

## Part B Consultation Questions

Please indicate your preference by checking the appropriate boxes. Please reply to the questions below on the proposed change discussed in the Consultation Paper downloadable from the HKEX website at:

<https://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp2017111.pdf>.

Where there is insufficient space provided for your comments, please attach additional pages.

### PART I: INDEPENDENT NON-EXECUTIVE DIRECTORS

#### Overboarding and INED's time commitment

1. Do you agree with our proposed amendment to Code Provision (“CP”) A.5.5 (on a “comply or explain” basis) so that in addition to the CP’s current requirements, the board should also explain, if the proposed independent non-executive director (“INED”) will be holding his seventh (or more) listed company directorship, why he would still be able to devote sufficient time to the board?

Yes

No

Please give reasons for your views.

Too few INED concentrate all of the INED positions in HK - limiting the number of directorships or at least asking for explanation would free up seats to new INED, potentially women, with the additional benefits of having INED with better availability to be able to fulfill his/her role to the fullest.
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#### Board diversity

2. Do you agree with our proposals to upgrade CP A.5.6 (on a “comply or explain” basis) to a Rule (Rule 13.92) requiring issuers to have a diversity policy and to disclose the policy or a summary of it in their corporate governance reports?

Yes

No

Please give reasons for your views.

HKEX to:

- Ask nomination committees to have in place a policy specifically concerning gender diversity;
- Set measurable objectives to achieve gender diversity;

- Provide recommended best practice and guidelines for diversity policy; and

- Limit the tenure of independent directors to nine years to reduce the lack of diversity due to entrenched Boards.

3. Do you agree with our proposal to amend CP A.5.5 that it requires (on a “comply or explain” basis) the board to state in the circular to shareholders accompanying the resolution to elect the director:

- (i) the process used for identifying the nominee;
- (ii) the perspectives, skills and experience that the person is expected to bring to the board; and
- (iii) how the nominee would contribute to the diversity of the board.

Yes

No

Please give reasons for your views.

HKEX to add more specification in how the identification process and the nominee would contribute to the diversity of the Board, by reference to the diversity policy of the company;

- Require annual internal evaluation of the performance of each board member (by enhancing CP B.1.9), with external evaluation to be conducted at least every three years; and

<ul style="list-style-type: none"><li>• We would like to see minority shareholders have a greater voice by requiring separate disclosure of minority shareholder voting for the election of independent directors and where there is not majority support from minority shareholders, that independent director is required to stand for re-election at the following AGM.</li></ul>
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4. Do you agree with our proposal to amend Mandatory Disclosure Requirement L.(d)(ii) to reflect the upgrade of CP A.5.6 (on a “comply or explain” basis) to a Rule (Rule 13.92) requiring issuers to have a diversity policy and to disclose the policy or a summary of it in their Corporate Governance Reports?

Yes

No

Please give reasons for your views.

HKEX should ask listed companies to disclose their nomination policies and focus on an established process for effective evaluation of incumbent directors, especially those due for re-election.
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## Factors affecting INED's independence

### A. Cooling off periods for former professional advisers

5. Do you agree with our proposal to revise Rule 3.13 (3) so that there is a three-year cooling off period for professional advisers before they can be considered independent, instead of the current one year?

Yes

No

Please give reasons for your views.

ensure independence and align with international best practices.

6. Do you agree with our proposal to revise CP C.3.2 (on a "comply or explain" basis) so that there is a three-year cooling off period for a former partner of the issuer's existing audit firm before he can be a member of the issuer's audit committee?

Yes

No

Please give reasons for your views.

Due to the importance of the independence of the audit committee, indeed a stricter period (3 years) is preferable

**B. Cooling off period in respect of material interests in business activities**

7. Do you agree with our proposal to revise Rule 3.13(4) to introduce a one-year cooling off period for a proposed INED who has had material interests in the issuer's principal business activities in the past year?

Yes

No

Please give reasons for your views.

A cooling off period ensures indeed better independence of the INED

**C. Cross-directorships or Significant Links with other Directors**

8. Do you agree with our proposal to introduce a new Recommended Best Practice A.3.3 (i.e. voluntary) to recommend disclosure of INEDs' cross-directorships in the Corporate Governance Report?

Yes

No

Please give reasons for your views.

Yes - in the interest of full transparency

**D. Family ties**

9. Do you agree with our proposal to introduce a Note under Rule 3.13 to encourage inclusion of an INED's immediate family members in the assessment of the director's independence?

Yes

No

Please give reasons for your views.

family connection can indeed have a strong influence on independence so needs to be included

10. Do you agree with our proposal to adopt the same definition for "immediate family member" as Rule 14A.12(1)(a) which defines an "immediate family member" as "his spouse, his (or his spouse's) child or step-child, natural or adopted, under the age of 18 years"?

Yes

No

Please give reasons for your views.

better identify any conflict of interest

**PART II: NOMINATION POLICY**

11. Do you agree with our proposal to amend Mandatory Disclosure Requirement L.(d)(ii) of Appendix 14 to require an issuer to disclose its nomination policy adopted during the year?

Yes

No

Please give reasons for your views.

The circular to shareholders should include numerical and graphical information to illustrate the composition of the incumbent Board by reference to the factors in the diversity policy and length of service, and how these factors would change following the election of the nominated individual. Suggest including a skills matrix as a best practice approach; and

- Annual disclosure of nomination policy should include evaluation of performance and how it has met measurable objectives for achieving gender diversity and progress towards achieving those objectives by disclosing proportions of men and women on the Board, in senior executive positions and across the whole organisation.

### **PART III: DIRECTORS' ATTENDANCE AT MEETINGS**

#### **Directors' attendance at general meetings**

12. Do you agree with our proposal to amend CP A.6.7 (on a "comply or explain" basis) by removing the last sentence of the current wording (i.e. they should also attend general meetings and develop a balanced understanding of the views of shareholders.)?

Yes

No

Please give reasons for your views.

Encouraging attendance at general meetings should be encouraged - which the "should" says.

#### **Chairman's annual meetings with INEDs**

13. Do you agree with our proposal to revise CP A.2.7 (on a "comply or explain" basis) to state that INEDs should meet at least annually with the chairman?

Yes

No

Please give reasons for your views.

In order to INED to be able to express freely their independent views, regular (at least annual) exclusive meetings with the Chairman are indeed required (potentially even consider higher frequency)

**PART IV: DIVIDEND POLICY**

14. Do you agree with our proposal to introduce CP E.1.5 requiring (on a “comply or explain” basis) the issuer to disclose its dividend policy in the annual report?

Yes

No

Please give reasons for your views.

in the interest of full transparency to shareholders

**PART V: ELECTRONIC DISSEMINATION OF CORPORATE COMMUNICATIONS – IMPLIED CONSENT**

15. Do you think that the Rules should be amended to allow shareholders’ consent to be implied for electronic dissemination of corporate communications by issuers?

Yes

No

Please give reasons for your views.

non detrimental to shareholders and easier / more effective process

- End -