

Hong Kong Capital Markets Update

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HKEX's consultation conclusions on review of CG Code

On 10 December 2021, the Stock Exchange of Hong Kong Limited (the "Exchange") published the consultation [conclusions](#) ("Conclusions") on its review of the Corporate Governance Code ("CG Code"). The key way forward is summarised below:

Key Way Forward

Culture

- New code provisions ("CPs") to set **culture** in **alignment** with issuers' **purpose, values and strategy**, as well as to establish **anti-corruption** and **whistleblowing policies**.

Board independence and refreshment

- New CPs for **Long Serving INED** requiring (i) the **appointment** of a **new INED** if **all INEDs** on the board are **Long Serving INEDs** and (ii) **additional disclosures** in relation to Long Serving INEDs.
- Upgrade CP to a requirement for a **nomination committee** which must be **comprised of a majority of INEDs** and **chaired by either the board chairperson or an INED**.
- New CP to ensure **independent views** are **available** to the board.

Diversity

- New requirement for **no single gender board**.
- New CP for **reviewing the board diversity policy annually**.
- New **mandatory disclosures** on **gender diversity** at the **board level** and the **workforce**.

Communications with shareholders

- New **mandatory disclosures** on **shareholders communication policy and annual review** of its implementation and effectiveness.

ESG reporting

- Shortening of the **ESG reporting deadline** from five months to no later than four months after the year end (i.e., **same as annual report**).

Background

To ensure the corporate governance framework remains fit for its purpose, continues to promote improvements in the quality of governance and is adequate to maintain investors' confidence in the market, the Exchange published a [consultation paper](#) (the "Consultation Paper") on 16 April 2021 seeking views and comments on proposed changes to the CG Code (for the summary, please refer to our [Capital Markets Update Issue 2021-03](#)). The consultation period ended on 18 June 2021.

The Exchange concluded that the proposals outlined in the Consultation Paper should be adopted with certain modifications or clarifications in response to market comments.

Major Modifications

The major modifications to the original proposals in the Consultation Paper are summarised as follows:

- 1) The proposal requiring independent shareholders' approval for re-election of an INED serving more than nine years ("Long Serving INED") will not be adopted;
- 2) A 6-month transition period will be available to IPO applicants in relation to the requirement for no single gender board (i.e. IPO applicants with single gender board would not be accepted for IPO submission filed on or after 1 July 2022);
- 3) The proposal requiring mandatory disclosures on targets and timeline for gender diversity at the workforce level has been modified to require issuers to disclose: (i) gender ratios in the workforce (including senior management), (ii) any plans or measurable objectives the issuer has set to achieve gender diversity and (iii) any mitigating factors or circumstances which make achieving gender diversity across the workforce (including senior management) more challenging or less relevant; and
- 4) The proposal requiring the chairperson of the nomination committee to be an INED has been modified to allow either the board chairperson or an INED.

New CG Guidance

The Exchange will issue new guidance ("CG Guidance") to assist issuers comply with the CG requirements. The CG Guidance consolidates the current thinking and expectations of issuers and stakeholders regarding governance practices building upon [The Guidance for Boards and Directors](#) published in July 2018.

Effective date

The revised Listing Rules and the new CG Code will be effective on 1 January 2022 and the new requirements will be applicable for the financial year commencing on or after 1 January 2022, except for (i) the appointment of a new INED if all INEDs on a board are Long Serving INEDs, which will be effective for the financial year commencing on or after 1 January 2023; (ii) the requirement for no single gender board must be complied with by issuers no later than 31 December 2024; and (iii) the requirement for no single gender board will be effective for IPO applicants with IPO submissions filed on or after 1 July 2022.

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If you have any questions about the matters discussed in this publication, please feel free to contact the following capital markets partners and directors.

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