

ASX and ASIC Listed Companies Conference

Corporate Governance

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Background



- 1st edition - March 2003 - 10 Principles and 28 Recommendations
- Non-prescriptive, flexible “if not, why not?” market disclosure approach
- Public consultation November 2006 - February 2007
- >100 submissions incl 120 listed entities
- 2nd edition released - August 2007 - 8 Principles and 26 Recommendations

Key changes

- Removal of overlap with CA SS 250RA, 295A, 300A and AAS 124 - Principles 4, 6, 7 and 9
- Merger of Principles:
 - Principle 8 Executive performance evaluation → Principle 1 – Board performance evaluation → Principle 2
 - Principle 10 – Codes of conduct → Principle 3 – link between stakeholders and risk → Principle 7

Key changes (cont'd)



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- Listed trusts, non-CA listed entities and SMEs
- “Plain English” drafting and consistent terminology
- “Independent status” vs “definition of independence”
- Required to disclose reasons for considering a director independent despite existence of a relationship in Box 2.1

Key changes (cont'd)

- Hedging of options – trading policies should prohibit hedging of unvested options and require disclosure of hedging of vested options to the company.
Council's position complements current Government proposals
- “Prescriptive language – “should” and “companies may find it useful to consider”
- Disclosure of summary of documents

Principle 7 – Recognise and manage risk

- Key focus in submissions >90 submissions
- Substantial redraft designed to encourage companies to consider the issue of risk and the effectiveness of their systems for risk management and internal control and to elevate their consideration of “material business risks” - MBR

Principle 7 – Recognise and manage risk (cont'd)

- Discussion of types of MBR
- Need to take into account legal obligations and consider “reasonable expectations” of stakeholders
- No requirement to disclose specific MBR

Supplementary Guidance to Principle 7



- Council considering changes
- Q&A designed to provide assistance particularly for smaller companies. Covers:
 - What is material business risk?
Interaction with LR 3.1 and S 299A CA
 - What is a system of risk oversight, risk management and internal control?

Supplementary Guidance to Principle 7 (cont'd)

- What are risk oversight and management and internal control policies?
- What disclosures are required? What is not required?
- What is the intended scope of the assurance under R. 7.3
- Helpful / unhelpful examples

Remuneration issues



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- Recommendation 9.4 deleted and new commentary in Recommendation 8.2 – companies may wish to consult shareholders about equity-based executive incentive plans involving the issue of new shares to executives, other than directors prior to implementing them
- Council made submission to ASX and Treasury

Annual reviews of Corporate Governance disclosures



- LR 4.10.3 – each listed entity to set out in its annual report the extent to which it followed the Recommendations during the reporting period
- LR 12.7 – listed entities in the S&P All Ordinaries Index to have an audit committee. Top 300 companies to comply with the Recommendation on audit committee composition

Overall reporting levels	2004	2005	2006
Listed companies	84%	88%	90%
> 90% reporting level	8/28	14/28	17/28
> 80% reporting level	9/28	9/28	6/28

Annual reviews of Corporate Governance disclosures (cont'd)



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Overall reporting levels	2005	2006
Listed trusts	86%	85%
> 90% reporting level	10/28	13/28
> 80% reporting level	14/28	8/28

Adoption reporting levels	2004	2005	2006
Companies	68%	74%	75%
Trusts	N/A	70%	72%
Top 500	N/A	86%	88%

2007 review of Corporate Governance disclosures



- 1330 (approx) 30 June companies / trusts
- Results released June 2008
- 2008 review – entities likely to report against 2003 or 2007 Principles

Recent developments



Directors' Interest Notices

- ASX currently reviewing disclosure by directors of trading in securities of their companies
- All trading by directors of all 2200 listed entities during Q1 08 following lodgement of yearly or half yearly financial results

Recent developments (cont'd)



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- ASX will be identifying instances of:
 - failure to comply with the requirement for notification to the market within the 5 day time limit in ASX LR and the 14 day time limit S 205G CA
 - potential breaches of insider trading or continuous disclosure laws where directors traded during “blackout period”
 - directors non-observance of their own company’s dealing policies

Questions



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