

LCA Submission to NZX on Review of NZX Corporate Governance Code:

Response to specific feedback requested about the proposed outcome

#	Question	Submissions
Principle 1: Ethical Standards		
1	Do stakeholders agree that a more detailed recommendation about ethics is useful?	We agree with the recommendation to adopt a code of ethics, but feel that it would be better to address what the code of ethics should address in the commentary rather than the recommendation.
2	Is there anything further that should be recommended in the code of ethics or discussed in commentary?	We would like to see some flexibility as to whether the matters specified in Recommendation 1.1 are dealt with in the Code of Ethics itself or in other corporate policies.
Principle 2: Board Composition and Performance		
1	Are there any further matters in relation to board composition that stakeholders would like covered?	<p>We feel that there should be a recommendation to have a Board skills matrix and for the Board to consider whether it has the relevant skills covered by the current Board composition and comment on any identified gaps.</p> <p>Recommendation 2.3 should only apply to new directors appointed after the Code comes into force. We wouldn't expect that issuers would have to enter into new agreements with all existing directors.</p> <p>Consideration could be given to a recommended maximum term or re-elections, for example a 10 year maximum unless re-elected by special (75%) majority. This would encourage boards to develop more directors capable of serving on listed company boards.</p> <p>[Do members have any feedback in relation to independence, and/or the number of non-executive directors?]</p>
2	Do stakeholders consider a recommendation that directors undertake training to be important?	Yes, we support ongoing training as it is important that all directors are up-to-date and well equipped to perform their duties as a director. It also supports diversity of the Board and diversity of thought.
3	Do stakeholders consider that the board should establish a formal procedure to regularly assess director, board and committee performance?	Yes, regular evaluations are important to ensure the board is working effectively with management.

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Principle 3: Board Committees		
1	Do stakeholders consider it is still appropriate to include a recommendation that directors who are not members of the audit committee, and employees, should only attend audit committee meetings at the invitation of the audit committee? Alternatively, is this something that would be better in commentary?	We feel that while this is appropriate for employees we do not think it is appropriate for directors – all directors should all be permitted to attend committee meetings as they wish, unless there is a conflict.
2	Do you consider that the level of overlap between the mandatory Listing Rules and the Code is appropriate? Would submitters prefer some of the other committee related matters to be covered in the NZX Code as opposed to the mandatory Listing Rules? Note that this would have the impact of making these requirements non-mandatory.	Yes this is appropriate.
	Additional comments	We suggest that the recommendation to have a nominations committee is removed, as many issuers either do not have such a committee, or the committee comprises of all of the directors. Instead there could be commentary which notes that it is at each issuers' discretion whether to have a separate Nominations committee, or whether this role is undertaken by the full Board.
Principle 4: Reporting and Disclosure		
1	Do you agree with the proposed recommendations?	Yes, we agree with the proposed recommendations and support increased reporting and disclosure. However, we believe that the commentary supporting Rec 4.1 which specifies the need for an “explanation of how information is vetted” is getting too granular – how information is vetted will depend on the particular situation. Accordingly, we think that it is unnecessary (and potentially unhelpful) to include “an explanation of how the information is vetted” in the policy itself. We suggest the words “and should indicate how non-financial targets are measured” be removed from Recommendation 4.3, with commentary to cover that. Where there are measurable non-financial targets these should be explained.
2	Do you agree with the proposal to address ESG reporting within commentary?	Yes

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3	Do you agree NZX should develop its own ESG reporting guidance based on the SSEI's model guidance or alternatively allow for issuers to use the GRI framework?	<p>We support having a consistent standard across issuers, and further guidance around the kind of material which NZX and investors are looking for would be helpful to include in the commentary, noting that there needs to be flexibility as what is relevant will differ from issuer to issuer.</p> <p>We do not think that GRI framework should be mandatory but accept the proposal that issuers can opt to use it at their discretion.</p> <p>[Do members have views on the suitability of the suggested SSEI model guidance?]</p>
4	Do you think another framework should be used instead?	We suggest that Integrated Reporting (IR) is added as a third alternative.
5	Do you agree that issuers should make key governance documents available to interested investors and stakeholders?	Yes, we are in support of greater transparency amongst issuers. It would be helpful to clarify which documents are considered to be "key" governance documents.
Principle 5: Remuneration		
1	Do you agree with the proposals outlined above?	<p>Yes, however we do not think it is necessary to cover the use of remuneration consultants.</p> <p>[Do members have views on the disclosure of remuneration below the CEO level? We do not think that investors are interested in this]</p> <p>[To touch base with the IoD regarding the referenced standard form of disclosure of director remuneration which is being finalised]</p>
2	Do you agree that it is appropriate to require heightened disclosure in respect of CEO remuneration as proposed?	Yes, and we think that detailed disclosure of remuneration paid to executives below CEO level is not appropriate.

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Principle 6: Risk Management		
1	Are there any other risk concerns you think should be specifically addressed in commentary?	<p>Yes, with respect to Health and Safety. New Zealand has one of the worst work place fatality rates in the OECD and listed companies should be taking a leading role on health and safety reporting and risk management in order to ultimately reduce this. Health and safety is something that all Boards should have regard to, and should be a key governance focus. Our position is that this should be addressed with more emphasis in the commentary. Some issuers currently report TRIFR, but as best practice in Health and Safety reporting moves on, issuers may choose to report different indicators that are more relevant and meaningful and NZX should acknowledge this in the Code. The guidance should refer to companies reporting stats they consider relevant (and why so) as well as qualitative statements about resources and efforts around improvements of Health and safety.</p> <p>We recommend that the commentary be more generic rather than specifically calling out cyber security which is currently a hot topic – the commentary could include a list of possible key risks, one of which could be cyber security.</p> <p>The Code should consistently refer to “key risks” rather than “potential” or “relevant” risks.</p>
Principle 7: Auditors		
1	Are there any other concerns you think should be specifically addressed in commentary about audit requirements?	<p>We recommend requiring the external auditor or lead audit partner to rotate at least every 7 years (rather than 5 years), given the time it takes auditors to fully understand the business they are auditing, and given that this would align with the underlying professional standards established by the External Reporting Board and the equivalent Australian requirement.</p> <p>[Do members have any views on whether a CEO/CFO declaration in relation to financial statements as currently covered by ASX should be included here, or are the management/director sign-offs required by the auditors considered sufficient? One view is that the Board have the responsibility and are entitled to assurance, but the CEO/CFO Declarations amount to an abrogation of responsibility and inappropriately mix the board/management responsibilities]</p>
Principle 8: Shareholder Rights and Relations		
1	Do you have any concerns about principle 8 and 9 being merged into a single recommendation regarding shareholder interests?	We support the principles being merged as this reflects our previous submission that the focus should be on security holders rather than stakeholders.
2	Are there any other concerns you think should be specifically addressed in relation to shareholder rights and relations?	No

#	Question	Submissions
<i>Transition and implementation arrangements</i>		
1	Do submitters agree with the proposed time frame for implementation of an updated regime of Q1 2017 ie for balance dates falling in 2017?	Yes
2	Do you consider NZX should take any other steps to assist issuers to comply with the new regime? Will any of the proposals create particular problems in terms of compliance costs?	The proposals will not create problems for large issuers, but it may take some time for smaller issuers to come up to speed.
<i>General</i>		
	Do you consider there are any other additional matters that have not been adequately covered? If so, NZX welcomes any further feedback.	It would be worthwhile looking into helpful templates and resources for reporting, to assist issuers with reporting against the new Code, and to enable investors to review and compare corporate governance reporting