

1 December 2014

via email: consultation@fma.govt.nz

Colin Magee
Level 5, Ernst & Young Building
2 Takutai Square, Britomart
PO Box 106 672, Auckland

Consultation Draft - Corporate Governance in New Zealand - Principles and Guidelines

Dear Colin:

CGI Glass Lewis appreciates the opportunity to comment on the Consultation Draft issued by the Financial Markets Authority ("FMA") regarding Corporate Governance in New Zealand - Principles and Guidelines. The Consultation Draft covers a breadth of topics relating to corporate governance of listed, unlisted and public entities, and we note that much of the text is largely unchanged from the previous handbook released by the Securities Commission (FMA's predecessor) in 2004 ("2004 Handbook"). As such, the focus of this response is limited to what CGI Glass Lewis sees as the most significant changes in the Consultation Draft and to what we see as additional areas where best practice in the New Zealand context could be further improved upon.

CGI Glass Lewis has been providing in-depth proxy research and analysis on ASX-listed companies from its Sydney headquarters since 1994, and is a subsidiary of Glass, Lewis & Co. ("Glass Lewis"), a leading independent governance services firm that provides proxy voting research and recommendations to a global client base of over 1,000 institutional investors that collectively manage more than US\$20 trillion in assets.

Clients use Glass Lewis (and CGI Glass Lewis) research to assist them with their proxy voting decisions and to engage with companies before and after shareholder meetings. Glass Lewis' web-based vote management system, ViewPoint, provides clients with the ability to reconcile and vote ballots according to custom voting guidelines and to audit, report and disclose their proxy votes. Glass Lewis is a portfolio company of the Ontario Teachers' Pension Plan Board ("OTPP") and Alberta Investment Management Corp. ("AIMCo").

We have structured our response as follows: Specific principles and FMA commentary have been laid out in *italics*, largely in the order in which they appear in the Consultation Draft, with CGI Glass Lewis' commentary and recommendations (where appropriate) beneath.

Thank you in advance for your consideration and please do not hesitate to contact us if you would like to discuss any aspect of our submission in more detail.

Respectfully Submitted,



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CGI Glass Lewis



Daniel J Smith
Director of Research
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1. *The FMA's recommended approach for corporate governance depends heavily on disclosure of corporate governance practices by entities. Implementing the principles must therefore include reporting on corporate governance practices to shareholders and other stakeholders. For most entities this can be achieved in the annual report, or through links to online content. Company websites should have strong corporate governance sections, easily accessible to stakeholders (page 10).*

CGI Glass Lewis generally agrees with the FMA's emphasis on disclosure in respect to listed entities' approach to corporate governance principles. We recognise that each listed entity's needs may differ according to their industry, competitive environment and stage of development (among other factors), which may result in lack of compliance with market best practice. Where such divergences occur, we believe it is imperative on the entity to tell their story to the market why their governance structures and practices do not comport with best practice. Our experience finds that investors are generally willing to accept governance arrangements that are inconsistent with market best practice where the entity provides a compelling rationale for why this is the case.

We are generally agnostic as to the preferred medium of disclosure, so long as the disclosure is timely and is easily accessible to investors. In that regard, disclosure of corporate governance practices on the entity's corporate website in lieu of or in addition to disclosure in the annual report may be appropriate, subject to a few caveats. First, the entity's website should be relatively easy to navigate, that is, the governance-related pages should be easily located. Second, the entity's annual report should inform investors of the address at which this information can be accessed. Additionally, where disclosure on a website is in lieu of disclosure on the annual report, care must be taken for investors not to lose the paper trail of changes over time. In other words, because websites can be updated at any time with little fanfare (as opposed to annual reports, which are static documents that must be lodged with the NZX), investors run the risk that governance updates are not memorialised.

This is not an intractable problem, however. The way to address the permanence issue is to require listed entities to lodge their corporate governance statement (or equivalent) with the NZX at the same time as the entity lodges its annual report. This is the approach that the ASX has taken (see ASX Listing Rule 4.7.4).¹

2. *Principle 2.1 - Every issuer's board should have an appropriate balance of executive and non-executive directors, and should include directors who meet formal criteria for "independent directors" (page 10).*

[The FMA considers] the underlying issues relating to director independence can be addressed by...boards of publicly owned entities comprising a majority of non-executive directors; and a minimum one-third of independent directors (page 17).

¹ The ASX explains its approach by stating, "This requirement is intended to cater for the fact that an entity's website is likely to change over time. Requiring the entity to give a copy of its online corporate governance statement to ASX at the same time as it gives ASX its annual report will ensure that there is a contemporary and permanent record of that statement kept on the ASX Market Announcements Platform. This in turn will improve the ability of investors and other interested parties to locate a copy of that statement in the form it was in as at its effective date and also to follow changes in an entity's governance practices from year to year." (See: <http://www.asx.com.au/documents/media/final-2014-listing-rule-changes.pdf>.)

CGI Glass Lewis recognises that this principle is consistent with NZX Listing Rule 3.3.1 which states,

"The composition of the board shall include the following...the minimum number of independent directors shall be two or, if there are eight or more directors, three or one-third (rounded down to the nearest whole number of directors) of the total number of directors, whichever is greater."

We also appreciate that there is not a particularly deep pool of potential directors for listed entities in New Zealand, such that the slavish pursuit of independence as the most desirable quality in a board candidate could crowd out other attractive attributes, potentially to the detriment of the entity and its security holders. However, New Zealand best practice on overall board composition falls short of international best practice in a number of major markets across the globe, including Australia², the United Kingdom³ and the United States⁴. CGI Glass Lewis believes that companies that obtain investment from the public should have boards that demonstrably represent the interests of public investors. In general, at least a majority of the board should consist of appropriately qualified independent directors.

More broadly, we believe that governance best practice regimes, especially where they are principles-based, should be aspirational for entities, rather than targeting the lowest common denominator. Put differently, we believe better outcomes are achieved when best practice is seen as a realistic state towards which listed entities can strive. As a case study, we point to the ASX Corporate Governance Council's 2010 introduction of diversity-related recommendations, whereby ASX listed entities were recommended to disclose their diversity policies, measurable objectives on improving gender diversity and progress against those objectives, along with the proportion of women in various roles across the organisation. Compliance with the letter of the principles went rather quickly: By 2013, 95% of S&P/ASX 300 entities had disclosed at least a general diversity policy and 69% had disclosed measurable diversity objectives.⁵ More importantly, many ASX-listed entities also embraced the spirit of the changes. By 2013, 17% of board members at S&P/ASX 300 entities were women, up from 8% in 2009, before the diversity-related recommendations were introduced.

² ASX Corporate Governance Council Principle 2.4 states, "A majority of the board of a listed entity should be independent directors." (See: <http://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf>.)

³ Section B.1.2. of the UK Financial Reporting Council's UK Corporate Governance Code (September 2012) (the "UK Code") states, "Except for smaller companies [a smaller company is one that is below the FTSE 350 throughout the year immediately prior to the reporting year], at least half the board, excluding the chairman, should comprise non-executive directors determined by the board to be independent. A smaller company should have at least two independent non-executive directors." (See: <https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/UK-Corporate-Governance-Code-September-2012.aspx>.)

⁴ NASDAQ Stock Market Listing Rule 5605(b)(1) states, "A majority of the board of directors must be comprised of Independent Directors as defined in Rule 5605(a)(2)..." (See: http://nasdaq.cchwallstreet.com/NASDAQTools/PlatformViewer.asp?selectednode=chp_1_1_4_3_8_3&manual=%2Fnasdaq%2Fmain%2Fnasdaq-equityrules%2F.) Additionally, NYSE Listing Rule 303A.01 states, "Listed companies must have a majority of independent directors." (See: http://nysemanual.nyse.com/lcm/sections/lcm-sections/chp_1_4/default.asp.)

⁵ See CGI Glass Lewis' 2013 publication, "Australia: an overview of the 2013 proxy season."

3. Principle 2.6 - *Directors should be selected and appointed through rigorous, formal processes designed to give the board a range of relevant skills and experience. The board should consider using a board skills and capability matrix to identify current and future skills, capability and diversity needs of the entity. Boards should report on an annual basis, and in a clear and measurable way, the assessment of its composition and the impact it expects that composition to have on its future success and sustainability (page 15).*

CGI Glass Lewis see this proposed additional language as being consistent with global best practice--we note that ASX-listed companies are now encouraged to have and disclose a board skills matrix (ASXCGC Recommendation 2.2). We support using tools to facilitate effective management of the board. When used effectively, a board skills matrix can help the board equip itself with a proper diversity of backgrounds and expertise to meet current issues as well as future scenarios the entity is likely to face. That said, we see the board skills matrix as being a manifestation of the board's succession planning process more generally, which is still a bit of a black box for investors in NZX-listed entities.

We believe shareholders would benefit from boards providing more transparency to investors as to how the board is conscientiously managing its own composition and succession planning on an ongoing basis. We note that board composition and succession planning have also gained the attention of the United Nations Principles for Responsible Investment ("UNPRI"). In 2014, the UNPRI initiated a pilot collaborative engagement program for its signatories to improve the quality of the director nominations process in various markets, including the way in which the process is disclosed to the market.⁶ Along that vein, we believe meaningful disclosure on an annual basis by NZX-listed entities could go some way to assuring shareholders that the board is managing this process effectively. Such disclosure would be consistent with best practice in the United Kingdom, whereby UK-listed entities are required to disclose in the annual report the work of the nomination committee, including the process it has used in relation to board appointments.⁷

4. Principle 2.7 - *Directors should be selected and appointed only when the board is satisfied that they will commit the time needed to be fully effective in their role (page 15).*

CGI Glass Lewis believes that directors, and especially the chairman, of a listed entity should retain some spare capacity in case a crisis or other event occurs that escalates the demand on the director role. Put differently, whilst we generally acknowledge the capacity of most directors to manage their various commitments when those entities are in steady state of affairs, we believe directors should maintain a sufficient amount of spare capacity for crisis management (or for prolonged mergers and acquisitions activity for that matter). As a rule of thumb, we find it hard to support the election of individual non-executive directors who serve on more than six boards of significant companies.⁸ Additionally, we generally do not support the election of non-executive directors who serve as an executive of any listed company (or large unlisted company) while serving on more than one listed

⁶ See: http://2xjmlj8428u1a2k5o34l1m71.wpengine.netdna-cdn.com/wp-content/uploads/PRI_Director-Nominations.zip.

⁷ See Section B.2.4. of the UK Code and the Financial Services Authority ("FSA") Disclosure Rules and Transparency Rules ("DTR") 7.2.7 R. (See: <http://fshandbook.info/FS/html/handbook/DTR/7/2.>)

⁸ For this purpose, we believe service as non-executive chairman of a board is equivalent to two ordinary non-executive directorships, given the amount of time needed to fulfil the duties of chairman. This is reflected in the increased fees paid to non-executive company chairmen (typically between two and three times the ordinary non-executive director's fee).

public company (or large unlisted company), unless the director is in a publicly disclosed transition from an executive to a non-executive career.

To the extent that a listed entity finds itself in the position of having a director who appears to be overstretched, we believe it is incumbent on that entity to provide meaningful disclosure to shareholders as to why it believes that director is able to meet his/her commitments.

5. Principle 2.10 - *The board should have rigorous, formal processes for evaluating its performance, along with that of board committees and individual directors. The chairperson should be responsible to lead these processes. We encourage boards to ensure an independent external review of performance undertaken on a periodic basis – for example if an annual review is performed then this could be an external review every third year (page 16).*

The requirement for board performance evaluations is commonplace in corporate governance best practice guidelines in many major markets, including the United Kingdom (which is the clear market leader in this respect)⁹, Australia¹⁰, the United States¹¹ and Hong Kong¹². In our corporate engagement meetings with ASX and LSE listed issuers, we have heard mixed feedback on these external facilitations. On the one hand, some boards have found external facilitators to be quite useful, especially when a formalised process for self-evaluation has not been established. On the other hand, other boards appear to feel that external facilitation is not strictly necessary in light of the robust performance evaluation processes already in place. External facilitation could be particularly valuable where the boardroom dynamic is such that directors do not always feel comfortable criticising their peers or being seen to be stepping out of line. In our view, the exact form of board performance evaluations matters less than the quality with which they are executed. A formal review on an annual basis is likely appropriate for most listed entities, as such a cycle is presumably already in place for senior executives.

⁹ Of particular note here is Section B.6.2. of the UK Code, which states, "*Evaluation of the board of FTSE 350 companies should be externally facilitated at least every three years. The external facilitator should be identified in the annual report and a statement made as to whether they have any other connection with the company.*"

¹⁰ Recommendation 1.6 of the ASXCGC Principles states, "*A listed entity should: (a) have and disclose a process for periodically evaluating the performance of the board, its committees and individual directors; and (b) disclose, in relation to each reporting period, whether a performance evaluation was undertaken in the reporting period in accordance with that process.*"

¹¹ NYSE Listing Rule 303A.09 states, "*The board should conduct a self-evaluation at least annually to determine whether it and its committees are functioning effectively.*" Additionally, Section 2.8c of the Council of Institutional Investors' ("CII") Policies on Corporate Governance (which is the closest approximation of a best practice set of guidelines for issuers in the United States) states, "*Boards should review their own performance periodically. That evaluation should include a review of the performance and qualifications of any director who received "against" votes from a significant number of shareowners or for whom a significant number of shareowners withheld votes.*" (See: http://www.cii.org/corp_gov_policies.)

¹² Section B.1.9 of the Hong Kong Corporate Governance Code and Corporate Governance Report ("HK Code") states, "*The board should conduct a regular evaluation of its performance.*" (See: http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/appendix_14.pdf.)

6. Principle 2.11 - *Annual reports of all entities should include information about each director, including length of service, identify which directors are independent, ownership interests in the company, and include information on the board's appointment, training and evaluation processes (page 16).*

CGI Glass Lewis supports such information being disclosed in entities' annual reports. We note in particular that currently some NZX-listed companies do not specifically affirm which directors are independent. Additional disclosure on the nature of related party transactions and the board's judgment of the degree to which those transactions impact the independence of directors would empower shareholders to make better informed assessments of the composition of the board.

Please see also our commentary above on the board's appointment and evaluation processes.

7. *Strong executive representation at board meetings or on boards promotes a constructive exchange between directors and executives that is necessary for boards to be effective. To maintain proper balance between executive and non-executive directors, it can be useful for the latter to meet regularly to share views and information without executives present (page 18).*

So-called "executive sessions" where the non-executive directors meet without any executives present are required in a number of jurisdictions around the globe, including the United States¹³, the United Kingdom¹⁴, South Africa (in the context of the audit committee meeting with the external auditors)¹⁵, and Australia (also in the context of the audit committee meeting with the external auditor)¹⁶. We are supportive of executive sessions being held on a regular basis, as some conversations are best had amongst non-executive directors without the presence of management in the room.

¹³ NYSE Listing Rule 303A.03 states, "*To empower non-management directors to serve as a more effective check on management, the non-management directors of each listed company must meet at regularly scheduled executive sessions without management.*" The commentary of Listing Rule 303A.03 states, "*Regular scheduling of such meetings is important not only to foster better communication among non-management directors, but also to prevent any negative inference from attaching to the calling of executive sessions.*" Similarly, NASDAQ Listing Rule 5605(b)(2) requires independent directors of a listed entity have regularly scheduled meetings at which only independent directors are present.

¹⁴ Section A.4.2. of the UK Code states, "*The chairman should hold meetings with the non-executive directors without the executives present...*"

¹⁵ Section 3.1.5. of the King III Code in South Africa states, "*The audit committee should meet with internal and external auditors at least once a year without management being present.*" (See: http://c.yimcdn.com/sites/www.iodsa.co.za/resource/collection/94445006-4F18-4335-B7FB-7F5A8B23FB3F/King_Code_of_Governance_for_SA_2009_Updated_June_2012.pdf.)

¹⁶ The commentary to Recommendation 4.1 of the ASXCGC Principles states, "*[The audit committee should have] the right to obtain information, interview management and internal and external auditors (with or without management present)...*"

8. *We encourage boards to consider the length of service of each of their directors and the impact this has on the ability of directors to remain independent. Regular review of the length of board appointments will also improve the board's ability to strike the right balance between institutional knowledge and fresh thinking from newly appointed directors (page 18).*

CGI Glass Lewis accepts that accumulated experience in a company over a substantial period or business cycles may be a valuable resource to a board and investors in the company. At the same time, the longer the period of service, the more likely it is that the independence, and possibly also the contribution, of a non-executive director will be blunted. CGI Glass Lewis, therefore, applies the principle that, after 15 years of service, we will review the classification of the non-executive director and, unless we are satisfied from our review that the non-executive director remains demonstrably independent, we will cease to classify the non-executive director as independent.

When evaluating the composition of the board overall, we believe shareholders are best served when there is periodic director rotation. Periodic refreshment of the board can provide the balance between institutional knowledge and fresh perspectives that the FMA's commentary suggests but also can reflect an institutionalised approach to succession planning, onboarding and training. In other words, boards could avoid reinventing the wheel each time they appoint a new director if renewal were timed appropriately. (For example, for a board comprised of six non-executive directors, bringing on a new director every other year or so on average would result in the entire board being refreshed over a 12 year period.) By contrast, boards that have distinctly long periods between appointments could have a higher risk of unsuccessful onboarding processes due to their infrequency.

9. *Principle 3.4 - The audit committee should comprise: all non-executive directors, a majority of whom are independent; at least one director who is a chartered accountant or has another recognised form of financial expertise; and a chairperson who is independent and who is not the chairperson of the board (page 20).*

We are firmly committed to the belief that only non-executive directors, a majority of whom are independent, should serve on an audit committee. In addition, consistent with NZX Listing Rule 3.6.2(b), we believe that the audit committee should have at least three members (although we will accept only two members in the case of a board of four directors or less). We also believe that having at least one independent financial expert on the audit committee can help the audit committee as a whole discharge its duties.

10. *We encourage boards to consider remuneration and nomination committees (page 21).*

The remuneration committee should be made up of a majority of independent directors (page 26).

CGI Glass Lewis believes that all NZX50 companies (other than those that are externally managed) are large enough to establish a dedicated nomination committee and a remuneration committee. We recognise, however, that it may be more practical for smaller companies outside the NZX50 to establish a combined nomination and remuneration committee. We also recognise that it may be impractical for companies outside the NZX50 to have committees other than an audit committee if the company has a small board. Where, however, companies do not have nomination and/or remuneration committees, we still expect meaningful nomination and remuneration procedures to be disclosed in the company's corporate governance statement.

CGI Glass Lewis believes that the remuneration committee should be comprised solely of non-executive directors, a majority of whom should be independent, with an independent chairman. We strongly believe executives should not serve on the remuneration committee due to the conflicts of interest that may arise. That aligns with the logic why executives should not be a member of the audit committee and, as in the case of the latter, that would not prevent the executive attending part of a meeting of the committee by invitation if input from the executive is required. In addition, we believe that the remuneration committee should have at least three members (although we will accept only two members in the case of a board of four or less).

- 11. Principle 4.6 - Every entity should make its code of ethics, board committee charters, and other standing documents important to corporate governance readily available to interested investors and stakeholders. This information should be available on the entity's corporate website (page 22).*

Please see our commentary on Number 1 above.

- 12. Principle 4.7 - Boards of issuers should report annually to investors on how the entity is implementing the principles for corporate governance and explain any significant departure from guidelines supporting each principle (page 22).*

Please see our commentary on Number 1 above.

- 13. Principle 5.2 - Publicly owned entities should publish their remuneration policies on their websites (page 25).*

Please see our commentary on Number 1 above.

- 14. Principle 5.5 - No non-executive director should receive a retirement payment unless eligibility for such payment has been agreed by shareholders and publicly disclosed during his or her term of board service (page 25).*

CGI Glass Lewis does not support the practice of paying retirement benefits to non-executive directors because such a device acts as a reward merely for long service. It tends to inhibit independent action by non-executive directors by providing a financial disincentive to early resignation.

- 15. Principle 7.6 - Boards of issuers should explain in the annual report what non-audit work was undertaken and why this did not compromise auditor objectivity and independence. They should also explain the following: how they satisfy themselves on auditor quality and effectiveness; the boards' approach to tenure and reappointment of auditors; any identified threats to auditor independence; and how the threat has been mitigated.*

We believe that the role of the auditor is crucial in protecting shareholder value. Shareholders should demand the services of objective and well-qualified auditors at every company in which they hold an interest. Like directors, auditors should be free from conflicts of interest and should assiduously avoid situations that require them to make choices between their own interests and the interests of the public they serve. As such, we are supportive of additional meaningful disclosure by companies that serve to assure shareholder confidence in the integrity of the external auditor.

16. *Good governance requires structures and behaviour that promote good relations through effective communications between entities and their shareholders. Publicly owned entities in particular can enhance this relationship by having a policy for communicating with shareholders and for encouraging appropriate shareholder participation. Steps that can be taken include... clearly setting out resolutions for shareholder decisions, and encouraging informed use of proxies...(page 33).*

We note that the FMA's commentary here is unchanged from the 2004 Handbook, and we entirely agree with the premise. In practice, we believe there are a number of areas where shareholder relations can be improved in respect of voting at general meetings.

First, we believe all shareholders should be properly informed well in advance of the meeting of any resolutions or motions that come to a vote at a general meeting. We present a case study of the 2013 New Zealand Oil and Gas ("NZOG") annual general meeting as an example of shareholders voting by proxy not being properly informed of motions that came to a vote. There were four voting items on NZOG's 2013 Notice of Annual General Meeting ("AGM"): a proposal to authorise the board to fix the auditors' remuneration (Resolution 1), and three proposals to elect directors (Resolutions 2-4)¹⁷. However, according to NZOG's 2013 AGM results, three additional shareholder "motions" were considered at the meeting.¹⁸ The three shareholder motions were related to the Pike River Mine blast on November 19, 2010. The Pike River Mine was owned by Pike River Coal. The Company was Pike River Coal's founding company and major shareholder.

All three motions received less than 1% of votes cast at the AGM. However, based on NZOG's disclosure, it appears that NZOG chairman Peter Griffiths, whom many shareholders not in attendance had appointed as their proxy, exercised his discretion as proxy to vote undirected proxies against the motions. However, it also appears that NZOG did not actually inform shareholders not physically present at the AGM that these three motions were being put to a vote at the AGM. As such, shareholders who did not attend the meeting could not have known that there would be additional voting items at the AGM, let alone how their proxy would cast their votes on their behalf. We believe this series of events reflects a serious disenfranchisement of shareholders who voted by proxy at NZOG's 2013 AGM, given that they were uninformed of the proposals that would be ultimately voted upon.

¹⁷ See: <https://www.nzog.com/assets/Annual-Meeting/Notice-of-2013-Annual-meeting.pdf>.

¹⁸ The text of the three resolutions was as follows:

1. *"That the Company investigates and reports to shareholders on paying the reparation order of NZ\$3,410,000 handed down by Judge J A Farish in the District Court at Greymouth in her judgment dated 5 July 2013, to be paid to the 29 men that died and the two survivors at the Pike River Mine or as determined by the final award of the Court.*
2. *That the shareholders express their dissatisfaction with the way in which the directors managed the Company's investment in the Pike River Coal Ltd and the Company's response after the explosion in November 2010.*
3. *That the Company sets aside an amount of NZ\$250,000 to facilitate an independent report and recommendations (to be prepared by New Zealand Council of Trade Unions or their nominee) into the cessation of 'contracting out' and giving best practice recommendations to ensure workforce safety on the sites of all investments made by the Company, with the report to be made available to shareholder [sic] on or before 30 June 2014 with the directors' advice as to how they intend to implement it."*

See: <https://www.nzog.com/assets/Annual-Meeting/2013-Annual-Meeting-Results.pdf>.

With this case study in mind, we respectfully suggest the FMA consider and recommend measures that would ensure shareholders would be properly informed of all items that come to a vote at general meetings.

Second, whilst we appreciate that voting by show of hands is the predominant method of voting at general meetings of NZX listed entities, we note that voting by a show of hands is often perceived as an unfair system because each person present at the meeting is entitled to only one vote, regardless of the size of that individual's shareholding. Furthermore, we note that the Companies Act 1993 allows for votes lodged by proxy to effectively be excluded from final consideration of whether a resolution is carried unless an entitled person or group calls for a poll.¹⁹ Given that many shareholders are unable to attend general meetings in person but still wish to exercise their voting rights by voting by proxy or by postal vote, we respectfully suggest the FMA consider and recommend measures to elevate the status of poll voting in the New Zealand market.

Finally, we note that a number of NZX listed entities do not disclose the actual tallies of votes lodged on resolutions at general meetings, simply disclosing instead whether or not the resolution was passed.²⁰ However, given that the actual tallies of votes lodged can provide shareholders with valuable insight to the overall level of shareholder support for the listed entity's practices, we believe such information should be disclosed, and within reasonable expedience after the general meeting. We respectfully suggest the FMA consider and recommend measures to encourage disclosure of vote results.

- 17. Company law requires directors to act in the best interests of the company (subject to certain exceptions). However, advancing the interests of other stakeholders, such as employees and customers, will often further the interests of an entity and its shareholders. We encourage listed companies to report on how they have affected their stakeholders (page 34).*

We note that the last sentence above is new for the Consultation Draft, and we commend the FMA for its addition. In the interest of transparency, we believe that reporting on environmental and social issues, within reason, can be valuable for investors as they look to make informed investment decisions.

¹⁹ Schedule 1(5)(3) of the Companies Act 1993 states, "A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with subclause (4)."

²⁰ See for example Methven Limited's 2014 AGM results: <https://www.nzx.com/files/attachments/197643.pdf>.

CGI Glass Lewis Fact Sheet

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CGI Glass Lewis has been providing in-depth proxy research on ASX-listed companies from its Sydney headquarters since 1994 and provides local-market support for all proxy voting clients in Australia and Asia.

Key details regarding CGI Glass Lewis operations include:

Diversity: The Sydney-based team comes from a proudly diverse background representing 7 nationalities, 5 religions, 10 languages, 50% female and a wide variety of professional experience as lawyers, consultants, auditors, investment analysts, taxation analysts, research analysts, financial advisers, managers, client relationship managers, educators, investors, journalists and directors.

Research analysts: The Sydney-based analyst team currently includes 8 permanent research staff with over 50 years combined experience in proxy advisory and educated with more than a dozen undergraduate and postgraduate degrees.

Research coverage: The Sydney-based research team provides comprehensive research for all ASX, NZX and JSE-listed companies. In 2013, this universe included approximately 750 publicly-traded entities. This team also includes specialised local-market support for the global M&A and ESG research teams.

Research technology: Glass Lewis' proprietary research technology enables analysts to efficiently convert unstructured data from company disclosures and rapidly produce structured and consistent research with multi-layered editing that ensures superior quality control and accuracy. Our technology enables us to publish research through multiple channels including glasslewis.net, Equilar, Bloomberg, API, FTP and our proxy voting platform ViewPoint, the leader in usability, flexibility and transparency since its 2005 launch.

Engagement: The Sydney-based research team actively engages with ASX-listed company board members (see page 2), institutional clients, government and other stakeholders/advisers.

Client services: The Sydney-based client services and operations team provides local-market support for all proxy voting clients based in Australia and Asia, which currently oversee in excess of \$1 trillion in assets. This team also provides operational support to North American, Asian and European clients.

E & S Advisory Papers: In association with EIRIS' Australian partner CAER, this research and ratings product allows clients to specifically identify and manage E&S risks and opportunities within their portfolios.

Governance & Remuneration Forums: In March 2014, CGI Glass Lewis co-hosted its eighth annual forums in Sydney and Perth (the event is also held biennially in Melbourne). The Forums provide a unique opportunity for institutional investors, corporate executives, non-executive directors and other key stakeholders to have a frank and practical exchange on relevant and current governance topics.

Corporate Engagement Policy

Corporate meetings: Continuing a practice since CGI's founding, in 2013 the CGI Glass Lewis research team **met with over 200 ASX-listed companies**. The purpose of such meetings is to learn about company practices, foster dialogue and understanding of CGI Glass Lewis policies and services, and to provide transparency.

Corporate subscription: Companies, and other stakeholders, may purchase our research products, but a subscription is not required in order to engage with CGI Glass Lewis.

Transparency: CGI Glass Lewis **discloses engagement in all our proxy research papers**, including whether we have attempted to engage with a company during the year, when that engagement took place and the general matters discussed (we also note if a meeting did not take place). In addition, CGI Glass Lewis also **discloses whether a company has purchased the same research**.

Solicitation period: When CGI Glass Lewis analysts require clarification on a particular issue they will reach out to companies, but otherwise will not meet with companies during the solicitation period to discuss the details of their meeting or the merits of specific proposals. The solicitation period begins on the date the notice of meeting is released and ends on the date of the meeting.

Availability: Outside the solicitation period, CGI Glass Lewis **analysts are open to meeting with any company** to provide clarification as to the CGI Glass Lewis business model, operations, guidelines, and perspective on general governance items, as well as to learn about the specific aspects of that company. However, CGI Glass Lewis **cannot guarantee availability during proxy season periods** (April, May, September, October, November) when timely research for clients is the top priority.

Publicly available information: CGI Glass Lewis proxy research and recommendations are based solely on publicly available information that is available to all shareholders.

Additional disclosures: Companies are also welcome to notify CGI Glass Lewis when additional disclosures have been made during the solicitation period, but subsequent to the publishing of the CGI Glass Lewis research report. If the new information would be useful for clients and there is a reasonable amount of time prior to the meeting date, CGI Glass Lewis **will consider republishing its research report with the new information** and will always highlight whether or not any of its recommendations have changed as a result.

Proxy Talk: Based on client demand, CGI Glass Lewis will host "Proxy Talk" conference calls to facilitate an in depth discussion of a specific meeting, proposal or issue. CGI Glass Lewis clients are able to listen to the call and submit questions to the speakers, with representatives from the CGI Glass Lewis research team serving as moderators. This is an effective way for companies to reach clients directly, empowering clients and fostering improved disclosure and further colour on specific issues.

Contact: A company can **schedule a meeting or purchase research** by emailing CGIGL@glasslewis.com or calling +61 (2) 9299 9266.