

## 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/cp201209q.doc>.

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

1. Do you agree that the Exchange should promote board diversity?

Yes

No

Please give reasons for your views.

We support diversity as a concept, which ideally it should permeate beyond Board to all levels of operations of an enterprise. At Board level, ideally there should be at least one to get female perspective in the decision making process.

Being a goal, we thought board diversity as a rule should be implemented in stages. Sufficient amount trial time should be allowed for issuers to familiarize themselves with the concept and to try out the requirements of the concept. Governance concept of Western countries is good reference but should be implemented with reference to local characteristics. We recall that it has taken many years for the requirement of INEDs to be in full place in the corporate governance landscape of Hong Kong.

We therefore suggest the board diversity concept to come, first, as a recommended best practice (**RBP**). Evaluation can then be made, after a trial period (say, 3 years), to assess how ready Hong Kong listed companies are for the change suggested. If real benefit is not apparent, it is either that many issuers are not ready, or they do not buy in the concept all together.

Little benefit is there if issuers only pay lip service to the code provision (**CP**). A worst case is wives/girlfriends/mistress, and daughters/sons/grandsons, of directors join the Board only for the issuers to satisfy the gender and age CP. This will be counter-productive from the perspective of promoting good corporate governance with local issuers.

In suggesting this, we have considered the following:

1. Lack of urgency

On the statistics in the Consultation Paper, Hong Kong is not doing that bad. European countries have a relatively high proportion of females sitting on the board but this is a result of legislations. Hong Kong does not fall behind UK too much and is ahead of Malaysia and Singapore who have such board diversity provision in their codes. One wonders if there is any urgency to implement the concept immediately as a CP.

2. Board cohesiveness

Board stability is important. Board room politics are disruptive, and at times, destructive, which should be avoided. The 'benefits' cited in paragraphs 40 to 56 of the Consultation) sound theoretical, whereas the 'cost' cited in paragraphs 57 & 58 is real.

3. Breathing space

Many local issuers have just completed revamping their board to accommodate the INEDs requirement. It can be disruptive (especially for small issuers) if they are to re-shuffle their Board again in short spate of time. Right candidates may be difficult to find if they are in demand in a short time and there is a lack of "training platform".

2. If your answer to Q.1 is "yes", do you agree that our Corporate Governance Code and Corporate Governance Report is the appropriate place for the new measures on board diversity?

Yes

No

Please give reasons for your views.

We suggest board diversity as a RBP first. Perhaps a note can be added to this RBP encouraging issuers to have and disclose such a policy in their CG Report.

3. Do you agree with our proposal to introduce CP A.5.6 (*the nomination committee or the board should have a policy concerning diversity of board members, and should disclose the policy or a summary of the policy in the corporate governance report*)? Please give reasons for your views.

Yes

No

Please give reasons for your views.

We agree with the suggestion that the nomination committee of the listed issuers is the right body to consider board diversity matters. We do not agree to make this a CP. We suggest having the concept as RBP first. Please see our answer in paragraph 1 and 2 above.

4. Do you agree (i) with our proposal to introduce a note under CP A.5.6 to clarify what we mean by diversity; and (ii) with the content of the note? Please give reasons for your views.

(i)  Yes

No

(ii)  Yes

No

Please give reasons for your views.

We do not agree to start the concept as a CP. We suggest having it as RBP first.

The note, as drafted, is acceptable. It is clear on the point that board diversity should suit the circumstances of each issuer and should not be confined only to gender or age. Diversity in experience, professional expertise, and perspective is more important, which we hope the note can highlight these attributes.

5. Do you agree with our proposal to introduce a new mandatory disclosure provision in the Code stating that if the issuer has a policy concerning diversity, it should disclose details of the board's policy or a summary of the policy on board diversity, including any measurable objectives that it has set for implementing the policy, and progress on achieving the objectives? Please give reasons for your views.

Yes

No

Please give reasons for your views.

Issuers should be encouraged (but should not be compelled) to disclose their board diversity policy. Issuers should be given the freedom to decide what is best for their board and what is best for them to disclose, or not disclose.

Open and objectively measurable board diversity policy may work for majority-public-held companies (e.g. HSBC), or majority-government-held companies (e.g. MTR), but not necessarily for family-controlled issuers whose owners regard issues touching upon board appointment and board succession as personal and sensitive matters. Owners of medium/small issuers may not want the board seat of their companies to become 'predictable' to outsiders, perhaps for the fear of becoming target of takeover or inviting family/internal power struggle. Besides, it is not easy to set measurable objectives, and objectives can change with time and with changing circumstances. At best, this should only be a RBP.

6. Which of the following would you prefer as the implementation date of the amendments set out in this paper?

1 January 2013

1 April 2013

1 June 2013

1 September 2013

Other, please specify and give reasons.

If against the rationale we argue it has to be a CP, we thought issuers should have more time to brace themselves for another board re-shuffle. It should not be implemented any time earlier than **2014**.

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