CONSULTATION PAPER

BOARD DIVERSITY

September 2012

Hong Kong Exchanges and Clearing Limited
香港交易及結算所有限公司

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EXECUTIVE SUMMARY

1. This paper seeks comments on proposed amendments to the Corporate Governance Code and Corporate Governance Report ("**Code**") concerning board diversity.

2. Statistics show that women hold 10.3% of the total directorships on Hong Kong listed issuers' boards. 40% (612 out of 1,518) of issuers do not have a female director, and 37% (564 out of 1,518) have one female director, on their boards.[1] The lack of women on boards, however, is a world-wide phenomenon and a reflection of a wider issue concerning diversity.

3. Statistics also show that the majority of directors on Hong Kong listed issuers' boards are between the ages of 41 and 60 (67% or 7,075 out of 10,601). The average age of male directors is 53.7 while that of female directors is 49.1. 23% of directors are over 60 years of age and 10% are under 40.

4. Globally, many governments and exchanges are promoting board diversity. They do so either through legislation, regulation (including introducing "comply or explain" provisions in their corporate governance codes) or voluntary efforts. We discuss the global trends in this area in Chapter 1.

5. We propose to introduce a Code Provision (i.e. subject to "comply or explain") stating that the nomination committee (or the board) should have a policy concerning diversity in the boardroom, and should disclose the policy or a summary of the policy in the corporate governance report.

6. In addition to the policy or a summary of the policy on board diversity, the issuer should also include any measurable objectives that it has set for implementing the policy, and progress on achieving the objectives.

7. We propose to add a note under the Code Provision to clarify that we intend diversity to be defined broadly, and we do not propose to prescribe the criteria for considering diversity. We believe diversity of perspectives can be achieved through consideration of a number of factors, including but not limited to gender, age, cultural/educational background, or professional experience. Each issuer should take into account factors based on its business model and needs, form its own policy, and disclose the rationale for the factors used.

8. We set out in **Appendix I** a draft of the proposed Code amendments.

9. The principal objective of the proposed amendments set out in this consultation paper is to enhance the effectiveness of the board and corporate governance. Research indicates that diversity in the boardroom promotes effective decision-making, better governance and monitoring, amongst other potential benefits. Reporting on the diversity policy of the issuer may also facilitate greater transparency and accountability by providing investors with information on corporate culture and governance practices that may enable them to make more informed voting and investment decisions. The issues associated with a uniform and homogenous board,

the potential benefits of diversity, as well as the potential costs of diversity are discussed in more detail in Chapter 2.

10. Whilst this consultation paper focuses on the Main Board Listing Rules, it applies equally to the GEM Listing Rules. We will make equivalent amendments to the GEM Listing Rules.

11. A consultation conclusions paper will be published after the end of the consultation period. We will carefully consider all public comments received. Revisions reflecting comments will be incorporated into the draft amendments of the Rules.

12. We conducted stakeholder consultation to solicit views from interested groups of practitioners and issuers on our proposals. We thank them for sharing with us their views and suggestions.

HOW TO RESPOND TO THIS CONSULTATION PAPER

The Stock Exchange of Hong Kong Limited (the "**Exchange**"), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited ("**HKEx**"), invites written comments on the changes proposed in this Paper no later than 9 November 2012. Responses should, if possible, be made by one of the following methods:

By mail or hand delivery to	Corporate Communications Department Hong Kong Exchanges and Clearing Limited 12th 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** Please mark in the subject line: **Re: CP on Board Diversity**

The Exchange's submission enquiry number is (852) 2840-3844.

The Exchange invites views on the proposed changes, supported, where appropriate, with reasons. Respondents are reminded that the Exchange will publish responses on a named basis in the intended consultation conclusions, unless you request otherwise.

The Exchange's policy on handling personal data is set out in **Appendix III** of this paper.

Next Steps

The Exchange will carefully consider all the responses received, and if appropriate, develop (or further progress) rule amendments to implement the final agreed conclusions. As usual the Exchange will develop the consultation conclusions and work with the Securities and Futures Commission for any relevant rule amendments.

CHAPTER 1: INTRODUCTION

Background

13. In our recent consultation on the Corporate Governance Code and related Listing Rules, we received suggestions that board diversity and, in particular, gender diversity, should form a part of the initiative to promote better corporate governance.[2] Also, in response to our recent *Consultation Paper on Environmental, Social and Governance Reporting Guide*, a number of respondents have suggested that the issuer should report on its diversity policy, including gender.[3]

14. In this paper, we will examine the statistics on gender and age. Although diversity encompasses more than simply gender and age, the data relating to these characteristics can be obtained with relative certainty (as compared with others such as cultural/educational background or professional experience, etc.). The statistics on gender and age are, to an extent, representative of the diversity (or lack thereof) on issuers' boards.

Gender

15. To better understand the extent to which women are represented on the issuers' boards, the statistics in this area must be examined. We set out below a summary of the data on how female directors are distributed: (i) amongst the issuers' boards (Table A), (ii) by market capitalisation (Table B), and (iii) by classification (i.e. whether it is a Mainland or Hong Kong company, or a company of other jurisdictions)(Table C).[4]

16. Women form 10.3% of the board members of all issuers[5], whilst a substantial percentage (40%) of the issuers have no female directors on their board. See Table A.

Table A: Distribution of female directors on issuers' boards

Number of female directors	Number of issuers	%
0	612	40%
1	564	37%
2	242	16%
3	61	4%
4	32	2%
5	7	0.5%
Total	1,518	100%

17. The average board size for all issuers is 8.6 directors, comprising 0.92 female directors and 7.68 male directors per issuer. On average, a large-cap or small-cap issuer's board has 0.93 women, but a mid-cap issuer has 0.89 women on its board (see Table B).

Table B: Average number of female directors per issuer by market capitalisation

Market Cap	Number of issuers	%	Average female directors per issuer
Large-cap (> HKD 2.5 billion)	511	34%	0.93
Mid-cap (> HKD 0.5 billion & <=2.5 billion)	495	33%	0.89
Small-cap (<=HKD 0.5 billion)	512	34%	0.93
Total	1,518	100%	0.92

18. We also considered female representation on boards of various types of issuers. Issuers are divided into Hong Kong, Mainland H-share, Red Chip, Mainland Private Enterprises and others. The data shows that H-share issuers have the highest number of women on their boards, followed by Hong Kong issuers, whilst the Red Chip issuers have the lowest number of women on their boards (see Table C).

Table C: Distribution of female directors by issuer classification

Classification[6]	Number of issuers	%	Average female directors per issuer
Hong Kong	719	47%	0.96
H-share	168	11%	1.02
Red Chips	107	7%	0.74
Mainland Private Enterprises	422	28%	0.86
Others	102	7%	0.88
Total	1,518	100%	0.92

19. Statistics also show that 91% of the female directors hold only one directorship, 7% hold two and 2% hold three. In contrast, for male directors, 85% hold one directorship, 9% hold two and 3% hold three. This indicates that male directors are more likely to hold multiple directorships than female.

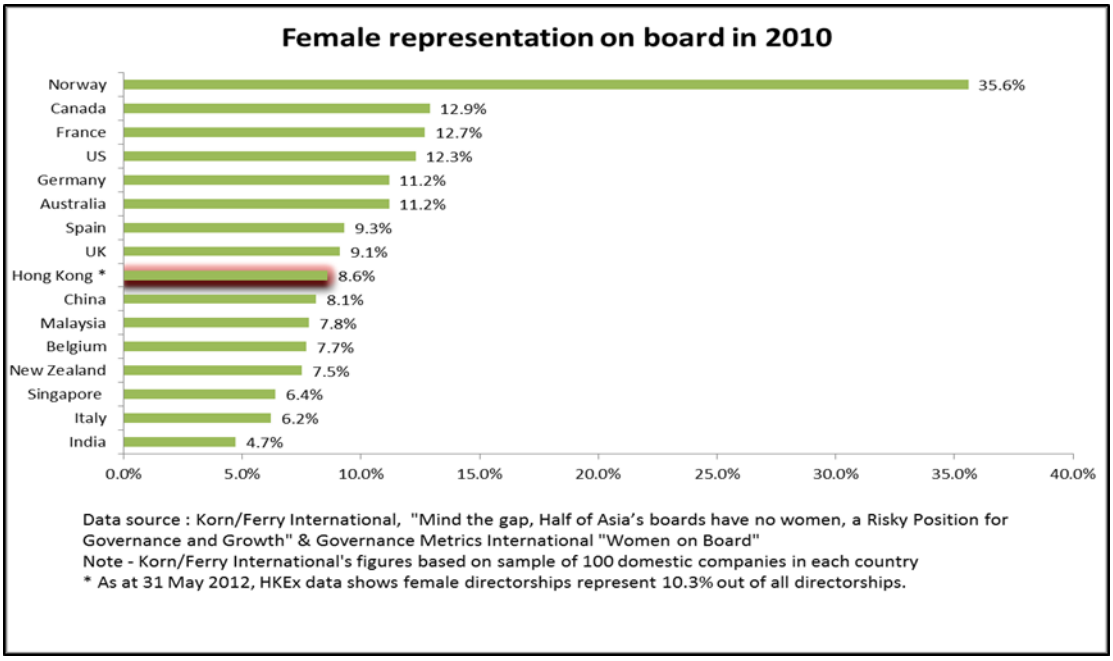
20. Of the female directorships, 54% are executive directors, 17% non-executive directors and 29% independent non-executive directors. For male directorships, 44% are executive directors, 40% non-executive directors and 16% independent non-executive directors.

21. A recent study by **Standard Chartered Bank** and **Community Business** with regard to women on boards of Hang Seng Index companies shows that for HSI companies, 9% of board positions are held by women. This represents a nominal improvement since 2009 when the figure was 8.9%.[7]

22. Another recent research report looked at diversity in the largest 100 domestic companies by market capitalisation in each of seven Asia-Pacific countries: Australia, China, Hong Kong, India, Malaysia, New Zealand and Singapore.[8] The study found that the overall percentage of female directors is highest in Australia. Hong Kong has the highest percentage of female executive directors, Malaysia the highest percentage

of female non-independent non-executive directors, and Australia the highest percentage of female independent non-executive directors. This study also examined the ethnic background of female directors on boards. It found that in Hong Kong, Malaysia and Singapore, female directors are more likely than male directors to come from the majority ethnic group.

23. Most available statistics on board diversity focus on gender. Although it appears to score better than China and Singapore, Hong Kong does not fare well when compared with the US, Australia and most European countries (see chart below).



Age

24. We also examined the statistics on directors' ages among Hong Kong issuers' boards. Our findings are summarised in **Appendix II** of this paper.

25. Overall, the majority of directors fall between the ages of 41 and 60, with the average age of directors being 53.2 years old. The average age of male directors (53.7 years) is slightly higher than that of female directors (49.1 years). 67% (7,075 out of 10,601) of directors are between 41 and 60 years of age, while 23% of directors are over the age of 60 and only 10% are under 40.

International Practice

26. Globally, many governments and exchanges are promoting board diversity. They do so either through legislation, regulation (including introducing "comply or explain" provisions in their corporate governance codes) or voluntary efforts. For instance, Norway introduced a gender quota law in 2004, when it required all listed companies and State Owned Enterprises to increase the percentage of female board members to 40%. Spain adopted gender quota legislation in 2007, effective in 2015, requiring all publicly traded companies with over 250 employees to have at least 40% of each gender on the board. France imposed a 20% gender diversity quota to be implemented

within 3 years and a 40% quota to be implemented within 6 years from January 2011. Similar laws have been enacted in Belgium, Iceland, Italy and Finland.[9]

27. In 2009, the US's SEC passed rules on diversity which became effective on 28 February 2010.[10] The new rules require public companies to disclose whether diversity (including but not limited to gender diversity) is considered in the board nomination process. If the company has a policy on diversity, it should describe how the policy is implemented and assessed for effectiveness.

28. In 2010, the UK Corporate Governance Code ("**UK Code**") was revised to incorporate diversity as a consideration in making board appointments. This year, the UK Code will be further revised to include a Code Provision (which is subject to "comply or explain") on board diversity. Starting from 1 October 2012, a UK listed company's annual report that describes the work of the nomination committee should include a description of the board's policy on diversity, including gender, any measurable objectives that it has set for implementing the policy, and progress on achieving the objectives.

29. In Asia Pacific, Australia's Corporate Governance Principles and Recommendations ("**CG Principles**") were revised in 2010 to include a new principle and three recommendations on board diversity. The Australian CG Principles on board diversity are similar to the UK Code but additionally they include a "comply or explain" provision that the company should disclose the proportion of women in the company, in senior management positions and on the board.

30. Malaysia issued a Corporate Governance Blueprint in July 2011 (which outlines strategic initiatives aimed at promoting good governance). Included in the Blueprint is a goal that the boards of listed companies should have 30% female directors by 2016. Malaysia issued a revised Code on Corporate Governance in March this year (to come into effect on 31 December 2012), which recommends that "*the board should establish a policy formalising its approach to boardroom diversity*" and "*take steps to ensure that women candidates are sought as part of its recruitment exercise*." The board is also encouraged to "*explicitly disclose in the annual report its gender diversity policies and targets and the measures taken to meet those targets*".

31. In Singapore, the revised Code on Corporate Governance (issued on 2 May 2012, to take effect from 1 November 2012) includes a new Guideline (subject to "comply or explain"): "*The Board and its board committees should comprise directors who as a group provide an appropriate balance and diversity of skills, experience, gender and knowledge of the company*".

32. Whilst some countries' laws and regulations focus on gender diversity (most European countries and Australia), others such as the US, the UK and Singapore take a broader view of the definition of diversity. The US's SEC did not define diversity in its rules and it gave the following reasons:[11]

"*We recognize that companies may define diversity in various ways, reflecting different perspectives. For instance, some companies may conceptualize diversity expansively to include differences of viewpoint, professional experience, education, skill and other individual qualities and attributes that contribute to board*

heterogeneity, while others may focus on diversity concepts such as race, gender and national origin."

33. In addition to laws, regulations and listing rules (including corporate governance codes), various non-governmental groups have been set up to promote board diversity.[12]

Current Listing Rules

34. One of the main goals of the Exchange is to promote good corporate governance. In this connection, our Rules and Code contain both mandatory and voluntary measures to enhance corporate governance. A substantial part of our Code relates to directors and the board, requiring "comply or explain" on good governance practices relating to board activities.

35. Principle A.1 of the Code states that an issuer should be headed by an effective board.

36. On board composition, the Code's Principle (A.3) specifies that "*The board should have a balance of skills and experience appropriate for the requirements of the issuer's business*."

37. Existing Rules and provisions in the Code already promote some aspects of diversity. For instance, the Rules require issuers to have at least three independent non-executive directors on their boards, at least one of whom must have appropriate professional qualifications or accounting or related financial management expertise. By the end of 2012, independent non-executive directors must comprise at least one-third of all the issuers' boards. The Code also contains provisions that are designed to ensure sufficient independent representation on the board and on board committees.

38. The Code requires the issuer to disclose, in its corporate governance report, a description of the work of the nomination committee. This includes "*determining the policy for the nomination of directors, performed by the nomination committee or the board of directors (if there is no nomination committee) during the year. The nomination procedures and the process and criteria adopted by the nomination committee or the board of directors (if there is no nomination committee) to select and recommend candidates for directorship during the year*" (Section L(d)(ii) of the Code).

CHAPTER 2: WHY PROMOTE BOARD DIVERSITY?

39. This chapter sets out the issues associated with a uniform and homogenous board, the potential benefits and costs of board diversity.

Issues and Potential Benefits of Board Diversity

Effective Decision-Making

40. A board may be vulnerable to groupthink[13] when its members are homogenous. One study examined the Enron board's decision-making process following its disastrous collapse and concluded that it suffered from symptoms of groupthink.[14] One of the methods suggested to prevent groupthink in boardrooms is increasing diversity on boards.

41. Many commentators believe that issuers adopting a policy of diversity will promote the development of a higher level of corporate governance and help to improve the board's decision-making process.[15] Studies indicate that people from different backgrounds and with different professional and life experience are likely to approach problems in different ways.[16] These studies concluded that members of the board with diverse backgrounds bring different concerns and questions to the table, and allow the board to consider a wider range of options and solutions to corporate issues. Diverse groups are also said to be less likely to take extreme positions and more likely to engage in higher quality analysis.[17]

42. Some studies indicate that more diverse groups encourage creativity and innovation resulting in a greater range of perspectives and solutions to problems.[18]

43. Studies have also concluded that companies that have a higher representation of women hold more meetings and have better attendance records.[19] Others have concluded that female directors are more likely to strengthen the board and encourage the board to demand higher audit effort from their auditors to protect the board from risks.[20]

Utilising the Talent Pool

44. A low representation of certain sectors of society (such as women and ethnic minorities) on companies' boards may demonstrate a failure to utilise the talent pool.

45. As recent market events have demonstrated, there is increasing demand on directors to be able to assess risks and respond to financial and operational challenges. Developments in corporate governance rules and standards are also placing significant demands on boards, such as requiring independent non-executive directors to assume greater responsibilities in various board committees and to have knowledge in areas such as finance and accounting. As from the end of 2012, one-third of Hong Kong issuers' boards must be independent non-executive directors.

46. Expanding the pool of potential directors by actively including sectors of society that are currently under-represented may help to alleviate some corporate governance issues. These include insufficient available independent non-executive directors, some directors serving too many boards and therefore poor time commitment to each issuer, and directors, particularly independent directors, having overly-long tenure.

Access to Resources and Connections

47. A board whose members are all alike may be weak in terms of connectivity with, or understanding of, customers, suppliers and the workforce. Most consumer-focused companies serve a wide variety of customers across gender, age and cultural backgrounds. However, the management of those companies is not always representative of the customer base that it serves, nor the workforce it employs.

48. Some have argued that the leadership of an organisation should be representative of those it serves. A diverse board may find it easier to understand its customers and where future growth will come from, connect with employees as to how the company operates, and obtain multiple stakeholders' perspectives that highlight new opportunities or challenges for the company.

Career Incentives

49. A lack of diversity in the boardroom offers little encouragement to women and minorities aspiring to promotion to the board.

50. Diversity in the boardroom may signal to employees that the company is committed to equal opportunity or at least that minority status is not a hindrance to their careers in the company. Research indicates that a company with a diversity climate promotes commitments from the workforce and improve productivity.[21]

Corporate Reputation, Investor Relations and Social Responsibility

51. Some studies also suggest that in some sectors, the presence of female directors and racial diversity can enhance a firm's reputation with consumers[22] and improve innovation.[23]

52. Also, board diversity can convey a commitment to equal opportunity, responsiveness to diverse stakeholders, and a general message of progressive leadership, which enhances the corporation's public image.[24]

53. A company's board diversity is now a factor that institutional investors consider before investing in the company. Having a homogenous board may send the wrong signals to investors and consumers. This has been echoed by the response to our *Consultation Paper on Environmental, Social and Governance Reporting Guide*. A number of respondents (some of whom are institutional investors) suggested that an issuer should disclose its workforce diversity. These respondents believed that the disclosure would provide information regarding the issuer's recruitment and management strategy, including policy on equal opportunity for employment.[25]

Other potential benefits of board diversity

54. We believe that reporting on the diversity policy of the issuer would facilitate greater transparency and accountability. The disclosure would provide investors with information on corporate culture and governance practices that would enable investors to make more informed voting and investment decisions.

55. Diversity policy disclosure may also lead to improved board composition. The diversity policy may encourage the board to broaden its director searches, and select from a wider range of candidates, which would potentially improve board quality.

56. Research indicates that increased diversity (including gender diversity) on boards is associated with better financial performance.[26]

Potential Costs of Board Diversity

57. The potential drawback of board diversity is that there may be more conflict, less group cohesiveness and limited communication between subgroups.[27] These factors could potentially hinder board effectiveness.

58. An indirect cost of choosing directors mainly for their demographic characteristics is the possibility of choosing someone less suitable. Also, because qualified minority candidates may be in short supply, minority directors are likely to sit on multiple boards, which may make them less effective.

Why Promote Board Diversity?

59. For the reasons discussed above, we believe that, on balance, there is justification for promoting board diversity. We discuss our proposed regulatory approach to this issue in Chapter 3.

CHAPTER 3: PROPOSALS AND CONSULTATION QUESTIONS

Should We Impose Quotas?

60. Some commentators have advocated imposing a quota for women on boards.[28] Support for this suggestion can be found in Scandinavian countries where various quotas have been introduced, resulting in greater gender parity.[29]

61. At this stage, we do not believe it is appropriate to impose quotas on issuers' boards.

62. Firstly, in our view, consideration of diversity should not be restricted to gender. Diversity of perspectives can be achieved by a broad spectrum of characteristics and attributes such as age, cultural, educational and professional background, amongst others.

63. Secondly, a quota system may encourage the appointment of family members or recruiting "token women". These "trophy directors" may lack independence or may be at risk of being spread too thinly to provide adequate oversight.[30] Moreover, it may be argued that, as with other forms of affirmative action, selecting board members on the basis of gender or other specific characteristics is precisely the kind of stereotyping that society should be seeking to eliminate.

64. Lastly, measures relating to board diversity would be new to our regulatory regime. Issuers should be given time and flexibility to work out their own approach. A "comply or explain" regime would give issuers that flexibility.

Discussion of Consultation Proposals

65. We propose to add "*and diversity of perspectives*" to the Principle under A.3 "Board Composition". This is so that when the issuer reviews its board composition, in addition to considering whether it has a balance of skills, experience and independence, it should also consider the benefits of diversity.

66. We propose to add a Principle under A.5: "*In carrying out its responsibilities, the nomination committee should give adequate consideration to the Principles under A.3 and A.4*". This is because the Principles under A.3 and A.4 under "Board composition" and "Appointment, re-election and removal" should also apply to nomination committees.

67. We propose to introduce a Code Provision A.5.6 stating that:

"*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*."

68. Also a note under CP A.5.6 to clarify that:

"*Board diversity will differ according to the circumstances of each issuer. Diversity of board members can be achieved through consideration of a number of factors, including but not limited to gender, age, cultural and educational background, or professional experience. Each issuer should take into account its own business model and specific needs, and disclose the rationale for the factors it uses for this purpose*."

69. What we propose is a Code Provision, which means the issuer has the option to either comply with the provision or to explain non-compliance in its corporate governance report. If the issuer has a policy on consideration of diversity in selecting director candidates, it is required to disclose this policy or a summary of it in the corporate governance report.

70. We do not believe that it is appropriate to restrict the definition of diversity. Issuers may consider diversity in various ways, reflecting different perspectives. For instance, some issuers may view diversity in a broader sense to include professional experience, education, skills and other qualities and attributes that contribute to heterogeneity, whilst others may focus on the more traditional concepts of diversity such as gender and race. For the purpose of this disclosure requirement, we propose to leave it to the issuers to define diversity according to their own perspectives.

71. Finally, we propose to revise the Mandatory Disclosure Requirement under Section L of the Code, under "Board Committees", to state "*If the nomination committee (or the board) has a policy concerning diversity, this section should include 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*". This is to set out the details required in relation to the disclosure.

Consultation Questions

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

Q.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?

Q.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.

Q.4 Do you agree with our proposal to introduce a note under CP A.5.6 to clarify what we mean by diversity and do you agree with the content of the note? Please give reasons for your views.

Q.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.

Q.6 Which of the following would you prefer as the implementation date of the amendments set out in this paper?

(i) 1 January 2013

(ii) 1 April 2013

(iii) 1 June 2013

(iv) 1 September 2013

(v) other (please specify)

Notes:

[1] HKEx's data and data extracted from webb-site.com.

[2] See for example, a letter from the Women's Commission in response to the Consultation Paper on Review of the Code on Corporate Governance Practices and Associated Listing Rules, available at: http://www.hkex.com.hk/eng/newsconsul/mktconsul/responses/Documents/cp2010124r_IN78.pdf.

[3] See for example, http://www.hkex.com.hk/eng/newsconsul/mktconsul/responses/cp201112r.htm. In particular, see letters from Civic Exchange, Bloomberg LP, Community Business Limited, Responsible Research Pte Ltd, Protiviti Hong Kong Co Ltd, Asia Value Advisors Ltd and Institutional Investor 2, although the focus of these responses is on the diversity of the entire workforce, not only the board.

[4] HKEx's data and data extracted from webb-site.com.

[5] As at 31 May 2012, the total number of directorships is 13,397, of which 1,380 are held by women (HKEx data).

[6] Classification according to: http://eip.hkex/MktDataInfo/HK-ListingTrading/LC-Classification/index.html

[7] The *2012 Standard Chartered Bank Women on Boards: Hang Seng Index 2012* report, published by Community Business and sponsored by Standard Chartered Bank, looks at the representation of women on the corporate boards of the Hang Seng Index constituent companies. The report is available at: http://www.communitybusiness.org/images/cb/publications/2012/WOB_Eng_2012.pdf.

[8] Korn/Ferry Institute's report, published in 2012, *The Diversity Scorecard, Measuring Board Composition in Asia Pacific*.

[9] Catalyst, *Increasing Gender Diversity on Boards: Current Index of Formal Approaches*, April 2012, available at**:** http://www.catalyst.org/publication/514/increasing-gender-diversity-on-boards-current-index-of-formal-approaches.

[10] Item 407(c) of Regulation S-K.

[11] See SEC's publication at: http://www.sec.gov/rules/final/2009/33-9089.pdf at page 39.

[12] In the UK, the **30% Club** was formed by a group of chairmen voluntarily committed to bringing women on to UK corporate boards and reaching a desired target of 30%. In Australia, the **Australian Institute of Company Directors** has started a mentoring programme that brings together senior listed company chairmen with highly talented and qualified women in a 12-month mentoring relationship. In Singapore, a **100 BoardAgender Champions** campaign was launched to acknowledge a group of 100 leaders who publicly support the advancement of women into senior leadership and into the boardroom.

[13] A theory developed by Irving Janis, a social psychologist, (1972). He described "groupthink" as: "a mode of thinking that people engage in when they are deeply involved in a cohesive in-group, when the members' striving for unanimity overrides their motivation to realistically appraise alternative courses of actions."

[14] O'Connor, *The Enron Board*: *The Perils of Groupthink*, (2003).

[15] For example, see letter from the Women's Commission in response to the Consultation Paper on Review of the Code on Corporate Governance Practices and Associated Listing Rules (note 2 above) and the studies referred to in note 16 below.

[16] For example, Wiersema and Bantel *Top Management Team Demography and Corporate Strategic Change*, (1992); Fairfax, *The Bottom Line on Board Diversity: A Cost Benefit Analysis of the Business Rationales for Group Composition for Diversity on Corporate Boards*, (2005) and *Clog in the Pipeline: The Mixed Data on Women Directors and continued Barriers to their Advancement*, (2006) and Kramer, Konrad and Erkut, *Critical Mass on Corporate Boards: Why Three or More Women Enhance Governance*, (2006).

[17] Fairfax, (2005), see note 16 above.

[18] Wiersema and Bantel, note 16 above; Gratton and Walker, *Gender Equality*: *A Solid Business Case at Last*, (2007).

[19] Adams and Ferreira, *Women in the Boardroom and their Impact on Governance and Performance*, (2008).

[20] Gul, Srinidhi and Tsui *Board Diversity and the Demand for Higher Audit Effort*, (2008); and also Brown, Brown & Anastasopoulos, *The Conference Board of Canada, Women on Boards: Not Just the Right Thing … But the "Bright" Thing*, (May 2002).

[21] Brook & Tyler, *Board Diversity and Corporate Performance: Psychological Evidence*, (2010)

[22] Brammer, Millington and Pavelin, *Corporate Reputation and Women on the Board*, (2009).

[23] Miller & Triana *Demographic Diversity in the Boardroom: Mediators of the Board Diversity-Firm Performance Relationship* (2009). In a sample of Fortune 500 firms, the study found a positive relationship between board racial diversity and both firm reputation and innovation.

[24] Fairfax, *The Bottom Line on Board Diversity: A Cost Benefit Analysis of the Business Rationales for Group*

Composition for Diversity on Corporate Boards, (2005).

[25] See letters from Protiviti, Community Business Limited, Asia Value Advisors Ltd and Institutional Investor 2 at: http://www.hkex.com.hk/eng/newsconsul/mktconsul/responses/cp201112r.htm.

[26] For example, Catalyst, *The Bottom Line: Corporate Performance and Women's Representation on Boards* (2007); Carter, Simkins & Simpson, *Gender and Ethnic Diversity of U.S. Boards and Board Committees and Performance* (2003); McKinsey & Company, *Women Matter* (2007); Vafaei, Mather & Ahmed, *Board gender diversity and its effect on firm financial performance: a panel study of top 500 ASX listed firms*, (2012).

[27] Pelled, Eisenhardt, & Xin, *Exploring the Black Box: An Analysis of Work Group Diversity, Conflict, and Performance* (1999). This research shows mixed effects of gender diversity on problem-solving abilities. Diverse teams may also experience increased levels of anxiety and frustration which adversely affect performance.

[28] See letter from Women's Commission, note 2 above.

[29] See Catalyst, *Increasing Gender Diversity on Boards: Current Index of formal approaches*, (2012), note 9 above.

[30] Branson, *No Seat at the Table: How Corporate Governance and Law Keep Women out of the Boardroom*, (2007).

APPENDIX I: PROPOSED AMENDMENTS TO THE CORPORATE GOVERNANCE CODE ON BOARD DIVERSITY

Appendix 14

CORPORATE GOVERNANCE CODE AND CORPORATE GOVERNANCE REPORT

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A.3 Board composition

Principle

The board should have a balance of skills, ~~and~~ experience and diversity of perspectives appropriate ~~for~~ to the requirements of the issuer's business. It should ensure that changes to its composition can be managed without undue disruption. It should include a balanced composition of executive and non-executive directors (including independent non-executive directors) so that there is a strong independent element on the board, which can effectively exercise independent judgement. Non-executive directors should be of sufficient calibre and number for their views to carry weight.

A.4 Appointments, re-election and removal

Principle

There should be a formal, considered and transparent procedure for the appointment of new directors. There should be plans in place for orderly succession for appointments. All directors should be subject to re-election at regular intervals. An issuer must explain the reasons for the resignation or removal of any director.

Code Provisions

…

A.5 Nomination Committee

Principle

In carrying out its responsibilities, the nomination committee should give adequate consideration to the Principles under A.3 and A.4.

Code Provisions

…

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.

Note: Board diversity will differ according to the circumstances of each issuer. Diversity of board members can be achieved through consideration of a number of factors, including but not limited to gender, age, cultural and educational background, or professional experience. Each issuer should take into account its own business model and specific needs, and disclose the rationale for the factors it uses for this purpose.

…

L. BOARD COMMITTEES

The following information for each of the remuneration committee, nomination committee and audit committee, and corporate governance functions:

(a) …

(d) a summary of the work during the year, including:

(i) …

(ii) for the nomination committee, determining the policy for the nomination of directors, performed by the nomination committee or the board of directors (if there is no nomination committee) during the year. The nomination procedures and the process and criteria adopted by the nomination committee or the board of directors (if there is no nomination committee) to select and recommend candidates for directorship during the year. If the nomination committee (or the board) has a policy concerning diversity, this section should also include 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 those objectives;

APPENDIX II: BOARD DIVERSITY STATISTICS: AGE

1. The statistics show that the majority of directors fall between the ages of 41 and 60, with the average age of directors being 53.2 years old. 67% (7,075 out of 10,601) of directors are between 41 and 60 years of age, while 23% of directors are over the age of 60 and only 10% are under 40 (see Table A).

Table A: Distribution of directors' ages on issuers' boards

Age	Number of directors	%
Below 30	97	1%
31-40	944	9%
41-50	3,670	35%
51-60	3,405	32%
Over 60	2,485	23%
ALL *	10,601	100%

**Data unavailable for approximately 1% of directors*

2. When broken down by market capitalisation, the data shows that the average age of directors on large-cap issuers' boards (55.3 years) is slightly higher than that of directors on mid- and small-cap issuers' boards (53.2 and 52 years, respectively) (see Table B).

Table B: Average age of directors by issuers' market cap

Market Cap	Number of issuers	%	Average age
Large-cap	511	34%	55.3
Mid-cap	495	33%	53.2
Small-cap	512	34%	52.0
Total	1,518	100%	53.2

3. We also examined the average age of directors sitting on the boards of Hong Kong issuers, Mainland H-share issuers, Red Chips, Mainland Private Enterprises and Others. We found that the average age of directors in each issuer category generally is within the range of 50 and 55 years. The average age of Mainland Private Enterprise directors is lowest (51.2 years) and that of issuers in the "Others" category is highest (55.5 years) (see Table C).

Table C: Average age of directors by issuer classification

Classification	Number of issuers	%	Average age
H-share	168	11%	53.8
Red Chips	107	7%	54.2
MPE	422	28%	51.2
Hong Kong	719	47%	54.3
Others	102	7%	55.5
Total	1,518	100%	53.2

4. We also compared the average age of male directors and female directors and found that female directors are generally younger than their male counterparts. The average age of female directors is 49.1 years, while that of male directors is 53.7 years. However, the bulk (67%) of both male and female directors is between the ages of 41 and 60 (see Table D).

Table D: Average age of male vs. female directors on issuers' boards

Age	Number of female directors	%	Number of male directors	%
Below 30	23	2%	74	1%
31-40	206	17%	738	8%
41-50	510	42%	3,160	34%
51-60	304	25%	3,101	33%
Over 60	160	13%	2,325	25%
ALL	1,203	100%	9,398	100%

APPENDIX III: 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
12th 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**

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.