



CHARTERED SECRETARIES  
AUSTRALIA

*Leaders in governance*

# *Review of the Council's Corporate Governance Principles & Recommendations*

Eric Mayne

**Chair, ASX Corporate Governance Council**

**Chief Supervision Officer, ASX Markets Supervision**

# Overview

- **Review objectives**
- **Submissions received – general comments**
- **Key changes and feedback**
- **Implementation**
- **On-going role of the Corporate Governance Council**

# Review Objectives

- **Remove overlap with Corporations Act and Accounting Standards**
- **Reduce number of Principles from 10 to 8 ✓**
- **“Best Practice” → “Good Practice ✗**
- **Wording change for listed trusts and non-Corporations Act listed entities to reinforce application of Principles to these entities**
- **Consistent use of language and terminology ✓**

# Submissions received – General comments

- **Most submissions supportive of the Principles and the flexibility of “if not, why not?” reporting**
- **Suggestions that Council undertake further education to assist companies and users in the understanding and application of this approach**
- **Strong support for removal of duplication and overlap**
- **Changes to the Principles should minimise regulatory burden and any increase in compliance costs for business**
- **Some concerns with level of detail in Commentary and Guidance and use of the word “should”**

- **Main areas of comment - Principles 2,3, 7 and 9 and Part B Consultation Paper**

Today's  
focus

# Principle 2 – Structure the board to add value

## Proposed Changes

- **Box 2.1 – “Relationships affecting independent status” as opposed to “definition of independence”**
- **Recommendation 2.4 - composition of nomination committee re-structured to align with other board committees**
- **New Recommendation 2.5 on performance evaluation for directors – previously in Principle 8**

## Feedback

- **Range of views relating to the issue of independence including suggestions on how to characterise the relationships set out in Box 2.1**
- **Range of views on composition and role of nomination committee**
- **Recommendation 2.5 should not include material on board and individual director performance assessment**

# Principle 3 – Promote ethical & responsible decision making

## Proposed Changes

- Incorporates material from Principle 10 on companies relationships with stakeholders
- Material on Codes of Conduct from Principles 3 and 10 amalgamated and overlap removed
- **Box 3.2 revised – recommend that trading policies prohibit hedging of unvested entitlements and disclosure to company when hedging vested entitlements**
- **Disclosure of full Code of Conduct and Trading Policy**

## Feedback

- **Proposed changes appear to confuse companies' legal obligations with broader operational considerations**
- **Revised contents of a code of conduct were too “prescriptive”**
- **Companies should only be required to disclose a summary, not the full Code of Conduct**
- **Suggestions for items to be included in Code of Conduct**

# Principle 7- Recognise and manage risk

## Proposed Changes

- **More clarity on “material business risks” and risk management**
- **Recommendation 7.2. – CEO/CFO sign off that financial statements founded on a sound system of risk management and internal control**
- **Recommendation 7.3 – written statement from CEO confirming effectiveness of risk management and internal control system for “material business risks” not covered by 7.2**

## Feedback

- **97 submissions covered Principle 7**
- **Strong support for clarity on what constitutes risk – financial, non-financial, material business risks**
- **Strong support for the need for greater clarity of the board’s role in relation to risk**
- **Strong opposition to disclosure of risk profile and individual risks – considered commercially sensitive**

# Reporting of Material Business Risks and Corporate Responsibility / Sustainability risks

## Issues for discussion

- **Does Council have a role in CR/sustainability reporting?**
- **2 options:**
  - **Voluntary guidance in the context of Principle 7 with no additional reporting obligations**
  - **Additional “if-not, why not?” reporting requirement under Principle 7**
- **Additional compliance costs relating on sustainability/CR reporting**

## Feedback received

- **No consensus on what CR does or should refer to → challenge in developing policy for reporting and disclosure**
- **CR/sustainability should not be seen only in the context of risk management - most submissions focused on risk**
- **Stakeholder pressure is leading to more companies recognising CR/sustainability [and associated risks] as important and reporting accordingly**
- **CSR/sustainability strategies and reporting still evolving**

# Principle 9 – Remunerate fairly and responsibly

## Proposed Changes

- **Recommendation 9.1 - overlap with CA s. 300A [Disclosure of remuneration policies] and AASB 124 removed**
- **Recommendation 9.1 covers remuneration committees**
- **Recommendation 9.2 now covers material on executive and non-executive director remuneration**
- **Box 9.1 recommends prohibit hedging of unvested entitlements**

## Feedback

- **Remuneration committees should not require non-executive directors**
- **SMEs without audit committees are the norm – therefore alternative approaches should not be “exception reporting”**
- **Principles should not deal with hedging of options as there are current law reform proposals**
- **Suggestions for content in Box 9.1**

## Principle 9 – continued

### Proposed Changes

- Recommendation 9.3 implies need for shareholder approval for equity-based remuneration schemes - ambiguity
- Three options:
  - Delete Recommendation as approval not required under CA or LR
  - **Amend 9.3 to clarify where approval obtained, payment is in accordance with thresholds in those plans**
  - Amend to require shareholder approval of all equity-based remuneration plans

### Feedback

- Submissions confirm ambiguity in current Recommendation 9.3
- Divided views. There was support for all three options



# Implementation

- **Start date moved from 01 July 2007 to 01 January 2008**
- **More time for entities to understand changes and prepare to report against them**
- **More time for entities to make transition to new arrangements**
- **IRG Meetings – May/June**
- **Council Meeting – 28 June**
- **Feedback Sessions – July**
- **Release Paper from Council – July**

Questions?