

Submitted via Qualtrics

The Bank of East Asia Ltd.

Company/Organisation view

Listed Company

Question 1

Do you agree with our proposal to introduce a new Code Provision (CP) under the Corporate Governance Code (CG Code) requiring issuers without an independent board chair to designate one independent non-executive director (INED) as a Lead INED to enhance engagement with investors and shareholders?

No

Please provide reasons for your views.

- The role of INED is to provide independent judgment on issues of conflict and decisions made by the board (quoted from HKEX website). Their primary role is to act as a check and balance on the board, not for enhancing engagement or communication with investors and shareholders. It is more important for INED to remain independent and less involved with a company's stakeholders in order to effectively fulfill their oversight function.
- All directors, including INEDs, have the same fiduciary duties and duties of skill owe to shareholders and company. Designating a "Lead INED" could be seen as implying that particular INED has taken on an executive or semi-executive role, which will be at odds with the concept of all directors having equal roles and responsibilities under a unitary board structure.
- It is not clear how a Lead INED could meaningfully enhance a company's engagement with investors and shareholders. Communications with investors is typically the responsibility of executive directors who are involved in the day-to-day management of the company.
- Engaging with investors and shareholders on a regular basis is a full time endeavor. Most listed companies already have dedicated investor relationship departments to handle shareholders communication and engagement.

- There is a limited supply of qualified INED candidates, especially those residing in Hong Kong. It would be challenging to find individuals willing and able to take on the additional responsibilities of a Lead INED, particularly given the potential conflicts with the INED's primary oversight role.

Question 2(a)

Regarding continuous professional development for directors, do you agree with our proposal to make continuous professional development mandatory for all existing directors, without specifying a minimum number of training hours?

Yes

Please provide reasons for your views.

Question 2(b)

Regarding continuous professional development for directors, do you agree with our proposal to require First-time Directors to complete a minimum of 24 hours of training within 18 months following their appointment?

Yes

Please provide reasons for your views.

Question 2(c)

Regarding continuous professional development for directors, do you agree with our proposal to define "First-time Directors" to mean directors who (i) are appointed as a director of an issuer listed on the Exchange for the first time; or (ii) have not served as a director of an issuer listed on the Exchange for a period of three years or more prior to their appointment?

Yes

Please provide reasons for your views.

Question 2(d)

Regarding continuous professional development for directors, do you agree with our proposal to specify the specific topics that must be covered under the continuous professional development requirement?

Yes

Please provide reasons for your views.

Question 3

Do you agree with the proposed consequential changes to Principle C.1 and CP C.1.1 of the CG Code?

Yes

Please provide reasons for your views.

Question 4

Do you agree with our proposal to upgrade the current Recommended Best Practice (RBP) in the CG Code to a CP requiring issuers to conduct regular board performance reviews at least every two years and make disclosure as set out in CP B.1.4?

Yes

Please provide reasons for your views.

Question 5

Do you agree with our proposal to introduce a new CP requiring issuers to maintain a board skills matrix and make disclosure set out in CP B.1.5?

Yes

Please give reasons for your views.

Question 6(a)

In relation to our proposal to introduce a “hard cap” of six listed issuer directorships that INEDs may hold, do you agree with the hard cap to ensure that INEDs are able to devote sufficient time to carry out the work of the listed issuers?

Yes

Please provide reasons for your views.

Question 6(b)

In relation to our proposal to introduce a “hard cap” of six listed issuer directorships that INEDs may hold, do you agree with the proposed three-year transition period to implement the hard cap?

Yes

Please provide reasons for your views.

Question 7

Do you agree with the proposal to introduce a new Mandatory Disclosure Requirement (MDR) in the CG Code to require the nomination committee to annually assess and disclose its assessment of each director’s time commitment and contribution to the board?

Yes

Please provide reasons for your views.

Question 8(a)

In relation to our proposal to introduce a “hard cap” of nine years on the tenure of INEDs, beyond which an INED will no longer be considered to be independent, do you agree with the proposed hard cap to strengthen board independence?

No

Please give reasons for your views.

- We cannot agree that if INEDs sit on the board of a company for longer than 9 years, they will no longer be considered to be independent. The length of service is but one – and far from being the most important one – of the measures of an INED’s independence. There is no convincing, let alone conclusive evidence that the independence of an INED is compromised once they have served beyond a certain number of years.

- There is no scientific evidence that directly correlates the length of service of an INED with their independence. An INED could, for different reasons, compromise their independence in their first year of service.

Conversely, a long-serving INED, with their intimate knowledge of the issuer and status in the company, could be in a superior position to challenge management and Board decisions in upholding their independence.

- Independence is not just about how closely one is connected with another person, it is a “mindset” and how one sees their role as an “independent” board member. The independence of a board member depends very much on their integrity and professionalism. In our view, the integrity and status of a director is far more important a factor to determine their independence and suitability rather than their length of service on the board.
- Long-serving Directors, whether they are designated INEDs or otherwise, can play an important role in the company because of their experience, skills and institutional knowledge. The proposal has the effect of depriving a company of an important institutional asset.
- Given the scarce supply of qualified INEDs in the market, the proposal would certainly add extra compliance costs for listed companies and may be disincentive for those companies looking for potential IPOs in Hong Kong.

Question 8(b)

In relation to our proposal to introduce a “hard cap” of nine years on the tenure of INEDs, beyond which an INED will no longer be considered to be independent, do you agree that a person can be re-considered as an INED of the same issuer after a two-year cooling-off period?

No

Please provide reasons for your views.

Same as 8(a).

Question 8(c)

In relation to our proposal to introduce a “hard cap” of nine years on the tenure of INEDs, beyond which an INED will no longer be considered to be independent, do you agree with the proposed three-year transition period in respect of the implementation of the hard cap?

No

Please provide reasons for your views.

Same as 8(a).

Question 9

Do you agree with the proposal to require all issuers to disclose the length of tenure of each director in the CG Report?

Yes

Please provide reasons for your views.

Question 10

Do you agree with our proposal to introduce a CP requiring issuers to have at least one director of a different gender on the nomination committee?

No

Please provide reasons for your views.

Whilst we agree that diversity should be promoted, we do not support the current proposal as we consider that diversity covers much more than just gender. It also encompasses race, religious belief, physical ability and sexual orientation, and other factors. Besides, the broader concept of inclusion in the society should be the primary focus, rather than singling out “gender” specifically.

We suggest that listed issuers consider each position on the basis of merits, skill, education background, professional experience, and other relevant qualifications - not solely on the basis of gender, physical ability, religious belief, race or sexual orientation. Singling out a particular gender or other demographic characteristic could potentially lead to reverse discrimination, which we believe would be counterproductive.

The goal should be to build diverse, qualified, and representative nomination committees and boards - not to impose quotas or target a specific demographic. We recommend a holistic approach that promotes inclusion and equal opportunity for all candidates, regardless of their personal characteristics. The focus should be on creating an environment where the most skilled and experienced individuals can contribute, while also reflecting the diversity of the broader community.

Question 11

Do you agree with our proposal to introduce a Listing Rule to require issuers to have and disclose a diversity policy for their workforce (including senior management)?

Yes

Please provide reasons for your views.

Question 12

Do you agree with our proposal to upgrade from a CP to a MDR the requirement on the annual review of the implementation of an issuer's board diversity policy?

Yes

Please provide reasons for your views.

Question 13

Do you agree with our proposal to require as a revised MDR separate disclosure of the gender ratio of: (i) senior management; and (ii) the workforce (excluding senior management) in the CG Report?

Yes

Please provide reasons for your views.

Question 14

Do you agree with our proposal to codify the arrangements during temporary deviations from the requirement for issuers to have directors of different genders on the board as set out in draft Main Board Listing Rule 13.92(2) in Appendix I?

Yes

Please provide reasons for your views.

Question 15(a)

Do you agree with our proposal to emphasise in Principle D.2 the board's responsibility for the issuer's risk management and internal controls and for the (at least) annual reviews of the effectiveness of the risk management and internal control systems?

Yes

Please provide reasons for your views.

Question 15(b)

Do you agree with our proposal to upgrade the requirement to conduct (at least) annual reviews of the effectiveness of the issuer's risk management and internal control systems to mandatory and require the disclosures set out in MDR paragraph H?

Yes

Please provide reasons for your views.

Question 16

Do you agree with our proposal to refine the existing CPs in section D.2 of the CG Code setting out the scope of the (at least) annual reviews of the risk management and internal control systems?

Yes

Please provide reasons for your views.

Question 17

Do you agree with our proposal to introduce a new MDR requiring specific disclosure of the issuer's policy on payment of dividends and the board's dividend decisions during the reporting period?

Yes

Please provide reasons for your views.

Question 18

Do you agree with our proposal to introduce a Listing Rule requirement for issuers to set a record date to determine the identity of security

holders eligible to attend and vote at a general meeting or to receive entitlements?

Yes

Please provide reasons for your views.

Question 19

Do you agree with our proposal to codify our recommended disclosures in respect of issuers' modified auditors' opinions into the Listing Rules?

Yes

Please provide reasons for your views.

Question 20

Do you agree with our proposal to clarify our expectation of the provision of monthly updates in CP D.1.2 and the note thereto?

Yes

Please provide reasons for your views.

Question 21

Do you agree with our proposal to align requirements for the nomination committee, the audit committee and the remuneration committee on establishing written terms of reference for the committee and the arrangements during temporary deviations from requirements as set out in draft Main Board Listing Rules 3.23, 3.27, 3.27B, 3.27C and 8A.28A in Appendix I?

Yes

Please provide reasons for your views.

Question 22

Do you agree with the proposed implementation date of financial years commencing on or after 1 January 2025, with transitional arrangements as set out in paragraphs 182 to 183 of the Consultation Paper?

Yes

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Please provide reasons for your views.

With the exception of Proposals 1, 8 and 10.