

Summary of the Final Report of the Joint Committee on Corporate Governance

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On November 22, 2001, the Joint Committee on Corporate Governance (the "Committee") released its Final Report entitled *Beyond Compliance: Building a Governance Culture* (the "Report").

The Committee was established by The Canadian Institute of Chartered Accountants, the Canadian Venture Exchange ("CDNX") and the Toronto Stock Exchange ("TSE") (the sponsoring organizations) in July 2000 to review the current state of corporate governance in Canada and recommend changes to ensure Canada's leadership in this area.

The Report contains fifteen practical recommendations aimed at raising the standard of quality in practices of corporate governance in Canada and improving the effectiveness of governance in Canadian public corporations. It proposes modifications to the TSE disclosure requirements and governance guidelines (the "Guidelines") that were introduced in 1995, following the recommendations of the Dey Report (*Where Were the Directors? - Guidelines for Improved Corporate Governance in Canada*, December 1994). All TSE-listed companies must comply with the Guidelines and are required to annually disclose their approach to corporate governance in a "Statement of Corporate Governance Practices".

The Committee made the following recommendations, among others:

Disclosure Approach

- The "disclosure approach" should be broadened;

- The requirement for complete disclosure with regard to each Guideline should be integrated within the existing disclosure requirement (the "Statement of Corporate Governance and Practices" requirement) for better clarity, and the company's system of corporate governance should be fully and completely disclosed.

Guidelines Should Apply to All Companies Regardless of Size

TSE-listed companies

- Full and complete disclosure should be required for all TSE-listed companies.

CDNX Tier 1 companies (larger companies¹)

- The CDNX should set reasonable time frames for full and complete disclosure;
- The CDNX should also work with Tier 1 companies to assist them in developing the capacity to comply.

CDNX Tier 2 companies (smaller companies)

- Tier 2 companies should be encouraged to disclose;

- Compliance with the Guidelines and ultimate disclosure should be a goal, it being acknowledged, however, that it would be premature to require it at this time.

Creation and Functions of the "Independent Board Leader" ("IBL")

- It should be a new listing condition on a Canadian stock exchange that an IBL be chosen by the full board and that such IBL be an outside and unrelated director when the chairman is not an outside and unrelated director; such IBL would be independent of management but not necessarily unrelated to any significant shareholder;
- For companies where the chairman is the CEO, the IBL should be identified as such in the Annual Report and have a position description approved by the board as well as appropriate compensation for his or her additional responsibilities;
- The IBL should be accountable to the board (personally or through delegating committees) for ensuring (i) that regular assessments of the effectiveness of the board and its committees as well as the contribution of individual directors are carried out and (ii) that assessments of the CEO and the succession planning functions are carried out and the results are discussed by the full board;
- Where the CEO is also the chairman, his or her appraisal should be conducted by the IBL or by a committee composed of outside directors;



¹ Above certain levels of assets, profits and/or share-capital. See CDNX Policy 2.1.

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- The IBL should be accountable for disclosing that regular assessments of board effectiveness have been conducted. Results should be discussed by the full board.

More Detailed Board Responsibilities

- The recruitment process for board members should be improved and boards should look beyond traditional sources in seeking members with the right mix of experience and competencies;
- To fulfill their responsibilities, boards should include strong members who are independent of management and who bring different experiences, competencies, skills and judgment to the board;
- The board should develop, approve and disclose its mandate and the responsibilities related thereto as well as those of its committees, and their respective performances against mandates should be assessed;
- It should be explicitly stated that the first and foremost responsibility of the board is to choose the CEO;
- The board should be involved actively and regularly in the functions of strategic planning and risk management, taking into account that directors do not manage the business but are responsible for overseeing management and holding it to account;

- Individual assessments should be communicated to the individuals assessed;
- Outside directors (i.e., who are independent from management) should meet without management at every regularly scheduled board meeting under the chairmanship of the IBL;
- Audit committees should be composed of outside directors who are unrelated and financially literate, with at least one member having accounting or financial expertise.

Opposition to the Report

The Report has met with strong criticism from many commentators. In particular, the call to differentiate between the chairman of the board and the CEO has been viewed negatively; commentators have expressed the opinion that the separation of the chairman and CEO should not be imposed by Canadian stock exchanges. Opposition to the Report has also come from some important Canadian issuers. The TSE has not yet indicated its views regarding implementation.

You can obtain a copy of the Report by downloading it at www.jointcomgov.com or by calling (416) 204-3268.

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