

# HKEX Consults on New Corporate Governance Reforms

July 4, 2024

If you have any questions regarding the matters discussed in this memorandum, please contact the attorneys listed on the last page or call your regular Skadden contact.

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One Manhattan West  
New York, NY 10001  
212.735.3000

42/F, Edinburgh Tower, The Landmark  
15 Queen's Road Central, Hong Kong  
852.3740.4700

In a consultation paper issued in June 2024, The Stock Exchange of Hong Kong Limited (**HKEX**) is proposing amendments to The Rules Governing the Listing of Securities on HKEX (the **Listing Rules**) to improve corporate governance of listed companies, with a focus on the areas of board effectiveness and independence, diversity, risk management and capital management.

A summary of the key proposals is set out below. The consultation period ends on 16 August 2024.

The new rules are proposed to come into effect on 1 January 2025 and apply to corporate governance reports issued for financial years commencing on or after that date, *i.e.*, annual reports published in 2026. Transitional arrangements will apply to certain measures, as noted further below.

Note that requirements are categorized as follows:

- **Rule:** A compulsory requirement under the Listing Rules.
- **Code Provision (CP):** Companies must “comply or explain” under the Corporate Governance Code.
- **Mandatory Disclosure Requirement (MDR):** A compulsory item for disclosure in a company’s annual Corporate Governance Report.

Topic	Details of New Requirement	Nature of Requirement
<b>Lead INED</b>	Where the chairman of the board is not an independent nonexecutive director ( <b>INED</b> ), the company will be required to appoint a “Lead INED.” The Lead INED will: <ul style="list-style-type: none"><li>- Act as a channel of communication with shareholders.</li><li>- Facilitate communication (i) among INEDs and (ii) between INEDs and the board.</li></ul>	CP
<b>Mandatory director training</b>	All directors must participate in mandatory continuous professional training. No minimum-hours requirement will be specified.  Training may occur internally through the company or externally, and in any format (in person or online).  Training must cover the following areas: <ul style="list-style-type: none"><li>a. The roles, functions and responsibilities of the board, its committees and directors, and board effectiveness.</li><li>b. Issuers’ obligations and directors’ duties under Hong Kong law and the Listing Rules, and key legal and regulatory developments (including Listing Rule updates) relevant to discharging those obligations and duties.</li></ul>	Rule

Continued on next page

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Topic	Details of New Requirement	Nature of Requirement
	<p>c. Corporate governance and ESG matters (including developments on sustainability or climate-related risks and opportunities relevant to the issuer and its business).</p> <p>d. Risk management and internal controls.</p> <p>e. Updates on industry-specific developments, business trends and strategies relevant to the issuer.</p>	
	<p>First-time directors (those who have not been a director of an HKEX-listed company in the three years or more prior to their appointment) will be required to undertake a total of 24 hours of training within the first 18 months of their appointment. <b>General induction training would not count toward this 24-hour requirement.</b></p> <p>This requirement will apply only to directors appointed after 1 January 2025.</p>	Rule
	<p>For each director, companies must disclose:</p> <ul style="list-style-type: none"> <li>- The number of hours of training attended.</li> <li>- The topics and format of the training.</li> <li>- The names of training providers.</li> </ul>	MDR
<b>Board performance review</b>	<p>The company should conduct a board performance review <b>at least every two years</b>, and disclose details of this review in its Corporate Governance Report.</p>	CP
<b>Board skills matrix</b>	<p>The company should maintain a board skills matrix and disclose:</p> <ul style="list-style-type: none"> <li>- The company's existing board skills mix.</li> <li>- How the skills, experience and diversity of the board serve the purpose, values, strategy and desired culture of the company.</li> <li>- Details and plans to acquire further skills.</li> </ul>	CP
<b>INED overboarding</b>	<p>An INED must <b>not concurrently hold more than six listed-company directorships.</b></p> <p>* As a transitional arrangement, this new rule will apply from 1 January 2028 onwards, with compliance required by the conclusion of the next annual general meeting (AGM). For IPO applicants, the rule will apply starting 1 January 2025.</p>	Rule
<b>Directors' time commitment and contribution</b>	<p>The nomination committee must annually assess each director's time commitment and contribution to the board — <b>taking into consideration each director's other significant external time commitments and other factors relevant to their character, integrity, independence and experience</b> — and disclose this assessment.</p>	MDR

Continued on next page

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<b>Long-serving INEDs</b>	<p>An INED will no longer be considered independent after serving as an INED for a company for nine years (calculated from the later of the company's listing date and the INED's appointment date).</p> <p>After such period, the INED may:</p> <ul style="list-style-type: none"> <li>- Continue as a director if redesignated as a nonexecutive director (not independent); or</li> <li>- Become an INED again <b>after a two-year cooling-off period</b>.</li> </ul> <p>* As a transitional arrangement, this new rule will apply from 1 January 2028 onwards, with compliance required by the conclusion of the next AGM.</p>	Rule
<b>Nomination committee diversity</b>	At least one director of a different gender must be appointed to the nomination committee.	CP
<b>Board diversity policy</b>	The company must have a board diversity policy and disclose such policy in its Corporate Governance Report.	Rule / MDR
<b>Board diversity policy annual review</b>	<p>The company must disclose in its Corporate Governance Report the results of the review of the implementation of its board diversity policy, conducted during the year covered in the report, including:</p> <ul style="list-style-type: none"> <li>- Progress toward the issuer's objectives.</li> <li>- How the issuer has arrived at its conclusions.</li> </ul>	MDR
<b>Workplace diversity policy</b>	The company must have a workplace diversity policy and disclose such policy in its Corporate Governance Report.	Rule / MDR
<b>Gender ratio disclosure</b>	<p>The company must disclose in its Corporate Governance Report the gender ratios of:</p> <ul style="list-style-type: none"> <li>- Senior management.</li> <li>- Workforce (excluding senior management).</li> </ul>	MDR
<b>Temporary deviation from board diversity requirements</b>	<p>If a company fails to have directors of different genders on its board, the company must:</p> <ul style="list-style-type: none"> <li>- Immediately publish an announcement setting out details and reasons for the omission; and</li> <li>- Comply with the requirement <b>within three months</b>.</li> </ul>	Rule
<b>Risk management and internal controls review</b>	<p>The board must conduct an annual review of the company's risk management and internal controls systems, and disclose details of this review in the Corporate Governance Report.</p> <p>This disclosure must include confirmation from the board that the company's risk management and internal control systems are appropriate and effective.</p>	MDR
<b>Dividend policy</b>	<p>Companies with a dividend policy must disclose details of that policy and confirm that dividend decisions made by the board were in accordance with the policy.</p> <p>Companies without a dividend policy must state this fact and disclose the reasons for the absence of such policy.</p> <p>Companies must <b>disclose reasons for any variations</b> in dividend rate or for not paying a dividend.</p>	MDR

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<b>Shareholder record dates</b>	Companies will be required to set a record date for general meetings and for receiving entitlements (such as dividends). The record date and any related book closure date must be <b>announced 10 business days in advance</b> .	Rule
<b>Management's monthly updates to board</b>	Monthly updates provided by management to the board should include, among other matters, monthly management accounts and management updates.	CP

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## Contacts

### Paloma Wang

Co-Head of China Practice,  
Partner / Hong Kong  
852.3740.6888  
paloma.wang@skadden.com

### Kai Sun

Partner / Beijing  
86.10.6535.5533  
kai.sun@skadden.com

### Anthony Pang

Counsel / Hong Kong  
852.3740.4831  
anthony.pang@skadden.com

### Lillian Lian

Counsel / Hong Kong  
852.3740.4750  
lillian.lian@skadden.com

### Martina To

Counsel / Hong Kong  
852.3740.4776  
martina.to@skadden.com