

Submitted via Qualtrics**(Anonymous)****Company/Organisation view****Law 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.

Identifying a Lead INED will inevitably place such Lead INED at a higher rank compared to other INEDs (both in relation to the issuer and shareholders), simply due to its additional roles and functions. This will practically be the case, even if technically all directors are ultimately subject to the same legal liabilities. Practically, it might be difficult for issuers to agree with INEDs as to who should be the Lead INED and whether the Lead INED should be entitled to additional remuneration. Ultimately, all of this will create an unnecessary hierarchy among INEDs, which could hinder the INEDs' collective effectiveness in discharging their roles and responsibilities, including overall monitoring and supervision of the board and safeguarding the interests of all shareholders as a whole.

The aim of the proposal is to provide an additional channel of communication for shareholders (in particular minority shareholders). If so, a holistic approach should be taken whereby it is the issuers' responsibility to ensure that it has established sufficient channels of shareholder communication and to determine precisely the channels appropriate for the issuer's circumstances, as opposed to singling out having a Lead INED. Alternatives that also promote effective two-way communication include: (a) requiring any one INED attend the issuer's AGMs as opposed to a designated INED (as after all, all INEDs should have the ability to provide the desired independent insight to shareholders and investors); (b) appointing a suitably qualified senior investor relations officer who has access to the board; or (c) formalising periodic meetings with stakeholders. Given the proposal is on a "comply or explain" basis, the proposal should be for issuers to explain why it believes it has indeed established sufficient channels of shareholder communication, as opposed to placing emphasis on a Lead INED. This will

achieve the Exchange's desired outcome without creating unnecessary burden on issuers. It is also worth noting that certain other recognisable stock exchanges, such as NYSE or Nasdaq, do not require a Lead INED.

INEDs usually act on a part time basis, so it is questionable whether there will be sufficient INEDs that are prepared to commit to the additional responsibilities as a Lead INED.

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?

No

Please provide reasons for your views.

It is ultimately the director's and issuer's responsibility to ensure the director's knowledge and skills are appropriately developed and refreshed. A minimum number of training hours would largely be an arbitrary threshold, as ultimately the extent of training necessary for an individual director differs from one to another, and should be determined by a range of factors other than sheer hours, such as the individual's background, education and experience, the quality of the training, and even the frequency of regulatory updates. Being a First-time Director does not necessarily mean that individual does not have the relevant competence, expertise and skillset. For illustration, a First-time Director who is a banker, lawyer or auditor that regularly advises issuers on Listing Rules compliance and risk management should require substantially less training than a businessman without prior experience in relation to public companies. In addition, a threshold of 24 hours might be construed as a deterrent for some individuals that on merit are sufficiently qualified to serve as directors.

Further, it is noted that the Exchange has set out a number of areas that must be covered by the mandatory training (proposed Rule 3.09G). Many of these areas will inherently have been covered at the directors' training customarily delivered by the issuer's solicitors prior to first appointment (including pursuant to Rule 3.09D). Save for new updates and developments, subsequent training will become substantially repetitive and potentially burdensome.

That being said, it is agreed that there is merit in specifying a minimum number of hours. On balance of all factors, it is submitted that 12 hours should be sufficient.

Further, the minimum hours should not reset if a First-time Director seeks subsequent appointment with another issuer. After all, any training undertaken as director of the first issuer should still be valid. The key determining factor should be the level of competence and experience acquired by the individual.

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?

No

Please give reasons for your views.

Disclosure of a matrix may lead to oversimplification or present an misleading picture of the board's current skills mix. Instead, the purpose of the proposal would be better served by adopting a more descriptive approach, by requiring issuers to make general enhanced disclosure on the mix of skills currently represented by the board as a whole, as part of the regular board performance review contemplated under CP B.1.4. Coupled with existing disclosure requirements under the Listing Rules, such disclosure should provide shareholders and potential investors with sufficient information to make an informed assessment of the ability of the board, including the board's current skills mix.

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?

No

Please provide reasons for your views.

An individual director’s contribution to the board should not be measured by the amount of time devoted by such director to the issuer. Contribution can come in multiple different forms and with different efficacies. Therefore, disclosure of such information (contribution and time commitment) could become highly misleading, as shareholders and investors would be led to believe that higher time commitment means higher contribution and vice versa. For example, an industry veteran responsible for overall strategy might commit less hours to the board than a member of day-to-day operations and management team, though that on its own would not be reflective of their respective contribution. This is so regardless of the “significant external time commitments” envisaged by the proposal. Further, misplaced focus on magnitude of time commitment and contribution may discourage qualified candidates from serving as directors of Hong Kong issuers.

Instead, the focus should be on the competence and proper discharge of duties and responsibilities of the director. Reference should be made to the adequacy of time commitment and contribution (as opposed to sheer volume) from each director such that the board as a whole is properly functioning, which is a judgment to be made by the nomination committee. It is suggested that the disclosure should be simply that the

nomination committee has assessed and is of the view that the time commitment and contribution of each director are adequate, without quantifying the amount of time and contribution, and of course if inadequate, with an explanation.

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.

It is not correct to assert that an extended length of service necessarily results in an increased risk of no longer being independent given familiarity with the issuer’s management. The continued discharge of an INED’s duties and responsibilities over time should not have a direct bearing on such INED’s independence provided it is so discharged appropriately. This is especially so given the proposal states the concern is increased “familiarity with the issuer’s management”, as based on our understanding of the market, it is certainly possible for INEDs to have already become acquainted with an issuer (such as in a professional capacity) well before formal appointment.

Current requirements under the Listing Rules are already sufficient for the purpose of safeguarding the independence of the board and the interests of the shareholders as a whole. In particular, further appointment of a Long Serving INED is already subject to shareholders’ approval, with full disclosure to shareholders regarding each Long Serving INEDs’ details and length of tenure and the basis of their continued independence. Shareholders and potential investors are then in the position to make an informed assessment about such Long Serving INED’s independence and ultimately how to vote on such shareholders’ resolution.

Instead, the proposal has potential to deprive both issuers and shareholders from the continued service of certain Long Serving INEDs whom the issuers and shareholders are satisfied that they remain independent. This is particularly so given longer tenures should result in better familiarity with the issuer’s business, financials and industry (including all previous correspondence with the Exchange), as well as better experience in being an effective INED. The role of an INED is different from that of an auditor, whereby an INED is primarily a supervisory role where a level of familiarity might even

be beneficial to shareholders (as opposed to auditors that take on a more active role, thus, justifying regular rotation). Ultimately, the imposition of a hard cap of nine years would be an unnecessary arbitrary threshold, and one that does not take into account issuers of different sizes, nature, situations etc..

Further, we have been informed by certain Main Board listed client(s) (being constituents of the Hang Seng Index who shall remain unnamed) that it has become increasingly difficult to identify suitable INED candidates who could fit the issuers' existing board composition and could bring diversity to the board (taking into account a number of factors such as gender, age, cultural and educational background, or professional experience). With the proposed introduction of a 'hard cap' of nine years, it would be even more strenuous for issuers to maintain the composition of board with great diversity, as a change of INED would become more frequent and it is questionable whether there is indeed a sufficient talent pool of INED in the Hong Kong market. It is further noted that other reputable exchanges (such as NYSE and Nasdaq) do not have similar restrictions.

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 Question 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 Question 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?

Yes

Please provide reasons for your views.

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.

Yes. However, it is suggested that the new Rules and CPs should clarify that it is referring to the RMIC of the issuer and its subsidiaries (as a whole), as opposed to the current wording which might suggest the requirement to review the RMIC of each and every individual subsidiary. This would be highly impractical and unduly burdensome to some of the larger issuers that may have a very significant number of investment holding or otherwise insignificant subsidiaries. Issuers should instead be given discretion to determine a reasonable basis of materiality as to which subsidiaries should be included in such analysis.

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.

Same as Question 15(a)

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?

No

Please provide reasons for your views.

While it is agreed monthly management accounts and management updates are in theory useful, issuers and their boards should have discretion to determine the exact information required at their monthly meetings in order to properly assess the issuer's performance and continually manage the issuer. It is not appropriate for the Rules to prescribe specific manners in which such meetings should be conducted, especially as they are entirely internal processes. The existing regulatory framework (including annual and interim reporting, as well as ongoing disclosure obligations such as inside information provisions) already provides shareholders and potential investors with sufficient information to make an informed assessment of issuers.

The proposal would also be unnecessarily burdensome, especially for larger issuers with international businesses and involving numerous subsidiaries, ultimately creating an unnecessary transaction.

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

Please provide reasons for your views.

