.25A (1) ... ~~a listed~~ an issuer shall must, whenever there is a change in its issued share capital as a result of or in connection with any of the events referred to in rule 13.25A(2), submit ... for publication on the Exchange's website a return in such form and containing such information ... by not later than 30 minutes before the earlier of the commencement of the morning trading session or any pre-opening session on the business day next following the relevant event.

(2) The events referred to in rule 13.25A(1) are as follows:

(a) any of the following:

(i) ...
...

(viii) exercise of an option under the issuer's a share option scheme by any of its directors ~~a director of the listed issuer or any of its subsidiaries;~~ ✓

(ix) exercise of an option other than under the issuer's a share option scheme by any of its directors ~~a director of the listed issuer or any of its subsidiaries;~~ ✓

(b) subject to rule 13.25A(3), any of the following:

(i) exercise of an option under a share option scheme other than by a director of the listed issuer or any of its subsidiaries; ✓

(ii) exercise of an option other than under a share option scheme not by a director of the listed issuer or any of its subsidiaries; ✓

Q76

suggest to delete (ii) and revise (i)

(whether or not)

?

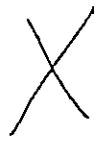
double negative, very confusing!

(6/15)

Meetings of Shareholders

13.39 (1) ...

(4) Any vote of shareholders at a general meeting must be taken by poll except where the chairman, in good faith, decides to allow a resolution which relates purely to a procedural or administrative matter to be voted on by a show of hands. ~~and the~~ The issuer must announce the results of the poll in the manner prescribed under rule 13.39(5).



Note: Procedural and administrative matters are those that:

- (i) are not on the agenda of the general meeting or in any supplementary circular to members; and
- (ii) which relate to the chairman's duties to maintain the orderly conduct of the meeting and/or allow the business of the meeting to be properly and effectively dealt with, whilst allowing all shareholders a reasonable opportunity to express their views.

(5) The issuer ~~shall~~ must announce the meeting's poll results ~~(including (i) the total number of shares entitling the holder to attend and vote for against the resolution at the meeting, (ii) the total number of shares entitling the holder to attend and vote only against the resolution at the meeting, (iii) the number of shares represented by votes for and against the relevant resolution)~~ by way of an announcement which is published in accordance with rule 2.07C as soon as possible, but in any event not later than ~~at least the time that is~~ 30 minutes before the earlier of either the commencement of the morning trading session or any pre-opening session on the business day ~~following~~ after the meeting.

Q 83

The poll results announcement must include the number of:

- (a) shares entitling the holder to attend and vote on a resolution at the meeting;
- (b) shares entitling the holder to attend ~~and~~ abstain from voting in favour as set out in rule 13.40; (but)
- (c) shares of holders that are required under the Listing Rules to abstain from voting; and
- (d) shares actually voted for or against a resolution.

The issuer ~~shall~~ must appoint its auditors, share registrar or external accountants who are qualified to serve as its auditors ~~for the issuer as scrutineer~~ for the vote-taking and state the identity of the scrutineer in the announcement. The issuer ~~shall~~ must ~~confirm~~ state in the announcement whether or not any parties that have stated their intention in the circular to vote against the relevant resolution or to abstain have done so at the general meeting.

(7/15)

separate independent professional advice to directors to assist ~~them~~ the relevant director or directors to discharge perform his/their duties to the issuer.

Q55

A.1.97 If a substantial shareholder or a director has a conflict of interest in a matter to be considered by the board which the board has determined to be material, the matter should ~~not~~ be dealt with by a physical board meeting rather than a written resolution ~~circulation~~ or by a committee (except an appropriate board committee set up for that purpose pursuant to a resolution passed in a board meeting) ~~but a board meeting should be held~~. Independent non-executive directors who, and whose associates, have no material interest in the transaction should be present at ~~such that~~ board meeting.

Notes: 1 Directors are reminded of the requirement under rule 13.44 that they must abstain from voting on any board resolution in which they or any of their associates have a material interest and that they shall not be counted in the quorum present at the board meeting. The existing exceptions to the general voting prohibition are currently set out in note 1 to Appendix 3. A director's attendance by electronic means including telephonic or videoconferencing may be counted as attendance at a physical board meeting.

2 Such exceptions to the general voting prohibition should also be taken into account when considering whether a substantial shareholder or a director has a conflict of interest in a matter to be considered by the board. If the relevant exceptions apply, a regular board meeting need not be held. For this purpose, please refer to A.1.1 for the meaning of a regular board meeting.

Recommended Best Practices

Q78

A.1.98 An issuer should arrange appropriate and adequate general insurance cover in respect of legal action against its directors.

~~A.1.10 Board committees should adopt, so far as practicable, the principles, procedures and arrangements set out in A.1.1 to A.1.8.~~

and directors of its subsidiaries

A.2 Chairman and Chief Executive Officer

Principle

There are two key aspects of the management of every issuer - the management of the board and the day-to-day management of the issuer's business. There should be a clear division of these responsibilities at the board level to ensure a balance of power and authority, so that power is not concentrated in any one individual.

Code Provisions

A.2.1 The roles of chairman and chief executive officer should be separate and should not be performed by the same individual. The division of

Q8

or offices held in statutory authority or non-governmental organisations

- (c) serving on the audit, remuneration, nomination and other governance committees, if invited; and
- (d) scrutinising the issuer's performance in achieving agreed corporate goals and objectives, and monitoring the performance reporting of performance.

(8/15)

A.56.3 Every director should ensure that he can give sufficient time and attention to the issuer's affairs ~~of the issuer~~ and should not accept the appointment if he cannot do so limit the number of his other professional commitments (in particular any directorships held in other companies) so that the proper performance of his duties is not compromised. The director should also acknowledge to the issuer that he will have sufficient time to meet his obligations and the issuer's expectations. A non-executive director should confirm to the nomination committee annually that he has spent sufficient time on the issuer's business.

A.56.4 ~~Directors must comply with their obligations under the Model Code set out in Appendix 10 and, in addition, the~~ The board should establish written guidelines ~~on no less exacting terms than the Model Code for relevant employees in respect of their dealings in the issuer's securities of the issuer.~~ For this purpose, "Relevant employee" includes any employee of the issuer or a director or employee of a subsidiary or holding company of the issuer who, because of ~~such his~~ office or employment, is likely to be in possession of unpublished price sensitive information in relation to the issuer or its securities.

Q16

Recommended Best Practices

Assisting the directors to find

A.56.5 All directors should participate in a ~~programme of~~ continuous professional development of at least 8 hours per financial year to develop and refresh their knowledge and skills. This is to help ensure that their contribution to the board remains informed and relevant. The issuer should be responsible for arranging and funding a suitable development programme training, placing an appropriate emphasis on the roles, functions and duties of a listed company director.

Note: If a person holds multiple directorships, only 8 hours of training in total is required.

A.56.6 Each director should disclose to the issuer at the time of his appointment, and ~~on a periodic basis in a timely manner for any change,~~ the number and nature of offices held in public companies or organisations and other significant commitments, ~~with the~~ The identity of the public companies or organisations and an indication of the time involved should also be disclosed. The board should determine for itself how frequently ~~such this~~ disclosure should be made.

A.56.7 Independent non-executive directors and other non-executive Non-executive directors, as equal board members, should give the board and any committees on which they serve ~~such as the audit, remuneration or nomination committees~~ the benefit of their skills, expertise and varied backgrounds and qualifications

Notwithstanding the fact that a person may hold multiple directorships, the ultimate responsibility for ensuring the 8-hour-training rest on with that person himself or herself.

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B.1.8 The board should conduct a regular evaluation of its own, and individual directors', performance.

C. ACCOUNTABILITY AND AUDIT

C.1 Financial reporting

Principle

The board should present a balanced, clear and comprehensible assessment of the company's performance, position and prospects.

Code Provisions

C.1.1 Management should provide ~~such~~ sufficient explanation and information to the board ~~as will to enable the board it to~~ make an informed assessment of the financial and other information put before the board ~~it~~ for approval.

Note: Issuers are reminded of their obligation to comply with the financial reporting and disclosure requirements set out in the Exchange Listing Rules. Failure to comply with such requirements constitutes a breach of the Exchange Listing Rules.

Q74

~~C.1.2 Management should provide all members of the Board with monthly updates giving a balanced and understandable assessment of the issuer's performance, position and prospects. These may include monthly management accounts and management updates.~~

C.1.2~~3~~ The directors should acknowledge in the Corporate Governance Report their responsibility for preparing the accounts, ~~and there~~ There should be a statement by the auditors about their reporting responsibilities in the auditors' report ~~on of~~ the financial statements. Unless it is inappropriate to assume that the company will continue in business, the directors should prepare the accounts on a going concern basis, with supporting assumptions or qualifications as necessary. ~~When~~ Where the directors are aware of material uncertainties relating to events or conditions that may cast significant doubt ~~upon on~~ the issuer's ability to continue as a going concern, ~~such uncertainties~~ they should be clearly and prominently ~~set out disclosed~~ and discussed at length in the Corporate Governance Report. The Corporate Governance Report should contain sufficient information ~~so as to enable for~~ for investors to understand the severity and significance of ~~the matters at hand~~. To ~~the extent that it is a~~ reasonable and appropriate extent, the issuer may refer to ~~the other relevant parts of the annual report~~. ~~Any such~~ These references should be clear and unambiguous and the Corporate Governance Report should not ~~only~~ contain only a cross-reference without any discussion of the matter.

C.1.4 The directors should include in the separate statement containing a discussion and analysis of the group's performance in the annual report, an explanation of

Not necessary, please consider deleting this note. (10/15)

the basis on which the issuer generates or preserves value over the longer term (the business model) and the strategy for delivering the issuer's objectives.

Note: An issuer should have a corporate strategy and a long term business model. Long term financial performance as opposed to short term rewards should be a corporate governance objective. An issuer's board should not take undue risks to make short term gains at the expense of long term objectives.

Q77

C.1.35 The board's ~~responsibility to~~ should present a balanced, clear and understandable assessment ~~extends to in~~ annual and interim reports, other price-sensitive announcements and other financial disclosures required under by the Exchange Listing Rules, ~~and~~ It should also do so for reports to regulators as well as ~~to and~~ information disclosed under ~~required to be~~ disclosed pursuant to statutory requirements.

Recommended Best Practices

C.1.46 An issuer should announce and publish quarterly financial results within 45 days after the end of the relevant quarter. ~~These should disclosing disclose~~ sufficient ~~such~~ information as ~~would to~~ enable shareholders to assess the issuer's performance, financial position and prospects ~~of the issuer~~. ~~Any such~~ An issuer's quarterly financial reports ~~results~~ should be prepared using the accounting policies ~~applied to the issuer's of its~~ half-year and annual accounts.

C.1.57 Once an issuer ~~decides to announce and publish its~~ quarterly financial results, it should continue to ~~do so adopt~~ quarterly reporting for each of the first 3 and 9 months periods of subsequent financial years. Where ~~the issuer it~~ decides not to continuously announce and publish its financial results for a particular quarter, it should ~~publish an announcement to disclose~~ announce the reason(s) for ~~each this~~ decision.

C.2 Internal controls

Principle

The board should ensure that the issuer maintains sound and effective internal controls to safeguard ~~the~~ shareholders' investment and the issuer's assets.

Code Provisions

C.2.1 The directors should at least annually conduct a review of the effectiveness of the ~~issuers' and its subsidiaries' system of internal control systems of the issuer and its subsidiaries~~ and report to shareholders that they have done so in their Corporate Governance Report. The review should cover all material controls, including financial, operational and compliance controls and risk management functions.

C.2.2 The board's annual review should, in particular, consider the adequacy of resources, staff qualifications and experience, training programmes and budget

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Q48

- (b) to act as the key representative body for overseeing the issuer's relations with the external auditor.

Recommended Best Practice

C.3.8 The audit committee should establish a whistleblowing policy for employees and those who deal with the issuer (e.g. customers and suppliers) to raise concerns, in confidence, with the audit committee about possible improprieties in any matter related to the issuer.

D. DELEGATION BY THE BOARD

D.1 Management functions

Principle

An issuer should have a formal schedule of matters specifically reserved to the for board for its decision approval. The board should give clear directions to management as to on the matters that must be approved by the board it before decisions are made on the issuer's behalf of the issuer.

Code Provisions

D.1.1 When the board delegates aspects of its management and administration functions to management, it must, at the same time, give clear directions as to the powers of management's powers, in particular, with respect to the circumstances where management should report back and obtain prior board approval from the board before making decisions or entering into any commitments on the issuer's behalf of the issuer.

Note: The board should not delegate matters to a board committee, executive directors or management to an extent that would significantly hinder or reduce the ability of the board as a whole to discharge perform its functions.

D.1.2 An issuer should formalise the functions reserved to the board and those delegated to management. It should review those arrangements on a periodic basis periodically to ensure that they remain appropriate to the issuer's needs of the issuer.

Note: Under paragraph 2(e)(iv) of Appendix 23, issuers must include in their Corporate Governance Report a statement of how the board operates, including a high level statement of which types of decisions are to be taken by the board and which are to be delegated to management.

Recommended Best Practices

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D.1.3 An issuer should disclose the respective responsibilities, division of responsibility between the board and management to assist those affected by corporate decisions to better understand the respective accountabilities and contributions of the board and management.

29
D.1.4 Directors should clearly understand delegation arrangements in place. ~~To that end, issuers~~ Issuers should have formal letters of appointment for non-executive directors setting out the key terms and conditions relative to of their appointment. ~~The letters of appointment should set out the expected time commitment.~~

D.2 Board Committees

Principle

Board committees should be formed with specific written terms of reference which deal clearly with ~~the committees'~~ their authority and duties.

Code Provisions

D.2.1 Where board committees are established to deal with matters, the board should ~~prescribe~~ give them sufficiently clear terms of reference to enable such ~~committees~~ them to ~~discharge~~ perform their functions properly.

D.2.2 The terms of reference of board committees should require ~~such committees~~ them to report back to the board on their decisions or recommendations, unless there are legal or regulatory restrictions on their ability to do so (such as a restriction on disclosure due to regulatory requirements).

D.3 Corporate Governance Committee

Code Provisions

D.3.1 The terms of reference of a corporate governance committee (or existing committees performing this function) should include at least:

(a) to develop and review an issuer's policies and practices on corporate governance and make recommendations to the board;

★ (b) to review and monitor the training and continuous professional development of directors and senior management;

(c) to review and monitor the issuer's policies and practices on compliance with legal and regulatory requirements;

(d) to develop, review and monitor the code of conduct and compliance manual (if any) applicable to employees and directors; and

(e) to review the issuer's compliance with the Code and disclosure in the Corporate Governance Report.

This is redundant. Since the terms of reference of corporate governance committees have been incorporated into the Code provision, it does not matter whether it is

D.3.2 A corporate governance committee (or existing committees performing this function) should have a majority of independent non-executive directors as its members.

Called a "Corporate Governance Committee" or

Note: A corporate governance committee should have at least 1 member who is an executive director or non-executive director with sufficient knowledge of the issuer's day-to-day operations.

Q42

Recommended Best Practice

D.3.3 The board should establish a corporate governance committee with specific written terms of reference (see D.3.1) which deal clearly with its authority and duties.

other committees performing the same function.

E. COMMUNICATION WITH SHAREHOLDERS

E.1 Effective communication

Principle

The board should endeavour to maintain be responsible for maintaining an on-going dialogue with shareholders and in particular, use annual general meetings or other general meetings to communicate with shareholders them and encourage their participation.

Code Provisions

E.1.1 In respect of For each substantially separate issue at a general meeting, a separate resolution should be proposed by the chairman of that meeting. Issuers should avoid "bundling" resolutions unless they are interdependent and linked forming one significant proposal. Where the resolutions are "bundled", issuers should explain the reasons and material implications in the notice of meeting.

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This note is not necessary, pls consider deleting this

Note: An example of a substantially separate issue is the nomination of persons as directors. Accordingly, each such person should be nominated by means of a separate resolution.

E.1.2 The chairman of the board should attend the annual general meeting, and He should also arrange for the chairmen of the audit, remuneration, and nomination and any other committees (as appropriate) to attend. or in the In their absence, of the chairman of such committees, he should arrange for another member of the committee or failing this his duly appointed delegate, to attend. be These persons should be available to answer questions at the annual general meeting. The chairman of the independent board committee (if any) should also be available to answer questions at any general meeting to approve a connected transaction or any other transaction that is subject to require independent shareholders' approval. An issuer's management should

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ensure the external auditor attend the annual general meeting to answer questions about the conduct of the audit, the preparation and content of the auditors' report, the accounting policies and auditor independence.

E.1.3 The issuer should arrange for the notice to shareholders to be sent ~~in the case of~~ for annual general meetings at least 20 clear business days before the meeting and to be sent at least 10 clear business days ~~in the case of~~ for all other general meetings.

E.1.4 The board should establish a shareholders' communication policy and review it on a regular basis to ensure its effectiveness.

E.2 Voting by Poll

Principle

The issuer should ensure that shareholders are familiar with the detailed procedures for conducting a poll.

Code Provisions

E.2.1 The chairman of a meeting should ~~at the commencement of the meeting~~ ensure that an explanation is provided of the detailed procedures for conducting a poll and ~~then~~ answer any questions from shareholders ~~regarding on~~ voting by way of a poll.

Q105

However, notwithstanding the important role played by the company secretary, the board will be ultimately responsible for ensuring good corporate governance set out in this Code.

F. COMPANY SECRETARY

Principle

The company secretary plays an important role in supporting the board by ensuring good information flow within the board and that board policy and procedures are followed. The company secretary is responsible for advising the board through the chairman and /or the chief executive officer on governance matters and should also facilitate induction and professional development of directors.

Code Provisions

F.1.1 The company secretary should be an employee of the issuer and have day-to-day knowledge of the issuer's affairs. ~~Where an issuer engages an external service provider as its company secretary, it should disclose the identity of a person with sufficient seniority (e.g. chief legal counsel or chief financial officer) at the issuer who the external provider can contact.~~

a full time

F.1.2 The board should approve the selection, appointment or dismissal of the company secretary.

and

engagement of external service provider should not be allowed. 26

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Maintaining proper training records is the responsibility of the individual director whereby such responsibility must not be shifted to the Company secretary!

Note: A board meeting should be held to discuss the dismissal of the company secretary and the matter should be dealt with by a physical board meeting rather than a written resolution.

F.1.3 The company secretary should report to the board chairman and/or the chief executive officer, and/or chief financial officer ^{with the attendance of the company secretary concerned}

F.1.4 All directors should have access to the advice and services of the company secretary to ensure that board procedures, and all applicable rules and regulations, are followed.

F.1.5 The company secretary should maintain a record of the training undertaken by directors for each financial year under A.6.5.

CORPORATE GOVERNANCE REPORT

MANDATORY DISCLOSURE REQUIREMENTS

2. ~~Listed issuers shall~~ To provide transparency, the issuers must include the following information for the accounting period covered by the annual report and any significant subsequent events pertaining to the following information for any subsequent period up to the date of publication of the annual report, to the extent that is practicable possible;

(a)G. CORPORATE GOVERNANCE PRACTICES

- (ia) a narrative statement ~~of explaining how the listed issuer has applied the principles in the Code, providing explanation which enables enabling~~ its shareholders to evaluate how the principles have been applied;
- (iib) a statement as to whether the listed issuer meets the code provisions ~~in the Code~~. If a listed ~~an~~ issuer has adopted its own code that exceeds the code provisions ~~set out in the Code~~, such listed issuer ~~it~~ may draw attention to ~~such this~~ fact in its annual report; and
- (iic) ~~in the event of for~~ any deviation from the code provisions ~~set out in the Code~~, details of ~~such the~~ deviation during the financial year (including considered reasons ~~for such~~ deviations).

(b)H. DIRECTORS' SECURITIES TRANSACTIONS

~~In respect of~~ For the Model Code set out in Appendix 10;

- (ia) whether the listed issuer has adopted a code of conduct regarding directors' securities transactions on terms no less exacting than the required standard set out in the Model Code;
- (iib) having made specific enquiry of all directors, whether the directors of the listed issuer have complied with, or whether there has been any non-compliance with, the required