



ASX Corporate Governance Council

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Review of Corporate Governance Principles and Recommendations

The ASX Corporate Governance Council has over the second half of 2012 been reviewing its *Corporate Governance Principles and Recommendations*, focussing in particular on Principles 6 (respect the rights of shareholders), 7 (recognise and manage risk) and 8 (remunerate fairly and responsibly).

Recent developments relevant to these particular principles include:

- CAMAC's discussion paper earlier this year calling for greater engagement with security holders, both generally and at the AGM (Principle 6);
- the governance issues around the management of risk that continue to emerge in the aftermath of the Global Financial Crisis (Principle 7); and
- legislation by the Australian government imposing additional governance requirements in relation to remuneration, including expanding the content of remuneration reports and introducing the "two strikes" rule (Principle 8).

Based on its review of Principles 6, 7 and 8, the Council believes it is timely now to consider publishing a third edition of the *Principles and Recommendations* to capture and reflect developments in Australia and internationally in corporate governance matters across all of the Council's various *Principles and Recommendations*. In addition to the matters mentioned above, other areas to be addressed in the third edition include:

- the recent decision of the Federal Court in the *Centro* litigation regarding the responsibility of directors in relation to a listed entity's financial statements;
- the increasing attention being given by the investment community and the community more generally to environmental and social issues;
- the issues raised in the Government's White Paper *Australia in the Asian Century*, and
- approaches by the Government and others on the issue of employment of people with disability.

The *Principles and Recommendations* last underwent a major review with the release of the second edition in 2007. The Council's diversity recommendations were added in 2010, but without making any fundamental changes to the balance of the *Principles and Recommendations*.

In the third edition of the *Principles and Recommendations*, the Council will be looking at ways to streamline governance disclosures and to give ASX listed entities greater flexibility to disclose their governance practices on their website rather than in their annual report.

The Council will also be looking at ways that are both practical and within its mandate to elevate the issues raised in the *Australia in the Asian Century* White Paper and in relation to employment of people with disability. In the latter case, this will include acknowledging in the commentary on diversity that:

- while the focus of the *Corporate Governance Principles and Recommendations* is on gender diversity, diversity issues extend beyond gender to a number of other matters, including disability; and
- to garner the full benefits of diversity, a listed entity must ensure that its recruitment and selection practices at all levels are appropriately structured to ensure that a diverse range of candidates are considered and that there are

no conscious or unconscious biases that might discriminate against certain types of candidates and that this is especially the case for candidates with disability, who face real and significant barriers in being accorded equal and fair treatment alongside candidates without disability.

The Council is also proposing to consult on the addition of a new Recommendation suggesting that a listed entity should disclose in its annual report or on its website the initiatives it has undertaken to make a positive contribution to society. The examples to be given of the types of initiatives that a listed entity may undertake in this regard will specifically mention employing, and having a workplace environment that can safely accommodate, people with disability, and acquiring goods and services from organisations that support the employment of the disabled.

The Council anticipates issuing a consultation paper and an exposure draft of a third edition of the *Principles and Recommendations* in mid-2013. Consultation is expected to be completed by Q3 2013, with the issue of the third edition taking place in Q4 2013.

On this timeline, the revised *Principles and Recommendations* would be expected to come into effect for an entity's first full financial year commencing on or after 1 January 2014. Entities with a 31 December balance date would therefore be expected to benchmark their governance practices with the third edition commencing with the financial year ended 31 December 2014. Entities with a 30 June balance date would be expected to benchmark their governance practices with the third edition commencing with the financial year ended 30 June 2015.

Alan Cameron AO, Chair
ASX Corporate Governance Council