

Hong Kong Capital Markets Update

ISSUE 2025-01 | January 2025



HKEX's consultation conclusion on review of Corporate Governance Code

On 19 December 2024, the Stock Exchange of Hong Kong Limited (the "Exchange") published the **consultation conclusions**¹ ("Conclusions") on its review of the Corporate Governance Code ("CG Code") and related listing rules. The key amendments to the CG Code are summarised as below:

<p>Board Effectiveness</p>	<p>Designation of Lead INED</p> <ul style="list-style-type: none"> Encourage issuers to designate an independent non-executive director ("INED") as Lead INED [Introduced as a Recommended Best Practice ("RBP") instead of a Code Provision ("CP")]. Require enhanced disclosure in the CG report regarding shareholder engagement [New Mandatory Disclosure Requirement ("MDR") and new CP]. <p>Mandatory director training</p> <ul style="list-style-type: none"> Require all directors to receive mandatory continuous professional development each year on specified topics; First-time Directors are required to complete a minimum of 24 training hours within 18 months of their appointment [New Listing Rule ("LR")]. Require enhanced disclosure in the CG Report on director training [Revised MDR]. <p>Board performance review</p> <ul style="list-style-type: none"> Require board performance review every 2 years, and disclosure in the CG Report [Upgrade to CP]. <p>Disclosure of board skills matrix</p> <ul style="list-style-type: none"> Require issuers to maintain and disclose a board skills matrix in the CG Report [New CP]. <p>Overboarding INED and directors' time commitment</p> <ul style="list-style-type: none"> Hard cap on overboarding (i.e. an INED must not concurrently > 6 listed issuer directorships), with a 3-year transition period (compliance required by the 1st AGM held on or after 1 July 2028) [New LR]. Require the nomination committee to annually assess and disclose its assessment of each directors' time commitment and contribution to the board [New MDR].
<p>Independence of INED</p>	<p>Independence of INEDs after 9 years</p> <ul style="list-style-type: none"> Hard cap on the tenure of INEDs who have served the issuer for 9 years or more ("Long Serving INEDs"), with a phased transition period (instead of 3-year transition originally proposed) [New LR]: <ul style="list-style-type: none"> Phase 1: majority of INEDs must not be Long Serving INEDs by the 1st AGM held after 30 Jun 2028 Phase 2: all INEDs must not be Long Serving INEDs by the 1st AGM held after 30 Jun 2031 Long Serving INEDs will be allowed to serve on the board of the issuer again upon completion of a 3-year cooling-off period (instead of a 2-year cooling off period as originally proposed) [New LR].
<p>Board and Workforce Diversity</p>	<ul style="list-style-type: none"> Require at least one director of a different gender on the nomination committee [New CP]. Require an annual review of the implementation of the board diversity policy [Upgrade to MDR]. Require having & disclosing diversity policy for workforce (including senior management) [New LR]. Require separate disclosure of the gender ratio of (i) senior management and (ii) the workforce (excluding senior management) [Revised MDR]. Codify the existing guidance on the arrangements during temporary deviations from the requirement for issuers to have directors of different genders on the board [New LR].
<p>Risk Management and Internal Controls</p>	<ul style="list-style-type: none"> Require enhanced disclosures in the CG Report on the review conducted (at least annually) by the board on the effectiveness of the issuer's and its subsidiaries' risk management and internal control systems [Upgrade to MDR]. Other enhancements to the risk management and internal control sections of the CG Code.
<p>Dividends</p>	<ul style="list-style-type: none"> Require issuers to disclose specific information in the CG Report regarding policy on payment of dividends, and dividend decisions made by the board during the reporting period [New MDR].

¹ HKEX's consultation conclusion, <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/June-2024-Review-of-CG-Code/Conclusions-Dec-2024/cp202406cc.pdf>

Background

To ensure the corporate governance framework remains fit for purpose, promotes high quality corporate governance standards and continues to meet shareholders' expectations, the Exchange published a **consultation paper**² (the "Consultation Paper") on 14 June 2024 seeking views and comments on proposed changes to the CG Code (for the summary please refer to our [Capital Markets Update Issue 2024-03](#)). The consultation period ended on 16 August 2024.

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

Major Modifications from the Original Proposals

The major modifications to the original proposals in the Consultation Paper are listed below.

Designation of Lead INED

The proposal for designation of Lead INED was implemented as a recommended best practice, rather than a code provision as previously proposed. The responses to the Consultation Paper showed a gap in expectations between issuers and investors as to the purpose and responsibilities of a Lead INED. The current way forward would allow more time for this expectation gap to close and for issuers to build their capacity to accommodate the lead INED concept.

In response to the respondents acknowledging the importance of effective shareholder engagement, the Exchange has added the requirement for an issuer to enhance its disclosure, in its CG Report, regarding the board's engagement with shareholders during the reporting period. These enhanced disclosure requirements aim to facilitate constructive two-way dialogue between the board and shareholders to facilitate better understanding of pertinent issues relating to matters including governance and performance against the issuer's corporate strategy.

Mandatory director training

Mandatory training hours for First-time Directors³ who at any time during the three years prior to their appointment have served as a director of an issuer listed on an overseas exchange is reduced to 12 hours, as opposed to 24 hours for other First-time Directors. The Exchange recognises that First-time Directors with overseas listed issuer directorship experience would have already acquired certain relevant expertise and general knowledge of the duties of directors of public companies. Such modification in the required training hours is intended to strike a balance between recognising their expertise gains and ensuring that such directors have sufficient knowledge of Hong Kong requirements.

The "reset" mechanism (i.e. First-time Director training hours would be reset if such directors resigned prior to completing the minimum training hours) was also removed. Therefore, previous training received by a First-time Director can be counted, and such individuals would need to complete the remaining balance of minimum training hours (rather than the full 24 hours) upon their subsequent appointment to a Hong Kong listed issuer, provided that the appointment is within three years of the conclusion of their first appointment.

Independence of INEDs

The previously proposed 3-year transition period for the adoption of a hard cap on INED tenure has been modified to a phased implementation over a longer transition period:

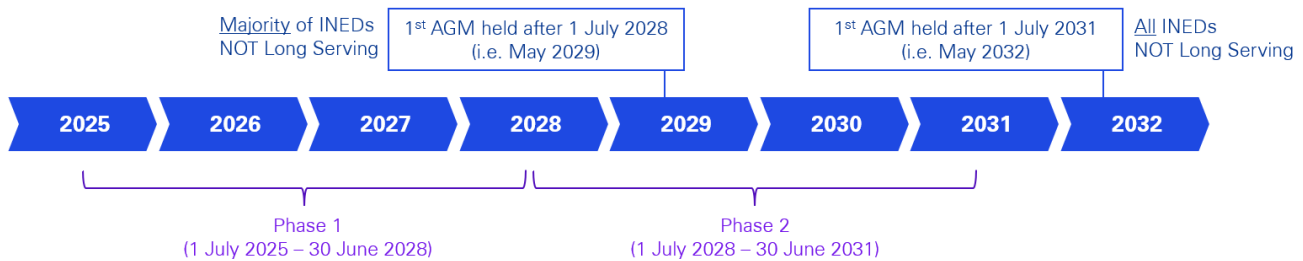
Timing	What is required
Phase one – compliance by the first AGM held on or after 1 July 2028	Majority of INEDs on an issuer's board must not be Long Serving INEDs
Phase two – compliance by the first AGM held on or after 1 July 2031	An issuer must not have any Long Serving INED on their board

The cooling-off period for former Long Serving INEDs have also been lengthened from 2-years to 3-years in order to align with a single term of office for a director.

An illustrative example of the application of the transitional arrangement of the new Long Serving INED requirements for an issuer with a financial year-end of 31 December is as follows:

² HKEX's consultation paper, <https://www.hkex.com.hk/-/media/HKEX-Market/News/Market-Consultations/2016-Present/June-2024-Review-of-CG-Code/Consultation-Paper/cp202406.pdf>

³ Directors who: (a) are appointed as directors of a Hong Kong listed issuer for the first time; or (b) have not served as a director of a Hong Kong listed issuer for a period of three years or more prior to their appointment.



During the transitional period, existing requirements in respect of Long Serving INEDs will apply as follows:

Applicable until	Requirement
30 June 2028 (expiry of phase one)	If all INEDs are Long Serving INEDs, disclose the length of tenure of each existing INED on a named basis in the shareholder circular and/or explanatory statement accompanying the notice of the AGM, and appoint a new INED on the board at the forthcoming AGM.
30 June 2031 (expiry of phase two)	Long Serving INEDs' re-election will be subject to a separate resolution to be approved by shareholders.

While the ultimate objective of phasing out Long Serving INEDs remain unchanged, the extended transition period allows issuers more time and flexibility over two director rotation cycles to conduct comprehensive succession planning to phase out Long Serving INEDs in an orderly and measured manner to minimize the risk of potential disruption.

New CG Guidance

In the first half of 2025, the Exchange will add an updated guidance for boards and directors to its [Corporate Governance Practices portal](#), to assist issuers' compliance with the new CG requirements. This new guidance will aim to support boards and directors in the effective discharge of their roles and responsibilities; and facilitate thoughtful decision-making and meaningful corporate governance disclosure for investors and other stakeholders.

Effective date

The revised CG Code and related Listing Rules will come into effect on 1 July 2025, and therefore apply to CG Reports and annual reports in respect of financial years commencing on or after 1 July 2025 with the provision of transitional arrangements for (i) the hard cap on overboarding INEDs until 30 June 2028 following its 3-year transition period; and (ii) the hard cap on INED tenure until 30 June 2028 for the phase 1 and until 30 June 2031 for the phase 2 according to the phased implementation as mentioned above.

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

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