



ICGN

International Corporate Governance Network

The Secretary
Ontario Securities Commission
28 Queen Street West
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Toronto, Ontario MSH 358

By post & email: comments@osc.gov.on.ca

30th September 2013

Dear Sir/Madam

RE: OSC Staff Consultation Paper 58-401 - Disclosure Requirements Regarding Women on Boards and in Senior Management

We welcome the opportunity to respond to the above consultation. As an investor-led organisation of governance professionals, the ICGN's mission is to inspire and promote effective standards of corporate governance to advance efficient markets and economies world-wide. We do this through the following three core activities:

- **Influencing policy** by providing a reliable source of practical knowledge and experiences on corporate governance issues, thereby contributing to a sound regulatory framework and a mutual understanding of interests between market participants;
- **Connecting peers** and facilitating cross-border communication among a broad constituency of market participants at international conferences and events, virtual networking and through other media; and
- **Informing dialogue** around sound corporate governance practices and principles through the publication of materials, exchange of knowledge and advancement of education world-wide.

ICGN members are based in over 50 jurisdictions and include investors responsible for assets under management in excess of US\$18 trillion. For more information on the ICGN, please visit www.icgn.org.

We recognise the importance of advancing the representation of women on boards and in senior management and having reviewed the Ontario Securities Commission's (OSC) Staff consultation we commend the OSC in encouraging the advancement of representation of women in this respect.

The ICGN position on gender diversity is reflected in Principle 2.2 of the ICGN Global Corporate Governance Principles (2009) which states:

"Boards need to generate effective debate and discussion around current operations, potential risks and proposed developments. Effective debate and discussion requires...that there is a sufficient mix of relevant skills, competence, and diversity of perspectives within the board to generate appropriate challenge and discussion..."

We attach our said document for your information.

The ICGN will be launching its Statement and Guidance on Gender Diversity on Boards in December 2013 ('ICGN Guidance' - attached) which details our approach to gender diversity on boards, in that we advocate a principles-based approach to improving gender diversity on boards and acknowledge that diversity, of gender and more broadly, is a key strategic issue. The ICGN encourages companies to disclose their objectives in this respect and, in cases of non-compliance, encourages investors to hold companies accountable for justifying this.

Gender diversity is a competitiveness issue for a company as a whole and a critical dimension of governance, both in the board's oversight of the enterprise and in the board's own composition and talent management. Increasing the representation of skilled and competent women on corporate boards will strengthen the corporate governance culture and ultimately contribute to value for all stakeholders.

Below are our responses to the specific consultation questions raised by the OSC:

1. *What are the effective policies for increasing the number of women on boards and in senior management?*

The recommended policies by ICGN to improve and support gender diversity on Boards and in senior management are as follows:-

- (a) Shareholders should communicate the importance of gender diversity to regulators and exchange providers, encouraging them to establish their own policies regarding gender diversity on boards.
- (b) Regulators and exchange providers should establish a reporting policy on the number of women on boards.
- (c) Regulators or exchange providers (as the case may be), should require boards to report annually to shareholders on whether their company meets its own benchmark policies and, if not, to explain why the company has not achieved its benchmark or is not seeking to meet that benchmark.
- (d) Beyond engaging with individual companies, shareholders should also, where appropriate (either individually or in collaboration with others) make a constructive contribution to market-wide research and benchmarking studies that monitor trends in gender diversity within their particular jurisdiction.
- (e) Publication of this information at a trend level can be highly effective in securing the engagement of directors and other stakeholders in companies, without crossing the boundary into the realm of the Board's own discretion to seek the best candidates for its own particular circumstances.

2. *What type of disclosure requirements regarding women on board and in senior management would be most appropriate and useful?*

ICGN's Guidance recommends the following disclosure requirements:-

- (a) Every company should disclose specific and measurable targets for achieving greater female representation within its senior management and board, and appropriately measure and report on progress in achieving such targets.

- (b) Companies should maintain and disclose an up-to-date skill matrix used to assess the current board; to consider the need for recruitment; and against which director candidates are assessed.
- (c) Companies should disclose the process for board succession planning, and the timeframe over which this is considered.
- (d) Companies should disclose their gender diversity policies for the board, senior management and across all operations, which should include policies on flexible talent management and encouragement of female inclusion in hiring and promotion.
- (e) Boards should provide oversight on diversity throughout the organisation and ensure that there is a discussion of diversity strategy and reporting across the organisation.
- (f) Companies should communicate to shareholders their aims and achievements in implementing gender diversity policies. In each annual report to shareholders, companies should disclose their progress in effecting female inclusion across all operations, including stating what specific policies have been put in place to develop gender diverse talent at all ranks of the company.
- (g) Disclosure initiatives should be put in place in order to ensure greater number of women progress to senior management roles within companies.

3. Are the proposed scope and content of the model disclosure requirements described in Part 4 of this consultation paper appropriate? Are there additional disclosures requirements that should be considered? Please explain.

We believe that the OSC's proposed model discloses all notable requirements that should be included. The proposed disclosure requirements on women's representation constitute a significant step towards improving women's presence in corporate leadership.

4. What type of statistics, data and/or accompanying information regarding representation of women in their organization should non-venture issuers be required to disclose? Should such disclosure be reported for the non-venture issuer only or for all of its subsidiary entities also?

We encourage non-venture issuers to disclose the total number and percentage of women on boards and senior management on an annual basis including within subsidiary entities. This would serve as material statistical information in order to measure the representation of women within the corporate sector.

5. What practices should be recommended for facilitating increased representation of women on boards and in senior management?

We encourage companies to adopt the following practices designed to increase women's representation:-

- (a) *Evaluation and Recruitment*

The Nomination Committee should conduct a structured evaluation of the Board of directors on an annual basis to identify ways to strengthen the board's effectiveness, to assess gender balance, and to highlight gaps between the skills and background of existing directors and their optimal mix.

The Nomination Committee should also develop a succession plan for the board, recognising that new director recruitment should be conducted strategically to help replace the skill-sets of retiring directors.

The committee should report to the full board on how it takes gender diversity into account when nominating candidates to the Board. The Nomination Committee should identify and recommend candidates for new board members and the committee should seek a gender-diverse candidate slate, alongside age, background and experience. This will ensure that new directors are chosen from the widest possible group of qualified candidates.

The Board should include an annual assessment of its own performance in achieving greater female representation within its own ranks as well as within senior management. Given the important strategic value of gender diversity, the Board should also assess the performance of management in implementing gender diversity policies not just within senior management but across the company's entire operations.

The Board should consider requiring the relevant Board committee to address gender diversity and talent management as an explicit element of its oversight work, and to report to shareholders specifically on this.

(b) *Implementation and Culture*

Companies should establish programmes to address any failures to deliver levels of diversity that reflect the relevant wider society. Programmes to enable and encourage gender diversity throughout the organisation should encompass:

- Appropriately tailored recruitment policies
- On-going skills development and mentoring
- Human capital strategy development
- Flexible working and telecommuting opportunities

In order to be an effective and open organisation which draws on the skills and talents of all members of society, companies need to have in place approaches to gender diversity throughout their business. Doing so will deliver confidence to investors that this is an issue which management takes with genuine and appropriate seriousness. This will make it more likely that investors will also have confidence that a gender diverse Board is actually able to be effective.

The natural development of gender diverse staff through the organisation will help lead in due course to gender diversity at executive Board and full Board levels. This will provide further skilled and able non-executive women directors for other Boards.

Making female executives available for non-executive roles on other companies' Boards should be part of their development programme to accelerate the visibility and board-level skills of these executives.

(c) *Roles of Advisors*

Recruitment agencies should be challenged by Nomination Committees to look outside the common channels and existing networks to source female candidates. We encourage companies to advertise board vacancies in national and international media.

Recruitment advisors should take advantage of the numerous, databases of board-qualified women and they should expect recruiters to broaden their own proprietary databases to include more female candidates. These candidates should include women with senior operating and executive backgrounds, even though they may not have served as CEOs.

The OSC may think it relevant to include the results of ICGN's members survey on gender diversity (conducted in November 2012), included below as an annex, to its paper so as to support its position on gender diversity. We note that the OSC has not discussed the desirability, or not, of introducing binding quotas to improve the representation of women on boards and in senior management, an option which many of OSC's respondents may propose to be included.

This response has been prepared by ICGN's Shareholder Responsibilities Committee and should you wish to discuss any of the points that we have raised, please feel free to contact the Acting Head of ICGN, Kerrie Waring by email at: kerrie.waring@icgn.org or by telephone on: +44 (0) 207 612 7098.

Yours faithfully,



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Cc: ICGN Board Members
ICGN Shareholder Responsibilities Committee

ANNEX: ICGN gender diversity survey highlights

Around 15% of ICGN membership responded to the survey that we conducted in November 2012, from 20 different countries. This included 35% of responses from females, 57% of responses from males and 8% of unspecified responses.

Of those who responded, 66% were opposed to the introduction of binding quotas to improve gender diversity on corporate boards, 26% were in favour and 8% were uncertain. Of those, 24% of respondents who supported quotas recommended that an appropriate quota level would be 40%. In addition 63% of respondents asserted that it should be applicable to both non-executives and executives combined – i.e. not just non-executive directors.

Of those respondents who favoured an alternative approach to binding quotas, 49% preferred a comply-or-explain or self-regulatory approach. We also asked our membership which of the following actions would be most effective in increasing the representation of women on boards and the results are shown below in order of popularity:

1. Commitment by investors to encourage companies to include women in their recruitment activities.
2. Commitment by male directors to identify, mentor and support women on board membership.
3. The comply or explain approach.
4. Creation of databases coupled with a “support and mentoring network”.
5. The creation of quotas.

In terms of the role of investors in helping to encourage more gender balance on corporate boards, we asked which of the following activities by investors would be most effective in helping to ensure that diversity is properly embedded and the results are again shown below in order of popularity:

1. Regular dialogues on governance policies with the boards of investee companies.
2. Advocating high corporate governance standards, including those involving diversity.
3. Seeking development and implementation of diversity policies.
4. Developing voting guidelines on the appointment and re-election of board members for investee companies.
5. Using voting rights to effect improvements at the boards of investee companies.

A total of 93% of respondents asserted that it is the Board's role to oversee a human capital management strategy that sets out clearly how diversity (and inclusivity) are promoted within the company and embedded within the corporate culture. Furthermore, 76% of respondents thought that the Board should explain its approach to incorporating diversity within the company on a comply-or-explain basis, whilst 72% of our survey respondents supported the view that recruitment agencies could improve the standards of board member selection in terms of transparency around company selection procedures for board membership.



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International Corporate Governance Network

ICGN Global Corporate Governance Principles: Revised (2009)

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ICGN Global Corporate Governance Principles: Revised (2009)

About ICGN

The ICGN is a global membership organisation of around 550 leaders in corporate governance based in 50 countries with investors collectively representing funds under management of around US\$18 trillion. The breadth and expertise of ICGN members from investment, business, the professions and policymaking extends across global capital markets and our mission is to raise standards of corporate governance worldwide. For more information about the ICGN contact the Secretariat by telephone: +44 (0) 207 612 7098, email: secretariat@icgn.org or visit www.icgn.org.

Preamble

The International Corporate Governance Network (ICGN), founded in 1995 at the instigation of major institutional investors, represents investors, companies, financial intermediaries, academics and other parties interested in the development of global corporate governance practices. One of its objectives is to facilitate international dialogue on issues of concern to investors. High standards of corporate governance, including effective dialogue between companies and their shareholders, the ICGN believes, are a prerequisite for companies to compete effectively and for economies to prosper. The ICGN also believes that it is in the public interest to encourage and enable the owners of corporations to participate in their governance.

The ICGN has in the past developed Global Corporate Governance Principles to contribute to achieving these objectives, and particularly to fulfil its objective to promote high standards of corporate governance. These Principles are the third generation.

The aim of these Principles is to assert standards of corporate governance to which we believe that all companies should aspire. By seeking to live up to high quality corporate governance standards, companies will be better able to take the decisions which will protect and enhance value for their long-term shareholders. Boards with high standards of corporate governance will be better able to make robust strategic decisions, to challenge and promote the effectiveness of management's operational oversight of the business and to oversee the approach to risk management. This process enhances investor returns over time.

The Principles intend clearly to express the expectations and concerns of international investors with regard to the governance of companies in which they invest, and also to express their commitment to play their role in the governance of those companies. ICGN members recognise that they have responsibilities as shareholders as well as rights, and these Principles outline these responsibilities as well as shareholder expectations of companies. The Principles are intended to apply to public companies predominantly, providing them with guidance as to the behaviour which will influence investors' investment decisions; they will also be of value for companies seeking investment from the international investment community. Aspects of the Principles will also be of relevance to governments, legislators, regulators, operators of investment markets, audit firms and investment

intermediaries. Good corporate governance plays an important role in the integrity and attractiveness of public investment markets, and where relevant ICGN members will seek to enhance regulatory and other rules impacting shareholder rights in particular markets.

These Principles are the ICGN's overarching set of Principles. Under them sit a variety of other best practice guidelines; these are cross-referenced within this document.

The Principles are intended to be of general application around the world, irrespective of legislative background or listing rules. As global guidelines, they need to be read with an understanding that local rules and structures may lead to different approaches to these concepts. Members of the ICGN are strong supporters of the concepts of flexible application of standards (known variously around the world as apply or explain, comply or explain or if not, why not), and will expect that these Principles will be applied with flexibility and understanding of the specific circumstances of individual companies and their markets.

The ICGN strongly believes that dialogue between shareholders on the one hand and senior executives and board members (both executive and non-executive) on the other is a necessary part of effective corporate governance and it will continue to encourage steps towards more effective dialogue, particularly in those markets where it is not so well developed. Such dialogue will start from a more productive base where companies make public disclosures which are substantive and company-specific rather than boilerplate. Where these Principles call for disclosures it is substantive and company-specific disclosures which are sought.

The ICGN will also seek change to legislation, regulation or guidance in particular markets where it believes that this will be helpful to generating corporate governance improvements and particularly where such change will facilitate dialogue and accountability. For the ICGN, the core aspects of corporate governance are the accountability of board members to shareholders and alignment between the interests of management and investors. These core aspects inform the Principles which follow.

The ICGN Global Corporate Governance Principles: Revised (2009) has been developed by the ICGN Global Corporate Governance Principles Committee in consultation with ICGN members. The first draft was published on 5th June 2009 and a consultation paper on the subject was sent to ICGN members for comment. A wide range of responses were received and contributed towards the final draft.

There was further consultation at an open meeting of the Global Corporate Governance Principles Committee with ICGN members at the 2009 ICGN Annual Conference and AGM in Sydney, Australia. ICGN members attending the AGM voted to approve the draft document, after which the final draft was ratified by the membership by email in August 2009. In November 2009, the ICGN Global Corporate Governance Principles: Revised (2009) was published and launched at an ICGN conference in Washington, DC (USA).

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1.0 Corporate objective

1.1 Sustainable value creation

The objective of companies is to generate sustainable shareholder value over the long term. Sustainability implies that the company must manage effectively the governance, social and environmental aspects of its activities as well as the financial. Each company needs over time to generate a return on the capital invested in it over and above the cost of that capital.

Companies will only succeed in achieving this in the long run if their focus on economic returns and their long-term strategic planning include the effective management of their relationships with stakeholders such as employees, suppliers, customers, local communities and the environment as a whole.

2.0 Corporate boards

2.1 Directors as fiduciaries

Members of company boards are fiduciaries who must act in the best interests of the company and its shareholders and are accountable to the shareholder body as a whole. As fiduciaries, directors owe a duty of care and diligence to, and must act in the best interests of, the company.

2.2 Effective board behaviour

Boards need to generate effective debate and discussion around current operations, potential risks and proposed developments. Effective debate and discussion requires:

- (a) that the board has independent leadership;
- (b) that the chair works to create and maintain a culture of openness and constructive challenge which allows a diversity of views to be expressed;
- (c) that there is a sufficient mix of relevant skills, competence, and diversity of perspectives within the board to generate appropriate challenge and discussion;
- (d) that the independent element of the board is sufficiently objective in relation to the executives and dominant shareholders to provide robust challenge without undermining the spirit of collective endeavour on the board;
- (e) that the non-executive element of the board have enough knowledge of the business and sources of information about its operations to understand the company sufficiently to contribute effectively to its development;
- (f) that the board is provided with enough information about the performance of the company and matters to be discussed at the board, and enough time to consider it properly; and
- (g) that the board is conscious of its accountability to shareholders for its actions.

2.3 Responsibilities of the board

The board's duties and responsibilities and key functions, for which they are accountable, include:

- (a) Reviewing, approving and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans; setting performance objectives; monitoring implementation and corporate performance; and overseeing major capital expenditures, acquisitions and divestitures.
- (b) Overseeing the integrity of the company's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place; in particular, financial and operational control, and compliance with the law and relevant standards.
- (c) Ensuring a formal and transparent board nomination and election process.
- (d) Selecting, remunerating, monitoring and, when necessary, replacing key executives and overseeing succession planning.
- (e) Aligning key executive and board remuneration with the longer term interests of the company and its shareholders.
- (f) Overseeing a formal risk management process, including holding an overall risk assessment at least annually.
- (g) Monitoring and managing potential conflicts of interest of management, board members, shareholders, external advisors and other service providers, including

misuse of corporate assets and related party transactions.

- (h) Monitoring the effectiveness of the company's governance practices and making changes as needed to align the company's governance system with current best practices.
- (i) Carrying out an objective process of self-evaluation, consistently seeking to enhance board behaviour and effectiveness.
- (j) Overseeing the process of disclosure and communications, and being available for dialogue with shareholders.

Carrying out these roles requires a positive working relationship with executive management but also the ability to call management independently to account. This means that the board will need at times to meet without management present.

2.4 Composition and structure of the board

2.4.1 Skills and experience

The board should consist of directors with the requisite range of skills, competence, knowledge, experience and approach, as well as a diversity of perspectives, to set the context for appropriate board behaviours and to enable it to discharge its duties and responsibilities effectively.

2.4.2 Time commitment

All directors need to be able to allocate sufficient time to the board to perform their responsibilities effectively, including allowing some leeway for occasions when greater than usual time demands are made. They should assess on an ongoing basis if new activities may limit their ability to carry out their role at the company, and boards should make substantive disclosures regarding the results of these regular assessments.

2.4.3 Independence

Alongside appropriate skill, competence and experience, and the appropriate context to encourage effective behaviours, one of the principal features of a well-governed corporation is the exercise by its board of directors of independent judgement, meaning judgement in the best interests of the corporation free of any external influence on any individual director or the board as a whole. In order to provide this independent judgement, and to generate confidence that independent judgement is being applied, a board should include a strong presence of independent non-executive directors with appropriate competencies including key industry sector knowledge and experience. There should be at least a majority of independent directors on each board.

Not all non-executive directors will be fully independent of the executives or from

dominant shareholders. Among the factors which can impact the independence of non-executive directors are the following:

- (a) former employment with the company, unless there is an appropriate period of years between the end of the executive role and joining the board;
- (b) personal, business or financial relationships between the directors and the company, its key executives or large shareholders;
- (c) length of tenure; and
- (d) the receipt of incentive pay which aligns the director's interests with those of the executives rather than the shareholders.

While these are important factors, independence is more than anything a state of mind, requiring a disciplined and challenging approach to the role. Every company should make substantive disclosures as to its definition of independence and its determination as to whether each member of its board is independent. Any deviation from local best practice on independence should be disclosed and explained. Notwithstanding any perceived lack of independence, all directors are fiduciaries and so are obliged to exercise objective judgement in the best interests of the company. All are expected to bring independence of mind to board decisions.

2.4.4 Composition of board committees

Every company should establish

separate board subcommittees for audit, remuneration and governance or nomination matters. Companies should also give due consideration to establishing a separate and independent risk committee. The remit, composition, accountability and working procedures of all board subcommittees should be well-defined and disclosed.

By establishing such subcommittees, a board does not delegate its obligations in respect of the issues covered. Subcommittees are established to assist the board to consider effectively these issues which require special competence and independence. Thus the subcommittees should report regularly and formally to the board as a whole, and the board as a whole will need to challenge and debate key issues in order to assure itself that the issues are handled appropriately.

The members of these key board committees should be solely non-executive directors, and in the case of the audit and remuneration committees, solely independent directors. All members of the nominations committee should be independent from management and at least a majority independent from dominant owners.

2.5 Role of the chair

The chair has the crucial function of setting the right context in terms of board agenda,

the provision of information to directors, and open boardroom discussions, to enable the directors to generate the effective board debate and discussion and to provide the constructive challenge which the company needs. The chair should work to create and maintain the culture of openness and constructive challenge which allows a diversity of views to be expressed.

This role will be most effectively carried out where the chair of the board is neither the CEO nor a former CEO. Furthermore, the chair should be independent on the date of appointment as chair and should not participate in executive remuneration plans. If the chair is not independent, the company should adopt an appropriate structure to mitigate the problems arising from this. Where the chair is not independent, the company should explain the reasons why this leadership structure is appropriate, and keep the structure under review.

The chair should be available to shareholders for dialogue on key matters of the company's governance and where shareholders have particular concerns. Such meetings may need to be held with the deputy chair or lead independent director either as an alternative or additionally. All board members should make themselves available for meetings with shareholders when an appropriate request is made.

2.6 Lead independent director

Companies should appoint an independent deputy chair or lead independent director. Where the chair is the CEO or former CEO or is otherwise not independent on appointment, the role of the lead independent director is of particular importance in providing independent leadership of the board. The lead independent director in such a context will have a key role in agreeing the agenda for board meetings and should have powers to call board meetings and otherwise act as a spokesperson for the independent element of the board.

Even where the chair was independent on appointment, the scale of the role inevitably brings him or her closer to the executive management than the rest of the board, and the lead independent director's role is to ensure that the independent element of the board has leadership where this raises issues. The lead independent is also a crucial conduit for shareholders to raise issues of particular concern and should make him- or her-self available to shareholders appropriately in order to fulfil this role.

2.7 Company secretary

All board members must receive the information that they need properly to understand the company's operations and

progress, and also need a channel to seek independent expertise and advice where appropriate. Where the position exists, the company secretary acts as a crucial resource for the chair and for the board as a whole, providing practical guidance as to their duties and responsibilities under relevant law and regulation and playing a critical role in ensuring that the board receives the information and independent advice that it needs. Where companies do not have an individual who carries out such functions they should consider appointing one.

2.8 Knowledge of company

To function effectively, all directors need appropriate knowledge of the company and access to its operations and staff. Directors should make sufficient visits to company operations to gain appropriate insight into the culture and performance of the organisation. Board meetings should also include time to challenge an appropriate range of senior executives. Directors need sufficient and appropriate information about the performance of the company and other matters to be considered at the board with sufficient time to consider it properly.

2.9 Appointment of directors

2.9.1 Election of directors

Directors should be conscious of their accountability to shareholders, and many jurisdictions have mechanisms to ensure

that this is in place on an ongoing basis. There are some markets however where such accountability is less apparent and in these each director should stand for election on an annual basis. Elsewhere directors should stand for election at least once every three years, though they should face evaluation more frequently. Shareholders should have a separate vote on the election of each director, with each candidate approved by a simple majority of shares voted, and sufficient time and information to make a considered voting decision. Information on the appointment procedure should also be disclosed at least annually.

Shareholders should be able to nominate directors to the board both by proposing prospective candidates to the appropriate board committee and by directly nominating candidates on the company's proxy.

2.9.2 Information on board nominees

Companies should disclose upon nomination or appointment to the board and thereafter at least annually information on the identities, core competencies, professional or other backgrounds, recent and current board and management mandates at other companies, factors affecting independence, board and committee meeting attendance and overall qualifications of board members and nominees as well as their shareholding in the company so as to enable investors to weigh the value they bring.

Companies should also disclose the process of succession planning for the non-executive members of the board, as well as for senior management.

2.10 Board and director development and evaluation

A board should have in place a formal process of induction for each new director so that they are well-informed about the company early in their tenure and are able to perform effectively from as early as possible. Directors should also be enabled and encouraged to participate in ongoing training and education to assist them to fulfil their role most effectively.

Every board of directors should evaluate rigorously its own performance, the performance of its committees and the performance of individual directors on a regular basis. It should consider engaging an outside consultant to assist in the process. The performance of individual directors should be assessed at least prior to each proposed re-nomination. Companies should disclose the process for such evaluations and the principal lessons learned from the evaluation of the board and its committees.

2.11 Related party transactions and conflicts

2.11.1 Related Party Transactions

Companies should have a process for reviewing and monitoring any related party transaction. A committee of independent directors should review significant related party transactions to determine whether they are in the best interests of the company and if so to determine what terms are fair. The company should disclose details of all material related party transactions in its annual report.

2.11.2 Director Conflicts of Interest

Companies should have a process for identifying and managing conflicts of interest directors may have. If a director has an interest in a matter under consideration by the board, then the director should not participate in those discussions and the board should follow any further appropriate processes. Individual directors should be conscious of shareholder and public perceptions and seek to avoid situations where there might be an appearance of a conflict of interest.

understand their responsibility for appropriate behaviour. The board should seek actively to cultivate and sustain an ethical corporate culture in the company. The company should take active measures to ensure that its ethical standards are adhered to in all aspects of its business.

3.2 Integrity

The board is responsible for overseeing the implementation and maintenance of a culture of integrity. The board should encourage a culture of integrity permeating all aspects of the company, and ensure that its vision, mission and objectives are ethically sound.

3.3 Codes of ethics and conduct

Companies should develop a code of ethics and/or a code of conduct which will apply across the organisation. The code should stipulate the ethical values of the organisation as well as include more specific guidelines for the company in its interaction with its internal and external stakeholders. Such codes must be actively and effectively communicated across the company, and should be integrated into the company's strategy and operations. There should be appropriate training programmes in place to enable staff to understand such codes and apply them effectively and sufficient support and compliance assessments to assist employee performance in these matters.

3.0 Corporate culture

3.1 Culture and ethical behaviour

Companies should engender a corporate culture which ensures that employees

Boards should regularly consider whether such codes remain complete and appropriate. Any decision to set aside such codes in particular circumstances should be formally considered at board level. Codes of ethics and codes of conduct should also be made available to shareholders.

3.4 Bribery and corruption

Bribery and corruption are incompatible with good governance and harmful to the creation of long-term value. The board should create and sustain appropriately stringent policies and procedures to avoid company involvement in any such behaviour. The expectations of ICGN members in this regard are set out in detail in the ICGN Statement and Guidance on Anti-Corruption Practices.

3.5 Employee share dealing

Companies should have clear rules regarding any trading by directors and employees in the company's own securities. Among other issues, these must seek to ensure that individuals do not benefit from knowledge which is not generally available to the market.

3.6 Compliance with laws

Companies should adhere to all applicable laws of the jurisdictions in which they operate. Sometimes such compliance alone

will be insufficient: exceptions permitted in local laws and shortcomings in the laws of particular jurisdictions should also be handled in a responsible manner.

3.7 Whistle-blowing

The board should ensure that the company has in place a mechanism whereby an employee, supplier or other stakeholder can without fear of retribution raise issues of particular concern with regard to potential or suspected breaches of a company's code of ethics or conduct, or any other failure to comply with laws or standards. The board should assure itself that any concerns raised in such a way are handled appropriately.

4.0 Risk management

4.1 Effective and appropriate risk management

Companies need to take risks, for without risks there will be no returns. However, boards need to understand and ensure that proper risk management is put in place for all material and relevant risks that the company faces.

4.2 Dynamic management process

The board has the responsibility to ensure that the company has implemented an

effective and dynamic ongoing process to identify risks, measure their potential outcomes, and proactively manage those risks to the extent appropriate. The board should also determine the company's risk-bearing capacity and the tolerance limits for key risks, to avoid the company exceeding an appropriate risk appetite. This process needs to be a dynamic one to respond to risks as they develop and as the company's business and marketplace develops. If necessary the board should seek independent external support to supplement internal resources.

4.3 Board oversight

Companies should maintain a documented risk management plan. At least annually, the board should approve the risk management plan which it is then the responsibility of management to implement.

4.4 Comprehensive approach

Risk identification should adopt a broad approach and not be limited to financial reporting; this will require consideration of relevant financial, operational and reputational risks.

4.5 Disclosure

Companies should disclose sufficient information about their risk management procedures to reassure their shareholders

that they are appropriately robust. Disclosures should include the handful of particularly key risks which the company faces.

5.0 Remuneration

5.1 Alignment with long term

Remuneration structures for senior management should be appropriately aligned with the drivers of value-creation over time-scales appropriate both for a company's business and for its shareholders.

5.2 Link to value-creation

Executive pay should incentivise value-creation within companies and should effectively align the interests of executives with those of shareholders. Remuneration structures and frameworks should reinforce, not undermine, the corporate culture. Performance measurement should incorporate risk considerations so that there are no rewards for taking inappropriate risks at the expense of the company and its shareholders, and performance should be measured over timescales which are sufficient to determine that value has in fact been added for the company and its shareholders. The expectations of ICGN members in this regard are set out in detail in the ICGN Remuneration Guidelines.

5.3 Pay for non-executive directors

Pay for non-executive directors should not be structured in a way which risks compromising their independence from management or from controlling shareholders. The expectations of ICGN members in this regard are set out in detail in the ICGN Non-executive Director Remuneration Guidelines.

5.4 Transparency

The company should make substantive disclosure of all significant aspects of remuneration policies and structures for key executives, and in particular the performance metrics which are in place to incentivise value-creation, to incorporate risk management considerations and to align the interests of executives with those of shareholders. Disclosure should include how the awards made in a given year were determined and how they are appropriate in the context of the company's underlying financial performance. The company should also disclose any advisers to the remuneration committee and whether they are deemed independent.

5.5 Share ownership

Every company should have and disclose a policy concerning ownership of shares of the company by senior managers and executive directors with the objective

of aligning the interests of these key executives with those of shareholders.

5.6 Hedging

The use of derivatives or other structures to hedge director or executive share ownership or unvested equity-linked remuneration undermines the alignment of interests which that share ownership and remuneration is intended to provide. Companies should therefore have agreed policies which bar such hedging.

5.7 Shareholder approval and dialogue

The equity-linked remuneration for key executives should always be subject to shareholder approval. Furthermore, because remuneration is an area of particular controversy and where there is a particular risk of conflicts of interest, the introduction of annual votes on remuneration packages and/or remuneration policies should be encouraged in markets around the world, as a way of supporting the board carrying forward its responsibility to properly align executive incentives.

Where a significant change to remuneration structures is proposed or where significant numbers of shareholders have opposed a remuneration resolution, the board should proactively seek dialogue with shareholders with the aim of addressing their concerns.

5.8 Employee remuneration

Employee remuneration is a driver of corporate culture as the pay for the majority of staff is a significant factor in determining and developing a company's culture. As with senior management, remuneration structures and frameworks should reinforce, not undermine, the corporate culture. Again as with senior management, performance measurement for staff remuneration should incorporate risk considerations so that there are no rewards for taking inappropriate risks at the expense of the company and its shareholders, and performance should be measured over timescales which are sufficient to determine that value has in fact been added for the company and its shareholders.

Shareholders would welcome disclosure by boards that they are confident appropriate pay structures are in place to promote and enhance the corporate culture.

6.0 Audit

6.1 Robust and independent audit

Companies should aspire to robust, independent and efficient audit processes using external auditors in combination with the internal audit function.

6.2 Annual audit

The annual audit carried out on behalf of shareholders is an essential part of the checks and balances required at a company. It should provide an independent and objective opinion that the financial statements fairly represent the financial position and performance of the company in all material respects, give a true and fair view of the affairs of the company and are in compliance with applicable laws and regulations.

6.3 Scope of audit

The minimum scope of the audit will be as prescribed by applicable law, and the audit committee of the board should agree a scope that is sufficient for the company's purposes. Shareholders should also have the right to expand the scope of the audit.

6.4 Independent audit

Annual audits should be carried out by an independent, external audit firm which should be proposed by or with the assistance of the audit committee of the board for approval by the shareholders. The audit committee should have regular and ongoing dialogue with the external auditor without management being present.

Any resignation of an auditor should be publicly disclosed. The departing auditor

should publicly communicate the reasons for such a resignation.

6.5 Ethical standards

The auditors should observe high-quality auditing and ethical standards. To limit the risk of possible conflicts of interest, non-audit services and fees paid to auditors for non-audit services should be both approved in advance by the audit committee and disclosed in the annual report. No audit firm staff involved in the audit should be rewarded in any way for selling, or the provision of, non-audit services.

6.6 Internal audit

Companies should establish and maintain an effective internal audit function that has the respect, confidence and co-operation of both the board and management. Where the board decides not to establish such a function, full reasons for this should be disclosed in the annual report, as well as an explanation of how adequate assurance has been maintained in its absence.

The internal audit function should have a functional reporting line to the audit committee chair. The audit committee should be ultimately responsible for the appointment, performance assessment and dismissal of the head of internal audit or outsourced internal audit provider.

The external auditor should not provide internal audit services to the company.

6.7 Audit committee role

The company's interaction with the external auditor should be overseen by the audit committee of the board on behalf of the shareholders. The audit committee seeks to assure itself and shareholders of the quality of the audit carried out by the auditors as well as overseeing their independence. The audit committee should maintain oversight of key auditing decisions as well as key accounting decisions. The audit committee should recommend to the board for consideration and acceptance by shareholders the appointment, reappointment and, if necessary, the removal of the external auditors. The board should disclose and explain this process and the process by which the audit committee assures itself of the ongoing independence of the external auditors.

7.0 Disclosure and transparency

7.1 Transparent and open communication

Every company should aspire to transparent and open communication about its aims, its challenges, its achievements and its failures.

7.2 Timely disclosure

Companies should disclose relevant and material information concerning themselves on a timely basis, in particular meeting market guidelines where they exist, so as to allow investors to make informed decisions about the acquisition, ownership obligations and rights, and sale of shares.

7.3 Affirmation of financial statements

The board of directors and the appropriate officers of the company should affirm at least annually the accuracy of the company's financial statements or financial accounts.

7.4 Accounting standards

To attract international investors, companies should apply accounting and financial reporting standards which are generally accepted high-quality international accounting standards.

The audit committee of the board should maintain oversight of key accounting policies and key accounting judgements taken under those policies. The accounting policies should be disclosed in the company's annual report.

7.5 Non-financial business reporting

The reporting of relevant and material non-financial information is an essential part of the disclosure required to enable shareowners and investors to make informed decisions on their investments. The expectations of ICGN members in this regard are set out in detail in the ICGN Statement and Guidance on Non-financial Business Reporting.

7.6 Disclosure of ownership

In addition to financial and operating results, company objectives, risk factors, stakeholder issues and governance structures, the disclosures should include a description of the relationship of the company to other companies in the corporate group, data on major shareholders and any other information necessary for a proper understanding of the company's relationships with its public shareholders.

8.0 Shareholder rights

8.1 Accountability

Shareholders expect to have appropriate rights to ensure that boards are accountable for their actions.

8.2 Corporate charter

Companies should publicly disclose their corporate charter or articles of association in which, among other things, the rights of shareholders are clearly set out. Any changes to these should be subject to shareholder approval.

8.3 Shareholder protections

Boards should treat all the company's shareholders equitably and should respect and not prejudice the rights of all investors. Boards should do their utmost to enable shareholders to exercise their rights, especially the right to vote, and should not impose unnecessary hurdles.

8.3.1 Unequal voting rights

Companies' ordinary or common shares should feature one vote for each share. Divergence from a 'one-share, one-vote' standard which gives certain shareholders power disproportionate to their equity ownership should be both disclosed and justified. Companies should keep such structures under regular review, and put their retention up for regular approval by shareholders. Any such structures should be accompanied by commensurate extra protections for minority shareholders.

8.3.2 Shareholder participation in governance

Shareholders should have the right to participate in key corporate governance

decisions, such as the right to nominate, appoint and remove directors on an individual basis and also the right to appoint the external auditor.

8.3.3 Major decisions

The nature of a company that shareholders have invested in should not change without shareholders having the opportunity to give their approval to that change. Such changes include major transactions, the issue of significant portions of shares and changes to the articles or by-laws. Further, companies should not implement shareholder rights plans or so-called 'poison pills', nor any other structures that have the effect of anti-takeover mechanisms, without shareholder approval. Not only should there be a shareholder vote with regards to any significant related party transaction, but only non-conflicted shareholders should be able to vote on it.

8.3.4 Pre-emption

New issues of shares should be made on a pre-emptive basis, that is offered proportionately to existing shareholders. Shares should not be issued on a non-pre-emptive basis unless existing shareholders have given their prior approval.

8.3.5 Shareholders' right to call a meeting of shareholders

Companies should enable holders of a specified portion of its outstanding shares or a specified number of shareholders

to call a meeting of shareholders for the purpose of transacting the legitimate business of the company. While it is appropriate to limit vexatious proposals, these hurdles should be low enough to enable appropriate accountability of the company to its shareholders. Shareholders should be enabled to work together to make such a proposal.

8.3.6 Shareholder resolutions

Companies should enable holders of a specified portion of its outstanding shares or a specified number of shareholders to put resolutions to a shareholders meeting. While it is appropriate to limit vexatious proposals, these hurdles should be low enough to enable appropriate debate and discussion on issues of importance to shareholders. Shareholders should be enabled to work together to make such a proposal.

8.3.7 Shareholder questions

Shareholders should be provided with the right to ask questions of the board, management and the external auditor both before and at meetings of shareholders, including questions relating to the board, its governance and the external audit.

8.3.8 Consultation among institutional shareholders

Institutional shareholders should not face regulatory barriers to discussions regarding forthcoming voting decisions or concerning

other basic shareholder rights. Concert party rules and/or takeover regulations should not prevent ongoing shareholders from sharing perspectives about companies in which they have mutual interests.

8.4 Voting-related rights

8.4.1 Shareholder ownership rights

The exercise of ownership rights by all shareholders should be facilitated, including giving shareholders timely and adequate notice of all matters proposed for shareholder vote.

8.4.2 Vote execution

Votes cast by intermediaries should be cast only in accordance with the instructions of the beneficial owner or its authorized agent.

8.4.3 Vote count

Equal effect should be given to votes whether cast in person or in absentia and meeting procedures should ensure that all votes are properly counted and recorded.

8.4.4 Disclosing voting results

Companies should make a timely announcement of the outcome of a vote and publish voting levels for each resolution promptly after the meeting.

8.5 Shareholder rights of action

Shareholders should be afforded rights of action and remedies which are readily

accessible in order to redress conduct of a company which treats them inequitably. Minority shareholders should be afforded protection and remedies against abusive or oppressive conduct.

8.6 Record of ownership of a company's shares

Every company should maintain a record of the registered owners of its shares or those holding voting rights over its shares. Every company should be entitled to require registered owners to provide the company with the identity of beneficial owners or holders of voting rights. Shareholders should be able to review this record of registered owners of shares or those holding voting rights over shares.

8.7 Promoting shareholder rights

Where the rights discussed above are not available in particular jurisdictions, local regulators are to be encouraged to put these rights in place. Where local law does not prevent it, companies should themselves enable shareholders to exercise these rights.

9.0 Shareholder responsibilities

9.1 Alignment

Shareholders should act in a responsible way aligned with the company's objective of long-term value creation. Institutional shareholders must recognise their responsibility to generate long term value on behalf of their beneficiaries, the savers and pensioners for whom they are ultimately working.

Institutional shareholders should be ready, where practicable, to enter into a dialogue with companies in order to achieve a common understanding of objectives.

9.2 Integration into mandates

Pension funds and those in a similar position of hiring fund managers should insist that fund managers put sufficient resource into governance analysis and engagement which deliver long term value.

9.3 Integration into investment decision-making

Shareholders should take governance factors into account and consider the riskiness of a company's business model as part of their investment decision-

making. Moreover, shareholders should develop and improve their capacity to analyse and influence governance risks and opportunities at investee companies for the benefit of their own beneficiaries, as well as acting with fiduciary responsibility to promote better governance at those companies. To exercise this responsibility, shareholders should contribute to the improvement in the functioning of boards of directors, to strengthening the accountability of management and to promoting information disclosure and transparency.

9.4 Collaboration

Where appropriate, shareholders should collaborate where this will enable them to achieve results most effectively.

9.5 Active and considered voting

Shareholders should actively vote at Annual and Extraordinary General Meetings. Votes should always be cast in a considered manner.

Institutional shareholders should publicly disclose their voting policies and practices.

They should recognise that they lose their voting rights when they lend stock. In order for votes to be cast, lent stock needs to be recalled. It is also important to monitor stock lending in connection with short

selling. The ICGN's recommendations in this area are set out in its Securities Lending Code of Best Practice.

9.6 Commitment to Principles

Institutional shareholders should formally commit to the principles laid out in the ICGN Statement of Principles on Institutional Shareholder Responsibilities (2007). The ICGN encourages investors in major markets to develop local principles, to be applied on a comply or explain basis, to further promote transparency and accountability across the investment chain.

9.7 Internal corporate governance

Institutional shareholders should consider their own internal corporate governance, ensuring the proper oversight of their management, acting in the interests of their beneficiaries and managing conflicts of interest.

Annex 1: Acknowledgements

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ICGN Guidelines

ICGN Executive Remuneration Principles and Policy Disclosure Guidance (2012)

ICGN Guidance on Political Lobbying and Donations (2012)

ICGN Model Contract Terms Between Asset Owners and Managers (2012)

ICGN Corporate Risk Oversight Guidelines (2010)

ICGN Non-executive Director Remuneration Guidelines (2010)

ICGN Position paper: What Investors Want from Financial Reporting (2010)

ICGN Global Corporate Governance Principles (2009)

ICGN Guidance on Anti-Corruption Practices (2009)

ICGN Statement and Guidance on Non-financial Business Reporting (2008)

ICGN Statement of Principles on Institutional Shareholder Responsibilities (2007)

ICGN Securities Lending Code of Best Practice (2007)

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ICGN

International Corporate Governance Network

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ICGN Statement and Guidance on Gender Diversity on Boards

About ICGN

An investor-led organization of governance professionals, ICGN's mission is to inspire and promote effective standards of corporate governance to advance efficient markets and economies world-wide. Established in 1995 and present in over 50 countries, the ICGN membership includes global investors with assets under management in excess of US\$18 trillion. For more information, contact the ICGN Secretariat by telephone: +44 (0) 207 612 7098, email: secretariat@icgn.org or visit www.icgn.org.

Preamble

In recent years, the public discussion of Board diversity has focused principally on gender. Boards around the world are overwhelmingly comprised of men, and the small percentage of female directors has increased only modestly despite the extraordinary gains of women in the workplace.

For many years, women have represented a large proportion of the tertiary-educated workforce and female representation continues to grow as a proportion of graduates with advanced degrees. Women occupy an increasing percentage of leadership positions in business, government and the professions.

Companies that fail to draw from the ever-deepening talent pool of well-educated and high achieving women will fall behind in an increasingly competitive world. This is as true for the boardroom as it is for employee recruitment and retention. The challenge and opportunity of embracing gender diversity extends to all levels of the corporation.

This paper focuses on the roles of both shareholders and companies in promoting and supporting gender diversity on Boards. It should be viewed in the context of the ICGN Global Corporate Governance Principles (2009) and other ICGN guidance (see Annex 6.3). It sets out the ICGN's view on gender diversity as an important governance issue in contributing to the effectiveness of Boards and, ultimately, the long-term sustainability of companies.

The guidance has been structured into two primary sections: (a) investor responsibilities; and (b) Board responsibilities. The aim of the guidance is to enhance dialogue between companies and investors on the subject and therefore most likely to help improve gender diversity on Boards.

Gender diversity is a competitiveness issue for a company as a whole and a critical dimension of governance, both in the Board's oversight of the enterprise and in the Board's own composition and talent management. Increasing the representation of skilled and competent women on Boards will strengthen the corporate governance culture and ultimately contribute to value for all stakeholders.

This paper has been developed by a working group of the ICGN Shareholder Responsibilities Committee and takes into account ICGN members' views as expressed through a survey on the subject conducted in October 2012 and through a formal consultation of the ICGN membership carried out in March and April 2013, in addition to other sources. Going forward, the ICGN, through its Shareholder Responsibilities Committee, will begin work on developing a paper on the broader issue of diversity on Boards, extending the approach outlined in this paper beyond the gender issue.

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1.0 ICGN statement on gender diversity on Boards

The ICGN position on diversity relates to Principle 2.2 of the ICGN Global Corporate Governance Principles (2009) which states:

"2.2 Boards need to generate effective debate and discussion around current operations, potential risks and proposed developments. Effective debate and discussion requires:

(c) that there is a sufficient mix of relevant skills, competence, and diversity of perspectives within the Board to generate appropriate challenge and discussion..."

The principle expresses the ICGN view that diversity, broadly defined, and independence are important attributes of a highly functioning Board.

A recent survey of ICGN members found that the majority believe that Boards have a role to play in overseeing human capital strategy which embeds diversity and inclusiveness within a company's operations and approach. Boards that aim for effectiveness, with diversity being seen as an element to help deliver that effectiveness, are likely to perform better than those constructed with compliance in mind.

ICGN advocates a principles-based approach to improving gender diversity on Boards and acknowledges that diversity, of gender and more broadly, is a key strategic issue. The ICGN encourages companies to disclose their objectives in this respect and, in cases of non-compliance, encourages investors to hold companies accountable for justifying this.

Boards which draw on a wide range of relevant skills, competence, and diversity of perspectives are better able to generate appropriate challenge and discussion, thereby generating and preserving enhanced value for investors.

It is the role of the chairman to ensure that such diverse Boards contribute effectively to an active debate. Board diversity is as much about the culture within the boardroom and acceptance of a diversity of views, as it is about having diversity (of gender or otherwise) around the boardroom table.

2.0 Background

2.1 Boardroom reforms and diversity

Countries around the world have enacted reforms to set higher standards of accountability for Boards, to strengthen the authority of independent directors, and to increase the transparency of Board recruitment processes and assessments of the skills required to meet evolving company needs. Many of these reforms were driven, to an extent, by failures in corporate governance practices which in turn contributed to significant investor losses in the early years of the last decade, and more recently during the financial crisis of 2008-2009.

Some Boards were criticised for their failures of attitude and effectiveness due to a propensity towards ‘group think’ and an inability effectively to rein in management and oversee risk. Such criticisms have been bolstered by the fact that Board composition remains highly homogeneous, raising questions about whether Boards enjoy the range of different perspectives and degree of challenge that will make them most effective.

Diversity of thought and experience are essential contributions towards constructive debate and independence within boardrooms, allowing Boards better to fulfill their expansive oversight responsibilities. These objectives can be accomplished more effectively by recruiting a Board which is diverse in the broadest sense of gender, race, national origin, culture, expertise and thought. Diversity is fundamentally an issue about building the most effective and forward-looking Board possible, and delivering quality governance in the broadest understanding of that term.

2.2 Regulatory and market-led reforms

In the European Pact for Gender Equality 2011-2020 (March 2011), the European Council acknowledged that gender equality policies are vital to economic growth, prosperity and competitiveness and appealed for action to promote equal involvement of men and women in decision-making at all levels and in all fields, so as to utilise all talents. Accordingly, the European Commission (EC) has introduced a Directive on improving the gender balance among non-executive directors of companies listed on stock exchanges.

The purpose behind the EC Directive is to significantly increase the number of women on corporate Boards throughout the European Union by setting a binding minimum objective of 40% presence of the under-represented sex among non-executive directors of companies, focusing on public limited companies, in an effort to promote gender equality in economic decision-making, and to take full advantage of the talent pool of candidates for a more equal gender representation on company Boards.

A number of other countries have introduced legislation imposing gender quotas for Boards of publicly traded companies or relevant disclosure rules. For example, Norway enacted a law in 2003 requiring companies to have 40% female directors by 2008. Spain has also introduced the same quota, to be reached by 2015. The French Parliament passed a law in January 2011 imposing 20% gender quotas on Boards within three years, and 40% after six years. In Italy a hybrid system is in place with a temporary three year period where mandatory action is required and thereafter, it is hoped that this impetus will continue to drive change.

Other countries have adopted a ‘comply or explain’ approach, encouraging development and disclosure of diversity policies and objectives and ensuring that explanations are provided for any non-compliance. For instance, Australia has introduced a regime for extensive disclosures on diversity policies for the Board, management and the workforce with stated objectives and an explanation of progress made, if any, to meeting those objectives.

In parallel with regulatory reforms, there are a number of market-led initiatives committed to improving gender balance on Boards. For example, in the UK, the 30% Club, is committed to achieving better gender balance at all levels of organisations in order to make businesses and Boards more effective, by taking voluntary steps towards the goal of 30% women on Boards by 2015.

Several initiatives are under way in Canada to help companies increase diversity. Catalyst Canada has issued a call for action for companies to increase the proportion of women directors to 25% by 2017ⁱ. The Canadian Board Diversity Council is publicising 50 “board-ready” candidates each year who are diverse in terms of gender and other attributesⁱⁱ.

The Chartered Secretaries Australia issued the ‘Guidelines for gender balance performance and reporting Australia’ (the Guidelines). The Guidelines are intended to support Australian entities to make progress on the employment, retention and promotion of women in the workplace, particularly at senior executive level, by providing a best practice framework on the steps and measures necessary for improving gender balance within organisations.

2.3 Academic research

According to several prominent research studies, greater gender diversity in senior executive and Board ranks is correlated with measures of organisational excellence and stronger stock price appreciation than that exhibited by less diverse peers.

Research studies associating gender diversity with financial performance support the view that investors should focus attention on diversity at investee companies. For example, studies conducted by McKinsey & Co (such as that sampling 101 large companies around the world and another sampling 89 European-listed companies)ⁱⁱⁱ, found that companies with the most significant level of gender diversity in top management positions scored higher on measures of organisational excellence, showed more distinct returns on equity, more attractive operating results and stronger stock price appreciation than the average of their respective sectors.

The American non-profit, Catalyst, has conducted two similar studies^{iv}. In both cases, companies with three or more women on the Board outperformed their peer companies in terms of returns on sales, returns on invested capital and returns on equity. The Credit Suisse Institute published a study that found that a sample of companies with women on their Boards outperformed peers that lacked female directors by 26% over a period of six years^v. In 2011, the law firm Eversheds published a study^{vi} examining the relationship between Board composition and share price performance for a sample of 241 large global companies during the financial crisis. The study found a powerful correlation between overall performance and the percentage of female directors.

More recently, in a 2013 Canadian study^{vii}, an empirical testing of a cohort of over 600 companies directors found that female directors achieved significantly higher scores than their male counterparts on the dimension of 'Complex Moral Reasoning', compared to more even scores on other defined reasoning methods of 'Personal Interest' and 'Normative Reasoning'. These results suggest that women may generally be likely to offer superior skills in making key decisions in situations where competing interests are at stake – an attribute that would seem vital at the governance level of today's complex corporations.

Such studies highlight the fact that although the correlation between female directors and firm performance does not imply causation, it does support the proposition that companies which promote women to top management and governing roles may have a number of attributes that lead to organisational excellence and to better share price performance. Conversely, an absence of diversity may signal ineffective management. As the US-based National Association of Corporate Directors has remarked, "...a lack of diversity can be an apparent sign that the Board is not engaging in a rigorous search for the most qualified people".

3.0 Board responsibilities

3.1 Disclosure

- Every company should disclose specific and measurable targets for achieving greater female representation within its senior management and Board, and appropriately measure and report on progress in achieving such targets.
- Companies should maintain and disclose an up-to-date skills matrix used to assess the current Board; to consider the need for recruitment; and against which director candidates are assessed.
- Companies should disclose the process for Board succession planning, and the timeframe over which this is considered.
- Companies should disclose their gender diversity policies for the Board, senior management and across all operations, which should include policies on flexible talent management and encouragement of female inclusion in hiring and promotion.
- Boards should provide oversight on diversity throughout the organisation and ensure that there is a discussion of diversity strategy and reporting across the organisation.
- Companies should communicate to shareholders their aims and achievements in implementing gender diversity policies. In each annual report to shareholders, companies should disclose their progress in effecting female inclusion across all operations, including stating what specific policies have been put in place to develop gender diverse talent at all ranks of the company.

3.2 Skills and experience

- When recruiting non-executive directors, competence and fit with the skills and experience the Board is seeking should be the conclusive components. However, within the skills-based framework, Boards should strive for greater gender diversity. It is a Board's responsibility to ensure that it possesses and maintains the right balance of independence, skills and diversity, including gender.
- Boards should be comprised of directors with the knowledge and experience to discharge the Board's responsibilities and the independence of judgment to do so free of any external influence.
- The skills and experience necessary to oversee a company's strategy and risk will evolve along with the company's business. The Board should periodically update its desired skills matrix as the company's business develops.
- Boards should acknowledge that Board composition may need to be refreshed on a regular basis to achieve the optimal mix of director experience. To this end, Boards should consider director tenure and limiting terms of service.
- The Nomination Committee should conduct a structured evaluation of the Board of directors on an annual basis to identify ways to strengthen the Board's effectiveness, to assess gender balance, and to highlight gaps between the skills and background of existing directors and their optimal mix. This exercise will help inform the recruitment of new directors whose diversity of skills and experience should address any gaps.
- The Nomination Committee should also develop a succession plan for the Board, recognising that new director recruitment should be conducted strategically to help replace the skill-sets of retiring directors.
- The committee should report to the full Board on how it takes gender diversity into account when nominating candidates to the Board.
- The Nomination Committee should identify and recommend candidates for new Board members and the committee should seek a gender-diverse candidate slate, alongside age, background and experience. This will ensure that new directors are chosen from the widest possible group of qualified candidates.
- The Board should consider requiring the relevant Board committee to address gender diversity and talent management as an explicit element of its oversight work, and to report to shareholders specifically on this.

3.3 Evaluation and recruitment

- The Board should include an annual assessment of its own performance in achieving greater female representation within its own ranks as well as within senior management. Given the important strategic value of gender diversity, the Board should also assess the performance of management in implementing gender diversity policies not just within senior management but across the company's entire operations.

3.4 Implementation and culture

- Companies should establish programmes to address any failures to deliver levels of diversity that reflect the relevant wider society. Programmes to enable and encourage gender diversity throughout the organisation should encompass:
 - Appropriately tailored recruitment policies
 - On-going skills development and mentoring
 - Human capital strategy development
 - Flexible working and telecommuting opportunities
 - A gender diverse Board established over the head of a non-gender diverse company is unlikely to be wholly effective. Investors will certainly be somewhat cynical about gender diversity grafted on only at the very highest level of a company as this may appear cosmetic and management's ability to listen effectively to a full range of views may be in doubt.
 - In order to be an effective and open organisation which draws on the skills and talents of all members of society, companies need to have in place approaches to gender diversity throughout their business. Doing so will deliver confidence to investors that this is an issue which management takes with genuine and appropriate seriousness. This will make it more likely that investors will also have confidence that a gender diverse Board is actually able to be effective.
- The natural development of gender diverse staff through the organisation will help lead in due course to gender diversity at executive Board and full Board levels. This will provide further skilled and able non-executive women directors for other Boards.
 - Making female executives available for non-executive roles on other companies' Boards should be part of their development programme to accelerate the visibility and board-level skills of these executives.

3.5 Role of advisors

- Recruitment agencies should be challenged by Nomination Committees to look outside the common channels and existing networks to source female candidates.
- Nomination Committees should favour professional agencies with proven abilities to generate genuinely diverse long- and short-lists of potential candidates.
- Nomination Committees should ensure that there are suitably qualified women on the short-lists of candidates that they consider. As such, recruitment advisors should take advantage of the numerous, databases of board-qualified women and they should expect recruiters to broaden their own proprietary databases to include more female candidates. These candidates should include women with senior operating and executive backgrounds, even though they may not have served as CEOs.

4.0 Shareholder responsibilities

4.1 Dialogue with companies

- Shareholders should include discussions around gender diversity in their regular engagement with Boards and management of investee companies, with discussions covering Boards as well as the workforce as a whole. Shareholders have a key role in expressing their views on the implementation of diversity policies and should hold Boards to account for delivering on it.
- Shareholders should seek the development and implementation of gender diversity policies among investee companies, and require investee companies to disclose these policies and the degree of adherence to them in their annual reports.
- Shareholders should encourage companies to consider the way in which human resources are being developed with their organisations and how this incorporates gender diversity. This includes encouraging companies to communicate their aims and achievements in developing and implementing gender diversity policies.
- Shareholders should advocate high standards of governance practice among the companies in which they invest and ensure that consideration of these standards is integrated into investment decision-making processes.

4.2 Voting guidelines

- Shareholders should articulate their expectations in relation to gender diversity on Boards and include these within their own governance and voting guidelines and in relation to appointment and election/re-election of Board members.
- Shareholders should openly disclose their voting guidelines to investee companies. By way of example, the Australian Council of Superannuation Investors includes the following statement in relation to gender diversity in its Governance Guidelines^{viii}:

"4. Board structure

The Board should be comprised of individuals who are able to work together effectively to lead a viable, profitable and efficient company with diverse backgrounds (e.g. age, gender, core expertise) who have a high degree of competency, integrity, skill, capacity, experience and commitment to discharge their duties and responsibilities.

Companies must ensure that these factors are considered in the director nomination processes."

Similarly, the National Association of Pension Funds in the UK recognises the importance shareholders should place on gender diversity in its Corporate Governance Policy and Voting Guidelines^{ix}, recommending that:

"B.2.2. Shareholders will expect companies to explain what steps they are taking to bring diversity to their boardroom, particularly gender diversity. This section should include a description of the Board's policy on diversity – including professional, international and especially gender diversity – any measurable objectives that it has set for implementing the policy, and progress on achieving the objectives."

4.3 Exercising voting rights

- Shareholders should utilise tools to monitor companies in their efforts to encourage the improvement of gender diversity at Board level as well as within the corporation, thereby creating an environment for better performing companies and investments.
- Shareholder should recognize that their participation in the nomination and election of the Board is a key responsibility and, where appropriate, they should make use of their voting rights to promote change in gender diversity practices at investee companies. This may, among other things, include the nomination of directors to Boards where gender diversity is found to be lacking and the companies concerned have not embraced the gender diversity agenda.
- Where it is not possible for shareholders to nominate directors to Boards, a first step may be seeking to have this right to have a more active say in the nominations process with relevant regulators and standard-setters.

4.4 Public policy

- Shareholders should communicate the importance of gender diversity to regulators and exchange providers, encouraging them to establish their own policies regarding gender diversity on Boards.
- Regulators and exchange providers should establish a reporting policy on the number of women on Boards. At a minimum, this policy should encourage companies to develop and disclose their own benchmark targets for achieving gender diversity on Boards and in senior management, as well as relevant policies across their operations, including on career and work-life flexibility, management development processes, and mentoring and networking.
- Beyond engaging with individual companies, shareholders should also, where appropriate (either individually or in collaboration with others) make a constructive contribution to market-wide research and benchmarking studies that monitor trends in gender diversity within their particular jurisdiction.

Publication of this information at a trend level can be highly effective in securing the engagement of directors and other stakeholders in companies, without crossing the boundary into the realm of the Board's own discretion to seek the best candidates for its own particular circumstances.

5.0 End Notes

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- vii Bart & McQueen, (2013), Why Women Make Better Directors – International Journal of Business Governance & Ethics, Vol. 8, No. 1, 2013, pp. 93-99
- viii ACSI Governance Guidelines, July 2011, p11
- ix NAPF Corporate Governance Policy and Voting Guidelines, November 2012, p23

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7.0 Annexes

7.1 Acknowledgements

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7.3 ICGN Guidance

ICGN Statement and Guidance on Gender Diversity on Boards (2013)

ICGN Statement of Principles for Institutional Investor Responsibilities (2013)

ICGN Executive Remuneration Principles and Policy Disclosure Guidance (2012)

ICGN Guidance on Political Lobbying and Donations (2012)

ICGN Model Contract Terms Between Asset Owners and Managers (2012)

ICGN Corporate Risk Oversight Guidelines (2010)

ICGN Non-executive Director Remuneration Guidelines (2010)

ICGN Position paper: What Investors Want from Financial Reporting (2010)

ICGN Global Corporate Governance Principles (2009)

ICGN Guidance on Anti-Corruption Practices (2009)

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