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9 November 2012

Corporate Communications Department
Hong Kong Exchanges and Clearing Limited
12th Floor, One International Finance Centre
1 Harbour View Street
Central, Hong Kong

Dear Sirs

Re: Consultation Paper on Board Diversity

The Hong Kong Institute of Directors ("HKIoD") is pleased to forward our response to the captioned paper.

HKIoD is Hong Kong's premier body representing directors to foster the long-term success of companies through advocacy and standards-setting in corporate governance and professional development for directors. We are committed to contributing towards the formulation of public policies that are conducive to the advancement of Hong Kong's international status.

In developing the response, we have consulted our members and organised focused discussions.

Should you require further information regarding our response, please do not hesitate to contact [REDACTED]

With best regards

Yours sincerely
The Hong Kong Institute of Directors

[REDACTED]

[REDACTED]

cc: [REDACTED]

[REDACTED]

Issued on: 9 November 2012

Consultation Paper on Board Diversity

In relation to the Consultation Paper on Board Diversity, the Hong Kong Institute of Directors (“HKIoD”) is pleased to present its views and comments.

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General comments

Board diversity is about building the right board, recruiting the right individuals to fill board roles. It is about composing and maintaining a board with the right mix of skill sets that will increase board effectiveness and bring long-term shareholder value.

Board diversity must only be understood in the broad sense, in the proper context of a board’s role.

Diversity in the proper context of a board’s role

A key role and purpose of a board is to set company strategy and objectives, and to oversee and monitor the performance of management in its implementation. Under the Code as revised, a board (through its nomination committee) has its duty to regularly assess the structure, size and composition of the board as to be consistent with and able to carry out the corporate strategic goals/objectives as determined by the board from time to time. This entails assessing the skills and experiences of the current board members, and to expand skill sets to overcome weaknesses or to fill missing gaps if necessary. This would also entail an assessment of whether certain elements of diversity, be it age, gender, ethnicity or other attributes, could enhance boardroom discussions and decision-making but were missing.

A diverse board should help improve board effectiveness and performance.

Look inside to identify what is missing

Board evaluation is an ideal opportunity for a board to identify gaps hindering board effectiveness and performance, and to make changes to close those gaps. Those gaps could relate to certain skills or experience background, but could also relate to certain elements of diversity that could benefit boardroom discussions and decision-making.

As we stated in our response to the Corporate Governance Code Review Consultation, HKIoD generally supports board and director self-evaluation. Board (and committee) self-evaluation encourages a reflection on how well the board (and its committees) is performing and what changes and adjustments might be necessary going forward to improve performances. Self-assessment of performance by individual directors encourages a reflection on their role and contribution in the board and how to improve.

If as a result of the evaluation process a board reaches a conclusion to look for new or additional members, the board should expand the horizons when recruiting candidates, looking beyond personal networks and familiar circles into a broader candidate pool. Individual skills and exposure relevant to corporate strategy are elements of diversity that are just as if not more important than identity such as age, gender or ethnicity.

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Look outside to recruit from among quality candidates

The often resorted to method of recruiting board candidates – only looking at whom you already know – is likely only going to turn up people from similar social circles or business relationships. A board is probably not diverse if it is composed of too many people of the same background.

HKIoD maintains a roster of some 200 members with various business and professional experiences and from many different personal and social backgrounds who have eagerly indicated their willingness and who have conscientiously equipped themselves to serve on listed company boards. HKIoD also hosts many networking events throughout the year, bringing seasoned and aspiring directors together. Sitting board members, especially those with nomination committee roles, can probably spot and discover good prospects at those events.

It is essential that we find individuals who have the skills, knowledge and qualities to meet corporate governance demands of today to fill director positions, not just to make up the numbers. HKIoD believes all company directors, when they first assume their posts, should have a firm grounding of the skills, knowledge and qualities required to meet the corporate governance demands of today. Proper initial training for first-time directors is one key aspect of the total quality of corporate governance training. HKIoD offers a variety of training courses (more than 100 sessions a year), including many which are suitable for first-time listed-company directors.

Potential candidates, those who aspire to become a listed-company director, can also get a head start equipping themselves through those training programmes. Credentials from proper and recognized training can only enhance the chances of those who wish to become the choice diversity candidate for board level positions.

The “one-third INED” requirement is an impetus

A new Rule will soon require issuers to appoint INEDs representing at least one third of the board. As we said in our response to the Corporate Governance Code Review Consultation, issuers can satisfy the “one-third INED” requirement by decreasing the number of EDs and NEDs, or by increasing the number of INEDs, or both. Given the heightened requirements and expectations on various board committees, we think issuers will find value in recruiting more number of willing and able persons to join their boards as INEDs.

As issuers maintain their “at least one-third INEDs” requirement over time, diverse candidates meeting company needs are worthwhile alternatives to resorting to the same group of directors, though well-seasoned, who might be spreading themselves thin serving already on many boards.

Issuers design their boards

We think issuers will find value in recruiting willing and able persons of diverse background to join their boards. Diversity in composition, for instance, can keep a board from having too many people with the same background to fall prey of group-think. But it must remain the decision of each issuer’s board (and its nomination committee) to determine the right size and mix of attributes of the board to best suit the issuer’s needs. The key criteria for a board appointment must be on the merit of a candidate’s likely contribution to devising and

attaining a company's objectives, not about recruiting tokens or names against some quotas or targets, nor to appear to be catering to some social objectives. The point, always, is to build and maintain an effective board.

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Responses to consultation questions

Subject to our general comments above, we state our responses to specific questions as set out in the Consultation Paper as follows:-

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

HKIoD Response:

- Yes, we agree the Exchange should promote board diversity, but it should be diversity in the broad sense that should be promoted. Board diversity is about composing and maintaining a board with the right mix of skill sets that will improve board effectiveness and bring long-term shareholder value, not about meeting quota or targets pursuant to some otherwise desirable social objectives. See our general comments.

Q.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?

HKIoD Response:

- Yes, we agree the Corporate Governance Code and the Corporate Governance Report is the right place for new measures on board diversity.

Q.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)?

HKIoD Response:

- Yes, we can support the proposal to introduce board diversity as a Code Provision.
- As a related matter, we do support the proposed changes to be made to Principle A.3 and A.5, as described in paragraphs 65 and 66 of the Consultation Paper.
- We do note that some of our members believe “board diversity” should be allowed to evolve rather than forced upon by directive or formal regulation. They believe that to introduce the notion as a Code Provision at this stage could result in boards scrambling to comply in the technical sense, filling positions with “token” or “trophy” diversity members, but missing on the real context of board diversity we set out in the general comments. They also believe there is a good case for introducing the notion first as an RBP, subject to review in no more than three years.

Q.4 Do you agree with our proposal to introduce a note under CP A.5.6 to clarify what we mean by diversity and do you agree with the content of the note?

HKIoD Response:

- Yes, we agree with the proposal to introduce the note under the proposed CP A.5.6.

Q.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?

HKIoD Response:

- Yes, we can support the proposal to introduce the new mandatory disclosure provision.
- We also note that, under the Code as revised, an issuer is already expected to report the process and criteria adopted by the nomination committee or the board of directors (if there is no nomination committee) to select and recommend candidates for directorship during the year. We encourage issuers to disclose how its board/nomination committee considers diversity in the process of searching and nominating board candidates. Ideally, issuers will give thorough explanations of their director search process and why a candidate is believed to bring value into boardroom discussions and decision making. The rationale behind such disclosure is for issuers to convey to shareholders and stakeholders that the board recruited the best candidate from a broad pool of prospects.

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

- (i) 1 January 2013
- (ii) 1 April 2013
- (iii) 1 June 2013
- (iv) 1 September 2013
- (v) other (please specify)

HKIoD Response:

- We think choice (iv) is appropriate to give more issuers ample time to go through another board election in the upcoming AGM cycle.

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