



Listing Rule and Corporate Governance Amendments

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Presentation outline

- ❑ Listing Rule changes
 - Trading policy
 - Remuneration committee
- ❑ CGC Recommendation changes
 - Remuneration committee
 - Directors
 - Investor briefings
 - Diversity measures

Trading policy



- Listing Rule amendments effective 1 January 2011
- LR 1.1 Condition 15 – new listings must have trading policy that complies with LR 12.9
- LR 12.9 – all listed entities must have a trading policy that satisfies the requirements of LR 12.12 and give a copy to ASX
- LR 12.10 – must give a copy of any changes to the trading policy within five business days
- LR 12.11 – must give a copy to ASX on request

Trading policy (cont'd)



- ❑ LR 12.12 - trading policy must specify:
 - “Closed periods” = fixed periods when trading generally is not permitted (e.g. in lead up to announcement of results)
 - Restrictions on “key management personnel” that generally prohibit trading during “prohibited periods” except in exceptional circumstances and with prior written clearance
 - “Prohibited periods” = closed periods + periods when LR 3.1A in operation

Trading policy (cont'd)



- ❑ LR 12.12 - trading policy must specify ...
 - Any trading which is not subject to those restrictions
 - The exceptional circumstances under which trading may be permitted in a “prohibited period” with prior written clearance
 - The procedures for obtaining prior written clearance
- ❑ LR 3.19A.2 and Appendix 3Y (disclosure of change in director’s interests) must state whether trading took place in a closed period where prior written clearance is required and, if so, whether clearance was provided and when

Remuneration Committee



- Listing rule amendments effective 1 July 2011
- LR 1.1 condition 16 - an entity which upon admission to the official list will be included in the S&P ASX 300 must have a remuneration committee
- LR 12.8 - an entity which at the beginning of its financial year was included in the S&P ASX 300 must have a remuneration committee for the whole of that financial year
- Committee must be comprised solely of non executive directors

Remuneration Committee (cont'd)



- ❑ New CGC Recommendation 8.2 effective for financial years commencing on or after 1 January 2011
- ❑ Applies to all listed entities not just S&P ASX 300
- ❑ The remuneration committee [established by the board under CGC Recommendation 8.1] should be structured so that it:
 - consists of a majority of independent directors
 - is chaired by an independent director
 - has at least three members

Remuneration Committee (cont'd)



- ❑ Guidance on recommendation 8.2:
 - The committee should be of a sufficient size and independence to discharge its mandate
 - Use of executive directors should be limited to avoid the appearance of conflict of interests
 - While it is OK to seek input from senior executives, no senior executive should be directly involved in deciding their own remuneration
- ❑ For non-ASX 300 entities, an 'if not, why not' reporting requirement under LR 4.10.3

Director matters



- ❑ Guidance / commentary only
- ❑ Commentary on Recommendation 2.4 [the Board should establish a nomination committee]:
 - Notice of meeting for election of directors should state whether the board supports the nomination of the candidate
- ❑ Commentary on Recommendation 2.5 [companies should disclose the process for evaluating the performance of the board, its committees and individual directors]:

Director matters (cont'd)



- Director induction program should cover:
 - ✓ culture and values of the company
 - ✓ meeting arrangements
 - ✓ director interaction with each other, senior executives and other stakeholders

- Director ongoing education could include key developments in the company, industry and environment in which it operates

Investor briefings



- ❑ Guidance / commentary to Recommendation 6.1 [effective communication with shareholders]:
 - Where possible, companies should arrange for advance notice of significant group briefings (eg results announcements) and make them widely accessible, including through the use of webcasting or other mass communication mechanisms
 - Companies should keep a record of issues discussed at group or one-on-one briefings with investors and analysts, including a list of who was present and time and place of meeting

CGC diversity measures



- ❑ New CGC Recommendation 3.2 effective for financial years commencing on or after 1 January 2011
- ❑ Boards of all listed entities should establish a diversity policy and disclose the policy or a summary of it
- ❑ The policy should include requirements for the board to:
 - set measurable objectives for achieving gender diversity
 - review both the objectives and the progress in achieving them annually

CGC diversity measures



- ❑ New CGC Recommendations 3.3 and 3.4 effective for financial years commencing on or after 1 January 2011
- ❑ Companies should disclose in their annual report:
 - the measurable gender diversity objectives set
 - progress towards achieving them
 - the proportion of women at three levels:
 - ✓ board
 - ✓ senior management
 - ✓ whole of organisation

Guidance commentary



- ❑ Recommendation 3.2 - 3.4 commentary:
 - Should introduce appropriate procedures to ensure the policy is implemented effectively
 - Should include an internal review mechanism to assess the effectiveness of the policy
 - Onus is on companies to work out how best to present meaningful figures on the participation of men and women in the workplace and the roles in which they are employed

Guidance commentary



- ❑ Recommendation 3.2 - 3.4 commentary (cont.):
 - Board, or nomination or remuneration committee, should have duty, at least annually, to review and report on the relative proportion of women and men in the workforce at all levels of the company/economic group
 - This obligation should be included in its charter

Guidance commentary (cont'd)



- ❑ Recommendation 2.4 commentary:
 - Board nomination committee should specifically consider diversity in succession planning
 - Should be greater transparency in the board selection process, especially:
 - ✓ the process by which candidates are identified and selected (eg are professional intermediaries used?)
 - ✓ the steps taken to ensure a diverse range of candidates are considered
 - ✓ the factors taken into account in the process

Guidance commentary (cont'd)



- ❑ Recommendation 2.6 commentary:
 - Corporate governance statement in annual report should include a statement as to the mix of skills and diversity the board of directors is looking to achieve in its membership
- ❑ Recommendation 8.1 commentary
 - Remuneration Committee should specifically consider remuneration by gender and report to the board

Guidance commentary (cont'd)



- ❑ Box 3.2 – Suggestions for the content of a diversity policy
 - Express a commitment to diversity and articulate its benefits
 - Identify ways to promote a culture which embraces diversity
 - Identify factors to be taken into account in selection processes
 - Include identifying programs and initiatives that will assist employees to develop the skills and experience that will prepare them for senior management and board positions

Guidance commentary (cont'd)



- ❑ Box 3.2 – Suggestions for the content of a diversity policy (cont'd)
 - Recognise that employees at all levels may have domestic responsibilities
 - Consider the transparency of board processes, review and appointments
 - Address the extent to which the achievement of measurable diversity objectives will be linked to the KPIs for the Board, CEO and senior executives

Impetus for change



- ❑ CAMAC report on Diversity on Boards of Directors specifically recommended the use of the CGC Principles to achieve reform in this area, having regard to:
 - Poor record of corporate Australia on gender diversity
 - International developments
 - Financial studies that suggested diversity could help drive competitiveness

Impetus for change (cont'd)



Poor record on diversity...

As at June 2009	% listed entities with women directors	% women on boards
Top 200	34%	8.3%
Top 500	32%	4.9%
Companies	16%	3.4%
Trusts	29%	4.9%
All entities	16%	3.5%

*ASX Compliance Review of June 09 Annual Reports only – excludes companies with December year end

Impetus for change



- ❑ Change is happening...slowly. AICD figures as at 22 September 2010:
 - 27% of all new Board appointments of ASX 200 entities in calendar 2010 were women (31), compared with 5% (10) in FY09, and 8% in FY07 and FY08
 - Women directors of ASX 200 entities as a percentage increased to 10.2%, up from 8.3% at 30 June 2009

Impetus for change (cont'd)

International developments



UK: CG Code - board appts to have regard for benefits of diversity incl gender

Norway: Legislation - 40% quota

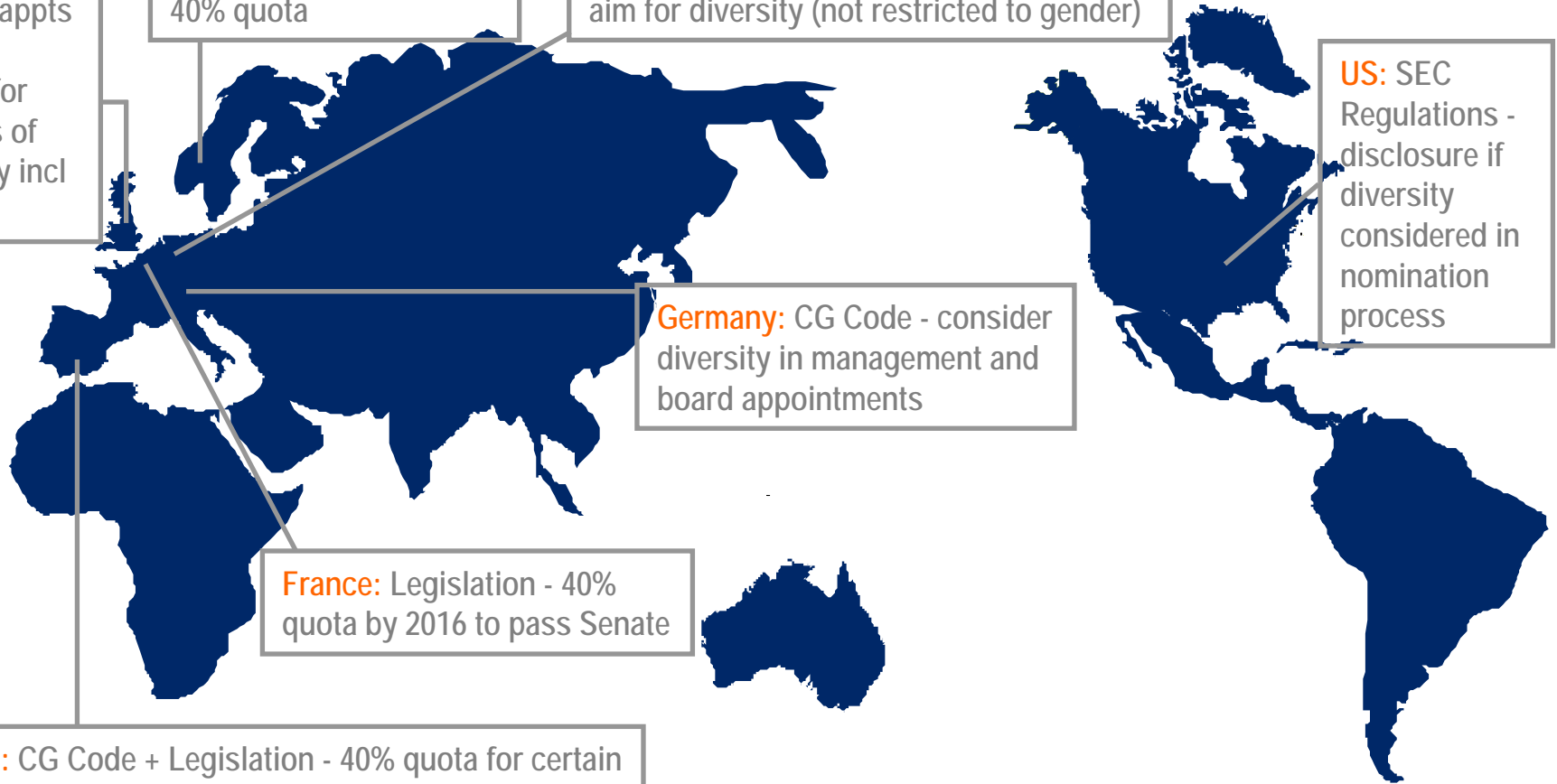
Netherlands: CG Code - boards should aim for diversity (not restricted to gender)

US: SEC Regulations - disclosure if diversity considered in nomination process

Germany: CG Code - consider diversity in management and board appointments

France: Legislation - 40% quota by 2016 to pass Senate

Spain: CG Code + Legislation - 40% quota for certain companies that becomes compulsory in 2015



Impetus for change (cont'd)



□ Financial studies:

- *Goldman Sachs JB Were, Australia's hidden resource – the economic case for increasing female participation:*

Closing the male / female employment gap could boost Australian GDP by 11%

- *Catalyst Research 2007, The Bottom Line: Corporate Performance and Women's Representation on Boards:*

Fortune 500 companies with the highest representation of women board directors had significantly increased financial performance (return on equity, return on sales, return on invested capital)

What ASX is doing



- ❑ ASX is tracking the number of women directors in listed companies from information provided in Annual Reports to provide a base line for comparison
- ❑ These figures will be reported in our periodic Analysis of Corporate Governance Disclosures in Annual Reports
- ❑ From FY 2011, compliance with CGR diversity reporting requirements will also be reported
- ❑ Companies that materially fail to comply with “if not, why not” disclosure requirements will be individually written to by ASX reminding them of their reporting obligations under LR 4.10.3

What ASX is doing (cont'd)

- ❑ ASX will provide education and resources to support listed companies in adopting the recommendations. Refer to: http://www.asx.com.au/compliance/education_research/diversity.htm for:
 - A summary of the changes
 - Generic legal guidance on legal issues relating to diversity measures
 - Other useful resources
- ❑ The resources web page will be updated regularly

What you should be doing

- Review the CGC diversity recommendations
- Benchmark your current position on diversity
- Discuss with your boards and senior management:
 - Diversity policy and objectives
 - Performance measures against those objectives
- Review charters for the board and the nomination and remuneration committees
- Review board selection processes
- CGC encourages early adoption

Questions?

