

POLICY 4

CORPORATE GOVERNANCE AND MISCELLANEOUS PROVISIONS

1. Introduction

- 1.1 Boards of directors should be structured and their proceedings conducted in a way calculated to encourage, reinforce, and demonstrate the board's role as an independent and informed monitor of the conduct of the corporation's affairs and the performance of its management. Board structure and practice will, over time, significantly affect the extent to which a board of directors is likely to exercise its powers and discharge its obligations in a manner that effectively advances corporate objectives.
- 1.2 No single governance structure fits all publicly held corporations, and there is considerable diversity of organizational styles. Each Listed Issuer should develop a governance structure that is appropriate to its nature and circumstances. See section 4 "Guidance for Issuers with Principal Business Operations or Operating Assets in Emerging Markets".

2. Corporate Governance

- 2.1 The board of directors of every Listed Issuer is responsible for, among other things, the following matters:
 - (a) strategic planning;
 - (b) principal business risks and risk management;
 - (c) appointing, training and monitoring senior management;
 - (d) executive compensation;
 - (e) succession planning;
 - (f) communications policy; and
 - (g) internal control and management information systems.
- 2.2 Canadian corporate law generally prescribes requirements related to the number or percentage of outside directors. For example, the *Business Corporations Act* (Ontario) requires that an offering corporation have at least three directors, at least one-third of whom are outside directors. The similar provisions of the *Canada Business Corporations Act* require that at least two directors be outside directors. An outside director may or may not be an unrelated director, which is a director who has no tie to the corporation other than as a director or as a shareholder who is not a control block holder.

Both outside and unrelated directors can bring a fresh perspective to issuers in addition to acting as an independent discipline on management. The Exchange considers that a requirement to have a specified number or percentage of outside directors or a specified number or percentage of unrelated directors may not be suitable for all CNSX Issuers.

Smaller corporations frequently do not have the resources or the ability to attract talented individuals to serve as outside or unrelated directors. It may also be more important for small issuers to have on the board individuals who have a prior familiarity with the issuer's business rather than those who can bring an independent perspective or discipline. For this reason the Exchange does not prescribe requirements dealing with outside or unrelated directors; however Listed Issuers must comply with applicable corporate law. However, Listed Issuers are encouraged to examine the appropriateness of including either or both outside or unrelated directors, on their boards of directors.

- 2.3 Every Listed Issuer, as an integral element of the process for appointing new directors, should provide an orientation and education program or manual for new recruits to the board.
- 2.4 Every board of directors should examine its size and, with a view to determining the impact of the number of directors upon effectiveness, undertake where appropriate, a program to reduce or increase the number of directors to a number which facilitates more effective decision-making.
- 2.5 The board of directors, together with the senior management, such as the Chief Executive Officer or President, should develop position descriptions for the board and for the senior management, involving the definition of the limits to management's responsibilities. In addition, the board should approve or develop the corporate objectives which the senior management is responsible for meeting.
- 2.6 Canadian corporate law generally prescribes a minimum number or percentage of directors sitting on the audit committee of the board of directors that must be outside directors. For example, the *Business Corporations Act* (Ontario) requires that an offering corporation have an audit committee composed of not less than three directors, a majority of whom are not officers or employees of the corporation or any of its affiliates.
- 2.7 Companion Policy to National Instrument 52-110 Audit Committees ("52-110CP") provides additional guidelines to CNSX Issuers. Part 2 of 52-110CP provides that the objectives of an audit committee are as follows:
 - (a) to help directors meet their responsibilities, especially for accountability;
 - (b) to provide better communication between directors and external auditors;
 - (c) to enhance the external auditor's independence;
 - (d) to increase the credibility and objectivity of financial reports; and
 - (e) to strengthen the role of the outside directors by facilitating in-depth discussions between directors on the audit committee, management and external auditors.

- 2.8 The role of audit committees is continuing to evolve. Boards of directors of Listed Issuers should adapt the responsibilities of their audit committees to their particular circumstances. No published set of practices can substitute for the active commitment to high standards by every party having responsibility for the corporate disclosure system.
- 2.9 The Exchange strongly encourages boards of directors of Listed Issuers to select independent directors as members of audit committees, to limit membership to such directors whenever possible and that the chairperson of the audit committee should be an independent director.
- 2.10 For reasons similar to those expressed in paragraph 2.2, the Exchange does not generally consider that it is appropriate to prescribe a higher threshold for Listed Issuers than that prescribed by corporate law or National Instrument 52-110 Audit Committees. However, the Exchange endorses the recommendations and guidelines of 52-110CP. Listed Issuers should consider that placing a greater number or higher percentage of outside or unrelated directors on the audit committee may function as an effective protection of shareholder interests. See section “Guidance for Issuers with Principal Business Operations or Operating Assets in Emerging Markets”.
- 2.11 The board of directors should implement a system which enables an individual director to engage an outside adviser at the expense of the Listed Issuer in appropriate circumstances. The engagement of the outside advisor should be subject to the approval of an appropriate committee of the board.
- 2.12 Although the Exchange does not prescribe corporate governance requirements, investors will expect that all Listed Issuers are subject to the requirements that generally apply to Canadian corporations unless informed otherwise. Therefore, non-corporate issuers and issuers incorporated in jurisdictions outside of Canada must state in their listing statement the nature and extent to which their governing legislation or constating documents differ materially from Canadian legislation with respect to the aspects of corporate governance described in this Policy.

3. Directors and Officers

- 3.1 The identity, history and experience of management, including officers and directors, is important information concerning a Listed Issuer.
- 3.2 Every officer and director of a Listed Issuer is required to complete a Personal Information Form (Form 3) upon their appointment or election as an officer or director of a Listed Issuer.
- 3.3 The Exchange may collect such personal information about the directors and officers of a Listed Issuer as the Exchange may require and, notwithstanding the qualification for listing of its securities, a Listed Issuer must remove, or cause the resignation of, any director or officer which the Exchange determines is not suitable for the purpose of acting as a director or officer of a Listed Issuer, failing which the Exchange may immediately disqualify for listing the Issuer’s securities.
- 3.4 Where a Listed Issuer has a significant connection to Alberta, the Exchange may refuse to accept any director, officer or insider, or revoke, amend or impose conditions in connection with acceptance of any such application until such time as the Issuer has complied with a direction from Exchange or the Exchange

requirement to make application to the Alberta Securities Commission and to become a reporting issuer in Alberta.

3.5 Management

- a) A Listed Issuer must have:
 - i. a Chief Executive Officer (CEO);
 - ii. a Chief Financial Officer (CFO); and
 - iii. a corporate secretary
- b) The CFO must be financially literate, as defined in NI 52-110, and have experience or knowledge of Canadian corporate governance laws and reporting requirements.
- c) The CEO or CFO may also act as corporate secretary. No individual may act as both CEO and CFO of a Listed Issuer.

3.6 Collectively, an Issuer's Directors, officers and management must have adequate reporting issuer experience, and experience and expertise relevant to the Issuer's industry and the languages, customs and laws relevant to the Issuer's operations in each of the jurisdictions in which the Issuer operates.

4. Guidance for Issuers with Principal Business Operations or Operating Assets in Emerging Markets

The primary focus of the initial and ongoing listing requirements of the Exchange is disclosure. Appropriate guidance about what constitutes meaningful disclosure will help address specific challenges or concerns about listed companies with their principal business operations or operating assets in emerging markets. While relevant to all issuers, the guidance contained in this section is primarily intended for issuers whose directing management is largely outside Canada; and whose principal active operations are outside of Canada, in regions such as Asia, Africa, South America and Eastern Europe.

4.1 Areas of Concern

A listed company with a governance structure that is appropriate to its circumstances would likely have identified and addressed the areas of concern listed in OSC Staff Notice 51-720 - Issuer Guide for Companies Operating in Emerging Markets ("OSC EMI Guide"). This should enable the issuer to provide adequate, meaningful disclosure as described in the OSC EMI Guide. Listed companies are encouraged to review the OSC EMI Guide and assess their own approach to specific risks and tailor both their governance practices and disclosure to address the OSC EMI Guide areas of concern that are pertinent to them.

a) Business and operating environment

An Issuer is required by securities legislation to describe its business and operations. Additionally, the CSE Form 2A – Listing Statement must include, among other things, disclosure about the Listed Company's principal markets, competitive conditions in the principal markets and geographic areas in which it operates, and economic dependence on significant contracts¹.

¹ CSE Form 2A – Listing Statement, Item 4 Narrative Description of Business

b) Language and cultural differences

In considering the responsibilities of the board of directors as described in section 2.1 of this Policy, the board should include members that have appropriate experience in each market in which the issuer conducts business. This will enable the board to identify specific risks associated with each market so that the governance oversight responsibilities will be met. Reliance on local management may not be appropriate without the provision for additional input from independent sources.

c) Corporate structure

A corporate structure that addresses differing political, legal and cultural realities may be complex and difficult for investors to understand. The complexity of a corporate structure also creates additional risks associated with effective decision making and accurate reporting across the organization.

Disclosure about an Issuer's corporate structure should:

- (i) be clear and understandable;
- (ii) explain why the structure is necessary; and
- (iii) describe the risks associated with the structure and how those risks are managed.

Policy 2 – Qualifications for Listing specifically disqualifies special purpose entities and variable interest entities.

d) Related parties

Disclosure requirements for related party transactions are included in both accounting standards and securities legislation. Business, cultural and legal differences may result in increased risks, especially in cases where the interests of the controlling shareholders do not necessarily align with the interests or expectations of the minority shareholders. The board should have appropriate policies and procedures for the evaluation of related party transactions.

e) Risk management and disclosure

Risk disclosure is an important element of investor protection, and the board should ensure that adequate disclosure is provided of the specific risks of operating in each market in which the Issuer operates. CSE Form 2A - Listing Statement requires full risk disclosure in section 17, as well as reasonable detail and a discussion of any trend, commitment, event or uncertainty that is both presently known and reasonably expected to have a material effect on the Issuer's business, financial condition, or results of operations².

f) Internal controls

Appropriate internal controls will provide checks and balances to reduce the risks of inaccurate financial reporting. If there are concerns about the effectiveness of internal controls, or if material weaknesses have been identified, audit committee members should apply greater scrutiny in their reviews. It is also advisable to Listed Companies to disclose known material weaknesses in their risk disclosure if the weakness creates a risk for the company.

² CSE Form 2A – Listing Statement, Item 3.3

Disclosure should be adequate for investors to assess the nature and implications of those weaknesses.

g) Use of and reliance on experts

Industry professionals in emerging markets will not necessarily be subject to equivalent rules of conduct as in Canada. The board should evaluate an expert's credentials and knowledge in the context of what would be acceptable in Canada. If an expert is retained to perform a service or function that could expose the listed company to a disruption in operations or significant liability, the board should determine whether the level of diligence exercised by the expert is adequate. As part of the oversight role, the board should ensure adequate disclosure of an expert's interests in the Listed Company.

h) Oversight of the external auditor

The auditor's competence, experience and qualifications in the foreign market should be considered by the audit committee. The audit committee should also **evaluate the auditor's approach in the areas that present risks specific to the Issuer.**

4.2 The Role of the Exchange

The Exchange considers the guidance in this section to be consistent with existing disclosure requirements for all listing applicants or listed company. Each listed company and applicants are encouraged to closely adhere to the principles set out in the Guide to assist them in meeting their disclosure obligations under securities legislation and Exchange Requirements.

4.3 Application of the Guidance

a) Original Listing

CSE Form 2A – Listing Statement includes specific disclosure requirements concerning risk issues. Section 17 - Risk Factors - includes, in the first 2 sections, some of the common risks that should be described. Section 17.3 specifically addresses “any risk factors material to the Issuer that a reasonable investor would consider relevant to an investment in the securities being listed and that are not otherwise described under section 17.1 or 17.2.” For listing applicants with their principal business operations or operating assets in emerging markets, the OSC EMI Guide areas of concern should be addressed in the context of the guidance provided by OSC Staff.

b) Continued Listing

All listed companies are reminded that the OSC EMI Guide provides an excellent reference for any questions regarding continuous disclosure requirements, including disclosure in CSE filings. CSE Form 9 – Notice of Proposed Issuance of Listed Securities, and CSE Form 10 – Notice of Proposed Transaction, for example, each include questions that relate to one or more of the OSC EMI Guide areas of concern. A change related to any of these areas could be material information that requires immediate disclosure by news release.

5. Requirements for Issuers with Principal Business Operations or Operating Assets in Emerging Markets

5.1 An Issuer must demonstrate clear title or right to its assets or operations, and the receipt of the relevant licence or permit required to operate. At the time of listing, the Issuer must provide a title opinion or appropriate confirmation, and a legal opinion that the Issuer has the required permits, licenses or approvals to carry out its operations in each relevant jurisdiction.

5.2 Audit Committee

In addition to the guidance in section 2.7 and requirements of NI 52-110 Audit Committees, the majority of the members of an Issuer's audit committee must be financially literate as defined in NI 52-110 Audit Committees, subject to a minimum of three financially literate members.

Disclosure in the Listing Statement must include a summary of the steps taken in selecting an external auditor and the procedures in place to ensure the audit committee can effectively evaluate the audit process.

5.3 Risk Disclosure and Mitigation

Disclosure in the CSE Form 2A – Listing Statement must address and adequately explain the risks and the reasonable steps taken, consistent with the OSC EMI Guide, to mitigate these risks.