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Hong Kong Exchanges and Clearing Limited
12/F, One International Finance Centre
1 Harbour View Street
Central
Hong Kong

By Email: response@hkex.com.hk

Dear HKEx Consultation Representative,

Re: Consultation Paper on Review of the Corporate Governance Code and Related Listing Rules

We welcome the opportunity to provide our comments on this consultation.

Hermes Investment Management (Hermes) is an asset manager with a difference. With $41.3 billion[1] in assets under management we focus on holistic returns – outcomes for our clients that go far beyond the financial and consider the impact our decisions have on society, the environment and the wider world. Its stewardship team, Hermes EOS, is one of the world's leading engagement resources, advising on $424.9 billion[2] on behalf of over 40[3] international institutional investors. The views expressed in this communication are those of Hermes EOS and do not necessarily represent the views of all clients.

We are pleased to have been invited to take part in the 2017 Online Director Training programme to present the shareholders' view on ESG, contributing to your efforts in improving the quality and standards of board directors of Hong Kong companies to meet international best practices.

We strongly support your goal to enhance transparency and accountability of the nomination and election process of independent non-executive directors (INEDs). As a

[1], [2] As at 30 September 2017

[3] Our response to this consultation is explicitly supported by Environment Agency Pension Fund (UK), MP Pension (Denmark), PNO Media (the Netherlands), PSP Investments (Canada), and VicSuper (Australia).

shareholder representative, we encourage a structured approach to assessing board refreshments and succession planning processes. We recommend companies to report both internal and external, independent board evaluations. We believe that internal evaluation should take place every year and external evaluation at least every three years. Each evaluation should result in a skills matrix that is publicly disclosed with a gap analysis that identifies emerging skills that the board looks to fill. Further, we encourage directors to conduct self-evaluation and the company to disclose in the corporate governance section of annual reports, contributions made by board directors, the board and its committees.

We have long identified over-boarding as a concern. While it is difficult to fully understand the demands of different roles, we tend to regard a non-executive director as likely to be over-committed if he or she has more than five directorships. As the role of chair is a significant commitment, we believe it is at least equivalent to two non-executive directorships. We do not believe that an executive director should have more than one non-executive directorship outside the group of which he or she is a director. We therefore consider directorships on seven boards, as proposed as overboarding.

We support the proposal to strengthen the criteria for the assessment of potential INEDs' independence and to align with international practice such as the cooling off periods for former professional advisers and audit partners, and the introduction of cooling periods for persons with material interests in the issuer's principal business activities. However, we recommend the cooling off periods for persons with material interests in the issuer's principal business activities should also be three years to align with global best practices as stated in your consultation paper.

On cross-directorships or significant links with other directors, we support the proposal on disclosure by INEDs. For inclusion of one's immediate family member in the assessment of a proposed INED's independence, we believe this may not sufficiently cover the many personal relationships that go beyond immediate family connections. We suggest that HKEX engages with stakeholders to discuss how improvements can be made in the board director selection process and disclosure of it to help to improve genuine independence.

On the proposal to amend Mandatory Disclosure Requirement L.(d)(ii) of Appendix 14 to state that the issuer should disclose its nomination policy, we recommend that the amendments provide more guidance on quality disclosure to avoid boilerplate policy statements. We suggest that companies to consider publishing tasks completed by board committees, such as the nomination committee, to highlight committee level progress during the year.

We support the proposal to include in the circular the process used for identifying **each** nominee, the perspectives, skills and experience that the person can bring to the board; and how the nominee contributes to diversity of the board. However, we feel that requiring issuers to have a diversity policy and to disclose the policy or a summary of it in their corporate governance reports are necessary yet insufficient disclosure to demonstrate a company's commitment to diversity. As a supporter of the 30% Club internationally, including in Hong Kong, we expect companies to provide credible plans in promoting diversity in the company as well as at the board. We may consider not supporting the election of the nominating committee chair if we deem diversity considerations as insufficiently taken into account in board refreshments plans presented to shareholders.

Please refer to our 2018 Corporate Governance Principles for Mainland China and Hong Kong for further information (to be published).

We oppose the proposed removal of the last sentence of CP A.6.7. A director's duty is to be held accountable to stakeholders, especially to shareholders. General meetings are the only formal channel in which shareholders, irrespective of the size of their shareholdings, to have the opportunity to meet with directors and to discuss any issues of concern. We expect all board members to be present in person at general meetings to meet with shareholders, and to provide appropriate explanation if extraordinary circumstances prevent them from doing so.

We support the proposal that INEDs should meet at least annually with the chairman. In addition, we would encourage INEDs to meet regularly throughout the year to establish independent feedback to the board and management. We recommend companies to consider appointing a lead independent director especially if the company has a combined chair and CEO and if the company has one or more dominant shareholders. Our expectations of the responsibility of a lead independent director are as follows:

1. The ability to call a special meeting of the board of directors or the independent directors at any time, at any place and for any purpose, including the removal of the chair/CEO from one or both positions;
2. Consulting with the chair of the board, CEO and committee chairs on the topics and schedules of the meetings of the board and committees and approve such schedules to assure that there is sufficient time for discussion of all agenda items;
3. Presiding over meetings when the CEO is conflicted or absent;
4. Guiding full board consideration of the appointments, evaluations and succession of the CEO, board and committee;
5. Meeting one-to-one with the CEO after every regularly scheduled board meeting;
6. Guiding the annual self-assessment of the full board; and
7. Engaging with long-term shareholders at their request.

The company should state that the powers and role of the lead independent director are equivalent to that of an independent chair and explain why the person holding the position is the best candidate for the role.

We support the proposal to require issuers to disclose their dividend policies in their annual reports. Further guidelines and best practice examples should be provided by HKEX to help companies on this journey to avoid boilerplate statements.

We are grateful for the opportunity to be able to provide our views on this important subject of corporate governance. Please do not hesitate to contact us if you have any questions. Thank you.

Yours sincerely

Christine Chow, PhD
Associate Director
Hermes EOS