

**Submitted via Qualtrics**

**KPMG**

**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.**

While the proposals are well-intentioned, the Exchange should consider whether they should be applied universally and incorporated as code provisions for all Hong Kong listed companies. Issuers of varying sizes and complexities may have unique considerations and could face unnecessary business disruptions when trying to comply. For example, having a single Lead INED to handle investor and shareholder communication may not be necessary or effective for companies that already have established processes and robust investor relations functions.

Larger, more complex issuers often have existing mechanisms in place. A Lead INED could face challenges if their duties and responsibilities are not clearly defined or effectively communicated to shareholders. There is also a risk of the Lead INED being inundated with unpredictable inquiries from minority shareholders. The Exchange should balance the need for improvements in communications with the practical challenges faced by different issuers, to avoid imposing unnecessary burdens or disruptions.

**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.**

While it is an existing CP that all directors should participate in continuous professional development, making continuous professional development mandatory for all existing directors should not cause undue burden to existing issuers. Not specifying a minimum number of training hours allows more flexibility to the existing directors instead of adopting a hard limit on the training hour.

**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 generally consider it reasonable for First-time Directors to complete a minimum of 24 hours of training within 18 months. That said, the Exchange should also consider 12 months as a potential option. A minimum of 24 hours of training within 12 months would average to merely 2 hours per month, which should not cause undue burden to the 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.**

**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.**

We agree with the proposal as continuous training enables directors to keep abreast of the latest regulatory changes and evolving market developments in discharging their roles and duties on an ongoing basis.

**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 agree with the proposal as regular board performance reviews can help enhance board effectiveness and drive continuous improvement. Upgrading to a CP can align with practices in other jurisdictions.

**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.**

Disclosing the board skills matrix can enable stakeholders to obtain a better understanding of suitability of the board. We agree with the proposal for maintaining and disclosing the board skills matrix setting out the information including (a) details of the mix of skills that the board currently has, (b) an explanation of how the combination of skill, experience and diversity of the directors serves the issuer's purpose, values, strategy and desired culture.

We would like to seek clarifications on (c) regarding the details of any future skills that the board is looking to acquire, its plans to acquire such further skills, how the plans made in the previous year(s) were achieved or

progressed in the reporting year. Specifically, for boards looking to acquire a particular skill as part of an as-yet unannounced and incomplete plan to move into a different field of activity, such disclosures may result in the leakage of potential inside information. However, according to 13.06A of the Main Board Listing Rules, an issuer and its directors must take all reasonable steps to maintain strict confidentiality of inside information until it is announced. We suggest the Exchange to provide clarifications to issuers as to how to handle such circumstances.

### **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.**

The growing demands of board responsibilities especially with increased focus on ESG and stakeholder concerns make it challenging for directors to effectively fulfil their duties if they are overcommitted. Imposing a hard cap can provide a reference point for listed issuers to assess the appropriateness of time commitment of INEDs. Upgrading from CP to Listing Rule also align with practices in other jurisdictions.

### **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.**

We agree with the proposed three-year transition period as it allows issuers to plan and identify the appropriate candidates to address any potential challenges that could arise.

### **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.**

In principle, we agree with the proposal with elaboration followed.

A person's available time and attention is affected by a range of factors. The workload and time commitment can vary significantly depending on the type of company, its complexity, the committees the INED serves on, and other responsibilities INED have. In addition to the hard cap, the annual qualitative assessment can consider other factors and commitments for each director making the assessment more thorough.

We would like to seek clarification on the current proposed wording of MDR, which appears to be unclear whether to (i) disclose the policy which includes the procedures, process and criteria to assess each director's time commitment and contribution etc.; or to (ii) disclose the assessment of each director's time commitment and contribution. The question implies (ii) while the proposed wording of MDR appears to be (i).

**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 recognize the importance of maintaining board independence and the value of board refreshment to introduce new perspectives. However, many issuers have expressed concerns about the practical challenges this could pose, such as difficulties in replacing experienced INEDs with invaluable institutional knowledge, especially given the shortage of qualified INEDs.

Newly appointed INEDs would require significant time to familiarize themselves with large, complex organizations. The current requirement to appoint a new INED when all serving INEDs have long tenures is an effective

interim approach to ensure fresh insights. The disclosure-based approach, which requires justification for re-appointing long-serving INEDs, is also seen as a more flexible solution. The Exchange could also consider allowing an issuer to reappoint long-serving INEDs with independent shareholders' approval.

**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?**

**Please provide reasons for your views.**

**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 agree with the proposal. While director tenure information may be available in the public domain, mandating the disclosure in the CG Report can enhance transparency and provide stakeholders with a more comprehensive and easily comparable view of the board composition.

**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 fully support the promotion of diversity in the boardroom, as it brings unique perspectives and enhances decision-making quality, fostering the issuer's long-term growth.

However, we would like to point out the practical difficulties that issuers may encounter in meeting the requirement by 1 January 2025.

In accordance with 3.27A of the Main Board Listing Rules, the nomination committee should comprise a majority of independent non-executive directors. The current proposal requires issuers to have at least one director of a different gender on the nomination committee.

For certain issuers who may already have difficulty satisfying the requirement to appoint at least one director of a different gender by 31 December 2024, the proposal presents an added challenge. Ideally, as the director of a different gender would preferably:

- (i) be an independent non-executive director to satisfy 3.27A of the Main Board Listing Rules;
- (ii) possess the necessary skills, knowledge and experience that synergize with the current board composition;
- (iii) also have the necessary skills, knowledge and experience to review the board composition and make recommendations on proposed changes to the board.

Certain issuers with only one director of a different gender might be compelled to appoint that director to the nomination committee, irrespective of whether he/she possesses the appropriate skills and experience to serve the nomination committee. Directors who are unsuitable for the position might opt to defer his/her decision to other members of the nomination committee, which could undermine the original intent of this proposal.

We suggest the Exchange to consider the timing of the proposal, or provide reliefs for issuers facing such practical difficulties in order to avoid ineffective appointments.

**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 agree that diversity across the workforce (including senior management) is vital to creating a culture of inclusion which benefits both individuals and organisations.

**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.**

We agree with the proposal. It is not expected to cause undue burden to existing issuers, as the existing issuers have established policy on board diversity and disclosed such policy or a summary of it in the Corporate Governance report. Full compliance with the current CP requirement is observed during the CG Disclosure Analysis conducted by the HKEX.

In addition, periodic review on the policy can promote better governance.

**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 agree with the proposal. Separate disclosure of the gender ratio of: (i) senior management; and (ii) the workforce (excluding senior management) in the CG Report can provide higher transparency and clarity of an organisation's progress in achieving gender-balanced leadership, as well as the workforce. It enables organisations to set clearer targets and objectives for gender diversity across the senior management and the workforce, where applicable.



**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.**

The proposed arrangements are not expected to have a wide impact given that a similar arrangement during temporary deviations from the requirement on the number of independent non-executive directors is in place as per MB Rule 3.11.

**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 agree with the proposal. It is crucial for the board to ensure the presence of appropriate risk management and internal control systems within the organisation that function effectively to manage risks and reduce them to acceptable levels. The proposal emphasises the board's responsibility to ensure the implementation of effective risk management and internal control systems.

The Exchange may consider providing more guidance to issuers regarding the elements to be considered when formulating the scope of review of the risk management and internal control systems.

**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.**

The proposed changes provide higher clarity on the periodic review of the risk management and internal audit systems that issuer should be performed to ensure the effectiveness of the systems. In particular, material controls of an issuer, are vital to safeguard the assets and interests of issuers as well as to meet the expectations from stakeholders.

**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 agree with the proposal. A well-defined dividend policy sets expectations among investors on the potential returns (in terms of dividends) from their investments.

Proper disclosure of the dividend payments, including the reason for the board's decision and the measures that the issuer intends to take when no dividend is declared, can increase the transparency and credibility of issuer, and thus enhance shareholder value.

**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.**

We agree with the proposal as it can provide greater clarity regarding the timing of determination of identity of securities holders for corporate actions.

We do not anticipate this will cause an undue burden to existing issuers, as the Exchange intends to formalise their expectations currently set out in guidance materials into the Listing Rules.

**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.**

We agree with the proposal as it clarifies the expected disclosures in respect of issuers' modified auditors' opinions and binds issuers through the Listing Rules.

This information allows shareholders to better understand the modifications and their impact on the issuers' financial position, facilitating shareholders and investors to make informed investment decisions.

**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.**

We agree with the proposal as it clarifies the directors' rights in obtaining monthly updates from management and what information should be contained in the monthly updates to facilitate them in monitoring the issuer's financial and operating performance, and formulating timely remedial actions.

**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.**

We agree with the proposal as it provides a clear expectation and consistent approach in handling temporary deviations from board committee requirements and the establishment of terms of reference.

**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.**

The implementation of all the proposals sooner the better thus we agree with the proposed implementation dates.