

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/cp201406.pdf>

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

1. Do you agree with our proposal to amend the title of Section C.2 of the Code to “Risk management and internal control”?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal to amend the title of Section C.2 of the Code to “Risk management and internal control” as internal control is a part of risk management and an important tool for assisting the company to identify potential risk and monitor and remediate action.

2. Do you agree with the proposed amendments to Principle C.2 to define the roles of the board and the management, and state that the management should provide assurance to the board on the effectiveness of the risk management systems? Is the intention of the proposed wording sufficiently clear?

☒ Yes

☐ No

Please give reasons for your views.

We agree to define the roles of the board and the management clearly. Proper segregation of duties between the board and the management would help to enhance the effectiveness of the internal control and risk management systems. Besides, accountability would also be promoted.
The management is also recommended to provide assurance to the board on the effectiveness of the risk management system since they are responsible for designing, implementing and monitoring the system. Moreover, they are responsible for identifying and evaluating the risk faced by the company, while the board is responsible for determining the nature and extent of the significant risks which the company is willing to take in achieving its objectives. Therefore, it is appropriate for the management to provide assurance to the board on the effectiveness of the risk management system.

3. Do you agree with our proposal to introduce an amended RBP (C.2.6) to provide that the board may disclose in the Corporate Governance Report that it has received assurance from management on the effectiveness of the issuer's risk management and internal control systems? Is the intention of the proposed wording sufficiently clear?

☒ Yes

☐ No

Please give reasons for your views.

We agree that the board may disclose in the Corporate Governance Report that it has received assurance from management on the effectiveness of the issuer's risk management and internal control systems. Most of the investors would pass up the opportunity to invest in a company if they believe risk management is insufficient in that company. If assurance from management on the effectiveness of the issuer's risk management and internal control systems is provided in the Corporate Governance Report, this could help to enhance investors' confidence on the company's risk management system.

4. Do you agree with the proposed amendments to CP C.2.1 to state that the board should oversee the issuer's risk management and internal control systems on an ongoing basis? Is the intention of the proposed wording sufficiently clear?

☒ Yes

☐ No

Please give reasons for your views.

Risk management and internal control systems are integrated into the daily operation of the issuer. They are used to monitor the risk/ deficiencies of the issuers during the daily operation. Therefore, we agree that the board should oversee the issuer's risk management and internal control systems on an ongoing basis.

5. Do you agree with our proposal to upgrade to a CP the existing RBP C.2.3, which sets out the matters that the board's annual review should consider?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal to upgrade the existing RBP C.2.3 to CP as it clearly sets out the matters that the board should consider during the annual review. It provides guidance to the board on what they should do during the review.

6. Do you agree with our proposal to upgrade to a CP the existing RBP C.2.4, which sets out the particular disclosures that issuers should make in their Corporate Governance Reports in relation to how they have complied with the internal control CPs during the reporting period?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal to upgrade the existing RBP C.2.4 to CP as it clearly sets out the particular disclosures that issuers should make in their Corporate Governance Reports in relation to how they have complied with the internal control CPs during the reporting period. In addition, the disclosures help the investors and other stakeholders to assess whether the issuer's management and board have properly discharged their duties to maintain a sound internal control system.

7. Do you agree with our proposal to amend the wording of proposed CP C.2.4 to simplify the requirements and remove ambiguous language, and to make clear that the risk management and internal control systems are designed to manage rather than eliminate risks? Is the intention of the proposed wording sufficiently clear?

☒ Yes

☐ No

Please give reasons for your views.

*There is always a misunderstanding that risk management and internal control systems are designed to eliminate risks instead of manage risks. Therefore, the management is not willing to put efforts on the risk management and internal control systems.
It would be clear if the proposal is to amend the wording of proposed CP C.2.4 to simplify the requirements and remove ambiguous language, and to make clear that the risk management and internal control systems are designed to manage rather than eliminate risks. So, we agree with the proposal.*

8. In relation to proposed CP C.2.4, do you agree with our proposal to upgrade the existing recommendation that issuers disclose their procedures and internal controls for handling and disseminating inside information (Section S., paragraph (a)(ii)), and amend it to include the handling of “other regulatory compliance risks”?

☒ Yes

☐ No

Please give reasons for your views.

There is an increasingly concern on inside information and other regulatory compliance risks in the market. It is important for the issuer to have a sound internal control system to ensure that inside information and other regulatory compliance issues are handled and disseminated properly and in time. Therefore, we agree with the proposal to upgrade the existing recommendation and amend it to include the handling of “other regulatory compliance risks”.

9. Do you agree with our proposal to upgrade to Mandatory Disclosures the following existing Recommended Disclosures in relation to internal controls (Section S.):

- (a) whether the issuer has an internal audit function;
- (b) how often the risk management and internal control systems are reviewed, the period covered, and where an issuer has not conducted a review during the year, an explanation why not;
- (c) a statement that a review of the effectiveness of the risk management and internal control systems has been conducted and whether the issuer considers them effective and adequate; and
- (d) significant views or proposals put forward by the audit committee?

☒ Yes

☐ No

Please give reasons for your views.

We agree to upgrade Section S to Mandatory Disclosures. It does not only provide disclosure guidance to the issuer, but also provide investors with a chance in assessing the issuer’s risk management and internal control systems.

10. Do you agree with our proposal to move the existing recommendation that issuers disclose details of any significant areas of concern (Section S., paragraph (a)(ix)) to a new RBP C.2.7, and to amend the provision to widen its application by removing the reference to areas of concern “which may affect shareholders”?

☒ Yes

☐ No

Please give reasons for your views.

We agree that the company should not only disclose the details of areas which may affect shareholders. Instead, the company should disclose the details of all significant areas. Therefore, we agree with the proposal to amend the provision to widen its application by removing the reference to areas of concern “which may affect shareholders” and move the existing recommendation that issuers disclose details of any significant areas of concern to a new RBP C.2.7.

11. Do you agree with our proposal to remove RBP C.2.5, which states that issuers should ensure their disclosures provide meaningful information and do not give a misleading impression?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal to remove RBP. C.2.5 since the disclosure details are included in other sections.

12. Do you agree with our proposals to remove the recommendations that issuers include in their Corporate Governance Reports:

(a) an explanation of how the internal control system has been defined for them (Section S., paragraph (a)(i)); and

(b) the directors' criteria for assessing the effectiveness of the internal control system (Section S., paragraph (a)(vii))?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposals since the disclosure details are included in other sections.

13. Do you agree with our proposal to upgrade RBP C.2.6 to a CP (re-numbered C.2.5) and amend it to state that an issuer should have an internal audit function, and issuers without an internal audit function should review the need for one on an annual basis and disclose the reasons for the absence of such function in the Corporate Governance Report? Is the intention of the proposed wording sufficiently clear?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal.

Regular review on the risk management and internal control systems could help issuers to confirm the effectiveness of the systems. Remedial actions could be taken if issuers could identify the deficiencies at the earliest time. Moreover, it is a compulsory practise in other countries. As per the Code of Corporate Governance 2012 of Singapore, the internal audit function can be in-house, outsourced to a reputable accounting/ auditing firm or corporation, or performed by a major shareholder, holding company or controlling enterprise with an internal audit staff. To avoid any doubt from the investors and stakeholders, the issuers should disclose the reasons for the absence of internal audit function in the Corporate Governance Report.

Besides, we recommend that the issuer with internal audit function should engage independent internal control consultant to review the risk management and internal control systems after a period of time. As per the attribute standard 1312 of International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors, external assessments must be conducted at least once every five years by a qualified, independent reviewer or review team from outside the organization. This could help the management to confirm the independence of the internal audit function and bring in new ideas on the risk management and internal control systems.

14. Do you agree with our proposal to introduce new Notes to the proposed CP C.2.5 to clarify that:

- (a) the role of the internal audit function is to carry out the analysis and independent appraisal of the adequacy and effectiveness of an issuer's risk management and internal control systems; and
- (b) a group with multiple listed issuers may share group resources of the holding company to carry out the internal audit function for members of the group?

☒ Yes

☐ No

Is the intention of the proposed wording sufficiently clear? Please give reasons for your views.

We agree with the proposal to introduce new Notes to the proposed CP C.2.5. It provides clarification on the role of the internal audit function. Besides, it specifically mentions that a group with multiple listed issuers could share group resources of the holding company to carry out the internal audit function for members of the group, which helps to eliminate issuer's concern about the set up fee of internal audit function.

15. Do you agree with our proposal to amend the existing CP C.2.2 to state that the board's annual review should ensure the adequacy of resources, staff qualifications and

experience, training programmes and budget of the issuer's internal audit function (in addition to its accounting and financial reporting functions)?

☒ Yes

☐ No

Please give reasons for your views.

We agree with the proposal that the board should ensure the adequacy of resources, staff qualifications and experience, training programmes and budget of the internal audit function since it is as important as accounting and financial reporting functions.

16. Do you agree with our proposal to amend Principle C.3 in respect of audit committees and CP C.3.3 in respect of their terms of reference to incorporate "risk management" where appropriate?

☒ Yes

☐ No

Please give reasons for your views.

We agree to incorporate "risk management" in Principle C.3 and CP C.3.3 as risk management is as important as other finance-related areas. In addition, we recommend that regular meeting should be held between the audit committee and the internal audit function/ independent internal control consultant to ensure that management do not override.

17. Do you agree that the matter of establishing a separate board risk committee should be left to issuers to decide in accordance with their own circumstances?

☒ Yes

☐ No

Please give reasons for your views.

We agree to establish a separate board risk committee since the committee could focus more on the risk management and internal control matters.

18. What would be an appropriate period of time between the publication of the consultation conclusions and the implementation of the amendments set out in the Consultation Paper?

- ☒ Six months
- ☐ Nine months
- ☐ 12 months
- ☐ Others (please specify:)

Please give reasons for your views.

We suggest providing 6 months to the issuers as transition period. As the code has been prevailed for many years, the issuers have already established a sound risk management and internal controls system. It is not difficult for them to make the disclosures.

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