
**QUESTIONNAIRE ON REVIEW OF CORPORATE GOVERNANCE CODE AND
RELATED LISTING RULES CP**

We invite interested parties to respond to the Consultation Paper on Review of Corporate Governance Code and Related Listing Rules ("**Consultation Paper**"), which can be downloaded from the HKEX website at:

<https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/April-2021-Review-of-CG-Code-and-LR/Consultation-Paper/cp202104.pdf>

This Questionnaire contains the Privacy Policy Statement; Part A: General Information of the Respondent; and Part B: Consultation Questions.

All responses should be made in writing by completing and returning to HKEX both Part A and Part B of this Questionnaire no later than **18 June 2021** by one of the following methods:

By mail or
hand delivery to: Corporate and Investor Communications Department
Hong Kong Exchanges and Clearing Limited
8th Floor, Two Exchange Square
8 Connaught Place
Central
Hong Kong

**Re: Review of Corporate Governance Code and Related
Listing Rules CP**

By fax to: (852) 2524-0149

By e-mail to: response@hkex.com.hk

Please mark in the subject line:

**"Re: Review of Corporate Governance Code and Related
Listing Rules CP"**

Our submission enquiry number is (852) 2840-3844.

The names of persons who submit comments together with the whole or part of their submissions may be disclosed to members of the public. If you do not wish your name to be published please indicate so in Part A.

Definitions

The terms used in Part B of this questionnaire are defined in the "Definitions" section of the Consultation Paper.

Privacy Policy Statement

Hong Kong Exchanges and Clearing Limited, and from time to time, its subsidiaries (together the "**Group**") (and each being "**HKEX**", "**we**", "**us**" or "**member of the Group**" for the purposes of this Privacy Policy Statement as appropriate) recognise their responsibilities in relation to the collection, holding, processing, use and/or transfer of personal data under the Personal Data (Privacy) Ordinance (Cap. 486) ("**PDPO**"). Personal data will be collected only for lawful and relevant purposes and all practicable steps will be taken to ensure that personal data held by us is accurate. We will use your personal data which we may from time to time collect in accordance with this Privacy Policy Statement.

We regularly review this Privacy Policy Statement and may from time to time revise it or add specific instructions, policies and terms. Where any changes to this Privacy Policy Statement are material, we will notify you using the contact details you have provided us with and, where required by the PDPO, give you the opportunity to opt out of these changes by means notified to you at that time. Otherwise, in relation to personal data supplied to us through the HKEX website or otherwise, continued use by you of the HKEX website or your continued relationship with us shall be deemed to be your acceptance of and consent to this Privacy Policy Statement, as amended from time to time.

If you have any questions about this Privacy Policy Statement or how we use your personal data, please contact us through one of the communication channels set out in the "Contact Us" section below.

We will take all practicable steps to ensure the security of the personal data and to avoid unauthorised or accidental access, erasure or other use. This includes physical, technical and procedural security methods, where appropriate, to ensure that the personal data may only be accessed by authorised personnel.

Please note that if you do not provide us with your personal data (or relevant personal data relating to persons appointed by you to act on your behalf) we may not be able to provide the information, products or services you have asked for or process your requests, applications, subscriptions or registrations, and may not be able to perform or discharge the Regulatory Functions (defined below).

Purpose

From time to time we may collect your personal data including but not limited to your name, mailing address, telephone number, email address, date of birth and login name for the following purposes:

1. to process your applications, subscriptions and registration for our products and services;
2. to perform or discharge the functions of HKEX and any company of which HKEX is the recognised exchange controller (as defined in the Securities and Futures Ordinance (Cap. 571)) ("**Regulatory Functions**");
3. to provide you with our products and services and administer your account in relation to such products and services;
4. to conduct research and statistical analysis;
5. to process your application for employment or engagement within HKEX to assess your suitability as a candidate for such position and to conduct reference checks with your previous employers; and
6. other purposes directly relating to any of the above.

Direct marketing

Where you have given your consent and have not subsequently opted out, we may also use your name, mailing address, telephone number and email address to send promotional materials to you and conduct direct marketing activities in relation to HKEX financial services and information services, and financial services and information services offered by other members of the Group.

If you do not wish to receive any promotional and direct marketing materials from us or do not wish to receive particular types of promotional and direct marketing materials or do not wish to receive such materials through any particular means of communication, please contact us through one of the communication channels set out in the "Contact Us" section below. To ensure that your request can be processed quickly please provide your full name, email address, log in name and details of the product and/or service you have subscribed.

Identity Card Number

We may also collect your identity card number and process this as required under applicable law or regulation, as required by any regulator having authority over us and, subject to the PDPO, for the purpose of identifying you where it is reasonable for your identity card number to be used for this purpose.

Transfers of personal data for direct marketing purposes

Except to the extent you have already opted out we may transfer your name, mailing address, telephone number and email address to other members of the Group for the purpose of enabling those members of the Group to send promotional materials to you and conduct direct marketing activities in relation to their financial services and information services.

Other transfers of your personal data

For one or more of the purposes specified above, your personal data may be:

1. transferred to other members of the Group and made available to appropriate persons in the Group, in Hong Kong or elsewhere and in this regard you consent to the transfer of your data outside of Hong Kong;
2. supplied to any agent, contractor or third party who provides administrative, telecommunications, computer, payment, debt collection, data processing or other services to HKEX and/or any of other member of the Group in Hong Kong or elsewhere; and
3. other parties as notified to you at the time of collection.

How we use cookies

If you access our information or services through the HKEX website, you should be aware that cookies are used. Cookies are data files stored on your browser. The HKEX website automatically installs and uses cookies on your browser when you access it. Two kinds of cookies are used on the HKEX website:

Session Cookies: temporary cookies that only remain in your browser until the time you leave the HKEX website, which are used to obtain and store configuration information and administer the HKEX website, including carrying information from one page to another as you browse the site so as to, for example, avoid you having to re-enter information on each

page that you visit. Session cookies are also used to compile anonymous statistics about the use of the HKEX website.

Persistent Cookies: cookies that remain in your browser for a longer period of time for the purpose of compiling anonymous statistics about the use of the HKEX website or to track and record user preferences.

The cookies used in connection with the HKEX website do not contain personal data. You may refuse to accept cookies on your browser by modifying the settings in your browser or internet security software. However, if you do so you may not be able to utilise or activate certain functions available on the HKEX website.

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HKEX and other members of the Group may be required to retain, process and/or disclose your personal data in order to comply with applicable laws and regulations or in order to comply with a court order, subpoena or other legal process (whether in Hong Kong or elsewhere), or to comply with a request by a government authority, law enforcement agency or similar body (whether situated in Hong Kong or elsewhere) or to perform or discharge the Regulatory Functions. HKEX and other members of the Group may need to disclose your personal data in order to enforce any agreement with you, protect our rights, property or safety, or the rights, property or safety of our employees, or to perform or discharge the Regulatory Functions.

Corporate reorganisation

As we continue to develop our business, we may reorganise our group structure, undergo a change of control or business combination. In these circumstances it may be the case that your personal data is transferred to a third party who will continue to operate our business or a similar service under either this Privacy Policy Statement or a different privacy policy statement which will be notified to you. Such a third party may be located, and use of your personal data may be made, outside of Hong Kong in connection with such acquisition or reorganisation.

Access and correction of personal data

Under the PDPO, you have the right to ascertain whether we hold your personal data, to obtain a copy of the data, and to correct any data that is inaccurate. You may also request us to inform you of the type of personal data held by us. All data access requests shall be made using the form prescribed by the Privacy Commissioner for Personal Data ("**Privacy Commissioner**") which may be found on the official website of the Office of the Privacy Commissioner or via this link: <https://www.pcpd.org.hk/english/publications/files/Dforme.pdf>

Requests for access and correction of personal data or for information regarding policies and practices and kinds of data held by us should be addressed in writing and sent by post to us (see the "Contact Us" section below).

A reasonable fee may be charged to offset our administrative and actual costs incurred in complying with your data access requests.

Termination or cancellation

Should your account or relationship with us be cancelled or terminated at any time, we shall cease processing your personal data as soon as reasonably practicable following such cancellation or termination, provided that we may keep copies of your data as is reasonably required for archival purposes, for use in relation to any actual or potential dispute, for the purpose of compliance with applicable laws and regulations and for the purpose of enforcing any agreement we have with you, for protecting our rights, property or safety, or the rights, property or safety of our employees, and for performing or discharging our functions, obligations and responsibilities.

General

If there is any inconsistency or conflict between the English and Chinese versions of this Privacy Policy Statement, the English version shall prevail.

Contact us

By Post:
Personal Data Privacy Officer
Hong Kong Exchanges and Clearing Limited
8/F., Two Exchange Square
8 Connaught Place
Central
Hong Kong

By Email:
DataPrivacy@HKEX.COM.HK

Part A General Information of the Respondent

(1) Please state whether your response represents your personal or your company/entity's view by checking (☑) the boxes below and filling in the information as appropriate:

Company/Entity view

Company/Entity name*:	The Chamber of Hong Kong Listed Companies		
Company/Entity type*:	<input type="checkbox"/> HKEX Participant	<input type="checkbox"/> Accounting Firm	
	<input type="checkbox"/> Corporate Finance Firm/ Bank	<input type="checkbox"/> Investment Manager	
	<input type="checkbox"/> Law Firm	<input checked="" type="checkbox"/> Professional body / Industry association	
	<input type="checkbox"/> Listed Company	<input type="checkbox"/> Other	
Contact person*:	Mr. Mike Wong		
Title:	Chief Executive Officer		
Phone no.*:	21168922	Email address:	mikewong@chkhc.org

Personal view

Respondent's full name*:	Mr/Ms/Mrs	
Phone no.*:		Email address:
Among the following, please select the one best describing your position*:		
<input type="checkbox"/> Listed company staff	<input type="checkbox"/> HKEX participant staff	<input type="checkbox"/> Retail investor
<input type="checkbox"/> Institutional investor	<input type="checkbox"/> Other	

Important note: All fields marked with an asterisk (*) are mandatory. HKEX may use the contact information above to verify the identity of the respondent. Responses without valid contact details may be treated as invalid.

(2) Disclosure of identity

HKEX may publish the identity of the respondent together with Part B of this response to the members of public. Respondents who do not wish their identities to be published should tick the box below:

I/We do not wish to disclose my/our identity to the members of the public.

The image shows a handwritten signature in black ink that reads "mih". To the right of the signature is a blue circular stamp. The stamp contains the text "THE EXCHANGE OF HONG KONG LISTED COMPANIES" around the perimeter and a small star symbol at the bottom.

Signature (with Company/Entity Chop if the response represents company view)

Part B Consultation Questions

Please reply to the questions below that are raised in the Consultation Paper downloadable from the HKEX website at: <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/March-2021-Listing-Regime/Consultation-Paper/cp202103.pdf>. Please indicate your preference by ticking the appropriate boxes.

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

We encourage you to read all of the following questions before responding.

1. Do you agree with our proposal to introduce a code provision ("CP") requiring an issuer's board to set culture in alignment with issuer's purpose, value and strategy?

Yes

No

Please give reasons for your views.

While we have no objection to stating a company's culture, listed issuers might need some guidance in how to express culture in clear terms and in particular how to link it with the purpose, value and strategy. Most issuers would have a mission and vision statement but culture is much broader than that and is something more intangible and not easy to pin down in words.

- 2(a). Do you agree with our proposal to introduce a CP requiring establishment of an anti-corruption policy?

Yes

No

Please give reasons for your views.

Anti-corruption is an important aspect of corporate governance and is a safeguard of corporate integrity. The proposal would encourage companies without an anti-corruption policy already to adopt one.

2(b). Do you agree with our proposal to upgrade a Recommended Best Practice ("RBP") to CP requiring establishment of a whistleblowing policy?

Yes

No

Please give reasons for your views.

Whistleblowing policy comes hand in hand with anti-corruption policy. It allows staff and related parties to report corruption as well as other illegal, inappropriate or abusive behaviour to be reported without fear of repercussions. The proposal would encourage companies without a whistleblowing policy already to adopt one.

3. Do you agree with our proposal to introduce a CP requiring disclosure of a policy to ensure independent views and input are available to the board, and an annual review of the implementation and effectiveness of such policy?

Yes

No

Please provide these other standards with reasons for your views.

We do not object to this proposal as it may help raise awareness of the importance of independent views. We are concerned that some issuers with limited resources might find it difficult to cope with the increasingly stringent disclosure requirement.

Clarification of the meaning of "ensuring independent views and input are available to the board" is needed. Guidance for assessment of the implementation and effectiveness of these policies is also required.

4(a). Do you agree with our proposal regarding re-election of an independent non-executive director serving more than nine years ("**Long Serving INEDs**") to revise an existing CP to require (i) independent shareholders' approval; and (ii) additional disclosure on the factors considered, the process and the board or nomination committee's discussion in arriving at the determination in the explanation on why such Long Serving INED is still independent and should be re-elected?

Yes

No

Please give reasons for your views.

We strongly oppose to requirement (i). The assumption that INEDs who have served on a board for 9 years or more would lose their independence is not entirely sound. Independence should not be defined by the length of tenure. It should be assessed on a case-by-case basis with reference to the integrity and qualification of the individual. The emphasis on tenure alone when judging the independence of an INED will become a tick-the-box approach that takes form over substance and inevitably disregards the qualitative aspects. Companies may lose highly qualified directors who could serve the companies' interests well.

Most INEDs are professionals who are very well aware of their duty in protecting minority shareholders' interests, particularly in connected transactions, overseeing audit and risks and other key board matters. There is no empirical evidence that Long Serving INEDs are more prone to misconduct or are more likely to collude with major shareholders to exploit minority shareholders. So long as the Long Serving INEDs take due responsibility in making their decisions, there is no reason to suspect their independence is being compromised due to their long service. Long serving independent directors can add value to a board with their in-depth understanding of the operations of the listed company and are well positioned to advise the board and protect the minority shareholders. The fact that a Long Serving INED's knowledge of the issuer's affairs can bring valuable contribution to the company is acknowledged by the Exchange in the Consultation Paper.

Further, in accordance with the "One-share-one-vote" principle, non-independent shareholders should be entitled to vote on the election of directors of the board. Unlike the rest of the world where shareholdings of companies are more distributed, a high number of companies in Hong Kong and Asia are majority-owned. Adoption of the western model of governance without modification may unfairly disenfranchise majority shareholders in the process.

Independent shareholders' approval for Long Serving INEDs is not a fool proof method to ensure the independence of INEDs. Independent shareholders comprise both institutional investors and retail investors. Even INEDs elected by independent shareholders often times represent certain shareholder groups and may be armed with their own agenda. The rise of active owners and the shift from portfolio management to "control" mindset have also prompted certain institutional investors to use their voting rights to steer companies towards their own goals to serve their own interests. One must not forget board directors are jointly and severally responsible for all decisions and the ability of the entire board to work together with the common interests of the company is very important. Assuming INEDs elected only by institutional investors and retail investors will represent independent shareholders' interest as a whole is an oversimplification. Some INEDs are perceived to be prima facie independent simply because they are less well-known in the community and there is little publicly available information about them or their connection to a company if any. It is doubtful whether they can contribute more to a company than commercially recognised high calibre INEDs with in-depth knowledge about a company who will be indefensibly presumed to be non-independent if the proposal is adopted.

One way to continuously raise the professional standard of INEDs in Hong Kong is to provide professional training to them, covering listing rules and regulations, directors' duties and liabilities, board functions and management, and shareholder communication. CHKLC is happy to enhance our existing directors' training programme to help achieve this objective and looks forward to guidance from the Exchange in the best approach and format of such training.

We have no objection to requirement (ii). Issuers could provide more information about the long serving INED's experience and contribution when nominating them for the consideration of shareholders. However, majority shareholders should not be prohibited to vote.

- 4(b). Do you agree with our proposal to introduce a CP requiring an issuer to appoint a new independent non-executive director ("INED") at the forthcoming annual general meeting where all the INEDs on the board are Long Serving INEDs, and disclosing the length of tenure of the Long Serving INEDs on the board on a named basis in the shareholders' circular?

Yes

No

Please give reasons for your views.

We do not object to disclosing the length of tenure of Long Serving INEDs on the board on a named basis in the shareholders' circular. As for appointing an additional new INED where all INEDS are Long Serving INEDS, we do not agree that it should be a CP. Please refer to our reply to Q4(a).

5. Do you agree with our proposal to introduce a new RBP that an issuer generally should not grant equity-based remuneration (e.g. share options or grants) with performance-related elements to INEDs as this may lead to bias in their decision-making and compromise their objectivity and independence?

Yes

No

Please give reasons for your views.

We agree as this will maintain the neutrality of INEDs when making company decisions, ensuring they would not be misguided by personal interest.

- 6(a). Do you agree with our proposal to highlight that diversity is not considered to be achieved by a single gender board in the note of the Rule?

Yes

No

Please give reasons for your views.

We welcome gender diversity and agree with the notion that female directors will bring a different dimension of thinking and angle of views when deliberating company matters. In fact, there is no shortage of women on the board of many of our members. What we disagree to about the proposal however is that we believe true diversity takes many forms. Gender is only one of them. To say a single gender board is not diversified is to negate an issuer's efforts in achieving other aspects of diversity, which are equally important.

6(b). Do you agree with our proposal to introduce a Mandatory Disclosure Requirement ("MDR") requiring all listed issuers to set and disclose numerical targets and timelines for achieving gender diversity at both: (a) board level; and (b) across the workforce (including senior management)?

Yes

No

Please give reasons for your views.

We do not agree to the proposal for the reasons below. We however reiterate our support of gender diversity, we only disagree with the approach of achieving that with arbitrary target.

There is no resistance amongst Hong Kong listed issuers to appointing female directors. In fact, Hong Kong is reputed for its workplace gender equality, as evidenced by the fact that many women are occupying the very top positions in both public and private sectors. It is only a matter of finding the right director candidates with suitable experience and qualifications. Perhaps a male-dominated board is a result of not coming across the right female candidate to fill the position. To mandate at least one female director on board might produce the undesirable result of bypassing personal experience and qualification in favour of gender. We are certain that a board would not hesitate to appoint a woman with the right experience, ability and achievement.

There is also the question of supply. The consultation paper pointed out as of December 2020, around 32.9% of Hong Kong issuers had no female directors on the board and that makes 842 out of 2,559. If the proposal is adopted, these companies will all need to appoint at least one female director within 3 years. Even if one female individual takes up multiple directorships, the number of female individuals required is still not small. Availability of female directors will depend on the demography and culture of a country, as well as the industry and sector. A longer transition period is needed in order to avoid companies outbidding each other for the service of experienced and qualified female director candidates just for compliance purpose.

Ultimately, we advocate the appointment of directors be a fair system based on merit. To arbitrarily put up women into boards would be against our proper meritocracy system. Training and grooming of women should be the first steps.

As for setting target for workforce, as aforesaid, we believe that there is gender equality in the workplace of Hong Kong, and so we doubt how meaningful it is to set such a target. Companies which fail to achieve greater gender balance is usually limited by the nature of the industry. For example, there are more male in construction and engineering industries and more female in fashion retail and cosmetics industries. In these circumstances, setting a high target and timeline for workforce gender diversity is unrealistic. But then setting a low target or a target hovering at existing levels is perhaps not very useful.

6(c). Do you agree with our proposal to introduce a CP requiring the board to review the implementation and effectiveness of its board diversity policy annually?

Yes

No

Please give reasons for your views.

A company should be allowed to set up its board diversity policy based on its own company and industry circumstances. Such policy should not be unreasonably bound by rigid gender requirement. An annual implementation and effectiveness of such policy is acceptable.

6(d). Do you agree with our proposal to amend the relevant forms to include directors' gender information?

Yes

No

Please give reasons for your views.

We do not object to include gender information as it is a neutral piece of information.

7. Do you agree with our proposal to upgrade a CP to Rule requiring issuers to establish a nomination committee chaired by an INED and comprising a majority of INEDs?

Yes

No

Please give reasons for your views.

We can support that as we note this is a common practice amongst many listed issuers and it is helpful in achieving greater board independence and competence.

8. Do you agree with our proposal to upgrade a CP to a MDR to require disclosure of the issuer's shareholders communication policy (which includes channels for shareholders to communicate their views on various matters affecting issuers, as well as steps taken to solicit and understand the views of shareholders and stakeholders) and annual review of such policy to ensure its effectiveness?

Yes

No

Please give reasons for your views.

Please refer to our reply to Q3.

9. Do you agree with our proposal to introduce a Rule requiring disclosure of directors' attendance in the poll results announcements?

Yes

No

Please give reasons for your views.

We agree and believe this can be done easily as the information is readily available.

10. Do you agree with our proposal to delete the CP that requires issuers to appoint non-executive directors for a specific term?

Yes

No

Please give reasons for your views.

We agree with the rationale of this change.

11. Do you agree with our proposal to elaborate the linkage in the Code by (a) setting out the relationship between corporate governance and environmental, social and governance ("ESG") in the introductory section; and (b) including ESG risks in the context of risk management under the Code?

Yes

No

Please give reasons for your views.

We agree and believe it is necessary. We notice some confusion about the "G" in "ESG" -- that whether it covers the "G" in "CG" or not. To our understanding, the "G" in "ESG" concerns the board's governance approach specifically towards Environmental and Social issues, for example, whether it sets out policies governing them, devote resources, and develop means to monitor progress and measure success; whether any ESG Committee, or Working Group has been set up, etc. Whereas the "G" in "CG" deals with the other aspects of governance, such as risk management (it now covers climate change and other environmental and social risks), internal control, checks-and-balances, reporting, etc. In other words, although ESG and CG both rest with the board ultimately, they have their own distinct focus areas, and one doesn't replace the other. More clarification and delineation would be helpful.

12. Do you agree with our proposal to amend the Rules and the ESG Guide to require publication of ESG reports at the same time as publication of annual reports?

Yes

No

Please give reasons for your views.

While most of our members are publishing both annual report and ESG report at the same time, with the additional disclosure requirements proposed in this consultation, if adopted, more preparation work needs to be done. Smaller issuers might find it a stretch of their resource to manage both reports concurrently, and larger issuers adopting complex international frameworks and standards such as TCFD, CDP, etc., would require more lengthy preparation. We recommend that the Exchange takes those into account when deciding on the publishing timeline.

13. Do you have any comments on how the re-arranged Code is drafted in the form set out in Appendices III and IV to the Consultation Paper and whether it will give rise to any ambiguities or unintended consequences?

Yes

No

Please give reasons for your views.

We have no other comments.

14. In addition to the topics mentioned in the Consultation Paper, do you have any comments regarding what to be included in the new guidance letter on corporate governance (i.e. CG GL) which may be helpful to issuers for achieving the Principles set out in the Code?

Yes

No

Please give reasons for your views.

We have no other comments.

15(a). Do you agree with our proposed implementation dates for all proposals (except the proposals on Long Serving INED): the financial year commencing on or after 1 January 2022?

Yes

No

Please give reasons for your views.

15(b). Do you agree with our proposed implementation dates for proposals on Long Serving INED: the financial year commencing on or after 1 January 2023?

Yes

No

Please give reasons for your views.

We disagree with the proposals.

- End -