

China Agri-Industries Holdings Limited 中国粮油控股有限公司
 Corporate Governance Manual for the Board of Directors 董事会企业管治手册
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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 (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. Issuers may also devise their own code on corporate governance practices on such terms as they may consider appropriate.

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).

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.

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.

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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 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 all directors are given an opportunity to include matters in the agenda for regular board meetings.
- A.1.3 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 minutes of board meetings should be sent to all directors for their comment and records respectively, in both cases within a reasonable time 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 to Appendix 3 .

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 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, 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.*

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 23, 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 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. 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 could 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 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.

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;
- (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 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 a positive contribution to the development of the issuer's strategy and policies through independent, constructive and informed comments.

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 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 period as agreed).

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.

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, issuers are required to give a general description of the emolument policy and long-term incentive schemes of the group as well as the basis of determining the emolument payable to their directors.

2 Under paragraph 24 of Appendix 16, 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.

- (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.

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 could 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 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.

- 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.*

- 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 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 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.

C.2.2 The board's annual review should, in particular, consider the adequacy of resources, qualifications and experience of staff of the issuer's accounting and financial reporting function, and their training programmes and budget.

Recommended Best Practices

C.2.3 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 processes relating to financial reporting and Listing Rule compliance.

C.2.4 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.2.5 Issuers should ensure that their disclosures provide meaningful information and do not give a misleading impression.

C.2.6 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 minutes 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 minutes 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 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.3.3 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: -
 - (i) any changes in accounting policies and practices;
 - (ii) major judgmental areas;
 - (iii) significant adjustments resulting from audit;
 - (iv) the going concern assumptions and any qualifications;
 - (v) compliance with accounting standards; and
 - (vi) 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 and senior management 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 staff responsible for the accounting and financial reporting function, compliance officer or auditors;

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

- (f) to review the issuer's financial controls, internal control and risk management systems;
- (g) 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 including the adequacy of resources, qualifications and experience of staff of the issuer's accounting and financial reporting function, and their training programmes and budget;
- (h) 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;
- (i) 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;
- (j) to review the group's financial and accounting policies and practices;
- (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 Institute of Certified Public Accountants (formerly known as the Hong Kong Society of Accountants) 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.3.4 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 23, issuers must explain the role of the audit committee in the Corporate Governance Report.

C.3.5 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 statement from the audit committee explaining its recommendation and also the reason(s) why the board has taken a different view.

C.3.6 The audit committee should be provided with sufficient resources to discharge its duties.

Recommended Best Practices

C.3.7 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 act as the key representative body for overseeing the issuer's relation with the external auditor.

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 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.

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 The issuer should arrange for the notice to shareholders to be sent in the case of annual general meetings at least 20 clear business days before the meeting and to be sent at least 10 clear business days in the case of all other general meetings.

E.2 Voting by Poll

Principle

The issuer should ensure that shareholders are familiar with the detailed procedures for conducting a poll.

Code Provisions

- E.2.1 The chairman of a meeting should at the commencement of the meeting ensure that an explanation is provided of the detailed procedures for conducting a poll and then answer any questions from shareholders regarding voting by way of a poll.

附 錄 十 四

《 企 業 管 治 常 規 守 則 》

本《企業管治常規守則》訂明良好企業管治的原則及分兩層次的有關建議：(a) 守則條文；及(b) 建議最佳常規。

發行人應遵守守則條文，但亦可選擇偏離守則條文行事。建議最佳常規只屬指引。發行人亦可以其認為合適的條文，自行制定本身的企業管治常規守則。

發行人須在其中期報告(及中期摘要報告(如有))及年報(及財務摘要報告(如有))中說明其於有關會計期間有否遵守本《守則》所載的守則條文。

各發行人須仔細研究本《守則》中的各項守則條文，如有任何偏離守則條文的行為，須按照以下規定提供經過深思熟慮得出的理由：

- (a) 如屬年報(及財務摘要報告)，於須按附錄二十三發表的《企業管治報告》中提供經過深思熟慮得出的理由；及
- (b) 如屬中期報告(及中期摘要報告)：
 - (i) 就每項偏離行為提供經過深思熟慮得出的理由；或
 - (ii) 在合理和適當的範圍內，提述載於上一份年報的《企業管治報告》，詳細說明任何轉變，並就未有在該年報內申報的任何偏離的行為提供經過深思熟慮得出的理由。任何此等提述必須清楚明白，不得含糊，有關中期報告(或中期摘要報告)不能只列出相互參照而對有關事宜不作任何論述。

本交易所鼓勵發行人說明有否遵守建議最佳常規，並且就任何偏離行為提供經過深思熟慮得出的理由；但這並非一項強制規定。

A. 董事

A.1 董事會

原則

發行人應以一個行之有效的董事會為首；董事會應負有領導及監控發行人的責任，並應集體負責統管並監督發行人事務以促使發行人成功。董事應該客觀行事，所作決策須符合發行人利益。

守則條文

- A.1.1 董事會應定期開會，董事會會議應每年召開至少四次，大約每季一次。預計每次召開此等董事會定期會議皆有大部分有權出席會議的董事親身出席，或透過其他電子通訊方法積極參與。因此，董事會定期會議並不包括以傳閱書面決議方式取得董事會批准。
- A.1.2 董事會應訂有安排，以確保全體董事皆有機會提出商討事項列入董事會定期會議議程。
- A.1.3 召開董事會定期會議應發出至少14天通知，以讓所有董事皆有機會騰空出席。至於召開其他所有董事會會議，應發出合理通知。
- A.1.4 所有董事應可取得公司秘書的意見和享用他的服務，目的是為了確保董事會程序及所有適用規則及規例均獲得遵守。
- A.1.5 經正式委任的會議秘書應備存董事會及轄下委員會的會議紀錄，若有任何董事發出合理通知，應公開有關會議紀錄供其在任何合理的時段查閱。
- A.1.6 董事會及其轄下委員會的會議紀錄，應對會議上各董事所考慮事項及達致的決定作足夠詳細的記錄，其中應該包括董事提出的任何疑慮或表達的反對意見。董事會會議結束後，應於合理時段內先後將會議紀錄的初稿及最終定稿發送全體董事，初稿供董事表達意見，最後定稿則作其紀錄之用。

- A.1.7 董事會應該商定程序，讓董事按合理要求，可在適當的情況下尋求獨立專業意見，費用由發行人支付。董事會應議決另外為董事提供獨立專業意見，以協助有關董事履行其對發行人的責任。
- A.1.8 若有大股東或董事在董事會將予考慮的事項中存有董事會認為重大的利益衝突，有關事項不應以傳閱文件方式處理或交由轄下委員會處理（根據董事會會議上通過的決議而特別就此事項成立的委員會除外），而董事會應就該事項舉行董事會。在交易中本身及其聯繫人均沒有重大利益的獨立非執行董事應該出席有關的董事會會議。

- 註： 1 董事須留意《上市規則》第13.44條的規定，即：若董事會會議上任何議案涉及董事或其任何聯繫人的重大利益，有關董事必須放棄表決，且不得計入該董事會出席會議的法定人數。至於現行有關一般禁制表決的例外情況，載於附錄三附註1。
- 2 在決定大股東或董事是否在董事會將予考慮的事項中存有利益衝突時，上述有關一般禁制表決的例外情況亦應予以考慮。若有關例外情況適用，則不一定需要就該事項舉行定期的董事會會議。有關本附註所指董事會定期會議的涵意，請參閱A.1.1條。

建議最佳常規

- A.1.9 發行人應就其董事可能會面對的法律行動作適當的投保安排。
- A.1.10 董事會轄下委員會應在切實可行的範圍內採納A.1.1至A.1.8條所列的原則、程序及安排。

A.2 主席及行政總裁

原則

每家發行人在經營管理上皆有兩大方面—董事會的經營管理和發行人業務的日常管理。在董事會層面，這兩者之間必須清楚區分，以確保權力和授權分布均衡，不致權力僅集中於一位人士。

守則條文

A.2.1 主席與行政總裁的角色應有區分，並不應由一人同時兼任。主席與行政總裁之間職責的分工應清楚界定並以書面列載。

註：根據附錄二十三第2(c)(vii)及2(d)段，發行人在其《企業管治報告》中必須披露主席及行政總裁的身份以及二者角色有否區分，若董事會成員之間(特別是主席與行政總裁之間)存有任何關係，包括財務、業務、家屬或其他重大／相關關係，則亦須一併披露。

A.2.2 主席應確保董事會會議上所有董事均適當知悉當前的事項。

A.2.3 主席應負責確保董事及時收到充分的資訊，而有關資訊亦必須完備可靠。

建議最佳常規

A.2.4 主席其中一個重要角色是領導董事會。主席應確保董事會有效地運作，且履行應有職責，並及時就所有重要的適當事項進行討論。主席應主要負責釐定並批准每次董事會會議的議程，在適當情況下，這過程中應計及其他董事提議加入議程的任何事項。主席可將這項責任轉授指定的董事或公司秘書。

A.2.5 主席應有責任確保公司制定良好的企業管治常規及程序。

A.2.6 主席應鼓勵所有董事全力投入董事會事務，並以身作則，確保董事會行事符合發行人最佳利益。

A.2.7 主席應至少每年與非執行董事(包括獨立非執行董事)舉行一次沒有執行董事出席的會議。

A.2.8 主席應確保採取適當步驟保持與股東有效聯繫，以及確保股東意見可傳達到整個董事會。

A.2.9 主席應促進董事(特別是非執行董事)對董事會作出有效貢獻，並確保執行董事與非執行董事之間維持建設性的關係。

A.3 董事會組成

原則

董事會應根據發行人業務而具備適當所需技巧和經驗。董事會應確保其組成人員的變動不會帶來不適當的干擾。董事會中執行董事與非執行董事(包括獨立非執行董事)的組合應該保持均衡，以使董事會有強大的獨立元素，能夠有效地作出獨立判斷。非執行董事應有足夠才幹和人數，以使其意見具有影響力。

註： 1 根據《上市規則》第3.10條，每家上市發行人的董事會必須至少有三名獨立非執行董事。

2 有關獨立非執行董事獨立性的指引，載於《上市規則》第3.13條。

守則條文

A.3.1 發行人所有載有董事姓名的公司通訊中，應該明確說明獨立非執行董事身份。

註： 根據附錄二十三第2(c)(i)段，發行人在其《企業管治報告》中必須披露董事會的組成(按董事類別劃分)，當中包括主席、執行董事、非執行董事及獨立非執行董事的姓名。

建議最佳常規

A.3.2 發行人所委任的獨立非執行董事應佔董事會成員人數至少三分之一。

A.3.3 發行人應在其網站上設存及提供最新的董事會成員名單，並列明其角色和職能，以及註明其是否獨立非執行董事。

A.4 委任、重選和罷免

原則

董事會應制定正式、經審慎考慮並具透明度的新董事委任程序，並應設定有秩序的董事接任計劃。所有董事均應每隔若干時距即重新選舉。發行人必須就任何董事辭任或遭罷免解釋原因。

守則條文

A.4.1 非執行董事的委任應有指定任期，並須接受重新選舉。

註： 根據附錄二十三第2(e)段，發行人在其《企業管治報告》中必須披露非執行董事的任期。

A.4.2 所有為填補臨時空缺而被委任的董事應在接受委任後的首次股東大會上接受股東選舉。每名董事（包括有指定任期的董事）應輪流退任，至少每三年一次。

註： 1 所有擬參與選舉或重新選舉的董事之姓名，應連同《上市規則》第13.51(2)條規定新委任董事必須提供的同樣個人履歷資料（包括過去三年曾任其他上市公司董事職務及其他主要委任）一併提呈，讓股東具備全面資訊作出有根據的選擇決定。

2 若董事辭任或被罷免，發行人必須遵守《上市規則》第13.51(2)條的披露規定，在其有關該董事辭任或被罷免的公告中列載該董事呈辭的理由（包括但不限於有關董事與發行人意見不合的資料（如有）以及確認是否有任何需要讓股東知道的事項的說明）。

建議最佳常規

- A.4.3 在釐定非執行董事的獨立性時，「擔任董事超過九年」足以作為一個考慮界線。若獨立非執行董事在任已過九年，任何擬繼續委任該名獨立非執行董事均應以獨立決議案形式由股東審議通過。董事會應在提議選任該名獨立非執行董事的決議案隨附的文件中，向股東列明董事會認為該名人士仍屬獨立人士的理由以及他們認為應重新選任其為董事的原因。
- A.4.4 發行人應設立提名委員會。提名委員會須以獨立非執行董事佔大多數。
- A.4.5 發行人應書面訂明提名委員會具體的職權範圍，清楚說明委員會的職權和責任。建議提名委員會應履行以下責任：
- (a) 定期檢討董事會的架構、人數及組成(包括技能、知識及經驗方面)，並就任何擬作出的變動向董事會提出建議；
 - (b) 物色具備合適資格可擔任董事的人士，並挑選提名有關人士出任董事或就此向董事會提供意見；
 - (c) 評核獨立非執行董事的獨立性；及
 - (d) 就董事委任或重新委任以及董事(尤其是主席及行政總裁)繼任計劃的有關事宜向董事會提出建議。
- A.4.6 提名委員會應公開其職權範圍，解釋其角色以及董事會轉授予其的權力。

註： 1 發行人只要在有人提出要求時提供有關資料以及將資料登載於其網站上，即屬符合上述規定。

2 根據附錄二十三第2(g)(i)段，發行人在其《企業管治報告》中必須解釋提名委員會(如有)的角色。

A.4.7 提名委員會應獲供給充足資源以履行其職責。

A.4.8 若董事會擬於股東大會上提呈決議案選任某人士為獨立非執行董事，有關股東大會通告所隨附的致股東通函及／或說明函件中，應該列明董事會認為應選任該名人士的理由以及他們認為該名人士屬獨立人士的原因。

A.5 董事責任

原則

每名董事須不時瞭解其作為發行人董事的職責，以及發行人的經營方式、業務活動及發展。由於董事會本質上是個一體組織，非執行董事應有與執行董事相同的受信責任以及以應有謹慎態度和技能行事的責任。

註：此等職責概述於公司註冊處於2004年1月發出的《有關董事責任的非法定指引》內。在確定董事是否具備別人所預期的應有的謹慎、技能及勤勉盡責水平時，法庭一般會考慮多項因素，包括有關董事須履行的職能、董事是否全職的執行董事或非全職的非執行董事以及有關董事的專業技能及知識等。

守則條文

A.5.1 每名新委任的董事均應在首次接受委任時獲得全面、正式兼特為其而設的就任須知，其後亦應獲得所需的介紹及專業發展，以確保他們對發行人的運作及業務均有適當的理解，以及完全知道本身在法規及普通法、《上市規則》、適用的法律規定及其他監管規定以及發行人的業務及管治政策下的職責。

A.5.2 非執行董事的職能應包括但不限於下列各項：

- (a) 參與發行人董事會會議，在涉及策略、政策、公司表現、問責性、資源、主要委任及操守準則等事宜上，提供獨立的意見；

- (b) 在出現潛在利益衝突時發揮牽頭引導作用；
- (c) 應邀出任審核委員會、薪酬委員會、提名委員會及其他管治委員會成員；及
- (d) 仔細檢查發行人的表現是否達到既定的企業目標和目的，並監察匯報公司表現的事宜。

A.5.3 每名董事應確保能付出足夠時間及精神以處理發行人的事務，否則不應接受委任。

A.5.4 董事必須遵守附錄十的《標準守則》；董事會亦應就有關僱員買賣發行人證券事宜設定書面指引，指引內容應該不比《標準守則》寬鬆。就此而言，「有關僱員」包括發行人任何因其職務或僱員關係而可能會擁有關於發行人或其證券的未公開股價敏感資料的僱員，又或發行人附屬公司或母公司的此等董事或僱員。

建議最佳常規

A.5.5 所有董事應參與持續專業發展計劃，發展並更新其知識及技能，以助確保其繼續在具備全面資訊及切合所需的情況下對董事會作出貢獻。發行人應負責安排合適的發展計劃並提供有關資金。

A.5.6 每名董事應於接受委任時向發行人披露（並於其後定期披露）其於公眾公司或組織擔任職位的數目及性質以及其他重大承擔，其中必須提供公眾公司或組織的名稱以及顯示其擔任有關職務所涉及的時間。董事會應自行決定相隔多久作出一次披露。

A.5.7 非執行董事作為與其他董事擁有同等地位的董事會成員，應定期出席董事會及其同時出任委員會成員的委員會（例如審核委員會、薪酬委員會或提名委員會）的會議並積極參與會務，以其技能、專業知識及不同的背景及資格作出貢獻。非執行董事並應出席股東大會，對公司股東的意見有公正的了解。

A.5.8 非執行董事須透過提供獨立、富建設性及有根據的意見對發行人制定策略及政策作出正面貢獻。

A.6 資料提供及使用

原則

董事應獲提供適當的適時資料，其形式及素質須使董事能夠在掌握有關資料的情況下作出決定，並能履行其作為發行人董事的職責及責任。

守則條文

A.6.1 董事會定期會議的議程及相關會議文件應全部及時送交全體董事，並至少在計劃舉行董事會或其轄下委員會會議日期的三天前(或協定的其他時間內)送出。董事會其他所有會議在切實可行的情況下亦應採納以上安排。

A.6.2 管理層有責任向董事會及其轄下委員會提供充足的適時資料，以使董事能夠在掌握有關資料的情況下作出決定。管理層所提供的資料必須完整可靠。董事要恰當履行董事職責，他們並不能在所有情況下皆單靠管理層主動提供的資料，有時他們還需自行作進一步查詢。任何董事若需要管理層提供其他額外(管理層主動提供以外)的資料，應該按需要再作進一步查詢。董事會及每名董事應有自行接觸發行人高級管理人員的獨立途徑。

註： 1 管理層向董事會提供的資料，應該包括有關將提呈董事會商議事項的背景或說明資料、披露文件、預算、預測以及每月財務報表及其他相關內部財務報表。預算方面，若事前預測與實際數字之間有任何重大差距，亦必須一併披露及解釋。

2 就本守則而言，「高級管理人員」指發行人年報內提及的同一類別的人士；按附錄十六第12段，這類人士的身份須予以披露。

A.6.3 所有董事均有權查閱董事會文件及相關資料。此等文件及相關資料的編備形式及素質應使董事會能就提呈董事會商議事項作出知情有根據的決定。若有董事提出問題，發行人必須採取步驟以盡快作出盡量全面的回應。

B. 董事及高級管理人員的薪酬

B.1 薪酬及披露的水平及組成

原則

發行人應披露其董事酬金政策及其他薪酬相關事宜的資料；應設有正規而具透明度的程序，以制訂有關執行董事酬金的政策及釐訂各董事的薪酬待遇。所定薪酬的水平應足以吸引及挽留公司成功營運所需的一眾董事，但公司應避免為此支付過多的酬金。任何董事不得參與訂定本身的酬金。

- 註：
- 1 根據附錄十六第24B段，發行人須概括說明其薪酬政策、集團的長期獎勵計劃及釐訂董事薪酬的準則。
 - 2 根據附錄十六第24段，各董事的袍金及支付各董事的其他補還或報酬均須於年報及發行人賬目內全面具名逐一披露。

守則條文

- B.1.1 發行人應設立具有特定成文權責範圍的薪酬委員會；有關權責範圍應清楚說明委員會的權限及職責。薪酬委員會的大部分成員應為獨立非執行董事。
- B.1.2 薪酬委員會應就其他執行董事的薪酬建議諮詢主席及／或行政總裁，如認為有需要，亦可索取專業意見。

B.1.3 薪酬委員會在權責範圍方面應最低限度包括下列特定職責：

- (a) 就發行人董事及高級管理人員的全體薪酬政策及架構，及就設立正規而具透明度的程序制訂此等薪酬政策，向董事會提出建議；

註：就本守則而言，「高級管理人員」指發行人年報內提及的同一類別的人士；按附錄十六第12段，這類人士的身份須予以披露。

- (b) 獲董事會轉授以下職責，即釐訂全體執行董事及高級管理人員的特定薪酬待遇，包括非金錢利益、退休金權利及賠償金額（包括喪失或終止職務或委任的賠償），並就非執行董事的薪酬向董事會提出建議。薪酬委員會應考慮的因素包括同類公司支付的薪酬、董事須付出的時間及董事職責、集團內其他職位的僱用條件及是否應該按表現釐訂薪酬等；

註：有關「高級管理人員」的定義，請參閱本守則第B.1.3(a)條的附註。

- (c) 透過參照董事會不時通過的公司目標，檢討及批准按表現而釐定的薪酬；

- (d) 檢討及批准向執行董事及高級管理人員支付那些與喪失或終止職務或委任有關的賠償，以確保該等賠償按有關合約條款釐定；若未能按有關合約條款釐定，賠償亦須公平合理，不會對發行人造成過重負擔；

註：有關「高級管理人員」的定義，請參閱本守則B.1.3(a)條的附註。

- (e) 檢討及批准因董事行為失當而解僱或罷免有關董事所涉及的賠償安排，以確保該等安排按有關合約條款釐定；若未能按有關合約條款釐定，有關賠償亦須合理適當；及

(f) 確保任何董事或其任何聯繫人不得自行釐訂薪酬。

註： 薪酬委員會須向股東建議，如何就任何須(根據《上市規則》第13.68條的規定)取得股東批准的董事服務合約，進行表決。

B.1.4 薪酬委員會應公開其職權範圍，解釋其角色及董事會轉授予其的權力。

- 註： 1 發行人只要在有人要求時提供有關資料以及將資料登載於其網站上，即屬符合上述規定。
- 2 根據附錄二十三第2(f)(i)段，發行人在其《企業管治報告》中必須解釋薪酬委員會(如有)的角色。

B.1.5 薪酬委員會應獲供給充足資源以履行其職責。

建議最佳常規

B.1.6 執行董事的薪酬結構中，應有頗大部分的報酬與公司及個人表現掛。

B.1.7 發行人應在其年度報告及賬目內披露每名高級管理人員的酬金，並列出每名高級管理人員的姓名。

- 註： 1 發行人應就任何應付予高級管理人員薪酬的詳情作出披露，有關披露的內容應達至與根據附錄十六第24段披露發行人董事酬金資料相等的水平。
- 2 就本守則而言，「高級管理人員」指發行人年報內提及的同一類別的人士。按附錄十六第12段，這類人士的身份須予以披露。

B.1.8 凡董事會議決通過的薪酬或酬金安排為薪酬委員會先前議決不予通過者，董事會須在下一份年報中披露其通過該項決議的原因。

C. 問責及核數

C.1 財務匯報

原則

董事會應平衡、清晰及全面地評核公司的表現、情況及前景。

守則條文

C.1.1 管理層應向董事會提供充分的解釋及足夠的資料，讓董事會可以就提交給他們批准的財務及其他資料，作出有根據的評審。

註： 發行人應注意，他們有責任遵守《上市規則》所載的財務匯報及披露規定。若未能符合此等規定，發行人即違反《上市規則》。

C.1.2 董事應在《企業管治報告》中承認他們有編製賬目的責任，核數師亦應在有關財務報表的核數師報告中就他們的申報責任作出聲明。除非假設公司將會持續經營業務並不恰當，否則，董事擬備的賬目應以公司持續經營為基礎，有需要時更應輔以假設或保留意見。若董事知道有重大不明朗事件或情況可能會嚴重影響發行人持續經營的能力，董事應在《企業管治報告》清楚顯著披露及詳細討論此等不明朗因素。《企業管治報告》應載有足夠資料，讓投資者明白當前事件的嚴重性及意義。在合理和適當的範圍內，發行人可參照年報其他有關部分。任何此等提述必須清楚明白，不得含糊，而《企業管治報告》不能只列出相互參照的提述而對有關事宜不作任何論述。

C.1.3 有關董事會應平衡、清晰及明白地評審公司表現的責任，適用於年度報告及中期報告、其他涉及股價敏感資料的通告及根據《上市規則》規定須予披露的其他財務資料，以及向監管者提交的報告書以至根據法例規定須予披露的資料。

建議最佳常規

- C.1.4 發行人應於有關季度結束後45天內公布及刊發季度財務業績，而所披露的資料，必須能夠讓股東評核發行人的表現、財務狀況及前景。發行人擬備任何此等季度財務報告時，應使用那些適用於其半年度及年度賬目的會計政策。
- C.1.5 發行人一旦決定公布及刊發季度財務業績，即應於其後的財政年度繼續匯報截至第三個月及第九個月的季度業績。若發行人決定不公布及刊發某一季度的財務業績，即應刊發通告，解釋這項決定的原因。

C.2 內部監控

原則

董事會應確保發行人的內部監控系統穩健妥善而且有效，以保障股東的投資及發行人的資產。

守則條文

- C.2.1 董事應最少每年檢討一次發行人及其附屬公司的內部監控系統是否有效，並在《企業管治報告》中向股東匯報已經完成有關檢討。有關檢討應涵蓋所有重要的監控方面，包括財務監控、運作監控及合規監控以及風險管理功能。
- C.2.2 董事會每年進行檢討時，應特別考慮發行人在會計及財務匯報職能方面的資源、員工資歷及經驗是否足夠，以及員工所接受的培訓課程及有關預算又是否充足。

建議最佳常規

C.2.3 董事會每年檢討的事項應特別包括下列各項：

- (a) 自上年檢討後，重大風險的性質及嚴重程度的轉變、以及發行人應付其業務轉變及外在環境轉變的能力；
- (b) 管理層持續監察風險及內部監控系統的工作範疇及素質，及(如適用)內部核數功能及其他保證提供者的工作；

- (c) 向董事會(或旗下委員會)傳達監控結果的詳盡程度及次數；透過有關傳達，董事會得以對發行人的監控情況及風險管理的有效程度建立累積的評審結果；
- (d) 期內任何時候發生重大監控失誤或發現重大監控弱項的次數，及因此導致未能預見的後果或緊急情況的嚴重程度，而該等後果或情況對發行人的財務表現或情況已產生、可能已產生或將來可能會產生的重大影響；及
- (e) 發行人有關財務報告及遵守《上市規則》規定的程序是否有效。

C.2.4 作為《企業管治報告》的部分內容，發行人應以敘述形式披露其如何在報告期內遵守有關內部監控的守則條文。有關披露內容也應包括下列事項：

- (a) 發行人賴以辨認、評估及管理所面對的重大風險所採取的程序；
- (b) 任何有助了解發行人風險管理程序及內部監控系統的額外資料；
- (c) 董事會承認其須對發行人的內部監控系統負責，並有責任檢討該制度的有效性；
- (d) 發行人檢討內部監控系統是否有效所採取的程序；及
- (e) 發行人就處理於年度報告及賬目內所披露的有關重要內部監控事項的重大問題所採取的程序。

C.2.5 發行人應確保所披露的是有意義的資料，而且沒有給人有誤導的感覺。

C.2.6 沒有內部核數功能的發行人應每年檢討是否需要增設此項功能，然後在其《企業管治報告》內披露檢討結果。

C.3 審核委員會

原則

董事會應就如何應用財務匯報及內部監控原則及如何維持與公司核數師適當的關係作出正規及具透明度的安排。發行人根據《上市規則》成立的審核委員會須具有清晰的職權範圍。

守則條文

- C.3.1 審核委員會的完整會議紀錄應由正式委任的會議秘書（通常為公司秘書）保存。審核委員會會議紀錄的初稿及最後定稿應在會議後一段合理時間內先後發送委員會全體成員，初稿供成員表達意見，最後定稿作其紀錄之用。
- C.3.2 現時負責審計發行人賬目的核數公司的前任合夥人在以下日期（以日期較後者為準）起計一年內，不得擔任發行人審核委員會的成員：
- (a) 他終止成為該公司合夥人的日期；或
 - (b) 他不再享有該公司財務利益的日期。
- C.3.3 審核委員會的職權範圍須至少包括下列工作：

與發行人核數師的關係

- (a) 主要負責就外聘核數師的委任、重新委任及罷免向董事會提供建議、批准外聘核數師的薪酬及聘用條款，及處理任何有關該核數師辭職或辭退該核數師的問題；

註：發行人須注意，《上市規則》第13.51(4)條規定，凡轉換核數師必須刊發通告。有關通告亦須說明發行人證券持有人須留意的任何事項。

- (b) 按適用的標準檢討及監察外聘核數師是否獨立客觀及核數程序是否有效；審核委員會應於核數工作開始前先與核數師討論核數性質及範疇及有關申報責任；
- (c) 就外聘核數師提供非核數服務制定政策，並予以執行。就此規定而言，外聘核數師包括與負責核數的公司處於同一控制權、所有權或管理權之下的任何機構，或一個合理知悉所有有關資料的第三方，在合理情況下會斷定該機構屬於該負責核數的公司的本土或國際業務的一部分的任何機構。核數委員會應就其認為必須採取的行動或改善的事項向董事會報告，並建議有哪些可採取的步驟；

審閱發行人的財務資料

- (d) 監察發行人的財務報表及發行人年度報告及賬目、半年度報告及(若擬刊發)季度報告的完整性，並審閱報表及報告所載有關財務申報的重大意見。在這方面，委員會在向董事會提交有關發行人年度報告及賬目、半年度報告及(若擬刊發)季度報告前作出審閱有關報表及報告時，應特別針對下列事項：
 - (i) 會計政策及實務的任何更改；
 - (ii) 涉及重要判斷的地方；
 - (iii) 因核數而出現的重大調整；
 - (iv) 企業持續經營的假設及任何保留意見；
 - (v) 是否遵守會計準則；及
 - (vi) 是否遵守有關財務申報的《上市規則》及其他法律規定；
- (e) 就上述(d)項而言：—
 - (i) 委員會成員須與發行人的董事會及高層管理人員聯絡。委員會須至少每年與發行人的核數師開會一次；及

- (ii) 委員會應考慮於該等報告及賬目中所反映或需反映的任何重大或不尋常事項，並須適當考慮任何由發行人屬下會計及財務匯報職員、監察主任或核數師提出的事項；

監管發行人財務申報制度及內部監控程序

- (f) 檢討發行人的財務監控、內部監控及風險管理制度；
- (g) 與管理層討論內部監控系統，確保管理層已履行職責建立有效的內部監控系統，包括考慮發行人在會計及財務匯報職能方面的資源、員工資歷及經驗是否足夠，以及員工所接受的培訓課程及有關預算又是否充足；
- (h) 主動或應董事會的委派，就有關內部監控事宜的重要調查結果及管理層的回應進行研究；
- (i) 如公司設有內部核數功能，須確保內部和外聘核數師的工作得到協調；也須確保內部核數功能在發行人內部有足夠資源運作，並且有適當的地位；以及檢討及監察內部核數功能是否有效；
- (j) 檢討集團的財務及會計政策及實務；
- (k) 檢查外聘核數師給予管理層的《審核情況說明函件》、核數師就會計紀錄、財務賬目或監控系統向管理層提出的任何重大疑問及管理層作出的回應；
- (l) 確保董事會及時回應於外聘核數師給予管理層的《審核情況說明函件》中提出的事宜；
- (m) 就本守則條文所載的事宜向董事會匯報；及
- (n) 研究其他由董事會界定的課題。

註： 下文僅就如何遵守上述守則條文提出建議，並不屬於守則條文部分內容。

- 1 審核委員會或可考慮設立以下程序，以檢討及監察外聘核數師的獨立性：
 - (i) 研究發行人與核數師之間的所有關係(包括有否提供非核數服務)；
 - (ii) 每年向核數師索取資料，了解核數師就保持其獨立性以及監察有關規則執行方面所採納的政策和程序；有關規則包括就轉換核數合夥人及職員的現行規定；
 - (iii) 至少每年在管理層不在場的情況下會見核數師一次，以討論與核數費用有關的事宜、任何因核數工作產生的事宜及核數師想提出的其他事項；
- 2 審核委員會或可考慮與董事會共同制定有關發行人僱用外聘核數師職員或前職員的政策，並監察應用此等政策的情況。審核委員會就此應可考慮有關情況有否損害(或看來會損害)核數師在核數工作上的判斷力或獨立性；
- 3 審核委員會一般應確保外聘核數師在提供非核數服務時其獨立性或客觀性不會受到損害。當評估外聘核數師於提供非核數服務的獨立性或客觀性時，審核委員會或可考慮以下事項：
 - (i) 就核數師的能力和經驗來說，其是否適合為發行人提供該等非核數服務；
 - (ii) 是否設有預防措施，可確保外聘核數師在提供此等服務時不會對其核數工作的客觀性及獨立性造成威脅；

- (iii) 該等非核數服務的性質、有關費用的水平，以及就該核數師來說，個別服務費用和合計服務費用的水平；及
- (iv) 釐定核數職員酬金的標準。

4 有關審核委員會職責的進一步指引，發行人可參考國際證券事務監察委員會組織下的技術委員會於2002年10月發出的《核數師獨立性原則及企業管治對監察核數師獨立性所起的作用》(「Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence」)一文及香港會計師公會於2002年2月刊發的《審核委員會有效運作指引》。發行人可採用該等指引所載有關審核委員會的職權範圍，發行人也可就審核委員會的設立採用任何其他相等的職權範圍。

C.3.4 審核委員會應公開其職權範圍，解釋其角色及董事會轉授予其的權力。

- 註： 1 發行人只要在有人要求時提供有關資料以及將資料登載於其網站上，即屬符合上述規定。
- 2 根據附錄二十三第2(i)(i)段，發行人在其《企業管治報告》中必須解釋審核委員會的角色。

C.3.5 凡董事會不同意審核委員會對甄選、委任、辭任或罷免外聘核數師事宜的意見，發行人應在《企業管治報告》中列載審核委員會闡述其建議的聲明，以及董事會持不同意見的原因。

C.3.6 審核委員會應獲供給充足資源以履行其職責。

建議最佳常規

C.3.7 審核委員會的職權範圍亦須包括：

- (a) 檢討發行人設定的以下安排：發行人僱員可暗中就財務匯報、內部監控或其他方面可能發生的不正當行為提出關注。審核委員會應確保有適當安排，讓發行人對此事宜作出公平獨立的調查及採取適當行動；及

- (b) 擔任發行人與外聘核數師之間的主要代表，負責監察二者之間的關係。

D. 董事會權力的轉授

D.1 管理功能

原則

發行人應有一個正式的預定計劃表，列載特別要董事會作決定的事項。董事會在代表發行人作出決定前，亦應明確指示管理層哪些事項須由董事會批准。

守則條文

- D.1.1. 當董事會將其管理及行政功能方面的權力轉授予管理層時，必須同時就管理層的權力，給予清晰的指引，特別是在何種情況下管理層應向董事會匯報以及在代表發行人作出任何決定或訂立任何承諾前應取得董事會批准等事宜方面。

註： 董事會不應將處理事宜的權力轉授予其轄下委員會、執行董事或管理層，若這樣的權力轉授所達到的程度，會大大妨礙或削弱董事會整體履行其職權的能力。

- D.1.2. 發行人應將那些保留予董事會的職能及那些轉授予管理層的職能分別確定下來；發行人也應定期作檢討以確保有關安排符合發行人的需要。

註： 根據附錄二十三第2(c)(iv)段，發行人必須在其企業管治報告內說明董事會如何運作，包括進一步說明有哪類決定會由董事會作出，哪類決定會交由管理層作出。

建議最佳常規

- D.1.3. 發行人應披露董事會與管理層之間的職責分工，以協助那些受企業決策影響者更瞭解董事會與管理層各自如何對發行人負責及作出貢獻。

D.1.4. 董事應清楚瞭解既定的權力轉授安排。為此，發行人應有正式的董事委任書，訂明有關委任的主要條款及條件。

D.2 董事會轄下的委員會

原則

董事會轄下各委員會的成立應訂有書面的特定職權範圍，清楚列載委員會權力及職責。

守則條文

D.2.1 若要成立委員會處理事宜，董事會應充分清楚地訂明該等委員會的職權範圍，讓有關委員會能適當地履行其職能。

D.2.2 董事會轄下各委員會的職權範圍應規定該等委員會要向董事會匯報其決定或建議，除非該等委員會受法律或監管限制所限而不能作此匯報（例如因監管規定而限制披露）。

E. 與股東的溝通

E.1 有效溝通

原則

董事會應盡力與股東持續保持對話，尤其是藉股東周年大會或其他全體會議與股東溝通及鼓勵他們的參與。

守則條文

E.1.1 在股東大會上，會議主席應就每項實際獨立的事宜個別提出決議案。

註：「實際獨立事宜」的例子包括董事提名，即每名候選人的提名應以獨立決議案的方式進行。

E.1.2 董事會主席應出席股東周年大會，並安排審核委員會、薪酬委員會及提名委員會（視何者適用而定）的主席，或在該等委員會的主席缺席時由另一名委員

(或如該名委員未能出席，則其適當委任的代表) 在股東周年大會上回答提問。董事會轄下的獨立委員會(如有)的主席亦應在任何批准以下交易的股東大會上回應問題，即關連交易或任何其他須經獨立批准的交易。

E.1.3 如召開股東周年大會，發行人應安排在大會舉行前至少足20個營業日向股東發送通知，而就所有其他股東大會而言，則須在大會舉行前至少足10個營業日發送通知。

E.2 以投票方式表決

原則

發行人應確保股東熟悉以投票方式進行表決的詳細程序。

守則條文

E.2.1 大會主席應確保在會議開始時已解釋以投票方式進行表決的詳細程序，然後回答股東有關以投票方式表決的任何提問。