

The Code of Corporate Governance Consultation Paper on CG Council Recommendations

After a year-long review, the Corporate Governance Council launched a public consultation on measures to strengthen corporate governance among listed companies in Singapore.

On 16 January 2018, the Corporate Governance (CG) Council released a consultation paper on its recommendations to revise the Code of Corporate Governance (the Code). The recommendations aim to support sustained corporate performance and innovation, and strengthen investor confidence in Singapore's capital markets.

The 19-member CG Council, which included three SID council members, was established by the Monetary Authority of Singapore (MAS) in February 2017 to review the Code and propose ways to strengthen corporate governance practices in Singapore.

The Code was first issued in 2001 and revised in 2005 and 2012. The release of the next revision of the Code is expected to occur in Q2 2018, following the consultation and finalisation of the changes.

Key changes proposed to the Code are in the areas of board composition, board diversity, director independence, remuneration disclosures, and stakeholder engagement. The Council has also streamlined the Code to make it more concise and introduced Practice Guidance to clarify and amplify the Code Provisions (formerly known as "Guidelines").

Beyond the revisions to the Code and its structure, the Council is also recommending to clarify the intent of the comply-or-explain regime and the expectations on listed companies' CG disclosures.

Given the importance of a conducive ecosystem in supporting companies to implement good CG practices, the Council is recommending the establishment of an industry-led CG Advisory Committee.

A summary of the recommendations of the CG Council are contained in the following two pages.

The launch of the Consultation Paper coincided with the ACRA-SGX-SID Audit Committee Seminar. With the theme of "Rebooting Corporate Governance", much of the AC Seminar content revolved around the CG Council recommendations (see page 72).

The MAS consultation took place over two months, ending on 15 March 2018. SID conducted two feedback sessions for its members on 1 and 6 February 2018 (see page 71), and submitted a Response to the Consultation Paper in early March 2018.

Summary of Corporate Governance Council Recommendations

1. Supportive Ecosystem

Sound CG practices require long-term commitment and ongoing efforts by all stakeholders. For a conducive CG ecosystem:

- Capacity-building initiatives to help companies understand and implement changes.
- Industry-led CG Advisory Committee to promote good CG practices.

2. Enhanced “Comply-or-Explain” Regime

No change to “comply-or-explain” regime, emphasis on effective and meaningful communication:

- Mandatory compliance with Code Principles.
- Companies to describe their compliance with Principles and Provisions.
- Variations from Provisions acceptable only if consistent with intent of Principles.

3. Streamlined Code Structure

Mandatory

Listing Rules

- Important requirements, baseline market practices

Comply-or-explain

CG Code

13 Principles

52 Provisions (formerly Guidelines)

- Overarching, non-disputable statements of good CG
- Actionable steps to guide companies to comply with substance of Principles

Voluntary

Practice Guidance

- Non-binding best practices

Overall impact

- More focused and concise Code (half of original wordcount)
- Net reduction of 3 Principles and 30 Provisions (Guidelines) from existing Code
- Companies have scope to explore more ways to comply
- Shift from box-ticking mindset

4. Specific Requirements

Area	Recommendation	Type ¹ (N/R)	Reference ²		
			Listing Rule ³	Code	Practice Guidance
 Board Composition	<ul style="list-style-type: none"> Independent directors to form at least 1/3 of board – to become a Listing Rule Independent directors to make up majority of board (from at least half currently) if chair is not independent Directors who are independent of management and business relationship to form majority of board Board to disclose board diversity policy and progress made in achieving policy (including objectives set by company) 	R	MR 210 (5)(c) CR 406 (3)(c)		
		R		2.2	
		N		2.4	2
		N		2.5	2
 Director Independence	<ul style="list-style-type: none"> Tests of director independence to be rationalised: <ul style="list-style-type: none"> Maintain overarching Principles-based definition in the Code Objective and baseline tests to become Listing Rules Remaining tests shifted to non-binding Practice Guidance Threshold for significant payments to or from director or immediate family set at \$50K Shareholder threshold for assessing director independence lowered to 5% from 10% (after 3-year transition) Move the 9-year rule for director independence to Listing Rule, OR impose 2-tier vote (all shareholders and non-controlling shareholders) for independent directors serving more than 9 years (after 3-year transition) Separately disclose non-controlling shareholders' votes on (re)appointments of independent directors with less than 9 years 	R		2.1	1 1
		R	MR 210 (5)(d) CR 406 (3)(d)		
		R			
		N		2.3	2
 Remuneration Disclosure	<ul style="list-style-type: none"> No "say-on-pay" provisions Companies to disclose relationship between remuneration and value creation Companies to disclose names and remuneration of employees who are substantial shareholders or their immediate family (in addition to immediate family members of a director or the CEO), where remuneration exceeds \$100K (formerly \$50K), in bands no wider than \$100K (formerly \$50K) 	N		8	8
		R		8.2	8
 Stakeholder Engagement	<ul style="list-style-type: none"> Board to adopt inclusive approach by balancing the needs and interests of material stakeholders, beyond shareholders 	N		13	13

¹ Type of change: N=New or R=Revision to an existing requirement.

² Reference to the Listing Rule (LR) number, Revised Code Provision number, and Practice Guidance number.

³ MR = SGX Listing Rules (Mainboard)
CR = SGX Listing Rules (Catalist)

Feedback Sessions

SID held two dialogue sessions, on 1 and 6 February 2018, for members to share their views on the recommendations of the CG Council. Over 60 industry professionals and corporate leaders attended the lunch-time sittings at Capital Tower.

The two sessions were chaired by the Deputy Chair and Chair of SID's Advocacy and Research Committee, Mr Adrian Chan (Senior Partner, Lee & Lee) and Mr Lee Kim Shin (Managing Partner, Allen & Gledhill) respectively. They walked through the key recommendations and invited feedback on each of the 17 consultation questions.

Members present at the sessions were generally supportive of the recommendations. There were

significant discussions on matters such as:

- The nine-year rule;
- Disclosure of non-controlling shareholder votes on independent directors;
- Lowering of shareholder threshold from 10 per cent to five per cent for assessing director independence;
- Multiple directorships;
- Majority of the board to comprise directors with no management or business relationships;
- Remuneration disclosure; and
- Practice guidance.

Following the feedback sessions, SID has provided its response to the Consultation Paper. ■

