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:
http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp201209q.doc.

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

1. Do you agree that the Exchange should promote board diversity?

☑ Yes

☐ No

Please give reasons for your views.

(1) Board diversity is good for business

a. Hong Kong aspires to be Asia's world city and prides itself as being one of the world's leading business and financial centers. As such it should seek to keep up with international standards of best practice with regard to corporate governance and ensure a fair and open process for the appointment of directors to corporate boards. Consideration of diversity and ensuring representation of a wide range of perspectives is critical in this respect.

b. In a service economy such as Hong Kong's, winning the war for talent is critical to maintaining competitive advantage. Leading companies recognize that to be successful, they must have access to the widest possible pool of talent and operate on the basis of a meritocracy where the best person is employed and promoted – regardless of gender, ethnicity, race or culture, age, sexual orientation, gender identity or any other variable.

c. There is a growing body of research that makes the link between diversity (at all levels of an organization) and stronger corporate governance, better business performance, enhanced creativity, greater innovation and increased employee and customer satisfaction and loyalty.

d. In order to 'connect' to and understand its customers and their needs, an organization's board and its workforce should strive to represent or mirror the diversity of its customer base.

e. Employees should be recruited and their performance recognised based on merit and a diverse board sends clear messaging that the organization is committed to equal opportunity and is more likely to get the best people.

f. A diverse board allows women and demographic minorities to aspire to progress throughout the company by seeing people "like them" succeed.

g. By end December 2012, the boards of all listed companies in Hong Kong need to comprise 30% independent non-executive directors. This is the perfect opportunity for companies to ensure they have a diversity of perspectives that better reflect their key stakeholders, namely their shareholders, customers and employees. In so doing, they will naturally open up more possibilities for diverse talent.

(2) Globally, stock exchanges and governments have recognized the importance of board diversity for business success and sustainability. Hong Kong must also recognize this. I am in favour of a Code Provision on board diversity and at this time am not proposing quotas for Hong Kong listed companies on board diversity.

(3) Board diversity is key for business sustainability and is included as a Global Reporting Initiative (GRI) Indicator.

If your answer to Q.1 is "yes", do you agree that our Corporate Governance Code and Corporate Governance Report is the appropriate place for the new measures on board diversity?

☑ Yes

☐ No

Please give reasons for your views.

1. Board diversity enhances corporate governance as per reasons in response to Q.1 above.
2. Including board diversity in the Corporate Governance Code is in line with international best practice.

2. Do you agree with our proposal to introduce CP A.5.6 (*the nomination committee or the board should have a policy concerning diversity of board members, and should disclose the policy or a summary of the policy in the corporate governance report)*?

☑ Yes

☐ No

Please give reasons for your views.

1. Board diversity must be considered in all board appointments and therefore it makes sense that the board or the nomination committee must have a policy on board diversity.
2. The policy should be disclosed so that the board is held accountable for this but also because as stated in Q.1 above (response 1e. above) having a board policy itself sends a strong signal to all stakeholders, especially employees, about the board's commitment to a meritocracy and diversity.
3. Board diversity is good for corporate governance as documented to response to Q.1 (response 1c. above)

3. Do you agree (i) with our proposal to introduce a note under CP A.5.6 to clarify what we mean by diversity; and (ii) with the content of the note? Please give reasons for your views.

(i)		(ii)	
☑	Yes	☐	Yes
☐	No	☑	No

Please give reasons for your views.

(i) Proposal to introduce a note under CP A.5.6 to clarify what we mean by diversity

Yes, because the subject of diversity is new for most companies in Hong Kong and a definition would give listed companies an understanding of what is being asked. In addition, it would help provide some clearly defined indicators of diversity.

(ii) Content of the note

A clear definition of diversity must be provided. We recommend that the note be expanded to include a definition about what diversity itself means and additional diversity factors be included in the spirit of being inclusive.

Proposed definition to include edits which are underlined:

"Board diversity will differ according to the circumstances of each Issuer. Board diversity is about board members bringing diverse perspectives to the board. Diversity of board members can be achieved through appointment of board members from different backgrounds and can be achieved through consideration of a number of factors including but not limited to gender, age, culture, race and ethnicity, nationality, disability, sexual orientation, gender identity, religion, educational background or professional experience. Each issuer should take into account its own business model, sustainability of its business and specific needs and disclose the factors it uses and the rationale for using such factors in selecting board members."

4. Do you agree with our proposal to introduce a new mandatory disclosure provision in the Code stating that if the issuer has a policy concerning diversity, it should disclose details of the board's policy or a summary of the policy on board diversity, including any measurable objectives that it has set for implementing the policy, and progress on achieving the objectives? Please give reasons for your views.

☑ Yes

☐ No

Please give reasons for your views.

(1) For the reasons mentioned above in response to Q.1, diversity is critical for business. As such having the board summarise its policy, its measurable objectives for implementing the policy and progress on achieving the objectives is important in terms of companies being accountable to their stakeholders on diversity at the board level.

(2) This should be a "comply or explain" provision as per UK and Australia.

(3) Also, as per Australia's Code, we recommend that in Hong Kong we add an additional "comply or explain" recommendation for companies to report on: "Proportion of women in the company, senior management and on the board"

(4) As per the UK Code, we recommend that in Hong Kong we add an additional two sentences about the board nomination process being conducted in an open and professional manner. We recommend in line with the UK Code (B.2.4): "An explanation be given if neither an external search consultancy nor open advertising has been used in the appointment of a chairman or a non-executive director. Where an external search consultancy has been used, it should be identified in the annual report and a statement made as to whether it has any other connection to the company."

(5) In line with GRI, we recommend that companies should report on the following:

Composition of the board by:
a) percentage of women at Board Level and Senior Management / Executive Committee;
b) ethnicity and nationality breakdown of all board directors;
c) age profile of board directors.

5. Which of the following would you prefer as the implementation date of the amendments set out in this paper?

- ☐ 1 January 2013
- ☐ 1 April 2013
- ☐ 1 June 2013
- ☑ 1 September 2013
- ☐ Other, please specify and give reasons.

Given that the subject matter will be new to most of the listed companies in Hong Kong, our strong preference would be for companies to understand the business rationale for their definition of diversity so that their diversity strategy is well thought through and aligned to their business strategy. We do not want this to be just another 'tick the box' exercise.

The process of understanding diversity and developing a strategy can take a few months - even for the most committed companies. It is therefore reasonable to expect implementation by 1 September 2013.

- End -