

CONCLUSIONS
ON
EXPOSURE OF DRAFT CODE ON CORPORATE
GOVERNANCE PRACTICES AND CORPORATE
GOVERNANCE REPORT

November 2004



Hong Kong Exchanges and Clearing Limited

INTRODUCTION

1. On 30 January 2004, Hong Kong Exchanges and Clearing Limited (“the Exchange”) published an Exposure of Draft Code on Corporate Governance Practices and Corporate Governance Report (the “Exposure Paper”). The main objective of the Exposure Paper was to seek market views on the timing of the proposed implementation of the Code on Corporate Governance Practices (the “Code”) and to allow the market the opportunity to comment on the detailed wording of the Code with a view to removing ambiguities, providing clarity and ensuring that the language adopted in the Code would be clear and concise.
2. The comment period for the Exposure Paper closed on 31 March 2004. We received comments from a total of 17 respondents.
3. The comments received are available on the Exchange’s website at www.hkex.com.hk/consul/response/cgcoderesponses.htm. A profile of the respondents is set out in Appendix 1.
4. This report summarises the main comments raised in response to the Exposure Paper and sets out the final conclusions of the Exchange. The Exposure Paper is available on the Exchange’s website at www.hkex.com.hk/consul/paper/edc-e.pdf.
5. The Exposure Paper was also discussed at the 18th Meeting of the Securities and Futures Commission Shareholders Group (the “Shareholders Group”) held on 17 March 2004 which was attended by representatives of HKEx. The views of the Shareholders Group are also reflected in this report, where relevant.
6. We are grateful to all respondents for their contributions to this exposure exercise.

EXPOSURE CONCLUSIONS

General

7. Overall, respondents were supportive of the general direction of the Exposure Paper including the efforts of the Exchange to enhance the overall standard of corporate governance in Hong Kong. In addition, we received a range of constructive comments on the way forward.
8. Where appropriate, we have modified the relevant wording of the draft Code and Rules on the Corporate Governance Report set out in the Exposure Paper so as to reflect respondents' views, address their concerns and/or provide further clarity.
9. Unless otherwise specified, all the proposed rule changes referred to in this report apply to both the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the "Main Board Rules") and the Rules Governing the Listing of Securities on the Growth Enterprise Market ("GEM") of The Stock Exchange of Hong Kong Limited (the "GEM Rules", together with the Main Board Rules, the "Listing Rules").
10. We set out below in general terms the nature of the comments received together with our responses. It is intended to give a general overview of the major comments received rather than a detailed and exhaustive commentary.

Implementation

11. It was proposed in the Exposure Paper that the Code, with one exception, would become effective for accounting periods commencing on or after 1 January 2005. The exception was in respect of Code Provision C.2 on internal controls and the proposed disclosure requirements in the Corporate Governance Report relating to listed issuers' internal controls, which would be implemented for accounting periods commencing on or after 1 July 2005.
12. Thus, for example, a listed issuer with a 31 December year-end will be required to report on compliance with the Code Provisions in its interim/half-year report for the 6 months ending 30 June 2005.

13. Likewise, the 1 July 2005 implementation date for Code Provision C.2 on internal controls and the proposed disclosure requirements in the Corporate Governance Report relating to listed issuers' internal controls will also apply to interim/half-year reporting.
14. We received differing views on when the Code should be implemented. Some respondents supported our proposed implementation date. A view was expressed that implementation should be later. A view was also expressed that there was some confusion regarding the effective date.
15. Please see Appendix 2 for details of the implementation and transitional arrangements. These arrangements are designed to address practical concerns arising from first-time reporting under the Code.

Drafting Comments

16. We received some suggestions as to how the drafting might be improved so as to provide for greater clarity and avoid ambiguity. A number of such comments have been adopted.

Duplication of Requirements

17. The view was expressed that the amendments to the Listing Rules which took effect on 31 March 2004 overlapped with the contents of the Code.
18. While the subject matter covered by those Rule amendments and the Code are similar, it is not intended that there should be any overlap between provisions in the Listing Rules amendments and the Code.
19. The view was expressed that some provisions of the Code overlapped with provisions of the law and should be deleted.
20. We have made one or two amendments. However, we see no compelling reason to delete an item from the Code merely because it may be covered by the law. The law varies from jurisdiction to jurisdiction and is also subject to change. As presented, the Code provides a comprehensive guide to governance practices for Hong Kong listed issuers.

Presentation of Disclosure

21. Divergent views were expressed as to whether disclosure should be permitted in any part of the Annual Report or should be in a single Corporate Governance Report.
22. As far as possible, information should be retained in one place. Cross-references can be made to the extent that they are reasonable and appropriate.

Over-prescription

23. The view was expressed that the Code was over-prescriptive, e.g. as to the terms of reference of the remuneration committee and audit committee.
24. In the process of preparing the draft Code, we received many comments in support of a detailed and prescriptive approach in areas of governance which were comparatively under-developed in Hong Kong. Against this background, we set out to prescribe no more than appeared necessary or appropriate to promote enhanced governance practices. In the case of the terms of reference of the committees, we considered it necessary to spell out as fully as possible the duties of such committees so that they would not be established merely in form rather than substance.

Issuers may devise their own Codes

25. The view was expressed that issuers should be permitted to devise their own codes on corporate governance practices on such terms as they might consider appropriate, and not necessarily on terms which are no less exacting than the Code provisions.
26. We agree. Issuers may devise their own codes on corporate governance practices on such terms as they may consider appropriate. However, even where an issuer has adopted its own code, it must give considered reasons for any deviation from a Code provision set out in our Code. We have amended the wording of the Code to reflect this.

Future Development of the Code

27. Some respondents queried whether certain recommended best practices should be treated as Code provisions and vice-versa. The view was expressed that the Code would need to be kept under continuous review.
28. There was agreement with our decision not to adopt, at least for the time being, the UK Combined Code in its entirety and to keep the matter under review with a view to the possible future inclusion of provisions not adopted.
29. Members of the Shareholders Group also expressed a view on the status of the recommended best practices. Members generally welcomed HKEx's initiative in enhancing the corporate governance standards in Hong Kong. They were however concerned that the Code was not sufficiently rule-based (i.e. breaches of the substantive requirements would not be Listing Rules breaches), and were disappointed with what they considered to be a too gradual approach taken by HKEx to implement a full "comply or explain" Code. That is, they felt that we should ultimately aim to elevate all the recommended best practices to Code provisions (with which issuers must either comply or explain non-compliance). They recommended that HKEx keep the Code under active, detailed review with a view to the conversion of as many of the recommended best practices into Code provisions as soon as practicable.
30. We have elevated some of the recommended best practices to Code provisions. These are A.5.2(d) (formerly A.5.8(b) - the functions of non-executive directors to include scrutinising the issuer's performance etc.), C.3.3(k) (formerly C.3.6(f) - the terms of reference of the audit committee to include reviewing the external auditor's management letter etc.) and C.3.3(l) (formerly C.3.6(g) - the terms of reference of the audit committee to include ensuring that the board will provide a timely response to the issues raised in the external auditor's management letter).
31. We propose to keep the Code under review as suggested.

Quarterly Reporting

32. Views continued to be expressed against quarterly reporting, including that it would lead to deliberations and decisions of company boards and investors being of a short-term nature.
33. The GEM Rules require issuers to publish quarterly results announcements and despatch quarterly reports to shareholders within 45 days of the quarter end. The Main Board Rules do not contain any mandatory quarterly reporting provisions.
34. The subject of quarterly reporting had been consulted on in our January 2002 “Consultation Paper on Proposed Amendments to the Listing Rules Relating to Corporate Governance Issues”. The views of the respondents to that consultation and our response were set out in our “Consultation Conclusions on Proposed Amendments to the Listing Rules Relating to Corporate Governance Issues” published in January 2003. This is available for viewing at www.hkex.com.hk/consul/conclusion/cc-e.pdf.
35. Quarterly reporting results in greater transparency. While it will continue to be a mandatory requirement on GEM, it is being included on the Main Board only as a recommended best practice. Main Board companies will be able to decide for themselves whether or not to adopt quarterly reporting.
36. For those Main Board issuers which adopt quarterly reporting, their quarterly results announcements and quarterly reports should be subject to review by their audit committees.
37. We will monitor developments in major markets elsewhere, in particular in the UK, and experience gained after the amendments to the Listing Rules and introduction of the Code. We note the recent developments in the European Union where it has been decided not to make quarterly reporting mandatory. Instead, the European Parliament has approved an alternative proposal. Issuers which do not publish quarterly reports will instead have to publish interim management statements in between the annual financial report and the half-yearly financial report. These statements will include a narrative description of the financial position and of the impact of material events on that financial position. We will keep the development of this proposal under review.

Allocation of Duties

38. The view was expressed that a number of administrative duties more appropriate for the company secretary, e.g. drawing up the agenda for board meetings (A.2.4), establishing good corporate governance practices and procedures (A.2.5) and providing effective communication with shareholders and communicating their view to the board (A.2.8), would be shifted onto the chairman.
39. We do not interpret the Code as “shifting” any duties to the chairman. Primary responsibility for the matters described rests with the chairman and the board, though the actual performance of specific tasks is often delegated to the company secretary. This practice remains acceptable.

Disclosure of Senior Management Remuneration on Named Basis

40. A view was expressed against the disclosure on a named basis of the remuneration payable to senior management (other than directors) of a company even though this would only be included as a recommended best practice. Reasons given included that shareholders were inadequately placed to exercise any meaningful judgment as to whether their remuneration was appropriate and that it would facilitate poaching and could lead to pay escalation.
41. Disclosure of the remuneration of senior management represents a higher degree of issuer transparency. Ultimately though, since this is only a recommended best practice, issuers will not be required to comply nor to explain not adopting this practice.

Other Views

42. Some of the views expressed embodied ideas extending beyond the stated scope of the exposure exercise, which, as mentioned above, was to seek market views on the timing of the proposed implementation of the Code and to allow the market the opportunity to comment on the detailed wording of the Code with a view to removing ambiguities, providing clarity and ensuring that the language adopted in the Code would be clear and concise. Ideas and suggestions which extend beyond this scope will be held over for further consideration in our post-implementation review of the Code.

43. For example, it was pointed out that, since company secretaries played an important role in implementing good corporate governance, we should have codified standards for them so that company chairmen and directors would have clear guidance on how they might avail themselves of their assistance in their continuous compliance with these practices.
44. As stated in paragraph 9 of Appendix III to the Exposure Paper, we agree that company secretaries have an important role to play in promoting corporate governance standards. However, we do not consider that it is appropriate for the time being to set out responsibilities of other individuals, such as company secretaries, in the Code as to do so may lead to a perception that the responsibility of directors can be shifted onto such individuals. We will give further consideration to this issue in our post-implementation review of the Code.

Eligibility of Former Partner of Issuer's Auditors to sit on Audit Committee

45. To avoid potential conflicts of interest on the part of a former partner of an issuer's auditors as well as to enhance the independence of the issuer's auditors, we have included as an additional Code Provision (C.3.2) a prohibition against a former partner of the issuer's existing auditing firm from acting as a member of the issuer's audit committee for a period of 1 year commencing on the date of his ceasing:
 - (a) to be a partner of the firm; or
 - (b) to have any financial interest in the firm,whichever is the later.

Revised Code and Rule Amendments

46. We set out in Appendix 3 the full text of the Code as finalised. The English version is marked to show changes from the version set out in the Exposure Paper.
47. We set out in Appendix 4 the full text of the Rules on the Corporate Governance Report as finalised. The English version is marked to show changes from the version set out in the Exposure Paper.

48. In the case of the Main Board, the Code will replace the Code of Best Practice in Appendix 14 to the Main Board Rules and the Rules on the Corporate Governance Report will be inserted as a new Appendix 23 to the Main Board Rules.
49. Various amendments to other parts of the rules will be necessary in order to tie in the Code and Rules on the Corporate Governance Report with the general body of the Main Board Rules as well as to deal with consequential changes. These amendments are set out in Appendix 5.
50. In the case of GEM, the Code will be inserted into the GEM Rules as a new Appendix 15 replacing existing GEM Rules 5.35 to 5.45. The Rules on the Corporate Governance Report will be inserted into the GEM Rules as a new Appendix 16.
51. Various amendments to other parts of the rules will be necessary in order to tie in the Code and Rules on the Corporate Governance Report with the general body of the GEM Rules as well as to deal with consequential changes. These amendments are set out in Appendix 6.
52. As stated in paragraph 15 of the Exposure Paper, we are adopting the same Code for Main Board and GEM issuers with one exception. Quarterly reporting will be a recommended best practice for Main Board issuers whereas it will remain as a mandatory requirement in the GEM Rules.

Profile of Respondents

Profile of respondents	Number
Issuers	9
Professional and trade associations	4
Market practitioners	2
Others	2
	<hr/>
Total	<u>17</u>

Implementation and Transitional Arrangements

In the case of the first preliminary annual and interim/half-year results announcements published by listed issuers in respect of an accounting period commencing on or after 1 January 2005 (the “Implementation Date”), the issuer will not be required to disclose every deviation from the Code Provisions and give considered reasons for each one in its announcement. Instead, the issuer may give just a summary of the major areas of deviation. Considered reasons will not be required. This is in order to avoid the publication of inordinately lengthy preliminary results announcements as such issuers will most likely not have any previous annual or interim/half-year reports to which they can refer for Code disclosure purposes.

In the case of interim/half-year reports published by listed issuers for an interim/half-year accounting period commencing on or after the Implementation Date where the issuer has not previously published an annual report for a full financial year commencing on or after the Implementation Date, the issuer will not be required to give a considered reason for each deviation from a Code Provision. Instead, it need only disclose the deviations and, in respect of each deviation, either give considered reasons as to why it does not propose to comply with the relevant Code Provision in the future or set out the steps it has taken or proposes to take in order to be able to comply with the relevant Code Provision in the future.

By way of illustration:

- (a) An issuer with a 30 June year-end will, in respect of its interim/half-year reporting for the 6 months ending 31 December 2005 (i.e. a reporting period commencing on or after 1 July 2005), be able to avail itself of the above transitional arrangements in relation to its interim/half-year results announcement and interim/half-year report. The issuer:
 - (i) in its interim/half-year results announcement for such period, need only give a summary of the major areas of deviation from the Code Provisions and, where it has deviated from Code Provision C.2 on internal controls and considers such deviation to be a major area of deviation from the Code Provisions, appropriately address such deviation in the summary; and
 - (ii) in its interim/half-year report for such period, need only disclose deviations from the Code Provisions (including Code Provision C.2) and, in respect of each deviation, either give considered reasons as to why it does not propose to comply with the relevant Code Provision in the future or set out the steps it has taken or proposes to take in order to be able to comply with the relevant Code Provision in the future.
- (b) Except for the reference to Code Provision C.2, this will also be the case for an issuer with a 31 December year-end in respect of its interim/half-year reporting for the 6 months ending 30 June 2005 (i.e. a reporting period commencing on or after 1 January 2005 but before 1 July 2005).

Brief Summary of Disclosure Requirements

(This table is for reference only and does not form part of the Listing Rules.)

Financial Period	Reporting Document	Rule Reference	Minimum Disclosure Requirements
1 st quarter	Preliminary results announcement		No obligation to report on compliance with the Code
	Financial report		No obligation to report on compliance with the Code
Interim/half-year	Preliminary results announcement	Transitional arrangement	<p>First interim/half-year results announcement for the accounting period commencing on or after 1 January 2005:</p> <ul style="list-style-type: none"> • A summary of the major areas of deviation • Need not give considered reasons <p>Subsequent interim/half-year results announcements:</p>
			<p>Main Board Appendix 16, Para. 46(4)</p> <p>GEM Rule 18.78(4)</p> <ul style="list-style-type: none"> • A statement as to whether the issuer meets the Code Provisions • Disclose any deviations from the Code Provisions and give considered reasons for such deviations <p>(Issuer may refer to the Corporate Governance Report in the immediately preceding annual report, and summarising any changes since that annual report)</p>

Financial Period	Reporting Document	Rule Reference	Minimum Disclosure Requirements
	Financial report	Transitional arrangement	<p data-bbox="963 383 1385 544">First interim/half-year report for the accounting period commencing on or after 1 January 2005:</p> <ul style="list-style-type: none"> <li data-bbox="963 595 1385 667">• Disclose any deviations from the Code Provisions <li data-bbox="963 719 1385 790">• Need not give considered reasons for deviations <li data-bbox="963 842 1385 1615">• In respect of each deviation, either: <ul style="list-style-type: none"> <li data-bbox="999 965 1385 1249">– give considered reasons as to why the issuer does not propose to comply with the relevant Code Provisions in the future; or <li data-bbox="999 1301 1385 1615">– set out the steps the issuer has taken or proposes to take in order to be able to comply with the relevant Code Provisions in the future

Financial Period	Reporting Document	Rule Reference	Minimum Disclosure Requirements
		Main Board Rules 3.25(2) & (3)(b)	<p>Subsequent interim/half-year reports:</p> <ul style="list-style-type: none"> • State whether the issuer has complied with the Code Provisions • Either: <ul style="list-style-type: none"> – give considered reasons for each deviation; or – refer to the Corporate Governance Report in the immediately preceding annual report, and providing details of any changes together with considered reasons for any deviation not reported in that annual report
	Summary interim/half-year report	Main Board Rules 3.25(2) & (3)(b)	Same as interim/half-year financial results announcement
		GEM Rules 5.34(2) & (3)(b)	
		GEM Rule 18.55(4)	
3 rd quarter	Preliminary results announcement		No obligation to report on compliance with the Code
	Financial report		No obligation to report on compliance with the Code

Financial Period	Reporting Document	Rule Reference	Minimum Disclosure Requirements
Annual	Preliminary results announcement	Transitional arrangement	<p>First annual results announcement for the accounting period commencing on or after 1 January 2005:</p> <ul style="list-style-type: none"> • A summary of the major areas of deviation • Need not give considered reasons for deviations
		Main Board Appendix 16, Para. 45(5)	<p>Subsequent annual results announcements:</p> <ul style="list-style-type: none"> • A statement as to whether the issuer meets the Code Provisions • Disclose any deviations from the Code Provisions and give considered reasons for such deviations <p>(Issuer may refer to the immediately preceding interim/half-year report or to the Corporate Governance Report in the immediately preceding annual report, and summarising any changes since that report)</p>
		GEM Rule 18.50(6)	

Financial Period	Reporting Document	Rule Reference	Minimum Disclosure Requirements
	Financial report	Main Board Appendix 16, Para. 34 Main Board Appendix 23 GEM Rule 18.44(2) GEM Appendix 16	<ul style="list-style-type: none"> • A separate Corporate Governance Report which must, as a minimum, contain the information required under Appendix 23 to the Main Board Rules or Appendix 16 to the GEM Rules
	Summary financial report	Main Board Rules 3.25(2) & (3)(a) Main Board Appendix 16, Para. 50(2)	<ul style="list-style-type: none"> • A separate Corporate Governance Report which must, as a minimum, contain the information required under Appendix 23 to the Main Board Rules or Appendix 16 to the GEM Rules

Financial Period	Reporting Document	Rule Reference	Minimum Disclosure Requirements
		Main Board Appendix 23	(The Corporate Governance report may take the form of a summary of the Corporate Governance Report contained in the annual report, which must contain, as a minimum: <ul style="list-style-type: none"> • a narrative statement indicating overall compliance with the Code • highlighting any deviation from the provisions of the Code • giving considered reasons for deviations from the Code - may refer to annual report)
		GEM Rules 5.34(2) & (3)(a)	
		GEM Rule 18.81(2)	
		GEM Appendix 16	

Appendix 14

Code on Corporate Governance Practices

This Code on Corporate Governance Practices sets out the principles of good corporate governance, and two levels of recommendations: (a) code provisions; ~~and of, and (b) recommended best practices concerning, the general management responsibilities of the board of directors.~~

~~Issuers are required to make a disclosure statement in two parts in relation to this Code. In the first part, an issuer has to report on how it applies the principles in this Code. In the second part, an issuer has either to confirm that it complies with the code provisions or, where it does not, to provide an explanation. Issuers are expected to comply with, but may choose to deviate from, the code provisions. The recommended best practices are for guidance only. Issuers may also devise their own code on corporate governance practices on such terms as they may consider appropriate.~~

~~Issuers and their directors may deviate from the code provisions set out in this Code, but any such deviations during the financial year, together with the reasons for such deviations, must be disclosed in the report on corporate governance practices which is required to be issued in accordance with Appendix 17 to the Exchange Listing Rules (the “Corporate Governance Report”) for inclusion in their summary financial reports (if any) and annual reports. Issuers must state whether they have complied with the code provisions set out in this Code for the relevant accounting period in their interim reports (and summary interim reports, if any) and annual reports (and summary financial reports, if any).~~

~~Issuers must also disclose any deviations from the code provisions set out in this Code during the financial period being reported on, together with reasons for such deviations in their summary half-year reports (if any) and their half-year reports. Every issuer must review each provision carefully and give a considered explanation if it departs from the provisions. It is for shareholders and others to evaluate the issuer’s disclosure. For half-year reports, where there have been no changes to the deviations to code provisions as disclosed in the Corporate Governance Report contained in their immediately preceding summary financial reports (if any) and annual reports or there are new deviations to the code provisions not previously reported on, issuers may disclose the relevant deviations and reasons for such deviations by reference to their preceding summary financial reports (if any) and annual reports. Where such practice is adopted, issuers should~~

~~ensure that the reference to the earlier report is clear and unambiguous. Any such failure to disclose deviations from the code provisions, together with reasons for such deviations, will be regarded as a breach of the Exchange Listing Rules. Every issuer must carefully review each code provision set out in this Code and, where the issuer deviates from any of the code provisions, the issuer must give considered reasons:~~

- ~~(a) in the case of annual reports (and summary financial reports), in the Corporate Governance Report which must be issued in accordance with Appendix 23; and~~
- ~~(b) in the case of interim reports (and summary interim reports), either:
 - ~~(i) by giving considered reasons for each deviation; or~~
 - ~~(ii) to the extent that it is reasonable and appropriate, by referring to the Corporate Governance Report in the immediately preceding annual report, and providing details of any changes together with considered reasons for any deviation not reported in that annual report. Such references must be clear and unambiguous and the interim report (or summary interim report) must not only contain a cross-reference without any discussion of the matter.~~~~

~~The recommended best practices set out in this Code are for guidance only and may assist issuers in adopting suitable governance practices. Although no disclosure is required in respect of deviations from such recommended best practices, issuers are encouraged to make disclosure in the same way as for deviations from the code provisions.~~

~~Issuers may devise their own codes on no less exacting terms. Issuers that have adopted their own codes that exceed the code provisions set out in this Code may draw attention to such fact in their summary half-year reports (if any) and their half-year reports and the summary of the Corporate Governance Report contained in their summary financial reports (if any) and the Corporate Governance Report contained in the annual reports. In the case of the recommended best practices, issuers are encouraged, but are not required, to state whether they have complied with them and give considered reasons for any deviation.~~

PRINCIPLES OF GOOD GOVERNANCE, CODE PROVISIONS AND RECOMMENDED BEST PRACTICES

A. DIRECTORS

A.1 The Board

Principle

An issuer should be headed by an effective board which should assume responsibility for leadership and control of the issuer and be collectively responsible for promoting the success of the issuer by directing and supervising the issuer's affairs. Directors should take decisions objectively in the interests of the issuer.

Code Provisions

- A.1.1 The ~~b~~Board should meet regularly and board meetings should be held at least four times a year at approximately quarterly intervals. It is expected that such regular board meetings will normally involve the active participation, either in person or through other electronic means of communication, of a majority of directors entitled to be present. Accordingly, a regular meeting does not include the practice of obtaining board consent through the circulation of written resolutions.
- A.1.2 Arrangements should be in place to ensure that, ~~other than in exceptional circumstances~~, all directors are given an opportunity to include matters in the agenda for ~~a~~regular board meetings.
- A.1.3 ~~Other than in exceptional circumstances, n~~Notice of at least 14 days should be given of a regular board meeting to give all directors an opportunity to attend. For all other board meetings, reasonable notice should be given.
- A.1.4 All directors should have access to the advice and services of the company secretary with a view to ensuring that board procedures, and all applicable rules and regulations, are followed.

- A.1.5 Minutes of board meetings and meetings of board committees should be kept by a duly appointed secretary of the meeting and such minutes should be open for inspection at any reasonable time on reasonable notice by any director.
- A.1.6 Minutes of board meetings and meetings of board committees should record in sufficient detail the matters considered by the board and decisions reached, including any concerns raised by directors or dissenting views expressed. Draft and final versions of Mminutes of board meetings should be sent to all directors for their comment and records respectively, in both cases within a reasonable time (and generally within 14 days) after the board meeting is held.
- A.1.7 There should be a procedure agreed by the board to enable directors, upon reasonable request, to seek independent professional advice in appropriate circumstances, at the issuer's expense. The board should resolve to provide separate independent professional advice to directors to assist the relevant director or directors to discharge his/their duties to the issuer.
- A.1.8 If a substantial shareholder or a director has a conflict of interest in a matter to be considered by the board which the board has determined to be material, the matter should not be dealt with by way of circulation or by a committee (except an appropriate board committee set up for that purpose pursuant to a resolution passed in a board meeting) but a board meeting should be held. Independent non-executive directors who, and whose associates, have no material interest in the transaction should be present at such board meeting.

Notes: 1: Directors are reminded of the requirement under rule 13.44 that they must abstain from voting on any board resolution in which they or any of their associates have a material interest and that they shall not be counted in the quorum present at the board meeting. The existing exceptions to the general voting prohibition are currently set out in note 1 ~~of to~~ Appendix 3 to the Exchange Listing Rules.

2: Such exceptions to the general voting prohibition should also be taken into account when considering whether a substantial shareholder or a director has a conflict of interest in a matter to be considered by the board. If the relevant exceptions apply, a regular board meeting need not be held. For this purpose, please refer to A.1.1 for the meaning of a regular board meeting.

Recommended Best Practices

A.1.9 An issuer should arrange appropriate insurance cover in respect of legal action against its directors.

A.1.10 Board committees should adopt, so far as practicable, the principles, procedures and arrangements set out in A.1.1 to A.1.8.

A.2 Chairman and Chief Executive Officer

Principle

There are two key aspects of the management of every issuer - the management of the board and the day-to-day management of the issuer's business. There should be a clear division of these responsibilities at the board level to ensure a balance of power and authority, so that power is not concentrated in any one individual.

Code Provisions

A.2.1 The roles of chairman and chief executive officer should be separate and should not be performed by the same individual. The division of responsibilities between the chairman and chief executive officer should be clearly established and set out in writing.

Note: Under paragraphs 2(c)(vii) and 2(d) of ~~Appendix 17 to the Exchange Listing Rules~~ Appendix 23, issuers must disclose in their Corporate Governance Report the identity of the chairman and the chief executive officer and whether these two roles are segregated and the nature of any relationship (including financial, business, family or other material/relevant relationship(s)), if any, among members of the board and in particular, between the chairman and the chief executive officer.

A.2.2 The chairman should ensure that all directors are properly briefed on issues arising at board meetings.

A.2.3 The chairman should be responsible for ensuring that directors receive adequate information, which must be complete and reliable, in a timely manner.

Recommended Best Practices

- A.2.4 One of the important roles of the chairman is to provide leadership for the board. The chairman should ensure that the board works effectively and discharges its responsibilities, and that all key and appropriate issues are discussed by the board in a timely manner. The chairman should be primarily responsible for drawing up and approving the agenda for each board meeting taking into account, where appropriate, any matters proposed by the other directors for inclusion in the agenda. The chairman may delegate such responsibility to a designated director or the company secretary.
- A.2.5 The chairman should take responsibility for ensuring that good corporate governance practices and procedures are established.
- A.2.6 The chairman should encourage all directors to make a full and active contribution to the board's affairs and take the lead to ensure that the board acts in the best interests of the issuer.
- A.2.7 The chairman should at least annually hold meetings with the non-executive directors (including independent non-executive directors) without the executive directors present.
- A.2.8 The chairman should ensure that appropriate steps are taken to provide effective communication with shareholders and that views of shareholders are communicated to the board as a whole.
- A.2.9 The chairman should facilitate the effective contribution of non-executive directors in particular and ensure constructive relations between executive and non-executive directors.

A.3 Board composition

Principle

The board should have a balance of skills and experience appropriate for the requirements of the business of the issuer. The board should ensure that changes to its composition can be managed without undue disruption. The board 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.

- Notes:
- 1: *Under rule 3.10 of the Exchange Listing Rules, every board of directors of a listed issuer must include at least three independent non-executive directors.*
 - 2: *Guidelines on independence of independent non-executive directors are set out in rule 3.13 of the Exchange Listing Rules.*

Code Provisions

A.3.1 The independent non-executive directors should be expressly identified as such in all corporate communications that disclose the names of directors of the issuer.

Note: Under paragraph 2(c)(i) of Appendix 17-23 to the Exchange Listing Rules, issuers must disclose the composition of the board, by category of directors, including names of chairman, executive directors, non-executive directors and independent non-executive directors in the Corporate Governance Report.

Recommended Best Practices

A.3.2 An issuer should appoint independent non-executive directors representing at least one-third of the board.

A.3.3 An issuer should maintain on its website an updated list of its directors identifying their role and function and whether they are independent non-executive directors.

A.4 Appointments, re-election and removal

Principle

There should be a formal, considered and transparent procedure for the appointment of new directors to the board. There should be plans in place for orderly succession for appointments to the board. 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.4.1 Non-executive directors should be appointed for a specific term, subject to re-election.

Note: Under paragraph 2(e) of ~~Appendix 17 to the Exchange Listing Rules~~ Appendix 23, issuers must disclose the term of appointment of non-executive directors in the Corporate Governance Report.

A.4.2 All directors appointed to fill a casual vacancy should be subject to election by shareholders at the first general meeting after their appointment. Every director, including those appointed for a specific term, should be subject to retirement by rotation at least once every three years.

Notes: 1- The names of all directors submitted for election or re-election must be accompanied by the same biographical details as required for newly appointed directors set out in rule 13.51(2) (including other directorships held in listed public companies in the last three years and other major appointments) to enable shareholders to make an informed decision on their election.

2- If a director resigns or is removed from office, an issuer must comply with the disclosure requirements in rule 13.51(2) and include in its announcement about the director's resignation or removal the reasons given by the director for his resignation (including but not limited to information relating to a relevant director's disagreement with the issuer, if any, and a statement confirming whether or not there are any matters that need to be brought to the attention of shareholders).

Recommended Best Practices

A.4.3 Serving more than nine years could be relevant to the determination of a non-executive director's independence. If an independent non-executive director serves more than 9 years, any further appointment of such independent non-executive director should be subject to a separate resolution to be approved by shareholders. The board should set out to shareholders in the papers accompanying a resolution to elect such an independent non-executive director the reasons they believe that the individual continues to be independent and why he should be re-elected.

A.4.4 Issuers should establish a nomination committee, ~~comprising a~~ majority of the members of the nomination committee should be independent non-executive directors.

A.4.5 The nomination committee should be established with specific written terms of reference which deal clearly with the committee's authority and duties. It is recommended that the nomination committee should discharge the following duties:-

- (a) review the structure, size and composition (including the skills, knowledge and experience) of the board on a regular basis and make recommendations to the board regarding any proposed changes;
- (b) identify individuals suitably qualified to become board members and select or make recommendations to the board on the selection of, individuals nominated for directorships;
- (c) assess the independence of independent non-executive directors; and
- (d) make recommendations to the board on relevant matters relating to the appointment or re-appointment of directors and succession planning for directors in particular the chairman and the chief executive officer.

A.4.6 The nomination committee should make available its terms of reference explaining its role and the authority delegated to it by the board.

Notes: 1: This requirement would be met by making it available on request and by including the information on the issuer's website.

2: Under paragraph 2(g)(i) of Appendix 17 to the Exchange Listing Rules Appendix 23, issuers must explain the role of the nomination committee (if any) in the Corporate Governance Report.

A.4.7 The nomination committee should be provided with sufficient resources to discharge its duties.

A.4.8 Where the board proposes a resolution to elect an individual as an independent non-executive director at the general meeting, it should set out in the circular to shareholders and/or explanatory statement accompanying the notice of the relevant general meeting why they believe the individual should be elected and the reasons why they consider the individual to be independent.

A.5 Responsibilities of directors

Principle

Every director is required to keep abreast of his responsibilities as a director of an issuer and of the conduct, business activities and development of that issuer. Given the essential unitary nature of the board, non-executive directors have the same duties of care and skill and fiduciary duties as executive directors.

Note: These duties are summarised in “Non-statutory Guidelines of Directors’ Duties” issued by the Companies Registry in January 2004. In determining whether a director has met the requisite standard of care, skill and diligence expected of him, courts will generally have regard to a number of factors. These include the functions that are to be performed by the director concerned, whether the director is a full-time executive director or a part-time non-executive director and the professional skills and knowledge of the director concerned.

Code Provisions

A.5.1 Every newly appointed director of an issuer should receive a comprehensive, formal and tailored induction on the first occasion of his appointment, and subsequently such briefing and professional development as is necessary, to ensure that he has a proper understanding of the operations and business of the issuer and that he is fully aware of his responsibilities under statute and common law, the Exchange Listing Rules, applicable legal requirements and other regulatory requirements and the business and governance policies of the issuer. ~~This code provision also applies to directors of new listing applicant.~~

A.5.2 The functions of non-executive directors should include but should not be limited to the following:

- (a) participating in board meetings of the issuer to bring an independent judgement to bear on issues of strategy, policy, performance, accountability, resources, key appointments and standards of conduct;
- (b) taking the lead where potential conflicts of interests arise; ~~and~~
- (c) serving on the audit, remuneration, nomination and other governance committees, if invited; and

(d) scrutinising the issuer's performance in achieving agreed corporate goals and objectives, and monitoring the reporting of performance.

A.5.3 Every director should ensure that he can give sufficient time and attention to the affairs of the issuer and should not accept the appointment if he cannot do so.

A.5.4 Directors must comply with their obligations under the Model Code set out in Appendix 10 ~~to the Exchange Listing Rules~~ and, in addition, the board should establish written guidelines on no less exacting terms than the Model Code for relevant employees in respect of their dealings in the securities of the issuer. For this purpose, "relevant employee" includes any employee of the issuer or a director or employee of a subsidiary or holding company of the issuer who, because of such office or employment, is likely to be in possession of unpublished price sensitive information in relation to the issuer or its securities.

Recommended Best Practices

A.5.5 All directors should participate in a programme of continuous professional development to develop and refresh their knowledge and skills to help ensure that their contribution to the board remains informed and relevant. The issuer should be responsible for arranging and funding a suitable development programme.

A.5.6 Each director should disclose to the issuer at the time of his appointment, and on a periodic basis, the number and nature of offices held in public companies or organisations and other significant commitments, with the identity of the public companies or organisations and an indication of the time involved. The board should determine for itself how frequently such disclosure should be made.

A.5.7 Non-executive directors, as equal board members, should give the board and any committees on which they serve such as the audit, remuneration or nomination committees the benefit of their skills, expertise and varied backgrounds and qualifications through regular attendance and active participation. They should also attend general meetings and develop a balanced understanding of the views of shareholders.

A.5.8 Non-executive directors should ~~make~~ have the following functions:-

- (a) ~~making~~ a positive contribution to the development of the issuer's strategy and policies through independent, constructive and informed comments.; ~~and~~
- (b) ~~scrutinising the issuer's performance in achieving agreed corporate goals and objectives, and monitoring the reporting of performance.~~

A.6 Supply of and access to information

Principle

Directors should be provided in a timely manner with appropriate information in such form and of such quality as will enable them to make an informed decision and to discharge their duties and responsibilities as directors of an issuer.

Code Provisions

A.6.1 ~~Other than in exceptional circumstances~~ In respect of regular board meetings, and so far as practicable in all other cases, an agenda and accompanying board papers should be sent in full to all directors in a timely manner and at least 3 days before the intended date of a board or board committee meeting (or such other ~~longer~~ period as the board agreesd).

A.6.2 Management has an obligation to supply the board and its committees with adequate information in a timely manner to enable it to make informed decisions. The information supplied must be complete and reliable. To fulfil his duties properly a director may not in all circumstances be able to rely purely on what is volunteered by management and further enquiries may be required. Where any director requires more information than is volunteered by management, he should make further enquiries where necessary. The board and each director should have separate and independent access to the issuer's senior management.

Notes: 1 The information provided should include background or explanatory information relating to matters to be brought before the board, copies of disclosure documents, budgets, forecasts and monthly and other relevant internal financial statements. In respect of budgets, any material variance between the projections and actual results must also be disclosed and explained.

2 For the purpose of this Code, "senior management" should refer to the same category of persons as referred to in the issuer's annual report and is required to be disclosed under paragraph 12 of Appendix 16 to the Exchange Listing Rules.

A.6.3 All directors are entitled to have access to board papers and related materials. Such papers and related materials should be prepared in such form and quality as will enable the board to make an informed decision on matters placed before it. Where queries are raised by directors, steps must be taken to respond as promptly and fully as possible.

B. REMUNERATION OF DIRECTORS AND SENIOR MANAGEMENT

B.1 The level and make-up of remuneration and disclosure

Principle

An issuer should disclose information relating to its directors' remuneration policy and other remuneration related matters. There should be a formal and transparent procedure for setting policy on executive directors' remuneration and for fixing the remuneration packages for all directors. Levels of remuneration should be sufficient to attract and retain the directors needed to run the company successfully, but companies should avoid paying more than is necessary for this purpose. No director should be involved in deciding his own remuneration.

Notes: (1) ~~Under paragraph 24B of Appendix 16 to the Exchange Listing Rules, issuers are required to give a general description of the remuneration-emolument policy and long-term incentive schemes of the group as well as the basis of determining the fees and any other benefit-emolument payable to their directors.~~

(2) ~~Under paragraph 24A of Appendix 16 to the Exchange Listing Rules, directors' fees and any other reimbursement or emolument payable to a director must be disclosed in full in the annual reports and accounts of the issuer on an individual and named basis.~~

Code Provisions

B.1.1 Issuers should establish a remuneration committee with specific written terms of reference which deal clearly with its authority and duties. A majority of the members of the remuneration committee should be independent non-executive directors.

B.1.2 The remuneration committee should consult the chairman and/or chief executive officer about their proposals relating to the remuneration of other executive directors and have access to professional advice if considered necessary.

B.1.3 The terms of reference of the remuneration committee should include, as a minimum, the following specific duties: -

- (a) to make recommendations to the board on the issuer's policy and structure for all remuneration of directors and senior management and on the establishment of a formal and transparent procedure for developing policy on such remuneration;

Note: For the purpose of this Code, "senior management" should refer to the same category of persons as referred to in the issuer's annual report and is required to be disclosed under paragraph 12 of Appendix 16 to the Exchange Listing Rules.

- (b) to have the delegated responsibility to determine the specific remuneration packages of all executive directors and senior management, including benefits in kind, pension rights and compensation payments, including any compensation payable for loss or termination of their office or appointment, and make recommendations to the board of the remuneration of non-executive directors. The remuneration committee should consider factors such as salaries paid by comparable companies, time commitment and responsibilities of the directors, employment conditions elsewhere in the group and desirability of performance-based remuneration;

Note: Please refer to the Note to B.1.3(a) of this Code for the definition of "senior management".

- (c) to review and approve performance-based remuneration by reference to corporate goals and objectives resolved by the board from time to time;
- (d) to review and approve the compensation payable to executive directors and senior management in connection with any loss or termination of their office or appointment to ensure that such compensation is determined in accordance with relevant contractual terms and that such compensation is otherwise fair and not excessive for the issuer;

Note: Please refer to the Note to B.1.3(a) of this Code for the definition of “senior management”.

- (e) to review and approve compensation arrangements relating to dismissal or removal of directors for misconduct to ensure that such arrangements are determined in accordance with relevant contractual terms and that any compensation payment is otherwise reasonable and appropriate; and
- (f) to ensure that no director or any of his associates is involved in deciding his own remuneration ~~and that, as regards the remuneration of a non-executive director who is a member of the remuneration committee, his remuneration should be determined by the other members of the remuneration committee.~~

Note: The remuneration committee shall advise shareholders on how to vote with respect to any service contracts of directors that require shareholders' approval under rule 13.68.

B.1.4 The remuneration committee should make available its terms of reference, explaining its role and the authority delegated to it by the board.

Notes: 1- This requirement ~~would~~ be met by making it available on request and by including the information on the issuer's website.

2- Under paragraph 2(f)(i) of Appendix 17 to the Exchange Listing Rules Appendix 23, issuers must explain the role of the remuneration committee (if any) in the Corporate Governance Report.

B.1.5 The remuneration committee should be provided with sufficient resources to discharge its duties.

Recommended Best Practices

B.1.6 A significant proportion of executive directors' remuneration should be structured so as to link rewards to corporate and individual performance.

B.1.7 Issuers should disclose details of any remuneration payable to members of senior management, on an individual and named basis, in their annual reports and accounts.

Notes: 1 Issuers should disclose details of any remuneration payable to members of senior management. Such disclosure should be to the same standard as that required for directors of issuers under paragraph 24 of Appendix 16.

Note: 2 For the purpose of this Code, "senior management" should refer to the same category of persons as referred to in the issuer's annual report and is required to be disclosed under paragraph 12 of Appendix 16 to the Exchange Listing Rules.

B.1.8 Where the board resolves to approve any remuneration or compensation arrangements which the remuneration committee has previously resolved not to approve, the board must disclose the reasons for its resolution in its next annual report.

C. ACCOUNTABILITY AND AUDIT

C.1 Financial reporting

Principle

The board should present a balanced, clear and comprehensible assessment of the company's performance, position and prospects.

Code Provisions

C.1.1 Management should provide such explanation and information to the board as will enable the board to make an informed assessment of the financial and other information put before the board for approval.

Note: Issuers are reminded of their obligation to comply with the financial reporting and disclosure requirements set out in the Exchange Listing Rules. Failure to comply with such requirements constitutes a breach of the Exchange Listing Rules.

C.1.2 The directors should acknowledge in the Corporate Governance Report their responsibility for preparing the accounts, and there should be a statement by the auditors about their reporting responsibilities in the auditors' report on the financial statements. Unless it is inappropriate to assume that the company will continue in business, ~~the~~ directors should prepare the accounts on a going concern basis, with supporting assumptions or qualifications as necessary. When the directors are aware of material uncertainties relating to events or conditions that may cast significant doubt upon the issuer's ability to continue as a going concern, such uncertainties should be clearly ~~disclosed~~ and prominently set out and discussed at length in the Corporate Governance Report. The Corporate Governance Report should contain sufficient information so as to enable investors to understand the severity and significance of the matters at hand. To the extent that it is reasonable and appropriate, the issuer may refer to the other relevant parts of the annual report. Any such references should be clear and unambiguous and the Corporate Governance Report should not only contain a cross-reference without any discussion of the matter.

C.1.3 The board's responsibility to present a balanced, clear and understandable assessment extends to annual and ~~half-year~~ interim reports, other price-sensitive announcements and other financial disclosures required under the Exchange Listing Rules, and reports to regulators as well as to information required to be disclosed pursuant to statutory requirements.

Recommended Best Practices

C.1.4 An issuer should announce and publish quarterly financial results within 45 days after the end of the relevant quarter, disclosing such information as would enable shareholders to assess the performance, financial position and prospects of the issuer. Any such quarterly financial reports should be prepared using the accounting policies applied to the issuer's half-year and annual accounts.

C.1.5 Once an issuer decides to announce and publish its quarterly financial results, it should continue to adopt quarterly reporting for each of the first 3 and 9 months periods of subsequent financial years. Where the issuer decides not to announce and publish its financial results for a particular quarter, it should publish an announcement to disclose the reason(s) for such decision.

C.2 Internal controls

Principle

The board should ensure that the issuer maintains sound and effective internal controls to safeguard the shareholders' investment and the issuer's assets.

Code Provisions

C.2.1 The directors should at least annually conduct a review of the effectiveness of the system of internal control of the issuer and its subsidiaries and report to shareholders that they have done so in their Corporate Governance Report. The review should cover all material controls, including financial, operational and compliance controls and risk management functions.

Recommended Best Practices

C.2.2 The board's annual review should, in particular, consider:

- (a) the changes since the last annual review in the nature and extent of significant risks, and the issuer's ability to respond to changes in its business and the external environment;
- (b) the scope and quality of management's ongoing monitoring of risks and of the system of internal control, and where applicable, the work of its internal audit function and other providers of assurance;
- (c) the extent and frequency of the communication of the results of the monitoring to the board (or board committee(s)) which enables it to build up a cumulative assessment of the state of control in the issuer and the effectiveness with which risk is being managed;

- (d) the incidence of significant control failings or weakness that has been identified at any time during the period and the extent to which they have resulted in unforeseen outcomes or contingencies that have had, could have had, or may in the future have, a material impact on the issuer's financial performance or condition; and
- (e) the effectiveness of the issuer's ~~public reporting processes relating to financial reporting and Listing Rule compliance.~~

C.2.3 Issuers should disclose as part of the Corporate Governance Report a narrative statement how they have complied with the code provisions on internal control during the reporting period. The disclosures should also include the following items:

- (a) the process that an issuer has applied for identifying, evaluating and managing the significant risks faced by it;
- (b) any additional information to assist understanding of the issuer's risk management processes and system of internal control;
- (c) an acknowledgement by the board that it is responsible for the issuer's system of internal control and for reviewing its effectiveness;
- (d) the process that an issuer has applied in reviewing the effectiveness of the system of internal control; and
- (e) the process that an issuer has applied to deal with material internal control aspects of any significant problems disclosed in its annual reports and accounts.

C.2.4 Issuers should ensure that their disclosures provide meaningful; ~~high-level~~ information and do not give a misleading impression.

C.2.5 Issuers without an internal audit function should review the need for one on an annual basis and should disclose the outcome of such review in the issuers' Corporate Governance Report.

C.3 Audit Committee

Principle

The board should establish formal and transparent arrangements for considering how it will apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the company's auditors. The audit committee established by an issuer pursuant to the Exchange Listing Rules should have clear terms of reference.

Code Provisions

C.3.1 Full Mminutes of audit committee meetings should be kept by a duly appointed secretary of the meeting (who should normally be the company secretary). Draft and final versions of Mminutes of the audit committee meetings should be sent to all members of the committee for their comment and records respectively, in both cases within a reasonable time (and generally within 14 days) after the meeting.

C.3.2 A former partner of the issuer's existing auditing firm should be prohibited from acting as a member of the issuer's audit committee for a period of 1 year commencing on the date of his ceasing:

- (a) to be a partner of the firm; or
- (b) to have any financial interest in the firm,

whichever is the later.

C.3.23 The terms of reference of the audit committee should include at least the following duties:-

Relationship with the issuer's auditors

- (a) to be primarily responsible for making recommendation to the board on the appointment, reappointment and removal of the external auditor, and to approve the remuneration and terms of engagement of the external auditor, and any questions of resignation or dismissal of that auditor;

Note: Issuers are reminded that rule 13.51(4) requires an announcement to be published when there is a change of auditors. The announcement must also include a statement as to whether there are any matters that need to be brought to holders of securities of the issuer.

- (b) to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process in accordance with applicable standard. The audit committee should discuss with the auditor the nature and scope of the audit and reporting obligations before the audit commences;
- (c) to develop and implement policy on the engagement of an external auditor to supply non-audit services. For this purpose, external auditor shall include any entity that is under common control, ownership or management with the audit firm or any entity that a reasonable and informed third party having knowledge of all relevant information would reasonably conclude as part of the audit firm nationally or internationally. The audit committee should report to the board, identifying any matters in respect of which it considers that action or improvement is needed and making recommendations as to the steps to be taken;

Review of financial information of the issuer

- (d) to monitor integrity of financial statements of an issuer and the issuer's annual report and accounts, half-year report and, if prepared for publication, quarterly reports, and to review significant financial reporting judgements contained in them. In this regard, in reviewing the issuer's annual report and accounts, half-year report and, if prepared for publication, quarterly reports before submission to the board, the committee should focus particularly on: -
 - (~~aa~~i) any changes in accounting policies and practices;
 - (~~bb~~ii) major judgmental areas;
 - (~~cc~~iii) significant adjustments resulting from audit;
 - (~~dd~~iv) the going concern assumptions and any qualifications;
 - (~~ee~~v) compliance with accounting standards; and

(ffvi) compliance with the Exchange Listing Rules and other legal requirements in relation to financial reporting;

(e) In regard to (d) above:-

(i) members of the committee must liaise with the issuer's board of directors, senior management and the person appointed as the issuer's qualified accountant and the committee must meet, at least once a year, with the issuer's auditors; and

(ii) the committee should consider any significant or unusual items that are, or may need to be, reflected in such reports and accounts and must give due consideration to any matters that have been raised by the issuer's qualified accountant, compliance officer or auditors;

Oversight of the issuer's financial reporting system and internal control procedures

(ef) to review the issuer's financial controls, internal control and risk management systems;

(fg) to discuss with the management the system of internal control and ensure that management has discharged its duty to have an effective internal control system;

(gh) to consider any findings of major investigations of internal control matters as delegated by the board or on its own initiative and management's response;

(hi) where an internal audit function exists, to ensure co-ordination between the internal and external auditors, and to ensure that the internal audit function is adequately resourced and has appropriate standing within the issuer, and to review and monitor the effectiveness of the internal audit function;

(ij) to review the group's ~~operating~~ financial and accounting policies and practices;

(j) ~~to report to the board on the matters set out in this code provision; and~~

~~(k) to consider other topics, as defined by the board.~~

Note: For further guidance on the duties of an audit committee, issuers may refer to the “Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor’s Independence” issued by the Technical Committee of the International Organization of Securities Commissions in October 2002 and “A Guide for Effective Audit Committees” published by the Hong Kong Society of Accountants in February 2002. Issuers may also adopt the terms of reference set out in that guide, or they may adopt any other comparable terms of reference for the establishment of an audit committee.

(k) to review the external auditor’s management letter, any material queries raised by the auditor to management in respect of the accounting records, financial accounts or systems of control and management’s response;

(l) to ensure that the board will provide a timely response to the issues raised in the external auditor’s management letter;

(m) to report to the board on the matters set out in this code provision; and

(n) to consider other topics, as defined by the board.

Notes: The following are only intended to be suggestions as to how compliance with the above code provision may be achieved and do not form part of the code provision.

1 *The audit committee may wish to consider establishing the following procedure to review and monitor the independence of external auditors: -*

(i) consider all relationships between the issuer and the audit firm (including the provision of non-audit services);

(ii) seek from the audit firm, on an annual basis, information about policies and processes for maintaining independence and monitoring compliance with relevant requirements, including current requirements regarding rotation of audit partners and staff; and

(iii) meet with the auditor, at least annually, in the absence of management, to discuss matters relating to its audit fees, any issues arising from the audit and any other matters the auditor may wish to raise.

2 *The audit committee may wish to consider agreeing with the board the issuer’s policies relating to the hiring of employees or former employees of the external auditors and monitor the application of such policies. The audit committee should then be in a position to consider whether in the light of this there has been any impairment or appearance of impairment, of the auditor’s judgement or independence in respect of the audit.*

- 3 *The audit committee would normally be expected to ensure that the provision by an external auditor of non-audit services does not impair the external auditor's independence or objectivity. When assessing the external auditor's independence or objectivity in relation to the provision of non-audit services, the audit committee may wish to consider:*
- (i) whether the skills and experience of the audit firm make it a suitable supplier of the non-audit services;*
 - (ii) whether there are safeguards in place to ensure that there is no threat to objectivity and independence in the conduct of the audit resulting from the provision of such services by the external auditor;*
 - (iii) the nature of the non-audit services, the related fee levels and the fee levels individually and in aggregate relative to the audit firm; and*
 - (iv) the criteria which govern the compensation of the individuals performing the audit.*
- 4 *For further guidance on the duties of an audit committee, issuers may refer to the "Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence" issued by the Technical Committee of the International Organization of Securities Commissions in October 2002 and "A Guide for Effective Audit Committees" published by the Hong Kong Society of Accountants (as it was then known) in February 2002. Issuers may also adopt the terms of reference set out in those guides, or they may adopt any other comparable terms of reference for the establishment of an audit committee.*

C.3.34 The audit committee should make available its terms of reference, explaining its role and the authority delegated to it by the board.

- Notes: 1: *This requirement could be met by making it available on request and by including the information on the issuer's website.*
- 2: *Under paragraph 2(i)(i) of Appendix 17 to the Exchange Listing Rules Appendix 23, issuers must explain the role of the audit committee in the Corporate Governance Report.*

C.3.45 Where the board disagrees with the audit committee's view on the selection, appointment, resignation or dismissal of the external auditors, the issuer should include in the Corporate Governance Report a detailed explanation of the audit committee's view a statement from the audit committee explaining its recommendation and also the reason(s) why the board has taken a different view.

C.3.56 The audit committee should be provided with sufficient resources to discharge its duties.

Recommended Best Practices

C.3.67 The terms of reference of the audit committee should also require the audit committee:

- (a) to review arrangements by which employees of the issuer may, in confidence, raise concerns about possible improprieties in financial reporting, internal control or other matters. The audit committee should ensure that proper arrangements are in place for the fair and independent investigation of such matters and for appropriate follow-up action; and
- ~~(b) to establish the following procedure to review and monitor independence of external auditors: =~~
 - ~~(i) consider all relationships between the issuer and the audit firm (including the provision of non-audit services); and~~
 - ~~(ii) seek from the audit firm, on an annual basis, information about policies and processes for maintaining independence and monitoring compliance with relevant requirements, including current requirements regarding rotation of audit partners and staff;~~
 - ~~(iii) meet with the auditor, at least annually, in the absence of management, to discuss matters relating to its audit fees; any issues arising from the audit and any other matters the auditor may wish to raise;~~
- (c) to develop and recommend to the board the issuer's policy relating to provision of non-audit services by the auditor. The audit committee should ensure that the provision of such services does not impair the external auditor's independence or objectivity. In relation to non-audit services, the audit committee should consider:

- ~~(i) whether the skills and experience of the audit firm make it a suitable supplier of the non-audit services;~~
 - ~~(ii) whether there are safeguards in place to ensure that there is no threat to objectivity and independence in the conduct of the audit resulting from the provision of such services by the external auditor;~~
 - ~~(iii) the nature of the non-audit services, the related fee levels and the fee levels individually and in aggregate relative to the audit firm; and~~
 - ~~(iv) the criteria which govern the compensation of the individuals performing the audit; and~~
- ~~(d) to agree with the board the issuer's policies relating to the hiring of employees or former employees of the external auditors and monitor the application of such policies. The audit committee should consider whether in the light of this there has been any impairment or appearance of impairment, of the auditor's judgement or independence in respect of the audit.~~
- ~~(e) to act as the key representative body for overseeing the issuer's relation with the external auditor.~~
- ~~(f) to review the external auditor's management letter, any material queries raised by the auditor to management in respect of the accounting records, financial accounts or systems of control and management's response; and~~
- ~~(g) to ensure that the board will provide a timely response to the issues raised in the external auditor's management letter.~~

D. DELEGATION BY THE BOARD

D.1 Management functions

Principle

An issuer should have a formal schedule of matters specifically reserved to the board for its decision. The board should give clear directions to management as to the matters that must be approved by the board before decisions are made on behalf of the issuer.

Code Provisions

D.1.1 When the board delegates aspects of its management and administration functions to management, it must at the same time give clear directions as to the powers of management, in particular, with respect to the circumstances where management should report back and obtain prior approval from the board before making decisions or entering into any commitments on behalf of the issuer.

Note: The board should not delegate matters to a board committee, executive directors or management to an extent that would significantly hinder or reduce the ability of the board as a whole to discharge its functions.

D.1.2 An issuer should formalise the functions reserved to the board and those delegated to management. It should review those arrangements on a periodic basis to ensure that they remain appropriate to the needs of the issuer.

Note: Under paragraph 2(c)(iv) of ~~Appendix 17 to the Exchange Listing Rules~~ Appendix 23, issuers must include in their Corporate Governance Report a statement of how the board operates, including a high level statement of which types of decisions are to be taken by the board and which are to be delegated to management.

Recommended Best Practices

D.1.3 An issuer should disclose the division of responsibility between the board and management to assist those affected by corporate decisions to better understand the respective accountabilities and contributions of the board and management.

D.1.4 Directors should clearly understand delegation arrangements in place. To that end, issuers should have formal letters of appointment for directors setting out the key terms and conditions relative to their appointment.

D.2 Board Committees

Principle

Board committees should be formed with specific written terms of reference which deal clearly with the committees' authority and duties.

Code Provisions

D.2.1 Where board committees are established to deal with matters, the board should prescribe sufficiently clear terms of reference to enable such committees to discharge their functions properly.

D.2.2 The terms of reference of board committees should require such committees to report back to the board on their decisions or recommendations, unless there are legal or regulatory restrictions on their ability to do so (such as a restriction on disclosure due to regulatory requirements).

E. COMMUNICATION WITH SHAREHOLDERS

E.1 Effective communication

Principle

The board should endeavour to maintain an on-going dialogue with shareholders and in particular, use annual general meetings or other general meetings to communicate with shareholders and encourage their participation.

Code Provisions

~~E.1.1 In respect of each substantially separate issue at a general meeting, a separate resolution should be proposed by the chairman of that meeting. An issuer should propose a separate resolution at a general meeting on each substantially separate issue.~~

~~*Note: An example of a substantially separate issue is the nomination of persons as directors. Accordingly, each such person should be nominated by means of a separate resolution.*~~

E.1.2 The chairman of the board should attend the annual general meeting and arrange for the chairmen of the audit, remuneration and nomination committees (as appropriate) or in the absence of the chairman of such committees, another member of the committee or failing this his duly appointed delegate, to be available to answer questions at the annual general meeting. The chairman of the independent board committee (if any) should also be available to answer questions at any general meeting to approve a connected transaction or any other transaction that is subject to independent shareholders' approval.

~~E.1.3 Issuers should arrange for the notice of general meetings and related papers to be sent to shareholders at least 21 days (in the case of an annual general meeting or a meeting requiring a special resolution) or 14 days (in the case of any other meetings) before the meeting.~~

~~*Note: Directors are reminded of the requirement under rule 13.73 that an issuer shall provide its shareholders with any material information on the subject matter to be considered at a general meeting that comes to the directors' attention after the relevant circular is issued. An issuer must provide the information either in a supplementary circular or by way of an announcement in newspapers not less than 14 days before the date of the relevant general meeting to consider the subject matter.*~~

E.2 Voting by Poll

Principle

The issuer should regularly inform shareholders of the procedure for voting by poll and ensure compliance with the requirements about voting by poll contained in the Exchange Listing Rules and the constitutional documents of the issuer.

Code Provisions

- E.2.1 The chairman of a meeting should ensure disclosure in the issuer's circulars to shareholders of the procedures for and the rights of shareholders to demand a poll in compliance with the requirements about voting by poll contained in rule 13.39(4). In particular, pursuant to rule 13.39(3), the chairman of a meeting and/or directors who, individually or collectively, hold proxies in respect of shares representing 5% or more of the total voting rights at a particular meeting shall demand a poll in certain circumstances where, on a show of hands, a meeting votes in the opposite manner to that instructed in those proxies. If a poll is required under such circumstances, the chairman of the meeting should disclose to the meeting the total number of votes represented by all proxies held by directors indicating an opposite vote to the votes cast at the meeting on a show of hands.
- E.2.2 The issuer should count all proxy votes and, except where a poll is required, the chairman of a meeting should indicate to the meeting the level of proxies lodged on each resolution, and the balance for and against the resolution, after it has been dealt with on a show of hands. The issuer should ensure that votes cast are properly counted and recorded.
- E.2.3 The chairman of a meeting should at the commencement of the meeting ensure that an explanation is provided of: -
- (a) the procedures for demanding a poll by shareholders before putting a resolution to the vote on a show of hands; and
 - (b) the detailed procedures for conducting a poll and then answer any questions from shareholders whenever voting by way of a poll is required.

Appendix 17~~Appendix 23~~

Corporate Governance Report

GENERAL

1. Listed issuers shall include a report on corporate governance practices (the “Corporate Governance Report”) prepared by the board of directors in their summary financial reports (if any) pursuant to paragraph 50 of Appendix 16 ~~to the Exchange Listing Rules~~ and annual reports pursuant to paragraph 34 of Appendix 16 ~~to the Exchange Listing Rules~~. The Corporate Governance Report ~~shall be comprehensive and~~ shall contain all the information set out in paragraph 2 of this Appendix. Any failure to do so will be regarded as a breach of the Exchange Listing Rules.

~~For the purpose of inclusion in the summary financial reports, listed issuers may include a summary of the Corporate Governance Report with cross-references to their annual reports. To the extent that it is reasonable and appropriate, the Corporate Governance Report included in a listed issuer’s summary financial report may take the form of a summary of the Corporate Governance Report contained in the annual report and may also incorporate information by reference to its annual report. Any such references must be clear and unambiguous and the summary must not only contain a cross-reference without any discussion of the matter. The summary should~~ must contain, as a minimum, a narrative statement indicating overall compliance with and highlighting any deviation from the provisions of the Code on Corporate Governance Practices contained in Appendix 14 ~~to the Exchange Listing Rules~~ (the “Code”).

~~Any failure to disclose the information contained in paragraph 2 of this Appendix in their Corporate Governance Report will be regarded as a breach of the Exchange Listing Rules. Paragraph 3 of this Appendix sets out the specific requirements under the code provisions in the Code which require disclosure by listed issuers in their Corporate Governance Report.~~

Listed issuers are also encouraged to disclose information set out in paragraph 43 of this Appendix in their Corporate Governance Report.

MANDATORY DISCLOSURE REQUIREMENTS

2. Listed issuers shall include the following information for the accounting period covered by the annual report and any significant events pertaining to the following information for any subsequent period up to the date of publication of the annual report, to the extent that is practicable:

(a) Corporate governance practices

- (i) a narrative statement of how the listed issuer has applied the principles in the Code, providing explanation which enables its shareholders to evaluate how the principles have been applied;
- (ii) a statement as to whether the listed issuer meets the code provisions in the Code ~~and its own code~~. If a listed issuer has adopted its own code that exceeds the code provisions set out in the Code, such listed issuer may draw attention to such fact in its annual report; and
- (iii) in the event of any deviation from the code provisions set out in the Code, details of such deviation during the financial year (including ~~the~~ considered reasons for such deviations).

(b) Directors' securities transactions

In respect of the Model Code set out in Appendix 10 ~~to the Exchange Listing Rules~~:

- (i) whether the listed issuer has adopted a code of conduct regarding directors' securities transactions on terms no less exacting than the required standard set out in the Model Code;

- (ii) having made specific enquiry of all directors, whether the directors of the listed issuer have complied with, or whether there has been any non-compliance with, the required standard set out in the Model Code and its code of conduct regarding directors' securities transactions; and
- (iii) in the event of any non-compliance with the required standard set out in the Model Code, details of such non-compliance and an explanation of the remedial steps taken by the listed issuer to address such non-compliance.

(c) **Board of directors**

Details in relation to the board of directors of listed issuers, which include:

- (i) composition of the board, by category of directors, of the listed issuer, including name of chairman, executive directors, non-executive directors and independent non-executive directors;
- (ii) number of board meetings held during the financial year;
- (iii) individual attendance of each director, on a named basis, at the board meetings;
- (iv) a statement of how the board operates, including a high level statement of which types of decisions are to be taken by the board and which are to be delegated to management;
- (v) details of non-compliance (if any) with rules 3.10(1) and 3.10(2) of the Exchange Listing Rules and an explanation of the remedial steps taken by the listed issuer to address such non-compliance relating to appointment of a sufficient number of independent non-executive directors and an independent non-executive director with appropriate professional qualifications, or accounting or related financial management expertise, respectively;

Note: Listed issuers are reminded of their obligation to comply with rules 3.10(1) and (2) of the Exchange Listing Rules. Failure to comply with such requirements constitutes a breach of the Exchange Listing Rules.

- (vi) reasons why the listed issuer considers an independent non-executive director to be independent where he/she fails to meet one or more of the guidelines for assessing independence set out in rule 3.13 ~~of the Exchange Listing Rules~~; and
- (vii) relationship (including financial, business, family or other material/relevant relationship(s)), if any, among members of the board and in particular, between the chairman and the chief executive officer.

(d) Chairman and chief executive officer

- (i) identity of the chairman and chief executive officer; and
- (ii) whether the roles of the chairman and chief executive officer are segregated and are not exercised by the same individual.

(e) Non-executive directors

The term of appointment of non-executive directors.

Note: Under Appendix 16 to the Exchange Listing Rules, listed issuers are required to give a general description of the remuneration policy and long term incentive schemes as well as the basis of determining the fees and any other benefits payable to their directors.

(f) Remuneration of directors

The following information relating to the directors' remuneration policy:

- (i) the role and function of the remuneration committee (if any) or the reason(s) for not having a remuneration committee;
- (ii) the composition of the remuneration committee (if any) (including names and identifying in particular the chairman of the remuneration committee);
- (iii) the number of meetings held by the remuneration committee or the board of directors (if there is no remuneration committee) during the year to discuss remuneration related matters and the record of individual attendance of members, on a named basis, at meetings held during the year; and

- (iv) a summary of the work, including determining the policy for the remuneration of executive directors, assessing performance of executive directors and approving the terms of executive directors' service contracts, performed by the remuneration committee or board of directors (if there is no remuneration committee) during the year.

Note: Under Appendix 16, listed issuers are required to give a general description of the emolument policy and long-term incentive schemes as well as the basis of determining the emolument payable to their directors.

(g) Nomination of directors

The following information relating to the appointment and removal of directors:

- (i) the role and function of the nomination committee (if any);
- (ii) the composition of the nomination committee (if any) (including names and identifying in particular the chairman of the nomination committee);
- (iii) 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;
- (iv) a summary of the work, including 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; and
- (v) the number of meetings held by the nomination committee or the board of directors (if there is no nomination committee) during the year and the record of individual attendance of members, on a named basis, at meetings held during the year.

(h) Auditors' remuneration

An analysis of remuneration in respect of audit, ~~audit-related~~ and non-audit services provided by the auditors (including any entity that is under common control, ownership or management with the audit firm or any entity that a reasonable and informed third party having knowledge of all relevant information would reasonably conclude as part of the audit firm nationally or internationally) to the listed issuer. Such analysis must include, in respect of each significant non-audit service assignment, details of the nature of the services and the fees paid.

(i) Audit committee

The following information relating to the audit committee:

- (i) its role, function and composition of the committee members (including names and identifying in particular the chairman of the audit committee);
- (ii) the number of audit committee meetings held during the year and record of individual attendance of members, on a named basis, at meetings held during the year;
- (iii) a report on the work performed by the audit committee during the year; in discharging its responsibilities in including ~~its findings on~~ review of the quarterly (if relevant), half-yearly and annual results and ~~;~~ system of internal control, and its other duties set out in the Code; and
- (iv) details of non-compliance with rule 3.21 ~~of the Exchange Listing Rules~~ (if any) and an explanation of the remedial steps taken by the listed issuer to address such non-compliance relating to establishment of an audit committee.

Note: Listed issuers are reminded of their obligation to comply with rule 3.21 ~~of the Exchange Listing Rules~~. Failure to comply with such requirements constitutes a breach of the Exchange Listing Rules.

~~CODE PROVISION DISCLOSURE UNDER THE CODE~~

~~3.~~*Note: The Code sets out code provisions of the general management responsibilities of the board of directors. In addition to the disclosure obligations described above, the code provisions in the Code expect issuers to make certain specified disclosures in the Corporate Governance Report. Where issuers choose not to make the expected disclosure, they must give considered reasons for the deviation in accordance with paragraph 2(a)(iii). For ease of reference, the specific disclosure expectations of requirements pertaining to the code provisions under the Code which require disclosure by listed issuers are set out below:*

- ~~(a)~~*1 an acknowledgement from the directors of their responsibility for preparing the accounts and a statement by the auditors about their reporting responsibilities (C.1.2 of the Code);*
- ~~(b)~~*2 report on material uncertainties, if any, relating to events or conditions that may cast significant doubt upon the listed issuer's ability to continue as a going concern (C.1.2 of the Code);*
- ~~(c)~~*3 a ~~report~~ statement that the board has conducted a review of the effectiveness of the system of internal control of the issuer and its subsidiaries (C.2.1 of the Code); and*
- ~~(d)~~*4 a ~~detailed explanation of the audit committee's view~~ a statement from the audit committee explaining its recommendation and the reason(s) why the board has taken a different view from that of the audit committee regarding the selection, appointment, resignation or dismissal of the external auditors (C.3.~~4~~5 of the Code).*

RECOMMENDED DISCLOSURES

~~4~~3. The disclosures set out in this paragraph relating to corporate governance matters are provided for listed issuers' reference. They are not intended to be exhaustive or mandatory. They are rather intended to set out the areas which listed issuers may comment on in their Corporate Governance Report. The level of details needed varies with the nature and complexity of listed issuers' business activities. Listed issuers are encouraged to include the following information in their Corporate Governance Report:

(a) Share interests of senior management

- (i) the number of shares held by senior management (i.e. those individuals whose biographical details are disclosed in the annual report).

(b) Shareholders' rights

- (i) the way in which shareholders can convene an extraordinary general meeting;
- (ii) the procedures by which enquiries may be put to the board together with sufficient contact details to enable such enquiries to be properly directed; and
- (iii) the procedures for putting forward proposals at shareholders' meetings with sufficient contact details.

(c) Investor relations

- (i) any significant changes in the listed issuer's articles of association during the year;
- (ii) details of shareholders by type and aggregate shareholding;

Note: Listed issuers are reminded of their obligation to comply with the requirements in Appendix 16 and Practice Note 5 relating to the disclosure of interests in the listed issuer. They may wish to mention such information in this section of the Corporate Governance Report.

- ~~(iii) the number and identity of shareholders holding more than a 5% shareholding;~~

Note: The disclosure must be in accordance with the requirements of Practice Note 5 of the Exchange Listing Rules.

- ~~(ivii) details of the last shareholders' meeting, including the time and venue, major items discussed and particulars as to voting;~~
- (iv) indication of important shareholders' dates in the coming financial year; and
- (vi) public float capitalisation as at the end of the year.

(d) Internal controls

- (i) where a listed issuer includes a ~~report on the~~ statement by the directors that they have conducted a review of its system of internal control in the annual report pursuant to paragraphs C.2.1 of the Code, the listed issuer is encouraged to disclose the following details in such report:
- (aa) an explanation of how the system of internal control has been defined for the listed issuer;
 - (bb) procedures and internal controls for the handling and dissemination of price sensitive information;
 - (cc) whether the listed issuer has an internal audit function or the outcome of the review of the need for an internal audit function where the listed issuer has no such function;
 - (dd) how often internal controls are reviewed;
 - (ee) a statement that the directors have reviewed the effectiveness of the system of internal control and whether they consider the internal control systems effective and adequate;
 - (ff) criteria for the directors to assess the effectiveness of the system of internal control;
 - (gg) the period which the review covers;
 - (hh) details of any significant areas of concern which may affect shareholders;
 - (ii) significant views or proposals put forward by the audit committee; and
 - (jj) where a listed issuer has not conducted a review of its internal control during the year, an explanation why it has not done so; ~~and~~

- (ii) a narrative statement (including the items under C.2.3 of the Code) of how the listed issuer has complied with the code provisions on internal control during the reporting period (C.2.3 of the Code); and
- (iii) the outcome of the review conducted on an annual basis by an issuer without an internal audit function of the need for one (C.2.5 of the Code).

(e) Management functions

- (i) the division of responsibility between the board and management.

Note: Issuers may consider that some of the information recommended under paragraph 3 is too lengthy and detailed to be included in the Corporate Governance Report. As an alternative to full disclosure in the Corporate Governance Report, issuers may choose to include some or all of this information:

- (a) *on its website and highlight to investors where they can:*
 - (i) access the soft copy of this information on its website by giving a hyperlink directly to the relevant webpage; and/or
 - (ii) collect a hard copy of the relevant information free of charge; or
- (b) where the information is publicly available, by stating where the information can be found. Any hyperlink should be directly to the relevant webpage.

**Amendments to Main Board Rules
(other than replacement of Code of Best Practice in Appendix 14 by
Code on Corporate Governance Practices and insertion of Rules on
Corporate Governance Report in Appendix 23)**

3.18 ~~As a minimum, listed issuers should aim to comply with the guidelines for boards of directors issued by the Exchange from time to time. Listed issuers may adopt their own, more comprehensive, guidelines as an alternative. [Repealed 1 January 2005]~~

.....

Code on Corporate Governance Practices

3.25 (1) The Code on Corporate Governance Practices contained in Appendix 14 sets out the principles of good corporate governance and two levels of recommendations: (a) code provisions; and (b) recommended best practices. Issuers are expected to comply with, but may choose to deviate from, the code provisions. The recommended best practices are for guidance only.

Note: Issuers may also devise their own code on corporate governance practices on such terms as they may consider appropriate.

(2) Issuers must state whether they have complied with the code provisions set out in the Code on Corporate Governance Practices for the relevant accounting period in their interim reports (and summary interim reports, if any) and annual reports (and summary financial reports, if any).

Note: For the relevant requirements governing preliminary results announcements, see paragraphs 45 and 46 of Appendix 16.

(3) Where the issuer deviates from the code provisions set out in the Code on Corporate Governance Practices, the issuer must give considered reasons:

(a) in the case of annual reports (and summary financial reports), in the Corporate Governance Report which must be issued in accordance with Appendix 23; and

- (b) in the case of interim reports (and summary interim reports), either:
 - (i) by giving considered reasons for each deviation; or
 - (ii) to the extent that it is reasonable and appropriate, by referring to the Corporate Governance Report in the immediately preceding annual report, and providing details of any changes together with considered reasons for any deviation not reported in that annual report. Such references must be clear and unambiguous and the interim report (or summary interim report) must not only contain a cross-reference without any discussion of the matter.
- (4) In the case of the recommended best practices, issuers are encouraged, but are not required, to state whether they have complied with them and give considered reasons for any deviation.

Appendix 10

- 15. In relation to securities transactions by directors, a listed issuer shall disclose in its interim reports (and summary interim reports, if any) and the Corporate Governance Report contained in its annual and interim reports (and summary financial reports, if any):
 - (a) whether the listed issuer has adopted a code of conduct regarding securities transactions by directors on terms no less exacting than the required standard set out in this code;
 - (b) having made specific enquiry of all directors, whether its directors have complied with, or whether there has been any non-compliance with, the required standard set out in this code and its code of conduct regarding securities transactions by directors; and
 - (c) in the event of any non-compliance with the required standard set out in this code, details of such non-compliance and an explanation of the remedial steps taken by the listed issuer to address such non-compliance.

Appendix 16

34. A listed issuer shall include the following information in respect of the group:
- (1) ~~a statement as to whether or not it has complied with Appendix 14 throughout the accounting period covered by the annual report. A listed issuer that has not complied with Appendix 14, or complied with only part of Appendix 14 or (in the case of requirements of a continuing nature) complied for only part of such period, must specify the paragraphs of Appendix 14 with which it has not complied and (where relevant) for what part of the period such non-compliance continued, and give reasons for any non-compliance. Insofar as a listed issuer's statement of compliance relates to paragraph 6 of Appendix 14, such statement must be reviewed by the auditors a separate Corporate Governance Report prepared by the board of directors on its corporate governance practices. The report must, as a minimum, contain the information required under Appendix 23 regarding the accounting period covered by the annual report. To the extent that it is reasonable and appropriate, the issuer may incorporate by reference information in its annual report into the Corporate Governance Report. Any such references must be clear and unambiguous and the Corporate Governance Report must not only contain a cross-reference without any discussion of the matter;~~
 - (2) ~~in respect of the Model Code set out in Appendix 10 to the Exchange Listing Rules, a statement in relation to the accounting period covered by the annual report on:~~
 - (a) ~~whether the listed issuer has adopted a code of conduct regarding securities transactions by directors on terms no less exacting than the required standard set out in the Model Code;~~
 - (b) ~~having made specific enquiry of all directors, whether its directors have complied with, or whether there has been any non-compliance with, the required standard set out in the Model Code and its code of conduct regarding securities transactions by directors; and~~

- ~~(c) in the event of any non-compliance with the required standard set out in the Model Code, details of such non-compliance and an explanation of the remedial steps taken by the listed issuer to address such non-compliance;~~
- ~~(3) details of non-compliance (if any) with rules 3.10(1) and 3.10(2) and an explanation of the remedial steps taken by the listed issuer to address such non-compliance relating to appointment of a sufficient number of independent non-executive directors and an independent non-executive director with appropriate professional qualifications, or accounting or related financial management expertise, respectively; and~~
- ~~(4) details of non-compliance with rule 3.21 (if any) and an explanation of the remedial steps taken by the listed issuer to address such non-compliance relating to establishment of an audit committee.~~

.....

44. A listed issuer shall include in its interim report the following information in respect of the group:

- ~~(1) a statement that none of the directors is aware of information that would reasonably indicate that the listed issuer is not, or was not for any part of the accounting period covered by the interim report, in compliance with Appendix 14. If any of the directors is aware of such information, the listed issuer must verify whether the information is correct and whether there has been any non-compliance with Appendix 14. If the listed issuer finds that there has been non-compliance with Appendix 14, then the listed issuer shall briefly explain in its interim report that it has not complied with all or part of Appendix 14, as the case may be, and include a statement giving the reasons for its non-compliance a statement in relation to the accounting period covered by the interim report on whether the listed issuer meets the code provisions set out in the Code on Corporate Governance~~

Practices contained in Appendix 14. Where there are any deviations from the code provisions in the Code, the listed issuer must give considered reasons for the deviations from the code provisions, either by:

- (a) giving considered reasons for each deviation; or
- (b) to the extent that it is reasonable and appropriate, by referring to the Corporate Governance Report in the immediately preceding annual report and providing details of any changes together with considered reasons for any deviation not reported in that annual report. Any such references must be clear and unambiguous and the interim report must not only contain a cross-reference without any discussion of the matter;

.....

45. A listed issuer shall publish a preliminary announcement of its results in the newspapers as required under rule 13.49(1), which has been agreed with its auditors and which includes, as a minimum, the following:

.....

- ~~(5) particulars of compliance with Appendix 14 as set out in paragraph 34a~~ statement as to whether the listed issuer meets the code provisions set out in the Code on Corporate Governance Practices contained in Appendix 14. The listed issuer must also disclose any deviations from the code provisions and give considered reasons for such deviations. To the extent that it is reasonable and appropriate, such information may be given by reference to the immediately preceding interim report or to the Corporate Governance Report in the immediately preceding annual report, and summarising any changes since that report. Any such references must be clear and unambiguous;

.....

46. A listed issuer shall publish a preliminary announcement of its results in the newspapers for the first six months of each financial year required under rule 13.49(6), which shall include, as a minimum, the following information:-

.....

- (4) ~~particulars of compliance with Appendix 14 as set out in paragraph 44a~~ a statement as to whether the listed issuer meets the code provisions set out in the Code on Corporate Governance Practices contained in Appendix 14. The listed issuer must also disclose any deviations from the code provisions and give considered reasons for such deviations. To the extent that it is reasonable and appropriate, such information may be given by reference to the Corporate Governance Report in the immediately preceding annual report, and summarising any changes since that annual report. Any such references must be clear and unambiguous;

.....

50. Summary financial reports of listed issuers shall comply with the disclosure requirements set out in the Companies (Summary Financial Reports of Listed Companies) Regulation. A listed issuer shall also disclose the following information in its summary financial report:-

- (1) particulars of any purchase, sale or redemption by the listed issuer, or any of its subsidiaries, of its listed securities during the financial year or an appropriate negative statement; and
- (2) ~~particulars of compliance with Appendix 14 as set out in paragraph 34a~~ separate Corporate Governance Report prepared by the board of directors on its corporate governance practices. The report must, as a minimum, contain the information required under Appendix 23 regarding the accounting period covered by the annual report. To the extent that it is reasonable and appropriate, this Corporate Governance Report may take the form of a summary of the Corporate Governance Report contained in the annual report and may also incorporate information by reference to its annual report. Any such

references must be clear and unambiguous and the summary must not only contain a cross-reference without any discussion of the matter. The summary must contain, as a minimum, a narrative statement indicating overall compliance with and highlighting any deviation from the provisions of the Code on Corporate Governance Practices contained in Appendix 14.

- ~~(3) details of non-compliance (if any) with rules 3.10(1) and 3.10(2) and an explanation of the remedial steps taken by the listed issuer to address such non-compliance relating to appointment of a sufficient number of independent non-executive directors and an independent non-executive director with appropriate professional qualifications, or accounting or related financial management expertise, respectively; and~~
- ~~(4) details of non-compliance with rule 3.21 (if any) and an explanation of the remedial steps taken by the listed issuer to address such non-compliance relating to establishment of an audit committee.~~

.....

52. Listed issuers are encouraged to disclose the following additional commentary on management discussion and analysis in their interim and annual reports:

- (i) efficiency indicators (e.g. return on equity, working capital ratios) for the last five financial years indicating the bases of computation;
- (ii) industry specific ratios, if any, for the last five financial years indicating the bases of computation;
- (iii) a discussion of the listed issuer's purpose, corporate strategy and principal drivers of performance;
- (iv) an overview of trends in the listed issuer's industry and business;
- (v) a discussion on business risks (including known events, uncertainties and other factors which may substantially affect future performance) and risks management policy;

- (vi) a discussion on the listed issuer's environmental policies and performance, including compliance with the relevant laws and regulations;
- (vii) a discussion on the listed issuer's policies and performance on community, social, ethical and reputational issues;
- (viii) an account of the listed issuer's key relationships with employees, customers, suppliers and others, on which its success depends; and
- (ix) receipts from, and returns to, shareholders.

Note: Issuers should also note the recommended disclosures set out in paragraph 3 of Appendix 23.

**Amendments to GEM Rules
(other than insertion of Code on Corporate Governance
Practices in Appendix 15 and Rules on Corporate Governance
Report in Appendix 16)**

~~NON-EXECUTIVE DIRECTORS~~

~~5.13 Every non-executive director, whether independent or not, must be appointed for a specific term and that term should be disclosed in the annual report and accounts of the issuer. A person accepting an appointment as a non-executive director must ensure that he can give sufficient time and attention to the affairs of the issuer and should not accept the appointment if he cannot. [Repealed 1 January 2005]~~

.....

~~5.30 The duties of the audit committee must comprise at least the following matters:-~~

~~(1) reviewing, in draft form, the issuer's annual report and accounts, half-year report and quarterly reports and providing advice and comments thereon to the issuer's board of directors. In this regard:-~~

~~(a) members of the committee must liaise with the issuer's board of directors, senior management and the person appointed as the issuer's qualified accountant and the committee must meet, at least once a year, with the issuer's auditors; and~~

~~(b) the committee should consider any significant or unusual items that are, or may need to be, reflected in such reports and accounts and must give due consideration to any matters that have been raised by the issuer's qualified accountant, compliance officer or auditors; and~~

~~(2) reviewing and supervising the issuer's financial reporting and internal control procedures. [Repealed 1 January 2005]~~

~~5.31 The issuer must ensure that full minutes are kept of all meetings of the audit committee. [Repealed 1 January 2005]~~

~~5.32 The executive directors of the issuer must ensure that members of the audit committee are provided full and unlimited access to all books and accounts of the issuer and any employees, consultants and advisers they may, from time to time, wish to consult.[Repealed 1 January 2005]~~

.....

~~5.34 Rules 5.35 to 5.45 set out the minimum standards of good practice concerning the general management responsibilities of the board of directors (and related matters) with which issuers and their directors must comply. All issuers are encouraged to devise their own minimum standards on no less exacting terms, in the interests not only of their independent non-executive directors, but of the board of directors as a whole.(1) The Code on Corporate Governance Practices contained in Appendix 15 sets out the principles of good corporate governance and two levels of recommendations: (a) code provisions; and (b) recommended best practices. Issuers are expected to comply with, but may choose to deviate from, the code provisions. The recommended best practices are for guidance only.~~

Note: Issuers may also devise their own code on corporate governance practices on such terms as they may consider appropriate.

~~(2) Issuers must state whether they have complied with the code provisions set out in the Code on Corporate Governance Practices for the relevant accounting period in their half-year reports (and summary half-year reports, if any) and annual reports (and summary financial reports, if any).~~

Note: For the requirements governing preliminary results announcements in this regard, see rules 18.50(6) and 18.78(4).

~~(3) Where the issuer deviates from the code provisions set out in the Code on Corporate Governance Practices, the issuer must give considered reasons:~~

~~(a) in the case of annual reports (and summary financial reports), in the Corporate Governance Report which must be issued in accordance with Appendix 16; and~~

(b) in the case of half-year reports (and summary half-year reports), either:

(i) by giving considered reasons for each deviation; or

(ii) to the extent that it is reasonable and appropriate, by referring to the Corporate Governance Report in the immediately preceding annual report, and providing details of any changes together with considered reasons for any deviation not reported in that annual report. Such references must be clear and unambiguous and the half-year report (or summary half-year report) must not only contain a cross-reference without any discussion of the matter.

(4) In the case of the recommended best practices, issuers are encouraged, but are not required, to state whether they have complied with them and give considered reasons for any deviation.

~~5.35 Full board meetings should be held no less frequently than every 3 months. "Full" board meetings means meetings at which directors are physically present and not "paper" meetings or meetings by circulation.[Repealed 1 January 2005]~~

~~5.36 The directors' fees and any other reimbursement or emolument payable to an independent non-executive director must be disclosed in full in the annual report and accounts of the issuer (see rules 18.27 and 18.28).[Repealed 1 January 2005]~~

~~5.37 Except in emergencies an agenda and accompanying board papers should be sent in full to all directors at least 2 clear days before the intended date of a board meeting (or such other period as the board agrees).[Repealed 1 January 2005]~~

~~5.38 Except in emergencies adequate notice should be given of a board meeting to give all directors an opportunity to attend.[Repealed 1 January 2005]~~

- ~~5.39 All directors, executive and non-executive, are entitled to have access to board papers and materials. Where queries are raised by non-executive directors, steps should be taken to respond as promptly and fully as possible. [Repealed 1 January 2005]~~
- ~~5.40 Full minutes should be kept by a duly appointed secretary of the meeting and such minutes should be open for inspection at any time in office hours on reasonable notice by any director. [Repealed 1 January 2005]~~
- ~~5.41 If, in respect of any matter discussed at a board meeting, the independent non-executive directors hold views contrary to those of the executive directors, the minutes should clearly reflect this. [Repealed 1 January 2005]~~
- ~~5.42 Arrangements should be made in appropriate circumstances to enable the independent non-executive directors of the board, at their request, to seek separate professional advice at the expense of the issuer. [Repealed 1 January 2005]~~
- ~~5.43 If a matter to be considered by the board involves a conflict of interest for a director, a full board meeting should be held and the matter should not be dealt with by circulation or by committee and any director to whom the conflict relates may not form part of the quorum, nor participate in any discussion nor vote at such meeting in respect of such matter. [Repealed 1 January 2005]~~
- ~~5.44 Every director on the board is required to keep abreast of his responsibilities as a director of an issuer. Newly appointed board members should receive an appropriate briefing on the issuer's affairs and be provided with relevant corporate governance materials on an ongoing basis. [Repealed 1 January 2005]~~
- ~~5.45 The board of directors should give due consideration to all recommendations made to it, from time to time, by the issuer's company secretary, qualified accountant, compliance officer and audit committee. [Repealed 1 January 2005]~~

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5.68 In relation to securities transactions by directors, an issuer shall disclose in its half-year reports (and summary half-year reports, if any) and the Corporate Governance report contained in its annual and half-year reports (and summary financial reports, if any):

- (1) whether the issuer has adopted a code of conduct regarding securities transactions by directors on terms no less exacting than the required standard of dealings;
- (2) having made specific enquiry of all directors, whether its directors have complied with, or whether there has been any non-compliance with, the required standard of dealings and its code of conduct regarding securities transactions by directors; and
- (3) in the event of any non-compliance with the required standard of dealings, details of such non-compliance and an explanation of the remedial steps taken by the issuer to address such non-compliance.

.....

18.44 The following information in respect of an issuer:-

- ~~(1) the composition, by name, of the audit committee (which information should be included in the corporate information section of the annual report);~~
- ~~(2) the work undertaken by the audit committee during the financial year (which information should be included in the report of the directors or the review of operations);~~
- ~~(3) the number of times that the audit committee met during the financial year;~~
- (4) the full name and professional qualifications (if any) of:-
 - (a) the company secretary of the issuer;
 - (b) the qualified accountant of the issuer appointed pursuant to rule 5.15; and
 - (c) the compliance officer of the issuer appointed pursuant to rule 5.19; and

- (52) ~~a statement as to whether or not the issuer has complied with rules 5.34 to 5.45 concerning board practices and procedures throughout the accounting period covered by the annual report. An issuer that has not complied with rules 5.34 to 5.45, or complied with only part of rules 5.34 to 5.45 or (in the case of requirements of a continuing nature) complied for only part of such period, must specify the rules with which it has not complied and (where relevant) for what part of the period of such non-compliance continued, and give reasons for any non-compliance. Insofar as the issuer's statement of compliance relates to rule 5.36, such statement must be reviewed by the auditors a separate Corporate Governance Report prepared by the board of directors on its corporate governance practices. The report must, as a minimum, contain the information required under Appendix 16, regarding the accounting period covered by the annual report. To the extent that it is reasonable and appropriate, the issuer may incorporate by reference information in its annual report into the Corporate Governance Report. Any such references must be clear and unambiguous and the Corporate Governance Report must not only contain a cross-reference without any discussion of the matter;~~
- (6) ~~in respect of the required standard of dealings set out in rules 5.48 to 5.67, a statement in relation to the accounting period covered by the annual report as to:~~
- ~~(a) whether the issuer has adopted a code of conduct regarding directors' securities transactions on terms no less exacting than the required standard of dealings;~~
 - ~~(b) having made specific enquiry of all directors, whether its directors have complied with, or whether there has been any non-compliance with, the required standard of dealings and its code of conduct regarding directors' securities transactions; and~~
 - ~~(c) in the event of any non-compliance with the required standard of dealings, details of such non-compliance and an explanation of the remedial steps taken by the issuer to address such non-compliance;~~

- ~~(7) details of non-compliance (if any) with rules 5.05(1) and 5.05(2) and an explanation of the remedial steps taken by the issuer to address such non-compliance relating to appointment of a sufficient number of independent non-executive directors and an independent non-executive director with appropriate professional qualifications or accounting or related financial management expertise, respectively; and~~
- ~~(8) details of non-compliance with rule 5.28 (if any) and an explanation of the remedial steps taken by the issuer to address such non-compliance relating to establishment of an audit committee.~~

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18.50 The preliminary announcement of results for the financial year must contain at least the following information in respect of the group:

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- ~~(6) a statement as to whether or not the listed issuer has complied with rules 5.34 to 5.45 concerning board practices and procedures throughout the financial year. A listed issuer that has not complied with rules 5.34 to 5.45, or complied with only part of rules 5.34 to 5.45 or (in the case of requirements of a continuing nature) complied for only part of such period, must specify the rules with which it has not complied and (where relevant) for what part of the period of such non-compliance continued, and give reasons for any non-compliance. Insofar as a listed issuer's statement of compliance relates to rule 5.36, such statement must be reviewed by the auditors~~a statement as to whether the listed issuer meets the code provisions set out in the Code on Corporate Governance Practices contained in Appendix 15. The listed issuer must also disclose any deviations from the code provisions and considered reasons for such deviations. To the extent that it is reasonable and appropriate, such information may be given by reference to the immediately preceding half-year report or to the Corporate Governance Report in the immediately preceding annual report, and summarising any changes since that report. Any such references must be clear and unambiguous; and

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18.55 Each half-year report shall contain at least the following information in respect of the group:-

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(4) ~~a statement as to whether or not the listed issuer has complied with rules 5.34 to 5.45 concerning board practices and procedures throughout the accounting period covered by the half-year report. A listed issuer that has not complied with rules 5.34 to 5.45, or complied with only part of rules 5.34 to 5.45 or (in the case of requirements of a continuing nature) complied for only part of such period, must specify the rules with which it has not complied and (where relevant) for what part of the period of such non-compliance continued, and give reasons for any non-compliance. Insofar as the listed issuer's statement of compliance relates to rule 5.36, such statement must be reviewed by the auditors~~ a statement in relation to the accounting period covered by the half-year report on whether the listed issuer meets the code provisions set out in the Code on Corporate Governance Practices contained in Appendix 15. Where there are any deviations from the code provisions in the Code, the listed issuer must also give considered reasons for the deviations from the code provisions, either by:

(a) giving considered reasons for each deviation; or

(b) to the extent that it is reasonable and appropriate, by referring to the Corporate Governance Report in the immediately preceding annual report and providing details of any changes together with considered reasons for any deviation not reported in that annual report. Any such references must be clear and unambiguous and the half-year report must not only contain a cross-reference without any discussion of the matter;

.....

18.78 A listed issuer must publish (in accordance with the requirements of Chapter 16) a preliminary announcement of the results for the first 6 months of each financial year, containing at least the information set out below, on the GEM website on the next business day after approval by or on behalf of the board of the results and in any event not later than 45 days after the end of such period:

.....

- (4) ~~a statement as to compliance with rules 5.34 to 5.45 concerning board practices and procedures during the relevant period as required by rule 18.55(4)~~a statement as to whether the listed issuer meets the code provisions set out in the Code on Corporate Governance Practices contained in Appendix 15. The listed issuer must also disclose any deviations from the code provisions and considered reasons for such deviations. To the extent that it is reasonable and appropriate, such information may be given by reference to the Corporate Governance Report in the immediately preceding annual report, and summarising any changes since that annual report. Any such references must be clear and unambiguous;

.....

18.81 Summary financial reports of listed issuers shall comply with the disclosure requirements set out in the Companies (Summary Financial Reports of Listed Companies) Regulation. A listed issuer shall also disclose the following information in its summary financial report:

- (1) particulars of any purchase, sale or redemption by the listed issuer, or any of its subsidiaries, of its listed securities during the financial year or an appropriate negative statement; and
- (2) ~~a statement as to compliance with rules 5.34 to 5.45 concerning board practices and procedures during the financial year~~a separate Corporate Governance Report prepared by the board of directors on its corporate governance practices. The report must, as a minimum, contain the information required under Appendix 16 regarding the accounting period covered by the annual report. To the extent that it is reasonable and appropriate, this Corporate Governance Report may take the form of a summary of the

Corporate Governance Report contained in the annual report and may also incorporate information by reference to its annual report. Any such references must be clear and unambiguous and the summary must not only contain a cross-reference without any discussion of the matter. The summary must contain, as a minimum, a narrative statement indicating overall compliance with and highlighting any deviation from the provisions of the Code on Corporate Governance Practices contained in Appendix 15.;

- ~~(3) details of non-compliance (if any) with rules 5.05(1) and 5.05(2) and an explanation of the remedial steps taken by the listed issuer to address such non-compliance relating to appointment of a sufficient number of independent non-executive directors and an independent non-executive director with appropriate professional qualifications or accounting or related financial management expertise, respectively; and~~
- ~~(4) details of non-compliance with rule 5.28 (if any) and an explanation of the remedial steps taken by the listed issuer to address such non-compliance relating to establishment of an audit committee.~~

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18.83 Listed issuers are encouraged to disclose the following additional commentary on management discussion and analysis in their half-year and annual reports:-

- (1) efficiency indicators (e.g. return on equity, working capital ratios) for the last 5 financial years indicating the bases of computation;
- (2) industry specific ratios, if any, for the last 5 financial years indicating the bases of computation;
- (3) a discussion of the listed issuer's purpose, corporate strategy and principal drivers of performance;
- (4) an overview of trends in the listed issuer's industry and business;
- (5) a discussion on business risks (including known events, uncertainties and other factors which may substantially affect future performance) and risks management policy;

- (6) a discussion on the listed issuer's environmental policies and performance, including compliance with the relevant laws and regulations;
- (7) a discussion on the listed issuer's policies and performance on community, social, ethical and reputational issues;
- (8) an account of the listed issuer's key relationships with employees, customers, suppliers and others, on which its success depends; and
- (9) receipts from, and returns to, shareholders.

Note: Issuers should also note the recommended disclosures set out in paragraph 3 of Appendix 16.