

Submitted via Qualtrics

BDO Risk Advisory Services Limited

Company/Organisation view

Accounting Firm

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.

This proposal requires issuers without independent board chairs to designate Lead INEDs to enhance engagement with investors and shareholders is a complex one with potential benefits and drawbacks.

Although this “comply or explain” requirement had been implemented in a number of other jurisdictions, in our view, this requirement may come too soon for the issuers, due to the following reasons:

- Introducing a new role may create confusion about responsibilities and reporting lines (such as the Lead INED’s role may overlap with those of the board chair; board members may either overstep their boundaries or hesitate to take actions from the lack of thorough understanding of their roles; the extra layer of communication without clear reporting lines may slow down the flow of communication), potentially leading to inefficiencies in board operations;
- If not carefully implemented, the Lead INED role could undermine the authority of the board chair, particularly if the chair is not independent, leading to conflicts and hinder effective decision-making; and
- Designating a Lead INED role could place a significant time commitment and workload on the designated director, potentially deterring qualified individuals from accepting the position.

In order to ensure the Lead INED requirement be implemented effectively, the boards of listed issuers should be required to establish clear definition of responsibilities and authority, have a transparent and rigorous selection

process of the Lead INEDs, and provide the Lead INEDs with adequate support and resources to effectively fulfill their responsibilities. Rather than a CP proposal, we suggest the Exchange to consider a phased approach designating it first as a RBP allowing the Exchange to understand the practical challenges boards of listed issuers may face or the value it may bring.

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?

No

Please provide reasons for your views.

Whilst we agree that continuous professional development should be mandatory for all existing directors, implementing a minimum training hour requirement is important to ensure that directors engage in substantive learning and development, rather than simply fulfilling the training requirement with superficial or easy courses. Without a specified number of training hours, it may be difficult for the board to effectively monitor and verify that directors are actually gaining meaningful knowledge and skills.

While the flexibility to choose relevant training topics and formats is appreciated, we believe a minimum number of training hours should still be mandated. This would help ensure a baseline level of committed professional development, without imposing an overly onerous burden on directors. The right balance needs to be struck between providing autonomy and ensuring accountability.

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.

We are generally in agreement with the proposal as the training requirement for first-time directors is a commendable step towards enhancing corporate governance:

- Formal training equips new directors with the necessary knowledge and tools to tackle complex governance issues effectively;
- Structured programs can familiarise first-time directors with regulatory landscapes and international best practices, fostering a culture of compliance and ethical conduct;
- Completing a structured training program can boost the confidence of first-time directors, enabling them to actively engage in board discussions; and
- Mandatory training demonstrates to investors and stakeholders the issuers' commitment to high governance standards and director competency.

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 are generally in agreement with the proposal. The proposed definition of “First-time directors” acknowledges that a director who has been away from listed company governance for a significant period (3 years) might have knowledge gaps similar to a first-time director. It is our view that the proposal represents a comprehensive definition which aligns with international best practices and provides clarity for both issuers and directors regarding expectations and required training.

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.

We support the proposal to outline specific topics that must be covered under the continuous professional development requirement so that directors are equipped with knowledge and skills directly relevant to contemporary

business challenges, such as ESG, cybersecurity, and evolving regulatory requirements. In addition, a standardised curriculum can minimise knowledge gaps among directors with diverse backgrounds and experience levels.

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.

We are generally in agreement with the proposal. Please refer to our responses from Question 2 Consultation Q#2(a) to (d) our rationale.

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.

We are generally in agreement with the proposal. We support the requirement for issuers to conduct regular board performance reviews every two years with the required disclosures. This can identify areas for improvement in board composition, dynamics, and effectiveness in fulfilling board oversight responsibilities; and give stakeholders additional confidence in the conclusions being reached about the directors' capacity to discharge their duties and confidence in the issuers' governance practices.

Making it a CP requirement may bring about a more rigorous and consistent board evaluation through standardisation of practices. This would ensure boards are held accountable for their performance, enable issuers to objectively identify their boards' strengths and weaknesses, provide opportunities for continuous improvement through biennial evaluations, and allow issuers to benchmark their performance against peers and industry best practices.

While we appreciate the proposal, further clarification from the Exchange regarding the permissible parties who can conduct board evaluations is needed. Specifically, we are interested in understanding whether this role can

be fulfilled by external entities or if it is restricted to individuals or groups within the issuer's organisation.

Furthermore, we would appreciate the Exchange's perspective on the potential involvement of the internal audit function (IA) in this initiative. Our review and the roundtables acknowledge the board's role in governing IA could present limitations. However, we suggest that IA could play a valuable role in designing KPIs and facilitating the board performance assessment process. We would be grateful for the Exchange's insights on this matter.

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.

We are generally in agreement with the proposed disclosure. Requiring issuers to maintain a board skills matrix and disclose it in the Corporate Governance Report would generate the following key benefits:

- A board skills matrix would provide investors and other stakeholders greater transparency into the collective expertise and experience of the board for better evaluation of the board's capabilities to effectively oversee the issuer;
- The process of creating and disclosing a board skills matrix can help issuers identify any gaps / weaknesses in the board's composition so that sufficient efforts can be made to ensure such gaps / weaknesses can be remediated;
- Mandatory disclosure would create accountability for issuers to maintain an appropriate and balanced board;
- If all issuers disclose their board skill matrix, this will allow benchmarking of board composition across companies and industries be conducted; and
- Maintaining a board skills matrix and providing this disclosure is considered a leading corporate governance practice. Introducing it as a Code Provision would help align local practices with international standards.

Having said that, we would appreciate more clear guidance from the Exchange in terms of what information should be included and how such information should be presented on the board skills matrix.

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 are generally in agreement with the proposed disclosure. It is our view that the “hard cap” can enhance focus, time commitment, and reduce risk of overboarding:

- INEDs can invest more time in understanding the issuer’s operations, risks and strategic direction. With an expectedly more reasonable workload (related to the issuers in Hong Kong), INEDs can actively engage in board discussions, provide valuable insights, and challenge management effectively; and
- A “hard cap” can prevent potential conflicts of interest as fewer directorships can reduce the likelihood of conflicting interests between different issuers.

It is important to clarify that this "hard cap" does not encompass directorships outside Hong Kong-listed companies or other roles like government committees and NGOs. Therefore, nomination committees of issuers will play a crucial role as gatekeepers. They must diligently identify, manage, and disclose any situations where an individual's overall commitments might lead to overboarding, even if within the "hard cap" limits.

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?

No

Please provide reasons for your views.

Whilst we understand the potential benefits on the proposed three-year transition period (provide smooth transition, provide more flexibilities for the issuers and avoid sudden INED shortages in issuers) for both “six listed issuer directorships” and “nine years on the tenure of INEDs”, we are in view that such proposals may not be the best from the governance’s perspective, due to the following reasons:

- Delaying the implementation would only prolong the existing long serving INED’s directorship and provide little to no value to the current proposal;
- A longer transition period might create a sense of non-urgency among issuers and INEDs, potentially delaying necessary board renewals and new INED appointments; and
- A lengthy transition period might be perceived as a lack of commitment from the Exchange to enforce stricter governance standards.

We recommend the Exchange to consider striking a balance between ensuring a smooth transition and demonstrating a commitment to strengthening corporate governance in a timely manner. This can be achieved through a shorter transition period (such as 2 years).

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.

As discussed in our response in Question 6(b) above, we strongly believe that issuers’ nomination committees play a crucial role as gatekeepers and their assessment of each director’s time commitment and contribution to the board should be disclosed. Therefore, we are generally in agreement with the proposed disclosure.

However, we do recommend the Exchange to consider providing clear guidelines on defining “time commitment” and “contribution” to ensure consistency and comparability across issuers. In addition, the disclosure

should require / encourage both qualitative and quantitative aspects of director commitments be tracked and disclosed.

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.

We are generally in agreement with the proposed disclosure. It is our view that a fresh perspective and independent oversight are crucial for effective corporate governance, which can be achieved through a rotation of INEDs. New INEDs can introduce fresh ideas, challenge prevailing assumptions and "group mentality", and potentially enhance the diversity of the board. INEDs who have served for a long duration beyond the "hard cap" can continue to serve as NEDs. This is advantageous for the issuers, as their experience and insights will remain valuable even after they transition from the INED to the NED role.

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.

Whilst we support the proposal that INEDs who have served for an extended period beyond the "hard cap" can continue to serve the issuing companies as NEDs, it is our view that allowing for a reconsideration after a cooling-off period would not make such persons as independent as before (if not more independent). In addition, this approach would not contribute significantly to promoting greater diversity on issuer boards.

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.

Please refer to our answer on Question 6(b). We recommend the transition period be shortened for both “hard caps” (“six listed issuer directorships” and “nine years on the tenure of INEDs”).

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.

We are generally in agreement with the proposed disclosure, as such disclosure can enhance transparency and allow shareholders and investors to locate such information in a more convenient manner.

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.

Diversity is an important driver of board effectiveness and should be incorporated into the succession and appointment process. While we understand that having at least one director of a different gender on the nomination committee may bring a broader range of perspectives and experience and promotes equal gender representation at the board level, it is our view that requiring issuers to have at least one director of a different gender on the nomination committee may be challenging yet not the most beneficial.

In cases where there is a scarcity of qualified directors of a different sex in the market, enforcing such a mandatory requirement could pose challenges for issuers. Furthermore, we note from our review and the roundtables that director nominations and appointments should be merit-based, irrespective of gender. We recommended that issuers retain flexibility in selecting directors for nomination committees based on their skills and expertise, rather than adhering strictly to gender-specific criteria.

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.

We are generally in agreement with the proposed disclosure. Requiring the disclosure of a diversity policy encourages issuers to actively prioritise diversity within their workforce. It enhances transparency, allowing investors and stakeholders to assess the issuer's commitment to diversity. Additionally, such policies can bring varied perspectives and help reduce "group think".

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?

No

Please provide reasons for your views.

While we appreciate the Exchange's commitment to transparency and diversity, we believe that this proposed upgrade may come too soon. It could place an additional burden on smaller issuers striving to meet regulatory requirements. Furthermore, mandatory disclosure might inadvertently lead to formulaic reporting practices. We recommend retaining this requirement as a CP, allowing the Exchange more time to engage with smaller issuers before considering it as an MDR.

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.

We are generally in agreement with the proposed disclosure. Separate disclosures can illustrate gender disparities across various organisational levels, enabling investors and stakeholders to assess issuers' gender diversity efforts more effectively. Additionally, this requirement may prompt issuers to address gender imbalances proactively, as they become evident at various levels within the organisation.

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.

We are generally in agreement with the proposed disclosure. The proposal to codify arrangements for temporary deviations from gender diversity requirements is practical. It acknowledges unforeseen situations that may result in such deviations, with suggested reporting mechanisms for issuers to timely report them to the public.

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.

We are generally in agreement with the proposed disclosure. The proposal to emphasise the board's responsibility for risk management and internal controls (RMIC), which covers all material controls including financial, operational and compliance controls.

Nevertheless, we believe that the Exchange should offer precise guidance to issuers when explaining the rationale behind the effectiveness of their RMIC systems. Clear guidance, a well-defined framework, and a minimum baseline requirement are essential to assist boards in forming accurate conclusions about the adequacy and effectiveness of these systems. Our concern lies in issuers potentially misinterpreting the requirements, leading to unwarranted confidence based on unsupported claims regarding effectiveness of their RMIC systems.

Our review and the roundtables highlight several challenges faced by the internal audit (IA) function in aiding the board's assessment of the RMIC system's adequacy and effectiveness. These challenges include inadequate skillsets, resource limitations, lack of unified standards, and a shortage of qualified IA professionals. We advocate for the adoption of international IA

standards to guide IA work and align it with the RMIC review process. Furthermore, given the pivotal role of the IA function in confirming the annual RMIC system, assessing and enhancing its performance and value is crucial, and this may be accomplished through periodic Quality Assurance Review (QAR).

We encourage the Exchange to provide additional guidance to issuers on how IA activities can effectively support the board's annual reviews of RMIC system effectiveness. This may be something that the Exchange can elaborate further under draft CP D.2.1(g) and D.2.2.

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.

We are generally in agreement with the proposed disclosure as we believe that the proposal to upgrade the requirement to conduct (at least) annual reviews of the effectiveness of the issuer's RMIC systems to mandatory and require the disclosures set out is a positive step.

Please refer to our response under Question 16 regarding our suggestions on i) offering precise guidance to issuers when explaining the rationale behind the effectiveness of their RMIC systems and ii) providing additional guidance to issuers on how internal audit activities can effectively support the board's annual reviews of RMIC system effectiveness.

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.

We are generally in agreement with the proposed disclosure, as it emphasises the importance of regular reviews of RMIC, enhances transparency, promotes risk prevention and mitigation and enhances the risk

assessment process. Please refer to our response under Question 15(a) regarding our suggestion on offering precise guidance to issuers when explaining the rationale behind the effectiveness of their RMIC systems.

In relation to draft CP D.2.1(e), our observation indicates that issuers often refrain from reporting RMIC deficiencies, even when IA functions have identified and reported them to the Audit Committee (AC). Typically, issuers justify this omission by deeming the deficiencies as insignificant and therefore not necessary to disclose in the RMIC section. We recommend that the Exchange provide additional guidance to issuers regarding the reporting of IA results and significant RMIC deficiencies identified during IA work. Furthermore, we propose that the AC to take on the role of a gatekeeper by reviewing disclosures related to the board's annual reviews and ensuring that all significant issues identified by IA are included and reported in the RMIC section of the issuer's annual report.

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.

We are generally in agreement with the proposed disclosure. We believe a mandatory disclosure requirement regarding the issuer's dividend policy and decisions would be a positive step, as providing this information to investors and the public can:

- Improve transparency by allowing investors / potential investors to better understand the issuer's capital allocation strategies;
- Hold the board more accountable to shareholders; and
- Give investors / potential investors a more complete picture to evaluate the issuer's overall financial outlook before making investment decisions.

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?

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?

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?

Please provide reasons for your views.

