



Companies Bulletin

Date: 15 August 2002

Key topics

- 1. Corporate Governance Council

Reading List

- 1. Chief Executive Officers
- 2. Chief Financial Officers
- 3. Company Secretaries
- 4. Legal Counsel

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COMPANIES UPDATE

Set out below is a statement issued by the Corporate Governance Council following its inaugural meeting held today at the Australian Stock Exchange. The statement charts an agenda of recommendations for immediate consideration by listed entities, as well as longer term areas of interest and objectives to maintain, and where necessary, improve the high standard of corporate governance in this country.

CORPORATE GOVERNANCE COUNCIL

The Corporate Governance Council held its first meeting today at the Sydney offices of Australian Stock Exchange (ASX).

The meeting was convened by ASX, and attended by representatives of Association of Superannuation Funds of Australia Limited, Australasian Investor Relations Association, Australian Chamber of Commerce and Industry, Australian Institute of Company Directors, Australian Institute of Superannuation Trustees, Australian Shareholders Association, Business Council of Australia, CPA Australia, Chartered Secretaries Australia, Institute of Chartered Accountants in Australia, Investment and Financial Services Association, Group of 100, and Securities Institute of Australia.

The meeting was opened by ASX Managing Director and CEO, Mr Richard Humphry and chaired by ASX Executive General Manager, Issuers and Market Integrity, Ms Karen Hamilton.

Immediate Priorities: Annual Reports to Shareholders 2001-02

The Council noted that Australian listed companies are currently preparing their annual reports to shareholders - including reporting, in line with ASX Listing Rules, on their main corporate governance practices. In these circumstances, the Council decided to issue an initial statement today, to provide immediate guidance on a number of current governance issues. The Council urged that companies pay special attention to the following issues in reporting to their shareholders on the current (2001-02) reporting season. Where companies are unable to comply, the Council requested that they provide shareholders with a full explanation of the reasons for this inability.

Share and Options Schemes

The Council urged companies to voluntarily and fully disclose the existence and conditions of all share and options schemes currently in operation, together with details of performance hurdles.

The Council noted that Section 300 of the Corporations Act requires the disclosure of options offered to directors and the five most highly remunerated officers, along with disclosure of the valuation basis underpinning these offers. The Council was pleased to note further that the International Accounting Standards Board (IASB) has indicated its intention to release an exposure draft in October that will, among other issues, address the question of valuation and detailed disclosure of share and options schemes. The Council recognised that these standards will however take time to be implemented.

Audit Committees

The Council expressed strong support for the establishment of audit committees with appropriate expertise.

Listed companies are currently required under Listing Rules to report if they operate an audit committee and, if not, why not. The Council recognises that audit committees in no way diminish the responsibilities of all directors under the Corporations Act. The Council also recognised that further consideration will be given to audit committees within the framework of the CLERP paper to be issued by the Commonwealth Treasury. This will in turn draw upon the comprehensive discussion of Professor Ian Ramsay's Report on Independence of Australian Company Auditors.

Recognising the need to evaluate costs and benefits in individual circumstances, the Council expressed the belief that audit committees make a particularly appropriate contribution to larger companies and those with greater likelihood of attracting retail investors. Accordingly the Council strongly recommended that audit committees be established by at least the top 500 listed companies (that is, those that compose the All Ordinaries index).

As minimum requirements, audit committees should be composed of a majority of independent directors; should be chaired by an independent director who is not the chairman of the board; should not include management representatives as members; and should operate under a charter. The charter should address the key responsibilities, accountabilities and entitlements of the audit committee, including responsibility for proposing appointment of external auditors; should be reviewed annually; and should be made available to shareholders.

External Auditors

The Council called on companies to disclose a full analysis of the total fees paid to external auditors, including a break down of fees for non-audit activities – noting that Australian Accounting Standard Board (AASB) 1034 already requires disclosure of total non-audit fees.

The Council also called on companies to disclose when the audit firm was last appointed and the dates of rotation of the audit engagement partners. The Council believed external auditors should meet at least twice yearly with the audit committee and the full board without management in attendance, to ensure full and frank discussion of audit issues.

Accounting Standards

The Council called for greater voluntary disclosure by companies and meaningful management discussion and analysis in financial reports.

The Council noted with approval the decision of the Financial Reporting Council (FRC) to support the adoption by Australia of international accounting standards by 1 January 2005. This will represent a significant step towards international consistency, thereby removing impediments to the transparent understanding of Australian companies by international investors.

The Council noted that Australia is making a substantial financial contribution through the FRC to this effort. These funds are derived from Commonwealth, State and Territory Governments, the three accounting bodies, the ASX and the Financial Industry Development Account of the ASX. The Council urged the business community to fully support this initiative.

The Council particularly recommended greater disclosure by companies of their capitalisation policies and practices. This includes greater clarity by companies about the circumstances in which costs are capitalised against future income streams.

The Council also called on companies to disclose the extent of any contractual arrangements they have entered into, such as leases, which carry financial obligations for future years.

Shareholder Empowerment

The Council called on companies to disclose the measures they have in place to ensure provision of equal access to material information through the Continuous Disclosure regime.

The Council expressed the view that an essential criterion to assess the validity of Corporate Governance reforms should be whether they empower the shareholder, particularly through the provision of material information both within the company itself and via the marketplace as a whole.

Recognising the essential nature of equal investor access to material information, the Council agreed that Continuous Disclosure had made a core contribution to standards of Corporate Governance in Australia to date. The Council noted the ASX paper on Enhanced Disclosure issued on 19th July 2002, which proposed a number of changes to both the continuous and periodic financial disclosure regimes designed to enhance the provision of timely and relevant information for the benefit of all investors. The Council noted that at ASX's suggestion, the World Federation of Exchanges' Annual Meeting in Amsterdam in October will be debating continuous corporate disclosure as the best protection of investors. The Council fully supported this initiative.

The Council expressed the hope that individual shareholders would further participate in the debate about corporate governance practices in Australia. To this end, the Council accepted the offer of ASX to set up an email and fax hotline to receive and record comments and opinions of shareholders on corporate governance issues. Contributions forwarded by email to corporate.governance@asx.com.au and by fax to 02 9227 0885 will be passed on to the Council.

Role and Purpose of the Corporate Governance Council

The Council sees its role as a collaborative, industry-based body leading the adoption by Australian companies of corporate governance practices which reflect international best practice and which enhance the reputation of Australia's capital markets and Australian companies. The Council endorsed the view that corporate governance practices are evolutionary and must be regularly reviewed.

To this end, the Council agreed that good corporate governance must protect the rights of shareholders, recognise the interests of the general public, and ensure timely and accurate disclosure is made of all material matters regarding the corporation. Good corporate governance should also provide an appropriate framework for board and management to pursue objectives that are in the interests of the shareholders and the company, encourage the productive and efficient use of corporate resources and provide transparency and accountability in relation to the use of those resources.

In pursuit of these goals, the Council will undertake a wide-ranging work program including the following activities:

- Review, and where necessary suggest input into, published guidance recommendations for Corporate Governance practice in Australia, also having regard where relevant to international models;
- Assist ASX in building understanding about best practice on the part of listed companies including, where appropriate, formulating suggestions as to any necessary amendments to Listing Rules and guidance notes;
- Recommend to regulators and Government where legislative amendment may be necessary;
- Provide information related to corporate governance to investors and the wider community;
- Regularly review compliance with best practice.

In particular, emerging from this work program, the Council reaffirmed the intention to issue statements of best practice Corporate Governance principles. The Council expressed the belief that these principles will carry a strong

endorsement of expected practice by Australian companies. These will be well in place for companies reporting on their activities in the 2002-03 financial year, and will be regularly reviewed and updated in the future.

The Council agreed to meet again in September.