

Enhanced corporate governance and ESG among listed companies and IPO applicants expected to be launched from 1 Jan 2022

预计于 2022 年 1 月 1 日起实施强化上市公司及上市申请人的企业管治和 ESG



On 16 April 2021, The Stock Exchange of Hong Kong Limited ("**SEHK**") published a consultation paper, proposing to revise the Corporate Governance Code ("**CG Code**") and relating Listing Rules to promote good corporate governance of the listed issuers. The proposal covers, among others, culture of issuers, independence of directors, board (gender) diversity and environmental, social and governance ("**ESG**").

香港联合交易所有限公司 ("**联交所**") 于 2021 年 4 月 16 日就修订《企业管治守则》及相关《上市规则》的建议刊发了咨询文件，以促进上市发行人的良好企业管治。有关建议内容包括上市发行人的企业文化、董事会独立性、董事会成员（性别）多元化及环境、社会及管治 ("**ESG**") 等。

The consultation highlighted the importance for IPO applicants to include corporate governance considerations in their planning. The board of an IPO applicant is expected to be collectively responsible for ensuring the necessary governance mechanisms are built into the listing process. Upon the proposal on board diversity under the consultation becoming effective, IPO applicants will no longer be expected to have single gender boards. The Exchange will review the corporate governance and ESG disclosures in prospectuses to provide further guidance to IPO applicants later this year. IPO applicants may also refer to [Practitioners Insights](#) as published by SEHK in December 2020, for corporate governance and ESG insights and experiences shared by market practitioners when preparing for an IPO.

咨询文件亦提及上市申请人在其上市规划中考虑企业管治因素，尤为重要。上市申请人的董事会应共同负责确保将必要的管治机制纳入上市流程。若实施咨询文件中有关董事会多元化之建议，上市申请人的董事会将不再只有单一性别的董事。联交所将于今年检视招股章程中有关企业管治及 ESG 的披露资料，为申请人提供进一步的指引。上市申请人亦可参阅联交所于 2020 年 12 月刊发的 [业界人士观点](#)，了解市场从业者在准备首次公开招股时对于企业管治和 ESG 的见解和经验。

The consultation period ended on 18 June 2021. Subject to responses to the consultation, the proposals to the Listing Rules and CG Code are intended to be implemented commencing on or after 1 January 2022, except for those on long serving independent non-executive directors ("**INED**"), which SEHK intends to allow a three-year transition period such that the changes are expected to come into effect for financial year commencing on or after 1 January 2023.

咨询期于 2021 年 6 月 18 日结束。视乎这次咨询的回应意见，若最后落实各项建议，修订后的《上市规则》及《企业管治守则》拟于 2022 年 1 月 1 日或之后正式实施生效。惟有关连任多年的独立非执行董事 ("**独董**") 的建议，联交所拟给予三年的过渡期，预期有关变更将由 2023 年 1 月 1 日或之后开始的财政年度生效。

The key proposed changes are set out below:

主要修订内容如下：

Proposals 修订建议	Remarks and observations 备注及意见
I. Corporate Governance 企业管治	
Corporate Culture 企业文化	
Culture 文化	<p><u>New code provision ("CP")</u> to require a listed issuer's board to align the company's culture with its purpose, value and strategy.</p> <p>新增一项守则条文，规定上市发行人的董事会须确保公司的文化与公司的目的、价值及策略一致。</p> <p>SEHK will provide further guidance to explain board's role in "culture"; key elements of a sound culture; and recommended disclosure. SEHK pointed out four common key elements in a sound culture: tone from the top, accountability, open and effective communication, and incentives to support company's culture at all levels.</p> <p>联交所将提供指引：解释董事会在“企业文化”方面的角色、列出健全文化要素、及建议披露。联交所指出四个健全文化的常见要素为：高层定调、问责、开放和有效的沟通、及于所有层面支持公司文化的激励措施。</p>
Anti-corruption and whistleblowing policies 反贪污及举报政策	<p><u>New CP</u> to require establishment of an anti-corruption policy.</p> <p>新增一项守则条文，规定上市发行人制定反贪污政策。</p> <p><u>Upgrade from recommended best practice ("RBP") to CP</u> to require establishment of a whistleblowing policy.</p> <p>将一项建议最佳常规升级为守则条文，规定发行人制定举报政策。</p> <p>SEHK will provide guidance on the elements to consider when formulating anti-corruption policy and whistleblowing policy, including the personnel or committee responsible for implementing such policies.</p> <p>为协助发行人遵守新规定，联交所将就制定反贪污政策及举报政策时考虑的元素提供指引，包括负责实施这些政策的人员或委员会。</p> <p>Under the ESG Reporting Guide ("ESG Guide"), issuers are required to disclose such policies or information on a "comply or explain" basis. Noting that there are overlapping requirements and information required for both the Corporate Governance Report ("CG Report") and ESG Report, we are of the view that guidance from SEHK on how issuers could integrate their corporate governance compliance with ESG management approach and strategy going forward would be desirable.</p> <p>根据《ESG 报告指引》（“《ESG 指引》”），发行人现以“遵守或解释”的原则披露有关政策或资料。鉴于《企业管治报告》和《ESG 报告》的重叠要求，我们认为联交所最好能就发行人如何将企业管治合规与 ESG 管理方法和策略结合起来提供指引。</p>

Director's independence

董事的独立性

INEDs 独董

New CP to require disclosure of a policy to ensure independent views and input are available to the board, with an annual review of the implementation and effectiveness of such policy.

新增一项守则条文，规定发行人披露有关确保董事会可取得独立观点及意见的政策，并每年检讨有关政策的实施及有效性。

Revised CP to require (i) re-election of an INED serving more than 9 years ("**Long Serving INED**") to be subject to independent shareholders' approval, and (ii) additional disclosure to explain the factors considered, process and discussion of the board (or the nomination committee) in determining that such INED is still independent and should be re-elected.

修订现有守则条文，就任何在任已过九年的独董（“**连任多年的独董**”）的重选问题，规定（i）此等重选需经独立股东批准，及（ii）额外披露解释董事会（或提名委员会）在确定该独董仍保持独立及应予重选的过程中所考虑的因素、程序和讨论。

New CP to require issuer to appoint a new INED at the forthcoming AGM where all the INEDs on the board are Long Serving INEDs, and disclose in the shareholders' circular the length of tenure of the Long Serving INEDs on the board on a named basis.

新增一项守则条文，若发行人的董事会内所有独董均为连任多年的独董，规定发行人於下次股东周年大会委任一名新的独董，并於致股东通函中披露每名连任多年的独董的姓名及已出任该职的时间。

New RBP that an issuer generally should not grant equity-based remuneration (e.g. share options or grants) with performance-related elements to INEDs.

新增一项建议最佳常规，建议发行人一般不

The consultation does not elaborate on the meaning of independent shareholders' approval nor does it specify who shall abstain from voting on a relevant resolution. It is therefore unclear whether the meaning of "independent shareholders" set out in the note to Rule 13.39 will be adopted (i.e. *any shareholders other than controlling shareholders of the issuer and their associates or, where there are no controlling shareholders, any shareholders other than directors (excluding INEDs) and the chief executive of the issuer and their respective associates*), such that the controlling shareholders or, without which, any shareholders who are directors (including the Long Serving INED, but excluding the other INEDs) and the chief executives, and their respective associates, cannot vote.

咨询文件并未详述“独立股东批准”的含义，也没有规定谁应在相关决议上放弃表决权。因此，目前尚未清楚是否会采用第 13.39 条附注中“独立股东”的含义（即发行人控股股东及其联系人以外的任何股东、或在没有控股股东的情况下，除发行人董事（不包括独董）和最高行政人员及其各自的联系人以外的任何股东）。这样，控股股东、或在没有控股股东的情况下，任何担任董事（包括连任多年的独董，但不包括其他独董）和最高行政人员的股东、及其各自的联系人、均不能投票。

	应给予独董带有表现绩效相关元素的股权酬金（例如购股权或赠授股份）。	
Board diversity 董事会成员多元化		
Gender diversity 性别多元化	<p><u>New mandatory disclosure requirement ("MDR")</u> to require all issuers to set and disclose in the CG Report numerical targets and timelines for achieving gender diversity at both (i) board level; and (ii) across the workforce (including senior management).</p> <p><u>新增强制披露要求</u>，规定所有发行人在企业管治报告中设定并披露在（i）董事会层面；及（ii）所有雇员层面上（包括高级管理层）实现性别多元化的数字目标和时间表。</p> <p><u>New CP</u> to require the board to review annually the implementation and effectiveness of its board diversity policy.</p> <p><u>新增守则条文</u>，规定董事会每年检讨其董事会多元化政策的实施及有效性。</p> <p><u>Revised note to a listing rule</u> to highlight that diversity is not considered to be achieved for single gender board.</p> <p><u>修订《上市规则》</u>，强调成员全属单一性别的董事会不会被视为多元化的董事会。</p>	<p>If the proposals are implemented, it is proposed that existing issuers with single gender boards shall have a three-year transition period to appoint at least one director of the absent gender on the board, while IPO applicants are not expected to have single gender boards.</p> <p>若实施有关建议，董事会内全部单一性别的现有发行人将有三年的过渡期，使其可于三年内委任至少一名另一性别的成员加入其董事会，而首次公开招股申请人则预期不再只有单一性别的董事会。</p> <p>SEHK plans to display board diversity related information (including director's age, gender and directorships) on its website.</p> <p>联交所计划于其网站展示董事会多元化的相关资料（包括董事的年龄、性别及所担任的职位）。</p>
Nomination committee 提名委员会		
Chairman 主席	<p><u>Upgrade a CP to a new rule</u> to require issuers to establish a nomination committee chaired by an INED and comprising a majority of INEDs.</p> <p><u>将一项守则条文提升为《上市规则》条文</u>，规定发行人须设立提名委员会，由独董担任主席，且大部分成员均须为独董。</p>	<p>SEHK will provide further guidance on the expected disclosures regarding INED nomination and appointment.</p> <p>联交所亦会于指引中加入有关提名及委任独董的预期披露。</p>
Communication with shareholders 与股东的沟通		
Shareholder communication policy 股东通讯政策	<p><u>Upgrade a CP to a MDR</u> to require disclosure in the CG Report of the issuer's shareholder communication policy (including channels for shareholders to communicate their views as well as steps</p>	<p>SEHK will provide guidance on areas where company may provide more discussion or information for shareholders, including the company's business strategies going forward, commercial rationale behind commercial</p>

	<p>taken to solicit and understand shareholders' views); and a statement of issuer's review of the effectiveness of the policy on an annual basis.</p> <p>将一项守则条文提升为强制披露要求，规定发行人须在其企业管治报告中披露其股东通讯政策（包括供股东就各项影响发行人的事宜发表意见的渠道、及发行人就征询及了解股东及持份者意见所采取的步骤）、及发行人每年对该政策的有效性进行审查的声明。</p>	<p>transactions, director's appointment process and succession planning, etc.</p> <p>联交所将就公司为股东提供更多讨论或资讯的议题提供指引，包括公司未来的商业策略，商业交易背后的商业理由，董事的委任程序及继任规划等。</p>
<p>Others 其他</p>		
<p>Director's attendance at general meetings 董事出席股东大会的情况</p>	<p>A <u>new rule requirement</u> to require disclosure of directors' attendance at general meetings in the poll results announcements.</p> <p>新增一项《上市规则》条文，规定发行人须於公布投票表决结果的公告中披露董事出席股东大会的情况。</p>	<p>Timely attendance record may be useful for shareholders and investors to better assess directors' commitment in the issuer's affairs. For this purpose, SEHK will also provide guidance on the expected disclosure regarding audit committee ("AC")'s work done in discharging its responsibility including how the AC reviews and monitors financial reporting, external auditor, internal audit and internal controls.</p> <p>适时发布会议出席纪录有助股东和投资者评估董事在发行人事务中的投入程度。为此，联交所将在指引中详细说明联交所期望发行人就审核委员会为履行职责所作的工作而披露的内容，包括财务汇报、外聘核数师、内部审核和内部监控。</p>
<p>Term of non-executive directors (NEDs) 非执行董事的任期</p>	<p>Deleting the CP to require issuers to appoint NEDs for a specific term.</p> <p>删除有关非执行董事的委任应有指定任期的守则条文。</p>	<p>NEDs will continue to be subject to retirement by rotation and shareholders' approval for re-election at least once every three years.</p> <p>发行人委任的非执行董事仍须轮流退任，至少每三年一次，重选董事亦须经股东批准。</p>
<p>II. Environmental, Social and Governance (ESG) 环境、社会及管治 (ESG)</p>		
<p>Linkage between CG Code and ESG 《企业管治守则》與 ESG 事宜的關係</p>	<p><u>New introductory paragraph in CG Code</u> to set out the relationship between CG and ESG, and include ESG risks in the context of risk management under the CG Code.</p> <p>建议於《企业管治守则》中新增介绍性段落，说明企业管治与 ESG 事宜之间的关系，及于《企业管治守则》中有关风险管理的部分加入 ESG 风险。</p>	<p>This proposal highlights the importance of having an effective governance structure so as to allow issuers to have a better understanding and evaluate and manage risks and opportunities.</p> <p>此建议强调有效的企业管治架构的重要性，有助发行人了解、评估并管理风险和机会。</p>

ESG Reports ESG 报告	<u>Revised Rule and ESG Guide</u> to require publication of ESG reports at the same time as publication of annual reports. <u>修订《上市规则》及《ESG 指引》</u> ，规定发行人须於刊发年报时一并刊发 ESG 报告。	Listed issuers are suggested to assign sufficient time and resources for the preparation of both reports simultaneously. If this proposal is adopted, it will take effect for issuers' financial year commencing on or after 1 January 2022. 上市发行人应分配足够的时间和资源同时准备两份报告。若最后落实建议，修订拟于 2022 年 1 月 1 日或之后开始的财政年度正式实施生效。
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Given the growing global trend and efforts in promoting corporate governance, SEHK has been committed to enhancing corporate governance amongst listed issuers and aligning Hong Kong with international standards and practices. Directors' independence and accountability, as well as board diversity will remain the focus of SEHK. In light of the continued global focus on the disclosure of ESG, SEHK has also expressed its intention to provide further guidance so as to encourage issuers to adopt the [Recommendations of the Task Force on Climate-related Financial Disclosures](#) when disclosing climate change-related information in compliance with the ESG Guide.

鉴于全球趋势和努力以促进企业管治，联交所一直致力提升上市发行人的企业管治，使香港与国际标准和常规接轨。联交所将继续重点提升董事的独立性和问责，以及董事会多元化。另外，鉴于全球对 ESG 披露的持续关注，联交所表示有意提供进一步指引，以鼓励发行人在按照《ESG 指引》披露气候变化相关信息时采纳[气候相关财务披露工作小组的建议](#)。

Listed issuers and IPO applicants are reminded to keep an eye on any new update on corporate governance requirements and ensure good governance is in place to comply with the Listing Rules and CG Code, and most importantly, to enable shareholders to effectively assess the company's governance practices and the board's activities and contributions in this regard.

上市发行人和上市申请人应密切关注有关企业管治要求的任何更新，并确保良好的管治以符合《上市规则》以及《企业管治守则》，而最重要是使股东能够有效地评估公司的管治政策和董事会在此等方面的行动和付出。

Contact us

联系我们



Michelle Chung 钟希汶

Partner 合伙人

T: +852 3166 6927

Email: Michelle.Chung@shlegal.com



Sinnie Fung 冯倩妮

Associate 律师

T: +852 2533 2793

Email: Sinnie.Fung@shlegal.com

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