

GUIDELINES FOR IMPROVED CORPORATE GOVERNANCE

The following are the proposed guidelines for effective corporate governance:

- (1) The board of directors of every corporation should explicitly assume responsibility for the stewardship of the corporation and as part of the overall stewardship responsibility, should assume responsibility for the following matters:
 - (i) adoption of a corporate strategy;
 - (ii) succession planning, including appointing, training and monitoring senior management;
 - (iii) a communications program for the corporation;
 - (iv) the integrity of the corporation's internal control and management information systems. (paragraphs 4.2, 4.3 and 4.6)
- (2) The board of directors of every corporation should be constituted with a majority of individuals who qualify as unrelated directors. An unrelated director is a director who is free from any interest and any business or other relationship which could, or could reasonably be perceived to, materially interfere with the director's ability to act with a view to the best interests of the corporation. (paragraphs 5.7 and 5.8)
- (3) The application of the definition of "unrelated director" to the circumstances of each individual director should be the responsibility of the board which will be required to disclose on an annual basis which directors qualify as unrelated directors and will be required to disclose the analysis of the application of the principles supporting this conclusion. (paragraph 5.18)
- (4) The board of directors of every corporation should appoint a committee of directors composed exclusively of outside, i.e. non-management directors, a majority of whom are unrelated directors, with the responsibility for proposing to the full board new nominees to the board and for assessing directors. (paragraph 5.25)
- (5) Every board of directors should implement a process to be carried out by the nominating committee or other appropriate committee for assessing the effectiveness of the board as a whole and of committees of the board and for assessing the contribution of each individual director. (paragraph 5.28)
- (6) Every corporation, as an integral element of the process for appointing new directors, should provide an orientation and education program for new recruits to the board. (paragraph 5.37)
- (7) Every board of directors should examine its size and, with a view to determining the impact of the number upon effectiveness, undertake a program to reduce the number of directors to a number which facilitates more effective decision-making. (paragraph 5.43)

- (8) The board of directors should review the adequacy and form of the compensation of directors and ensure the compensation realistically reflects the responsibilities and risk involved in being an effective director. (paragraph 5.51)
- (9) Committees of the board of directors should generally be composed of outside directors, a majority of whom are unrelated directors, although some board committees, such as the executive committee, may include one or more inside directors. (paragraph 6.3)
- (10) Every board of directors should expressly assume responsibility for, or assign to a committee of directors, the general responsibility for developing the corporation's approach to governance issues. This committee would, amongst other things, be responsible for the corporation's response to these governance guidelines. (paragraph 6.4)
- (11) Every board of directors should have in place appropriate structures and procedures to ensure that the board can function independently of management. These structures and procedures may involve the board meeting on a regular basis without management present or may involve expressly assigning the responsibility for administering the board's relationship to management to a committee of the board. These means are described in guideline (13). (paragraph 6.10)
- (12) The board of directors, together with the CEO, should develop position descriptions for the board and for the CEO, involving the definition of the limits to management's responsibilities. In addition, the board should approve or develop the corporate objectives which the CEO is responsible for meeting. (paragraph 6.14)
- (13) Every board of directors should either (i) appoint a chair of the board who is not a member of management or (ii) adopt alternate means for implementing guideline (11), so that the board is able to function independently of management; this could include assigning the responsibility to ensure the board discharges its responsibilities to a committee of the board or to a director, sometimes referred to as the "lead director". (paragraph 6.16)
- (14) The audit committee of every board of directors should be composed only of outside directors. The roles and responsibilities of the audit committee should be specifically defined so as to provide appropriate guidance to audit committee members as to their duties. The audit committee should have direct communication channels with the internal and external auditors to discuss and review specific issues as appropriate. The audit committee duties should include oversight responsibility for management reporting on internal control. While it is management's responsibility to design and implement an effective system of internal control, it is the responsibility of the audit committee to ensure that management has done so. (paragraphs 6.20 and 6.20)
- (15) The board of directors should implement a system which enables an individual director to engage an outside adviser at the expense of the corporation in appropriate circumstances. The engagement of the outside adviser should be subject to the approval of an appropriate committee of the board. (paragraph 6.30)

OTHER RECOMMENDATIONS

The implementation of our proposals is based upon the recommendation to The Toronto Stock Exchange: that the Exchange adopt, as a listing requirement, the disclosure by each listed corporation of its approach to corporate governance; on an annual basis commencing with companies with June 30, 1995 year ends. (paragraphs 8.1 and 8.2)

In addition, the Report contains recommendations for legislative reform which are summarized as follows:

- (1) We recommend that the governing corporate statutes be revised to eliminate any possible interpretation of the directors' responsibility as being to manage the business day-to-day. Rather, the statutes should describe the responsibility as being to supervise the management of the business. (paragraph 4.10)
- (2) The government departments responsible for the administration of the corporate laws in each of the federal and provincial jurisdictions should undertake a review of all legislation enacted in their particular jurisdiction imposing personal liability upon directors. Following the review, all legislatures should repeal or modify legislation imposing personal liability on directors which no longer serves the purpose for which it was enacted and legislation not so repealed should be amended to ensure directors are provided with an effective due diligence defence. (paragraphs 5.61 and 5.63)
- (3) We recommend that the issue of legislated civil liability upon directors in respect of timely and continuous disclosure by corporations should be examined by Canada's securities administrators and any proposal should afford the business and financial community with an opportunity to comment. We would not support any recommendations to legislate civil liability of directors for timely and continuous disclosure unless our general recommendation concerning civil liability of directors is also accepted and implemented. (paragraphs 7.16 and 7.17)