



By email ([response@hkex.com.hk](mailto:response@hkex.com.hk)) and by post

9 November 2012

Our Ref.: C/PAIBLP, M85859

Corporate Communications Department  
Hong Kong Exchanges and Clearing Limited  
12<sup>th</sup> Floor, One International Finance Centre  
1 Harbour View Street  
Central, Hong Kong

Re: Consultation Paper on Board Diversity

Dear Sirs,

**[Consultation Paper on Board Diversity](#)**

The Hong Kong Institute of Certified Public Accountants has considered the above consultation paper and our comments on the proposals are set out in the questionnaire attached to this letter.

While, in principle, we support the objective of bringing diversity into boardroom, and the direction to adopt a broad concept of diversity is also welcome, we believe that more information and guidance is needed to help listed companies understand what this means for them in practice. This view also has implications for the way in which the changes should be introduced and for the timing of implementation.

Our recommendations are set out in more detail in the responses to the questionnaire.

Should you have any questions on this submission, please feel free to contact me on 2287 7084 or at < [peter@hkicpa.org.hk](mailto:peter@hkicpa.org.hk) >.

Yours faithfully,

Peter Tisman  
Director, Specialist Practices

PMT/SY/ay  
Encl.

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## QUESTIONNAIRE ON BOARD DIVERSITY

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We invite interested parties to respond to the Consultation Paper on Board Diversity, which can be downloaded from the HKEx website at:

<http://www.hkex.com.hk/eng/newsconsul/mktconsul/Documents/cp201209.pdf>

This Questionnaire contains the Personal Information Collection and Privacy Policy Statement; Part A: General Information of Respondents; 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 **9 November 2012** by one of the following methods:

By mail or  
hand delivery to: Corporate Communications Department  
Hong Kong Exchanges and Clearing Limited  
12<sup>th</sup> Floor, One International Finance Centre  
1 Harbour View Street  
Central  
Hong Kong

**Re: Consultation Paper on Board Diversity**

By fax to: (852) 2524-0149

By e-mail to: [response@hkex.com.hk](mailto:response@hkex.com.hk)

Please mark in the subject line:

**Re: Consultation Paper on Board Diversity**

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.

## **Personal Information Collection and Privacy Policy Statement**

### **Provision of Personal Data**

1. Your supply of Personal Data to HKEx is on a voluntary basis. “Personal Data” in these statements has the same meaning as “personal data” in the Personal Data (Privacy) Ordinance, Cap 486, which may include your name, identity card number, mailing address, telephone number, email address, login name and/or your opinion.

### **Personal Information Collection Statement**

2. This Personal Information Collection Statement is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. It sets out the purposes for which your Personal Data will be used after collection, what you are agreeing to in respect of HKEx’s use, transfer and retention of your Personal Data, and your rights to request access to and correction of your Personal Data.

### **Purpose of Collection**

3. HKEx may use your Personal Data provided in connection with this consultation paper for purposes relating to this consultation and for one or more of the following purposes:
  - administration, processing and publication of the consultation paper and any responses received;
  - performing or discharging HKEx’s functions and those of its subsidiaries under the relevant laws, rules and regulations;
  - research and statistical analysis; and
  - any other purposes permitted or required by law or regulation.

### **Transfer of Personal Data**

4. Your Personal Data may be disclosed or transferred by HKEx to its subsidiaries and/or regulator(s) for any of the above stated purposes.
5. To ensure that the consultation is conducted in a fair, open and transparent manner, any response together with your name may be published on an “as is” basis, in whole or in part, in document form, on the HKEx website or by other means. In general, HKEx will publish your name only and will not publish your other Personal Data unless specifically required to do so under any applicable law or regulation. If you do not wish your name to be published or your opinion to be published, please state so when responding to this paper.

## **Access to and Correction of Data**

6. You have the right to request access to and/or correction of your Personal Data in accordance with the provisions of the Personal Data (Privacy) Ordinance. HKEx has the right to charge a reasonable fee for processing any data access request. Any such request for access to and/or correction of your Personal Data should be addressed to the Personal Data Privacy Officer of HKEx in writing by either of the following means:

By mail to: Personal Data Privacy Officer  
Hong Kong Exchanges and Clearing Limited  
12<sup>th</sup> Floor, One International Finance Centre  
1 Harbour View Street  
Central  
Hong Kong

**Re: Consultation Paper on Board Diversity**

By email to: [pdpo@hkex.com.hk](mailto:pdpo@hkex.com.hk)

## **Retention of Personal Data**

7. Your Personal Data will be retained for such period as may be necessary for the carrying out of the above-stated purposes.

## **Privacy Policy Statement**

8. HKEx is firmly committed to preserving your privacy in relation to the Personal Data supplied to HKEx on a voluntary basis. Personal Data may include names, identity card numbers, telephone numbers, mailing addresses, e-mail addresses, login names, opinion, etc., which may be used for the stated purposes when your Personal Data are collected. The Personal Data will not be used for any other purposes without your consent unless such use is permitted or required by law or regulation.
9. HKEx has security measures in place to protect against the loss, misuse and alteration of Personal Data supplied to HKEx. HKEx will strive to maintain Personal Data as accurately as reasonably possible and Personal Data will be retained for such period as may be necessary for the stated purposes and for the proper discharge of the functions of HKEx and those of its subsidiaries.

## Part A General Information of the Respondent

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

Company view

Company name*:	Hong Kong Institute of Certified Public Accountants		
Company type*:	<i>HKEx Participant</i> :- <input type="checkbox"/> SEHK <input type="checkbox"/> HKFE <input type="checkbox"/> HKSCC <input type="checkbox"/> SEOCH <input type="checkbox"/> HKCC		
	<input type="checkbox"/> Listed company	<input checked="" type="checkbox"/> Professional body / Industry association	
	<input type="checkbox"/> Market practitioner	<input type="checkbox"/> None of the above	
Contact person*:	Mr/ <del>Ms</del> / <del>Mrs</del> Peter Tisman		
Title:	Director, Specialist Practices		
Phone no.*:	2287 7084	Email address:	<a href="mailto:peter@hkicpa.org.hk">peter@hkicpa.org.hk</a>

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"/> None of the above		

**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 check the box below:

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

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

## 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.

In principle, we support bringing the concept of "diversity" into the boardroom, to encourage broader thinking and the expression of different perspectives, which may enable boards to understand better and respond to the concerns and interests of range of stakeholders.

The proposed direction to adopt a broad approach to "diversity" is welcome. The concept of diversity should not focus just on gender and potential quotas and should encompass different characteristics, such as age, education, ethnicity, religion, industry background, etc.

However, we believe that more information and guidance should be given to listed companies as to what is expected of them if, as proposed, "comply or explain" and mandatory disclosure requirements on board diversity are to be introduced in the corporate governance code.

It is important that in promoting diversity, sight should not be lost of the need to consider the suitability and relative merit of candidates for the board. If two candidates are effectively equal in terms of, for example, standing, ability and relevance of experience, then it would be justified to select the candidate who adds greater diversity to the board. If they are not equal, then the question becomes less clear cut. Is there a pecking order between factors such general capability and integrity, and diversity? Rightly or wrongly, opportunities within society may not be equal for people of all backgrounds and so the numbers of people from different backgrounds who reach the level at which they might be considered for the boards of listed companies may also differ. Is there to be an obligation on companies and nomination committees to actively seek out candidates who bring diversity when they may not be coming forward through normal channels? We should certainly not equate good corporate governance solely with the demographics of the board members, rather than their capabilities and integrity.

It is important to also consider the background context. The legislative and cultural framework and of non-discrimination may also have a part to play in encouraging better

opportunities for certain categories of people and this may be more well developed in a number of those countries mentioned in the consultation paper.

For the above reasons, we suggest that additional information and guidance is needed to support the proposed changes, otherwise, many companies may only be able to pay lip service to any new requirements.

2. 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.

Yes, provided that more guidance is given as to what is expected of listed companies. If no more than a generic statement that companies should have and should disclose a policy on diversity is to be included for the time being, then, in our view, either it should be introduced as a recommended best practice ("RBP") first (for, say, one year) or the implementation of the proposal should be deferred until 2014 to allow more time for discussion and debate on the specifics and for "capacity building". If this is not done then, as indicated above, we consider there will be practical difficulties for some companies to develop a meaningful policy and this important issue could effectively be reduced to a "box-ticking" exercise in many instances.

3. 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*)? Please give reasons for your views.

Yes

No

Please give reasons for your views.

At the right time, "yes", but only after more information and guidance on developing a diversity policy has been provided and/or sufficient time has been allowed for discussion and debate on diversity in the community. See also our responses to questions 1 and 2 above. Consideration should be given to introducing an RBP first. That way, those companies that adopt best practice will take the lead and others will have benchmarks to which they can refer.

4. 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)                         |
| <input type="checkbox"/> Yes | <input type="checkbox"/> Yes |
| <input type="checkbox"/> No  | <input type="checkbox"/> No  |

Please give reasons for your views.

- (i) We have no objection to more information being provided by way of a note, although the status of the note would need to be made clear. Please also refer to the responses to questions 1-3 above.
- (ii) We are doubtful whether the proposed content of the note, without further guidance, will assist companies to understand what is expected of them. If the concept of diversity is explicitly stated to differ according to the circumstances of each company, as suggested above, we would be concerned that this would not do anything to discourage "box-ticking".

5. 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.

In principle "yes", but, in terms of timing, only when the concept of diversity and the expectations on listed companies are more clearly understood. See also our responses to questions 1-3 above.

6. 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.

If the proposal is really trying to steer listed companies to move in the direction suggested, adequate time should be allowed. A requirement for the composition of boards to comprise at least one-third independent non-executive director will be effective by the end of December this year and some companies may be struggling to meet this requirement already.

As indicated above, we suggest that, if more concrete guidance is not introduced at this stage, the proposal should be introduced as an RBP first (say, in April 2013) with a commitment to upgrading it to a Code Principle/ Provision after one year.

- End -