



ASX Corporate Governance Council
c/o ASX Limited
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Attention: mavis.tan@asx.com.au

27 July 2018

Dear Council Members,

Submission to Review of the ASX Corporate Governance Council's Principles and Recommendations

We welcome the opportunity to provide our feedback in relation to proposed changes outlined in the *Corporate Governance Principles and Recommendations, 4th Edition, Consultation Draft*.

As one of Australia's leading professional services firms, we believe we are well placed to share our perspectives on these important issues. We are committed to positively contributing to the Australian community and supporting and enabling initiatives that will strengthen the future prosperity of our country.

PwC Australia is supportive of the Council's efforts to review and modernise the Corporate Governance Principles and Recommendations as the foremost guide for companies on corporate governance in Australia. We support the majority of changes proposed and our feedback centers on the following points:

- Overall the changes are a step forward in enhanced corporate governance for listed companies in Australia and the substantial redraft of Principle 3 reflects the shifting mindset that corporations are accountable to an expanding array of stakeholders and need to be more transparent about the way they operate.
- To be forward looking and aspirational, we encourage the Council to consider cultural and skills diversity recommendations for boards, in addition to a 40% future aspiration for gender diversity.
- Some of the recommendations, appear to be more rules based than principles, we encourage the consideration of principles to ensure this guidance stands the test of time.

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Our detailed feedback is below. We would welcome the opportunity to discuss our views further. Please contact Regina on (02) 8266 8350 or regina.fikkers@pwc.com or Peter on (02) 8266 3378 or peter.van.dongen@pwc.com.

Kind regards

A handwritten signature in black ink, appearing to read "Regina Fikkers", written in a cursive style.

Regina Fikkers
Regulatory Affairs Leader

A handwritten signature in black ink, appearing to read "Peter van Dongen", written in a cursive style.

Peter van Dongen
Chairman, Board of Partners

Key issues for consultation

- ***Whether stakeholders agree with the nine proposed new recommendations and, if not, why not;***

With regard to Recommendation 4.4 (new), we agree that existing and potential security holders should be able to rely on the information set out in other company reports that have not been subject to an audit or review by the external auditor. Companies will need to have appropriate processes and procedures in place to validate that any communication put out to the market is accurate and reliable and it will increase trust in the company if these processes and procedures are disclosed.

Recommendation 4.4 could be improved by clarifying upfront that it is only concerned with those communications to the market that are not subject to external audit or review engagement, and the descriptions should focus on the general procedures and would not normally need to discuss each individual type of document.

We further recommend clarifying footnote 52 with the following edits: "... under ... ASA 720, the external auditor will read and consider any information included in a document (or combination of documents) that contain or accompany the financial report (sometimes referred to as 'annual report'), but will not provide any assurance over these documents (paragraph 8). The same applies to information that accompanies a half-year report that was subject to review rather than audit, per ASRE 2410 Review of a Financial Report Performed by the Independent Auditor of the Entity, paragraph 25.

- ***Whether stakeholders agree with the changes proposed to the existing recommendations in the third edition and, if not, why not;***

Feedback reflected in other answers.

- ***Specifically, whether stakeholders agree with the Council's proposal to include as part of recommendation 1.5 a requirement that entities in the S&P/ASX 300 set a measurable objective to have a minimum of 30% of directors of each gender on their boards by a specified date***

PwC recognises the important role diversity plays in boardrooms and acknowledges the weight of research evidence which demonstrates that diversity leads to stronger business performance and a more positive workplace culture for all.

To this end, PwC supports the Council's proposal to set a measurable objective of a minimum % of directors of each gender on their boards by a specified date.

The Australian Institute of Company Directors called for all boards to ensure that 30% of their directors are female¹ and urged ASX 200 companies to meet this new target by the end of 2018. There are currently 84 ASX 200 companies that have reached the 30 per cent target (as at 30 April 2018). Given we are currently half way through 2018, we suggest the Council recommend companies set a minimum objective of 30% female directors as well as an aspiration to reach 40% or more within a specified timeframe.

In making this recommendation, PwC also acknowledges that setting targets for female directors as a stand alone measure, will not realise the benefits of diversity and inclusion. Boards need to continue to consider diversity holistically as part of the assessment of the skills required of directors. We recommend Boards place specific focus on directors from diverse cultural backgrounds, acknowledging the Diversity Council of Australia's report in 2013 found that 22.2% of directors were culturally diverse (non Anglo Celtic) compared to 32.2% of the population. In some industries, consideration of skills from outside the industry may be needed in order to ensure the diversity of skills required at the board table. Ensuring Boards are having regular conversations about diversity and inclusion within their organisations and on the Board itself will support this work.

- ***Whether stakeholders agree with the annual timeframes proposed for board reviews in recommendation 1.6 and management reviews in recommendation 1.7***

"Reporting period" could be interpreted as an annual or half-yearly, or quarterly requirement for some entities. We suggest the Council consider recommending 'periodic' reviews to allow companies flexibility to determine what is most appropriate time-frame for their circumstances.

¹ Source: <http://aicd.companydirectors.com.au/advocacy/board-diversity/30-percent-by-2018>

- ***Whether stakeholders agree with Council's proposed changes to box 2.3, setting out the factors relevant to assessing director independence;***

No comment on box 2.3

- ***Whether the proposed amendments to principle 3 and the accompanying commentary deal adequately with governance-related concerns related to an entity's values, culture and social licence to operate***

We agree with the proposed amendments to principle 3 which reflect the evolving expectations of business from society and how both we and our clients are responding to those expectations.

These responses include:

- Consideration and alignment with the Sustainable Development Goals with existing and new products and services
- Shifting the framing of "non-financial goals" to "pre-financial goals"
- Increasing interest and demand for impact measurement
- Increasing appetite for ESG investment opportunities extending to impact investing opportunities
- An increasing number of B-Corps² in Australia

Businesses that consider, monitor and measure their impact in society through the products and services they provide and how they treat their suppliers and employees are gaining increasing positive profiles whereas the opposite is true for those who don't. This is articulated well by Blackrock CEO, Larry Fink in his 2018 Annual Letter to CEOs where he says that *"Without a sense of purpose, no company, either public or private, can achieve its full potential. It will ultimately lose the license to operate from key stakeholders"*³. The revised principle 3 frames the importance of a culture led from the top with accountability held at an individual level.

Within this context, we support the three new recommendations proposed which relate to the disclosure of a company's core values, a whistleblower policy and an anti-bribery and corruption policy.

Core values define who we are, what we stand for, and how we behave. They are essential for a company to provide a base from which behaviour can be judged. Similarly they should be disclosed to also provide stakeholders with information about the company and a way to judge actions and performance.

² Source: <http://bcorporation.com.au/what-are-b-corps-0>

³ Source: <https://www.blackrock.com/corporate/investor-relations/larry-fink-ceo-letter>

Corruption remains one of the single biggest issue facing today's society and tackling corruption is the focus of massive effort and an ever expanding body of rules and regulations across the world. There is a clear correlation between corruption and poverty. Of the over 7 billion people alive today, over 6 billion live in countries where corruption is endemic⁴ - with Transparency International's latest Corruption Perceptions Index⁵ citing "a vicious circle between corruption, unequal distribution of power in society, and unequal distribution of wealth". Whilst Australia is less affected than other countries, global migration and terrorism⁶ mean the effects of this cycle are now closer to home than ever before for Western countries.

In our view, corporations and their senior leaders have the ability – indeed an economic as well as moral obligation – to help tackle these issues, by taking steps to prevent corruption and in confronting corruption wherever they see it arising. Disclosing an anti-bribery and corruption policy and ensuring that the board is informed of any material breaches of that policy is a first step towards this.

For similar reasons, few market participants would question the need for companies to have a constructive, safe and balanced ways for whistleblowers to provide information in an appropriately protected manner (a whistleblower policy) and indeed legislation currently before the Australian Parliament, if passed, will require public companies and large proprietary companies to have a whistleblower policy.

The need for companies to have these policies is obvious and in our view recommending that companies take transparent action by disclosing them is necessary to raise their profile and will also help to close the global trust deficit, to which corruption and inequality are major contributors.

Our *20th Annual Global CEO Survey*⁷ confirms, there's a growing awareness that corporations are accountable to an expanding array of stakeholders, including societies and local communities. Transparency in the operations of companies is increasingly seen as imperative for these stakeholder groups. This update to the ASX corporate governance principles presents an opportunity for companies to acknowledge this shift as the 'new normal' and be more transparent which in turn would give society confidence in how these policies are being applied.

⁴ Source: <https://www.transparency.org/cpi2015/>

⁵ Source: http://www.transparency.org/news/feature/corruption_perceptions_index_2016

⁶ Source: <https://www.gov.uk/government/news/anti-corruption-summitaims-to-secure-global-commitment-against-corruption>

⁷ Source: <http://www.pwc.com/gx/en/ceo-agenda/ceosurvey/2017/gx.html>



- ***Whether compliance with any of the new or amended recommendations might have any unforeseen consequences or give rise to undue compliance burdens for listed entities***

We recommend the principles do not become prescriptive in the types of reporting required on areas of social licence as these areas are still developing, and new examples of best practice continue to emerge. The principles should encourage appropriate tailoring to the entities circumstances to ensure reporting does not become “boiler plate” or less meaningful.

- ***Whether the level of guidance in the draft fourth edition is appropriate and whether stakeholders would like more guidance on any particular principles or recommendations***

We encourage the Council to ensure there is an appropriate balance of principles versus prescriptive guidance. Principles should stand the test of time and be adaptive to new and innovative ideas or changing stakeholder expectations.

- ***Whether there are any other gaps or deficiencies in the Principles and Recommendations that have not been addressed by the proposed changes in the consultation draft of the fourth edition***

None noted.

END