

ASX Corporate Governance Principles and Recommendations – 4th Edition

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Key Issues

The ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations (4th edition)* take effect for a listed company's first full financial year commencing on or after 1 January 2020.

This means that companies with a 31 December balance date must report against the new recommendations for the financial year to 31 December 2020, and those with a 30 June balance date, for the financial year to 30 June 2021, or may choose to adopt the 4th edition prior to that time.

Many companies are updating their policies and adjusting to the new recommendations whilst dealing with the challenges of the COVID-19 pandemic. On 31 March 2020, ASX announced case-by-case relief from financial reporting deadlines for companies with a 30 September, 31 December or 31 March balance date, a class waiver for dual listed ASX/NZX entities, and companies with a 31 May or 30 June balance date to remain under review. Depending on their financial year, companies will nevertheless be subject to the 4th edition from 1 January, 1 July or other relevant date. We therefore highlight below some key changes in the 4th edition.

4th Edition – Overview

- The 4th edition includes seven new recommendations of general application, amendments to existing recommendations, with new policies to be adopted and existing policies and procedures updated. As previously, company disclosure is on the basis of 'if not, why not'.
- Changes to recommendations within *Principle 1* (lay solid foundations for management and oversight) and *Principle 2* (structure the board to be effective and add value) include setting measurable objectives to achieve (and report upon) gender diversity across the board, senior executives and workforce, regular performance reviews of the board and management, expanded criteria for assessing director independence, and professional development for directors.
- Under new Recommendation 3.1 within *Principle 3* (instil a culture of acting lawfully, ethically and responsibly) a company should articulate and disclose its values, with further changes to reflect and reinforce those expectations. Under new Recommendations 3.3 and 3.4 companies should have and disclose a whistleblower policy¹ and an

anti-bribery and corruption policy, and ensure that the board or a board committee is informed of material breaches of, or material incidents reported under, those policies.

- New Recommendation 4.3 within *Principle 4* (safeguard the integrity of corporate reports) includes additional disclosure to verify the integrity of periodic corporate reports released to the market if not audited or reviewed by an external auditor.
- Under new Recommendations 5.2 and 5.3 within *Principle 5* (make timely and balanced disclosure) boards should receive copies of all material market announcements promptly after being made, and copies of new and substantive investor or analyst presentation materials should be released on the ASX Market Announcements Platform before presentation.
- Under new Recommendation 6.4 within *Principle 6* (respect the rights of security holders) all substantive shareholder resolutions should be decided by a poll rather than by a show of hands².
- Changes to recommendations under *Principle 7* (recognise and manage risk) relate to risk management, governance and internal control processes, and management and disclosure of social and environmental risks.
- *Principle 8* (remunerate fairly and responsibly) includes updated commentary, and new Recommendations 9.1, 9.2 and 9.3 are of limited application only.

The notes to the 4th edition include guidance as to content of new (and amended) corporate governance policies and procedures. We would be happy to provide advice in relation to these changes, and to assist in reviewing and updating your company's existing policies.

Further Details

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¹ The Corporations Act has required listed companies (and others) to have a whistleblower policy in place since 1 January 2020, see also ASIC Regulatory Guide 270.

² ASX Guidance Note 35 (Security Holder Resolutions) issued on 1 December 2019 provides that all Listing Rule resolutions must be decided by a poll rather than by a show of hands.