

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.

Many jurisdictions are beginning to address the issue of board diversity in various ways. This includes mature markets such as Norway, Australia and France, as well as so-called emerging markets such as Malaysia. Hong Kong should keep pace, and be seen to be keeping pace, with such developments.

Board diversity is widely seen as a key element of companies' ethical and corporate social responsibility programme that is important to their' reputation and standing. In addition, there is also empirical research that suggests that strong diversity (however defined) also contributes to improved business performance.

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.

It is best to integrate measures on board diversity with other corporate governance regulations and guidelines so that its status as an important element of an overall successful governance framework can be understood by the issuer. The HKSE's proposals relating to reporting of this issue also make it appropriate for the measures to be included in the Corporate Governance 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.

Establishing and then disclosing a policy by an issuer is a good first step in promoting board diversity under the "comply or explain" format. Consideration should also be given to the transparency of the next steps – especially given the mandatory disclosure under 5 below - Is there an expectation of a further consultation process and of raising this requirement to a Rule?

We would further recommend that consideration be given to disclosure, or an encouragement to disclose, the entity's wider policy on diversity for management and staff levels, even though this goes beyond the scope of board diversity.

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.

The clarification needs to be made in order to provide a degree of guidance to issuers and because, if none were given, it would be a reason for the issuer to ignore the requirement. At the same time, the definition needs to afford some flexibility and this is achieved in the clarification provided by the proposed note as this recognises that the notion of board diversity will vary from company to company and because the note does not attempt to provide an exhaustive list of factors pertaining to diversity.

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.

The disclosure is appropriate in helping to ensure that policies on board diversity that are established are actually implemented. However, the combination of this mandatory disclosure requirement and the CP "comply or explain"-based requirement in 3 might seem contradictory.

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.

In part, this will be impacted by the date of issue of the final conclusions. We would recommend, at a minimum, a three-month period as well as considering the profile of year end dates – accordingly, we would prefer either 1 April 2013 or 1 September 2013 depending on the final conclusion date

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