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ASX Limited
Attention: Dior Loveridge
Via email: ListingsPolicy@asx.com.au

Dear ASX and Advisory Group

Draft 5th Edition ASX Corporate Governance Principles & Recommendations

Thank you for the opportunity to provide a submission on the draft 5th Edition of the ASX Corporate Governance Principles & Recommendations (**Principles**).

The Australian Institute of Company Directors' (**AICD**) mission is to be the independent and trusted voice of governance, building the capability of a community of leaders for the benefit of society. The AICD's membership of more than 54,000 includes directors and governance leaders across publicly listed entities, not-for-profits, large and small businesses, and public sector bodies.

The AICD recognises the critical role that the Principles play in supporting Australia's reputation for high standards of corporate governance. From the first edition in 2003, the Principles have supported well-functioning capital markets, providing a flexible, industry-led framework through which listed entities can explain their governance arrangements to investors and other stakeholders.

The AICD has supported the Principles since their inception, including as a member of the former ASX Corporate Governance Council. We recognise that periodic review of the Principles to take into account domestic and global governance developments, evolving investor and market expectations and regulatory change, is critical to their ongoing relevance and market support.

The AICD commends the ASX Advisory Group on Corporate Governance on the substantial work undertaken on the consultation draft, and the ASX for regaining momentum on improvement to the 4th Edition following the dissolution of the former Council process.

We support the new model for reviewing the Principles which, in our view, balances expert input, consultation and accountability for stewardship of the Principles.

Feedback from directors shows strong support for the consultation draft, including Advisory Group proposals to reduce regulatory overlap and prescription. The AICD and members also welcome the focus on strengthening the 'if not, why not' model. The consultation draft's focus on moving the dial from a prescriptive, compliance approach to principles-based guidance has our strong support.

This review presents an important opportunity for market participants to come together under the leadership of the ASX and Advisory Group to ensure that the Principles remain fit-for-purpose, promote high standards of governance and strengthen the attractiveness of Australia's capital markets.

We thank the ASX and the Advisory Group for constructive engagement with the AICD and our members through the consultation process. We set out our detailed responses to the consultation below.

1. Executive Summary

The AICD strongly supports the overall direction of the consultation draft.

The AICD has consistently called for the Principles to be simplified, particularly given the weight of regulation facing Australian businesses. It is critical that they serve to maintain the attractiveness of listing on the ASX, and take into account both Australia's global competitiveness for capital and the essential role of sound governance in fostering market confidence.

We welcome the renewed emphasis on the principles-based nature of the framework, the strengthening of the longstanding 'if not, why not' reporting model, and efforts to reduce unnecessary duplication with legislative and regulatory requirements. These changes support simplification and help ensure that the Principles continue to serve their intended purpose as a flexible governance framework capable of operating effectively across a diverse listed market.

Our key observations and recommendations are summarised below, with responses to the questions in the consultation paper and additional comments on other aspects of the consultation draft, set out in **Attachment A.**

The positions in this submission have been informed by extensive consultation with senior directors, governance practitioners, investors and other stakeholders.

a) Reinforcing the 'if not, why not' model

The AICD strongly supports the proposal to retain and reinforce the 'if not, why not' reporting model.

This approach remains well suited to the breadth and diversity of Australia's listed market. It appropriately recognises that there is no template model of good governance and allows boards to adopt governance arrangements that are appropriate to their company's circumstances, including size, ownership structure, stage of development and operating context.

Governance reporting should be a mechanism for meaningful communication with investors, and not seen as a compliance exercise. We welcome the draft's efforts to more clearly distinguish between principles, recommendations and explanatory material, and to reduce prescription in areas where boards are best placed to exercise judgement based on the circumstances of their company. The AICD also supports the removal of unnecessary duplication with existing legislation and regulation.

b) Board composition

Board skills

The AICD supports a focus on the board's assessment of the collective skills, knowledge and experience needed at the board-level, with disclosure of the outcome, rather than the current recommended disclosure of a board skills matrix. This focus has received broad support in director feedback.

The proposal aligns with a principles-based approach by focusing on governance outcomes rather than prescribed mechanisms, while encouraging a holistic and forward-looking assessment of the board's collective capabilities. The proposal appropriately emphasises whether the board, as a whole, possesses the capabilities needed for effective governance and oversight.

The AICD recommends a minor amendment to recommendation 2.2(b)(i) to focus disclosure on the outcome of the board's assessment and the approach adopted, rather than the assessment process itself. We also recommend refinements to the explanatory material to avoid creating unintended disclosure requirements.

Diversity

The AICD is broadly supportive of the framing of board diversity in the consultation draft. The more concise language, explanatory material notes on broader diversity considerations, recognition of practical constraints on measurable objectives and clarity that the Principles do not contemplate directors' personal information being disclosed are strongly endorsed by AICD members.

The AICD has long advocated for improved gender diversity on boards. The AICD endorsed inclusion in the 4th Edition of a specific measurable objective for board gender diversity of not less than 30% directors of each gender within a specified period set by the entity. Inclusion of gender diversity objectives in the Principles has supported significant progress across the ASX 300.

To build on this momentum, we encourage the Advisory Group to consider recommending a more ambitious board gender diversity target in the 5th Edition.

As a matter of good governance, in guidance to directors, the AICD recommends that all Australian boards consider gender balance in board composition under a '40/40/20' approach. That is, a target of at least 40 per cent of board seats held by women and at least 40 per cent of board seats held by men on a consistent basis, with flexibility for the remaining 20 per cent of director positions.

The AICD would support the 5th Edition adopting a measurable objective for ASX 300 company board composition of at least 40 per cent women and at least 40 per cent men, within a time period specified by the entity, consistent with the '40/40/20' approach.

We acknowledge that there are entities in the ASX 300 yet to achieve the 4th Edition board composition objective. As the consultation draft notes, the specific circumstances of companies and board size may require different composition considerations at different times. We support the practical constraints in achieving a 40/40/20 composition for some entities (for example, board size or specific circumstances) being highlighted in the explanatory material.

The AICD supports board diversity being a priority in the Advisory Group's forward program. This includes considering whether the recommendation for a measurable objective of not less than 30% directors of each gender should be extended beyond the ASX 300. We also encourage the Advisory Group to prioritise consideration of the level of measurable objective for board gender diversity in its forward program.

c) Culture and stakeholder engagement

We support the emphasis in Principle 3 that recognises that organisational culture and stakeholder governance are now core elements of contemporary governance practice.

The AICD's position, supported by our practice work including a commissioned legal opinion referenced in the consultation draft, is that boards can, and should, take stakeholder interests into account when acting in the best interests of the entity. Effective stakeholder governance supports long-term value creation and assists in building reputation. We support the more principles-based approach adopted in relation to culture governance, including the focus on the board's role in overseeing organisational culture.

While we support the proposed direction, the AICD recommends a small number of refinements to ensure that disclosures remain focused on substantive governance outcomes and board judgement, rather than process-driven or compliance-oriented reporting. Our suggested amendment to recommendation 3.1 recognises that the 'best interests' duty is enshrined in law.

d) Remuneration

The AICD supports the substance of the proposed changes to Principle 8, including new recommendations on the adjustment of performance-based executive remuneration and the remuneration of non-executive directors. We make targeted suggestions to accommodate existing market practices which facilitate director share ownership.

We recommend that the principles in relation to non-executive director remuneration are considered as part of the Advisory Group's forward program of work. It is critical that the principles for non-executive director remuneration are sufficiently flexible to allow companies to compensate directors in a manner that allows them to attract and retain suitably qualified directors. Maintaining the attractiveness of Australian public markets for high growth companies as compared to remaining private or listing overseas are important considerations.

For the purposes of the consultation draft, we support recognition in the explanatory material that entities may adopt alternative approaches to non-executive director remuneration, subject to 'if not, why not' disclosures.

e) Other comments

We make a small number of additional comments and recommendations in the attachment. In particular, we support the change in recommendation 7.4 from a focus on specific categories of environmental and social risks to a broader requirement to disclose (unless unreasonably prejudicial) an entity's material risks, and how those risks are managed. In our view, this reflects the principles-based nature of the framework and appropriately recognises that the material risks facing listed entities will vary depending on their unique circumstances.

2. Next Steps

We hope our submission will be of assistance. If you would like to discuss any aspects further, please contact Laura Bacon or Sally Linwood, Senior Policy Advisers, at lbacon@aicd.com.au and salinwood@aicd.com.au, or Simon Mitchell, Acting Head of Policy, at smitchell@aicd.com.au.

Yours sincerely,

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Attachment A – Responses to consultation questions

Overall framework

Question 1: Do you support the proposed ways to reinforce the 'if not, why not' approach? Are there ways ASX could make this approach work better for listed entities and investors? Are there any third-party resources or materials that are helpful to entities when considering how to implement a recommendation that ASX could make available on its dedicated webpage?

Reinforcing the 'if not, why not' approach

The AICD strongly supports retaining and reinforcing the 'if not, why not' approach in the draft.

The 'if not, why not' model was designed to provide a flexible foundation for governance disclosure, recognising the diversity of listed entities, and that there is no one-size-fits-all approach to governance. Disclosure in line with the Principles should facilitate clear and meaningful engagement with investors, rather than be approached as a prescriptive, 'tick-a-box' compliance exercise.

Over recent years, the AICD has heard concerns from directors regarding the level of detail and prescription in the Principles accumulating across editions, with drafting in areas becoming overly granular and going beyond providing guidance or examples. Directors have also consistently noted there can be a perceived lack of differentiation between a recommendation and explanatory material. This has led to users of corporate reporting expecting that suggested practices in the explanatory materials be reported against as if they were a recommendation.

We strongly welcome the consultation draft's efforts to address these issues and consider the drafting to be a substantial improvement on the 4th Edition. This includes the removal of prescriptive elements and language, clarity on the respective roles of the principles, recommendations and explanatory materials, and making clear that the explanatory material is not intended to be reported against.

We also strongly support the draft's removal of unnecessary overlap with existing legal and regulatory obligations.

These changes will assist greatly in preserving the practical utility of the Principles, and keep the focus on governance guidance versus prescriptive compliance reporting.

Outside of the draft itself, we continue to hear concerns from members about how the Principles can be interpreted by market participants. For example, an expectation of strict adherence to the Principles and adverse voting recommendations where governance practices depart from recommendations despite full 'if not, why not' disclosure being provided.

While we strongly welcome the draft's reinforcement of the purpose of the 'if not, why not' model, we encourage the ASX and Advisory Group to keep this market dynamic in mind as part of future reviews of the Principles. We are concerned that this dynamic is a material factor that is detrimentally impacting the attractiveness of Australia's public markets.

It is the prerogative of a board to determine appropriate governance practices, with those decisions being subject to the usual accountability to shareholders, facilitated by 'if not, why not' reporting.

The AICD considers that removing the Appendix 4G requirement, as discussed further below in our response to Question 11, may assist in addressing concerns about a checklist approach to the assessment of entities' governance practices.

Third party resources or materials

We support the proposal to establish a dedicated webpage with additional resources developed by industry and other experts on topics covered by the Principles.

The AICD regularly publishes guidance on contemporary governance practice to support directors and boards. We encourage consideration of relevant AICD materials (examples at **Attachment B**) being made available on the dedicated webpage to assist entities in implementing the Principles.

Question 2: Are there other recommendations that have a substantial overlap with other regulatory disclosure and reporting obligations that could be removed or moved? If so, please identify the recommendation and the overlapping obligation.

Recommendations 2.1(c), 4.1(c), 7.1(c) and 8.1(c) - Board Committee disclosures

We note that recommendations 2.1(c), 4.1(c), 7.1(c) and 8.1(c) each recommend a listed entity disclose the number of times the Nomination Committee, Audit Committee, Risk Committee and Remuneration Committee respectively met throughout the reporting period, and the number of meetings each member attended. In addition, recommendation 4.1(c) also recommends a listed entity disclose the relevant qualifications and experiences of its members.

These recommendations overlap with disclosures required in an entity's Directors' Report under section 300(10) of the *Corporations Act 2001* (Cth) (**Corporations Act**). That is, public companies are required to disclose:

a) each director's qualifications, experience and special responsibilities;

b) the number of meetings of the board of directors held during the year and each director's attendance at those meetings; and

c) the number of meetings of each board committee held during the year and each director's attendance at those meetings.

We consider that these recommendations 2.1(c), 4.1(c), 7.1(c) and 8.1(c) should be omitted to remove duplication across disclosure requirements.

Alternatively, we suggest that the explanatory materials in each case expressly note that entities may satisfy these recommendations by cross-referencing to the Directors' Report disclosure where this information can be found.

Recommendation 4.3 - Auditor tenure

While not an existing disclosure requirement, we note that the Treasury is currently consulting on additional reporting obligations regarding auditor tenure which could result in potential future overlap with recommendation 4.3.

Amongst other significant reform options, Treasury's consultation on the *Regulation of accounting, auditing and consulting firms in Australia* proposes that reporting entities disclose in their Annual Reports:

the audit firm and lead auditor tenure; current lead auditor commencement; and most recent auditor tender date.[1]

The AICD's submission to Treasury's consultation noted the draft's proposed recommendation 4.3 for entities to disclose when the auditor was first appointed and when the engagement of the auditor was last comprehensively reviewed. We strongly encourage coordination between the ASX and Treasury on the potential risks of overlap to avoid duplication of reporting obligations.

Principle 2: Board composition

Question 3: Recommendation 2.2 (board skills, knowledge and experience): Do you support the replacement of the recommendation of a board skills matrix with a recommendation that the board determines and discloses the mix of skills, knowledge and experience it needs?

The AICD supports the proposed replacement of the recommendation to disclose a board skills matrix with a recommendation that boards determine and disclose the mix of skills, knowledge and experience they need.

While we acknowledge that a board skills matrix can be a valuable governance tool it is appropriate for the recommendation to focus on the desired governance outcome, rather than prescribing a particular mechanism. The proposal supports a holistic, forward-looking approach, recognising that the board's collective capabilities may need to evolve over time in response to the organisation's strategic priorities and operating context, and the broader governance environment.

We also endorse the focus on the board as a whole, with the emphasis appropriately placed on whether the board collectively has the capabilities required for effective governance and oversight of the particular company.

The principles-based nature of the recommendation should encourage listed entities to provide meaningful insight into board composition and how it is being considered in the context of organisational needs.

<u>Recommendation 2.2(b)(i)</u>

We note that proposed recommendation 2.2(b)(i) provides that 'a listed entity should disclose the process for how the board assesses the collective skills, knowledge and experience of its directors and the outcome of this process'.

Some members have raised concerns that a requirement to disclose the assessment 'process' may place undue emphasis on the mechanics of the board-level assessment, rather than the outcome. At the same time, we recognise investor interest in understanding the basis on which the board's assessment has been made and the importance of market confidence in the assessment. To balance these considerations, we recommend amending proposed recommendation 2.2(b) to read: '*disclose the outcome of the board's assessment, and the approach adopted in undertaking that assessment*'.

<u>Explanatory material to recommendation 2.2</u>

We note that the explanatory material accompanying recommendation 2.2 contains a number of references to matters that an entity 'should' do or disclose (for example, 'the entity should also explain

[1] Treasury's regulation of accounting, auditing and consulting firms in Australia consultation paper available here.

how the mix of skills is expected to evolve over time, including how identified gaps will be addressed, while having regard to commercially sensitive information').

To avoid inadvertently creating additional disclosure requirements, we suggest these references be reconsidered in light of the stated position that the explanatory material is non-reportable material intended to provide context, interpretation and practical assistance.

In relation to commercially sensitive information, we recommend that the explanatory material make it clear, in the context of recommendation 2.2, that entities do not need to disclose skills being sought where commercially sensitive, for example – where this may reveal a yet to be announced activity.

Question 4: Recommendation 2.3 (diversity): Do you support maintaining the existing target for gender diversity on boards of S&P/ASX 300 entities?

The AICD is broadly supportive of the framing of board diversity in the consultation draft. The more concise language, explanatory material notes on broader diversity considerations, recognition of practical constraints on targets, and clarity that the Principles do not contemplate directors' personal information being disclosed have been strongly endorsed in AICD member feedback.

Recommendation 2.3(a)

The AICD supports the new recommendation 2.3(a) for boards to disclose how diversity in its composition is incorporated into board succession planning.

Recommendation 2.3(c)

In director feedback on the proposed recommendation 2.3(c) to date the AICD has noted broad support for the draft's wording. There has also been feedback supporting greater ambition on targets.

The AICD has long advocated for improved gender diversity on boards. A strong focus on improving board gender diversity by many stakeholders, including the 30% Club, has played a significant role in driving progress across the ASX 300 over the last decade.

As good governance practice, the AICD promotes the 40:40:20 model as best practice for achieving a gender balanced board.

Given the progress achieved over recent years and the value that diverse boards bring to decision-making, the AICD considers it is appropriate that the next edition of the Principles sustain that momentum by encouraging greater ambition by boards in gender-balanced board composition.

We note that recent analysis undertaken for the AICD (as at 30 June 2026) indicates that:[2]

- 37% of directors on ASX 300 boards are women;
- 44% of ASX 300 entities currently meet a 40/40/20 measurable objective on their board;
- 70% of ASX 300 entities currently have at least 30% women on their board;
- 12% of ASX 300 entities have only one woman on their board; and
- 3% of ASX 300 entities have no women on their board.

[2] OpenDirector analysis as at 30 June 2026.

In light of the above, the AICD recommends that the 5th Edition include a measurable objective of at least 40/40/20 within a period specified by the entity, with recommendation 2.3(c) to read:

> *If the entity was in the S&P/ASX 300 Index at the commencement of the reporting period, the measurable objective for achieving gender diversity in the composition of its board including non-executive and executive directors should be to have a percentage, of not less than 40% of women and 40% of men, within that timeframe.*

We acknowledge the challenges with achieving a gender balanced board for smaller entity boards (for example, comprised of 6 members or less). Other practical considerations, such as an unexpected resignation of a director or seeking to appoint a director with particular skills or knowledge, can also make it difficult to achieve a 40/40/20 composition at particular points in time.

We support the express recognition proposed in the explanatory materials that boards of smaller sizes, or that operate in certain sectors, may face challenges in meeting composition targets from time to time. We suggest that the explanatory material note that there will be circumstances in which an entity determines that a different measurable objective is appropriate. For example, in addition to the practical challenge of size, the timing of board renewal processes, entity-specific succession planning, corporate transactions (e.g. merger/demerger) or other circumstances relevant to the board's composition.

This additional contextual guidance would reinforce that measurable objectives should be meaningful, transparent and tailored to an entity's circumstances, while maintaining a clear expectation that entities continue to set ambition for board gender diversity.

Question 5: Recommendation 2.4 (independence): Do you support the revised approach to Recommendation 2.4?

The AICD supports the revised approach to independence in draft recommendation 2.4, including the focus on the substance of the factors that impact independence as determined by the board.

The AICD also supports the proposed alignment of the threshold for considering whether a director's interest as a shareholder and/or position in an office of a shareholder could influence their independence. That is, alignment with Chapter 10 of the ASX Listing Rules 'person in a position of influence' (being a substantial (10%) shareholder rather than a 5% shareholder).

Principle 3: Culture and stakeholder engagement

Question 6: Do you support the proposed shifting of emphasis to Principle 3? In what other ways should this principle be updated?

The AICD supports the proposed shift in emphasis in Principle 3. We recognise both that organisational culture is now central to contemporary governance, and that boards should take into account stakeholder interests in decision-making to support long-term value creation and protect reputation.

<u>Recommendation 3.1 - Stakeholder engagement</u>

We note that draft recommendation 3.1 provides that '*The board of a listed entity should act in the best interests of the entity. It should have regard to its security holders and other stakeholders and disclose its processes for engaging with them*.'

The first sentence of this recommendation restates a core duty of directors contained in section 181(1) of the Corporations Act and reflected in common law and equity, to act in the best interests of the entity.

To support directors in understanding and meeting the 'best interests duty', the AICD has published a legal opinion from Bret Walker SC and Gerald Ng (Walker-Ng Opinion), and a supporting AICD practice statement (accessible here).

The courts have confirmed that directors have considerable discretion to identify the best interests of the company, taking into account relevant facts and circumstances.

As a matter of Australian law, it is clear that while the interests of shareholders are central, directors can, and should consider other stakeholder groups (for example, employees, customers, suppliers and members of relevant communities) when discharging their duty. This does not mean there is a duty owed specifically to stakeholders, as distinct from the company, but recognises that the interests of stakeholder groups are legitimate concerns of the board and align with the long-term interests of the company, including in maintaining and building its reputation.

As appropriately noted in the explanatory material, the entity is best placed to identify its stakeholders and to manage those relationships (with regular review of those relationships being important).

We note that, in most cases, management is responsible for the vast majority of day-to-day stakeholder engagement. Although roles and responsibilities will differ across organisations, the role of the board in general will often be to set expectations, receive accurate, timely and, where necessary, independent information about stakeholder perspectives, and engage directly with stakeholders where appropriate.

Further practice guidance, reflecting the Walker-Ng opinion, is included in AICD's recently published updated resource on stakeholder governance, *Governing with stakeholder insight*.

In light of the considerations outlined above, we suggest that recommendation 3.1 be amended to state only that '*a listed entity should disclose its approach to stakeholder engagement, including the role of the board*'. We have suggested that an entity disclose its 'approach' to stakeholder engagement rather than its 'process' to encourage meaningful rather than granular disclosures. Relevant legal principles in relation to the best interests duty, outlined at a high-level above, can be included in the explanatory material. The explanatory material, including the final sentence in relation to disclosure of engagement processes, should be updated to reflect any shift in approach.

We note that engagement with security holders is separately addressed in Principle 6.

Recommendation 3.3 – oversight of culture

The AICD recognises, and reflects in its education and guidance materials, that organisational culture is a core governance issue and an important contributor to long-term performance, effective risk management and organisational resilience. We also recognise that boards have an important oversight role.

The AICD has recently published a new resource on governance of organisational culture, *Governing Culture in a Complex World*. Importantly, the resource recognises that culture looks different for each organisation and there is no one-size fits all approach to oversight.

We consider that draft recommendation 3.3 appropriately reflects a broader and principles-based focus on culture governance and the role of the board, compared to the current recommendations under Principle 3 of the 4th edition, which focus on the adoption and disclosure of particular policies.

We support draft recommendation 3.3(a), that a listed entity should ensure that the board is informed of any material breaches or trends in breaches of key policies supporting its culture (to the extent permitted by law). We recommend replacing 'or' with 'and' as it is appropriate that boards receive information about both material breaches and trends in breaches of key policies supporting culture.

We also support the intent of recommendation 3.3(b). We consider that the recommendation, which currently provides that an entity should disclose the 'mechanisms' the board has in place to monitor culture, should be reframed to require disclosure of '*how the board oversees the entity's culture*'.

In our view, this amendment would encourage more meaningful disclosure focused on the substance of the board's oversight approach. We have received feedback from members that the current drafting may create an expectation that entities provide a detailed list of specific 'mechanisms'. This risks encouraging a prescriptive and compliance-oriented approach to disclosure, rather than providing insight into how the board oversees culture in practice.

Principle 8: Remuneration

Question 7: Do you support the proposed changes to Principle 8, including the two new Recommendations? Are there any practical issues with implementation and/or unintended consequences?

Recommendation 8.1(a) – remit of Remuneration Committee

We support the intent of Principle 8, that 'a listed entity should remunerate its directors and senior executives fairly and responsibly'. However, we do not consider that recommendation 8.1(a) should include a reference to the Remuneration Committee having remit to 'ensure that remuneration is fair and reasonable'.

We suggest that recommendation 8.1(a) be amended as follows:

a) The board of a listed entity should have a remuneration committee with a charter and responsibilities to review and make recommendations to the board about the level and structure of remuneration for directors and senior executives.

In our view, the above drafting recognises that entities will have a range of objectives in their remuneration policy and committee charter, while still reflecting the overarching substance of Principle 8 to 'remunerate fairly and responsibly'.

Recommendation 8.2 – adjustment of senior executive performance-based remuneration

We support the new proposed recommendation 8.2 for a listed entity to have the ability to adjust performance-based remuneration outcomes of its senior executives downwards when appropriate. The formulation of recommendation 8.2 is less prescriptive than earlier proposals and provides flexibility to accommodate a variety of remuneration structures.

Recommendation 8.3 – non-executive director remuneration

We also support the intent of draft recommendation 8.3, including the recognition that directors may receive shares or units as remuneration.

Based on consultation, we have heard some confusion, however, in relation to what is meant by the reference to '*fixed fees (cash and/or shares and units)*' in recommendation 8.3(a).

Members have noted that non-executive directors often receive equity in connection with their remuneration (for example, via salary sacrifice arrangements and other non-executive director share plans, with shares sometimes delivered via rights, in accordance with applicable ASX Listing Rules). Based on the current drafting of recommendation 8.3, it is not clear if this would be accommodated. We recommend that it be made clear through the drafting that these arrangements are covered.

We have director feedback that there may be certain circumstances in which it would be appropriate for non-executive directors to receive alternative types of remuneration. For example, in the interests of attracting and retaining suitably qualified directors where there is a need to remain competitive with overseas remuneration practices, or in the wake of significant board or management departures. This remuneration model can be particularly relevant to high growth and innovative entities.

In light of these reflections, we support the recognition in the explanatory material that it is open to an entity to remunerate its non-executive directors in an alternative way and where this is the case, to provide an 'if not, why not' explanation.

As noted below, we consider non-executive remuneration structures and practices are an important area for the Advisory Group to consider as part of its forward-planning, post finalisation of the 5th Edition. Our view is that the Principles should remain flexible to accommodate emerging remuneration practices, including to support the attractiveness of Australia's public market.

Forward-planning

Question 8: Are there additional areas of corporate governance that have evolved since the 2019 edition that could be addressed in the next edition, or that the Advisory Group on Corporate Governance could further focus on following the release of the next edition?

We support consideration of a forward agenda for the Advisory Group following the finalisation of the next edition of the Principles.

In our view, potential areas for consideration include:

- foundational questions in relation to status and objectives of the Principles, including:
    - Application: Should some principles/recommendations apply on a graduated basis (e.g. ASX 200/300)? Should some parts of the current code sit in the Listing Rules?
    - Standard expected: Should the Principles set minimum standards, reasonable practice, good practice, or better practice?
    - Market competitiveness: To what extent should public markets governance expectations differ from private markets? How important is alignment with international markets' approaches and governance norms?
- whether the revised Principles support the attractiveness and competitiveness of Australian public markets, including considering their impact on listed entities of different sizes and levels of maturity;
- governance principles in relation to non-executive director remuneration and alignment with shareholders, noting that the ability of listed entities to attract and retain suitably qualified directors (from overseas and Australia and the public and private markets) is increasingly important in a complex governance environment. Remuneration practices may impact the attractiveness of Australia's public markets and decisions on whether an entity lists in Australia or overseas;

- further consideration of measures to support board diversity, particularly if there is evidence of slowed momentum in board gender diversity. This includes consideration of the adoption of a 40:40:20 measurable objective (if it is not included in the 5th Edition), and consideration of extending the recommendation for a measurable objective of not less than 30% directors of each gender for listed entities beyond the ASX 300;
- the implementation of new or materially different recommendations introduced as part of the 5th Edition and their effectiveness, including in relation to the shift in approach to director independence assessments and the removal of former Box 2.3;
- global governance developments and implications for the Australian market; and
- further opportunities to streamline and simplify the Principles, including any additional areas of legal overlap that arise as a result of legal reforms (such as the potential audit reforms).

Implementation

Question 9: Are there any additional new reporting or compliance obligations that ASX should take into account when setting an implementation timeframe?

The AICD supports the proposed implementation timeframe for entities to first report against the 5th Edition for the full financial year commencing on or after 1 July 2027. In our view, this provides an appropriate transition period for entities to review governance arrangements against the 5th Edition and embed new internal reporting processes.

Importantly, Australian listed entities are operating in an increasingly complex regulatory environment. In addition to the ongoing phasing-in of mandatory climate reporting for entities captured by the regime, we note that the following reporting and compliance obligations remain under consultation:

- APRA's Prudential Standard CPS 510 Governance;
- Treasury's consultation on the regulation of accounting, auditing and consulting firms in Australia – which relevantly for listed entities includes consideration of new requirements for auditor tenure disclosure, periodic audit tendering every 10 years and mandatory audit firm rotation every 20 years;
- Treasury's statutory review of tax and corporate whistleblowing;
- The Attorney-General's consultation on a proposed 'failure to prevent modern slavery' criminal offence;
- The Attorney-General's consultation on a further package of *Privacy Act 1988* reforms; and
- The Department of Home Affairs' consultation on reforms to the *Security of Critical Infrastructure Act 2018*.

Subject to the outcome of these consultations, many of these reforms could have similar implementation timelines to the 5th Edition Principles.

Individually, these reforms require boards and management teams to dedicate time and resources to understanding new requirements, reviewing governance frameworks, updating policies and procedures, implementing reporting processes and educating directors and employees. Collectively, they place considerable demands on internal legal, governance, risk and compliance functions, particularly within smaller listed entities where resources may be more constrained.

While we support the implementation timeframe proposed, we encourage ASX to be mindful of the broader regulatory environment in which listed entities are operating in the context of its relevant supervisory and education initiatives.

Question 10: Do any of the proposed changes to the recommendations create a significant cost or resource burden? If so, please identify the recommendation, explain the new governance practice it would require that the entity does not already have in place, and provide an estimate of the cost or resource impost

The ASX Corporate Governance Council Review Panel acknowledged in its report that the adoption of updated Principles places a compliance burden on listed entities and, accordingly, ASX should have a clear and reasonable justification for making any material updates. [3]

It is important to recognise that listed entities will incur costs in connection with the proposed updates, including in updating governance documentation, reviewing and updating internal reporting practices and relevant governance practices generally, and educating boards and management on the new requirements.

However, the AICD supports the ASX's objective of simplifying and modernising the Principles and considers that, overall, the proposed changes and associated costs are proportionate to that objective.

Consequential changes

Question 11: Do you support the revised Appendix 4G?

On balance, the AICD would support the Appendix 4G requirement being removed.

As discussed in further detail below, we have received feedback from stakeholders and members that the Appendix 4G reinforces a 'tick-box' compliance approach.

Regarding the proposed revisions to the Appendix 4G, we note that the appendix appears to retain the same core structure as the current version and, in our view, does not represent a material shift away from the current approach.

Question 12: What do you see as the arguments for and against continuing with Appendix 4G and what alternative reporting arrangements would be useful?

The primary concern in relation to the requirement for an Appendix 4G is that it reinforces a compliance-oriented, 'tick-box' approach to the Principles.

The draft places significant emphasis on preserving the integrity of the 'if not, why not' approach to the Principles and notes that a checklist approach by either entities or investors is unlikely to be consistent with the intent of the Principles.

The Appendix 4G is not consistent with this objective as it encourages governance practices to be assessed primarily by reference to whether a recommendation has been followed, rather than whether an entity's governance arrangements are appropriate based on its particular circumstances. As noted in ASX's consultation paper, the requirement is not replicated in key peer jurisdictions.

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[3] asx-corporate-governance-council-review-panel-panel-report-20250901.pdf, page 6.

While we acknowledge that ASX will need to consider use cases presented by other stakeholders, the AICD considers there is a strong case for removing the mandatory requirement to complete an Appendix 4G, given the draft's emphasis on a principles-based and flexible 'if not, why not' reporting model.

Question 13: What is the best way for stakeholders to obtain easy access to the disclosures underlying the Recommendations (such as policies and explanations of processes that can be disclosed on the website rather than in the corporate governance statement itself)?

Consistent with current practice and the introductory commentary in the 4th Edition, a clearly identifiable and easily accessible landing page on a listed entity's website for corporate governance information (e.g. under an 'About Us', 'Governance' or 'Investor Centre' menu item) is the best way for stakeholders to obtain access to the relevant disclosures.

Question 14: Are there any unintended consequences arising from the other changes to the Listing Rules and Guidance Notes covered in this consultation?

The AICD is not aware of any material unintended consequences arising from the proposed consequential amendments to the ASX Listing Rules and Guidance Notes. These amendments appear appropriately directed towards ensuring consistency with associated Listing Rules and guidance materials.

Other comments

Up-front recognition of ability to cross-reference to other disclosures

We note that the 4th Edition includes a statement (on page 4) that it is acceptable for an entity's corporate governance statement to incorporate material by reference (for example, on another part of the entity's website or in another part of its annual report) provided that material is freely available and the statement clearly indicates where interested parties can read or obtain a copy of that material (for example, the URL of the relevant web page or the relevant page or section of the annual report).

We recommend that a similar statement be included in the draft for clarity and to further minimise risk of overlap or duplication.

Principle 7: Understand and manage risk

The AICD supports the revised approach to Principle 7, particularly the changes in recommendation 7.4 that require an entity to disclose (unless unreasonably prejudicial) its material risks, and how those risks are managed.

This reflects the principles-based nature of the framework and appropriately recognises that the material risks facing listed entities will vary depending on their unique circumstances.

We support the inclusion of the express statement in the explanatory material acknowledging that an entity may report upon its material risks with a statement that includes references to disclosures it has already made in accordance with its other reporting obligations (for example, its operating and financial review in its directors' report or, if it prepares a sustainability report or an integrated report, disclosures in those reports).

In relation to the other recommendations under Principle 7, we note the following:

- **Recommendation 7:1**: The explanatory material states that the role of a risk committee includes receiving 'reports from internal audit on its reviews of the adequacy of the entity's processes for managing risk (including internal controls)', which overlaps with the role of an audit committee outlined in the explanatory material in Principle 4. Recognising that many listed entities will have separate risk and audit committees (with responsibility for oversight of internal audit and internal controls often sitting with the audit committee), we suggest clarifying that matters relating to internal audit and internal control systems may fall within the remit of an audit committee, with appropriate information sharing processes between committees.
- **Recommendation 7.2:** We have received feedback that it would be useful to include a sentence in the explanatory material acknowledging the distinction between risk management and internal control frameworks, recognising that the key issue in relation to internal controls is whether there is an effective framework in place to identify, report and remediate material control weaknesses in a timely manner.
- **Recommendation 7.3**: The removal of the embedded 'if not' formulation in 7.3(b) has created some uncertainty about what is required to be disclosed under paragraph (b), including whether the paragraph applies to all entities, regardless of whether or not they have an internal audit function. We recommend considering drafting refinements to clarify the intended operation of the recommendation, and ensure there is no overlap across the risk-related recommendations.

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Attachment B – Supplementary response to Question 1

Are there any third-party resources or materials that are helpful to entities when considering how to implement a recommendation that ASX could make available on its dedicated webpage?

We recommend the following AICD materials be included on the ASX's dedicated webpage to assist entities implement recommendations (noting some have already been referenced in the draft):

- AICD's Directors' "best interests" duty in practice (July 2022) and Bret Walker SC and Gerald Ng, The content of directors' "best interest" duty: Memorandum of advice (February 2022) – recommendation 3.1;
- AICD's Governing with stakeholder insight: A guide for boards (August 2026) – recommendation 3.1;
- AICD's Governing culture in a complex world (May 2026) – recommendation 3.3;
- AICD's Ethics in the boardroom second edition: A decision-making guide for directors (March 2026) – principle 3
- AICD and Herbert Smith Freehills' Bringing together ESG: Board structures and sustainability (November 2022) – recommendation 4.1;
- AICD and Auditing and Assurance Standards Board's Periodic Comprehensive Review of the External Auditor (September 2022) – recommendation 4.3;
- AICD, Australasian Investor Relations Association, Business Law Section of the Law Council of Australia, and Governance Institute of Australia's Joint Guidance: AGMs using technology (June 2025) – recommendation 6.3;
- AICD, Deloitte and MinterEllison's Director's Guide to Mandatory Climate Reporting – Version 2 (September 2024) – recommendation 7.4;
- AICD and Cyber Cooperative Research Centre's Cyber Security Governance Principles – Version 2 (November 2024) – recommendation 7.4;
- AICD, Cyber Cooperative Research Centre and Ashurst's Governing through a cyber crisis (February 2024) – recommendation 7.4;
- AICD and University of Technology Sydney Human Technology Institute's Director's Guide to AI Governance – Version 2 (June 2026) – recommendation 7.4; and
- AICD, Allens, Centre of Business Analytics and Melbourne Business School's Data Governance Foundations for Boards (May 2025) – recommendation 7.4.