



ASX Corporate Governance Council
20 Bridge Street
SYDNEY NSW 2000

By email: mavis.tan@asx.com.au

13th November 2013

Dear Ms Tan,

Review of the Corporate Governance Principles and Recommendations

The Institute of Chartered Accountants in Australia (Institute) welcomes the opportunity to comment on the proposed third edition of the Corporate Governance Principles and Recommendations (Principles and Recommendations).

The Institute is the professional body for Chartered Accountants in Australia and members operating throughout the world.

Representing more than 73,000 current and future professionals and business leaders, the Institute has a pivotal role in upholding financial integrity in society. Members strive to uphold the profession's commitment to ethics and quality in everything they do, alongside an unwavering dedication to act in the public interest.

Chartered Accountants hold diverse positions across the business community, as well as in professional services, government, not-for-profit, education and academia. The leadership and business acumen of members underpin the Institute's deep knowledge base in a broad range of policy areas impacting the Australian economy and domestic and international capital markets.

The Institute was established by Royal Charter in 1928 and today has more than 61,000 members and 12,000 talented graduates working and undertaking the Chartered Accountants Program.

The Institute is a founding member of both the Global Accounting Alliance (GAA), which is an international coalition of accounting bodies and an 800,000-strong network of professionals and leaders worldwide; and Chartered Accountants Worldwide, which brings together leading Institutes of Chartered Accountants in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support, develop and promote over 320,000 Chartered Accountants in more than 180 countries around the world.

General Comments

The Institute supports the work of the Corporate Governance Council (the Council). We believe the Council has been integral in promoting, educating and raising the level of corporate governance in Australia.

The proposed third edition of the Principles and Recommendations recognises the need to address certain governance issues which have arisen since the Global Financial Crisis. It also ensures the currency of our Principles and Recommendations to ensure they remain relevant and reflect best practice.

Customer Service Centre
1300 137 322

NSW
33 Erskine Street
Sydney NSW 2000

GPO Box 9985
Sydney NSW 2001
Phone 61 2 9290 1344
Fax 61 2 9262 1512

ACT
L10, 60 Marcus Clarke Street
Canberra ACT 2601

GPO Box 9985
Canberra ACT 2601
Phone 61 2 6122 6100
Fax 61 2 6122 6122

Qld
L32, Central Plaza One,
345 Queen Street,
Brisbane Qld 4000

GPO Box 9985
Brisbane Qld 4001
Phone 61 7 3233 6500
Fax 61 7 3233 6555

SA / NT
L29, 91 King William Street
Adelaide SA 5000

GPO Box 9985
Adelaide SA 5001
Phone 61 8 8113 5500
Fax 61 8 8231 1982

Vic / Tas
L3, 600 Bourke Street
Melbourne Vic 3000

GPO Box 9985
Melbourne Vic 3001
Phone 61 3 9641 7400
Fax 61 3 9670 3143

WA
L11, 2 Mill Street
Perth WA 6000

GPO Box 9985
Perth WA 6848
Phone 61 8 9420 0400
Fax 61 8 9321 5141

As a member of the Council we have already provided some specific comments on the draft Principles and Recommendations. The comments in this letter are supplementary to those already provided.

We have limited our comments only to those Principles and Recommendations which have changed significantly. These comments are below.

Specific Comments

Principle One – Lay solid oversight for management and oversight

The Institute supports the proposed changes to Principle One.

Company secretaries provide important support to an organisation's board and its committees. The Institute supports the introduction of the new recommendation 1.4 stating the company secretary should have a direct reporting line to the chair of the board. We believe this will contribute to well functioning boards.

We support moving the recommendations on diversity to Principle One as it supports the understanding that diversity is a business issue not an ethical issue. The proposal under 1.5(c)(2)(A) to define senior executive will provide transparency across organisations.

Principle Two – Structure the board to add value

We note Principle Two and its commentary does not refer to the competence of the board. We believe consideration should be given to including competence in the heading so as to read:

*'A listed entity should have a board of an appropriate size, composition, **competence**, skills and commitment to enable it to discharge its duties effectively.'*

The Institute supports the modernisation of the guidance around defining independent directors. We support the use of examples which only provide guidance and which reflect the current thinking on what constitutes independence, for example the guidance around length of service. We note the guidance does not refer to equity based remuneration. The Institute understands the important role of equity based remuneration in attracting good quality non executive directors to smaller listed companies. It may be appropriate to provide some guidance around equity based remuneration and when it may conflict with a director's independence such as when it is short term focussed.

Principle Four – Safeguard integrity in financial reporting

The Institute believes the reference to financial reporting in Principle Four is too narrow and does not reflect the nature and breadth of modern day reporting. While financial reporting is crucial to an organisation, increasingly the importance of non-financial reporting is being understood by organisations and their boards.

Recent guidance by the Australian Securities and Investments Commission on the Operating and Financial Review (Regulatory Guide 247) reflects the increasing importance and role of non-financial reporting. The current international debate around integrated reporting also reflects the increasing need for non-financial information and reporting. While we are not suggesting integrated reporting be included as a recommendation in the current draft Principles and Recommendations, it is likely to be an area of increasing importance.

The audit committee plays a vital role in the oversight of the external audit process. While the commentary provides guidance on the role of the audit committee, it does not require an organisation or its audit committee to provide any commentary around how it has discharged this important role. We believe this requirement should be included in the commentary.

Principle Seven – Recognise and manage risk

Principle Seven elevates the creation of a risk committee from commentary in the 2nd edition of the Principles and Recommendations to a recommendation in its own right. Although board committees can assist a board in dealing with responsibilities efficiently and effectively, risk and how it monitored and managed is at the heart of any organisation. Some organisations believe risk management is so fundamental to the work of the board that it should be dealt with by the board as a whole and not delegated to a committee. The commentary around the creation of risk committees explains the ultimate responsibility for risk rests with the full board. Although understanding the Principles and Recommendations are on an 'if not, why not' basis, elevating the creation of a risk committee to a recommendation may not be appropriate. Boards need to deal with risk in the most appropriate way for their organisation. Deciding not to create a risk committee, when it is seen as not the best way to monitor risk, should not be seen as a failure to comply with the recommendation.

The Institute supports the elevation of commentary on the internal audit function to Recommendation 7.3. The Recommendation does not impose an internal audit function on an organisation acknowledging a one size fits all approach is not appropriate.

The Institute supports the introduction of Recommendation 7.4 and the recognition of the growing importance of sustainability risks to investors. This is linked to our point on the importance of non-financial reporting to an organisation and the needs of investors to understand non-financial risks. The choice of wording around these risks should be reconsidered as social sustainability is not a well known term. It may be appropriate to omit the use of the word sustainability.

Principle Eight – Remunerate fairly and responsibly

The introduction of a Recommendation to have a 'clawback' policy in respect of remuneration is a new initiative for the Council. This initiative was in response to the previous government's desire to introduce legislation in this area. There is debate as to whether this should be dealt with as a recommendation or within commentary. However, the Institute believes it is better to have any policy in respect of 'clawback' dealt with by the Recommendations and Principles rather than legislating for it. The understanding was that including the need for a 'clawback' policy as a recommendation would remove the need for legislation. With this understanding, we support its inclusion as a recommendation.

If you would like to discuss any aspect of this submission or require further information, please contact either me on (02) 9290 5598 or Geraldine Magarey on (02) 9290 5597.

Yours sincerely



Lee White FCA
Chief Executive Officer