

29 October 2013

Ms Mavis Tan
Australian Stock Exchange

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

Dear Ms Tan

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Re: Comments on 3rd Draft of the Principles and Recommendations

Thank you for affording me the opportunity of commenting on the 3rd draft of the ASX Corporate Governance Principles and Recommendations (“the Principles”). I have reviewed the draft document and broadly agree with all of the proposed amendments and changes. I am particularly pleased to see:

- An increased focus on risk management;
- The requirement to undertake appropriate checks before appointing a person as a director;
- The acceptance of a company’s website as an appropriate channel for corporate governance disclosures; and
- The recognition that smaller entities will not have the same access to resources as large listed entities and therefore governance features are commensurate with the size of the organisation.

Following are my comments on specific areas of the Principles and Recommendations:

1. Recommendation 1.2 –

At paragraph 21 in the ***Review of the Corporate Governance Principles and Recommendations – Public Consultation paper dated 16 August 2013*** reference is made to “*Council believes that most listed entities would be using specialized search firms to locate potential appointees to their boards and those firms would normally undertake appropriate checks as a matter of course.*” I disagree with this assertion.

Having been involved in the employment screening industry for over 16 years, being a member of the Standards Australian Working Committee that developed Australian Standard AS4811:2006 – Employment Screening, and having co-authored the accompanying hand-book on behalf of Standards Australia, I have extensive knowledge of the types of background enquiries typically conducted by Executive Search/Recruitment companies.

In my experience, these companies have an inherent conflict of interest with respect to undertaking “appropriate checks” as they are remunerated on placing candidates and not on verifying their antecedents. Additionally, there is a lack of knowledge as to the correct types of searches to conduct or the use of a risk-based approach to employment screening, as detailed in AS4811:2006.

I believe this recommendation could be strengthened by amending as follows –

(a) ***undertake appropriate checks in line with best practice as defined in the Australian Standard 4811:2006 – Employment Screening, before appointing a person***

2. Principle 1 – Lay Solid Foundations for Management and Oversight

I agree with the Council's view that diversity-related recommendations sit better under this principle than under Principle 3 – Promote Ethical and Responsible Decision Making. However, I am concerned about the focus on gender-diversity as opposed to all aspects of diversity including age, socio-economic background, ethnicity, race etc. Principle 2 of the Principles has been modified to recognise the need for the "Board to have an appropriate mix of skills, as well as appropriate composition, size and commitment." I fail to see how having more women on a board, whilst an admirable and necessary goal, serves to improve the foundations for management and oversight. Surely it is more important for a technology company involved in the design and sale of Mobile Applications (Apps) to have a board member who is technology savvy and/or in the same demographic as the target market to be on the board as opposed to a middle aged woman with little technology experience.

Indeed, as Australian companies embrace doing business in Asia, especially China, it would seem that having directors who are Asian-born and/or had experience in business in Asia would assist listed companies in developing control frameworks designed to address the risks of bribery and corruption that these countries pose. Therefore, I believe the concept of diversity should be broadened to take into account not only gender but the more broader areas of diversity that represent not only the Australian culture but the countries in which listed Australian companies operate.

3. Recommendation 6.1 –

With respect to this recommendation, I believe that the information about an organisation's governance should include the results of any testing of its control environment and any deficiencies that have been identified during an independent review by a governance expert.

It should also include information in relation to any control improvements that have been implemented as a result of a governance review on a "if not why not" basis. Consideration should be given to allow an organisation to withhold information that might be commercially or market sensitive, such as governance weaknesses that might be exploited by a competitor or misinterpreted by the market.

4. Recommendation 7.1 –

I agree that a board should have a risk committee, however I believe Recommendation 7.1 should stipulate that at least one of the committee members has risk management experience and/or formal risk management qualifications.

In my opinion there is a risk for companies if none of the risk committee members have sufficient risk management experience to understand the information they are being provided by senior management, or question assertions made to them by senior management, auditors and/or other professional services advisors. To be effective, the risk management committee must be sufficiently qualified to understand information and make informed decisions based on the information provided to them or sourced by them during their own investigations.

Should you have any questions in relation to my comments, or require further clarification, please do not hesitate to contact me directly on 03 9670 9855.

Yours sincerely



Guy Underwood
Executive Chairman