



November 2018

**ICGN Policy Priorities 2018-9*****Background***

The International Corporate Governance Network (ICGN) was founded in 1995 as an investor-led organisation; our Members include institutional investors with global assets under management in excess of US\$34 trillion, based in 43 countries around the world. ICGN's mission is to promote effective standards of corporate governance world-wide.

This document presents ICGN's 2018-9 Policy Priorities, which complement ICGN's core policy documents—the ICGN Global Governance Principles and Global Stewardship Principles, which can be found on ICGN's website.

These policy priorities seek to establish an overarching frame of reference to guide ICGN policy work and policy committees. Our five policy priorities remain unchanged from 2017-8 in terms of the main themes; this reflects the ongoing nature of ICGN's policy work in these areas and the long-term challenges these priorities represent. However, the workplan itself has been refreshed for the year to come, and reflects the individual projects that are being addressed in each of the policy committees and by the ICGN Secretariat.

In addition to sharing the Policy Priorities with ICGN Members, ICGN will also engage with relevant standard setters and market participants, seeking to identify common ground and build cooperation where appropriate. ICGN Policy Priorities undergo annual review to ensure relevance and effectiveness.

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**ICGN Policy Priorities 2018-9:**

- 1. Promoting long-term investment perspectives and sustainable value creation**
- 2. Making successful stewardship a reality**
- 3. Building effective boards amidst the changing boundaries of governance**
- 4. Protecting minority shareholder rights**
- 5. Seeking transparency through robust reporting, audit and metrics**

## 1. Promoting long-term investment perspectives and sustainable value creation

Investors serving as fiduciary agents for their clients will look to invest in companies in both developed and emerging markets that can provide sustainable value creation, reflecting the long-term investment horizons of many end beneficiaries. Investors need not only concern themselves with individual companies at the micro level. They must also think and act systemically with regard to the integrity and stability of financial markets as a whole—to ensure that the financial markets serve their intended purpose of promoting economic growth and investment in the real economy by users of capital. This ultimately supports the generation of sustainable returns for providers of capital, including pensioners and other long-term savers. It is critical for investors to focus on the needs of these beneficiaries and to take into consideration their preferences and time horizons. In particular, the advantage of ICGN’s corporate membership allows for dialogue and collaboration between investors and companies to build towards a more sustainable financial system and positive governance outcomes.

This requires a long-term perspective on the purpose of the company, finance and governance. It calls for deep reflection with regard to balancing the needs and interests of investors and other key stakeholders. Consideration of stakeholder relations and a company’s broader social role also gives rise to how environmental, social and governance (ESG) factors are built into company strategy and operations – and integrated in investment analysis and engagement. The 17 United Nations’ Sustainable Development Goals present one important reference point for investors and companies with regard to systemic issues that may be relevant to individual company performance—and link to broader social impacts. Key examples might include the impacts of climate change, water scarcity or global wealth disparity. Investors should build awareness of how these issues can affect systemic stability, and on how company boards are addressing systemic risks at investee companies.

This is an overarching priority that touches most, if not all, ICGN policy committees, and is likely to be an on-going focus of ICGN conferences and policy output.

### ***Principal ICGN Policy Committee: Ethics and Systemic Risk Committee***

*Chair: Deborah Gilshan*

ICGN’s Ethics and Systemic Risk Committee maintains a focus on promoting high standards of ethical behaviour aimed at reducing risk and promoting long-term sustainable returns. It is also concerned with the way companies approach their relations with external stakeholders and their response to matters of public concern such as taxation, human rights, fraud, bribery, corruption or unethical behaviour,

political donations, and lobbying. The Committee is also exploring its extended mission of addressing systemic risks facing investors and markets.

### **ICGN Workplan 2018-9**

- *Viewpoint: exclusion of companies from investment portfolios (2018)*
- *Viewpoint governance framework for investors and boards to oversee systemic risk, including linkage to the Sustainable Development Goals (2019)*
- *A review of ICGN's current Anti-corruption Guidance, which will involve a Member consultation and to updating this for membership approval at ICGN's Annual General meeting in June 2020.*

## **2. Making successful stewardship a reality**

ICGN has long emphasised that with shareholder rights come shareholder responsibilities. Promoting effective investor stewardship is a core objective of ICGN. Both in controlled and widely held companies, a diligent investor base supports good governance practices that can contribute to sustainable value creation and healthy financial markets.

ICGN's policy guidance in the area of stewardship and responsible investment practices dates back to 2003, including the *Principles for Institutional Investor Responsibilities (2011)* and ICGN's *Model Mandate*, published in 2012. The latter provides model contract language for investment management agreements between asset owners and asset managers to integrate core stewardship practices into the asset management process.

As a key policy initiative ICGN launched its Global Stewardship Principles, which were approved by ICGN Members at its June 2016 AGM. These Principles provide a global framework for stewardship to guide investors, companies, regulators and standard setters in jurisdictions around the world. The Principles support the development of stewardship codes in new markets, and ICGN, through its Shareholder Responsibilities Committee, has been active in responding to stewardship code consultations around the world. Many of ICGN's investor Members have formally endorsed these Principles.

ICGN's Global Stewardship Principles provide guidance on internal governance for investors and external stewardship activities relating to monitoring, engaging and voting. A distinguishing feature of the Principles relative to most other stewardship codes is the emphasis on investor governance, which we believe is the foundation for successful stewardship. This is the first principle identified in the Global Stewardship Principles, and remains an on-going focus.

Building from the Global Stewardship Principles, ICGN also launched a new Guidance on Fiduciary Duty for investors that was approved by ICGN Members at its 2018 Annual General Meeting. This new guidance explores the fiduciary responsibilities of institutional investors and addresses these issues in the context of systemic risks and the role of ESG in the investment process.

While investor stewardship is increasingly called for by regulatory bodies to provide oversight and accountability by investee companies, there are also those who challenge the practices of large institutional investors in terms of their economic impact. In particular the debate building in the academic community relating to common ownership (where an individual investor may hold stakes in one or more competing companies in the same sector) is giving rise to radical and draconian policy prescriptions that ICGN believes are both misguided and would have a significantly negative impact on large investors' stewardship activities.

In June 2016, ICGN formally established the Global Network of Stewardship Code Developers at its annual conference in San Francisco. The group, comprised of regulators and other stewardship code developers from around the world, serves as a forum for dialogue on effective stewardship code implementation. ICGN also hosts a website page raising the visibility of national stewardship codes to a global audience.

In addition, the Global Network of Investor Associations convened by ICGN since 2013 serves as a complementary extension of stewardship practice, by bringing together diverse investor groups to discuss relevant governance themes and explore ways in which to collaborate in regulatory and market outreach.

ICGN's advocacy effort for stewardship includes providing comment letters and submissions for feedback on stewardship codes in development around the world, and ICGN is particularly interested in supporting the culture of stewardship in emerging markets.

***Principal ICGN Policy Committee: Shareholder Responsibilities Committee***

*Chair: Niels Lemmers (Netherlands)*

The Shareholder Responsibilities Committee seeks to influence the development of national and international corporate governance policies and proposals relating to shareholder responsibilities on behalf of ICGN Members. It provides oversight of ICGN's Global Stewardship Principles and its Model Mandate to provide the foundation for ICGN's policy positions relating to shareholder responsibilities. The committee led the drafting of the new ICGN Guidance on Fiduciary Responsibility,

and is also focused on securities lending; it serves as a resource to ICGN by assisting in public consultations relating to stewardship codes.

### **ICGN Workplan 2018-9**

- *Stewardship Code Developers Network – ongoing*
- *Global Stewardship Code Endorsers – ongoing*
- *Published Member-approved Guidance on Fiduciary Responsibility, approved by ICGN membership in June 2018; webinar in December (2018)*
- *Viewpoint on common ownership (2018)*
- *Global Stewardship Awards and Stewardship disclosure templates (2018)*
- *Viewpoint on investor communication and engagement with company boards (2019)*

### **3. Building effective boards amidst the changing boundaries of governance**

In addition to facing traditional challenges relating to boards in their oversight of companies, directors increasingly recognise that the “boundaries” of corporate governance are often fluid and bring new risks and opportunities that require board attention and oversight. Many of these newer challenges relate to business interface with society, including its interactions with customers, employees and other key stakeholders.

Related to this, the so-called “soft” issues of ethics and culture have been shown to have hard impacts on companies – particularly as they emerge as risks and opportunities. Examples include the emissions scandal at Volkswagen, the loss of confidence in the banking sector in the global financial crisis and the pernicious effects of bribery and corruption in both developed and emerging markets. Trust in business is low, and social concerns including income disparity are attracting significant public attention.

Ethical and cultural failures can have profound impacts on company finances, reputation, strategic positioning and reputation. New forms of risk are becoming visible as they relate to values, behaviour and stakeholder relations. Increasing attention is being focused on board diversity to address cultural issues and the broad understanding of risks within companies and their boards.

Developments in technology also provide boards with opportunities to innovate and explore how artificial intelligence can enhance board effectiveness. While cybersecurity is not a new risk, concerns are heightening in particular with regard to cyber risk and other risks relating to the abuse of technology.

### **Principal ICGN Policy Committee: Board Governance Committee**

*Co-chairs: Carola van Lamoen (Netherlands) and Gigi Dawe (Canada)*

The Board Governance committee focuses on the quality of the board of directors as the primary oversight body of the company, taking the perspective of institutional investors. It is closely aligned with ICGN's policy priority relating to building effective boards amidst the changing boundaries of governance.

The Committee's focus includes issues relating to board structure, diversity, remuneration, independence and oversight of risk management. It can also broaden to include newer themes that directors need to be aware of, which can relate to issues such as artificial intelligence, innovation, cyber risk and tax policy. Committee outputs can help to inform company executives, boards and regulators about institutional investor expectations of good board governance. It can also be used to guide investor engagement with boards. Committee outputs can help to inform company executives, boards and regulators about institutional investor expectations of good board governance. The Committee is also a resource to ICGN by assisting in public consultations relating to corporate governance codes.

### **ICGN Workplan 2018-9**

- *Viewpoint published and webinar on succession planning (2018)*
- *Working groups developed to draft Viewpoint reports on three topics related to board governance and effectiveness (2019):*
  - *Artificial intelligence*
  - *Culture*
  - *Innovation*

## **4. Protecting minority shareholder rights**

As institutional investors in most cases are minority investors in companies, the protection of minority shareholder rights is fundamental to ICGN policy work—particularly with regard to promoting long-term investment perspectives. Concerns can be particularly acute in companies with controlling shareholders—a common theme of ownership around the world. While controlling shareholders in many cases can be strong long-term partners with minority shareholders, there is also the risk that the interests of the controlling shareholder might conflict with those of minority shareholders. These challenges can be particularly difficult in developing or emerging markets, where enforcement of minority shareholder rights can be challenging.

Shareholder rights are critical to ensure that management is not entrenched and working without accountability against the long-term interests of investors and the company more generally. This calls for supporting minority shareholder rights and protections. Key areas of focus by ICGN in this context include:

- *Differential ownership rights* through loyalty shares or dual class shares. ICGN challenges differential structures of this nature for their potential for abuse by controlling shareholders. While differential ownership rights are viewed by some companies and regulators as a viable way to encourage long-term ownership and thinking by investors, ICGN views this as a flawed tactic. Avoiding mismatches between voting control and economic ownership is an important principle of protecting minority shareholder rights.

Dual class shares are problematic for minority shareholders and are an area of concern that is building globally. This is also a significant and growing concern for investors in markets including Canada, Brazil and Hong Kong. At the same time the US technology sector in particular is taking a different tack, and purposefully employing differential rights to “protect” companies from potentially short termist financial market pressures. Accordingly, there remains considerable debate as to the benefits and potential abuses of differential rights.

After publishing a Viewpoint report on differential ownership rights in 2015, ICGN has continued to actively engage with regulators and other standard setters on this issue. Building from this theme and the growing attention on benchmark stock indices with dual class share structures, ICGN has responded with comment letters to several consultations by index providers, and published a Viewpoint in 2017 focusing on dual class share structures in benchmark indices. As this debate continues, ICGN is concerned that stock exchanges in some markets appear to be competing for listings with one another by lowering regulatory standards related to dual class share issues; this is leading ICGN to consider the governance of stock exchanges and their obligations to investors as key stakeholders.

- Chronic problems relating to the efficient execution of *proxy voting* also remain unresolved, both in domestic markets and in cross-border applications. This inhibits the most basic of shareholder rights: the ability of shareholders to vote at shareholder meetings and the ability to confirm whether their votes have formally been counted. These voting challenges also compromise the ability of shareholders to exercise appropriate stewardship in line with their fiduciary duties. There is scope for greater efficiencies across the vote execution chain and for more awareness building and dialogue with intermediaries —custodian banks in particular. ICGN recently convened a working group of stakeholders from the

investment, corporate and custodian communities to explore in a Viewpoint report on how a vote confirmation might become a practical reality.

- *Capital allocation* is an area that requires more attention from a corporate governance perspective. Investor returns can be impacted negatively by capital policies that can be either too risky or too conservative. The use of stock buybacks can be legitimate in many cases, yet in other cases can be abusive or self-serving by company executive management. The role of the creditor as a provider of risk capital to companies, and as the ultimate bearer of risk, calls for greater focus by both shareholders and boards.

#### ***Principal ICGN Policy Committee: Shareholder Rights Committee***

*Co-chairs: Bram Hendriks (Netherlands), Eugenia Jackson (UK)*

ICGN's Shareholder Rights Committee focuses on the protection of minority shareholder rights – in both widely-held and controlled companies. It seeks to influence policymakers and other stakeholders relating to shareholder rights on behalf of ICGN Members. This includes: voting rights, dual class share structures, shareholder participation in general meetings, shareholder director nomination, the interaction between shareholders and boards, engagement amongst shareholders and cross-border voting practices.

#### ***ICGN Workplan 2018-9***

- *Global Network of Investor Associations – ongoing*
- *Focus and engagement and regulatory dialogue in many markets on dual class share structures -- ongoing*
- *Viewpoint: Related party transactions Viewpoint and webinar (2018)*
- *Viewpoint on stock exchange governance (2018)*
- *Viewpoint on capital allocation (2019)*

### **5. Seeking transparency through robust reporting, audit and metrics**

For investors to monitor, vote and to engage with companies effectively, accurate unbiased and relevant information must guide investor decisions. Detailed disclosure does not always ensure transparency, nor does it ensure the integrity of the accounting and auditing process. A significant debate continues in the sphere of accounting and auditing standards, relating the Conceptual Framework to IFRS standards, enhanced audit quality and disclosures. ICGN's submission to the 2015 IFRS Conceptual Framework addressed a wide range of issues, including a nuanced

approach to the issue of prudence and conservatism in enhancing investor stewardship. ICGN's focus on audit quality standards and the integrity of the accounting and auditing professionals is reflected in our conference programmes which regularly feature these issues.

It is important to link financial statements and accounting matters to broader factors that affect sustainable corporate value creation. So beyond financial statements our focus on reporting extends to integrated reporting – particularly to capture all material information (such as relating to factors of culture, ethics, risk and strategy) in a holistic report to guide investors. This is not just as a more comprehensive and better integrated way of reporting by companies, but it also requires them to look at what strategically and operationally drive the fundamentals of the business, particularly with regard to critical stakeholders and social impacts.

Disclosure of appropriate ESG factors should be reflected in both “integrated thinking” by the company and in reporting to shareholders. Developing the right metrics is critical to understanding a company's long-term risks and opportunities— as well as to designing an incentive pay system that motivates appropriate behaviour by executives. This puts the focus on the relevance and challenges of performance reporting generally and more specifically on the use of non-GAAP measures in performance reporting. To facilitate this discussion, ICGN is coordinating with PRI and other investor organisations, together with the standard setting bodies in the Corporate Reporting Developing, to develop a discussion paper on ESG reporting, presenting investor's main needs and expectations.

***Principal ICGN Policy Committee: Disclosure and Transparency Committee***

*Chairman: James Andrus (USA)*

As of the 2017 ICGN AGM, the Accounting and Auditing and Integrated Business Reporting committees merged to form the Disclosure and Transparency committee which seeks to influence policymakers and other stakeholders to enhance company transparency through robust reporting, audit and metrics. It will do so by responding to regulatory consultations, producing and promoting ICGN Guidelines, Viewpoints and other relevant, ad hoc projects. Specific topics can include accounting issues, audit quality, integrated reporting, and ESG disclosure

***ICGN Workplan 2018-9***

- *Viewpoint on Human Capital Management and Disclosure – focusing on one of the six capitals under <Integrated Reporting> (2018)*
- *Viewpoint on quarterly reporting and earnings guidance (2018)*

- *Special report on ESG reporting, published by ICGN and PRI in conjunction with a number of global investor groups; will involve regulatory interaction with the Corporate Reporting Dialogue and other company reporting/information standard setters (2018)*

**ICGN Contacts:**

George Dallas, Policy Director: [george.dallas@icgn.org](mailto:george.dallas@icgn.org)

Kerrie Waring, Executive Director: [kerrie.waring@icgn.org](mailto:kerrie.waring@icgn.org)