



THE DCRO
RISK GOVERNANCE
INSTITUTE

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The DCRO Risk Governance Institute

August 6, 2024

Hong Kong Exchanges and Clearing Limited
8/F, Two Exchange Square
8 Connaught Place, Central
Hong Kong

Dear Sir/Madam,

Subject: Importance of Good Risk Governance Standards for Listed Companies

I am writing to you in response to the “Consultation Paper on Review of Corporate Governance Code and Related Listing Rules” issued by the Hong Kong Exchanges and Clearing Limited. The organization I lead is a nonprofit global peer collaboration of board members and C-suite executives dedicated to helping organizations with their corporate governance, particularly their risk governance. On behalf of the organization, I would like to emphasize the critical importance of robust risk governance standards for listed companies.

As I noted in our submission of the comment forms online, the consultation paper rightly highlights the need for enhanced corporate governance practices. In this context, I would like to draw attention to the pivotal role that Qualified Risk Directors play in ensuring effective risk governance. Qualified Risk Directors bring a wealth of experience and expertise in risk management, which is essential for navigating the complex and dynamic risk landscape that modern businesses face.

The DCRO Institute's Qualified Risk Director Guidelines underscore that successful governance of risk requires not only the adoption of appropriate risk governance policies but also the establishment of a corporate environment that fosters open discussion and robust risk management processes. This aligns with the principles outlined in your consultation paper, which advocate for a more proactive and transparent approach to risk management.

Incorporating Qualified Risk Directors into the board structure can significantly enhance the board's ability to oversee risk management and internal control systems. These directors are equipped to provide valuable insights into risk appetite, tolerance, and the effectiveness of risk mitigation strategies. Their presence on the board ensures that risk considerations are integrated into strategic decision-making processes, thereby safeguarding shareholder value and promoting long-term sustainability.

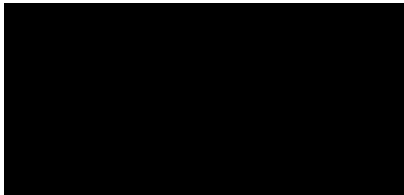


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I strongly support the initiatives proposed in the consultation paper and urge the Hong Kong Exchange to consider including guidelines that encourage the appointment of Qualified Risk Directors on the boards of listed companies. This will strengthen the overall governance framework and enhance the resilience and competitiveness of Hong Kong's capital markets.

Thank you for considering my views on this important matter. I am happy to speak with you at any time about this, and I look forward to the continued development of corporate governance standards that reflect the evolving needs of the business community.

Yours sincerely,



The DCRO Institute

www.DCROI.org

Submitted via Qualtrics

The DCRO Risk Governance Institute

Company/Organisation view

Others (please specify)

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?

Yes

Please provide reasons for your views.

Stock issuers without an independent board chair should designate an independent non-executive director (INED) as a Lead Independent Non-Executive Director (LID) to enhance engagement with investors, shareholders, and other stakeholders (capital providers) for several reasons, including the fact that the LID provides a valuable channel for communication, especially in matters involving potential conflicts of interest for the board chair, such as connections with significant shareholders. In addition, the LID ensures that there is an independent voice on the board, which is crucial for maintaining objectivity and protecting minority shareholders' interests. To benefit stakeholder relationships, the LID facilitates meaningful dialogue between the board, shareholders, and other capital providers, ensuring that their concerns and perspectives are adequately incorporated. Finally, in one of the board's most important roles, the LID can lead meetings of non-executive directors to appraise the chair's and CEO's performance, ensuring accountability and effective leadership.

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.

Our focus as a peer-led nonprofit is on continuous professional development among directors around risk governance. We feel this is crucial for several reasons. The business landscape is dynamic, with new risks emerging

regularly. Ongoing education ensures directors stay updated on the latest practices and trends in risk governance. Risk-knowledgeable directors can make more informed decisions, balancing risk-taking with oversight responsibilities effectively. Investing in education helps boards function more efficiently, fostering a positive, value-creating mindset. Continuous learning helps directors understand and implement best practices, ensuring compliance with regulatory requirements and fiduciary duties. And finally, there is a strategic advantage to being risk-educated, avoiding the traps of fearing risk. Well-informed directors can better navigate complexities, driving innovation and strategic growth, not being afraid to take the risk necessary to achieve their corporate goals.

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.

Continuous professional development in risk governance is especially important for first-time directors on publicly listed company boards for several reasons related to their newness to the environment, something that presents its own unique risks. First-time directors need to grasp the most relevant business metrics, strategic stances, how these variables correlate to loss and value creation, and how to enhance the latter while protecting against the former. In-depth education helps directors make effective decisions by putting the business model, products, key areas, and opportunities in the context of smart risk-taking and oversight. Demonstrating risk governance capabilities and understanding positive risk-taking positions directors well for board seats, as risk management is a top priority for all stakeholders. As a peer-led nonprofit, we produce a series of free resources to help with this, including our Building a Better Board series. We also provide credentialing programs that are globally recognized, most of which take between 15 and 40 hours of study to complete and are taught by practicing board members and C-suite executives from around the world. So, yes, we highly value professional development for all directors, but especially for first-time directors.

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.

We think the definition under (i) above is best.

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.

It is very important that a core set of governance knowledge be mandated for all. We feel that risk is one of the only aspects that touches everything a board member does and hence risk governance education and credentialing should be a clear mandate. We advocate that every listed company have at least one Qualified Risk Director on their board to ensure that someone is there to keep the discussion of risk governance in the pursuit of corporate goals at the front and center of board activities. This requires both training and extensive experience.

Question 3

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

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.

Transparency builds trust. Reviews build accountability. In a dynamic world where so much is in motion, the reconstitution of board members must

continuously be assessed for what matches the future needs. This is becoming a faster process with shorter cycles.

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.

For the same reasons as Question 4, transparency builds trust and there is a need to ensure the makeup of the board is suitable for the future. One of the most important missing elements of a skill matrix is the mix of board members' risk personalities - something that is measurable and aids board function. It is a regular part of our work with board members, whole boards, and board committees.

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.

We would argue that six is too many. The complexities of the day make board service more of a job than a passion. It is difficult to be on more than three or four listed company boards and have the time necessary to fulfill your Duty of Care, especially if one or more enter a crisis phase.

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.

It is always helpful to have a period of adjustment. The process for identifying and recruiting new board members is a lengthy process that follows assessments of needs and strategic plans. Three years is a good length of time for the adjustment to take place.

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?

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?

Yes

Please give reasons for your views.

This seems a very reasonable length of time for board service generally, and certainly for independence to be clear.

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?

Please provide reasons for your views.

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?

Yes

Please provide reasons for your views.

For the same reason stated before, three years is a helpful transition period.

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.

Transparency builds trust.

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?

Yes

Please provide reasons for your views.

We advocate for numerous forms of diversity on boards. Without the perspective of diverse directors on nomination committees, there will be a bias toward keeping the group the same as those who exist. Diversity reduces risk and increases innovation. That applies to director selection and board refresh as well.

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)?

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?

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?

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?

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.

The board's responsibility for annual reviews of the effectiveness of risk management and internal control systems is crucial for ensuring robust corporate governance. This responsibility involves overseeing the establishment and maintenance of an effective system of internal control, which should be measured against internationally accepted standards and tested annually for adequacy. Regular reviews help the board ensure that the risk management framework is aligned with the company's strategic objectives and that it effectively mitigates potential risks, while enhancing upside possibilities. This process is vital for maintaining the integrity of corporate reporting and ensuring that the company is well-prepared to handle emerging risks, ultimately protecting shareholder value and fostering long-term sustainability. We recommend that all boards review the DCRO Guiding Principles for Board Risk Committees, especially the 7th Principle that states, "The board risk committee should provide sufficient guidance and information to allow the full board to issue a simple-language disclosure about the organization's risk culture and control processes. Further, and only if

warranted, the full board should issue a statement that the organization's risk philosophy, infrastructure, processes, and capital base are 'fit for purpose'."

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.

For the same reasons stated in 15(a). This is another example of why the exchange should require at least one Qualified Risk Director on the board of any listed company.

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.

Yes, but we would add that there should be an assessment of how the risk function is helping businesses make better risk-informed decisions. There is a need for an independent risk oversight function, but it is equally important that risk managers serve as advocates within each business to help it make good risk-adjusted decisions. A narrative of how this is done at the company would be a helpful addition, and having a Qualified Risk Director on the board would allow the company to evaluate whether both control and advocacy are being done well.

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?

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?

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?

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.

Please be sure to add a section requiring disclosure of any material deviations from expectations, both positive and negative.

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.

Yes, and there should be a provision for cross-population of these committees and a Risk Committee. Again, a Qualified Risk Director can be that bridge, but having knowledge of what each committee is discussing among at least two or three members of the board is essential.

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?

Please provide reasons for your views.