

Consultation Paper

# Review of Corporate Governance Code and Related Listing Rules



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## HOW TO RESPOND TO THIS CONSULTATION PAPER

The Exchange, a wholly-owned subsidiary of HKEX, invites written comments on the matters discussed in this paper, or comments on related matters that might have an impact upon the matters discussed in this paper, on or before **18 June 2021**.

To submit written comments please complete the questionnaire that can be accessed via the link and QR code below.

Link: [https://hkex.syd1.qualtrics.com/jfe/form/SV\\_0uYXDSX7rZolCns](https://hkex.syd1.qualtrics.com/jfe/form/SV_0uYXDSX7rZolCns)

QR code:



Our submission enquiry number is (852) 2840 3844.

Respondents are reminded that we will publish responses on a named basis in the intended consultation conclusions. If you do not wish your name to be disclosed to members of the public, please state so when responding to this paper. Our policy on handling personal data is set out in **Appendix V**.

Submissions received during the consultation period by **18 June 2021** will be taken into account before the Exchange decides upon any appropriate further action and a consultation conclusions paper will be published in due course.

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## DEFINITIONS

TERM	DEFINITION
<b>“2010 CG Consultation”</b>	Review of the Code on Corporate Governance Practice and Associated Listing Rules <ul style="list-style-type: none"> <li>- <a href="#">Consultation Paper</a></li> <li>- <a href="#">Consultation Conclusions</a></li> </ul>
<b>“2017 CG Consultation”</b>	Review of the Corporate Governance Code and Related Listing Rules <ul style="list-style-type: none"> <li>- <a href="#">Consultation Paper</a></li> <li>- <a href="#">Consultation Conclusions</a></li> </ul>
<b>“2019 ESG Consultation”</b>	Review of the Environmental, Social and Governance Reporting Guide and Related Listing Rules <ul style="list-style-type: none"> <li>- <a href="#">Consultation Paper</a></li> <li>- <a href="#">Consultation Conclusions</a></li> </ul>
<b>“CG Disclosure Analysis”</b>	<a href="#">Analysis of 2019 Corporate Governance Practice Disclosure</a> published in December 2020
<b>“Code” or “Appendix 14”</b>	Corporate Governance Code and Corporate Governance Report as set out in Appendix 14 to the MB Rules and Appendix 15 to the GEM Rules
<b>“CG Code”</b>	Corporate Governance Code under the Code
<b>“CG Report”</b>	Corporate Governance Report under the Code
<b>“CP(s)”</b>	Code Provisions under the CG Code
<b>“Exchange”</b>	The Stock Exchange of Hong Kong Limited
<b>“ESG Guide”</b>	Environmental, Social and Governance Reporting Guide as set out in Appendix 27 to the MB Rules and Appendix 20 to the GEM Rules
<b>“GEM Rules”</b>	Rules Governing the Listing of Securities on GEM
<b>“2018 Guidance”</b>	The <a href="#">Guidance for Boards and Directors</a> published in July 2018
<b>“HKEX”</b>	Hong Kong Exchanges and Clearing Limited
<b>“HKMA”</b>	Hong Kong Monetary Authority
<b>“ICAC”</b>	Hong Kong Independent Commission Against Corruption
<b>“INED”</b>	Independent Non-Executive Director

TERM	DEFINITION
<b>“IPO”</b>	Initial Public Offering
<b>“MB Rules”</b>	Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited
<b>“MDR(s)”</b>	Mandatory Disclosure Requirements
<b>“NED”</b>	Non-Executive Director
<b>“RBP(s)”</b>	Recommended Best Practices under the CG Code
<b>“RD”</b>	Recommended Disclosures
<b>“Rules” or “Listing Rules”</b>	Collectively, the MB Rules and the GEM Rules
<b>“SFC”</b>	Securities and Futures Commission
<b>“TCFD Recommendations”</b>	<a href="#"><u>Recommendations of the Task Force on Climate-related Financial Disclosures</u></a>

1. This consultation paper seeks views and comments on proposed changes to the Code as well as related amendments to the Listing Rules.
2. It has been the Exchange's long standing commitment to promote good corporate governance ("**CG**") amongst issuers. The framework in the Code and the Listing Rules is designed to help boards to be effective, by providing benchmarks and best practice guidance for the delivery of good corporate governance.
3. We review our corporate governance framework from time to time to ensure it remains fit for purpose, continues to promote improvement in the quality of governance, and is adequate for maintaining investors' confidence in the market. We have taken into account market developments in this area, our observations from the CG Disclosure Analysis, as well as views expressed by professional and market practitioners, industry groups including those representing investors.

### **Corporate governance for IPO applicants**

4. It is important for IPO applicants to include corporate governance considerations in their planning. It is tempting for the board to put it off until the annual reporting season. However, the board is collectively responsible for ensuring that the IPO applicant builds the necessary governance mechanisms into the listing process, so that these are up and running immediately upon listing. New IPO applicants were reminded of this requirement in an updated guidance letter published in July 2020<sup>1</sup> ("**IPO Guidance**").
5. In December 2020, the Exchange published a [Practitioners Insights](#) presenting a collection of experiences shared by market practitioners. This aims to help directors of IPO applicants and newly listed companies think holistically about building and integrating CG and ESG considerations into their business strategy to achieve long-term value for their organisations.

### **Focus of this consultation**

6. Our proposals aim to:
  - (a) highlight the importance of corporate culture in alignment with vision and strategy to deliver long-term sustainable performance;
  - (b) enhance board independence, promote board refreshment and succession planning, and strengthen the role of the nomination committee ("**NC**");
  - (c) further promote board (gender) diversity of listed issuers;
  - (d) improve communications with shareholders;
  - (e) elaborate the linkage between CG and ESG, and improve the timeliness of ESG reports by aligning the publication timeframe of ESG reports with annual reports; and
  - (f) improve the flow and readability of the Code.

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<sup>1</sup> [HKEX-GL86-16](#).

A summary of our proposals is set out in Chapter 2 of this paper.

7. A healthy culture plays a pivotal role in good governance, and the board should demonstrate good practice in the boardroom and promote governance throughout the business. The company as a whole must demonstrate openness and accountability, and should engage constructively with shareholders and wider stakeholders about culture.
8. Directors' independence has been our focus. It is of utmost importance to ensure that INEDs continue to make the expected contribution to the board. Board makeup should change in line with evolving business environment and challenges. Therefore, it is necessary to refresh the board to avoid entrenchment and to attract new views and perspectives. The board must also put succession planning into practice to ensure its long-term success. A transparent and independent oversight by the NC of matters in relation to board nomination and recruitment, board diversity and succession planning is key to promote better practice and standards.
9. Diversity is an important driver of board's effectiveness, creating cognitive diversity in the boardroom and breaking down a tendency towards "group think". Since January 2019, all issuers are required to have and disclose their board diversity policy, making Hong Kong the first jurisdiction to mandate such policy. IPO applicants are required to disclose their board diversity policy in their prospectus; and for those with a single gender board, they are further required to explain the measures put in place to achieve gender diversity of the board after listing<sup>2</sup>.
10. Effective engagement with shareholders and stakeholders is important for a company to meet its responsibilities to shareholders and stakeholders. Continuous dialogue with shareholders and stakeholders not only enables dissemination of information relating to the company to shareholders and stakeholders, it also facilitates the board to effectively solicit and receive feedback on how the company is perceived by shareholders and stakeholders. Two-way communication is conducive to setting or refining the company's strategy for future development.
11. Governance and oversight of ESG matters, and management of material ESG risks (including climate-related risks), are an integral part of good corporate governance. It was considered as best practice for a company to publish ESG information simultaneously with its financial information. Improved timeliness of ESG information also facilitates shareholders and investors' understanding of the company's performance in a more comprehensive manner.

## **Future of CG and ESG**

12. Delivery on good corporate governance practices and ESG measures is more than a box-ticking exercise. Rules and sanctions have their regulatory function, but they will not deliver behavioural change on their own. The change needs to begin with a shift of mindset at the top of organisations. We will continue to support the entire issuer community by providing trainings and publishing guidance materials, with the aim of instilling enhanced attitudes towards corporate governance and ESG for listed companies, and their boards. To reinforce the importance of building CG/ESG mechanisms into the listing process, we will review the CG/ESG disclosures in prospectuses to provide further guidance to IPO applicants this year.

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<sup>2</sup> (a) How and when gender diversity of the board will be achieved after listing; (b) What measurable objectives it has set for implementing gender diversity; and (c) What measures the applicant has adopted to develop a pipeline of potential successors to the board that could ensure gender diversity of the board. ([HKEX-GL86-16](#)).

13. Quality disclosures by issuers will ensure compliance with the Rules, and enable shareholders to effectively assess the company's governance arrangements and the board's activities and contributions. Focusing on application of the Principles is essential to the corporate governance framework within the issuer. Directors' independence and accountability, as well as promoting board diversity amongst IPO applicants and listed issuers, will remain our focus.
14. Climate-related risks and adoption of the TCFD Recommendations<sup>3</sup> are increasingly cited as a major priority on the global agenda. Our new ESG reporting requirements that came into effect in July 2020 have incorporated certain important elements of the TCFD Recommendations<sup>4</sup>. Recently, the Hong Kong Green and Sustainable Finance Cross-Agency Steering Group<sup>5</sup> announced its plan towards mandatory TCFD-aligned climate-related disclosures by 2025, and the SFC and HKMA also launched initiatives to enhancing disclosure of climate-related risks (referencing the TCFD Recommendations) by asset managers and banks respectively<sup>6</sup>. We encourage issuers to consider adopting the TCFD Recommendations when disclosing climate change-related information in compliance with the ESG Guide<sup>7</sup>, and will provide further guidance in this regard.

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<sup>3</sup> The TCFD Recommendations cover four thematic areas: (a) governance; (b) strategy; (c) risk management; and (d) metrics and targets. For details, please refer to: the [TCFD website](#).

<sup>4</sup> See paragraph 121 for details.

<sup>5</sup> In December 2020, the Hong Kong Green and Sustainable Finance Cross-Agency Steering Group [announced](#) its green and sustainable finance strategy for Hong Kong and five key action points, which include mandating climate-related disclosures aligned with the TCFD Recommendations across relevant sectors no later than 2025.

<sup>6</sup> SFC: [Consultation Paper on the Management and Disclosure of Climate-related Risks by Fund Managers](#) published in October 2020.

HKMA: [HKMA's White Paper on Green and Sustainable Banking](#) published in June 2020.

<sup>7</sup> Under paragraph 8 of the ESG Guide, issuers are allowed to adopt international ESG reporting guidance so long as it includes comparable disclosure provisions to the "comply or explain" provisions set out in the ESG Guide.



**Corporate governance**Culture

15. We propose to introduce a CP<sup>8</sup> to require an issuer's board to align the company's culture with its purpose, value and strategy.
16. To facilitate issuer's understanding, we will provide guidance to: (a) explain the board's role in "culture"; (b) set out the key elements commonly identified in a sound culture<sup>9</sup>, and (c) recommend key issues which may be helpful to stakeholders to understand the company's culture, and disclosures of such should be precise and succinct.
17. Anti-corruption and whistleblowing are core to establishing a healthy corporate culture. We therefore propose to: (a) introduce a new CP<sup>10</sup> requiring establishment of anti-corruption policy; and (b) upgrade a RBP<sup>11</sup> to CP<sup>12</sup> requiring establishment of a whistleblowing policy. Issuers are reminded that, under the ESG Guide, they are currently required to disclose such policies or information on a "comply or explain" basis subject to materiality.
18. We will provide guidance on the elements to be taken into account when formulating an anti-corruption policy and a whistleblowing policy.

Director's independence

19. To strengthen board independence, we propose introducing a CP<sup>13</sup> requiring disclosure of a policy to ensure independent views and input are available to the board, and an annual review of the implementation and effectiveness of such policy.
20. To promote board refreshment and succession planning, in respect of re-election of an INED serving more than nine years ("**Long Serving INED**"), we propose to revise an existing CP<sup>14</sup> to require (i) such re-election be subject to independent shareholders' approval, and (ii) additional disclosure on the factors considered, the process and the board or NC's discussion in arriving at the determination in the explanation on why such INED is still independent and should be re-elected ("**Additional Disclosure**").
21. In circumstances where all the INEDs on the board are Long Serving INEDs, we propose introducing a new CP<sup>15</sup> requiring issuers to appoint a new INED at the forthcoming annual general meeting ("**AGM**"), and disclose the length of the tenure of the Long Serving INEDs on the board on a named basis in the shareholders' circular.
22. To ensure INEDs maintain their objectivity and independence, we propose introducing a new RBP<sup>16</sup> that an issuer generally should not grant equity-based remuneration (e.g.

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<sup>8</sup> Newly added CP A.1.1.

<sup>9</sup> (1) Tone from the top; (2) accountability; (3) effective communication and challenge; and (4) incentives.

<sup>10</sup> Newly added CP D.2.7.

<sup>11</sup> Current RBP C.3.8.

<sup>12</sup> Newly added CP D.2.6.

<sup>13</sup> Newly added CP B.1.4.

<sup>14</sup> Current CP A.4.3 (New CP B.2.3).

<sup>15</sup> Newly added CP B.2.4.

<sup>16</sup> Newly added RBP E.1.9.

share options or grants) with performance-related elements to INEDs as this may lead to bias in their decision-making and compromise their objectivity and independence.

### Diversity

23. To further promote gender diversity, we propose to: (a) highlight that diversity is not considered to be achieved by a single gender board<sup>17</sup>; and (b) require all listed issuers to set numerical targets and timelines for achieving gender diversity at both: (i) board level; and (ii) across the workforce (including senior management) by introducing a MDR<sup>18</sup>.
24. We also propose to introduce a CP<sup>19</sup> requiring the board to review the implementation and effectiveness of its board diversity policy annually.
25. If the proposals are implemented, diversity is not considered to be achieved for companies with single gender board. After the revised Rules becoming effective, existing issuers with single gender boards will be allowed a three-year transition period to appoint at least a director of the absent gender on their boards, while IPO applicants are not expected to have single gender boards.
26. As gender is one of the key factors for diversity consideration, we propose to amend the relevant forms<sup>20</sup> to require directors providing such information upon appointment. To enhance transparency of the board and diversity information, we plan to display board diversity related information (including director's age, gender and directorships) on the HKEX website.

### Nomination committee

27. To emphasise the importance of oversight of board nomination and recruitment, diversity and succession planning, we propose to upgrade a CP<sup>21</sup> to a Rule<sup>22</sup> requiring issuers to establish a NC chaired by an INED and comprising a majority of INEDs.
28. We will also set out in the guidance the expected disclosures regarding INED nomination and appointment, including the channels used in searching for appropriate INED candidates (whether through search firms, advertisements or personal network), and the potential contribution the candidates would bring to the board (in terms of their qualifications, skills and experience).

### Communications with shareholders

29. To emphasise the importance of two-way communication, we will upgrade a CP<sup>23</sup> to a MDR<sup>24</sup> requiring disclosure of the issuer's shareholder communication policy. The policy should include channels for shareholders to communicate their views on various matters affecting the issuer, as well as steps taken to solicit and understand the views of shareholders and stakeholders. Issuers are required to review the effectiveness of the policy on an annual basis.

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<sup>17</sup> Note to MB Rule 13.92 / GEM Rule 17.104.

<sup>18</sup> Newly added Paragraph J of MDR.

<sup>19</sup> Newly added CP B.1.3.

<sup>20</sup> Part 1 of Form B and Form H of Appendix 5 to the MB Rules / Part 1 of Form A and Form B of Appendix 6 to the GEM Rules.

<sup>21</sup> Current CP A.5.1.

<sup>22</sup> Newly added MB Rule 3.27A / GEM Rule 5.36A.

<sup>23</sup> Current CP E.1.4.

<sup>24</sup> Newly added Paragraph L of MDR.

30. We will also set out in the guidance scenarios where shareholders may expect more information from the company, and practical ways in which issuers may consider improving communication with shareholders (e.g. appointment of a senior INED or an investor relations officer who has direct access to the board).

#### Other enhancements

31. To enhance transparency, we propose to introduce a Rule<sup>25</sup> requiring disclosure of directors' attendance at general meetings in the poll results announcements, and set out in the guidance the expected disclosure regarding audit committee ("**AC**")'s work done in discharging its responsibilities.
32. As directors are already subject to retirement by rotation and shareholders' approval for re-election, we further propose deleting the CP<sup>26</sup> requiring issuers to appoint NEDs for a specific term ("**Specific Term CP**").

#### **ESG**

33. In the 2019 ESG Consultation, we received feedback for clarification on the linkage between CG and ESG. It is also stated in the conclusions paper that the Exchange will consider aligning the publication timeframe of ESG reports and annual reports in the future.
34. We propose to elaborate the linkage in the Code by: (a) setting out the relationship between CG and ESG in the introductory section in the Code; and (b) including ESG risks in the context of risk management under the Code<sup>27</sup>. We also propose to revise the Rule<sup>28</sup> and the ESG Guide<sup>29</sup> to require publication of ESG reports at the same time as publication of annual reports. If this proposal is adopted, this will be effective for issuers' financial years commencing on or after 1 January 2022<sup>30</sup>.

#### **Code structure**

35. The CG requirements set out in Appendix 14 comprise: (a) the CG Code, which sets out the Principles, CPs and RBPs, and (b) the CG Report, which sets out the MDRs and RDs as disclosures to be made in issuers' corporate governance reports. The CG Code and the CG Report were originally separate appendices to the Listing Rules, and were merged in 2012. The market generally refers to all the CG requirements under Appendix 14 as the "Corporate Governance Code". We therefore propose to rename Appendix 14 to "Corporate Governance Code" rather than the current name of "Corporate Governance Code and Corporate Governance Report".
36. We also propose to re-arrange the structure of Appendix 14 to enhance the flow and readability by: (a) amending the introductory paragraphs to reflect the CG reporting framework; (b) moving the MDRs upfront in Appendix 14; (c) re-organising the provisions

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<sup>25</sup> Newly added MB Rule 13.39(5A) / GEM Rule 17.47(5A).

<sup>26</sup> Current CP A.4.1.

<sup>27</sup> New Principle D.2, CP D.2.2 and CP D.2.3.

<sup>28</sup> MB Rule 13.91(5)(d) and GEM Rule 17.103(5)(d).

<sup>29</sup> Paragraph 4(2)(d) of the ESG Guide.

<sup>30</sup> Whether the amendment would apply is determined by the commencement date of the issuer's reporting period: (1) where the reporting period commences on a day prior to 1 January 2022, the proposed amendment does not apply; and (2) where the reporting period commences on or after 1 January 2022 (e.g. 1 January 2022 or 1 April 2022), such ESG report would need to be issued at the same time as publication of the annual report.

by topics; and (d) making drafting amendments to improve clarity of the requirements (including deleting duplicative requirements)<sup>31</sup>. For the avoidance of doubt, the changes to Appendix 14 mentioned in paragraphs 35 to 36 involve no change in policy direction, and will not result in any additional CG requirements.

37. From time to time, enquiries or requests for further guidance on certain areas are received, and we therefore take this opportunity to assess our existing guidance. We will prepare a new guidance letter (“**CG GL**”) to provide more comprehensive guidance in assisting issuers’ compliance with the CG requirements. The new CG GL will consolidate the additional guidance on various topics proposed in this consultation paper, practices currently set out in the 2018 Guidance, certain notes currently in Appendix 14 which would be more appropriately contained in the CG GL and market feedback received. The new CG GL is intended to stimulate the board’s thinking on how they can carry out their role most effectively, including how the Principles in the Code are applied and reported on. It should be read alongside the rearranged “Corporate Governance Code”.
38. We reiterate that RBPs and RDs are the Exchange’s expectations of practices to support issuers’ compliance with the Code. The voluntary nature does not mean that they are not important, but rather, they are practices which should be adhered to in order for issuers to meet the Principles in the Code.
39. For ease of reference, a summary of the proposed changes with reference to the Code and the Listing Rules is set out in **Appendix I**. A table setting out the structure of the current Code and the new location of the relevant provisions under the re-arranged “Corporate Governance Code” can be found in **Appendix II**.

## Next Steps

40. Subject to responses to this consultation, we intend to implement the revised Listing Rules and the Code (except for those on Long Serving INED) for financial years commencing on or after 1 January 2022. In respect of the proposals on Long Serving INEDs, we intend to allow a longer transition period, whereby changes will be effective for financial years commencing on or after 1 January 2023.
41. The proposed amendments apply to both the MB Rules and the GEM Rules, and are set out in **Appendices III and IV**.

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<sup>31</sup> In the [Consultation Paper on Listing Regime For Overseas Issuers](#) published in March 2021, certain proposals relate to the CPs in the Code, i.e. a CP on casual vacancy appointments (current CP A.4.2 (new CP B.2.2)) and a CP on notice of AGM (current CP E.1.3 (new CP F.2.1)). Depending on the consultation outcome, such amendments will be reflected in the rearranged “Corporate Governance Code” as appropriate.

**INTRODUCTION**

- 42. Parts I and II of this Chapter set out the proposed amendments to the Code and the Listing Rules which involve policy changes to the current CG reporting requirements.
- 43. Part III of this Chapter discusses proposals in respect of re-arranging the Code which involve no change in policy direction. The Exchange invites comments on whether the re-arranged Code will give rise to any ambiguities or unintended consequences.
- 44. Part IV of this Chapter sets out the implementation dates of the proposals.

**PART I: Corporate Governance****1. Culture****A. Introduce “culture”****Current requirements**

- 45. “The board should lead in shaping and developing the issuer’s risk culture, setting the tone at the top” is expected of the boards as set out in paragraph 5.3 of the 2018 Guidance.
- 46. For IPO applicants, we have updated the IPO Guidance in July 2020 requiring additional disclosure in the prospectus on their compliance culture.

**Issues**

- 47. A healthy culture plays a pivotal role in good governance, and the board should demonstrate good practice in the boardroom and promote governance throughout the business<sup>32</sup>. Issuers should demonstrate openness and accountability, and actively and constructively engage with shareholders and wider stakeholders about culture to achieve the two-way communication.
- 48. We note that a few other jurisdictions have introduced the concept of culture in their corporate governance framework recently. The UK<sup>33</sup>, Singapore<sup>34</sup>, Australia<sup>35</sup> and Japan<sup>36</sup> require issuers’ boards to establish an appropriate culture and reflect those in the company’s strategy, values and ethical standards. Korea<sup>37</sup> recommends issuers to have meetings of management with INEDs separate from board meetings to reinforce a culture of transparency of corporate management.
- 49. Establishing a company’s overall purpose is crucial in supporting the values and driving the correct behaviours. The strategy to achieve a company’s purpose should reflect the

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<sup>32</sup> The UK Financial Reporting Council, [Corporate Culture and the Role of Boards – Report of Observations](#), July 2016.

<sup>33</sup> Introduction, Principles B, F, Provisions 2, 33, 40 of the [2018 Corporate Governance Code](#) (“UK CG Code”).

<sup>34</sup> Introduction, Provision 1.1 of the [2018 Code of Corporate Governance](#) (“SGX CG Code”).

<sup>35</sup> Principle 3, Commentary to Recommendations 1.1, 1.5, 2.5, 3.2 to 3.4, 8.1 of the [Corporate Governance Principles and Recommendations](#) (“ASX CG Code”).

<sup>36</sup> Tokyo Stock Exchange, General Principle 2 of the [Japan’s Corporate Governance Code](#) (“JPX CG Code”), June 2018.

<sup>37</sup> Korea Corporate Governance Service, Provision 3.7 of the Code of Best Practices for Corporate Governance (“Korean CG Code”), July 2016, available at: [http://www.cgs.or.kr/eng/business/best\\_practice.jsp](http://www.cgs.or.kr/eng/business/best_practice.jsp).

company's values and culture, and should not be developed in isolation. An effective board should set the tone and define the company's purpose and strategy. The board should also monitor the culture, in terms of the values and behaviours which best deliver value creation, and the incentives which support this. The board's focus on culture needs to be continuous, as this can help ensure ongoing transparency, and maintain visibility and insight into culture initiatives and differences across the company.

## Proposals

50. We propose to introduce a CP<sup>38</sup> to require an issuer's board to align the company's culture with its purpose, value and strategy.
51. We will provide guidance to (a) explain the board's role in "culture"; (b) set out the key elements commonly identified in a sound culture; and (c) recommend key issues which may be helpful to stakeholders to understand the company's culture.
52. We recognise that there is no "one-size-fits-all" when it comes to culture. What matters is that the culture is appropriate for the context in which the issuer is operating and that there is alignment between its purpose, values, strategy and business model(s).
53. The following key elements are commonly identified in a sound culture:
  - (a) Tone from the top – The board is responsible for setting the company's culture. As the leadership of the company, the board plays an important role in promoting, monitoring and assessing the culture, and making sure the desired culture is embedded at every level of the organisation.
  - (b) Accountability – The board is expected to conduct periodic reviews to make sure the culture is aligned with the company's purpose and value, and is able to deliver long-term sustainable growth. Employees at all levels should understand the core values of the company's culture, and are capable of performing their prescribed roles and be held accountable for their actions.
  - (c) Effective communication and challenge – There should be an environment of open communication and effective challenge to encourage a range of views.
  - (d) Incentives – Performance and talent management encourage and reinforce maintenance of the company's desired culture. It is important to ensure the company's financial and non-financial incentives support the company's culture at all levels.
54. A quality disclosure of the company's culture facilitates stakeholders in appraising the company. While it is not possible for the Exchange to prescribe a list of information for disclosure that suits all issuers, disclosures on "culture" may include the following issues which may be helpful to stakeholders to understand the company's culture. Such disclosures should be precise and succinct (in general, should be no more than one page):
  - (a) Description of the vision, value and strategy of the company, alongside with the company's culture, and how all these affect the business model.
  - (b) Description of the success measurements of the company (e.g. KPIs in terms of revenue growth; profit margins; return on equity; and market share), and

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<sup>38</sup> Newly added CP A.1.1.

discussion on how the company's desired culture affects or contributes to the company's performance.

- (c) Discussion on the measures used for assessing and monitoring culture (e.g. any specific indicators such as turnover rate; whistleblowing data; employee surveys; breaches of code of conduct; and regulatory breaches).
- (d) Description of the measures in place to ensure the desired culture and expected behaviours are clearly communicated to all employees, for example, through developing a code of conduct.
- (e) Information on the forum(s) available for sharing ideas and concerns on any misconduct or misalignment identified, and how they are dealt with.
- (f) Discussion on the company's financial and non-financial incentives which support the desired culture.

### **Consultation Question**

**Question 1** Do you agree with our proposal to introduce a CP requiring an issuer's board to set culture in alignment with issuer's purpose, value and strategy?

### **B. Anti-corruption and whistleblowing policies**

#### **Current requirements**

- 55. Issuers are currently required on a "comply or explain" basis to make anti-corruption related disclosures under the ESG Guide, including: (a) anti-corruption policies; (b) whistleblowing procedures; and (c) compliance with relevant laws and regulations<sup>39</sup>.
- 56. The AC is recommended to establish a whistleblowing policy and system for employees and those who deal with the issuer<sup>40</sup> under the Code.

#### **Issues**

- 57. Anti-corruption and whistleblowing are core to establishing a healthy corporate culture. In the 2019 ESG Consultation, a number of respondents considered anti-corruption policies fundamental to good corporate governance and suggested to include additional requirements on anti-corruption and whistleblowing policies and measures in the Code.
- 58. We also recognise that the establishment of the anti-corruption policy and whistleblowing policy may in some cases, more appropriately rest with the board as a whole, rather than with the AC.

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<sup>39</sup> Under the ESG Guide, KPI B7.1 requires issuers to disclose number of concluded cases regarding corrupt practices brought against the issuer or its employees during the reporting period and the outcomes of the cases and KPI B7.2 requires issuers to disclose its preventive measures and whistleblowing procedures, and how they are implemented and monitored.

<sup>40</sup> Current RBP C.3.8 states that AC should establish a whistleblowing policy and system 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.

## Proposals

59. We propose to: (a) introduce a new CP<sup>41</sup> requiring establishment of an anti-corruption policy; and (b) upgrade a RBP<sup>42</sup> to CP<sup>43</sup> requiring establishment of a whistleblowing policy. Issuers are reminded that, under the ESG Guide, they are currently required to disclose such policies or information on a “comply or explain” basis subject to materiality.
60. To assist issuers’ compliance with the new requirements, we will provide guidance on the elements to be taken into account when formulating anti-corruption policy and whistleblowing policy. These will include a statement reflecting the issuer’s commitment, the scope of the policy, the committee(s) or personnel responsible for implementing the policy and the reporting channels.
61. We will also include references to SFC’s guidance on anti-money laundering and counter-financing of terrorism<sup>44</sup> and ICAC’s guidance materials on anti-corruption and whistleblowing policies. Issuers may approach ICAC for a confidential corruption prevention advisory service<sup>45</sup> when shaping the relevant policies<sup>46</sup>.

## Consultation Question

**Question 2** Do you agree with our proposal to:

- (a) introduce a CP requiring establishment of an anti-corruption policy; and
- (b) upgrade a RBP to CP requiring establishment of a whistleblowing policy?

## 2. Director’s independence

### A. Enhance board independence

#### Current requirements

62. MB Rule 3.13<sup>47</sup> sets out a non-exhaustive list of factors that the Exchange takes into account when assessing INED’s independence<sup>48</sup>. Since January 2019<sup>49</sup>, the independence criteria has been strengthened through: (a) extending cooling off periods for issuers’ former professional advisers or interested parties before they can become independent directors<sup>50</sup>; (b) inclusion of immediate family members in the independence assessment<sup>51</sup>; and (c) disclosure of an INED’s cross-directorships or significant links

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<sup>41</sup> Newly added CP D.2.7.

<sup>42</sup> Current RBP C.3.8.

<sup>43</sup> Newly added CP D.2.6.

<sup>44</sup> <https://www.sfc.hk/web/EN/rules-and-standards/anti-money-laundering-and-counter-terrorist-financing/>.

<sup>45</sup> <https://cpas.icac.hk/>.

<sup>46</sup> ICAC, [Anti-Corruption Programme – A Guide for Listed Companies](#), December 2016.

<sup>47</sup> GEM Rule 5.09.

<sup>48</sup> Independence is more likely to be questioned if the director falls into any of situation as set out in the Rule.

<sup>49</sup> For details, please refer to the 2017 CG Consultation.

<sup>50</sup> A Rule for (1) persons with material interests in the issuer’s principal business activities; (2) former professional advisers (MB Rule 3.13(3) / GEM Rule 5.09(3)). A CP for former partners of the issuer’s audit firm before they can be members of the issuer’s AC (Current CP C.3.2/ New CP D.3.2).

<sup>51</sup> Note 2 to MB Rule 3.13 / Note 2 to GEM Rule 5.09.



with other directors in the CG report<sup>52</sup>.

63. The board is also required to set out in the circular to shareholders (and/or explanatory statement accompanying the notice of the relevant general meeting), amongst others, the reasons why it considers the individual to be independent<sup>53</sup> under the Code.

### **Issues**

64. Directors' independence has been and will continue to be our focus. Ensuring a strong independent element on the board<sup>54</sup> is key to an effective board, which can effectively exercise independent judgment. Mechanisms should be in place to ensure independent views and input are available to the board. As the needs of the company and the board may evolve over time, the effectiveness of the established mechanisms should be kept under review.

### **Proposal**

65. We propose introducing a CP<sup>55</sup> requiring disclosure of a policy to ensure independent views and input are available to the board, and an annual review of the implementation and effectiveness of such policy.

### **Consultation Question**

- Question 3** Do you agree with our proposal to introduce a CP requiring disclosure of a policy to ensure independent views and input are available to the board, and an annual review of the implementation and effectiveness of such policy?

## **B. Board refreshment and succession planning**

### **Current requirements**

66. Serving more than nine years could be relevant to the determination of a NED's independence. Under the Code<sup>56</sup>, issuers are required on a "comply or explain" basis to make a separate shareholders' resolution for further appointment of a Long Serving INED, and papers to shareholders accompanying that resolution should include reasons why the board believes the Long Serving INED is still independent and should be re-elected.

### **Issues**

67. As of December 2020, 1,513 (17.8%) INED directorships (out of 8,498) were occupied by Long Serving INEDs<sup>57</sup>. These directors sit across around one-third (30.6%) of issuers listed on the Exchange. There were 153 issuers (6.0%) where every one of their INEDs had served nine years or more.

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<sup>52</sup> Current RBP A.3.3 (New RBP B.1.6).

<sup>53</sup> Current CP A.5.5 (New CP B.3.4).

<sup>54</sup> Current Principle A.3 (New Principle B.1).

<sup>55</sup> Newly added CP B.1.4.

<sup>56</sup> Current CP A.4.3 (New CP B.2.3).

<sup>57</sup> Based on a total of 2,559 issuers as of December 2020.

68. In the CG Disclosure Analysis<sup>58</sup>, most issuers quoted satisfaction of the independence criteria set out in MB Rule 3.13 as the reason why the Long Serving INED is still independent. This of itself cannot address whether the Long Serving INED remains capable of bringing fresh perspectives and independent judgment to the board.
69. Where an INED serving on a board for a prolonged period, it will increase the risk of becoming too reliant on one individual and their complacencies given the familiarity with management. Similar concerns are shared by regulators in the UK<sup>59</sup>, Singapore<sup>60</sup> and Australia<sup>61</sup>.
70. While we acknowledge that a Long Serving INEDs' knowledge of and familiarity with the issuer's affairs may bring valuable contribution to the company, we are also cognizant of the importance for an INED to stay independent and the necessity for board refreshment and succession planning. A more frequent turnover of directors would help ensuring refreshing of ideas and perspectives, which in turn would promote board effectiveness. This has been a factor considered by institutional investors in making investment decisions<sup>62</sup>. It is believed that periodic board refreshment can foster the sharing of diverse perspectives in the boardroom, as well as the generation of new ideas and business strategies<sup>63</sup>. Accountability can be enhanced by frequent review and refreshment of membership of the board.
71. Effective succession planning at board level is essential for ensuring the long term success of the company. It may involve different time horizons, from contingency planning for unforeseen departures to planning for orderly replacement of board members (such as retirement). As the business environment in which issuers operate may evolve, it is important for issuers to manage the succession plan by taking into account the changing strategies and ensuring the skills needed by the board can cope with these changes.
72. HKMA's guidance on INEDs questions the independence of an INED if serving on the board of an authorised institution for nine years<sup>64</sup>. The Hong Kong government also has a guideline for not appointing non-official members serving more than six years in the same capacity with the same body to ensure a healthy turnover of members of advisory and statutory bodies<sup>65</sup>.

## Proposals

73. In respect of the re-election of a Long Serving INED, we propose to revise an existing CP<sup>66</sup> to require (i) such re-election be subject to independent shareholders' approval, and (ii) Additional Disclosure in the explanation on why such INED is still independent and should be re-elected (i.e. the factors considered, the process and the board or NC's discussion in arriving at the determination).

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<sup>58</sup> Paragraph 9 of the CG Disclosure Analysis.

<sup>59</sup> Financial Reporting Council, Paragraphs 54 to 55 of [Consultation Paper on Proposed Revisions to the UK Corporate Governance Code](#), December 2017.

<sup>60</sup> Monetary Authority of Singapore, Paragraph 4.9 of [Consultation Paper P002 - 2018 - Recommendations of the Corporate Governance Council](#), January 2018.

<sup>61</sup> Commentary to the Recommendation 2.3 of the ASX CG Code.

<sup>62</sup> Hermes EOS, The [Corporate Governance Principles – Mainland China and Hong Kong](#), 2020.

<sup>63</sup> Glass Lewis, [2020 Proxy Paper™ Guidelines - An Overview of the Glass Lewis Approach to Proxy Advice](#), 2020 (Only available in English).

<sup>64</sup> Hong Kong Monetary Authority, Paragraph 27 of the ["Empowerment of Independent Non-Executive Directors \(INEDs\) in the Banking Industry in Hong Kong"](#), December 2016.

<sup>65</sup> For details, please refer to the Home Affairs Bureau website for the definition of a ["Six-year Rule"](#).

<sup>66</sup> Current CP A.4.3 (New CP B.2.3).

74. In circumstances where all the INEDs on the board are Long Serving INEDs, we propose introducing a new CP<sup>67</sup> requiring issuers to appoint a new INED at the forthcoming AGM, and disclose the length of the tenure of the Long Serving INEDs on the board on a named basis in the shareholders' circular.
75. Recognising the impact on our issuers, our proposals adopt a progressive approach. We may consider phasing out all Long Serving INEDs gradually in the long run.

## Consultation Questions

- Question 4(a)** Do you agree with our proposal regarding re-election of Long Serving INEDs to revise an existing CP to require (i) independent shareholders' approval; and (ii) Additional Disclosure?
- Question 4(b)** Do you agree with our proposal to introduce a CP requiring an issuer to appoint a new INED at the forthcoming AGM where all the INEDs on the board are Long Serving INEDs, and disclosing the length of tenure of the Long Serving INEDs on the board on a named basis in the shareholders' circular?

## C. Equity-based remuneration to INED

### Current requirements

76. Remuneration levels should be sufficient to attract and retain directors to run the company successfully *without paying more than necessary*<sup>68</sup>.

### Issues

77. INEDs play an important role in enhancing the corporate governance standards of the issuer, guarding against conflicts of interest, assisting with oversight of internal controls and risk management and acting as a catalyst for ESG adoption. Their objectivity and independence are crucial to scrutinizing some of the board's major decisions.
78. The UK<sup>69</sup> requires, on a "comply or explain" basis, remuneration for all non-executive directors should not include share options or other performance-related elements, while Australia<sup>70</sup> recommends issuers' non-executive directors not to receive performance-based remuneration as it may compromise their objectivity. This is also reinforced in the guidance provided by the HKMA<sup>71</sup>.

### Proposal

79. We propose introducing a new RBP<sup>72</sup> that an issuer generally should not grant equity-based remuneration (e.g. share options or grants) with performance-related elements to

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<sup>67</sup> Newly added CP B.2.4.

<sup>68</sup> Current Principle B.1 (New Principle E.1).

<sup>69</sup> Provision 34 of the UK CG Code.

<sup>70</sup> Box 8.2 (Suggested guidelines for: Executive remuneration) in the ASX CG Code.

<sup>71</sup> It states that INEDs should not receive remuneration based on any measure of the authorised institution's performance, including share options, since this could compromise their independence (See Paragraph 20 of the "Empowerment of Independent Non-Executive Directors (INEDs) in the Banking Industry in Hong Kong", December 2016).

<sup>72</sup> Newly added RBP E.1.9.

INEDs as this may lead to bias in their decision-making and compromise their objectivity and independence.

### Consultation Question

**Question 5** Do you agree with our proposal to introduce a new RBP that an issuer generally should not grant equity-based remuneration (e.g. share options or grants) with performance-related elements to INEDs as this may lead to bias in their decision-making and compromise their objectivity and independence?

## 3. Diversity

### Current requirements

80. An issuer's board should have a balance of skills, experience and diversity of perspectives appropriate for the issuer's business<sup>73</sup>.
81. An issuer must have a board diversity policy and disclose the policy (or its summary) in its CG report<sup>74</sup>. The disclosure should include any measurable objectives that it has set for implementing the policy, and progress on achieving those objectives<sup>75</sup>. An issuer is also required, on a "comply or explain" basis, to disclose diversity considerations when appointing an INED<sup>76</sup>.
82. From May 2019, the Exchange requires an IPO applicant to disclose their board diversity policy in their prospectus. For those with a single gender board, they are further required to make additional disclosures on how gender diversity of the board can be achieved<sup>77</sup>.

### Issues

83. According to the MSCI's report<sup>78</sup>, in 2020 only 12.7% of Hong Kong listed companies' directorships was held by women, compared to 12.4% in 2019. As of December 2020, out of 2,559 issuers, around 32.9% have no female directors on their boards, whilst around 37.2% with only one female director<sup>79</sup>. The chart<sup>80</sup> below shows the breakdown of INED directorships by gender and by age group. There is a higher proportion of female directors for the younger age groups. The overall distribution suggests that diversity in the boardroom could be further improved.

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<sup>73</sup> Current Principle A.3 (New Principle B.1).

<sup>74</sup> MB Rule 13.92 / GEM Rule 17.104.

<sup>75</sup> Current Paragraph L(d)(ii) of MDR (New Paragraph J(a) of MDR).

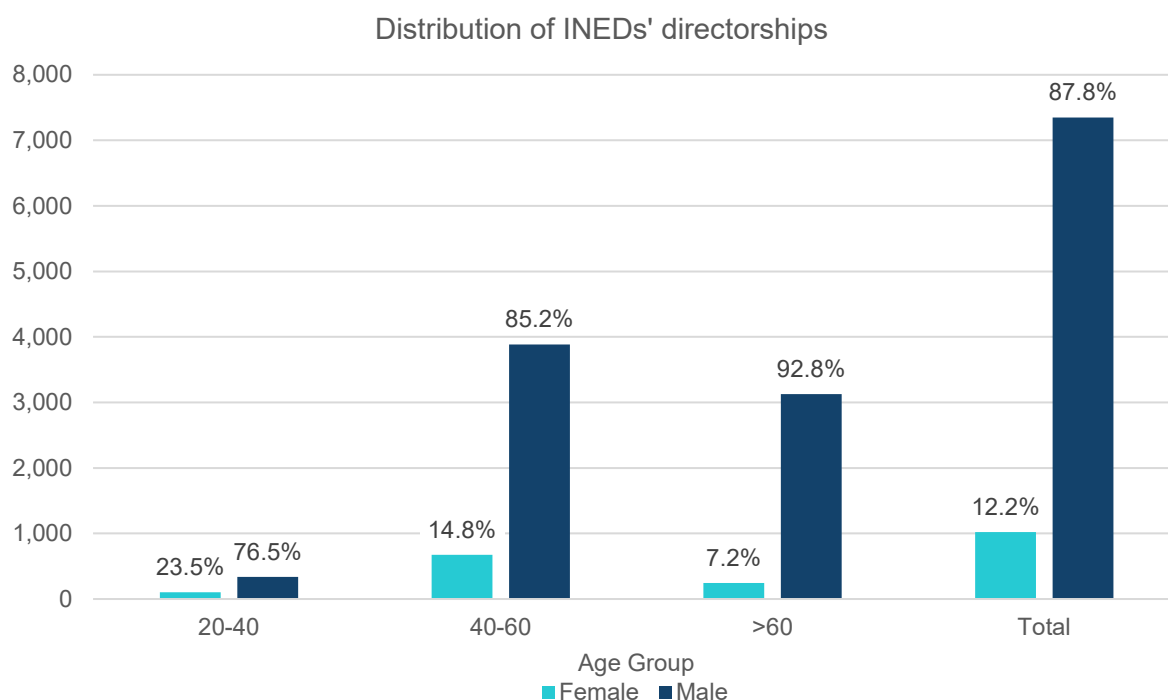
<sup>76</sup> Current CP A.5.5 (New CP B.3.4).

<sup>77</sup> (a) How and when gender diversity of the board will be achieved after listing; (b) What measurable objectives it has set for implementing gender diversity; and (c) What measures the applicant has adopted to develop a pipeline of potential successors to the board that could ensure gender diversity of the board. ([HKEX-GL86-16](#)).

<sup>78</sup> Extracted from constituents of MSCI All Country World Index, see MSCI's "[Women on Boards: 2020 Progress Report](#)".

<sup>79</sup> 843 listed issuers have no female directors on their boards and 953 listed issuers with one female director.

<sup>80</sup> As of December 2020, there were 8,498 INED directorships, and the chart shows a breakdown of 8,370 INED directorships due to unavailability of certain INED information.



84. Diversity is an important driver of board's effectiveness. It brings unique perspectives to the boardroom and enhances board performance. This is particular crucial during times of crisis<sup>81</sup>. Issuers should ensure that different perspectives are regularly elicited and integrated into board's work. The board should elevate different voices, integrate contrasting insights, differences of opinions, and welcome diversity<sup>82</sup>.
85. Since introducing the requirement on additional gender diversity disclosure by IPO applicants, most of the newly listed single gender board companies have committed to appointing at least one female director within two to three years after IPO. However, there has been little improvement in terms of the percentage of female directors on the board of listed issuers.
86. The requirement to have a board diversity policy has come into place since January 2019. The board's responsibility does not end with having a policy in place. The board should monitor the implementation and keep the policy under regular review to ensure it remains fit for purpose.

## Proposals

87. To further promote gender diversity and ensure board diversity continue to be on board's agenda, we have the following proposals:
- (a) Single gender board is not acceptable: Highlight that diversity is not considered to be achieved for single gender board in the note of the Rule<sup>83</sup>.

<sup>81</sup> McKinsey's research reinforces that diversity plays an important role in business recovery during crisis – "When companies invest in diversity and inclusion, they are in a better position to create more adaptive, effective teams and more likely to recognise diversity as a competitive advantage" (McKinsey & Company, "[Diversity still matters](#)", May 2020).

<sup>82</sup> Harvard Business Review, "[When and Why Diversity Improves Your Board's Performance](#)", March 2019.

<sup>83</sup> MB Rule 13.92 / GEM Rule 17.104.

- (b) Targets and timeline for gender diversity: Require all listed issuers to set and disclose numerical targets and timelines for achieving gender diversity at both: (i) board level; and (ii) across the workforce (including senior management) by introducing a new MDR<sup>84</sup>.
  - (c) Annual review of board diversity: Require the board to review the implementation and effectiveness of its board diversity policy annually by introducing a CP<sup>85</sup>.
88. If the proposals are implemented, diversity is not considered to be achieved for companies with single gender board. After the revised Rules becoming effective, we propose to allow existing issuers with single gender boards a three-year transition period to appoint at least a director of the absent gender on their boards, while IPO applicants are not expected to have single gender boards.
89. As gender is one of the key factors for diversity consideration, we propose to amend the relevant forms<sup>86</sup> to require directors providing such information upon appointment. To enhance transparency of the board and diversity information, we plan to display board diversity related information (including director's age, gender and directorships) on the HKEX website.

## Consultation Questions

- Question 6(a)** Do you agree with our proposal to highlight that diversity is not considered to be achieved by a single gender board in the note of the Rule?
- Question 6(b)** Do you agree with our proposal to introduce a MDR requiring all listed issuers to set and disclose numerical targets and timelines for achieving gender diversity at both: (a) board level; and (b) across the workforce (including senior management)?
- Question 6(c)** Do you agree with our proposal to introduce a CP requiring the board to review the implementation and effectiveness of its board diversity policy annually?
- Question 6(d)** Do you agree with our proposal to amend the relevant forms to include directors' gender information?

## 4. Nomination committee

### Current requirements

90. Issuers are required, on a "comply or explain" basis, to establish a NC which is chaired by the chairman of the board or an INED and comprises a majority of INEDs<sup>87</sup>. They must also disclose in the CG reports the policy for nominating directors, including the nomination procedures, process and criteria adopted by the NC or the board to select and recommend candidates for directors<sup>88</sup>. In the CG Disclosure Analysis, we found that 95% of the sample issuers established a NC with majority INEDs and chaired by

<sup>84</sup> Newly added Paragraph J of MDR.

<sup>85</sup> Newly added CP B.1.3.

<sup>86</sup> Part 1 of Form B and Form H of Appendix 5 to the MB Rules / Part 1 of Form A and Form B of Appendix 6 to the GEM Rules.

<sup>87</sup> Current CP A.5.1.

<sup>88</sup> Current Paragraph L(d)(ii) of MDR (New Paragraph E(d)(iii) of MDR).

the board chairman or an INED, and most sample issuers have made the required disclosures on nomination policy and procedures.

91. For an issuer with a weighted voting rights structure, its NC must be chaired by an INED and must comply with the requirements in the Code in respect of NC<sup>89</sup>.

### **Issues**

92. Given the importance of the role directors play on the governance of the company, appointments to the board should be subject to a formal, rigorous and transparent process. The NC serves as an independent oversight of matters relating to board nomination and recruitment and diversity, as well as planning for succession. It is crucial to have development plans for current board members and progression plans for those looking to move to board level.
93. We note that US<sup>90</sup> requires a NC to comprise entirely of INEDs, while Australia<sup>91</sup>, Singapore<sup>92</sup> and the UK<sup>93</sup> require an issuer, on a “comply or explain” basis, to establish a NC with a majority of INEDs.

### **Proposals**

94. In order to strengthen directors’ (including INEDs) nomination and appointment process, we propose to upgrade a CP<sup>94</sup> to Rule<sup>95</sup> requiring issuers to establish a NC chaired by an INED and comprising a majority of INEDs. We will also set out in the guidance the expected disclosures regarding INED nomination and appointment, including the channels used in searching for appropriate INED candidates (whether through search firms, advertisements or personal network), and the potential contribution the candidates would bring to the board (in terms of their qualifications, skills and experience).
95. Together with the existing requirement to disclose the procedures, process and criteria for nominating directors, we believe this would enhance the transparency and independence of the INED nomination and appointment process to promote better practices and standards.

### **Consultation Question**

- Question 7** Do you agree with our proposal to upgrade a CP to Rule requiring issuers to establish a NC chaired by an INED and comprising a majority of INEDs?

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<sup>89</sup> MB Rules 8A.27 and 8A.28.

<sup>90</sup> Section 303A.04(a) in the NYSE Listed Company Manual and Rule 5605(e)(1) in the Nasdaq Rulebook. Under the NYSE and Nasdaq listing rules, foreign private issuers are permitted to follow home country practice in lieu of this provision if certain requirements (including disclosure of significant ways in which their corporate governance practices differ from those required under the US listing rules) are met.

<sup>91</sup> Recommendation 2.1 of the ASX CG Code.

<sup>92</sup> Provision 4.2 of the SGX CG Code.

<sup>93</sup> Provision 17 of the UK CG Code.

<sup>94</sup> Current CP A.5.1.

<sup>95</sup> Newly added MB Rule 3.27A / GEM Rule 5.36A.

## 5. Communications with shareholders

### Current requirements

96. The board should be responsible for maintaining an on-going dialogue with shareholders and in particular, use AGMs or other general meetings to communicate with them and encourage their participation<sup>96</sup>. In particular, the board should establish a shareholder communication policy and review it on a regular basis to ensure its effectiveness<sup>97</sup>.

### Issues

97. Effective engagement with shareholders is important for a company to meet its responsibilities. Proactive steps should be taken to ensure the company's relationship with shareholders and stakeholders is healthy and sustainable for the long term<sup>98</sup>. Continuous dialogue with shareholders and stakeholders not only enables dissemination of information relating to the company to shareholders and stakeholders, it also facilitates the board to effectively solicit and receive feedback on how the company is perceived by the shareholders and stakeholders. The two-way communication is conducive to the setting or refinement of the company's strategy for future development. Board's approach to stakeholder engagement will provide useful insight into the company's culture.
98. Many jurisdictions require listed companies to establish an effective channel to communicate with shareholders and stakeholders. The UK imposes a statutory obligation<sup>99</sup> for directors to explain how they have had regard to various matters in performing their duty to promote the success of the company, and its corporate governance code<sup>100</sup> requires issuers to ensure effective engagement, and encourage participation, from shareholders and stakeholders. Whilst the PRC<sup>101</sup> also mandates issuers to establish effective communication channels with shareholders, Singapore<sup>102</sup> and Australia<sup>103</sup> have similar provisions with Hong Kong on a "comply or explain" basis.

### Proposals

99. We propose to upgrade a CP<sup>104</sup> to a MDR<sup>105</sup> to require disclosure of the issuer's shareholders communication policy and annual review of such policy to ensure its effectiveness. The policy should include channels for shareholders to communicate their views on various matters affecting the issuer, as well as steps taken to solicit and understand the views of shareholders and stakeholders.
100. To facilitate better communication between issuers, shareholders and stakeholders, we will include in the guidance areas where company may, in addition to the strict reporting

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<sup>96</sup> Current Principle E.1 (New Principle F.1).

<sup>97</sup> Current CP E.1.4.

<sup>98</sup> Harvard Law School Forum on Corporate Governance, [The Director-Shareholder Engagement Guidebook](#), March 2019.

<sup>99</sup> Section 172, [Companies Act 2006](#).

<sup>100</sup> Principle D of the UK CG Code.

<sup>101</sup> China Securities Regulatory Commission, Article 9 of the [Code of Corporate Governance for Listed Companies](#), April 2019.

<sup>102</sup> Principles 11 and 12 of the SGX CG Code.

<sup>103</sup> Recommendations 6.2 and 6.3 of the ASX CG Code.

<sup>104</sup> Current CP E.1.4.

<sup>105</sup> Newly added Paragraph L(b) and (c) of MDR.



requirements under the Listing Rules<sup>106</sup>, provide more discussions or information for shareholders to have a better understanding of the board's performance:

- (a) the company's business strategies going forward, and its plan to cope with an economic downturn or a global pandemic, if appropriate;
  - (b) commercial rationale behind commercial transactions (including, notifiable transactions, merger and acquisition transactions and connected transactions) and the board's discussion (in particular any dissenting views or challenges raised by individual directors);
  - (c) director's appointment process and succession planning;
  - (d) remuneration structure (including directors and executives); and
  - (e) dividend distribution.
101. Recently, there have been discussions in the market about the appointment of a lead or senior INED. Whilst some believe that a lead or senior INED may facilitate the communication between the issuer and its investors and help enhancing INEDs' accountability, there are also concerns about creation of hierarchy amongst INEDs and the difficulties in finding candidates who are willing to take up the position. There is also reservation on whether a lead or senior INED is the solution to enhance INEDs' accountability.
102. A lead or senior INED may add value in facilitating shareholders' (or investors) access to the board, and issuers are encouraged to consider (depending on their own circumstances) appointing a lead or senior INED as an intermediary for the other directors and shareholders. In the guidance, we will also suggest other practical ways in which issuers may consider improving communication with shareholders, for example: (a) appointing a suitably qualified senior investor relations officer who has access to the board; (b) formalising periodic meetings with stakeholders; (c) enhancing disclosure in respect of INED's contribution or work done during the year in the annual report; and (d) conducting evaluation of board performance and disclose a summary of it in the annual report.

## Consultation Question

- Question 8** Do you agree with our proposal to upgrade a CP to a MDR to require disclosure of the issuer's shareholders communication policy (which includes channels for shareholders to communicate their views on various matters affecting issuers, as well as steps taken to solicit and understand the views of shareholders and stakeholders) and annual review of such policy to ensure its effectiveness?

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<sup>106</sup> For example: (a) commercial rationale – issuers are required to set out, amongst others, the reasons for entering into the transaction, the benefits which are expected to accrue to the listed issuer as a result of the transaction (MB Rule 14.58(8) / GEM Rule 19.58(9)); and (b) dividend distribution – issuers are required to announce, amongst others, any decision to declare, recommend or pay any dividend or to make any other distribution on its listed securities after board meetings (MB Rule 13.45(1) / GEM Rule 17.49(1)).

## **6. Other enhancements**

### **A. Timely disclosure on directors' attendance at general meetings**

#### **Current requirements**

103. Directors' attendance at general meetings must be published in the CG report<sup>107</sup>.

#### **Issues**

104. Currently, the directors' attendance records at general meetings are not immediately available after the relevant meeting and are only available in the CG report at the year end. In extreme cases, if the extraordinary general meetings was held on the first day of the financial year, the attendance records might not be published until 16 months later when annual report was published.

#### **Proposals**

105. Timely attendance record may be useful for shareholders and investors to assess directors' commitment in the issuer's affairs. We therefore propose a new Rule<sup>108</sup> requiring disclosure of directors' attendance in the poll results announcements.

### **Consultation Question**

**Question 9** Do you agree with our proposal to introduce a Rule requiring disclosure of directors' attendance in the poll results announcements?

### **B. Disclosure on AC's work**

#### **Current requirements**

106. AC's terms of reference should include reviewing and monitoring of the external auditor's independence and objectivity, and the effectiveness of the audit process<sup>109</sup>. There is also a MDR to include a summary of the AC's work and how it met its responsibilities during the year in the annual report<sup>110</sup>.

#### **Issues**

107. We noted in the CG Disclosure Analysis that issuers have provided limited disclosure on the AC's work. Many issuers have resorted to copy the terms of reference of the AC and omitted to disclose how the AC performed its duties and discharged its responsibilities during the reporting period.

#### **Proposal**

108. Board committees (including the AC) play important roles in ensuring the issuer's corporate governance structures are sound and effective. Good quality disclosure in this area helps shareholders and investors to understand the work of the board committees. Issuers are encouraged to provide informative summaries of the work carried out by

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<sup>107</sup> Current Paragraph I(c) of MDR requires issuers to state attendance of each director, by name, at the board and general meetings in the CG report (New Paragraph B(c) of MDR).

<sup>108</sup> Newly added MB Rule 13.39(5A) / GEM Rule 17.47(5A).

<sup>109</sup> Current CP C.3.3 (New CP D.3.3).

<sup>110</sup> Current Paragraph L(d)(iv) of MDR (New Paragraph E(d)(i) of MDR).

each of the board committees to promote transparency, which will in turn bring about improved accountability and board effectiveness.

109. To facilitate issuer's compliance on this area, we will elaborate in the guidance the expected disclosure regarding AC's work done in discharging its responsibilities, including:
- (a) Financial reporting – how the AC monitors and assesses the integrity of the financial reporting disclosures as well as significant accounting judgments; and whether careful considerations are made throughout the financial reporting disclosures;
  - (b) External auditor – how AC reviews and monitors the relationship with the external auditor and non-audit services, and whether the AC had challenged and assessed the external audit process;
  - (c) Internal audit – the process overseeing the internal audit function of the issuer and the assessment of the overall governance, risk management and internal control framework; and
  - (d) Internal controls – the effectiveness of, whilst ensuring that management has appropriate internal controls over, financial reporting.

## **C. Deletion of the Specific Term CP**

### **Current requirements**

110. Directors should be subject to re-election at regular intervals<sup>111</sup>. Issuers are required, on a “comply or explain” basis, to appoint NEDs for a specific term, subject to re-election (i.e. the Specific Term CP<sup>112</sup>) and every director, should be subject to retirement by rotation at least once every three years<sup>113</sup> (“**Rotation CP**”).

### **Issues**

111. Both the Specific Term CP and Rotation CP require issuers to periodically seek shareholders' re-election of directors so as to prevent entrenchment. This gives shareholders a means to voice their support / disapproval of the directors through the exercise of their voting power.
112. It is observed that issuers in practice tend to align the appointment term with the period for rotation (i.e. normally three years) for administrative convenience. In the CG Disclosure Analysis<sup>114</sup>, almost all issuers who deviated from the Specific Term CP explained that the NED is already subject to retirement by rotation requirement. The intended purpose of the Specific Term CP (i.e. allow shareholders to vote out the “disapproved” director) is already achieved by the rotation requirement.
113. It is noted that the UK CG Code has deleted the specific term requirement on NEDs and requires all directors be subject to annual re-election<sup>115</sup>. Similar to our rotation

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<sup>111</sup> Current Principle A.4 (New Principle B.2).

<sup>112</sup> Current CP A.4.1.

<sup>113</sup> Current CP A.4.2 (New CP B.2.2).

<sup>114</sup> Paragraph 79 of the CG Disclosure Analysis.

<sup>115</sup> Provision 18 of the UK CG Code.

requirement, Singapore requires re-nomination and re-election of directors once every three years<sup>116</sup>, while Australia requires assessment of the independence of each NED at least annually or when considering election or re-election<sup>117</sup>.

## **Proposal**

114. We therefore propose to delete the Specific Term CP.

## **Consultation Question**

**Question 10** Do you agree with our proposal to delete the CP that requires issuers to appoint NEDs for a specific term?

## **PART II: ESG**

### **A. Elaborate the linkage between CG and ESG**

#### **Current requirements**

115. An issuer's board is responsible for evaluating and determining the nature and extent of the risks it is willing to take in achieving the issuer's strategic objectives, and ensuring that appropriate and effective risk management and internal control systems are in place<sup>118</sup>. This should include all material risks in respect of an issuer's business and, amongst others, material risks relating to ESG<sup>119</sup>.
116. Since July 2020, issuers are required to disclose in their ESG reports the governance structure for ESG matters by way of a board statement setting out the board's consideration and oversight of ESG issues<sup>120</sup>.

#### **Issues**

117. Corporate governance provides the framework within which the board form their decisions and build their business. An effective governance structure allows issuers to have a better understanding and evaluate and manage risks (including environmental and social risks) and opportunities. The board should be responsible for governance of ESG matters to ensure oversight of ESG matters, as well as management of material environmental and social risks.
118. In the 2019 ESG Consultation, we emphasised the board's governance of ESG matters for quality ESG performance and reporting. Respondents commented that the linkage between the Code and the ESG Guide could be more clearly elaborated.

#### **Proposals**

119. We propose to elaborate the linkage in the Code by (a) setting out the relationship between CG and ESG in the introductory section; and (b) including ESG risks in the context of risk management under the Code<sup>121</sup>.

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<sup>116</sup> Rule 720(5) of the SGX Listing Rules (Mainboard) / Rule 720(4) of the SGX Listing Rules (Catalist).

<sup>117</sup> Commentary to Recommendation 2.3 of ASX CG Code.

<sup>118</sup> Current Principle C.2 (New Principle D.2).

<sup>119</sup> No. 24K and 24L of [FAQ Series 17](#).

<sup>120</sup> Paragraph 13 of Part B of the ESG Guide.

<sup>121</sup> New Principle D.2, CP D.2.2 and CP D.2.3.

## Consultation Question

- Question 11** Do you agree with our proposal to elaborate the linkage in the Code by (a) setting out the relationship between CG and ESG in the introductory section; and (b) including ESG risks in the context of risk management under the Code?

### B. Timely disclosure of ESG reports

#### Current requirements

120. Issuers are required to publish their ESG report no later than five months after the end of the financial year<sup>122</sup>.

#### Issues

121. Climate-related risks are increasingly cited as a major priority on the global agenda, with calls for immediate action from leaders around the world<sup>123</sup>. There has also been a notable trend amongst regulators around the globe calling for the adoption of the TCFD Recommendations while reporting on climate-related information or making investment decisions. Our new ESG reporting requirements that came into effect in July 2020 have incorporated certain important elements of the TCFD Recommendations. For example, issuers are required to: (a) mandatorily disclose a board statement setting out the board's oversight and governance of ESG matters<sup>124</sup>, and (b) on a "comply or explain" basis, disclose (i) significant climate change impacts that are material to issuers<sup>125</sup>, and (ii) targets for certain key performance indicators under the "Environmental" Subject Area<sup>126</sup>.
122. Recently, the Hong Kong Green and Sustainable Finance Cross-Agency Steering Group announced its plan towards mandatory TCFD-aligned climate-related disclosures by 2025, and the SFC and HKMA launched their initiatives on enhancing disclosure of climate-related risks (referencing the TCFD Recommendations) by asset managers and banks respectively. We encourage issuers to consider adopting the TCFD Recommendations when disclosing climate change-related information in compliance with the ESG Guide.
123. Given the increasing importance of ESG information, it was considered as best practice for a company to publish ESG information simultaneously with its financial information.

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<sup>122</sup> MB Rule 13.91 / GEM Rule 17.103.

<sup>123</sup> For example, for Mainland China, President Xi Jinping announced that China would endeavour to achieve the peak of carbon emissions in 2030 and carbon-neutrality before 2060 (paragraph 126 of the [Chief Executive's 2020 Policy Address](#)). The HKSAR Government aims to achieve carbon neutrality before 2050 and will set out proactive strategies and measures to reduce carbon emissions in the middle of 2021 (paragraph 126 of the [Chief Executive's 2020 Policy Address](#)). In July 2020, the European Commission adopted new rules setting out minimum technical requirements for the methodology of EU climate benchmarks. ([https://ec.europa.eu/info/sites/info/files/business\\_economy\\_euro/banking\\_and\\_finance/documents/climate-benchmarks-level-2-measures-full\\_en.pdf](https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/climate-benchmarks-level-2-measures-full_en.pdf)).

<sup>124</sup> The board statement should contain: (i) a disclosure of the board's oversight of ESG issues; (ii) the board's ESG management approach and strategy, including the process used to evaluate, prioritise and manage material ESG-related issues (including risks to the issuer's businesses); and (iii) how the board reviews progress made against ESG-related goals and targets with an explanation of how they relate to the issuer's businesses. Paragraph 13 of the ESG Guide.

<sup>125</sup> Aspect A4 of the ESG Guide.

<sup>126</sup> KPIs A1.5, A1.6, A2.3 and A2.4.

The alignment of publication timeframes could highlight the interdependency between financial and non-financial matters, thus allowing the board to assess these matters holistically and comprehensively. This would be conducive to the development of more coherent strategies and execution plans. Investors would also benefit from being presented with a more comprehensive picture of the company's performance with more current data. Against this backdrop, in the 2019 ESG Consultation, we proposed to align the deadline for publication of ESG reports with that of the annual reports.

124. While the majority of respondents supported the proposal, there were also concerns over the time and resources required for the preparation of both reports simultaneously, resulting in lower reporting quality. It was therefore concluded<sup>127</sup> that the publication deadline of ESG reports be shortened to five months after the end of the financial year. It was also stated in the conclusions paper that the Exchange would consider aligning the publication timeframe of ESG reports and annual reports in the future.

### **Proposal**

125. In light of continued global focus on disclosure of ESG (including climate change-related information) and to further enhance the timeliness of ESG reports and relevance of the data disclosed, we propose to revise the Rules<sup>128</sup> and the ESG Guide<sup>129</sup> to require publication of ESG reports at the same time as publication of annual reports. If the proposal is adopted, this will be effective for issuers' financial years commencing on or after 1 January 2022<sup>130</sup>.

### **Consultation Question**

- Question 12** Do you agree with our proposal to amend the Rules and the ESG Guide to require publication of ESG reports at the same time as publication of annual reports?

## **PART III: CG CODE STRUCTURE**

### **Current structure**

126. The CG requirements set out in Appendix 14 comprise: (a) the CG Code; and (b) the CG Report. The CG Code includes 16 Principles, 78 CPs disclosing on a "comply or explain" basis and ten RBPs. The CG Report includes 32 MDRs and six RDs.
127. Since the introduction of the CG requirements 20 years ago, the Rules have undergone rounds of amendments. In 2012, the CG Code and the CG Report were combined to form Appendix 14<sup>131</sup> with the current name "Corporate Governance Code and Corporate Governance Report".
128. The Exchange published the 2018 Guidance to provide practical advice to board and directors on their roles and responsibilities in good corporate governance. The 2018 Guidance covers directors' duties and board effectiveness, board committees, board

<sup>127</sup> For details, please refer to 2019 ESG Consultation.

<sup>128</sup> MB Rule 13.91(5)(d) / GEM Rule 17.103(5)(d).

<sup>129</sup> Paragraph 4(2)(d) of the ESG Guide.

<sup>130</sup> Whether the amendment would apply is determined by the commencement date of the issuer's reporting period: (1) where the reporting period commences on a day prior to 1 January 2022, the proposed amendment does not apply; and (2) where the reporting period commences on or after 1 January 2022 (e.g. 1 January 2022 or 1 April 2022), such ESG report would need to be issued at the same time as publication of the annual report.

<sup>131</sup> The CG Report requirements were merged into Appendix 14 from 1 January 2012. For details, please refer to 2010 CG Consultation.

diversity (including gender diversity), risk management and internal control, company secretary and corporate governance for weighted voting rights issuers.

## Issues

129. The global regulatory landscape is changing rapidly, with more emphasis on the quality of governance. Investors and minority shareholders value how companies reported governance structure, in particular how the overall governance of the company contributes to its long-term success. These prompt the need for us to improve the readability of CG requirements to promote compliance.

## Proposals

130. In order to encourage issuers to achieve high standards in corporate governance, we have looked to re-arrange Appendix 14, making it clearer and more concise. For the avoidance of doubt, the changes to Appendix 14 mentioned in paragraph 131 will not result in any additional CG requirements.
131. We propose to amend Appendix 14 by:
- (a) Renaming as “Corporate Governance Code” – The current Appendix 14 is a result of the merge of two appendices in 2012. The market often refers to “Corporate Governance Code” to mean all the CG requirements under Appendix 14. We therefore propose to rename Appendix 14 to “Corporate Governance Code”.
  - (b) Positioning MDR prominently – As disclosures under the MDRs are mandatory, it would be helpful to the market if they are set out upfront in Appendix 14 (instead of in the last part of Appendix 14).
  - (c) Re-organising the structure – To improve the flow and readability of Appendix 14, we propose to enhance the organisation of the provisions by re-grouping them into different sections by topics and re-arranging the sequence. We also propose to amend the introductory paragraphs to reflect the CG reporting framework and making drafting amendments to improve clarity of the requirements (including deleting duplicative requirements)<sup>132</sup>.
132. To provide comprehensive guidance in assisting issuers’ compliance with the CG requirements, we will prepare a new guidance letter CG GL consolidating the additional guidance on various topics proposed in this consultation paper, practices currently set out in the 2018 Guidance, certain notes currently in Appendix 14 which would be more appropriately contained in the CG GL and feedback received. The new CG GL is intended to stimulate board’s thinking on how they can carry out their role most effectively, including how the Principles in the Code are applied and reported on. The CG GL should be read alongside the rearranged “Corporate Governance Code”.
133. It is observed that there is a lack of effort on the part of issuers to comply with the voluntary RBPs and RDs. We reiterate that they are the Exchange’s expectations of practices to support issuers’ compliance with the Code. The voluntary nature does not mean that they are not important, but rather, they are practices which should be adhered to in order for the company to meet the Principles in the Code.

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<sup>132</sup> In the [Consultation Paper on Listing Regime For Overseas Issuers](#) published in March 2021, certain proposals relate to the CPs in the Code (i.e. a CP on casual vacancy appointments (current CP A.4.2 (new CP B.2.2)) and a CP on notice of AGM (current CP E.1.3 (new CP F.2.1))). Depending on the consultation outcome, such amendments will be reflected in the rearranged “Corporate Governance Code” as appropriate.

134. Issuers should bear in mind that it is important to report meaningfully and to avoid boilerplate reporting. The quality of their disclosures will not only aid compliance with the Rules, but also in achieving the purpose to enable shareholders' effective assessment of the quality of the company's governance arrangements and the board's activities and contributions. Good quality disclosures should discuss how the Principles have been applied, articulating what action has been taken and the resulting outcomes. Compelling reasons should be given for any deviations from the CPs for why the alternative is the right approach for the company.
135. For ease of reference, a summary of the proposed changes with reference to the Code and the Listing Rules is set out in **Appendix I**. A table setting out the structure of the current Code and the new location of the relevant provisions under the re-arranged "Corporate Governance Code" can be found in **Appendix II**.

### **Consultation Questions**

- Question 13** Do you have any comments on how the re-arranged Code is drafted in the form set out in **Appendices III** and **IV** to this paper and whether it will give rise to any ambiguities or unintended consequences?
- Question 14** In addition to the topics mentioned in this paper, do you have any comments regarding what to be included in the CG GL which may be helpful to issuers for achieving the Principles set out in the Code?

### **PART IV: IMPLEMENTATION DATES**

136. We propose to implement the revised Rules and the Code (except the proposed changes on Long Serving INED) for financial year commencing on or after 1 January 2022.
137. We understand the impacts of the proposals regarding Long Serving INEDs on issuers, in particular there may be practical concerns to find a new INED that is suitable for the company. We therefore propose a longer transition period to implement the changes for financial year commencing 1 January 2023.

### **Consultation Question**

- Question 15** Do you agree with our proposed implementation dates of:
- (a) for all proposals (except the proposals on Long Serving INED): financial year commencing on or after 1 January 2022; and
  - (b) for proposals on Long Serving INED: financial year commencing on or after 1 January 2023?



**APPENDIX I: SUMMARY OF PROPOSED CHANGES WITH REFERENCE TO THE  
CODE AND THE LISTING RULES**

NO.	PROPOSALS	RELEVANT RULES / CPS
<b>PART I: CORPORATE GOVERNANCE</b>		
1.	<b>Culture</b>  (1) <u>Introduce CP</u> : require board to set culture in alignment with issuer's vision and strategy  (2) <u>New CP</u> : establish anti-corruption policy by issuers  (3) <u>Upgrade to CP</u> : establish a whistleblowing policy by issuers	New CP A.1.1  New CP D.2.7  New CP D.2.6
2.	<b>Director's independence</b>  (1) <u>New CP</u> : require disclosure of a policy to ensure independent views are available to the board  (2) <u>Revised CP</u> : require (i) independent shareholders' approval for re-election of Long Serving INEDs; and (ii) Additional Disclosure  (3) <u>New CP</u> : where all the INEDs on an issuer's board are Long Serving INEDs, appoint a new INED on the board at the forthcoming AGM and disclose the length of the tenure of the Long Serving INEDs on a named basis  (4) <u>New RBP</u> : an issuer generally should not grant equity-based remuneration with performance-related elements to INEDs as this may lead to bias in their decision-making and compromise their objectivity and independence	New CP B.1.4  Current CP A.4.3 (New CP B.2.3)  New CP B.2.4  New RBP E.1.9
3.	<b>Diversity</b>  (1) <u>Amend Note to the Rule</u> : highlight that diversity is not considered to be achieved for a single gender board  (2) <u>New MDR</u> : require all listed issuers to set and disclose numerical targets and timelines for achieving gender diversity at both (a) board level; and (b) across the workforce (including senior management)  (3) <u>New CP</u> : require board to review progress of diversity policy annually  (4) <u>Diversity repository</u> : database showing board diversity information (e.g. gender, age and directorships) and amend the relevant forms to include directors' gender information	Note to MB Rule 13.92 / GEM Rule 17.104  New Paragraph J of the MDR  New CP B.1.3  Part 1 of Form B and Form H of Appendix 5 to the MB Rules / Part 1

NO.	PROPOSALS	RELEVANT RULES / CPS
		of Form A and Form B of Appendix 6 to the GEM Rules
4.	<b>Nomination Committee</b>  <u>Upgrade to Rule</u> : establish a NC chaired by an INED and comprising a majority of INEDs	New MB Rule 3.27A / GEM Rule 5.26A
5.	<b>Communications with shareholders</b>  <u>Upgrade to MDR</u> : disclose issuer's shareholders communication policy, and annual review of such policy to ensure its effectiveness	New Paragraph L of MDR
6.	<b>Other enhancements</b>  (1) <u>New Rule</u> : disclose directors' attendance in the poll results announcements  (2) <u>Delete CP</u> : no longer require NEDs be appointed for specific term	New MB Rule 13.39(5A) / GEM Rule 17.47(5A)  Current CP A.4.1
<b>PART II: ESG</b>		
7.	<b>Elaborate the linkage between CG and ESG</b>  <u>New introductory paragraph in CG Code and revise Principle and CPs</u> : elaborate the linkage between CG and ESG	New introductory paragraph in the Code, New Principle D.2, CP D.2.2 and CP D.2.3
8.	<b>Timely disclosure of ESG reports</b>  <u>Revise Rule and ESG Guide</u> : publish ESG reports at the same time as publication of annual reports	MB Rule 13.91(5)(d) / GEM Rule 17.103(5)(d) and paragraph 4(2)(d) of the ESG Guide
<b>PART III: CODE STRUCTURE</b>		
9.	<b>Re-arrange the Code</b>  (1) Rename Appendix 14 to "Corporate Governance Code" (2) MDRs set out upfront in Appendix 14	Appendix 14 to the MB Rules / Appendix 15 to the GEM Rules

NO.	PROPOSALS	RELEVANT RULES / CPS
	(3) Re-organise the structure of Appendix 14	

## APPENDIX II: THE STRUCTURE OF THE CURRENT CODE AND PROPOSED RE-ARRANGED CODE

The MDRs, Principles, CPs, RBPs and RDs in the current Code are detailed in the left hand column. The right hand column shows where they have been incorporated (with explanations to any amendments where applicable) into the proposed rearranged Corporate Governance Code:

Current Location	Proposed New Location
<b>Principles of Good Corporate Governance, Code Provisions and Recommended Best Practices</b>	<b>Part 2 - Principles of Good Corporate Governance, Code Provisions and Recommended Best Practices</b>
<b>Principle A.1 - The Board</b>	<ul style="list-style-type: none"> <li>- Principle A.1 - Corporate strategy, business model and culture (see paragraphs 45 to 54)</li> <li>- Principle B.1 - Board composition, succession and evaluation</li> </ul>
CP A.1.1	CP C.5.1
CP A.1.2	CP C.5.2
CP A.1.3	CP C.5.3
CP A.1.4	CP C.5.4
CP A.1.5	CP C.5.5
CP A.1.6	CP C.5.6
CP A.1.7	CP C.5.7
CP A.1.8	CP C.1.8
<b>Principle A.2 - Chairman and Chief Executive</b>	<b>Principle C.2 - Chairman and Chief Executive</b>
CP A.2.1	CP C.2.1
CP A.2.2	CP C.2.2
CP A.2.3	CP C.2.3
CP A.2.4	CP C.2.4
CP A.2.5	CP C.2.5
CP A.2.6	CP C.2.6
CP A.2.7	CP C.2.7
CP A.2.8	CP C.2.8
CP A.2.9	CP C.2.9
<b>Principle A.3 – Board composition</b>	<b>Principle B.1 - Board composition, succession and evaluation</b>
CP A.3.1	CP B.1.1
CP A.3.2	CP B.1.2
RBP A.3.3	RBP B.1.6
<b>Principle A.4 – Appointments, re-election and removal</b>	<b>Principle B.2 – Appointments, re-election and removal</b>
CP A.4.1	Deleted (see paragraphs 110 to 114)
CP A.4.2	CP B.2.2
CP A.4.3	CP B.2.3 (see paragraphs 66 to 75)
<b>Principle A.5 - Nomination Committee</b>	<b>Principle B.3 - Nomination Committee</b>
CP A.5.1	Deleted (see paragraphs 90 to 95 and new MB Rule 3.27A / GEM Rule 5.36A)
CP A.5.2	CP B.3.1
CP A.5.3	CP B.3.2

Current Location	Proposed New Location
CP A.5.4	CP B.3.3
CP A.5.5	CP B.3.4
<b>Principle A.6 - Responsibilities of directors</b>	<b>Principle C.1 - Responsibilities of directors</b>
CP A.6.1	CP C.1.1
CP A.6.2	CP C.1.2
CP A.6.3	CP B.2.1
CP A.6.4	CP C.1.3
CP A.6.5	CP C.1.4
CP A.6.6	CP C.1.5
CP A.6.7	CP C.1.6
CP A.6.8	CP C.1.7
<b>Principle A.7 - Supply of and access to information</b>	<b>Principle C.5 - Conduct of board proceedings and supply of and access to information</b>
CP A.7.1	CP C.5.8
CP A.7.2	CP C.5.9
CP A.7.3	CP C.5.10
<b>Principle B.1 - The level and make-up of remuneration and disclosure</b>	<b>Principle E.1 - The level and make-up of remuneration and disclosure</b>
CP B.1.1	CP E.1.1
CP B.1.2	CP E.1.2
CP B.1.3	CP E.1.3
CP B.1.4	CP E.1.4
CP B.1.5	CP E.1.5
RBP B.1.6	RBP E.1.6
RBP B.1.7	RBP E.1.7
RBP B.1.8	RBP E.1.8
RBP B.1.9	RBP B.1.5
<b>Principle C.1 - Financial reporting</b>	<b>Principle D.1 - Financial reporting</b>
CP C.1.1	CP D.1.1
CP C.1.2	CP D.1.2
CP C.1.3	CP D.1.3
CP C.1.4	CP A.1.2
CP C.1.5	CP D.1.4
RBP C.1.6	RBP D.1.5
RBP C.1.7	RBP D.1.6
<b>Principle C.2 - Risk management and internal control</b>	<b>Principle D.2 - Risk management and internal control (see paragraphs 115 to 119)</b>
CP C.2.1	CP D.2.1
CP C.2.2	CP D.2.2 (see paragraphs 115 to 119)
CP C.2.3	CP D.2.3 (see paragraphs 115 to 119)
CP C.2.4	CP D.2.4
CP C.2.5	CP D.2.5
RBP C.2.6	RBP D.2.8
RBP C.2.7	RBP D.2.9
<b>Principle C.3 - Audit Committee</b>	<b>Principle D.3 - Audit Committee</b>
CP C.3.1	CP D.3.1
CP C.3.2	CP D.3.2

Current Location	Proposed New Location
CP C.3.3	CP D.3.3  The notes will be incorporated in the new CG GL.
CP C.3.4	CP D.3.4
CP C.3.5	CP D.3.5
CP C.3.6	CP D.3.6
CP C.3.7	CP D.3.7
RBP C.3.8	CP D.2.6 (see paragraphs 55 to 61)
<b>Principle D.1 - Management functions</b>	<b>Principle C.3 - Management functions</b>
CP D.1.1	CP C.3.1
CP D.1.2	CP C.3.2
CP D.1.3	Deleted – duplicated with MDR B(e)
CP D.1.4	CP C.3.3
<b>Principle D.2 - Board Committees</b>	<b>Principle C.4 - Board Committees</b>
CP D.2.1	CP C.4.1
CP D.2.2	CP C.4.2
D.3 - Corporate Governance Functions	Principle A.2 - Corporate Governance Functions
CP D.3.1	CP A.2.1
CP D.3.2	Principle A.2 - Corporate Governance Functions
<b>Principle E.1 - Effective communication</b>	<b>Principle F.1 - Effective communication</b>
CP E.1.1	CP F.2.2
CP E.1.2	CP F.2.3
CP E.1.3	CP F.2.1
CP E.1.4	MDR L(b) and (c) (see paragraphs 96 to 102)
CP E.1.5	CP F.1.1
<b>Principle E.2 - Voting by Poll</b>	<b>Principle F.2 - Shareholders meetings</b>
CP E.2.1	CP F.2.4
<b>Principle F - Company Secretary</b>	<b>Principle C.6 - Company Secretary</b>
CP F.1.1	CP C.6.1
CP F.1.2	CP C.6.2
CP F.1.3	CP C.6.3
CP F.1.4	CP C.6.4
<b>Corporate Governance Report – Mandatory Disclosure Requirements</b>	<b>Part 1 - Mandatory Disclosure Requirements</b>
G. Corporate Governance Practices	A. Corporate Governance Practices
H. Directors' Securities Transactions	G. Directors' Securities Transactions
I. Board of Directors	B. Board of Directors
J. Chairman and Chief Executive	C. Chairman and Chief Executive  Original item (b) deleted – duplicated with new CP C.2.1
K. Non-executive Directors	D. Non-executive Directors
L. Board Committees	E. Board Committees J. Diversity (see paragraphs 80 to 89)
M. Auditor's Remuneration	I. Auditor's Remuneration and Auditor Related Matters

Current Location	Proposed New Location
	The notes are deleted as the references to CPs are not exhaustive.
N. Company Secretary	F. Company Secretary
O. Shareholders' Rights	K. Shareholders' Rights
P. Investors Relations	L. Investors Relations (see paragraphs 96 to 102)
Q. Risk Management and Internal Control	H. Risk Management and Internal Control
<b>Recommended Disclosures</b>	<b>N/A (no longer a stand-alone section)</b>
R. Share Interests of Senior Management	RBP F.1.2(d)
S. Investor Relations	
S.(a) details of shareholders by type and aggregate shareholding	RBP F.1.2(a)
S.(b) details of the last shareholders' meeting, including the time and venue, major items discussed and voting particulars	Deleted. For each shareholders' meeting, the relevant details are disclosed in the notice of meeting and the announcement/circular.
S.(c) indication of important shareholders' dates in the coming financial year	RBP F.1.2(b)
S.(d) public float capitalisation at the year end	RBP F.1.2(c)
T. Management Functions	Deleted – duplicated with MDR B(e)  The note will be incorporated in the new CG GL.

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## APPENDIX III: PROPOSED AMENDMENTS TO THE MAIN BOARD LISTING RULES

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### A. Rearranged Appendix 14

#### Appendix 14

#### **CORPORATE GOVERNANCE CODE AND CORPORATE GOVERNANCE REPORT**

##### *~~The Code~~*

##### **INTRODUCTION**

This Corporate Governance Code sets out: (a) the mandatory requirements for disclosure in an issuer's Corporate Governance Report; and (b) the principles of good corporate governance, and two levels of recommendations: (a) the code provisions on a "comply or explain" basis; and (b) certain recommended best practices. Issuers are encouraged to adopt the recommended best practices on a voluntary basis.

~~Issuers are expected to comply with, but may choose to deviate from, the code provisions. The recommended best practices are for guidance only. Issuers may also devise their own code on corporate governance on the terms they consider appropriate.~~

~~Issuers must state whether they have complied with the code provisions for the relevant accounting period in their interim reports (and summary interim reports, if any) and annual reports (and summary financial reports, if any).~~

~~Every issuer must carefully review each code provision and, where it deviates from any of them, it must give considered reasons:-~~

~~(a) in annual reports (and summary financial reports), in the Corporate Governance Report; and~~

~~(b) in 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 preceding annual report, and providing details of any changes with considered reasons for any deviation not reported in that annual report. The references must be clear and unambiguous and the interim report (or summary interim report) must not contain only a cross-reference without any discussion of the matter.~~

~~Issuers are encouraged, but not required, to state whether they have complied with the recommended best practices and give considered reasons for any deviation.~~

##### **Corporate Governance Report Part 1 - Mandatory disclosure requirements**

Issuers must include a Corporate Governance Report prepared by the board of directors in



their summary financial reports (if any) and annual reports under paragraphs 50 and 34 of Appendix 16 to the Exchange Listing Rules and annual reports under paragraph 34 of Appendix 16. The Corporate Governance Report must contain all the information set out in Paragraphs G to Q of this Appendix the section headed “Part 1 - Mandatory disclosure requirements” below. Any failure to do so will be regarded as a breach of the Exchange Listing Rules.

To ~~a the extent~~ reasonable and appropriate ~~extent~~, the Corporate Governance Report included in an issuer’s summary financial report may be a summary of the Corporate Governance Report contained in the annual report, and may also incorporate information by reference to its annual report. The references must be clear and unambiguous, and the summary must not contain only a cross-reference without any discussion of the matter. The summary must contain, as a minimum, a narrative statement indicating overall compliance with and highlighting any deviation from the code provisions set out in the section headed “Part 2 - Principles of good corporate governance, code provisions and recommended best practices” below.

~~Issuers are also encouraged to disclose information set out in Paragraphs R to T of this Appendix in their Corporate Governance Reports.~~

#### **What is “comply or explain”?**

- ~~1. The Code sets out a number of “principles” followed by code provisions and recommended best practices. It is important to recognise that the code provisions and recommended best practices are not mandatory rules. The Exchange does not envisage a “one size fits all” approach. Deviations from code provisions are acceptable if the issuer considers there are more suitable ways for it to comply with the principles.~~
- ~~2. Therefore the Code permits greater flexibility than the Rules, reflecting that it is impractical to define in detail the behaviour necessary from all issuers to achieve good corporate governance. To avoid “box ticking”, issuers must consider their own individual circumstances, the size and complexity of their operations and the nature of the risks and challenges they face. Where an issuer considers a more suitable alternative to a code provision exists, it should adopt it and give reasons. However, the issuer must explain to its shareholders why good corporate governance was achieved by means other than strict compliance with the code provision.~~
- ~~3. Shareholders should not consider departures from code provisions and recommended best practices as breaches. They should carefully consider and evaluate explanations given by issuers in the “comply or explain” process, taking into account the purpose of good corporate governance.~~
- ~~4. An informed, constructive dialogue between issuers and shareholders is important to improving corporate governance.~~

## **Part 2 - Principles of good corporate governance (“Principles”), code provisions and recommended best practices**

The Principles set the overarching direction to achieving good corporate governance. The code provisions are aimed to help issuers apply the Principles.

The Exchange does not envisage a “one size fits all” approach, and appreciates that effective application of the Principles may be achieved by means other than strict compliance with the code provisions depending on a range of factors, including the issuer’s own individual circumstances, the size and complexity of its operations and the nature of the risks and challenges it faces. Issuers are expected to comply with, but may choose to deviate from, the code provisions in order to achieving the spirit of the Principles.

The recommended best practices are for guidance only. The voluntary nature of the recommended best practices does not mean that they are not important, but rather, they are practices which should be adhered to support issuer’s application of the Principles. Issuers are encouraged to state whether they have complied with the recommended best practices and give considered reasons for any deviation.

What is “comply or explain”?

1. Issuers must state whether they have complied with the code provisions for the relevant accounting period in their annual reports (and summary financial reports, if any) and interim reports (and summary interim reports, if any).
2. If an issuer considers there are ways other than the code provisions for it to apply the Principles, it may deviate from the code provisions (i.e. adopt action(s) or step(s) other than those set out in the code provisions) provided that the issuer sets out:
  - (a) in the Corporate Governance Report in the annual reports (and summary financial reports, if any) the considered reasons for the deviation and explain how good corporate governance was achieved by means other than strict compliance with the code provision (the “Considered Reasons and Explanation”). The explanation should provide a clear rationale for the alternative actions and steps taken by the issuer and their impacts and outcome; and
  - (b) in the interim reports (and summary interim reports, if any) either:
    - (i) the Considered Reasons and Explanation in respect of the deviation, or
    - (ii) to the extent reasonable and appropriate, by referring to the Corporate Governance Report in the preceding annual report, and providing details of any changes for any deviation not reported in that annual report with Considered Reasons and Explanation. The references must be clear and unambiguous, and the interim report (or summary interim report) must not contain only a cross-reference without any discussion of the matter.

The Considered Reasons and Explanation are helpful in fostering an informed, constructive dialogue between issuers and shareholders with a view to improving corporate governance continuously. Shareholders are encouraged to engage constructively and discuss with the issuer any deviation from the code provisions. In evaluating the Considered Reasons and Explanation given by the issuer, shareholders

should pay due regard to the issuer's individual circumstances.

3. An issuer would be in breach of the Exchange Listing Rules if it deviates from a code provision but does not provide Considered Reasons and Explanation in the manner as set out above.

### **Linkage between Corporate Governance and Environmental, Social and Governance ("ESG")**

Corporate governance provides the framework within which the board forms their decisions and build their businesses. The entire board should be focusing on creating long-term sustainable growth for shareholders and delivering long-term value to all stakeholders. An effective corporate governance structure allows issuers to have a better understanding and evaluate and manage risks (including environmental and social risks) and opportunities. The ESG Reporting Guide set out in Appendix 27 to the Exchange Listing Rules provides a framework for issuers to identify and consider what environmental risks and social risks may be material to them. The board should be responsible for governance of ESG matters to ensure oversight of ESG matters, as well as assessment and management of material environmental and social risks. Issuers are required to disclose environmental and social matters in ESG reports in accordance with the ESG Reporting Guide.

## **CORPORATE GOVERNANCE REPORT**

### **PART 1 - MANDATORY DISCLOSURE REQUIREMENTS**

To provide transparency, ~~the~~ issuers must include the following information for the accounting period covered by the annual report and significant subsequent events for the period up to the date of publication of the annual report, to the extent possible: Failure to do so will be regarded as a breach of the Exchange Listing Rules.

#### **A. CORPORATE GOVERNANCE PRACTICES**

- (a) A narrative statement explaining how the issuer has applied the Principles in the Code, enabling its shareholders to evaluate how the principles have been applied to enable shareholders' evaluation of such application;
- (b) a statement as to whether the issuer has complied with ~~meets~~ the code provisions. ~~If an issuer has adopted its own code that exceeds the code provisions, it may draw attention to this fact in its annual report; and~~
- (c) for any deviation from the code provisions (including adoption of any other alternatives than the code provisions), details of the deviation during the financial year (including ~~the considered reasons~~ Considered Reasons and Explanation).

#### **B. BOARD OF DIRECTORS**

- (a) Composition of the board, by category of directors, including name of chairman, executive directors, non-executive directors and independent non-executive directors;
- (b) number of board meetings held during the financial year;
- (c) attendance of each director, by name, at the board and general meetings;

*Notes: 1 Subject to the issuer's constitutional documents, and the law and regulations of its place of incorporation, attendance by a director at a meeting by electronic means such as telephonic or video-conferencing may be counted as physical attendance.*

*2 If ~~a~~ directors ~~is~~ are appointed part way during a financial year, their ~~his~~ attendance should be stated by reference to the number of board meetings held during their ~~his~~ tenure.*

- (d) for each named director, the number of board or committee meetings ~~he~~ such director attended and separately the number of board or committee meetings attended by ~~his~~ alternate of such director. Attendance at board or committee meetings by an alternate director should not be counted as attendance by the director ~~himself~~;
- (e) a statement of the respective responsibilities, accountabilities and contributions

of the board and management. In particular, a statement of how the board operates, including a high level statement on the types of decisions taken by the board and those delegated to management;

- (f) details of non-compliance (if any) with rules 3.10(1) and (2), and 3.10A and an explanation of the remedial steps taken to address non-compliance. This should cover non-compliance with appointment of a sufficient number of independent non-executive directors and appointment of an independent non-executive director with appropriate professional qualifications, or accounting or related financial management expertise;
- (g) reasons why the issuer considers an independent non-executive director to be independent where such director ~~he/she~~ fails to meet one or more of the guidelines for assessing independence set out in rule 3.13;
- (h) relationship (including financial, business, family or other material/relevant relationship(s)), if any, between board members and in particular, between the chairman and the chief executive; and
- (i) how each director, by name, complied with ~~A.6.5~~ code provision C.1.4.

#### **C. CHAIRMAN AND CHIEF EXECUTIVE**

- ~~(a) —The identity of the chairman and chief executive; and~~
- ~~(b) —whether the roles of the chairman and chief executive are separate and exercised by different individuals.~~

#### **D. NON-EXECUTIVE DIRECTORS**

The term of appointment of non-executive directors.

#### **E. BOARD COMMITTEES**

The following information for each of the audit committee, remuneration committee, nomination committee, ~~audit committee~~, risk committee (if any), and corporate governance functions:

- (a) the role and function of the committee;
- (b) the composition of the committee and whether it comprises independent non-executive directors, non-executive directors and executive directors (including their names and identifying the chairman of the committee);
- (c) the number of meetings held by the committee during the year to discuss matters and the record of attendance of members, by name, at meetings held during the year; and
- (d) a summary of the work during the year, including:

- (i) for the audit committee, a report on how it met its responsibilities in its review of the quarterly (if relevant), half-yearly and annual results, and unless expressly addressed by a separate risk committee, or the board itself, its review of the risk management and internal control systems, the effectiveness of the issuer's internal audit function, and its other duties under the Corporate Governance Code. Details of non-compliance with rule 3.21 (if any) and an explanation of the remedial steps taken by the issuer to address non-compliance with establishment of an audit committee; ~~and~~
- (ii) for the remuneration committee, determining the policy for the remuneration of executive directors, assessing performance of executive directors and approving the terms of executive directors' service contracts, performed by the remuneration committee. Disclose which of the two models of remuneration committee described in ~~B.1.2(c)~~code provision E.1.2(c) was adopted;
- (iii) for the nomination committee, disclosing the policy for the nomination of directors, ~~performed by the nomination committee or the board of directors (if there is no nomination committee)~~ during the year. This includes the nomination procedures and 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; ~~This section should also include 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 those objectives;~~
- (iv) for the risk committee (if any), a report on how it met its responsibilities in its review of the risk management and internal control systems and the effectiveness of the issuer's internal audit function-; and
- (v) for corporate governance, determining the policy for the corporate governance of the issuer, and duties performed by the board or the committee(s) under ~~D.3.1;~~ and code provision A.2.1.

#### **F. COMPANY SECRETARY**

- (a) Where an issuer engages an external service provider as its company secretary, its primary corporate contact person at the issuer (including his/her such person's name and position); and
- (b) details of non-compliance with rule 3.29.

#### **G. DIRECTORS' SECURITIES TRANSACTIONS**

For the Model Code set out in Appendix 10 to the Exchange Listing Rules:

- (a) whether the 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;

- (b) having made specific enquiry of all directors, whether the directors of the issuer have complied with, or whether there has been any non-compliance with, the required standard set out in the Model Code and its code of conduct regarding directors' securities transactions; and
- (c) for any non-compliance with the required standard set out in the Model Code, if any, details of these and an explanation of the remedial steps taken by the issuer to address them.

## H. RISK MANAGEMENT AND INTERNAL CONTROL

~~Where a~~An issuer includes the board's statement who reports in the Corporate Governance Report that it has conducted a review of the effectiveness of its risk management and internal control systems in the annual report under code provision ~~C.2.1~~, it under code provision D.2.1 must disclose the following:

- (a) whether the issuer has an internal audit function;
- (b) how often the risk management and internal control systems are reviewed and the period covered, ~~and where an issuer has not conducted a review during the year, an explanation why not;~~ and
- (c) ~~a statement that a review of the effectiveness of the~~ whether the issuer considers its risk management and internal control systems ~~has been conducted and whether the issuer considers them effective and adequate.~~

## I. AUDITOR'S REMUNERATION AND AUDITOR RELATED MATTERS

An analysis of remuneration in respect of audit and non-audit services provided by the auditors (including any entity that is under common control, ownership or management with the audit firm or any entity that a reasonable and informed third party having knowledge of all relevant information would reasonably conclude as part of the audit firm nationally or internationally) to the issuer. The analysis must include, in respect of each significant non-audit service assignment, details of the nature of the services and the fees paid.

~~Note: The code provisions expect issuers to make certain specified disclosures in the Corporate Governance Report. Where issuers choose not to make the expected disclosure, they must give considered reasons for not doing so under paragraph G(c). For ease of reference, the specific disclosure expectations of the code provisions are:~~

- ~~1 directors' acknowledgement of their responsibility for preparing the accounts and a statement by the auditors about their reporting responsibilities (C.1. 3 of the Code);~~
- ~~2 report on material uncertainties, if any, relating to events or conditions that may cast significant doubt upon the issuer's ability to continue as a going concern (C.1. 3 of the Code);~~



~~3 a statement that the board has conducted a review of the effectiveness of the internal control system of the issuer and its subsidiaries (C.2.1 of the Code); and~~

~~4 a statement from the audit committee explaining its recommendation and the reason(s) why the board has taken a different view from the audit committee on the selection, appointment, resignation or dismissal of external auditors (C.3.5 of the Code).~~

## **J. DIVERSITY**

- (a) The issuer's policy on board diversity or a summary of the policy, including any measurable objectives that it has set for implementing the policy, and progress on achieving those objectives;
- (b) disclose and explain:
  - (i) how and when gender diversity will be achieved in respect of the board and across the workforce (including senior management);
  - (ii) the numerical targets and timelines set for achieving gender diversity on its board and across the workforce (including senior management); and
  - (iii) what measures the issuer has adopted to develop a pipeline of potential successors to the board and senior management to achieve gender diversity.

*Note: In this Corporate Governance Code, "senior management" refers to the same persons referred to in the issuer's annual report and required to be disclosed under paragraph 12 of Appendix 16.*

## **K. SHAREHOLDERS' RIGHTS**

- (a) How shareholders can convene an extraordinary general meeting;
- (b) the procedures by which enquiries may be put to the board and sufficient contact details to enable these enquiries to be properly directed; and
- (c) the procedures and sufficient contact details for putting forward proposals at shareholders' meetings.

## **L. INVESTOR RELATIONS**

- (a) Any significant changes in the issuer's constitutional documents during the year;
- (b) the issuer's shareholders' communication policy (or its summary), which should include channels for shareholders to communicate their views on various matters affecting the issuer, as well as steps taken to solicit and understand the views of shareholders and stakeholders; and
- (c) a statement of the issuer's review of the implementation and effectiveness of the



shareholders' communication policy conducted during the year (including how it arrives at the conclusion).

## **~~RECOMMENDED DISCLOSURES~~**

~~The disclosures set out in the following paragraphs on corporate governance matters are provided for issuers' reference. They are not intended to be exhaustive or mandatory. They are intended to show the areas which issuers may comment on in their Corporate Governance Report. The level of detail needed varies with the nature and complexity of issuers' business activities. Issuers are encouraged to include the following information in their Corporate Governance Report:~~

### **~~R. SHARE INTERESTS OF SENIOR MANAGEMENT~~**

~~The number of shares held by senior management (i.e. those individuals whose biographical details are disclosed in the annual report).~~

### **~~S. INVESTOR RELATIONS~~**

- ~~(a) Details of shareholders by type and aggregate shareholding;~~
- ~~(b) details of the last shareholders' meeting, including the time and venue, major items discussed and voting particulars;~~
- ~~(c) indication of important shareholders' dates in the coming financial year; and~~
- ~~(d) public float capitalisation at the year end.~~

### **~~T. MANAGEMENT FUNCTIONS~~**

~~The division of responsibility between the board and management.~~

~~*Note: Issuers may consider that some of the information recommended under paragraphs R to T is too lengthy and detailed to be included in the Corporate Governance Report. As an alternative to full disclosure in the Corporate Governance Report, issuers may choose to include some or all of this information:*~~

- ~~(a) on its website and highlight to investors where they can:~~
  - ~~(i) access the soft copy by giving a hyperlink direct to the relevant webpage; and/or~~
  - ~~(ii) collect a hard copy of the relevant information free of charge; or~~
- ~~(b) where the information is publicly available, by stating where the information can be found. Any hyperlink should be direct to the relevant webpage.~~

**PART 2 - PRINCIPLES OF GOOD CORPORATE GOVERNANCE,**  
**CODE PROVISIONS AND**  
**RECOMMENDED BEST PRACTICES**

**A. DIRECTORSCORPORATE PURPOSE, STRATEGY AND GOVERNANCE**

**A.1 The BoardCorporate strategy, business model and culture**

**Principle**

An issuer should be headed by an effective board which should assume responsibility for its leadership and control and be collectively responsible for promoting its success by directing and supervising its affairs. Directors should take decisions objectively in the best interests of the issuer.

~~The board should regularly review the contribution required from a director to perform his responsibilities to the issuer, and whether he is spending sufficient time performing them.~~

**Code Provisions**

A.1.1 The board should establish the issuer's purpose, value and strategy, and satisfy itself that these and the issuer's culture are aligned. All directors must act with integrity, lead by example, and promote the desired culture. Such culture should instill and continually reinforce across the organisation of acting lawfully, ethically and responsibly.

A.1.2 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 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.*

**A.2 Corporate Governance Functions**

**Principle**

The board is responsible for performing the corporate governance duties. It may delegate the responsibility to a committee or committees.

## Code Provisions

A.2.1 The terms of reference of the board (or a committee or 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~~ Corporate Governance Code and disclosure in the Corporate Governance Report.

~~D.3.2 The board should be responsible for performing the corporate governance duties set out in the terms of reference in D.3.1 or it may delegate the responsibility to a committee or committees.~~

## B. BOARD COMPOSITION AND NOMINATION

### B.1 Board composition, succession and evaluation

#### Principle

The board should have a balance of skills, experience and diversity of perspectives appropriate to the requirements of the issuer's business, and should ensure that the directors devote sufficient time and make contributions to the issuer that are commensurate with their role and board responsibilities. It should ensure that changes to its composition can be managed without undue disruption. It should include a balanced composition of executive and non-executive directors (including independent non-executive directors) so that there is a strong independent element on the board, which can effectively exercise independent judgement. Non-executive directors should be of sufficient calibre and number for their views to carry weight.

#### Code Provisions

B.1.1 The independent non-executive directors should be identified in all corporate communications that disclose the names of directors.

B.1.2 An issuer should maintain on its website and on the Exchange's website

an updated list of its directors identifying their roles and functions and whether they are independent non-executive directors.

B.1.3 The board should review the implementation and effectiveness of the issuer's policy on board diversity on an annual basis.

B.1.4 An issuer should establish a policy to ensure independent views and input are available to the board and disclose such policy in its Corporate Governance Report. The board should review the implementation and effectiveness of such policy on an annual basis.

### **Recommended Best Practice**

B.1.5 The board should conduct a regular evaluation of its performance.

B.1.6 The board should state its reasons if it determines that a proposed director is independent notwithstanding that the individual holds cross-directorships or has significant links with other directors through involvements in other companies or bodies.

*Note: A cross-directorship exists when two (or more) directors sit on each other's boards.*

## **B.2 Appointments, re-election and removal**

### **Principle**

There should be a formal, considered and transparent procedure for the appointment of new directors. There should be plans in place for orderly succession for appointments. All directors should be subject to re-election at regular intervals. An issuer must explain the reasons for the resignation or removal of any director.

### **Code Provisions**

B.2.1 ~~Every d~~Directors should ensure that ~~he~~they can give sufficient time and attention to the issuer's affairs and should not accept the appointment if ~~he~~they cannot do so.

B.2.2 All directors appointed to fill a casual vacancy should be subject to election by shareholders at the first annual general meeting after appointment. Every director, including those appointed for a specific term, should be subject to retirement by rotation at least once every three years<sup>1</sup>.

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<sup>1</sup> Depending on the consultation outcome of the [Listing Regime for Overseas Issuers](#) published in March 2021, amendments will be reflected as appropriate.

- B.2.3 ~~Serving more than 9 years could be relevant to the determination of a nonexecutive director's independence.~~ If an independent non-executive director has served~~serves~~ more than 9~~nine~~ years, ~~his~~such director's further appointment should be subject to a separate resolution to be approved by independent shareholders. The papers to shareholders accompanying that resolution should ~~include the reasons~~ state why the board ~~(or the nomination committee)~~ believes that ~~he~~the director is still independent and should be re-elected, including the factors considered, the process and the discussion of the board (or the nomination committee) in arriving at such determination.
- B.2.4 Where all the independent non-executive directors of an issuer have served more than nine years on the board, the issuer should appoint a new independent non-executive director on the board at the forthcoming annual general meeting, and should disclose the length of tenure of each existing independent non-executive director on a named basis in the notice or accompanying circular to its shareholders of the relevant general meeting.

### B.3 Nomination Committee

#### Principle

In carrying out its responsibilities, the nomination committee should give adequate consideration to the Principles under ~~A.3 and A.4~~B.1 and B.2.

#### Code Provisions

- ~~A.5.1 Issuers should establish a nomination committee which is chaired by the chairman of the board or an independent non-executive director and comprises a majority of independent non-executive directors.~~
- B.3.1 The nomination committee should be established with specific written terms of reference which deal clearly with its authority and duties. It should perform the following duties:-
- (a) review the structure, size and composition (including the skills, knowledge and experience) of the board at least annually and make recommendations on any proposed changes to the board to complement the issuer's corporate strategy;
  - (b) identify individuals suitably qualified to become board members and select or make recommendations to the board on the selection of individuals nominated for directorships;
  - (c) assess the independence of independent non-executive directors; and
  - (d) make recommendations to the board on the appointment or re-

appointment of directors and succession planning for directors, in particular the chairman and the chief executive.

- B.3.2 The nomination committee should make available its terms of reference explaining its role and the authority delegated to it by the board by including them on the Exchange's website and issuer's website.
- B.3.3 Issuers should provide the nomination committee sufficient resources to perform its duties. Where necessary, the nomination committee should seek independent professional advice, at the issuer's expense, to perform its responsibilities.
- B.3.4 Where the board proposes a resolution to elect an individual as an independent non-executive director at the general meeting, it should set out in the circular to shareholders and/or explanatory statement accompanying the notice of the relevant general meeting:
  - (a) the process used for identifying the individual and why the board believes the individual should be elected and the reasons why it considers the individual to be independent;
  - (b) if the proposed independent non-executive director will be holding their seventh (or more) listed company directorship, why the board believes the individual would still be able to devote sufficient time to the board;
  - (c) the perspectives, skills and experience that the individual can bring to the board; and
  - (d) how the individual contributes to diversity of the board.

## **C. ~~DELEGATION BY THE BOARD~~ DIRECTORS' RESPONSIBILITIES, DELEGATION AND BOARD PROCEEDINGS**

### **C.1 Responsibilities of directors**

#### **Principle**

Every director must always know ~~his~~their responsibilities as a director of an issuer and its conduct, business activities and development. Given the essential unitary nature of the board, non-executive directors have the same duties of care and skill and fiduciary duties as executive directors.

#### **Code Provisions**

- C.1.1 ~~Every~~ Newly appointed directors of an issuer should receive a comprehensive, formal and tailored induction on appointment. Subsequently ~~he~~they should receive any briefing and professional development necessary to ensure that ~~he~~ they have a proper

understanding of the issuer's operations and business and ~~is~~are fully aware of ~~his~~their responsibilities under statute and common law, the Exchange Listing Rules, legal and other regulatory requirements and the issuer's business and governance policies.

C.1.2 The functions of non-executive directors should include:

- (a) participating in board meetings to bring an independent judgement to bear on issues of strategy, policy, performance, accountability, resources, key appointments and standards of conduct;
- (b) taking the lead where potential conflicts of interests arise;
- (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 performance reporting.

C.1.3 The board should establish written guidelines no less exacting than the Model Code for relevant employees in respect of their dealings in the issuer's securities. "Relevant employee" includes any employee or a director or employee of a subsidiary or holding company who, because of ~~his~~such office or employment, is likely to possess inside information in relation to the issuer or its securities.

C.1.4 All directors should participate in continuous professional development to develop and refresh their knowledge and skills. This is to ensure that their contribution to the board remains informed and relevant. The issuer should be responsible for arranging and funding suitable training, placing an appropriate emphasis on the roles, functions and duties of a listed company director.

*Note: Directors should provide a record of the training they received to the issuer.*

C.1.5 ~~Every~~Directors should disclose to the issuer at the time of ~~his~~their appointments, and in a timely manner for any changes, the number and nature of offices held in public companies or organisations and other significant commitments. 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 this disclosure should be made.

C.1.6 Independent non-executive directors and other non-executive directors, as equal board members, should give the board and any committees on

which they serve the benefit of their skills, expertise and varied backgrounds and qualifications through regular attendance and active participation. Generally they should also attend general meetings to gain and develop a balanced understanding of the views of shareholders.

Note: The absence of one or more of an issuer's independent non-executive directors or other non-executive directors from a general meeting is not a deviation from this code provision. However, non-executive directors' attendance at general meetings is important. An independent non-executive director is often the chairman or a member of board committees and as such, the individual should be accountable to shareholders by being available to respond to questions and enquiries in relation to their work. Without attending general meetings, the director will not be able to develop a balanced understanding of the views of shareholders.

- C.1.7 Independent non-executive directors and other non-executive directors should make a positive contribution to the development of the issuer's strategy and policies through independent, constructive and informed comments.
- C.1.8 An issuer should arrange appropriate insurance cover in respect of legal action against its directors.

## **C.2 Chairman and Chief Executive**

### **Principle**

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

### **Code Provisions**

- C.2.1 The roles of chairman and chief executive should be separate and should not be performed by the same individual. The division of responsibilities between the chairman and chief executive should be clearly established and set out in writing.
- C.2.2 The chairman should ensure that all directors are properly briefed on issues arising at board meetings.
- C.2.3 The chairman should be responsible for ensuring that directors receive, in a timely manner, adequate information which must be accurate, clear, complete and reliable.
- C.2.4 One of the important roles of the chairman is to provide leadership for the board. The chairman should ensure that the board works effectively



and performs its responsibilities, and that all key and appropriate issues are discussed by it in a timely manner. The chairman should be primarily responsible for drawing up and approving the agenda for each board meeting. ~~He~~The chairman should take into account, where appropriate, any matters proposed by the other directors for inclusion in the agenda. The chairman may delegate this responsibility to a designated director or the company secretary.

- C.2.5 The chairman should take primary responsibility for ensuring that good corporate governance practices and procedures are established.
- C.2.6 The chairman should encourage all directors to make a full and active contribution to the board's affairs and take the lead to ensure that it acts in the best interests of the issuer. The chairman should encourage directors with different views to voice their concerns, allow sufficient time for discussion of issues and ensure that board decisions fairly reflect board consensus.
- C.2.7 The chairman should at least annually hold meetings with the independent non-executive directors without the presence of other directors.
- C.2.8 The chairman should ensure that appropriate steps are taken to provide effective communication with shareholders and that their views are communicated to the board as a whole.
- C.2.9 The chairman should promote a culture of openness and debate by facilitating the effective contribution of non-executive directors in particular and ensuring constructive relations between executive and non-executive directors.

### **C.3 Management functions**

#### **Principle**

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

#### **Code Provisions**

- C.3.1 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 management's powers, in particular, where management should report back and obtain prior board approval before making decisions or entering into any commitments on the issuer's behalf.

*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 perform its functions.*

C.3.2 An issuer should formalise the functions reserved to the board and those delegated to management. It should review those arrangements periodically to ensure that they remain appropriate to the issuer's needs.

~~D.1.3 An issuer should disclose the respective responsibilities, accountabilities and contributions of the board and management.~~

C.3.3 Directors should clearly understand delegation arrangements in place. Issuers should have formal letters of appointment for directors setting out the key terms and conditions of their appointment.

## **C.4 Board Committees**

### **Principle**

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

### **Code Provisions**

C.4.1 Where board committees are established to deal with matters, the board should give them sufficiently clear terms of reference to enable them to perform their functions properly.

C.4.2 The terms of reference of board committees should require 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).

## **C.5 Conduct of board proceedings and sSupply of and access to information**

### **Principle**

The issuer should ensure directors can participate in board proceedings in a meaningful and effective manner. Directors should be provided in a timely manner with appropriate information in the form and quality to enable them to make an informed decision and perform their duties and responsibilities.

### **Code Provisions**

C.5.1 The board should meet regularly and board meetings should be held at least four times a year at approximately quarterly intervals. It is expected

regular board meetings will normally involve the active participation, either in person or through electronic means of communication, of a majority of directors entitled to be present. So, a regular meeting does not include obtaining board consent through circulating written resolutions.

- C.5.2 Arrangements should be in place to ensure that all directors are given an opportunity to include matters in the agenda for regular board meetings.
- C.5.3 Notice of at least 14 days should be given of a regular board meeting to give all directors an opportunity to attend. For all other board meetings, reasonable notice should be given.
- C.5.4 Minutes of board meetings and meetings of board committees should be kept by a duly appointed secretary of the meeting and should be open for inspection at any reasonable time on reasonable notice by any director.
- C.5.5 Minutes of board meetings and meetings of board committees should record in sufficient detail the matters considered and decisions reached, including any concerns raised by directors or dissenting views expressed. Draft and final versions of minutes should be sent to all directors for their comment and records respectively, within a reasonable time after the board meeting is held.
- C.5.6 There should be a procedure agreed by the board to enable directors, upon reasonable request, to seek independent professional advice in appropriate circumstances, at the issuer's expense. The board should resolve to provide separate independent professional advice to directors to assist them perform their duties to the issuer.
- C.5.7 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 be dealt with by a physical board meeting rather than a written resolution. Independent non-executive directors who, and whose close associates, have no material interest in the transaction should be present at that board meeting.

*Note: Subject to the issuer's constitutional documents, and the law and regulations of its place of incorporation, ~~a director's attendance by a director at a meeting by electronic means such as telephonic or videoconferencing may be counted as physical attendance at a physical board meeting.~~*

- C.5.8 For regular board meetings, and as far as practicable in all other cases, an agenda and accompanying board papers should be sent, in full, to all directors. These should be sent in a timely manner and at least 3 days

before the intended date of a board or board committee meeting (or other agreed period).

- C.5.9 Management has an obligation to supply the board and its committees with adequate information, in a timely manner, to enable it to make informed decisions. The information supplied must be complete and reliable. To fulfil ~~his~~their duties properly, ~~a~~directors may not, in all circumstances, be able to rely purely on information provided voluntarily by management and ~~he~~they may need to make further enquiries. Where any director requires more information than is volunteered by management, ~~he~~that director should make further enquiries where necessary. So, the board and individual directors should have separate and independent access to the issuer's senior management.
- C.5.10 All directors are entitled to have access to board papers and related materials. These papers and related materials should be in a form and quality sufficient to enable the board to make informed decisions on matters placed before it. Queries raised by directors should receive a prompt and full response, if possible.

## **C.6 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 on governance matters and should also facilitate induction and professional development of directors.

### **Code Provisions**

- C.6.1 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 whom the external provider can contact.
- C.6.2 The board should approve the selection, appointment or dismissal of the company secretary.

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

- C.6.3 The company secretary should report to the board chairman and/or the

chief executive.

- C.6.4 All directors should have access to the advice and services of the company secretary to ensure that board procedures, and all applicable law, rules and regulations, are followed.

## **D. ~~ACCOUNTABILITY AND AUDIT~~ AUDIT, INTERNAL CONTROL AND RISK MANAGEMENT**

### **D.1 Financial reporting**

#### **Principle**

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

#### **Code Provisions**

- D.1.1 Management should provide sufficient explanation and information to the board to enable it to make an informed assessment of financial and other information put before it for approval.
- D.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 in sufficient detail to enable the board as a whole and directors to discharge their duties under Rule 3.08 and Chapter 13.

*Note: The information provided may include background or explanatory information relating to matters to be brought before the board, copies of disclosure documents, budgets, forecasts and monthly and other relevant internal financial statements such as monthly management accounts and management updates. For budgets, any material variance between the projections and actual results should also be disclosed and explained.*

- D.1.3 The directors should acknowledge in the Corporate Governance Report their responsibility for preparing the accounts. There should be a statement by the auditors about their reporting responsibilities in the auditors' report on 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. Where the directors are aware of material uncertainties relating to events or conditions that may cast significant doubt on the issuer's ability to continue as a going concern, they should be clearly and prominently disclosed and discussed at length in the Corporate Governance Report. The Corporate

Governance Report should contain sufficient information for investors to understand the severity and significance of matters. To a reasonable and appropriate extent, the issuer may refer to other parts of the annual report. These references should be clear and unambiguous, and the Corporate Governance Report should not contain only a cross-reference without any discussion of the matter.

- D.1.4 The board should present a balanced, clear and understandable assessment in annual and interim reports and other financial disclosures required by the Exchange Listing Rules. It should also do so for reports to regulators and information disclosed under statutory requirements.

### **Recommended Best Practices**

- D.1.5 An issuer should announce and publish quarterly financial results within 45 days after the end of the relevant quarter. These should disclose sufficient information to enable shareholders to assess the issuer's performance, financial position and prospects. An issuer's quarterly financial results should be prepared using the accounting policies of its half-year and annual accounts.
- D.1.6 Once an issuer announces quarterly financial results, it should continue to do so for each of the first 3 and 9 months periods of subsequent financial years. Where it decides not to continuously announce and publish its financial results for a particular quarter, it should announce the reason(s) for this decision.

## **D.2 Risk management and internal control**

### **Principle**

The board is responsible for evaluating and determining the nature and extent of the risks it is willing to take in achieving the issuer's strategic objectives, and ensuring that the issuer establishes and maintains appropriate and effective risk management and internal control systems. Such risks would include, amongst others, material risks relating to ESG (please refer to the ESG Reporting Guide in Appendix 27 to the Exchange Listing Rules for further information). The board should oversee management in the design, implementation and monitoring of the risk management and internal control systems, and management should provide a confirmation to the board on the effectiveness of these systems.

### **Code Provisions**

- D.2.1 The board should oversee the issuer's risk management and internal control systems on an ongoing basis, ensure that a review of the effectiveness of the issuer's and its subsidiaries' risk management and internal control systems has been conducted at least annually and report to shareholders that it has done so in its Corporate Governance Report.

The review should cover all material controls, including financial, operational and compliance controls.

D.2.2 The board's annual review should, in particular, ensure the adequacy of resources, staff qualifications and experience, training programmes and budget of the issuer's accounting, internal audit, ~~and financial reporting functions~~, as well as those relating to the issuer's ESG performance and reporting.

D.2.3 The board's annual review should, in particular, consider:

- (a) the changes, since the last annual review, in the nature and extent of significant risks (including ESG risks), and the issuer's ability to respond to changes in its business and the external environment;
- (b) the scope and quality of management's ongoing monitoring of risks (including ESG risks) and of the internal control systems, and where applicable, the work of its internal audit function and other assurance providers;
- (c) the extent and frequency of communication of monitoring results to the board (or board committee(s)) which enables it to assess control of the issuer and the effectiveness of risk management;
- (d) significant control failings or weaknesses that have been identified during the period. Also, the extent to which they have resulted in unforeseen outcomes or contingencies that have had, could have had, or may in the future have, a material impact on the issuer's financial performance or condition; and
- (e) the effectiveness of the issuer's processes for financial reporting and Exchange Listing Rule compliance.

D.2.4 Issuers should disclose, in the Corporate Governance Report, a narrative statement on how they have complied with the risk management and internal control code provisions during the reporting period. In particular, they should disclose:

- (a) the process used to identify, evaluate and manage significant risks;
- (b) the main features of the risk management and internal control systems;
- (c) an acknowledgement by the board that it is responsible for the risk management and internal control systems and reviewing their effectiveness. It should also explain that such systems are designed to manage rather than eliminate the risk of failure to achieve business objectives, and can only provide reasonable and not absolute assurance against material misstatement or loss;



- (d) the process used to review the effectiveness of the risk management and internal control systems and to resolve material internal control defects; and
- (e) the procedures and internal controls for the handling and dissemination of inside information.

D.2.5 The issuer should have an internal audit function. Issuers without an internal audit function should review the need for one on an annual basis and should disclose the reasons for the absence of such a function in the Corporate Governance Report.

*Notes:*

- 1 *An internal audit function generally carries out the analysis and independent appraisal of the adequacy and effectiveness of the issuer's risk management and internal control systems.*
- 2 *A group with multiple listed issuers may share group resources to carry out the internal audit function for members of the group.*

D.2.6 The issuer should establish a whistleblowing policy and system for employees and those who deal with the issuer (e.g. customers and suppliers) to raise concerns, in confidence and anonymity, with the audit committee (or any designated committee comprising a majority of independent non-executive directors) about possible improprieties in any matter related to the issuer.

D.2.7 The issuer should establish policy(ies) that support anti-corruption laws and regulations.

### **Recommended Best Practices**

D.2.8 The board may disclose in the Corporate Governance Report that it has received a confirmation from management on the effectiveness of the issuer's risk management and internal control systems.

D.2.9 The board may disclose in the Corporate Governance Report details of any significant areas of concern.

## **D.3 Audit Committee**

### **Principle**

The board should establish formal and transparent arrangements to consider how it will apply financial reporting, risk management and internal control principles and maintain an appropriate relationship with the issuer's auditors. The



audit committee established under the Exchange Listing Rules should have clear terms of reference.

### **Code Provisions**

- D.3.1 Full minutes of audit committee meetings should be kept by a duly appointed secretary of the meeting (who should normally be the company secretary). Draft and final versions of minutes of the meetings should be sent to all committee members for their comment and records, within a reasonable time after the meeting.
- D.3.2 A former partner of the issuer's existing auditing firm should be prohibited from acting as a member of its audit committee for a period of two years from the date of the person ceasing:
- (a) to be a partner of the firm; or
  - (b) to have any financial interest in the firm, whichever is later.
- D.3.3 The audit committee's terms of reference should include at least:-

#### *Relationship with the issuer's auditors*

- (a) to be primarily responsible for making recommendations to the board on the appointment, reappointment and removal of the external auditor, and to approve the remuneration and terms of engagement of the external auditor, and any questions of its resignation or dismissal;
- (b) to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process in accordance with applicable standards. The audit committee should discuss with the auditor the nature and scope of the audit and reporting obligations before the audit commences;
- (c) to develop and implement policy on engaging an external auditor to supply non-audit services. For this purpose, "external auditor" includes any entity that is under common control, ownership or management with the audit firm or any entity that a reasonable and informed third party knowing all relevant information would reasonably conclude to be part of the audit firm nationally or internationally. The audit committee should report to the board, identifying and making recommendations on any matters where action or improvement is needed;

#### *Review of the issuer's financial information*

- (d) to monitor integrity of the issuer's financial statements and annual report and accounts, half-year report and, if prepared for

publication, quarterly reports, and to review significant financial reporting judgements contained in them. In reviewing these reports before submission to the board, the committee should focus particularly on:-

- (i) any changes in accounting policies and practices;
  - (ii) major judgmental areas;
  - (iii) significant adjustments resulting from audit;
  - (iv) the going concern assumptions and any qualifications;
  - (v) compliance with accounting standards; and
  - (vi) compliance with the Exchange Listing Rules and legal requirements in relation to financial reporting;
- (e) Regarding (d) above:-
- (i) members of the committee should liaise with the board and senior management and the committee must meet, at least twice a year, with the issuer's auditors; and
  - (ii) the committee should consider any significant or unusual items that are, or may need to be, reflected in the report and accounts, it should give due consideration to any matters that have been raised by the issuer's staff responsible for the accounting and financial reporting function, compliance officer or auditors;

*Oversight of the issuer's financial reporting system, risk management and internal control systems*

- (f) to review the issuer's financial controls, and unless expressly addressed by a separate board risk committee, or by the board itself, to review the issuer's risk management and internal control systems;
- (g) to discuss the risk management and internal control systems with management to ensure that management has performed its duty to have effective systems. This discussion should include the adequacy of resources, staff qualifications and experience, training programmes and budget of the issuer's accounting and financial reporting function;
- (h) to consider major investigation findings on risk management and internal control matters as delegated by the board or on its own initiative and management's response to these findings;
- (i) where an internal audit function exists, to ensure co-ordination

between the internal and external auditors, and to ensure that the internal audit function is adequately resourced and has appropriate standing within the issuer, and to review and monitor its effectiveness;

- (j) to review the group's financial and accounting policies and practices;
- (k) to review the external auditor's management letter, any material queries raised by the auditor to management about accounting records, financial accounts or systems of control and management's response;
- (l) to ensure that the board will provide a timely response to the issues raised in the external auditor's management letter;
- (m) to report to the board on the matters in this code provision; and
- (n) to consider other topics, as defined by the board.

~~Notes: These are only intended to be suggestions on how compliance with this code provision may be achieved and do not form part of it.~~

~~1 The audit committee may wish to consider establishing the following procedure to review and monitor the independence of external auditors:-~~

~~(i) consider all relationships between the issuer and the audit firm (including non-audit services);~~

~~(ii) obtain from the audit firm annually, information about policies and processes for maintaining independence and monitoring compliance with relevant requirements, including those for rotation of audit partners and staff; and~~

~~(iii) meet with the auditor, at least annually, in the absence of management, to discuss matters relating to its audit fees, any issues arising from the audit and any other matters the auditor may wish to raise.~~

~~2 The audit committee may wish to consider agreeing with the board the issuer's policies on hiring employees or former employees of the external auditors and monitoring the application of these policies. The audit committee should then be in a position to consider whether there has been or appears to be any impairment of the auditor's judgement or independence for the audit.~~

~~3 The audit committee should ensure that an external auditor's provision of non-audit services does not impair its independence or objectivity. When assessing the external auditor's independence or objectivity in relation to non-audit services, the audit committee may wish to consider:~~

~~(i) whether the skills and experience of the audit firm make it a suitable supplier of non-audit services;~~

~~(ii) whether there are safeguards in place to ensure that there is no threat to the objectivity and independence of the audit because the external auditor provides non-audit services;~~

~~(iii) the nature of the non-audit services, the related fee levels and fee levels individually and in total relative to the audit firm; and~~

~~(iv) criteria for compensation of the individuals performing the audit.~~

~~4 For further guidance, issuers may refer to the "Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence" issued by the Technical Committee of the International Organization of Securities Commissions in October 2002 and "A Guide for Effective Audit Committees" published by the Hong Kong Institute of Certified Public Accountants in February 2002. Issuers may also adopt the terms of reference in those guides, or any other comparable terms of reference for establishing an audit committee.~~

D.3.4 The audit committee should make available its terms of reference, explaining its role and the authority delegated to it by the board by including them on the Exchange's website and the issuer's website.

D.3.5 Where the board disagrees with the audit committee's view on the selection, appointment, resignation or dismissal of the external auditors, the issuer should include in the Corporate Governance Report a statement from the audit committee explaining its recommendation and also the reason(s) why the board has taken a different view.

D.3.6 The audit committee should be provided with sufficient resources to perform its duties.

D.3.7 The terms of reference of the audit committee should also require it:

(a) to review arrangements employees of the issuer can use, in confidence, to raise concerns about possible improprieties in financial reporting, internal control or other matters. The audit

committee should ensure that proper arrangements are in place for fair and independent investigation of these matters and for appropriate follow-up action; and

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

### **Recommended Best Practices**

~~C.3.8 The audit committee should establish a whistleblowing policy and system 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.~~

## **E. REMUNERATION OF DIRECTORS AND SENIOR MANAGEMENT AND BOARD EVALUATION**

### **E.1 The level and make-up of remuneration and disclosure**

#### **Principle**

An issuer should ~~disclose its~~ have a formal and transparent policy on directors' remuneration ~~policy~~ and other remuneration related matters. The procedure for setting policy on executive directors' remuneration and all directors' remuneration packages should be formal and transparent. Remuneration levels should be sufficient to attract and retain directors to run the company successfully without paying more than necessary. No director should be involved in deciding ~~his~~ that director's own remuneration.

#### **Code Provisions**

- E.1.1 The remuneration committee should consult the chairman and/or chief executive about their remuneration proposals for other executive directors. The remuneration committee should have access to independent professional advice if necessary.
- E.1.2 The remuneration committee's terms of reference should include, as a minimum:-
  - (a) to make recommendations to the board on the issuer's policy and structure for all directors' and senior management remuneration and on the establishment of a formal and transparent procedure for developing remuneration policy;
  - (b) to review and approve the management's remuneration proposals with reference to the board's corporate goals and objectives;

- (c) either:
  - (i) to determine, with delegated responsibility, the remuneration packages of individual executive directors and senior management; or
  - (ii) to make recommendations to the board on the remuneration packages of individual executive directors and senior management.

This should include benefits in kind, pension rights and compensation payments, including any compensation payable for loss or termination of their office or appointment;

- (d) to make recommendations to the board on the remuneration of non-executive directors;
- (e) to consider salaries paid by comparable companies, time commitment and responsibilities and employment conditions elsewhere in the group;
- (f) to review and approve compensation payable to executive directors and senior management for any loss or termination of office or appointment to ensure that it is consistent with contractual terms and is otherwise fair and not excessive;
- (g) to review and approve compensation arrangements relating to dismissal or removal of directors for misconduct to ensure that they are consistent with contractual terms and are otherwise reasonable and appropriate; and
- (h) to ensure that no director or any of ~~his~~their associates is involved in deciding ~~his~~that director's own remuneration.

E.1.3 The remuneration committee should make available its terms of reference, explaining its role and the authority delegated to it by the board by including them on the Exchange's website and the issuer's website.

E.1.4 The remuneration committee should be provided with sufficient resources to perform its duties.

E.1.5 Issuers should disclose the directors' remuneration policy, details of any remuneration payable to members of senior management by band and other remuneration related matters in their annual reports.

### **Recommended Best Practices**

E.1.6 If ~~B.1.2(c)(ii)~~E.1.2(c)(ii) is adopted, where the board resolves to approve any remuneration or compensation arrangements with which the remuneration committee disagrees, the board should disclose the

reasons for its resolution in its next Corporate Governance Report.

- E.1.7 A significant proportion of executive directors' remuneration should link rewards to corporate and individual performance.
- E.1.8 Issuers should disclose details of any remuneration payable to members of senior management, on an individual and named basis, in their annual reports.
- E.1.9 Issuers generally should not grant equity-based remuneration (e.g. share options or grants) with performance-related elements to independent non-executive directors as this may lead to bias in their decision-making and compromise their objectivity and independence.

## **F. ~~COMMUNICATION WITH SHAREHOLDERS~~ SHAREHOLDERS ENGAGEMENT**

### **F.1 Effective communication**

#### **Principle**

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

#### **Code Provisions**

- F.1.1 The issuer should have a policy on payment of dividends and should disclose it in the annual report.

#### **Recommended Best Practices**

- F.1.2 Issuers are encouraged to include the following information in their Corporate Governance Report:
  - (a) details of shareholders by type and aggregate shareholding;
  - (b) indication of important shareholders' dates in the coming financial year;
  - (c) the percentage of public float, based on information that is publicly available to the issuer and within the knowledge of its directors as at the latest practicable date prior to the issue of the annual report; and
  - ~~(d)~~ the number of shares held by each of the senior management.

## F.2 ~~Voting by Poll~~ Shareholders meetings

### Principle

The issuer should ensure that shareholders are given sufficient notice of shareholders meetings and are familiar with the detailed procedures for conducting a poll, and should arrange to address questions from shareholders in the shareholders meetings.

### Code Provisions

F.2.1 The issuer should arrange for the notice to shareholders to be sent for annual general meetings at least 20 clear business days before the meeting and to be sent at least 10 clear business days for all other general meetings.<sup>2</sup>

F.2.2 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.

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

F.2.3 The chairman of the board should attend the annual general meeting. The chairman of the board He should also invite the chairmen of the audit, remuneration, nomination and any other committees (as appropriate) to attend. In their absence, ~~he~~ the chairman should invite another member of the committee or failing this ~~his~~ their duly appointed delegate, to attend. 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 requires independent shareholders’ approval. An issuer’s management should 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.

*Note: Subject to the issuer’s constitutional documents, and the law and regulations of its place of incorporation, attendance by the above persons at a meeting by electronic means such as telephonic or videoconferencing may be counted as physical*

<sup>2</sup> Depending on the consultation outcome of the [Listing Regime for Overseas Issuers](#) published in March 2021, amendments will be reflected as appropriate.



attendance.

- F.2.4 The chairman of a meeting should ensure that an explanation is provided of the detailed procedures for conducting a poll and answer any questions from shareholders on voting by poll.

## B. Amendments to Other MB Rules

### Chapter 3

#### GENERAL

#### AUTHORISED REPRESENTATIVES, DIRECTORS, BOARD COMMITTEES AND COMPANY SECRETARY

##### Nomination Committee

- 3.27A An issuer must establish a nomination committee chaired by an independent non-executive director and comprising a majority of independent non-executive directors.

### Chapter 13

#### EQUITY SECURITIES

#### CONTINUING OBLIGATIONS

##### Meetings of Shareholders

- ...  
13.39 (5A) The issuer must state in the poll results announcement directors' attendance at the general meeting.

...

##### Environmental and Social Matters

- 13.91 (5) Where the ESG report does not form part of the issuer's annual report:

.....

- (d) The issuer shall publish~~is encouraged~~ the ESG report at the same time as the publication of the annual report. ~~In any event, the issuer should publish the ESG report as close as possible to, and no later than five months after, the end of the financial year.~~
- 13.92 The nomination committee (or the board) shall have a policy concerning diversity of board members, and shall disclose the policy on diversity or a summary of the policy in the corporate governance report.

*Note: Board diversity will differ according to the circumstances of each issuer. Diversity of board members can be achieved through consideration of a number of factors, including but not limited to gender, age, cultural and educational background, or professional experience. Diversity is not considered to be achieved for a single gender board. Each issuer should take into account its own business model and specific needs, and disclose the rationale for the factors it uses for this purpose.*

## Appendix 5

### 附錄五

## Declaration and Undertaking with regard to Directors

### 董事的聲明及承諾

#### Form B

#### B表格

#### Part 1

#### 第一部分

#### Declaration

#### 聲明

1. State:—  
請填報：

in English  
英文

in Chinese  
中文

...

(i) sex (male, female)

性別 (男、女)

.....

.....

## Appendix 5

### 附錄五

#### Declaration and Undertaking with regard to Directors of an Issuer incorporated in the People's Republic of China ("PRC")

在中華人民共和國（「中國」）註冊成立的發行人的董事的聲明及承諾

#### Form H

#### H表格

#### Part 1

#### 第一部分

#### DECLARATION

#### 聲明

1. State:—

請填報：

in English

英文

in Chinese

中文

...

(i) sex (male, female)

性別 (男、女)

.....

.....

## Appendix 27

### Environmental, Social and Governance Reporting Guide

#### Part A: Introduction

##### The Guide

...

- (4) (2) Where the ESG report does not form part of the issuer's annual report:
  - (d) The issuer shall publish ~~is encouraged to publish~~ the ESG report at the same time as the publication of the annual report. ~~In any event, the issuer should publish the ESG report as close as possible to, and no later than five months after, the end of the financial year.~~

## C. Consequential Amendments to MB Rules

### Chapter 1

#### GENERAL

#### INTERPRETATION

1.01 ...

<b>“connected person”</b>	...
<b><u>“Considered Reasons and Explanation”</u></b>	<u>has the meaning defined in Appendix 14</u>
<b>“controlling shareholder”</b>	...

### Chapter 8A

#### EQUITY SECURITIES

#### WEIGHTED VOTING RIGHTS

#### CORPORATE GOVERNANCE

...

#### Independent Non-Executive Directors

##### *Role of an independent non-executive director*

8A.26 The role of an independent non-executive director of a listed issuer with a WVR structure must include but is not limited to the functions described in ~~Code Provisions A.6.2, A.6.7 and A.6.8~~ code provisions C.1.2, C.1.6 and C.1.7 in Part 2 of Appendix 14 to these rules.

##### *Nomination committee*

8A.27 Issuers with a WVR structure must establish a nomination committee that complies with Section ~~A5B.3~~ B.3 in Part 2 of Appendix 14 of these rules.

*Note: The appointment or re-appointment of directors, including independent non-executive directors must be subject to the recommendation of the nomination committee, in accordance with ~~A.5.2(b) and (d)~~ sub-paragraphs (b) and (d) of code provision B.3.1 in Part 2 of Appendix 14 of these rules.*

8A.28 The nomination committee established under rule 8A.27 must be chaired by an independent non-executive director and comprising a majority of independent non-executive directors.

...

## **Corporate Governance Committee**

### ***Terms of reference***

8A.30 An issuer with a WVR structure must establish a Corporate Governance Committee with at least the terms of reference set out in ~~Code Provision D.3.4~~ code provision A.2.1 in Part 2 of Appendix 14 to these rules, and the following additional terms:

...

### **Communication with Shareholders**

8A.35 An issuer with a WVR structure must comply with Section ~~EF "Communication with Shareholders~~ Engagement" in Part 2 of Appendix 14 to these rules.

## **Chapter 13**

### **EQUITY SECURITIES**

#### **CONTINUING OBLIGATIONS**

#### **DISCLOSURE OF FINANCIAL INFORMATION**

##### **Distribution of annual report and accounts**

...

13.46 (2) (c) ...

Notes: ...

4. ...

(b) *a statement as to whether it complies with the ~~Corporate Governance Code~~code provisions in Part 2 of Appendix 14 and, if not, the ~~reason for~~Considered Reasons and Explanation in respect of the deviation; and*

...

##### **Interim Reports**

13.48 (1) ...

Note: ...

(b) *a statement as to whether it complies with the ~~Corporate Governance Code~~code provisions in Part 2 of Appendix 14 and, if not, the ~~reason for~~Considered Reasons and Explanation in respect of the deviation; and*

...

### **GENERAL**

#### **Corporate Governance Code**

13.89 (1) The Corporate Governance Code in Appendix 14 sets out: (a) the mandatory requirements for disclosure in an issuer's Corporate Governance Report, and (b) the principles of good corporate governance ~~and two levels of recommendations: (a), the code provisions on a "comply or explain" basis; and (b) certain~~ recommended best practices. Issuers are ~~expected to comply with,~~

~~but may choose to deviate from, the code provisions. The encouraged to adopt the recommended best practices are for guidance only on a voluntary basis.~~

~~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 Corporate Governance Code~~Part 2 of Appendix 14 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 requirements governing preliminary results announcements, see paragraphs 45 and 46 of Appendix 16.*

- (3) ~~Where the issuer deviates from the code provisions, it must give considered reasons:~~An issuer may deviate from the code provisions (i.e. adopt action(s) or step(s) other than those set out in the code provisions) provided that the issuer sets out:

- (a) ~~for annual reports (and summary financial reports), in the Corporate Governance Report under Appendix 14 in the annual reports (and summary financial reports, if any) the Considered Reasons and Explanation. The explanation should provide a clear rationale for the alternative actions and steps taken by the issuer and their impacts and outcome; and~~

- (b) ~~for~~in the interim reports (and summary interim reports, if any), either:

- (i) ~~by giving considered reasons for each deviation~~the Considered Reasons and Explanation in respect of the 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 with Considered Reasons and Explanation. The references must be clear and unambiguous, and the interim report (or summary interim report) must not contain only a cross-reference without any discussion of the matter.

- (4) For 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.



## Chapter 19C

### EQUITY SECURITIES

#### SECONDARY LISTINGS OF QUALIFYING ISSUERS

...

##### Exceptions to the Rules for All Qualifying Issuers<sup>3</sup>

- 19C.11 The following rules do not apply to a Qualifying Issuer that has, or is seeking, a secondary listing on the Exchange: 3.17; 3.21 to 3.23; 3.25 to 3.27A; 3.28; 3.29; 4.06; 4.07; Chapter 7; 8.09(4) (exception limited to issues outside the Exchange's markets); 8.18 (exception limited to issues outside the Exchange's markets); 9.11(10)(b); 10.05; 10.06(2)(a) to (c); 10.06(2)(e); 10.06(4); 10.06(5); 10.07(1); 10.07(2) to (4); 10.08; 13.11 to 13.22; 13.23(1); 13.23(2); 13.25A; 13.27; 13.28; 13.29; 13.31(1); 13.37; 13.38; 13.39(1) to (5A); 13.39(6) to (7) (exception limited to circumstances other than where a spin-off proposal requires approval by shareholders of the parent); 13.40 to 13.42; 13.44 to 13.45; 13.47; 13.48(2); 13.49; 13.51(1); 13.51(2) (each new director or member of the Qualifying Issuer's governing body must sign and lodge with the Exchange, as soon as practicable, a declaration and undertaking in the form set out in Form B of Appendix 5); 13.51B; 13.51C; 13.52(1)(b) to (d); 13.52(1)(e)(i) to (ii); 13.52(1)(e)(iv) (exception limited to issues outside the Exchange's markets); 13.52(2); 13.67; 13.68; 13.74; 13.80 to 13.87 (exception limited to circumstances other than where a spin-off proposal requires approval by shareholders of the parent); 13.88; 13.89; 13.91; Chapter 14; Chapter 14A; Chapter 15 (exception limited to issues outside the Exchange's markets); Chapter 16 (exception limited to issues outside the Exchange's markets); Chapter 17; 19.57; Practice Note 4 (exception limited to issues outside the Exchange's markets); Practice Note 15 paragraphs 1 to 3(b) and 3(d) to 5 (exception limited to circumstances where the spun-off assets or businesses are not to be listed on the Exchange's markets and the approval of shareholders of the parent is not required); Appendix 3 paragraphs 1, 2(1), 3, 4(1), 4(2), 4(4), 4(5), 5, 6, 7(1), 7(3), 8, 9, 10, 11, 13(1); Appendix 10; Appendix 14; Appendix 15; Appendix 16; Appendix 21 (exception does not apply in circumstances where a spin-off proposal requires approval by shareholders of the parent); Appendix 22 (exception does not apply in circumstances where a spin-off proposal requires approval by shareholders of the parent) and Appendix 27.

## Appendix 16

### DISCLOSURE OF FINANCIAL INFORMATION

#### Information in annual reports

6. ...

6.3 ...

- (n) *provision of information in respect of ~~corporate governance~~ code provisions ~~B.1.5~~E.1.5 (remuneration payable to members of senior management by band) and ~~C.1.4A~~1.2 (discussion and analysis of group's performance) in Part 2 of Appendix 14 or ~~explain reason for~~provide the Considered Reasons and Explanation in respect of any deviation.*

<sup>3</sup> Depending on the consultation outcome of the [Listing Regime for Overseas Issuers](#) published in March 2021, amendments will be reflected in the revised Rule as appropriate.

- ...
34. An issuer must include, in respect of the group, a separate Corporate Governance Report prepared by the board on its corporate governance practices. The report must, as a minimum, contain the information required under ~~paragraphs G to Q~~Part 1 of Appendix 14 regarding the accounting period covered by the annual report. To the extent ~~that it is reasonable and appropriate~~, the issuer may incorporate by reference information in its annual report into the Corporate Governance Report. ~~Any such~~The references must be clear and unambiguous, and the Corporate Governance Report must not contain only a cross-reference without any discussion of the matter.

...

#### **Information to accompany interim reports**

44. ...

- (1) a statement in relation to the accounting period covered by the interim report on whether the listed issuer meets the code provisions set out in ~~the Corporate Governance Code contained in~~Part 2 of Appendix 14. ~~Where there are any deviations from the code provisions in the Code, the listed issuer must give considered reasons for the deviations from the code provisions, either by:~~An issuer may deviate from the code provisions (i.e. adopt action(s) or step(s) other than those set out in the code provisions) provided that the issuer sets out:
- (a) ~~giving considered reasons for each deviation~~the Considered Reasons and Explanation in respect of the deviation; or
- (b) 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 with Considered Reasons and Explanation. ~~Any such~~The references must be clear and unambiguous, and the interim report must not only contain a cross-reference without any discussion of the matter;

...

#### **Information to accompany preliminary announcements of Results for the financial year**

45. ...

- (5) a statement as to whether the listed issuer meets the code provisions set out in ~~the Corporate Governance Code contained in~~Part 2 of Appendix 14. The listed issuer must also disclose any deviations from the code provisions ~~and give considered reasons for such deviations~~with Considered Reasons and Explanation. To the extent ~~that it is reasonable and appropriate~~, such information may be given by reference to the immediately preceding interim report or to the Corporate Governance Report in the immediately preceding annual report, and summarising any changes since that report. ~~Any such~~The references must be clear and unambiguous;

...

## Information to accompany preliminary announcements of Interim results

46. ...
- (4) a statement as to whether the listed issuer meets the code provisions set out in the ~~Corporate Governance Code contained in~~ Part 2 of Appendix 14. The listed issuer must also disclose any deviations from the code provisions ~~and give considered reasons for such deviations~~ with Considered Reasons and Explanation. To the extent ~~that it is~~ reasonable and appropriate, such information may be given by reference to the Corporate Governance Report in the ~~immediately preceding~~ annual report, and summarising any changes since that annual report. ~~Any such~~ The references must be clear and unambiguous;

...

## Summary financial reports

50. ...
- (2) a separate Corporate Governance Report prepared by the board on its corporate governance practices. The report must, as a minimum, contain the information required under ~~paragraphs G to Q~~ Part 1 of Appendix 14 regarding the accounting period covered by the annual report. To the extent ~~that it is~~ reasonable and appropriate, this Corporate Governance Report may ~~take the form of~~ be a summary of the Corporate Governance Report contained in the annual report, and may also incorporate information by reference to its annual report. ~~Any such~~ The references must be clear and unambiguous, and the summary must not contain only a cross-reference without any discussion of the matter. The summary must contain, as a minimum, a narrative statement indicating overall compliance with and highlighting any deviation from the ~~Corporate Governance Code~~ code provisions in Part 2 of Appendix 14.

...

## Recommended additional disclosure

52. ...
- 52.1 *Issuers should also note the ~~recommended disclosures set out in paragraphs R to T~~ recommended best practices F.1.2 in Part 2 of Appendix 14.*

## Appendix 27

### Environmental, Social and Governance Reporting Guide

#### Part A: Introduction

##### The Guide

3. “Comply or explain” provisions are set out in Part C of this Guide. An issuer must report on the “comply or explain” provisions of this Guide. If the issuer does not report on one or more of these provisions, it must provide considered reasons in its ESG report. For guidance on the “comply or explain” approach, issuers may refer to the “*What is “comply or explain”?*” section of the Corporate Governance Code and ~~Corporate Governance Report (“Corporate Governance Code”)~~ in Appendix 14 of the Main Board Listing Rules.

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## APPENDIX IV: PROPOSED AMENDMENTS TO THE GEM LISTING RULES

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### A. Rearranged Appendix 15

#### Appendix 15

#### CORPORATE GOVERNANCE CODE AND CORPORATE GOVERNANCE REPORT

##### *The Code*

##### **INTRODUCTION**

This Corporate Governance Code sets out: (a) the mandatory requirements for disclosure in an issuer's Corporate Governance Report; and (b) the principles of good corporate governance, and two levels of recommendations: (a) the code provisions on a "comply or explain" basis; and (b) certain recommended best practices. Issuers are encouraged to adopt the recommended best practices on a voluntary basis.

~~Issuers are expected to comply with, but may choose to deviate from, the code provisions. The recommended best practices are for guidance only. Issuers may also devise their own code on corporate governance on the terms they consider appropriate.~~

~~Issuers must state whether they have complied with the code provisions for the relevant accounting period in their half-year reports (and summary half-year reports, if any) and annual reports (and summary financial reports, if any).~~

~~Every issuer must carefully review each code provision and, where it deviates from any of them, it must give considered reasons:-~~

~~(a) in annual reports (and summary financial reports), in the Corporate Governance Report; and~~

~~(b) in half-year reports (and summary half-year 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 preceding annual report, and providing details of any changes with considered reasons for any deviation not reported in that annual report. The references must be clear and unambiguous and the half-year report (or summary half-year report) must not contain only a cross-reference without any discussion of the matter.~~

~~Issuers are encouraged, but not required, to state whether they have complied with the recommended best practices and give considered reasons for any deviation.~~

## **Corporate Governance Report Part 1 - Mandatory disclosure requirements**

Issuers must include a Corporate Governance Report prepared by the board of directors in their summary financial reports (if any) and annual reports under rules 18.81 and 18.44 ~~and annual reports under rule 18.44~~. The Corporate Governance Report must contain all the information set out in Paragraphs G to Q of this Appendix the section headed “Part 1 - Mandatory disclosure requirements” below. Any failure to do so will be regarded as a breach of the GEM Listing Rules.

To ~~a the extent~~ reasonable and appropriate ~~extent~~, the Corporate Governance Report included in an issuer's summary financial report may be a summary of the Corporate Governance Report contained in the annual report, and may also incorporate information by reference to its annual report. The references must be clear and unambiguous, and the summary must not contain only a cross-reference without any discussion of the matter. The summary must contain, as a minimum, a narrative statement indicating overall compliance with and highlighting any deviation from the code provisions set out in the section headed “Part 2 - Principles of good corporate governance, code provisions and recommended best practices” below.

~~Issuers are also encouraged to disclose information set out in Paragraphs R to T of this Appendix in their Corporate Governance Reports.~~

### **What is “comply or explain”?**

- ~~1. The Code sets out a number of “principles” followed by code provisions and recommended best practices. It is important to recognise that the code provisions and recommended best practices are not mandatory rules. The Exchange does not envisage a “one size fits all” approach. Deviations from code provisions are acceptable if the issuer considers there are more suitable ways for it to comply with the principles.~~
- ~~2. Therefore the Code permits greater flexibility than the Rules, reflecting that it is impractical to define in detail the behaviour necessary from all issuers to achieve good corporate governance. To avoid “box ticking”, issuers must consider their own individual circumstances, the size and complexity of their operations and the nature of the risks and challenges they face. Where an issuer considers a more suitable alternative to a code provision exists, it should adopt it and give reasons. However, the issuer must explain to its shareholders why good corporate governance was achieved by means other than strict compliance with the code provision.~~
- ~~3. Shareholders should not consider departures from code provisions and recommended best practices as breaches. They should carefully consider and evaluate explanations given by issuers in the “comply or explain” process, taking into account the purpose of good corporate governance.~~
- ~~4. An informed, constructive dialogue between issuers and shareholders is important to improving corporate governance.~~

## **Part 2 - Principles of good corporate governance (“Principles”), code provisions and recommended best practices**

The Principles set the overarching direction to achieving good corporate governance. The code provisions are aimed to help issuers apply the Principles.

The Exchange does not envisage a “one size fits all” approach, and appreciates that effective application of the Principles may be achieved by means other than strict compliance with the code provisions depending on a range of factors, including the issuer’s own individual circumstances, the size and complexity of its operations and the nature of the risks and challenges it faces. Issuers are expected to comply with, but may choose to deviate from, the code provisions in order to achieving the spirit of the Principles.

The recommended best practices are for guidance only. The voluntary nature of the recommended best practices does not mean that they are not important, but rather, they are practices which should be adhered to support issuer’s application of the Principles. Issuers are encouraged to state whether they have complied with the recommended best practices and give considered reasons for any deviation.

What is “comply or explain”?

1. Issuers must state whether they have complied with the code provisions for the relevant accounting period in their annual reports (and summary financial reports, if any) and half-year reports (and summary half-year reports, if any).
2. If an issuer considers there are ways other than the code provisions for it to apply the Principles, it may deviate from the code provisions (i.e. adopt action(s) or step(s) other than those set out in the code provisions) provided that the issuer sets out:
  - (a) in the Corporate Governance Report in the annual reports (and summary financial reports, if any) the considered reasons for the deviation and explain how good corporate governance was achieved by means other than strict compliance with the code provision (the “Considered Reasons and Explanation”). The explanation should provide a clear rationale for the alternative actions and steps taken by the issuer and their impacts and outcome; and
  - (b) in the half-year reports (and summary half-year reports, if any) either:
    - (i) the Considered Reasons and Explanation in respect of the deviation, or
    - (ii) to the extent reasonable and appropriate, by referring to the Corporate Governance Report in the preceding annual report, and providing details of any changes for any deviation not reported in that annual report with Considered Reasons and Explanation. The references must be clear and unambiguous, and the half-year report (or summary half-year report) must not contain only a cross-reference without any discussion of the matter.

The Considered Reasons and Explanation are helpful in fostering an informed, constructive dialogue between issuers and shareholders with a view to improving corporate governance continuously. Shareholders are encouraged to engage constructively and discuss with the issuer any deviation from the code provisions. In

evaluating the Considered Reasons and Explanation given by the issuer, shareholders should pay due regard to the issuer's individual circumstances.

3. An issuer would be in breach of the GEM Listing Rules if it deviates from a code provision but does not provide Considered Reasons and Explanation in the manner as set out above.

### **Linkage between Corporate Governance and Environmental, Social and Governance (“ESG”)**

Corporate governance provides the framework within which the board forms their decisions and build their businesses. The entire board should be focusing on creating long-term sustainable growth for shareholders and delivering long-term value to all stakeholders. An effective corporate governance structure allows issuers to have a better understanding and evaluate and manage risks (including environmental and social risks) and opportunities. The ESG Reporting Guide set out in Appendix 20 to the GEM Listing Rules provides a framework for issuers to identify and consider what environmental risks and social risks may be material to them. The board should be responsible for governance of ESG matters to ensure oversight of ESG matters, as well as assessment and management of material environmental and social risks. Issuers are required to disclose environmental and social matters in ESG reports in accordance with the ESG Reporting Guide.



## **CORPORATE GOVERNANCE REPORT**

### **PART 1 - MANDATORY DISCLOSURE REQUIREMENTS**

To provide transparency, ~~the~~ issuers must include the following information for the accounting period covered by the annual report and significant subsequent events for the period up to the date of publication of the annual report, to the extent possible: Failure to do so will be regarded as a breach of the GEM Listing Rules.

#### **A. CORPORATE GOVERNANCE PRACTICES**

- (a) A narrative statement explaining how the issuer has applied the Principles in the Code, enabling its shareholders to evaluate how the principles have been applied to enable shareholders' evaluation of such application;
- (b) a statement as to whether the issuer has complied with ~~meets~~ the code provisions. ~~If an issuer has adopted its own code that exceeds the code provisions, it may draw attention to this fact in its annual report; and~~
- (c) for any deviation from the code provisions (including adoption of any other alternatives than the code provisions), details of the deviation during the financial year (including ~~the considered reasons~~ Considered Reasons and Explanation).

#### **B. BOARD OF DIRECTORS**

- (a) Composition of the board, by category of directors, including name of chairman, executive directors, non-executive directors and independent non-executive directors;
- (b) number of board meetings held during the financial year;
- (c) attendance of each director, by name, at the board and general meetings;

*Notes: 1 Subject to the issuer's constitutional documents, and the law and regulations of its place of incorporation, attendance by a director at a meeting by electronic means such as telephonic or video-conferencing may be counted as physical attendance.*

*2 If ~~a~~ directors is-are appointed part way during a financial year, their ~~his~~ attendance should be stated by reference to the number of board meetings held during their ~~his~~ tenure.*

- (d) for each named director, the number of board or committee meetings ~~he~~ such director attended and separately the number of board or committee meetings attended by ~~his~~ alternate of such director. Attendance at board or committee meetings by an alternate director should not be counted as attendance by the director ~~himself~~;
- (e) a statement of the respective responsibilities, accountabilities and contributions

of the board and management. In particular, a statement of how the board operates, including a high level statement on the types of decisions taken by the board and those delegated to management;

- (f) details of non-compliance (if any) with rules 5.05(1) and (2), and 5.05A and an explanation of the remedial steps taken to address non-compliance. This should cover non-compliance with appointment of a sufficient number of independent non-executive directors and appointment of an independent non-executive director with appropriate professional qualifications, or accounting or related financial management expertise;
- (g) reasons why the issuer considers an independent non-executive director to be independent where such director ~~he/she~~ fails to meet one or more of the guidelines for assessing independence set out in rule 5.09;
- (h) relationship (including financial, business, family or other material/relevant relationship(s)), if any, between board members and in particular, between the chairman and the chief executive; and
- (i) how each director, by name, complied with ~~A.6.5~~ code provision C.1.4.

#### **C. CHAIRMAN AND CHIEF EXECUTIVE**

- ~~(a) —The identity of the chairman and chief executive; and~~
- ~~(b) —whether the roles of the chairman and chief executive are separate and exercised by different individuals.~~

#### **D. NON-EXECUTIVE DIRECTORS**

The term of appointment of non-executive directors.

#### **E. BOARD COMMITTEES**

The following information for each of the audit committee, remuneration committee, nomination committee, ~~audit committee~~, risk committee (if any), and corporate governance functions:

- (a) the role and function of the committee;
- (b) the composition of the committee and whether it comprises independent non-executive directors, non-executive directors and executive directors (including their names and identifying the chairman of the committee);
- (c) the number of meetings held by the committee during the year to discuss matters and the record of attendance of members, by name, at meetings held during the year; and
- (d) a summary of the work during the year, including:

- (i) for the audit committee, a report on how it met its responsibilities in its review of the quarterly, half-yearly and annual results, and unless expressly addressed by a separate risk committee, or the board itself, its review of the risk management and internal control systems, the effectiveness of the issuer's internal audit function, and its other duties under the Corporate Governance Code. Details of non-compliance with rule 5.28 (if any) and an explanation of the remedial steps taken by the issuer to address non-compliance with establishment of an audit committee; ~~and~~
- (ii) for the remuneration committee, determining the policy for the remuneration of executive directors, assessing performance of executive directors and approving the terms of executive directors' service contracts, performed by the remuneration committee. Disclose which of the two models of remuneration committee described in ~~B.1.2(e)~~ code provision E.1.2(c) was adopted;
- (iii) for the nomination committee, disclosing the policy for the nomination of directors, ~~performed by the nomination committee or the board of directors (if there is no nomination committee)~~ during the year. This includes the nomination procedures and 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. ~~This section should also include 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 those objectives;~~
- (iv) for the risk committee (if any), a report on how it met its responsibilities in its review of the risk management and internal control systems and the effectiveness of the issuer's internal audit function; ~~and~~
- (v) for corporate governance, determining the policy for the corporate governance of the issuer, and duties performed by the board or the committee(s) under ~~D.3.1~~ code provision A.2.1.

#### **F. COMPANY SECRETARY**

- (a) Where an issuer engages an external service provider as its company secretary, its primary corporate contact person at the issuer (including ~~his/her~~ such person's name and position); and
- (b) details of non-compliance with rule 5.15.

#### **G. DIRECTORS' SECURITIES TRANSACTIONS**

For the required standard of dealings set out in rules 5.48 to 5.67:

- (a) whether the issuer has adopted a code of conduct regarding directors' securities transactions on terms no less exacting than the required standard of dealings;

- (b) having made specific enquiry of all directors, whether the directors of the issuer have complied with, or whether there has been any non-compliance with, the required standard of dealings and its code of conduct regarding directors' securities transactions; and
- (c) for any non-compliance with the required standard of dealings, if any, details of these and an explanation of the remedial steps taken by the issuer to address them.

## **H. RISK MANAGEMENT AND INTERNAL CONTROL**

~~Where a~~An issuer includes the board's statement who reports in the Corporate Governance Report that it has conducted a review of the effectiveness of its risk management and internal control systems in the annual report under code provision ~~C.2.1~~, it under code provision D.2.1 must disclose the following:

- (a) whether the issuer has an internal audit function;
- (b) how often the risk management and internal control systems are reviewed and the period covered, ~~and where an issuer has not conducted a review during the year, an explanation why not;~~ and
- (c) ~~a statement that a review of the effectiveness of the~~ whether the issuer considers its risk management and internal control systems ~~has been conducted and whether the issuer considers them effective and adequate.~~

## **I. AUDITOR'S REMUNERATION AND AUDITOR RELATED MATTERS**

An analysis of remuneration in respect of audit and non-audit services provided by the auditors (including any entity that is under common control, ownership or management with the audit firm or any entity that a reasonable and informed third party having knowledge of all relevant information would reasonably conclude as part of the audit firm nationally or internationally) to the issuer. The analysis must include, in respect of each significant non-audit service assignment, details of the nature of the services and the fees paid.

~~Note: The code provisions expect issuers to make certain specified disclosures in the Corporate Governance Report. Where issuers choose not to make the expected disclosure, they must give considered reasons for not doing so under paragraph G(c). For ease of reference, the specific disclosure expectations of the code provisions are:~~

- ~~1 directors' acknowledgement of their responsibility for preparing the accounts and a statement by the auditors about their reporting responsibilities (C.1. 3 of the Code);~~
- ~~2 report on material uncertainties, if any, relating to events or conditions that may cast significant doubt upon the issuer's ability to continue as a going concern (C.1. 3 of the Code);~~

~~3 a statement that the board has conducted a review of the effectiveness of the internal control system of the issuer and its subsidiaries (C.2.1 of the Code); and~~

~~4 a statement from the audit committee explaining its recommendation and the reason(s) why the board has taken a different view from the audit committee on the selection, appointment, resignation or dismissal of external auditors (C.3.5 of the Code).~~

## **J. DIVERSITY**

- (a) The issuer's policy on board diversity or a summary of the policy, including any measurable objectives that it has set for implementing the policy, and progress on achieving those objectives;
- (b) disclose and explain:
  - (i) how and when gender diversity will be achieved in respect of the board and across the workforce (including senior management);
  - (ii) the numerical targets and timelines set for achieving gender diversity on its board and across the workforce (including senior management); and
  - (iii) what measures the issuer has adopted to develop a pipeline of potential successors to the board and senior management to achieve gender diversity.

*Note: In this Corporate Governance Code, "senior management" refers to the same persons referred to in the issuer's annual report and required to be disclosed under rule 18.39.*

## **K. SHAREHOLDERS' RIGHTS**

- (a) How shareholders can convene an extraordinary general meeting;
- (b) the procedures by which enquiries may be put to the board and sufficient contact details to enable these enquiries to be properly directed; and
- (c) the procedures and sufficient contact details for putting forward proposals at shareholders' meetings.

## **L. INVESTOR RELATIONS**

- (a) Any significant changes in the issuer's constitutional documents during the year;
- (b) the issuer's shareholders' communication policy (or its summary), which should include channels for shareholders to communicate their views on various matters affecting the issuer, as well as steps taken to solicit and understand the views of shareholders and stakeholders; and
- (c) a statement of the issuer's review of the implementation and effectiveness of the

shareholders' communication policy conducted during the year (including how it arrives at the conclusion).

## **~~RECOMMENDED DISCLOSURES~~**

~~The disclosures set out in the following paragraphs on corporate governance matters are provided for issuers' reference. They are not intended to be exhaustive or mandatory. They are intended to show the areas which issuers may comment on in their Corporate Governance Report. The level of detail needed varies with the nature and complexity of issuers' business activities. Issuers are encouraged to include the following information in their Corporate Governance Report:~~

### **~~R. SHARE INTERESTS OF SENIOR MANAGEMENT~~**

~~The number of shares held by senior management (i.e. those individuals whose biographical details are disclosed in the annual report).~~

### **~~S. INVESTOR RELATIONS~~**

- ~~(a) Details of shareholders by type and aggregate shareholding;~~
- ~~(b) details of the last shareholders' meeting, including the time and venue, major items discussed and voting particulars;~~
- ~~(c) indication of important shareholders' dates in the coming financial year; and~~
- ~~(d) public float capitalisation at the year end.~~

### **~~T. MANAGEMENT FUNCTIONS~~**

~~The division of responsibility between the board and management.~~

~~*Note: Issuers may consider that some of the information recommended under paragraphs R to T is too lengthy and detailed to be included in the Corporate Governance Report. As an alternative to full disclosure in the Corporate Governance Report, issuers may choose to include some or all of this information:*~~

- ~~(a) on its website and highlight to investors where they can:~~
  - ~~(i) access the soft copy by giving a hyperlink direct to the relevant webpage; and/or~~
  - ~~(ii) collect a hard copy of the relevant information free of charge; or~~
- ~~(b) where the information is publicly available, by stating where the information can be found. Any hyperlink should be direct to the relevant webpage.~~

**PART 2 - PRINCIPLES OF GOOD CORPORATE GOVERNANCE,**  
**CODE PROVISIONS AND**  
**RECOMMENDED BEST PRACTICES**

**A. DIRECTORSCORPORATE PURPOSE, STRATEGY AND GOVERNANCE**

**A.1 The BoardCorporate strategy, business model and culture**

**Principle**

An issuer should be headed by an effective board which should assume responsibility for its leadership and control and be collectively responsible for promoting its success by directing and supervising its affairs. Directors should take decisions objectively in the best interests of the issuer.

~~The board should regularly review the contribution required from a director to perform his responsibilities to the issuer, and whether he is spending sufficient time performing them.~~

**Code Provisions**

A.1.1 The board should establish the issuer's purpose, value and strategy, and satisfy itself that these and the issuer's culture are aligned. All directors must act with integrity, lead by example, and promote the desired culture. Such culture should instill and continually reinforce across the organisation of acting lawfully, ethically and responsibly.

A.1.2 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 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.*

**A.2 Corporate Governance Functions**

**Principle**

The board is responsible for performing the corporate governance duties. It may delegate the responsibility to a committee or committees.

## Code Provisions

A.2.1 The terms of reference of the board (or a committee or 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~~ Corporate Governance Code and disclosure in the Corporate Governance Report.

~~D.3.2 The board should be responsible for performing the corporate governance duties set out in the terms of reference in D.3.1 or it may delegate the responsibility to a committee or committees.~~



## **B. BOARD COMPOSITION AND NOMINATION**

### **B.1 Board composition, succession and evaluation**

#### **Principle**

The board should have a balance of skills, experience and diversity of perspectives appropriate to the requirements of the issuer's business, and should ensure that the directors devote sufficient time and make contributions to the issuer that are commensurate with their role and board responsibilities. It should ensure that changes to its composition can be managed without undue disruption. It should include a balanced composition of executive and non-executive directors (including independent non-executive directors) so that there is a strong independent element on the board, which can effectively exercise independent judgement. Non-executive directors should be of sufficient calibre and number for their views to carry weight.

#### **Code Provisions**

- B.1.1 The independent non-executive directors should be identified in all corporate communications that disclose the names of directors.
- B.1.2 An issuer should maintain on its website and on the GEM's website an updated list of its directors identifying their roles and functions and whether they are independent non-executive directors.
- B.1.3 The board should review the implementation and effectiveness of the issuer's policy on board diversity on an annual basis.
- B.1.4 An issuer should establish a policy to ensure independent views and input are available to the board and disclose such policy in its Corporate Governance Report. The board should review the implementation and effectiveness of such policy on an annual basis.

#### **Recommended Best Practice**

- B.1.5 The board should conduct a regular evaluation of its performance.
- B.1.6 The board should state its reasons if it determines that a proposed director is independent notwithstanding that the individual holds cross-directorships or has significant links with other directors through involvements in other companies or bodies.

*Note: A cross-directorship exists when two (or more) directors sit on each other's boards.*

## B.2 Appointments, re-election and removal

### Principle

There should be a formal, considered and transparent procedure for the appointment of new directors. There should be plans in place for orderly succession for appointments. All directors should be subject to re-election at regular intervals. An issuer must explain the reasons for the resignation or removal of any director.

### Code Provisions

- B.2.1 ~~Every d~~Directors should ensure that ~~he~~they can give sufficient time and attention to the issuer's affairs and should not accept the appointment if ~~he~~they cannot do so.
- B.2.2 All directors appointed to fill a casual vacancy should be subject to election by shareholders at the first annual general meeting after appointment. Every director, including those appointed for a specific term, should be subject to retirement by rotation at least once every three years<sup>1</sup>.
- B.2.3 ~~Serving more than 9 years could be relevant to the determination of a nonexecutive director's independence. If an independent non-executive director has served~~more than 9~~nine~~ years, ~~his~~such director's further appointment should be subject to a separate resolution to be approved by independent shareholders. The papers to shareholders accompanying that resolution should ~~include the reasons state~~ why the board (or the nomination committee) believes that ~~he~~the director is still independent and should be re-elected, including the factors considered, the process and the discussion of the board (or the nomination committee) in arriving at such determination.
- B.2.4 Where all the independent non-executive directors of an issuer have served more than nine years on the board, the issuer should appoint a new independent non-executive director on the board at the forthcoming annual general meeting, and should disclose the length of tenure of each existing independent non-executive director on a named basis in the notice or accompanying circular to its shareholders of the relevant general meeting.

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<sup>1</sup> Depending on the consultation outcome of the [Listing Regime for Overseas Issuers](#) published in March 2021, amendments will be reflected as appropriate.

## B.3 Nomination Committee

### Principle

In carrying out its responsibilities, the nomination committee should give adequate consideration to the Principles under ~~A.3 and A.4~~ B.1 and B.2.

### Code Provisions

~~A.5.1 Issuers should establish a nomination committee which is chaired by the chairman of the board or an independent non-executive director and comprises a majority of independent non-executive directors.~~

B.3.1 The nomination committee should be established with specific written terms of reference which deal clearly with its authority and duties. It should perform the following duties:-

- (a) review the structure, size and composition (including the skills, knowledge and experience) of the board at least annually and make recommendations on any proposed changes to the board to complement the issuer's corporate strategy;
- (b) identify individuals suitably qualified to become board members and select or make recommendations to the board on the selection of individuals nominated for directorships;
- (c) assess the independence of independent non-executive directors; and
- (d) make recommendations to the board on the appointment or re-appointment of directors and succession planning for directors, in particular the chairman and the chief executive.

B.3.2 The nomination committee should make available its terms of reference explaining its role and the authority delegated to it by the board by including them on the GEM website and issuer's website.

B.3.3 Issuers should provide the nomination committee sufficient resources to perform its duties. Where necessary, the nomination committee should seek independent professional advice, at the issuer's expense, to perform its responsibilities.

B.3.4 Where the board proposes a resolution to elect an individual as an independent non-executive director at the general meeting, it should set out in the circular to shareholders and/or explanatory statement accompanying the notice of the relevant general meeting:

- (a) the process used for identifying the individual and why the board believes the individual should be elected and the reasons why it

considers the individual to be independent;

- (b) if the proposed independent non-executive director will be holding their seventh (or more) listed company directorship, why the board believes the individual would still be able to devote sufficient time to the board;
- (c) the perspectives, skills and experience that the individual can bring to the board; and
- (d) how the individual contributes to diversity of the board.

## **C. ~~DELEGATION BY THE BOARD~~ DIRECTORS' RESPONSIBILITIES, DELEGATION AND BOARD PROCEEDINGS**

### **C.1 Responsibilities of directors**

#### **Principle**

Every director must always know ~~his~~their responsibilities as a director of an issuer and its conduct, business activities and development. Given the essential unitary nature of the board, non-executive directors have the same duties of care and skill and fiduciary duties as executive directors.

#### **Code Provisions**

C.1.1 ~~Every n~~Newly appointed directors of an issuer should receive a comprehensive, formal and tailored induction on appointment. Subsequently ~~he~~they should receive any briefing and professional development necessary to ensure that ~~he has~~they have a proper understanding of the issuer's operations and business and ~~is~~are fully aware of ~~his~~their responsibilities under statute and common law, the GEM Listing Rules, legal and other regulatory requirements and the issuer's business and governance policies.

C.1.2 The functions of non-executive directors should include:

- (a) participating in board meetings to bring an independent judgement to bear on issues of strategy, policy, performance, accountability, resources, key appointments and standards of conduct;
- (b) taking the lead where potential conflicts of interests arise;
- (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 performance

reporting.

C.1.3 The board should establish written guidelines no less exacting than ~~the Model Code~~ the required standards of dealings (set out in rules 5.48 to 5.67) for relevant employees in respect of their dealings in the issuer's securities. "Relevant employee" includes any employee or a director or employee of a subsidiary or holding company who, because of ~~his~~ such office or employment, is likely to possess inside information in relation to the issuer or its securities.

C.1.4 All directors should participate in continuous professional development to develop and refresh their knowledge and skills. This is to ensure that their contribution to the board remains informed and relevant. The issuer should be responsible for arranging and funding suitable training, placing an appropriate emphasis on the roles, functions and duties of a listed company director.

*Note: Directors should provide a record of the training they received to the issuer.*

C.1.5 ~~Every director~~ Directors should disclose to the issuer at the time of ~~his~~ their appointments, and in a timely manner for any changes, the number and nature of offices held in public companies or organisations and other significant commitments. 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 this disclosure should be made.

C.1.6 Independent non-executive directors and other non-executive directors, as equal board members, should give the board and any committees on which they serve the benefit of their skills, expertise and varied backgrounds and qualifications through regular attendance and active participation. Generally they should also attend general meetings to gain and develop a balanced understanding of the views of shareholders.

Note: The absence of one or more of an issuer's independent non-executive directors or other non-executive directors from a general meeting is not a deviation from this code provision. However, non-executive directors' attendance at general meetings is important. An independent non-executive director is often the chairman or a member of board committees and as such, the individual should be accountable to shareholders by being available to respond to questions and enquiries in relation to their work. Without attending general meetings, the director will not be able to develop a balanced understanding of the views of shareholders.

C.1.7 Independent non-executive directors and other non-executive directors should make a positive contribution to the development of the issuer's

strategy and policies through independent, constructive and informed comments.

- C.1.8 An issuer should arrange appropriate insurance cover in respect of legal action against its directors.

## **C.2 Chairman and Chief Executive**

### **Principle**

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

### **Code Provisions**

- C.2.1 The roles of chairman and chief executive should be separate and should not be performed by the same individual. The division of responsibilities between the chairman and chief executive should be clearly established and set out in writing.
- C.2.2 The chairman should ensure that all directors are properly briefed on issues arising at board meetings.
- C.2.3 The chairman should be responsible for ensuring that directors receive, in a timely manner, adequate information which must be accurate, clear, complete and reliable.
- C.2.4 One of the important roles of the chairman is to provide leadership for the board. The chairman should ensure that the board works effectively and performs its responsibilities, and that all key and appropriate issues are discussed by it in a timely manner. The chairman should be primarily responsible for drawing up and approving the agenda for each board meeting. ~~He~~The chairman should take into account, where appropriate, any matters proposed by the other directors for inclusion in the agenda. The chairman may delegate this responsibility to a designated director or the company secretary.
- C.2.5 The chairman should take primary responsibility for ensuring that good corporate governance practices and procedures are established.
- C.2.6 The chairman should encourage all directors to make a full and active contribution to the board's affairs and take the lead to ensure that it acts in the best interests of the issuer. The chairman should encourage directors with different views to voice their concerns, allow sufficient time for discussion of issues and ensure that board decisions fairly reflect board consensus.

- C.2.7 The chairman should at least annually hold meetings with the independent non-executive directors without the presence of other directors.
- C.2.8 The chairman should ensure that appropriate steps are taken to provide effective communication with shareholders and that their views are communicated to the board as a whole.
- C.2.9 The chairman should promote a culture of openness and debate by facilitating the effective contribution of non-executive directors in particular and ensuring constructive relations between executive and non-executive directors.

### **C.3 Management functions**

#### **Principle**

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

#### **Code Provisions**

- C.3.1 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 management's powers, in particular, where management should report back and obtain prior board approval before making decisions or entering into any commitments on the issuer's behalf.

*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 perform its functions.*

- C.3.2 An issuer should formalise the functions reserved to the board and those delegated to management. It should review those arrangements periodically to ensure that they remain appropriate to the issuer's needs.

~~D.1.3 An issuer should disclose the respective responsibilities, accountabilities and contributions of the board and management.~~

- C.3.3 Directors should clearly understand delegation arrangements in place. Issuers should have formal letters of appointment for directors setting out the key terms and conditions of their appointment.

## **C.4 Board Committees**

### **Principle**

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

### **Code Provisions**

- C.4.1 Where board committees are established to deal with matters, the board should give them sufficiently clear terms of reference to enable them to perform their functions properly.
- C.4.2 The terms of reference of board committees should require 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).

## **C.5 Conduct of board proceedings and sSupply of and access to information**

### **Principle**

The issuer should ensure directors can participate in board proceedings in a meaningful and effective manner. Directors should be provided in a timely manner with appropriate information in the form and quality to enable them to make an informed decision and perform their duties and responsibilities.

### **Code Provisions**

- C.5.1 The board should meet regularly and board meetings should be held at least four times a year at approximately quarterly intervals. It is expected regular board meetings will normally involve the active participation, either in person or through electronic means of communication, of a majority of directors entitled to be present. So, a regular meeting does not include obtaining board consent through circulating written resolutions.
- C.5.2 Arrangements should be in place to ensure that all directors are given an opportunity to include matters in the agenda for regular board meetings.
- C.5.3 Notice of at least 14 days should be given of a regular board meeting to give all directors an opportunity to attend. For all other board meetings, reasonable notice should be given.
- C.5.4 Minutes of board meetings and meetings of board committees should be kept by a duly appointed secretary of the meeting and should be open for inspection at any reasonable time on reasonable notice by any



director.

- C.5.5 Minutes of board meetings and meetings of board committees should record in sufficient detail the matters considered and decisions reached, including any concerns raised by directors or dissenting views expressed. Draft and final versions of minutes should be sent to all directors for their comment and records respectively, within a reasonable time after the board meeting is held.
- C.5.6 There should be a procedure agreed by the board to enable directors, upon reasonable request, to seek independent professional advice in appropriate circumstances, at the issuer's expense. The board should resolve to provide separate independent professional advice to directors to assist them perform their duties to the issuer.
- C.5.7 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 be dealt with by a physical board meeting rather than a written resolution. Independent non-executive directors who, and whose close associates, have no material interest in the transaction should be present at that board meeting.

*Note: Subject to the issuer's constitutional documents, and the law and regulations of its place of incorporation, ~~a director's attendance by a director at a meeting by electronic means such as telephonic or videoconferencing may be counted as physical attendance at a physical board meeting.~~*

- C.5.8 For regular board meetings, and as far as practicable in all other cases, an agenda and accompanying board papers should be sent, in full, to all directors. These should be sent in a timely manner and at least 3 days before the intended date of a board or board committee meeting (or other agreed period).
- C.5.9 Management has an obligation to supply the board and its committees with adequate information, in a timely manner, to enable it to make informed decisions. The information supplied must be complete and reliable. To fulfil ~~his~~their duties properly, ~~a~~directors may not, in all circumstances, be able to rely purely on information provided voluntarily by management and ~~he~~they may need to make further enquiries. Where any director requires more information than is volunteered by management, ~~he~~that director should make further enquiries where necessary. So, the board and individual directors should have separate and independent access to the issuer's senior management.
- C.5.10 All directors are entitled to have access to board papers and related materials. These papers and related materials should be in a form and quality sufficient to enable the board to make informed decisions on

matters placed before it. Queries raised by directors should receive a prompt and full response, if possible.

## **C.6 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 on governance matters and should also facilitate induction and professional development of directors.

### **Code Provisions**

C.6.1 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 whom the external provider can contact.

C.6.2 The board should approve the selection, appointment or dismissal of the company secretary.

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

C.6.3 The company secretary should report to the board chairman and/or the chief executive.

C.6.4 All directors should have access to the advice and services of the company secretary to ensure that board procedures, and all applicable law, rules and regulations, are followed.

## **D. ~~ACCOUNTABILITY AND AUDIT~~ AUDIT, INTERNAL CONTROL AND RISK MANAGEMENT**

### **D.1 Financial reporting**

#### **Principle**

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

## Code Provisions

- D.1.1 Management should provide sufficient explanation and information to the board to enable it to make an informed assessment of financial and other information put before it for approval.
- D.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 in sufficient detail to enable the board as a whole and directors to discharge their duties under rule 5.01 and Chapter 17.

*Note: The information provided may include background or explanatory information relating to matters to be brought before the board, copies of disclosure documents, budgets, forecasts and monthly and other relevant internal financial statements such as monthly management accounts and management updates. For budgets, any material variance between the projections and actual results should also be disclosed and explained.*

- D.1.3 The directors should acknowledge in the Corporate Governance Report their responsibility for preparing the accounts. There should be a statement by the auditors about their reporting responsibilities in the auditors' report on 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. Where the directors are aware of material uncertainties relating to events or conditions that may cast significant doubt on the issuer's ability to continue as a going concern, they should be clearly and prominently disclosed and discussed at length in the Corporate Governance Report. The Corporate Governance Report should contain sufficient information for investors to understand the severity and significance of matters. To a reasonable and appropriate extent, the issuer may refer to other parts of the annual report. These references should be clear and unambiguous, and the Corporate Governance Report should not contain only a cross-reference without any discussion of the matter.
- D.1.4 The board should present a balanced, clear and understandable assessment in annual and half-year reports and other financial disclosures required by the GEM Listing Rules. It should also do so for reports to regulators and information disclosed under statutory requirements.

## D.2 Risk management and internal control

### Principle

The board is responsible for evaluating and determining the nature and extent of the risks it is willing to take in achieving the issuer's strategic objectives, and ensuring that the issuer establishes and maintains appropriate and effective risk management and internal control systems. Such risks would include, amongst others, material risks relating to ESG (please refer to the ESG Reporting Guide in Appendix 20 to the GEM Listing Rules for further information). The board should oversee management in the design, implementation and monitoring of the risk management and internal control systems, and management should provide a confirmation to the board on the effectiveness of these systems.

### Code Provisions

- D.2.1 The board should oversee the issuer's risk management and internal control systems on an ongoing basis, ensure that a review of the effectiveness of the issuer's and its subsidiaries' risk management and internal control systems has been conducted at least annually and report to shareholders that it has done so in its Corporate Governance Report. The review should cover all material controls, including financial, operational and compliance controls.
- D.2.2 The board's annual review should, in particular, ensure the adequacy of resources, staff qualifications and experience, training programmes and budget of the issuer's accounting, internal audit, ~~and financial reporting functions,~~ as well as those relating to the issuer's ESG performance and reporting.
- D.2.3 The board's annual review should, in particular, consider:
- (a) the changes, since the last annual review, in the nature and extent of significant risks (including ESG risks), and the issuer's ability to respond to changes in its business and the external environment;
  - (b) the scope and quality of management's ongoing monitoring of risks (including ESG risks) and of the internal control systems, and where applicable, the work of its internal audit function and other assurance providers;
  - (c) the extent and frequency of communication of monitoring results to the board (or board committee(s)) which enables it to assess control of the issuer and the effectiveness of risk management;
  - (d) significant control failings or weaknesses that have been identified during the period. Also, the extent to which they have resulted in unforeseen outcomes or contingencies that have had, could have

had, or may in the future have, a material impact on the issuer's financial performance or condition; and

- (e) the effectiveness of the issuer's processes for financial reporting and GEM Listing Rule compliance.

D.2.4 Issuers should disclose, in the Corporate Governance Report, a narrative statement on how they have complied with the risk management and internal control code provisions during the reporting period. In particular, they should disclose:

- (a) the process used to identify, evaluate and manage significant risks;
- (b) the main features of the risk management and internal control systems;
- (c) an acknowledgement by the board that it is responsible for the risk management and internal control systems and reviewing their effectiveness. It should also explain that such systems are designed to manage rather than eliminate the risk of failure to achieve business objectives, and can only provide reasonable and not absolute assurance against material misstatement or loss;
- (d) the process used to review the effectiveness of the risk management and internal control systems and to resolve material internal control defects; and
- (e) the procedures and internal controls for the handling and dissemination of inside information.

D.2.5 The issuer should have an internal audit function. Issuers without an internal audit function should review the need for one on an annual basis and should disclose the reasons for the absence of such a function in the Corporate Governance Report.

*Notes:*

- 1 *An internal audit function generally carries out the analysis and independent appraisal of the adequacy and effectiveness of the issuer's risk management and internal control systems.*
- 2 *A group with multiple listed issuers may share group resources to carry out the internal audit function for members of the group.*

D.2.6 The issuer should establish a whistleblowing policy and system for employees and those who deal with the issuer (e.g. customers and suppliers) to raise concerns, in confidence and anonymity, with the audit committee (or any designated committee comprising a majority of

independent non-executive directors) about possible improprieties in any matter related to the issuer.

- D.2.7 The issuer should establish policy(ies) that support anti-corruption laws and regulations.

### **Recommended Best Practices**

- D.2.8 The board may disclose in the Corporate Governance Report that it has received a confirmation from management on the effectiveness of the issuer's risk management and internal control systems.
- D.2.9 The board may disclose in the Corporate Governance Report details of any significant areas of concern.

## **D.3 Audit Committee**

### **Principle**

The board should establish formal and transparent arrangements to consider how it will apply financial reporting, risk management and internal control principles and maintain an appropriate relationship with the issuer's auditors. The audit committee established under the GEM Listing Rules should have clear terms of reference.

### **Code Provisions**

- D.3.1 Full minutes of audit committee meetings should be kept by a duly appointed secretary of the meeting (who should normally be the company secretary). Draft and final versions of minutes of the meetings should be sent to all committee members for their comment and records, within a reasonable time after the meeting.
- D.3.2 A former partner of the issuer's existing auditing firm should be prohibited from acting as a member of its audit committee for a period of two years from the date of the person ceasing:
- (a) to be a partner of the firm; or
  - (b) to have any financial interest in the firm, whichever is later.
- D.3.3 The audit committee's terms of reference should include at least:-

#### *Relationship with the issuer's auditors*

- (a) to be primarily responsible for making recommendations to the board on the appointment, reappointment and removal of the external auditor, and to approve the remuneration and terms of engagement of the external auditor, and any questions of its

resignation or dismissal;

- (b) to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process in accordance with applicable standards. The audit committee should discuss with the auditor the nature and scope of the audit and reporting obligations before the audit commences;
- (c) to develop and implement policy on engaging an external auditor to supply non-audit services. For this purpose, "external auditor" includes any entity that is under common control, ownership or management with the audit firm or any entity that a reasonable and informed third party knowing all relevant information would reasonably conclude to be part of the audit firm nationally or internationally. The audit committee should report to the board, identifying and making recommendations on any matters where action or improvement is needed;

*Review of the issuer's financial information*

- (d) to monitor integrity of the issuer's financial statements and annual report and accounts, half-year report and, quarterly reports, and to review significant financial reporting judgements contained in them. In reviewing these reports before submission to the board, the committee should focus particularly on:-
  - (i) any changes in accounting policies and practices;
  - (ii) major judgmental areas;
  - (iii) significant adjustments resulting from audit;
  - (iv) the going concern assumptions and any qualifications;
  - (v) compliance with accounting standards; and
  - (vi) compliance with the GEM Listing Rules and legal requirements in relation to financial reporting;
- (e) Regarding (d) above:-
  - (i) members of the committee should liaise with the board and senior management and the committee must meet, at least twice a year, with the issuer's auditors; and
  - (ii) the committee should consider any significant or unusual items that are, or may need to be, reflected in the report and accounts, it should give due consideration to any matters that have been raised by the issuer's staff responsible for the accounting and financial reporting function, compliance officer or auditors;

*Oversight of the issuer's financial reporting system, risk management and internal control systems*

- (f) to review the issuer's financial controls, and unless expressly addressed by a separate board risk committee, or by the board itself, to review the issuer's risk management and internal control systems;
- (g) to discuss the risk management and internal control systems with management to ensure that management has performed its duty to have effective systems. This discussion should include the adequacy of resources, staff qualifications and experience, training programmes and budget of the issuer's accounting and financial reporting function;
- (h) to consider major investigation findings on risk management and internal control matters as delegated by the board or on its own initiative and management's response to these findings;
- (i) where an internal audit function exists, to ensure co-ordination between the internal and external auditors, and to ensure that the internal audit function is adequately resourced and has appropriate standing within the issuer, and to review and monitor its effectiveness;
- (j) to review the group's financial and accounting policies and practices;
- (k) to review the external auditor's management letter, any material queries raised by the auditor to management about accounting records, financial accounts or systems of control and management's response;
- (l) to ensure that the board will provide a timely response to the issues raised in the external auditor's management letter;
- (m) to report to the board on the matters in this code provision; and
- (n) to consider other topics, as defined by the board.

~~Notes: These are only intended to be suggestions on how compliance with this code provision may be achieved and do not form part of it.~~

~~1 The audit committee may wish to consider establishing the following procedure to review and monitor the independence of external auditors:-~~

~~(i) consider all relationships between the issuer and the~~



~~audit firm (including non-audit services);~~

~~(ii) obtain from the audit firm annually, information about policies and processes for maintaining independence and monitoring compliance with relevant requirements, including those for rotation of audit partners and staff; and~~

~~(iii) meet with the auditor, at least annually, in the absence of management, to discuss matters relating to its audit fees, any issues arising from the audit and any other matters the auditor may wish to raise.~~

~~2 The audit committee may wish to consider agreeing with the board the issuer's policies on hiring employees or former employees of the external auditors and monitoring the application of these policies. The audit committee should then be in a position to consider whether there has been or appears to be any impairment of the auditor's judgement or independence for the audit.~~

~~3 The audit committee should ensure that an external auditor's provision of non-audit services does not impair its independence or objectivity. When assessing the external auditor's independence or objectivity in relation to non-audit services, the audit committee may wish to consider:~~

~~(i) whether the skills and experience of the audit firm make it a suitable supplier of non-audit services;~~

~~(ii) whether there are safeguards in place to ensure that there is no threat to the objectivity and independence of the audit because the external auditor provides non-audit services;~~

~~(iii) the nature of the non-audit services, the related fee levels and fee levels individually and in total relative to the audit firm; and~~

~~(iv) criteria for compensation of the individuals performing the audit.~~

~~4 For further guidance, issuers may refer to the "Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence" issued by the Technical Committee of the International Organization of Securities Commissions in October 2002 and "A Guide for Effective Audit Committees" published by the Hong Kong Institute of Certified Public Accountants in February 2002. Issuers may also adopt the terms of~~

~~reference in those guides, or any other comparable terms of reference for establishing an audit committee.~~

- D.3.4 The audit committee should make available its terms of reference, explaining its role and the authority delegated to it by the board by including them on the GEM website and the issuer's website.
- D.3.5 Where the board disagrees with the audit committee's view on the selection, appointment, resignation or dismissal of the external auditors, the issuer should include in the Corporate Governance Report a statement from the audit committee explaining its recommendation and also the reason(s) why the board has taken a different view.
- D.3.6 The audit committee should be provided with sufficient resources to perform its duties.
- D.3.7 The terms of reference of the audit committee should also require it:
- (a) to review arrangements employees of the issuer can use, in confidence, to raise concerns about possible improprieties in financial reporting, internal control or other matters. The audit committee should ensure that proper arrangements are in place for fair and independent investigation of these matters and for appropriate follow-up action; and
  - (b) to act as the key representative body for overseeing the issuer's relations with the external auditor.

#### **Recommended Best Practices**

~~C.3.8 The audit committee should establish a whistleblowing policy and system 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.~~

### **E. REMUNERATION OF DIRECTORS AND SENIOR MANAGEMENT AND BOARD EVALUATION**

#### **E.1 The level and make-up of remuneration and disclosure**

##### **Principle**

An issuer should ~~disclose its~~ have a formal and transparent policy on directors' remuneration ~~policy and~~ other remuneration related matters. The procedure for setting policy on executive directors' remuneration and all directors' remuneration packages should be formal and transparent. Remuneration levels should be sufficient to attract and retain directors to run the company successfully without

paying more than necessary. No director should be involved in deciding ~~his~~that director's own remuneration.

### **Code Provisions**

- E.1.1 The remuneration committee should consult the chairman and/or chief executive about their remuneration proposals for other executive directors. The remuneration committee should have access to independent professional advice if necessary.
- E.1.2 The remuneration committee's terms of reference should include, as a minimum:-
- (a) to make recommendations to the board on the issuer's policy and structure for all directors' and senior management remuneration and on the establishment of a formal and transparent procedure for developing remuneration policy;
  - (b) to review and approve the management's remuneration proposals with reference to the board's corporate goals and objectives;
  - (c) either:
    - (i) to determine, with delegated responsibility, the remuneration packages of individual executive directors and senior management; or
    - (ii) to make recommendations to the board on the remuneration packages of individual executive directors and senior management.
- This should include benefits in kind, pension rights and compensation payments, including any compensation payable for loss or termination of their office or appointment;
- (d) to make recommendations to the board on the remuneration of non-executive directors;
  - (e) to consider salaries paid by comparable companies, time commitment and responsibilities and employment conditions elsewhere in the group;
  - (f) to review and approve compensation payable to executive directors and senior management for any loss or termination of office or appointment to ensure that it is consistent with contractual terms and is otherwise fair and not excessive;
  - (g) to review and approve compensation arrangements relating to dismissal or removal of directors for misconduct to ensure that they are consistent with contractual terms and are otherwise reasonable and appropriate; and

(h) to ensure that no director or any of ~~his~~their associates is involved in deciding ~~his~~that director's own remuneration.

E.1.3 The remuneration committee should make available its terms of reference, explaining its role and the authority delegated to it by the board by including them on the GEM website and the issuer's website.

E.1.4 The remuneration committee should be provided with sufficient resources to perform its duties.

E.1.5 Issuers should disclose the directors' remuneration policy, details of any remuneration payable to members of senior management by band and other remuneration related matters in their annual reports.

### **Recommended Best Practices**

E.1.6 If ~~B.1.2(c)(ii)~~E.1.2(c)(ii) is adopted, where the board resolves to approve any remuneration or compensation arrangements with which the remuneration committee disagrees, the board should disclose the reasons for its resolution in its next Corporate Governance Report.

E.1.7 A significant proportion of executive directors' remuneration should link rewards to corporate and individual performance.

E.1.8 Issuers should disclose details of any remuneration payable to members of senior management, on an individual and named basis, in their annual reports.

E.1.9 Issuers generally should not grant equity-based remuneration (e.g. share options or grants) with performance-related elements to independent non-executive directors as this may lead to bias in their decision-making and compromise their objectivity and independence.

## **F. ~~COMMUNICATION WITH SHAREHOLDERS~~SHAREHOLDERS ENGAGEMENT**

### **F.1 Effective communication**

#### **Principle**

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

#### **Code Provisions**

F.1.1 The issuer should have a policy on payment of dividends and should disclose it in the annual report.

### **Recommended Best Practices**

F.1.2 Issuers are encouraged to include the following information in their Corporate Governance Report:

- (a) details of shareholders by type and aggregate shareholding;
- (b) indication of important shareholders' dates in the coming financial year;
- (c) the percentage of public float, based on information that is publicly available to the issuer and within the knowledge of its directors as at the latest practicable date prior to the issue of the annual report; and
- (d) the number of shares held by each of the senior management.

## **F.2 ~~Voting by Poll~~ Shareholders meetings**

### **Principle**

The issuer should ensure that shareholders are given sufficient notice of shareholders meetings and are familiar with the detailed procedures for conducting a poll, and should arrange to address questions from shareholders in the shareholders meetings.

### **Code Provisions**

F.2.1 The issuer should arrange for the notice to shareholders to be sent for annual general meetings at least 20 clear business days before the meeting and to be sent at least 10 clear business days for all other general meetings<sup>2</sup>.

F.2.2 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.

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

F.2.3 The chairman of the board should attend the annual general meeting. The chairman of the board~~He~~ should also invite the chairmen of the audit, remuneration, nomination and any other committees (as

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<sup>2</sup> Depending on the consultation outcome of the [Listing Regime for Overseas Issuers](#) published in March 2021, amendments will be reflected as appropriate.

appropriate) to attend. In their absence, ~~he~~the chairman should invite another member of the committee or failing this ~~his~~their duly appointed delegate, to attend. 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 requires independent shareholders' approval. An issuer's management should 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.

*Note: Subject to the issuer's constitutional documents, and the law and regulations of its place of incorporation, attendance by the above persons at a meeting by electronic means such as telephonic or videoconferencing may be counted as physical attendance.*

- F.2.4 The chairman of a meeting should ensure that an explanation is provided of the detailed procedures for conducting a poll and answer any questions from shareholders on voting by poll.

## B. Amendments to Other GEM Rules

### Chapter 5

#### GENERAL

#### Directors, Company Secretary, Board Committees, Authorised Representatives and Corporate Governance Matters

##### Nomination Committee

- 5.36A An issuer must establish a nomination committee chaired by an independent non-executive director and comprising a majority of independent non-executive directors.

### Chapter 17

#### EQUITY SECURITIES

#### CONTINUING OBLIGATIONS

##### Meetings

...

##### *Meetings of holders of securities*

...

- 17.47 (5A) The issuer must state in the poll results announcement directors' attendance at the general meeting.

...

##### Environmental and Social Matters

- 17.103 (5) Where the ESG report does not form part of the issuer's annual report:

.....

- (d) ~~The issuer shall publish or encourage the ESG report at the same time as the publication of the annual report. In any event, the issuer should publish the ESG report as close as possible to, and no later than five months after, the end of the financial year.~~

- 17.104 The nomination committee (or the board) shall have a policy concerning diversity of board members, and shall disclose the policy on diversity or a summary of the policy in the corporate governance report.

*Note: Board diversity will differ according to the circumstances of each issuer. Diversity of board members can be achieved through consideration of a number of factors, including but not limited to gender, age, cultural and educational background, or professional experience. Diversity is not considered to be achieved for a single gender board. Each issuer should take into account its own business model and specific needs, and disclose the rationale for the factors it uses for this purpose.*

## Appendix 6

### 附錄六

## DIRECTOR'S AND SUPERVISOR'S FORMS

### 董事及監事的表格

### Form A

### A表格

## Director's Declaration, Undertaking and Acknowledgement

### 董事的聲明、承諾及確認

### Part 1

### 第一部分

## DECLARATION

### 聲明

1. State:—

請填報:

in  
English  
英文

in  
Chinese  
中文

...

(i) sex (male, female)

性別（男、女）

.....

.....



## Appendix 6

### 附錄六

#### DIRECTOR'S AND SUPERVISOR'S FORMS

##### 董事及監事的表格

##### Form B

##### B表格

#### Director's Declaration, Undertaking and Acknowledgement (PRC Issuer)

##### 董事的聲明、承諾及確認（適用於中國發行人）

#### Part 1

#### 第一部分

#### DECLARATION

#### 聲明

1. State:—

請填報：

in  
English  
英文

in  
Chinese  
中文

...

(i) sex (male, female)

性別（男、女）

.....

.....

## Appendix 20

### Environmental, Social and Governance Reporting Guide

#### Part A: Introduction

##### The Guide

...

- (4) (2) Where the ESG report does not form part of the issuer's annual report:
  - (d) The issuer shall publish ~~is encouraged to publish~~ the ESG report at the same time as the publication of the annual report. ~~In any event, the issuer should publish the ESG report as close as possible to, and no later than five months after, the end of the financial year.~~

## C. Consequential Amendments to GEM Rules

### Chapter 1

#### GENERAL

#### INTERPRETATION

1.01 ...

"connected person"	...
" <b>Considered Reasons and Explanation</b> "	<u>has the meaning defined in Appendix 15</u>
"controlling shareholder"	...

### Chapter 17

#### EQUITY SECURITIES

#### CONTINUING OBLIGATIONS

#### Corporate Governance Code

- 17.101 (1) The Corporate Governance Code in Appendix 15 sets out: (a) the mandatory requirements for disclosure in an issuer's Corporate Governance Report, and (b) the principles of good corporate governance and two levels of recommendations: (a), the code provisions on a "comply or explain" basis; and (b) certain recommended best practices. Issuers are expected to comply with, but may choose to deviate from, the code provisions. The encouraged to adopt the recommended best practices are for guidance only on a voluntary basis.

*~~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 Corporate Governance Code Part 2 of Appendix 15 for the relevant accounting period in their half-year reports (and summary half-year reports, if any) and annual reports (and summary financial reports, if any).

*Note: For the requirements governing preliminary results announcements, see rules 18.50 and 18.78.*

- (3) ~~Where the issuer deviates from the code provisions, it must give considered reasons:~~ An issuer may deviate from the code provisions (i.e. adopt action(s) or step(s) other than those set out in the code provisions) provided that the issuer sets out:

- (a) ~~for annual reports (and summary financial reports), in the Corporate Governance Report under Appendix 15~~ in the annual reports (and summary financial reports, if any) the Considered Reasons and Explanation. The explanation should provide a clear rationale for the

alternative actions and steps taken by the issuer and their impacts and outcome; and

- (b) ~~for~~in the half-year reports (and summary half-year reports, if any), either:
- (i) ~~by giving considered reasons for each deviation~~the Considered Reasons and Explanation in respect of the 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 with Considered Reasons and Explanation. The references must be clear and unambiguous, and the half-year report (or summary half-year report) must not contain only a cross-reference without any discussion of the matter.
- (4) For 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.

## Chapter 18

### EQUITY SECURITIES

#### FINANCIAL INFORMATION

##### Annual reports

###### *Distribution*

18.03 ...

Notes: ...

6 ...

- (b) ~~a statement as to whether it complies with the Corporate Governance Codecode provisions in Part 2 of Appendix 15 and, if not, the reason for~~Considered Reasons and Explanation in respect of the deviation; and

...

*Information to accompany directors' report and annual financial statements*

18.07 ...

Notes: ...

4 ...

- (j) ~~provision of information in respect of corporate governance code provisions B.1.5E.1.5 (remuneration payable to members of senior~~

*management by band) and ~~C.1.4A.1.2~~ (discussion and analysis of group's performance) in Part 2 of Appendix 15 or ~~explain reason for~~ provide the Considered Reasons and Explanation in respect of any deviation.*

...  
18.44 ...

- (2) a separate Corporate Governance Report prepared by the board on its corporate governance practices. The report must, as a minimum, contain the information required under ~~paragraphs G to Q~~ Part 1 of Appendix 15 regarding the accounting period covered by the annual report. To the extent ~~that it is~~ reasonable and appropriate, the issuer may incorporate by reference information in its annual report into the Corporate Governance Report. ~~Any such~~ The references must be clear and unambiguous, and the Corporate Governance Report must not contain only a cross-reference without any discussion of the matter.

...

#### **Preliminary announcement of results for the financial year**

##### *Content of preliminary announcement*

18.50 ...

- (6) a statement as to whether the listed issuer meets the code provisions set out in ~~the Corporate Governance Code contained in~~ Part 2 of Appendix 15. The listed issuer must also disclose any deviations from the code provisions ~~and considered reasons for such deviations~~ with Considered Reasons and Explanation. To the extent ~~that it is~~ reasonable and appropriate, such information may be given by reference to the ~~immediately~~-preceding half-year report or to the Corporate Governance Report in the ~~immediately~~-preceding annual report, and summarising any changes since that report. ~~Any such~~ The references must be clear and unambiguous;

...

#### **Half-year reports**

##### *Obligation to prepare and publish*

18.53 ...

Notes: 1 ...

- (b) *a statement as to whether it complies with the ~~Corporate Governance Code~~ code provisions in Part 2 of Appendix 15 and, if not, the ~~reason for~~ Considered Reasons and Explanation in respect of the deviation; and*

...

## Content of half-year reports

18.55 ...

- (4) a statement in relation to the accounting period covered by the half-year report on whether the listed issuer meets the code provisions set out in ~~the Corporate Governance Code contained in~~Part 2 of Appendix 15. ~~Where there are any deviations from the code provisions in the Code, the listed issuer must also give considered reasons for the deviations from the code provisions, either by:~~An issuer may deviate from the code provisions (i.e. adopt action(s) or step(s) other than those set out in the code provisions) provided that the issuer sets out:
- (a) ~~giving considered reasons for each deviation~~the Considered Reasons and Explanation in respect of the deviation; or
- (b) 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 with Considered Reasons and Explanation. ~~Any such~~The references must be clear and unambiguous, and the half-year report must not only contain a cross-reference without any discussion of the matter;

...

## Quarterly reports

### Obligation to prepare and publish

18.66 ...

Notes: 1 ...

- (b) ~~a statement as to whether it complies with the Corporate Governance Code~~code provisions in Part 2 of Appendix 15 and, if not, the reason forConsidered Reasons and Explanation in respect of the deviation;  
and

...

### Preliminary announcement of results for each of the first 6 month of each financial year

18.78 ...

- (4) a statement as to whether the listed issuer meets the code provisions set out in ~~the Corporate Governance Code contained in~~Part 2 of Appendix 15. The listed issuer must also disclose any deviations from the code provisions ~~and considered reasons for such deviations~~with Considered Reasons and Explanation. To the extent ~~that it is~~ reasonable and appropriate, such information may be given by reference to the Corporate Governance Report in the ~~immediately~~ preceding annual report, and summarising any changes since that annual report. ~~Any such~~The references must be clear and unambiguous;

...

**Preliminary announcement of results for each of the first 3 and 9 month periods of each financial year**

*Summary financial reports*

18.81 ...

- (2) a separate Corporate Governance Report prepared by the board on its corporate governance practices. The report must, as a minimum, contain the information required under ~~paragraphs G to Q~~Part 1 of Appendix 15 regarding the accounting period covered by the annual report. To the extent ~~that it is~~ reasonable and appropriate, this Corporate Governance Report may ~~take the form of~~be a summary of the Corporate Governance Report contained in the annual report, and may also incorporate information by reference to its annual report. ~~Any such~~The references must be clear and unambiguous, and the summary must not contain only a cross-reference without any discussion of the matter. The summary must contain, as a minimum, a narrative statement indicating overall compliance with and highlighting any deviation from the ~~Corporate Governance Code~~code provisions in Part 2 of Appendix 15.

...

**Recommended additional disclosure**

18.83 ...

*Note: Issuers should also note the ~~recommended disclosures~~ set out in ~~paragraphs R to T~~Recommended best practices F.1.2 in Part 2 of Appendix 15.*

**Appendix 20**

**Environmental, Social and Governance Reporting Guide**

**Part A: Introduction**

**The Guide**

3. “Comply or explain” provisions are set out in Part C of this Guide. An issuer must report on the “comply or explain” provisions of this Guide. If the issuer does not report on one or more of these provisions, it must provide considered reasons in its ESG report. For guidance on the “comply or explain” approach, issuers may refer to the “What is “comply or explain”?” section of the Corporate Governance Code ~~and Corporate Governance Report (“Corporate Governance Code”)~~ in Appendix 15 of the GEM Listing Rules.

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## APPENDIX V: PRIVACY POLICY STATEMENT

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### Privacy Policy Statement

Hong Kong Exchanges and Clearing Limited, and from time to time, its subsidiaries (together the “**Group**”) (and each being “**HKEX**”, “**we**”, “**us**” or “**member of the Group**” for the purposes of this Privacy Policy Statement as appropriate) recognise their responsibilities in relation to the collection, holding, processing, use and/or transfer of personal data under the Personal Data (Privacy) Ordinance (Cap. 486) (“**PDPO**”). Personal data will be collected only for lawful and relevant purposes and all practicable steps will be taken to ensure that personal data held by us is accurate. We will use your personal data which we may from time to time collect in accordance with this Privacy Policy Statement.

We regularly review this Privacy Policy Statement and may from time to time revise it or add specific instructions, policies and terms. Where any changes to this Privacy Policy Statement are material, we will notify you using the contact details you have provided us with and, where required by the PDPO, give you the opportunity to opt out of these changes by means notified to you at that time. Otherwise, in relation to personal data supplied to us through the HKEX website or otherwise, continued use by you of the HKEX website or your continued relationship with us shall be deemed to be your acceptance of and consent to this Privacy Policy Statement, as amended from time to time.

If you have any questions about this Privacy Policy Statement or how we use your personal data, please contact us through one of the communication channels set out in the "Contact Us" section below.

We will take all practicable steps to ensure the security of the personal data and to avoid unauthorised or accidental access, erasure or other use. This includes physical, technical and procedural security methods, where appropriate, to ensure that the personal data may only be accessed by authorised personnel.

Please note that if you do not provide us with your personal data (or relevant personal data relating to persons appointed by you to act on your behalf) we may not be able to provide the information, products or services you have asked for or process your requests, applications, subscriptions or registrations, and may not be able to perform or discharge the Regulatory Functions (defined below).

### Purpose

From time to time we may collect your personal data including but not limited to your name, mailing address, telephone number, email address, date of birth and login name for the following purposes:

1. to process your applications, subscriptions and registration for our products and services;
2. to perform or discharge the functions of HKEX and any company of which HKEX is the recognised exchange controller (as defined in the Securities and Futures Ordinance (Cap. 571)) (“**Regulatory Functions**”);
3. to provide you with our products and services and administer your account in relation to such products and services;
4. to conduct research and statistical analysis;
5. to process your application for employment or engagement within HKEX to assess your suitability as a candidate for such position and to conduct reference checks with your previous employers; and



6. other purposes directly relating to any of the above.

### **Direct marketing**

Where you have given your consent and have not subsequently opted out, we may also use your name, mailing address, telephone number and email address to send promotional materials to you and conduct direct marketing activities in relation to HKEX financial services and information services, and financial services and information services offered by other members of the Group.

If you do not wish to receive any promotional and direct marketing materials from us or do not wish to receive particular types of promotional and direct marketing materials or do not wish to receive such materials through any particular means of communication, please contact us through one of the communication channels set out in the "Contact Us" section below. To ensure that your request can be processed quickly please provide your full name, email address, login name and details of the product and/or service you have subscribed.

### **Identity Card Number**

We may also collect your identity card number and process this as required under applicable law or regulation, as required by any regulator having authority over us and, subject to the PDPO, for the purpose of identifying you where it is reasonable for your identity card number to be used for this purpose.

### **Transfers of personal data for direct marketing purposes**

Except to the extent you have already opted out we may transfer your name, mailing address, telephone number and email address to other members of the Group for the purpose of enabling those members of the Group to send promotional materials to you and conduct direct marketing activities in relation to their financial services and information services.

### **Other transfers of your personal data**

For one or more of the purposes specified above, your personal data may be:

1. transferred to other members of the Group and made available to appropriate persons in the Group, in Hong Kong or elsewhere and in this regard you consent to the transfer of your data outside of Hong Kong;
2. supplied to any agent, contractor or third party who provides administrative, telecommunications, computer, payment, debt collection, data processing or other services to HKEX and/or any of other member of the Group in Hong Kong or elsewhere; and
3. other parties as notified to you at the time of collection.

### **How we use cookies**

If you access our information or services through the HKEX website, you should be aware that cookies are used. Cookies are data files stored on your browser. The HKEX website automatically installs and uses cookies on your browser when you access it. Two kinds of cookies are used on the HKEX website:

**Session Cookies:** temporary cookies that only remain in your browser until the time you leave the HKEX website, which are used to obtain and store configuration information and administer the HKEX website, including carrying information from one page to another as you

browse the site so as to, for example, avoid you having to re-enter information on each page that you visit. Session cookies are also used to compile anonymous statistics about the use of the HKEX website.

**Persistent Cookies:** cookies that remain in your browser for a longer period of time for the purpose of compiling anonymous statistics about the use of the HKEX website or to track and record user preferences.

The cookies used in connection with the HKEX website do not contain personal data. You may refuse to accept cookies on your browser by modifying the settings in your browser or internet security software. However, if you do so you may not be able to utilise or activate certain functions available on the HKEX website.

## **Compliance with laws and regulations**

HKEX and other members of the Group may be required to retain, process and/or disclose your personal data in order to comply with applicable laws and regulations or in order to comply with a court order, subpoena or other legal process (whether in Hong Kong or elsewhere), or to comply with a request by a government authority, law enforcement agency or similar body (whether situated in Hong Kong or elsewhere) or to perform or discharge the Regulatory Functions. HKEX and other members of the Group may need to disclose your personal data in order to enforce any agreement with you, protect our rights, property or safety, or the rights, property or safety of our employees, or to perform or discharge the Regulatory Functions.

## **Corporate reorganisation**

As we continue to develop our business, we may reorganise our group structure, undergo a change of control or business combination. In these circumstances it may be the case that your personal data is transferred to a third party who will continue to operate our business or a similar service under either this Privacy Policy Statement or a different privacy policy statement which will be notified to you. Such a third party may be located, and use of your personal data may be made, outside of Hong Kong in connection with such acquisition or reorganisation.

## **Access and correction of personal data**

Under the PDPO, you have the right to ascertain whether we hold your personal data, to obtain a copy of the data, and to correct any data that is inaccurate. You may also request us to inform you of the type of personal data held by us. All data access requests shall be made using the form prescribed by the Privacy Commissioner for Personal Data ("**Privacy Commissioner**") which may be found on the official website of the Office of the Privacy Commissioner or via this link <https://www.pcpd.org.hk/english/publications/files/Dforme.pdf>

Requests for access and correction of personal data or for information regarding policies and practices and kinds of data held by us should be addressed in writing and sent by post to us (see the "Contact Us" section below).

A reasonable fee may be charged to offset our administrative and actual costs incurred in complying with your data access requests.

## **Termination or cancellation**

Should your account or relationship with us be cancelled or terminated at any time, we shall cease processing your personal data as soon as reasonably practicable following such cancellation or termination, provided that we may keep copies of your data as is reasonably required for archival purposes, for use in relation to any actual or potential dispute, for the purpose of compliance with applicable laws and regulations and for the purpose of enforcing any agreement we have with you, for protecting our rights, property or safety, or the rights, property or safety of our employees, and for performing or discharging our functions, obligations and responsibilities.

## **General**

If there is any inconsistency or conflict between the English and Chinese versions of this Privacy Policy Statement, the English version shall prevail.

## **Contact us**

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