



## INDIVIDUAL

# Position description for a non-executive director

The ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations (ASX Principles)* defines a non-executive director (NED) as being a director of the entity who is not an executive of the entity or a child entity.<sup>1</sup>

### Does every board need non-executive directors?

There is no requirement specified in the *Corporations Act 2001* (Cth) (the Act) to have a non-executive director on a board. However, in Australia, it is considered good practice from a governance perspective for a majority of directors on a board to be non-executive and independent, especially in listed companies.

For listed entities, the ASX Listing Rules and the ASX Principles contain relevant requirements in relation to the composition of the board and certain board committees. Commentary in Recommendation 2.1 of the ASX Principles states that "a high performing, effective board... needs to have an appropriate number of independent non-executive directors who can challenge management and hold them to account..."<sup>2</sup>

### Developing a position description

Once the board has determined a need to appoint a non-executive director, the next step in the recruitment process involves developing a position description.

A key factor in developing the position description is to identify the specific characteristics, skills and experience needed for the position. The process may be undertaken by the board as a whole or through a board delegation to the chair, the nomination committee or smaller tasked group appointed by the board (which can include board and non-board members if desired). Drafting of the position description may also be done in consultation with an executive search firm.

1. ASX Corporate Governance Council, 2019, *Corporate Governance Principles and Recommendations*, 4th edition, February, p 35, <https://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-fourth-edn.pdf>, (accessed 10 September 2019).

2. Ibid, p 12.

### Points to consider

- Has the position description been designed to align with the specific needs of the board, including skills and expertise at present and in the future? Is the board seeking to replace a competency recently lost from the current board or is it seeking to ensure that the company has the right skills and competencies to guide it into the strategic future? Or both? Utilising a board skills matrix to capture available skill sets and skill level, as well as skill gaps, will assist in this assessment.
- Consider including an expected time commitment required by the role. This could include the number of board and committee meetings scheduled per year and an estimate of the amount of time expected to perform the role, including site visits and preparation for meetings.
- Consider board diversity generally and obtain legal advice before specifying particular characteristics, for example, gender, ethnicity, age or geographical representation.
- Directors do not need to have the same level of expertise in every area (and it is unlikely that this would be the case on a diverse board). For example, although directors need to be financially literate, advanced skills in financial responsibility can be taught and may not be a necessary requirement for a board appointment.
- Is it preferable that the NED be an independent NED (as per Recommendation 2.3 of the ASX Principles<sup>3</sup>)?
- In addition to skills and competencies, consider whether any other personal attributes and behaviours will align with the organisation’s values and culture.
- Ideally, every board should have a policy for dealing with NEDs who hold multiple directorships, to ensure they are aware of the other imposts on the NED’s time.

### A SAMPLE POSITION DESCRIPTION FOR A NON-EXECUTIVE DIRECTOR

<b>Role:</b>	[Non-executive director]
<b>Length of term:</b>	[Number of year(s)]
<b>Reports to:</b>	
<b>Location:</b>	
<b>Company overview:</b>	[Insert short description] [Annual turnover] [Other relevant company/financial information]
<b>Current board:*</b>	
<b>Chair:</b>	[Name of current chair] [Attach a brief synopsis of their professional background]
<b>Non-executive directors:</b>	[Name of current non-executive directors] [Attach a brief synopsis of their professional background]
<b>Executive directors:</b>	[Name of current executive directors] [Attach a brief synopsis of their professional background]

**\*Note:** This information may also be listed outside the position description and in an information pack.

3. Ibid, p 13.

SAMPLE POSITION DESCRIPTION FOR A NON-EXECUTIVE DIRECTOR *continued***The role:**

- Company X seeks to appoint (an independent) non-executive director. This role is vacant due to a retirement.
- The role requires attending approximately 10 board meetings and serving on at least one board committee per year – and associated preparation – and some interstate travel is anticipated (include a time estimate if possible).
- The role may require attendance in monthly conference calls for management, financial reporting and general compliance issues.

**Organisational values and code of conduct:**

- The role includes being a culture custodian of the organisation, which includes setting, promoting and monitoring the tone of the organisation's culture.

*Note: Include information (or a link to the company website) on the organisation's values, mission statement, purpose and strategic objectives and the board's code of conduct. This will provide an expectation of the behaviours, strategic direction and organisational culture, which candidates are expected to adhere to.*

**Competencies and skills (role related):**

- **Knowledge of a director's responsibilities** – includes an understanding of the role as well as the legal, ethical, fiduciary and financial responsibilities;
- **Strategic expertise** – the ability to review the strategy through constructive questioning and suggestion and contribute to the effective decision making of the board;
- **Accounting and finance** – the ability to read and comprehend the company's accounts, financial material presented to the board, financial reporting requirements and some understanding of corporate finance;
- **Legal** – the board's responsibility involves overseeing compliance with numerous laws as well as understanding the individual director's legal duties and responsibilities;

- **Risk Management** – experience in managing areas of major risk management to the organisation;
- **Managing people and achieving change** – experience in current management thinking on employment, branding, engagement, strategic vision and stakeholder communication; experience in executive remuneration and compensation;
- **Industry knowledge** – experience in similar organisations or industries;

*Note: The need for other skills, knowledge and experience will depend on the size and type of company, markets operated in, and line of business.*

**Competencies (personal attributes):**

- **Integrity** – fulfilling a director's duties and responsibilities, acting ethically, appropriate independence, putting the organisation's interests before personal interests;
- **Collaborative yet curious and courageous** – a director must be able to function as an effective team member but also must have the curiosity to ask questions and the courage to persist in robust discussions with management and fellow board members where necessary;
- **Emotional intelligence** – as well as self-awareness and self-management, a director needs to demonstrate empathy manifested through strong interpersonal skills. A director must work well in a group, listen well, be tactful yet able to communicate in a cogent and candid viewpoint;
- **Commercial judgement and instinct** – a director needs to demonstrate good business instinct and acumen, and be able to assimilate and synthesise complex information;
- **Meaningful engagement** – a director needs to be an active contributor with genuine interest in the company and its business.

*Note: The need for other personal competencies will be consistent with the composition of the board and its preferred working style.*

**SAMPLE POSITION DESCRIPTION FOR A NON-EXECUTIVE DIRECTOR** *continued*

**Educational requirements:**

- Tertiary education
- Completion of the Australian Institute of Company Directors' Company Directors Course
- Other related education/experience

**Note:** *In most instance, a non-executive director will require necessary educational qualifications, such as those listed above, that allow him/her to fulfil their functional role in the business.*

**Remuneration and benefits:**

- Annual remuneration
- Travel and other expenses
- Other, such as any non-cash benefits

**Note:** *Remuneration information may be listed outside the position description and should be clearly listed in the director's induction pack or in the written appointment agreement.*

*The ASX Principles<sup>4</sup> provides some suggested guidelines for boards when designing the remuneration packages for the non-executive directors:*

- *Fixed remuneration: a fixed amount that remunerates non-executive directors for fulfilling their directors' duties. The amount should take into account time commitment and their responsibilities.*
- *Equity-based remuneration: in order to align their interests with the shareholders' interests, non-executive directors can be remunerated with securities of the entity.*
- *Non-executive directors should not be remunerated with performance-based remuneration and termination payments.*

4. ASX Corporate Governance Council, 2019, *Corporate Governance Principles and Recommendations*, 4th edition, February, Recommendation 8.2 (p 30) and Box 8.2 (p 31), <https://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-fourth-edn.pdf>, (accessed 10 September 2019).

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