

## 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.

We agree with the proposal to mitigate the issue of overboarding and enhance the transparency on the considerations given by the board in respect of the INED's time commitments.
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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.

We note Principle A.3 provides that the board should have a balance of appropriate skills, experience and diversity of perspectives. It has been proven that drawing on a range of ideas and perspectives leads to better decision making and that makes organisations more financially successful (as shown in research by McKinsey, Catalyst, Credit Suisse and Accenture). We therefore welcome the proposal to upgrade CP A.5.6 to a Rule.

We note that the issue of diversity is not limited to gender. However, recommend that CP A.5.6 and the proposed Rule be enhanced to include specific reference to gender in board diversity policies with measurable objectives and targets.

For example, Pinsent Masons has established its own "Project Sky" initiative whereby, in 2013, the firm's board agreed a target of 30% of female partners, with a first milestone of 25% by 1 May 2018. On a global basis, the firm now has 23% female partners (up from 19% in 2013), 4 women on the board (44%) and the Nominations Committee is 60% female. We believe that our Project Sky initiative has helped the firm to develop a more transparent and structured approach to career progression and reward.

Having measurable objectives and targets in relation to any diversity policy (whether related to gender, culture, disability, sexual orientation or otherwise) would therefore encourage even greater transparency and accountability and would be more likely to improve the effectiveness of the policy.

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.

The proposal would improve the rigour and transparency of the decision-making process, which is important for good corporate governance and in instilling investor confidence.

To help ensure that the company implements the aims in its diversity policy, HKEX could develop the requirement (on a "comply or explain" basis) so that it specifically includes reference to the company's diversity policy and its stated diversity objectives.

To encourage greater transparency and establish good corporate governance, we also recommend that HKEX ask listed companies to disclose their nomination policies in appointing and re-appointing directors.

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.

We agree with this proposal for the same reasons as set out in our response to questions 2 and 3 above.

**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.

We have no comment on this proposal.

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.

We have no comment on this proposal.

**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.

We have no comment on this proposal.

**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.

We have no comment on this proposal.

**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.

We have no comment on this proposal.

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.

We have no comment on this proposal.

**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.

As mentioned at our responses to questions 2 and 3 above, we consider that requiring companies to establish and disclose both their diversity policy and nomination policy would encourage greater transparency, good corporate governance and help companies to achieve greater diversity in perspectives. The Nomination Committee should itself be diverse and of appropriate size to discharge its mandate effectively (and, if the company does not have a Nomination Committee, it should explain in its annual report how it performs these duties).

The annual disclosure of the nomination policy should also include an evaluation of performance and how the company has met measurable objectives for achieving diversity on its 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.

We have no comment on this proposal.

#### **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.

We have no comment on this proposal.





**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.

We have no comment on this proposal.

**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.

We have no comment on this proposal.

- End -