

PANEL: INSIGHTS ON THE 2017 REVIEW OF THE CG CODE



Mr Willie Cheng

Chairman, SID



Ms Rachel Eng

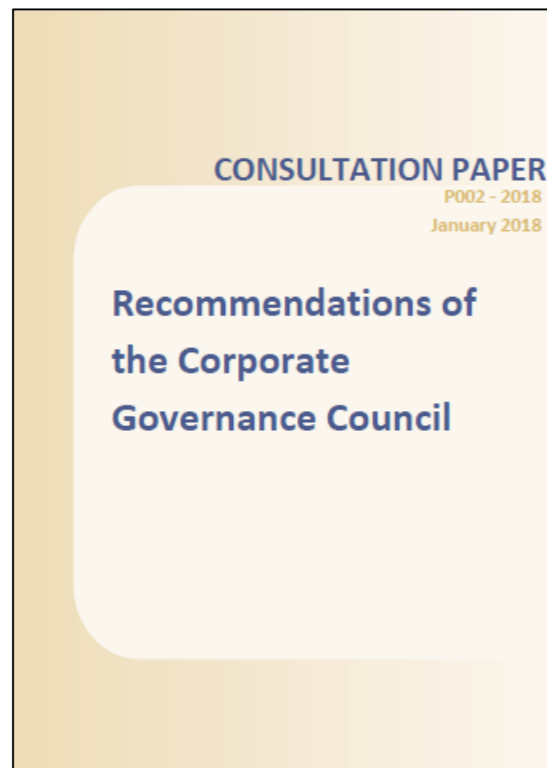
Deputy Chairman,
WongPartnership LLP



Mr Tham Sai Choy

Board member,
ACRA

CONSULTATION ON CGC RECOMMENDATIONS



AT A GLANCE
Corporate Governance Council Recommendations

To ensure the Corporate Governance (CG) Code is:

- Effective
- Relevant
- Supports business growth and innovation

Key recommendations:

- Supportive eco-system
- Enhanced "comply-or-explain" regime
- Streamlined code structure
- Specific requirements

1. Supportive Eco-System
Sound CG practices require long-term commitment and ongoing efforts by all stakeholders. For a conducive CG eco-system:

- 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

Category	Details
Mandatory Listing Rules	Important requirements, baseline market practices
CG Code	13 Principles
CG Code	52 Provisions (formerly Guidelines)
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

Milestones

- 2001 CG Code issued
- 2005 First revision
- 2012 Second revision
- 2017 CG Council formed
- 2018 Third revision



- Key recommendations
- Annex A – List of questions
 - Annex B – CG Council Composition
 - Annex C – Draft Revised CG Code (Jan 2018)
 - Annex D – Map of Changes to 2012 Code
 - Annex E – Changes from Code Streamlining
 - Annex F – Draft Practice Guidance
 - Annex G – Proposed Amendments to SGX LRs

- ## Consultation Dates
- 16 Jan 2018 Release of Consultation Paper
 - 1 Feb 2018 SID feedback session 1
 - 6 Feb 2018 SID feedback session 2
 - 15 Mar 2018 Close of consultation
 - H2 2018 Launch of Revised Code

Download at:

<http://www.mas.gov.sg/News-and-Publications/Consultation-Paper.aspx>

KEY RECOMMENDATIONS

OVERALL RECOMMENDATIONS



Supportive CG Ecosystem



Enhanced “Comply-or-Explain”
Regime



Streamlined Code Structure

SPECIFIC RECOMMENDATIONS



Director Independence



Board Composition



Remuneration Disclosure



Audit & Accountability



Stakeholder Engagement

1. SUPPORTIVE CG ECO-SYSTEM

➤ **Establishment of Industry-led CG Advisory Committee**

- Advocate good CG practices:
 - Monitor quality of CG disclosures
 - Issue opinions on CG practices
 - Issue/revise Practice Guidance to clarify the Code
 - Act as resource on CG matters for regulators
- No formal regulatory powers
- Comprises CG experts, experienced directors and representatives from various stakeholder groups

➤ **Capacity building initiatives**

- Help companies understand and implement Code changes

2. ENHANCED “COMPLY-OR-EXPLAIN” REGIME

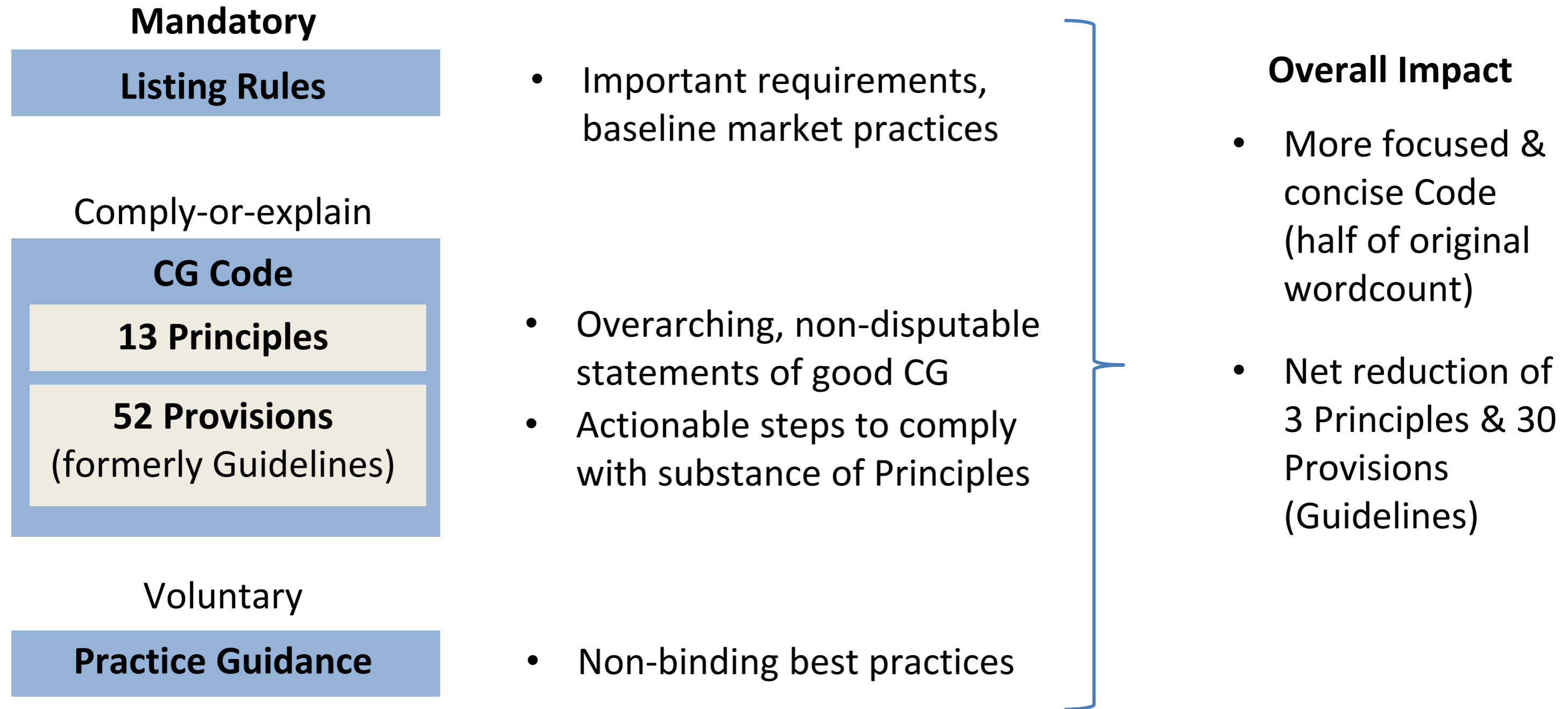
➤ Clarify expectations under Code and SGX Listing Rules:

- Mandatory compliance with Principles
- Companies to describe compliance with Principles and Provisions
 - Variations from Provisions acceptable if consistent with overarching Principle

➤ Desired outcomes

- Shift from box ticking mindset
- Emphasis on meaningful explanations
- Give companies greater latitude to explore ways to comply with the spirit and intent of the Code

3. STREAMLINED CODE STRUCTURE



DIRECTOR INDEPENDENCE

Definition of ID (Guideline 2.3 paraphrased)

Overall

Is independent in conduct, character and judgement, and has no relationship with the company, its related corporations, its 10% shareholders or its officers that could interfere, or be reasonably perceived to interfere, with the exercise of the director's independent business judgement in the best interests of the company.

Tests

- i. Employed by company or related corporations for current or past 3 FYs.
- ii. Family member was employed by the company or related corporation for current or past 3 FYs, with remuneration determined by RC.
- iii. Is, or has an immediate family member who is, a 10% shareholder.

Tests

- iv. Director or immediate family, in current or past FY, have significant payments or material services (other than director remuneration).
- v. Director or immediate family, in current or past FY, is 10% shareholder, partner, executive officer or director of organisation with significant payments or material services.
- vi. Director who has been directly associated with a 10% shareholder in the current or past FY.

DIRECTOR INDEPENDENCE

Definition of ID (Recommendation)

Overall [Code Provision 2.1]

Is independent in conduct, character and judgement, and has no relationship with the company, its related corporations, its 10% shareholders or its officers that could interfere, or be reasonably perceived to interfere, with the exercise of the director's independent business judgement in the best interests of the company.

Baseline Tests [Listing Rule MR210(5)(d)]

- i. Employed by company or related corporations for current or past 3 FYs.
- ii. Family member was employed by the company or related corporation for current or past 3 FYs, with remuneration determined by RC.
- iii. Is, or has an immediate family member who is, a 10% shareholder.

Other Tests [Practice Guidance 2]

- iv. Director or immediate family, in current or past FY, have significant payments or material services (other than director remuneration).
- v. Director or immediate family, in current or past FY, is 10% shareholder, partner, executive officer or director of organisation with significant payments or material services.
- vi. Director who has been directly associated with a 10% shareholder in the current or past FY.

DIRECTOR INDEPENDENCE

Definition of ID (Recommendation)

Overall [Code Provision 2.1]

Is independent in conduct, character and judgement, and has no relationship with the company, its related corporations, its **substantial** shareholders or its officers that could interfere, or be reasonably perceived to interfere, with the exercise of the director's independent business judgement in the best interests of the company.

Baseline Tests [Listing Rule MR210(5)(d)]

- i. Employed by company or related corporations for current or past 3 FYs.
- ii. Family member was employed by the company or related corporation for current or past 3 FYs, with remuneration determined by RC.
- iii. Is, or has an immediate family member who is, a **substantial** shareholder.

3-year transition



Other Tests [Practice Guidance 2]

- iv. Director or immediate family, in current or past FY, have significant payments or material services (other than director remuneration).
- v. Director or immediate family, in current or past FY, is **substantial** shareholder, partner, executive officer or director of organisation with significant payments or material services.
- vi. Director who has been directly associated with a **substantial** shareholder in the current or past FY.

DIRECTOR INDEPENDENCE

Definition of ID (Recommendation)

Overall [Code Provision 2.1]

Is independent in conduct, character and judgement, and has no relationship with the company, its related corporations, its substantial shareholders or its officers that could interfere, or be reasonably perceived to interfere, with the exercise of the director's independent business judgement in the best interests of the company.

Individual - \$50,000
Organisation - \$200,000

Baseline Tests [Listing Rule MR210(5)(d)]

- i. Employed by company or related corporations for current or past 3 FYs.
- ii. Family member was employed by the company or related corporation for current or past 3 FYs, with remuneration determined by RC.
- iii. Is, or has an immediate family member who is, a substantial shareholder.

Other Tests [Practice Guidance 2]

- iv. Director or immediate family, in current or past FY, have **significant payments** or material services (other than director remuneration).
- v. Director or immediate family, in current or past FY, is substantial shareholder, partner, executive officer or director of organisation with **significant payments** or material services.
- vi. Director who has been directly associated with a substantial shareholder in the current or past FY.

DIRECTOR INDEPENDENCE

The 9-year Rule (Strengthen)

SGX Listing Rules

Option 1 : **Hard Limit**

Option 2 : **Annual 2-tier vote**

- **All shareholders**
- **Non-controlling shareholders (<15%)**

3-year transition

Advisory Vote (new)

Code

Provision 2.3

Disclosure of non-controlling shareholders' vote for IDs < 9 years

BOARD COMPOSITION

Balanced Board

SGX Listing Rules

MR 210(5)(c)

At least two IDs, and
IDs make up 1/3 of board.

[Shift from Code 2.1,
96% already comply]

Code

Provision 2.2

Majority of board to comprise IDs
where Chair is not independent

[Change from “at least half” in Guideline 2.2]

Provision 2.4

**Majority of board to comprise
directors with no management or
business relationship**

[New]

BOARD COMPOSITION

Board Diversity

SGX Listing Rules

Code

Provision 2.5

... mix of skills, knowledge, experience & other aspects of diversity such as gender and **age**...

The **progress** made in achieving the board diversity **policy**, including **objectives**, is disclosed.

[Change from Code Guideline 2.6]

REMUNERATION DISCLOSURE

No Say on Pay

SGX Listing Rules

Code

Principle 8

... transparent on the relationship between remuneration, performance and **value creation**.

Provision 8.2

... discloses names & remuneration of employees who are:

- Substantial shareholders, or
- **Immediate family members of Dir, CEO, Substantive Shareholder (>\$100K)**

In bands of **\$100K**.

[Change from Code Guideline 9.4]

ACCOUNTABILITY & AUDIT

Risk Management & Internal Controls

SGX Listing Rules

MR 610(5)

The Board must **comment** on the adequacy and **effectiveness** of the internal controls (including financial, operational, compliance & **IT** risks) and risk management systems.

[Board commentary to include]
disclosure of weaknesses & steps taken to address them.

[Change & make Consistent Code & LR]

Code

Provision 9.1

The board **sets up a BRC** ... if appropriate.
[Greater encouragement to BRC]

Provision 9.2

The board requires and discloses that it has received assurance from:

- CEO & CFO [re financial records & statements]
 - **Other such key management personnel** [re adequacy & effectiveness of risk management & internal control systems]
- [Slight change from Guideline 11.3]

ACCOUNTABILITY & AUDIT

Audit Committee

SGX Listing Rules

Code

Provision 10.3

The AC does not comprise former partners or directors of the audit firm:

- within **two years** from date of their ceasing to be a partner
- For as long as they have financial interests in the firm

[Slight change from Guideline 12.9]

ACCOUNTABILITY & AUDIT

Internal Audit

SGX Listing Rules

MR 719(3)

... must establish and maintain on an ongoing basis, an **effective internal audit function** that is adequately resourced and independent...

[Shifted from Code Principle 9, 95% already disclosed]

Code

Provision 10.4

The primary reporting line of the IA function is to the AC which **decides** on appointment, termination and remuneration of the head of the IA function.

The IA function has unfettered access... and **appropriate standing within the company.**

[Slight change from Guideline 13.1

“**IA report administratively to the CEO**” is removed]

STAKEHOLDER ENGAGEMENT

New Section

SGX Listing Rules

MR 711A and 711B

Every listed issuer must prepare an annual sustainability report with reference to five primary components:

- Material ESG factors
- Policies, practices & performance
- Targets
- Sustainability reporting framework
- Board statement

[Effective for financial year ends on or after 31 Dec 2017]

Code

Principle 13

The board adopts an inclusive approach by considering and balancing the needs and interests of material stakeholders, as part of its overall responsibility to ensure that the best interests of the company are served.

Provisions

- Identify & manage material stakeholder groups
- Discloses areas of focus re stakeholder management
- Maintains current corporate website ...

PANEL DISCUSSION

Q & A

THANK YOU

