

Key Notes

- Issuers are encouraged to adopt a diversity policy as a potential tool in improving performance
- Examples of what a diversity policy might contain are set out in this Guidance Note
- Issuers who choose to adopt a diversity policy must disclose their performance against that policy (Rule 10.5.5(k))
- Issuers are encouraged to disclose any matters relating to their diversity practices or position (Footnote 1, Rule 10.5.5)

ISSUED 17 DECEMBER 2012

Disclaimer

This guidance note has been issued to promote commercial certainty and assist market participants. It provides guidance to Issuers and their advisors on NZXR's interpretation of the Listing Rules. This Guidance Note sets out NZXR's general approach to the subject, but is not to be regarded as a definitive statement of the application of the Rules in every situation. Guidance Notes do not constitute legal advice and are only a guide to NZXR's policy & practice. NZXR recommends that Issuers take advice from qualified professionals.

NZXR may replace Guidance Notes at any time. Issuers should ensure that they have the most recent version of the Guidance Note. Guidance Notes are posted to NZX's website at www.nzx.com

GUIDANCE NOTE – DIVERSITY POLICIES AND DISCLOSURE

Introduction

The purpose of this guidance note is to assist Issuers who wish to develop and implement their own gender diversity policies and related measures. It sets out some suggestions as to the content of a diversity policy and examples of measurable objectives that issuers may wish to set for themselves to measure their progress against their diversity policy.

This guidance note focuses on gender diversity. Issuers are clearly free to consider diversity in all its forms when formulating a diversity policy.

Why adopt a diversity policy?

There is credible research based evidence which suggests that diversity in a variety of forms, and gender diversity in particular, contributes to improved performance at both Board and senior management level¹, through promoting additional and broader perspectives in approach, leadership, problem-solving and thought.

Issuers are encouraged to adopt and implement a diversity policy, with measurable objectives, to provide clarity as to the terms and extent of their commitment to diversity and as a potential tool in improving performance at both Board and senior management level.

NZSX/NZDX Listing Rules

The NZSX/ NZDX Listing Rules (“**Rules**”) do not *require* an Issuer to adopt a diversity policy. However, if an Issuer chooses to adopt a diversity policy, Rule 10.5.5(k) requires the Issuer to include a statement from the Board providing its evaluation of the Issuer's performance with respect to its diversity policy in the Issuer's annual report.

Rule 10.5.5(k):

“A statement from the Board of the Issuer providing its evaluation of the Issuer's performance with respect to its diversity policy (if applicable);”

¹ Eversheds (2011) *The Eversheds Board Report: Measuring the impact of board composition on company performance*.
Deloitte (2011) *Only skin deep: Re-examining the business case for diversity*.
McKinsey and Company (2007) *Women matter: Gender diversity, a corporate performance driver*

In addition, Footnote 1 of Rule 10.5.5 encourages Issuers to disclose in their annual reports any diversity policy or any other matter relating to its diversity practices or position.

1. *“An Issuer may choose to disclose in its annual report any diversity policy or any other matter relating to its diversity practices or position (including in particular in relation to diversity other than gender).”*

The objective of Rule 10.5.5(k) is to ensure that where an Issuer has chosen to adopt a diversity policy, shareholders and other stakeholders are provided with information to assess the Issuer’s performance against that diversity policy. This is consistent with the requirement that Issuers provide all relevant information to enable an informed view of an Issuer’s value and prospects to be taken.

Similarly, Footnote 1 to Rule 10.5.5 is intended to encourage Issuers to consider disclosing other information relating to diversity policies or practices and that may relate to forms of diversity other than gender.

Issuers should note that Rule 10.5.5(k) and the Footnotes to that Rule apply to Main Board Listed Issuers who have Equity Securities Quoted and do not apply to ‘Debt-only’ Issuers who do not have Equity Securities Quoted. However, all Issuers are free to adopt a diversity policy and to report against that policy in their annual reports if they wish to do so.

Structure of Guidance Note

This guidance note is divided into two parts. Part 1 sets out suggested content of a diversity policy and Part 2 sets out examples of measurable objectives that Issuers may choose to set themselves to measure their performance against the diversity policy.

1. DIVERSITY POLICIES

There is considerable variability in the content and format of corporate diversity policies. Issuers are advised to consider what diversity means to them and their own specific needs when formulating a diversity policy. This will vary depending on factors such as the size and nature of the Issuer’s business, the nature of its product or service offering, its customer base, the geographies in which it operates and its strategy. ‘Boilerplate’ language that offers little or no insight into a company’s approach to diversity should be avoided.²

International best practice indicates that gender should be an explicit component of any diversity policy. Where gender diversity is prioritised, it is not uncommon to have a stand-alone gender diversity policy.

Some companies commence with a gender diversity policy and broaden this to encompass other forms of diversity over time, while others may opt for policies that acknowledge the benefits of diversity, express a commitment to general inclusivity and an absence of any form of discrimination, and encompass named attributes relevant to or particularly valued by the organisation, such as culture, nationality, gender, age, and background.

² KPMG. (July 2012). *ASX Diversity Report: Analysis of 31 December 2011 year end disclosures. Australia: KPMG*

Issuers may need to collect certain data so that they have an accurate picture as to existing diversity levels on which they can then base the formulation of a diversity policy.

Content of Diversity Policy

The following are examples of what a diversity policy might contain:

- a statement of the Issuer's commitment to diversity and an outline of the perceived benefits of diversity to the Issuer. The nature of an Issuer's commitment to diversity, and the benefits of diversity to an Issuer, will vary from Issuer to Issuer, and should be formulated based on the specific needs of the Issuer;
- a requirement for the Board to set measurable objectives against which to measure the Issuer's performance against its diversity policy. The measurable objectives themselves may either be included in the content of the diversity policy or may be contained in a separate stand-alone document (see Part 2 below).
- provision for the establishment of a senior management team or officer with authority and in each case accountability to lead the implementation of the Issuer's diversity policy. The policy may allow for performance against the diversity policy to be built into key performance indicators, with consideration given to related performance bonuses;
- a requirement for the Board to conduct a review of its skills mix on a regular basis to identify areas in which diversity may be improved and to identify opportunities to improve diversity through succession planning;
- provision for a regular review of diversity metrics at all levels of the organisation in order to identify levels at which diversity may be improved;
- provision for regular training of Board and management in recruitment and selection, with an emphasis on assessing merit and avoiding discrimination;
- provision for the establishment of programmes which encourage diversity. For example, a flexible working program that permits work/life balance and enables valued staff to maintain/resume their employment resulting in optimal use of talent, minimum impact on career progression and flow on effects for diversity at senior management levels;
- a summary of the Issuer's participation in wider diversity programmes and support or membership of organisations that promote diversity; and
- the establishment of a process for the Board to be provided with regular reports on the implementation of the Issuer's diversity policy and its performance against that policy.

2. MONITORING AND EVALUATING PERFORMANCE

Rule 10.5.5(k) states that if an Issuer has chosen to adopt a diversity policy, the Issuer must include in its annual report a statement from the Board providing its evaluation of the Issuer's performance with respect to its diversity policy.

Setting measurable objectives

When adopting a diversity policy, Issuers should also set themselves measurable objectives so that they are able to measure their performance against their policy and report that performance against their policy in accordance with Rule 10.5.5(k).

Performance against loosely defined targets cannot be objectively measured, evaluated or reported and will therefore be of limited value to the Issuer, its shareholders and other stakeholders.

Measurable objectives may either be included in the diversity policy or they may be contained in a separate stand-alone document. Whichever form they take, measurable objectives should be formally documented and approved by the Board.

Types of measurable objectives

There are two main types of measurable objectives that Issuers may wish to consider in order to measure their performance against their policy:

- a) numerical; and
- b) non-numerical.

A) NUMERICAL OBJECTIVES

Numerical objectives in relation to gender diversity include Board, officer, senior management and broader organisational composition and the number and percentage of new Board, officer or senior executive appointments that have been women, or are targeted to be women in a defined period, and may include other related indicators such as pay equity.

While NZX is not prescribing quotas, Issuers may wish to adopt numerical targets if they consider that it is in their best interests. If an Issuer does commit to a particular target, NZX would expect it to report against that target in its annual report in compliance with Rule 10.5.5(k). However, NZX is not mandating the adoption of targets.

Issuers that wish to commit to targets should clearly define which positions are included in those targets to ensure maximum transparency and usefulness to shareholders and other stakeholders and the same definitions should be kept over time to enable changes in diversity to be monitored.

The following are examples of the types of numerical targets that an Issuer may choose to set:

- the Issuer's Board will include X number of women directors by a specified date;
- X percentage of new Board appointments will be women for a specified period of time;
- X percentage of the Issuer's senior managers/officers will be women by a specified date.

NZX notes that Rule 10.5.5(j) requires Issuers to provide in their annual report a quantitative breakdown as to the gender composition of the Issuer's Directors and Officers as the balance date of the Issuer. This requirement focuses on the actual make-up of an Issuer's board and officers as at the Issuer's balance date, and is different to the setting of numerical targets.

B) NON-NUMERICAL OBJECTIVES

The non-numerical measurable objectives an Issuer chooses to set for itself will depend upon the specific aims of that Issuer's diversity policy, and may include the following:

- Establishing a diversity working group or committee to monitor diversity and to regularly report to the Board on diversity-related matters;

- Establishing training programmes for employees on the benefits of diversity, or conducting an employee survey on diversity to obtain employees views as to diversity;
- Establishing recruitment procedures which ensure that a wide range of potential candidates are considered at all levels of the Issuer's structure, including at both Board and senior manager level;
- Conducting regular reviews to ensure that there is pay equity at all levels of the organisation to minimise inadvertent discrimination that may affect retention and career progression, which in turn may affect diversity at senior management levels.

Issuers will need to consider how best to monitor and report on performance against the measurable objectives they set themselves so that they can provide an annual statement on performance in accordance with Rule 10.5.5(k).