



ICGN

International Corporate Governance Network

Ms. Judith Fox
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By Email Only:

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26th June, 2014

Dear Ms. Fox,

Re: The “Improving Engagement Between ASX-Listed Entities and their Institutional Investors” - Background Paper and Guidelines

The International Corporate Governance Network (ICGN) is an investor-led organisation of governance professionals with members including institutional investors responsible for assets under management in excess of US18 trillion. Our members are based in over 50 countries and, in addition to investors, represent all parties interested in the field of corporate governance including company directors and secretaries, professional advisors and academia.

Our mission is to inspire and promote effective standards of corporate governance to advance efficient markets and economies world-wide. This is achieved through influencing public policy on corporate governance issues by engaging with regulators and responding to public consultations, connecting peers around the world through international events, and informing members on emerging issues through guidance and education programmes. As such we welcome the opportunity to comment on the “Improving Engagement Between ASX-Listed Entities and their Institutional Investors” Background Paper and Guidelines (the Guidelines), as issued by the Governance Institute of Australia Ltd (“Institute”) and Sandy Easterbrook. For more information about ICGN, please visit www.icgn.org.

The ICGN’s position on standards of corporate governance, applicable to both companies and investors, is set out in our Global Governance Principles, which are accessible on our website. In addition, the ICGN Statement of Principles of Institutional Investor Responsibilities clarifies the responsibilities of investors both in relation to their internal governance and their external role as investors in companies and other assets.

As sponsors of this project, both the Institute and Mr. Easterbrook are well known in the Australian and international investor and issuer communities as strong and independent voices in relation to standards of good practice in corporate governance. ICGN notes the depth of

expert knowledge and guidance that was received during the drafting of the Guidelines by an impressive list of credentialed directors, CEOs, investor representative bodies and governance professionals. This deliberative process is similar to the one which ICGN instituted as it developed the Global Governance Principles. We support the interest in public feedback as you prepare a final set of Guidelines for best practice engagement between ASX-listed entities and their long-term institutional investors. A set of Guidelines that reflects the country's key issues and characteristics should play a crucial role in ensuring that a dialogue between these entities is given the status and level of attention it deserves.

Overall, the report highlights seventeen Guidelines which should provide a market-informed and consensus-based approach to improving engagement. As noted in the Introduction, such an approach "is better than a regulatory approach for both parties, and consequently, better for the overall Australian economy." (Background Paper, p.9) ICGN favours an engagement-based approach in which institutional investors may engage with companies and build a relationship in support of a longer-term perspective of their investment. All stakeholders and the economy as a whole will benefit from this approach to engagement. A longer term perspective creates better operating conditions for companies and improves their competitiveness.

By way of substantive comments on individual guidelines, one observation we would make is that Guidelines 1.1 and 1.3 seem to adopt the premises that institutional investors always cast their votes. ICGN supports the informed use of voting rights wherever possible but also recognises the market practice that, institutional investors sometimes decide not to vote. For that reason ICGN proposes in its Global Governance Principles that, where an institutional investor chooses not to vote in specific circumstances, or in particular markets, or where holdings are below a certain scale threshold, this should be disclosed to clients or beneficiaries in a clear policy. Inclusion of such a provision within the Guidelines may be worthy of consideration.

With regard to Guideline 16 on ESG Issues, the ICGN appreciates the distinction drawn in the Guideline between governance issues that should be a board responsibility and the environmental and social issues that are primarily management's domain. There are situations when operational risks and/or environmental and social policies or practices can impact the long-term interests of the company. If management does not address these risks, it is incumbent upon the board to address the risks which could harm the long-term interests of the company. It is prudent therefore for the board and management to discuss how the entity will address environmental and social issues. Ultimately, investors will hold the board accountable for any material failure in relation to environmental, social or governance practices. For reference on how environmental and social risks may be included in a board's risk oversight, we refer to the ICGN Corporate Risk Oversight Guidelines which is available on our website.

ICGN applauds the extensive effort that the Institute, Mr. Easterbrook and the noted principals have undertaken to develop the Guidelines for adoption and use in Australia. The addition of another set of Guidelines for engagement should be well received by the global investment community. In particular, the practical "How to do it" approach used in the Guidelines is a new

and fresh way to deal with all aspects of engagement for companies and institutional investors. This can benefit companies, investors and the financial markets generally.

Thank you for the opportunity to provide comments on the interim report. Should you wish to discuss our comments further, please contact Kerrie Waring, ICGN's Managing Director, by email at Kerrie.waring@icgn.org or by telephone on +44 (0) 207 612 7079.

Yours Sincerely,

Erik Breen
Chair, ICGN Board

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