

Submission

Executive Remuneration Issues Paper

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This submission addresses the following issues

- 1 Policy goals
- 2 Existing remuneration practice requirements
- 3 Revisions to the legislative architecture: remuneration practice.
- 4 Existing remuneration reporting requirements
- 5 Revisions to the legislative architecture: remuneration reporting.

1 Policy goals behind the introduction of the remuneration report and advisory vote

[1.1] It is important to revisit the policy goals that underpinned the introduction of the remuneration report and advisory vote as part of the CLERP 9 reforms in 2004 before examining the existing requirements and any proposals for reform. The five reform actions identified in the 2009 Productivity Commission report¹ and the policy rationale for government action² are largely unchanged.

[1.2] The primary goal behind these initiatives was to ***improve the accountability of boards of directors (and remuneration committees) of listed companies for the remuneration decisions they make***, with the stated goals in the CLERP 9 report of promoting transparency, accountability and shareholder activism. The remuneration report and advisory vote were ‘designed to enhance transparency and accountability in relation to decisions surrounding director and executive remuneration.’³ Achieving the framework principles of remunerating responsibly and fairly⁴ through these legislative measures⁵ requires shareholders have sufficient information to monitor company remuneration (disclosure) and engage with remuneration committees to translate this broad principle into appropriate, company specific practices.

[1.3] While the Productivity Commission argues that disclosure makes boards more accountable,⁶ the advisory vote is the legislative mechanism for achieving improved board accountability, because

¹ The policy actions for reform are board capacities, conflicts of interest, remuneration principles, disclosure and shareholder engagement: Productivity Commission, *Executive Remuneration in Australia*, Productivity Commission Inquiry Report No. 49 (2009), 357.

² Need to maintain public confidence in the corporate sector to facilitate the raising of equity capital and allocation of investment funds: Ibid, 359;

³ Corporations Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003 (Cth), Explanatory Memorandum, 166, (*CLERP 9 EM*).

⁴ ASX Corporate Governance Council, *Principles of Good Corporate Governance and Best Practice Recommendations* (March 2003), 51 (*ASX CG Principles 2003*). This was the statement extant at the time of the CLERP 9 reforms. This was substantially reworded in the second edition to recommend a clear relationship between remuneration levels and composition (structure) and performance: ASX Corporate Governance Council, *Corporate Governance Principles and Recommendations* (2007), 35 (*ASX CG Principles 2007*).

⁵ Joint Committee on Corporations and Financial Services, Commonwealth of Australia, *CLERP (Audit Reform and Corporate Disclosure) Bill 2003, Part 1: Enforcement, Executive Remuneration, Continuous Disclosure, Shareholder Participation and Related Matters* (2004) (*CLERP 9 Report Part 1*), 33.

⁶ Productivity Commission (2009), above n 1, 241.

it sends a signal to the board of shareholder views. Given the signal is blunt ('adopt the report' or 'do not adopt the report'), shareholders engaging with boards of directors (and vice versa in terms of who might initiate the dialogue) is where the opportunities for intelligent accountability occur. Given the government is committed to introducing the 'two-strikes' rule recommended by the Productivity Commission,⁷ it clearly is of the view that this accountability needs to be strengthened.

[1.4] However, accountability is not an end in itself. In this context, **improving board accountability is ultimately about improving remuneration practices within listed companies**. Indeed the triggers for legislative amendments to remuneration disclosures have typically been concerns about the quantum of remuneration and the link between quantum and company performance. Without having some picture of what the outcomes of good remuneration decisions look like, it is difficult to create a legislative framework to support shareholders in holding directors to account for their remuneration decisions. *Best practice* is a guide on how to structure remuneration payments, but is not determinative of this issue, because ultimately the best remuneration for a particular company is that which ensures the company achieves its business goals and does not cost the company too much. There is some upper limit on what the quantum of executive remuneration is, even if it is only identifiable when it is breached.

[1.5] There are **very different views both within the business community and outside of it, as to what amount of remuneration is reasonable**. While these views are unlikely to ever be reconciled, perceptions of excesses and inappropriate practices will again, in time, create further political momentum for the inquiry and law reform processes of the last two years. I suggest that the Minister's referral in respect of remuneration reports ('more effectively meet the needs of shareholders and companies') should be broadened to 'more effectively meet the needs of shareholders, companies *and stakeholders*' to reflect the interests of others who may not technically qualify as a 'shareholder' but who are interested in ensuring that public confidence is maintained in the corporate sector. Such a view is also consistent with corporate governance principles such as Principle 3 'Promote ethical and responsible decision-making', which exhorts companies to

*also consider the reasonable expectations of their stakeholders, including shareholders, employees, customers, suppliers, creditors, consumers and the broader community in which they operate.*⁸

[1.6] The other important policy goal for remuneration practice that was cited in the CLERP 9 reforms was to **improve the link between company performance and pay**. As the reference from the Minister suggests, this requires thinking about reforms not only to disclosure but also to remuneration practices.

[1.7] **Regulated remuneration cycle:** I have previously outlined a model of the regulatory framework for executive remuneration in Australia (that is also applicable to the UK). The regulated remuneration cycle is a regulatory space within which various rules exist about four separate activities that occur in an annual cycle

- Remuneration *practice*
- Remuneration *disclosure*

⁷ Ibid, xl (Recommendation 13).

⁸ ASX CG Principles 2007, 21.

- *Engagement* on remuneration
- *Voting* on remuneration.

[1.8] This is represented below in **Figure 1: the regulated remuneration cycle**. The advantage of thinking of the regulatory framework in this manner, as opposed to the ‘silo’ approach in the Productivity Commission’s Report (Figure 5.1, p 127) is that the regulated remuneration cycle looks at the rules holistically in terms of the activities, rather than an approach of ‘who does what’. ‘Who does what’ is also relevant, but as my submission to the inquiry demonstrated⁹ and as CAMAC notes in its Issues Paper, a variety of different people make rules about each of the four activities. Viewing the activity holistically can allow for easier identification of the current rules, who makes that rule and thus the legal status of the rule.

[1.9] Appended to this submission are the ‘sets’ of rules for two of the activities relevant to this CAMAC inquiry: practice and disclosure. What these rules confirm is that firstly, there are a lot of rules that address remuneration practice; secondly that most of these rules do not have the force of law; and finally, that there is a lot of overlap where any one topic is addressed by multiple rule-makers.

[1.10] Just because a rule on remuneration practice lacks legal status does not mean that it cannot be effectively enforced by shareholders. That is the advantage of the regulated remuneration cycle because executive remuneration is not regulated in a hierarchical manner: law has little role in regulating remuneration practice, yet this is the activity where governments hope to see improvements. If there is a need to address an emerging practice issue, this model allows easy identification of who is best placed to make the relevant rule. A number of these rule-makers are not able to be ‘directed’ to make rules by the Minister. *This is not necessarily a problem because the motivation to rule-make will also drive the motivation to monitor*. This aspect of the regulation of executive remuneration should not be impeded by unnecessary government regulation.

[1.11] While amending the remuneration reporting requirements (disclosure) will hopefully provide clearer information on remuneration practices, it cannot change these practices directly. At best, it may have an *indirect effect* on practices: by requiring companies to disclose their practices on particular matters, it forces companies to address aspects of their remuneration practices that may have been absent or poor. Typically the thrust for changes to remuneration practices comes from remuneration consultants or from shareholders associations or proxy advisors.

[1.12] One example of this in practice relates to the disclosures surrounding company policy on hedging share-based payments. Based on a sample of 109 companies from the ASX 200 for the period 2005/06-2007/08 (3 years), the number of companies disclosing a policy on hedging (where the company’s policy prevented hedging of unvested share-based payments) went from 5 companies in the first year to 35 companies in the second year and 52 companies in the third year. The largest change was in the period 2006/07 (30 companies). The Australian Council of Super

⁹ The regulated remuneration cycle is explained further in (2009) 31 *Sydney Law Review* 273.

Investors' guidance has been against such hedging since 2003,¹⁰ with IFSA's guidance adopting this stance in 2007, in line with the ASX Corporate Governance Principles as amended in that year. In other words, the change was driven by factors other than legislation and other than an amendment to the ASX Corporate Governance Principles. A change in shareholder expectations of practice led to companies voluntarily disclosing their practices (and it would be a reasonable inference that some companies changed their practices prior to disclosure).

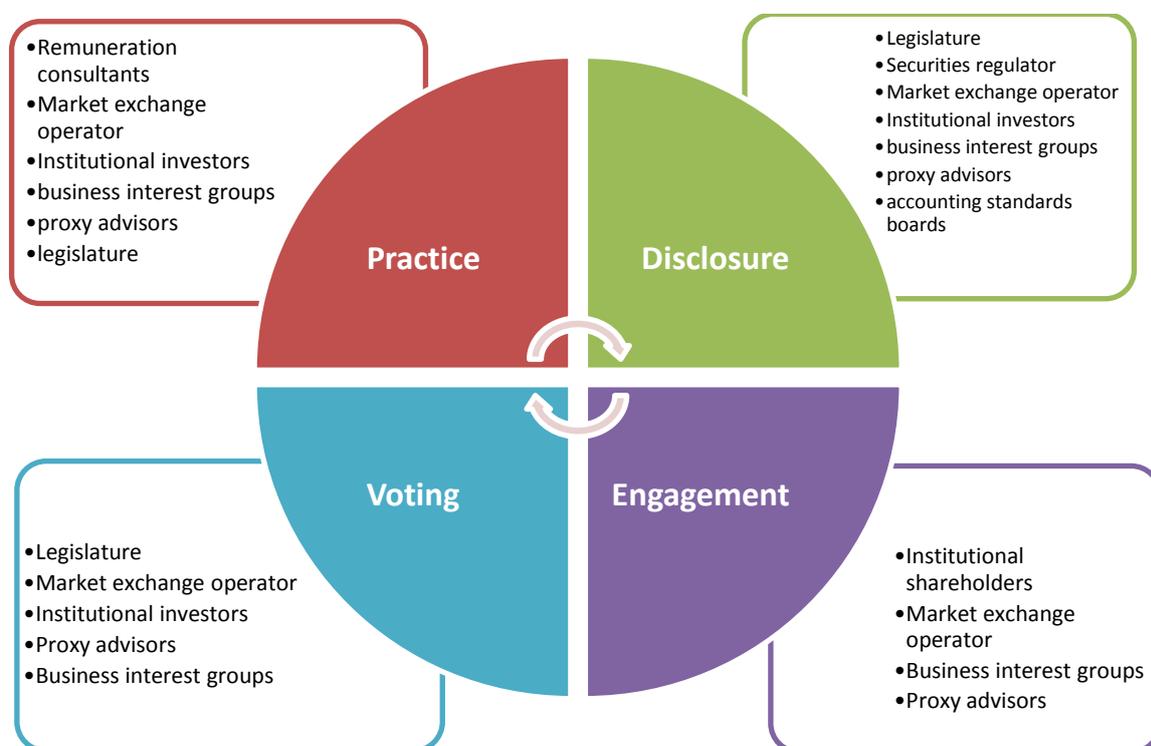


Figure 1: The regulated remuneration cycle

[1.13] In view of the regulated remuneration cycle, I will first examine the remuneration setting framework, before examining the remuneration reporting framework.

2 Existing remuneration setting framework

[2.1] As noted in the Issues Paper and as demonstrated by table 1 below, most of the rules that shape the remuneration setting framework lie outside legislation. An examination of where the existing remuneration setting framework could be revised, with a goal of simplifying the incentive components of executive remuneration arrangements, needs to focus on the rules as they relate to incentive schemes and how they are presented to remuneration committees. What drives this complexity appears to be firstly, the difficulties associated with defining company and executive performance and translating that into metrics that can be assessed; and secondly the technical aspects or fine detail of remuneration design.

¹⁰ Australian Council of Super Investors Inc, *Corporate Governance Guidelines for Superannuation Fund Trustees and Corporations* (2003), 8 (guideline 11). This is now found in *Corporate Governance Guidelines: A Guide for Superannuation Trustees to Monitor Listed Australian Corporations* (2009), 13 (guideline 10.1(g)).

[2.2] Defining performance: Evidence reported in the Productivity Commission’s 2009 report of a standard suite of approaches to performance measures for long-term incentives,¹¹ with greater diversity of performance measures observed for short-term incentives.¹² Observed disclosures of short-term performance measures tend to be in general terms and fail to disclose a specific link between measured performance outcomes and the incentive payments made, whereas long-term incentive payments were clearly disclosed.¹³ If shareholders are dissatisfied with the lack of a clear link between remuneration payments and ‘performance’, then they should use the advisory vote on the remuneration report to say so by voting against its adoption. Companies who are sensitive to shareholders’ views will seek to improve the disclosure of this link. If the complexity of the design means that it cannot be clearly disclosed, shareholders might reasonably ask why is the design so complex?

[2.3] Fine details: The financial accounting for share-based payments, the taxation implications for executives of particular forms of remuneration, the detailed provisions required in incentive scheme plans to deal with foreseeable consequences and the details required in executive service agreements, not to mention the details of the company’s strategy and financial reports, together with the details of the regulatory framework, are all factors that contribute to the complexity of the task. However, the remuneration committee and the board are able to access professional advisors to assist with this task. It may be a timing matter for a committee of part-time, non-executive directors. That is something for companies to be cognisant of and manage accordingly. A number of these factors are well within the control of companies: having a simple remuneration policy that is applied consistently can remove the need to deal with exception upon exception.

[2.4] Remuneration consultants: As noted in my initial submission to the Productivity Commission, I believe there is merit in developing a remuneration consulting standard. While the Remuneration Consultants Code in the UK offers principles for engagement letters and presentations of reports, the standard I propose will address the ‘how to’ aspects of incentive design. For example: what is a valid comparator group for the purposes of benchmarking remuneration? How are sensitivity analyses for remuneration payments performed? What are the assumptions that relate to the analysis and on what basis are they valid? What are the advantages and disadvantages of different measures of company performance? When is it valid to include non-financial performance measures and in what proportion? What is a valid risk analysis?

3 Revisions to legislative architecture: remuneration setting

[3.1] The existing legislative architecture for remuneration setting should be maintained.

[3.2] Remuneration consultants should be encouraged to develop a remuneration consulting standard by forming a broad consultative group with representatives from the remuneration consultancies, and, to represent their client base, the group could draw upon the Chartered Secretaries of Australia (as the company secretary will be secretary to this committee and have views on information needs of remuneration committee members), the Australian Institute of Company Directors and with senior HR managers of Australia’s listed companies.

¹¹ Productivity Commission (2009), above n 1, 201-203, 206-207.

¹² Ibid, 204-205.

¹³ Ibid, 208-209.

4 Existing remuneration reporting framework

[4.1] The existing framework for ‘disclosure’ as an activity is set out below in table 2.

[4.2] In essence a remuneration report consists of both narrative disclosures and financial disclosures, with both sets of disclosures subject to audit. There are several amendment proposals in the Issues Paper, but I have restricted my submission to those noted in [3.2.5], [3.2.6] and [6.1.2].

[4.3] I note the ideal remuneration report suggested by Ernst and Young.¹⁴ While I agree with a number of the details, I believe a more intuitive sequence for the ideal report is to work through governance, strategy, company performance, outcomes, and pay-performance link in that order.

[4.4] **Remuneration committee membership and process (including numbers of meetings):** this is currently reported in the ASX Listing Rules 4.10.3 disclosures, but arguably should be set out in the remuneration report and incorporated by reference into the listing rule disclosures, as suggested by the Guide to reporting on Principle 8 in the ASX CG Principles 2007 (as updated in 2010). Disclosure of remuneration committee process should be more than disclosure of the number of meetings attended: it needs to provide information on how the committee goes about its task. For example: what resources does the committee access (both internal and external); who else attends the meetings, how does the committee verify the information it is provided with?

[4.5] **Remuneration strategy:** the remuneration policy should both explain the policy in place for the financial year reported on, together with the policy intentions for the financial year ahead. Remuneration committees with good processes in place should be able to ensure that this policy is signed off in time to enable it to be included in the remuneration report. I appreciate that the remuneration committee cycle is linked to the budgeting cycle.

[4.6] Many of the items listed under ‘overview/summary’ in the EY model are aspects of strategy. Thus I believe the remuneration strategy section should cover:

- Coverage (KMP, who else?) and comments on any oversight of remuneration throughout the company
- Remuneration objectives
- Components of remuneration and relative mix
- Benchmarking fixed pay and total remuneration including incentives
- Gender equality issues (per the ASX CG Principles updated in 2010)
- Pay relativities with general workforce within the company
- Contractual arrangements including
 - Policy on new hires and sign-on bonuses
 - Policy on terminations
 - Policy on change of control
 - Policy on share holdings, share-trading and hedging
 - Summary table of key contractual provisions for existing KMP.

¹⁴ Cited in the Issues Paper at [3.2.6].

[4.7] Company performance: I am constantly surprised to find little reference in remuneration reports to the ss 299 and 299A disclosures on the review of company operations, the results and its future strategies. The remuneration report could draw upon the earlier more detailed disclosures in these parts of the report by way of **summary** at this point. The company may use KPIs or some other metric/ measurement approach to track its progress against strategy. In reporting historic results (which is what the figures shown in the remuneration report largely are), it seems odd that the company cannot disclose what its performance was against these benchmarks.

[4.8] Remuneration outcomes: These are largely financial disclosures. One approach is to have a **summary of the remuneration outcomes in the remuneration report** with the **details contained in the financial statements and the notes to the financial statements**. Subject to the discussion below on reporting actual remuneration received, I believe the current approach of reporting in accordance with the accounting standards be maintained.

[4.9] Reporting actual remuneration received: I understand the debate on disclosure of actual remuneration received. However, this is not so easy to resolve. It is difficult to report actual remuneration received in a way that makes the link with company performance clear. An executive might be paid in the financial year to 30 June 2010 an amount of annual salary, together with an annual bonus for *the previous 12 months*, superannuation and other benefits. If the KMP exercised share-based payments during the previous 12 months, there is some 'gain' that currently escapes the definition of 'remuneration' in AASB 124 (and hence 'remuneration' in s 9 CA 2001) yet is clearly material to the benefit received by the KMP from their employment.

[4.10] If the basis on which share-based payments are reported as 'actual remuneration received' is that the executive becomes unconditionally entitled to them in the financial year, there is the unanswered question of how to value these to show as a figure. Companies should be aware that the failure to attach a value to this particular aspect of remuneration will not deter users of financial statements from using their own method to do so. Given that retesting of performance hurdles is accepted practice, more than one long-term incentive scheme grant may vest in a particular year. Say, for example, that two schemes' worth of share-based payments (100,000 options) vested in the financial year to 30 June 2010. The options in scheme 1 were issued with an exercise price of \$1.00 and the average weighted share price of the company in the three months to 30 June 2010 was \$2.00 (hence a paper gain of \$100,000). The options in scheme 2 were issued with an exercise price of \$0.80c (hence a paper gain of \$120,000). If just the numbers of options are disclosed without any further information, it fails to convey the benefit gained by the executive from his or her employment.

[4.11] As this approach is contrary to the valuation approach adopted in the accounting standards, companies will have some flexibility as to how these matters are reported. There is likely to be quite a bit of variation in approaches to disclosure of actual remuneration received and this may make comparisons between companies more difficult. In other words, the 'real picture' that executives and remuneration committees are so keen to convey may be undermined by this approach. It is also difficult, although not impossible, for these figures to be audited, as the basis of the conclusions contradicts accounting practice.

[4.12] Unless these issues can be resolved, mandatory disclosure of actual remuneration is premature. If companies believe there is merit in doing so, they should disclose it on a voluntary

basis. If the feedback from shareholders supports the disclosures, then reforms can be mandated at a later time.

[4.13] Link between company performance and remuneration outcomes: This part of the remuneration report needs to be clear.

[4.14] The elements discussed above and where they should be located is summarised below in Figure 2.

[4.15] Boiler-plate: While companies may express a preference for principles-based approaches, this approach can be undermined if it appears that a certain ‘magic phrase’ is one that shareholders will accept. The risk of providing detailed rules on disclosure by way of the Act or Regulations is that companies will follow these to the letter. Companies will also potentially adopt phrases from the ASX CG Principles 2007 or from shareholders’ own guidance. Such boiler-plate may not be a bad practice *if* it gives a true and fair view of what the company’s remuneration practices actually are. It is poor practice when it is essentially meaningless. The task for companies is to ensure that they describe their remuneration policies meaningfully.

[4.16] Legal sanctions: Currently there are no specific legal sanctions that can be imposed in relation to the remuneration report. There is no sense from the Productivity Commission’s report of any particular issues that required a different sanction that can be imposed via the advisory vote and ultimately via the ‘two strikes’ initiative.

[4.17] Non-executive directors’ remuneration: This should be included within the remuneration report and the elements noted above and summarised in figure 2.

Figure 2: Remuneration disclosures: proposed allocation across the annual report

(DR = directors' report; RR = remuneration report; FR = financial report or the financial statements and notes to the financial statements)

	Remuneration reporting aspects	Remuneration reporting location			
		Narrative or financial	DR	RR	FR
Remuneration committee membership and process (or Board process for setting executive remuneration)	<ul style="list-style-type: none"> • membership of committee • committee charter exists and is available on website • meeting cycle/ number of meetings attended and by whom • use of advisors (eg who prepares the remuneration report?) • where decisions are made: by remuneration committee or by the board and for whom. • Policies developed by the committee (see below under remuneration strategy) • areas where committee has the right to exercise discretions re terms of policies and any broad parameters for doing so/ process • stress testing and risk considerations 	narrative	DR has cross reference from RR to satisfy ASX LR 4.10.3	RR	
Remuneration strategy	<ul style="list-style-type: none"> • Coverage (KMP, who else?) and comments on any oversight of remuneration throughout the company • Remuneration objectives • Components of remuneration and relative mix • Benchmarking fixed pay and total remuneration including incentives <ul style="list-style-type: none"> ○ Gender equality issues (per the ASX CG Principles updated in 2010) ○ Pay relativities with general workforce within the company • Process for determining fixed pay and policy on benefits • Selection of performance criteria for STIs and LTIs <ul style="list-style-type: none"> • How each is linked with company performance as measured by the company • Risk considerations and tolerances • Contractual arrangements including <ul style="list-style-type: none"> ○ Policy on new hires and sign-on bonuses ○ Policy on terminations ○ Policy on change of control ○ Policy on share holdings, share-trading and hedging ○ Availability of policies on website 	narrative		RR	

	Remuneration reporting aspects	Remuneration reporting location			
		Narrative or financial	DR	RR	FR
	the notes to the financial statements				
Link between company performance and remuneration outcomes	<p>Given the discussion of company performance enables the reader to see whether management viewed the performance as ‘good’ or otherwise’, the links here should be easier to state and might include:</p> <ul style="list-style-type: none"> • A clear statement on whether the performance overall of the company met management’s expectations • Percentage of bonus awarded and forfeited • Discretionary adjustments to bonuses awarded for factors outside executive’s control (or note if none) • Percentage of shares lapsed in LTIs • Total shareholdings and changes over year 	narrative and financial		RR	
Signature	Remuneration report should be signed and dated by the remuneration committee members, although this signature is on behalf of the board of directors.	Narrative		RR	
Audit opinion	Remuneration report should be specifically mentioned in the audit opinion.	Narrative			

5 Revisions to legislative architecture: remuneration reporting

In light of the above comments and the recommendations noted in the Issues Paper, I believe that the following revisions should be made to the legislative architecture for remuneration reporting:

[5.1] Legislative architecture: there will always be a relationship between the *Corporations Act 2001* (Cth), *Corporations Regulations 2001* (Cth) and the *Accounting Standards* because there is a need for a mix of legal rules and accounting principles to regulate this activity. In particular, any rules that relate to issues of valuation should be consistent with the overarching approach to accounting outlined in the accounting standards. That said, the specifics of the remuneration reports for listed companies should ideally be contained in the *Corporations Regulations 2001* (Cth) (currently reg 2M.3.03), with AASB 124 as support for any valuation matters. While companies want a move towards a principles-based approach, I suggest that, without some content that is easily comparable (such as by way of mandatory tables), companies run the risk of shareholders extrapolating to fill the gap.

[5.2] Amendments to s 300A: The requirement to prepare a remuneration report should be retained in s 300A of the Act. However that section should be amended such that the detailed requirements for the report are moved to reg 2M.3.03.

A new sub-section of s 300A be introduced that states principles to be adopted in preparing the remuneration report are to inform the users of the financial statements about the company's remuneration setting processes and the outcomes of those processes in a way that presents a true and fair view of the process, policy, outcomes and link between company performance and remuneration received.

Narrative disclosures: CAMAC may be interested in the **International Accounting Standards' Board Exposure Draft ED/2009/6 on Management Commentary**. Much of the remuneration report is narrative disclosure, as is the case with management commentary (the management discussion and analysis section of the annual report). The approach adopted there is not to specify the actual disclosures, but rather to specify '**content elements**' that should appear in the commentary (BC41-43). This may be one way of addressing concerns that s 300A is overly prescriptive while still setting out some framework content to be included. *The headings shown in the first column of figure 2 could be content elements within such an approach.*

Five characteristics suggested in that document for the qualitative disclosures that could be adopted as a guiding principle for the remuneration report are:

The remuneration disclosures are *relevant, easy to understand, supportable by the financial results, present a balanced view and allow for users to compare the policy and outcomes over time.*

Reg 2M.3.03 should be amended to include mandatory tables for use in the remuneration report and to note the relationship between the financial reporting requirements of the accounting standards with respect to remuneration. The advantage of having the details in

the regulation is that it is able to be amended more readily than the Act itself. Thus any changes in the accounting standards can be accommodated more readily within Reg 2M.3.03.

Definition of ‘remuneration’ in section 9 should remain unchanged.

Consideration of legacy schemes: reducing the length of the remuneration report where there are legacy share-based incentive schemes might be achieved by allowing reference to the full terms of the legacy scheme (available on company’s website) and a brief summary of the key elements.

[5.3] Plain English: should be the approach adopted throughout the remuneration report and not just in the summary foreshadowed as an amendment ([2.7], p 14). If there is a need to set some standards for the overall readability of remuneration reports, maybe amend s 300A to include something about readability etc, along the lines suggested by the case law for notices of meeting: fully and fairly inform readers about remuneration policies and outcomes, are able to be read and understood by an ordinary man or woman of commerce and, like the financial statements, present a true and fair view of remuneration practices.

[5.4] A summary of remuneration policy: if the summary can present the remuneration policy in a way that does not mislead, then reg 2.M3.03 could be amended to require such a summary. My personal view is that it is not necessary. The need for a summary might be diminished if a format can be devised and reporting is clear.

[5.5] Actual levels of remuneration received: This is not an easy figure to report in a way that makes the link with company performance clear. As noted above, one of the policy goals underlying the introduction of the remuneration report and advisory vote was to improve the link between company performance and executive remuneration. A member of the key management personnel (KMP) might be paid in the financial year to 30 June 2010 the following remuneration: annual salary, annual bonus for the *previous* 12 months, superannuation and other benefits. If the KMP exercised share-based payments during the previous 12 months, there is some ‘gain’ that currently escapes the definition of ‘remuneration’ in AASB 124 (and hence ‘remuneration’ in s 9 CA 2001) yet is clearly material to the benefit received by the KMP from their employment.

[5.6] Disclosure of pay relativities within the company: If the widening gap between executives’ remuneration and the wages of ordinary workers is a concern, one way to address this issue is to require that companies disclose this gap. Section 300A could be amended to require disclosure along the lines proposed by the Private Members’ Bill initiated in the House of Lords, the Companies’ Remuneration Reports Bill 2008 (UK), set out briefly below in Figure 3.

[5.7] Disclosure of pay relativities by gender: The ASX CG Principles 2007 as amended in 2010 require companies to disclose this information. In light of my preference for the narrative remuneration disclosures to be contained in the one report that shareholders vote on, companies should be encouraged to report this item in the remuneration report and to cross-reference that report in the ASX LR 4.10.3 disclosures.

[5.8] Mandatory tables for remuneration disclosure: These could be specified in reg 2M.3.03. The suggested format provided by the Investment & Financial Services Association in its *Blue Book* seems a good model.

[5.9] Guide to remuneration disclosure: Consideration should also be given to producing a 'guide' to the annual reporting provisions within the Corporations Act and Regulations, with references to any pertinent ASIC guidance. Ideally this would include reference to the accounting standards. It could be an initiative voluntary undertaken by a number of interested parties, given ASIC might view policy on remuneration reports as a low regulatory priority.

Figure 3: An example of wording for disclosure of pay relativities

After section 430 (quoted companies: annual accounts and reports to be made available on website) insert—

“430A Annual accounts and report: public quoted companies

(1) Every public quoted company, as defined ...***shall publish on the first page of the chairman’s statement, chief executive’s statement, or directors’ report, whichever comes first in the annual accounts and report, the ratio between the total annual remuneration of the highest paid director or executive and the total annual average remuneration of the lowest paid ten per cent of the workforce.***

(2) The ratio referred to in subsection (1) shall appear in bold type on the first page of the chairman’s statement, chief executive’s statement or directors’ report.

(3) The total annual remuneration of the highest paid director or executive and the total annual average remuneration of the lowest paid ten per cent of the workforce shall also appear in bold type in the text of the annual accounts.

...

(5) In this section, “the lowest paid ten per cent of the workforce” means the ten per cent of people who have been on the company’s payroll during the previous financial year and received the lowest annual remuneration.

(6) The remuneration of any person employed on a part-time basis, or not employed for the full year, shall be calculated on a pro-rata basis.

(7) The requirement to publish the ratio, as stated in subsection (1), applies equally to electronic versions

Keys to tables

Australian tables

AASB	Australian Accounting Standards Board
ASIC	Australian Investments and Securities Commission
AuSB	Auditing and Assurance Standards Board
CG code	ASX Corporate Governance Council, <i>Corporate governance principles and recommendations</i> , 2 nd edition (2007)
INWN	If not, why not (compliance with the guideline is voluntary but the company must disclose whether it complies or else explain why it does not comply)
M	Mandatory
Practice guidance	Shareholder practice guidance (for example, that issued by the Australian Council of Super Investors Inc, or by the Investment and Financial Services Association)
Practice statement	Business interest group practice statement (issued by the Australian Institute of Company Directors, the Business Council of Australia, or the Chartered Secretaries Association)
SR guidance	Securities regulator guidance (guidance on how the securities regulator interprets the relevant laws and regulations, together with information on enforcement)
V	Voluntary
Voting guidance	Proxy advisor voting guidance (for example, that issued by RiskMetrics (Australia) Pty Ltd)

Table 1 – Regulatory framework for executive remuneration practice

Aspect of practice	Regulator					
	Legislature	Securities regulator (ASIC)	Market exchange operator (ASX)	Business interest groups	Institutional investors	Proxy advisors
REMUNERATION DECISION PROCESS RULES						
Have a remuneration committee ¹			CG code (INWN) ²	Practice statement (V) ³	Practice guidance (V) ⁴	
Structure of the committee			CG code (INWN) ⁵	Practice statement (V) ⁶	Practice guidance (V) ⁷	Voting guidance (V) ⁸
Its tasks or activities			CG code (INWN) ⁹	Practice statement (V) ¹⁰	Practice guidance (V) ¹¹	
Use of remuneration consultants			CG code (INWN) ¹²	Practice statement (V) ¹³	Practice guidance (V) ¹⁴	
Content of the remuneration policy			CG code (INWN) ¹⁵	Practice statement (V) ¹⁶	Practice guidance (V) ¹⁷	Voting guidance (V) ¹⁸
REMUNERATION CONTRACT CONTENT RULES						
Remuneration contract	Common law			Practice statement (V) ¹⁹	Practice guidance (V) ²⁰	
Base pay			CG code (INWN) ²¹		Practice guidance (V) ²²	
Annual bonus/ short term incentives			CG code (INWN) ²³		Practice guidance (V) ²⁴	
Long term incentive schemes			CG code (INWN) ²⁵		Practice guidance (V) ²⁶	Voting guidance (V) ²⁷ Practice guidance (V) ²⁸
Share-based remuneration			CG code (INWN) ²⁹ Listing Rules (M) ³⁰	Practice statement (V) ³¹	Practice guidance (V) ³²	Voting guidance (V) ³³ Practice guidance (V) ³⁴
Performance criteria			CG code (INWN) ³⁵	Practice statement (V) ³⁶	Practice guidance (V) ³⁷	Practice guidance (V) ³⁸
Superannuation	Superannuation laws (M) ³⁹ Taxation laws (M) ⁴⁰					
Termination provisions	Company law (M) ⁴¹		CG code (INWN) ⁴² Listing rules (M) ⁴³	Practice statement (V) ⁴⁴	Practice guidance (V) ⁴⁵	
Share holdings					Practice guidance (V)	
Share transactions			CG code (INWN) ⁴⁶			
Loans	Company law (M) ⁴⁷			Practice statement (V) ⁴⁸	Practice guidance (V) ⁴⁹	Practice guidance (V) ⁵⁰
Margin loans			CG code (INWN) ⁵¹		Practice guidance (V) ⁵²	

Aspect of practice	Regulator					
	Legislature	Securities regulator (ASIC)	Market exchange operator (ASX)	Business interest groups	Institutional investors	Proxy advisors
Hedging positions			CG code (INWN) ⁵³		Practice guidance (V) ⁵⁴	

Table 2: Regulatory framework for remuneration disclosure

Aspect of disclosure	Regulator						
	Legislature	Securities regulator (ASIC)	Market exchange operator (ASX)	Accounting standards setter (AASB) Auditing standards setter (AuSB)	Business interest group	Institutional investors	Proxy advisors
Definition of remuneration	Corporations law (M) ⁵⁵			Accounting standard (M) ⁵⁶			
Whose pay to be disclosed	Corporations law (M) ⁵⁷			Accounting standard (M) ⁵⁸		Practice guidance (V) ⁵⁹	
Frequency of disclosure	Corporations law (M) ⁶⁰		Listing rules (M) ⁶¹ CG Code (INWN) ⁶²				
Remuneration report	Corporations law (M) ⁶³						
Remuneration policy	Corporations law (M) ⁶⁴		Listing rules (M) ⁶⁵ CG Code (INWN) ⁶⁶			Practice guidance (V) ⁶⁷	
Remuneration committee membership	Corporations law (M) ⁶⁸		Listing rules (M) ⁶⁹ CG Code (INWN) ⁷⁰			Practice guidance (V) ⁷¹	
Remuneration committee activities	Corporations law (M) ⁷²		Listing rules (M) ⁷³ CG Code (INWN) ⁷⁴			Practice guidance (V) ⁷⁵	
Material advisors to remuneration committee							
Contractual terms	Corporations law (M) ⁷⁶	Regulations (M) ⁷⁷				Practice guidance (V) ⁷⁸	
Remuneration payments	Corporations law (M) ⁷⁹	Regulations (M) ⁸⁰		Accounting standard (M) ⁸¹		Practice guidance (V) ⁸²	
Superannuation		Regulations (M) ⁸³		Accounting standards (M) ⁸⁴			

Aspect of disclosure	Regulator						
	Legislature	Securities regulator (ASIC)	Market exchange operator (ASX)	Accounting standards setter (AASB) Auditing standards setter (AuSB)	Business interest group	Institutional investors	Proxy advisors
Loans				Accounting standards (M) ⁸⁵			
Options and other SBPs	Corporations law (M) ⁸⁶	Regulations (M) ⁸⁷		Accounting standards (M) ⁸⁸		Practice guidance (V) ⁸⁹	Voting guidance (V) ⁹⁰
Shareholdings	Corporations law (M) ⁹¹		Listing rules (M) ⁹²				
Share trading	Corporations law (M) ⁹³	SR Guidance (V) ⁹⁴ Class order (M) ⁹⁵	Listing rules (M) ⁹⁶ Guidance (V) ⁹⁷				
Termination payments		Regulations (M) ⁹⁸		Accounting standard (M) ⁹⁹		Practice guidance (V) ¹⁰⁰	
Tabular disclosure format						Practice guidance (V) ¹⁰¹	
Performance graph						Practice guidance (V) ¹⁰²	
Performance criteria	Corporations Law (M) ¹⁰³	Regulations (M) ¹⁰⁴				Practice guidance (V) ¹⁰⁵	Voting guidance (V) ¹⁰⁶ Practice guidance (V) ¹⁰⁷
Valuations	Corporations law (M) ¹⁰⁸	Regulations (M) ¹⁰⁹		Accounting standard (M) ¹¹⁰		Practice guidance (V) ¹¹¹	Voting guidance (V) ¹¹² Practice guidance (V) ¹¹³
Sign-off within company	Corporations law (M) ¹¹⁴					Practice guidance (V) ¹¹⁵	
Audit certification	Corporations law (M) ¹¹⁶			Accounting standards (M) ¹¹⁷ Auditing standards (M) ¹¹⁸			
Other directorships	Corporations law (M) ¹¹⁹					Practice guidance (V) ¹²⁰	
Compliance with CG codes			Listing rules (M) ¹²¹ CG Code (INWN) ¹²²			Practice guidance (V) ¹²³	

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- ¹ *Corporations Act 2001* (Cth), s 198D(1)(a) allows the directors to delegate any of their powers to a committee of directors unless the company's constitution provides otherwise. As all listed companies must have a constitution (ASX Listing Rules, rule 1.1, Condition 1A), the company's constitution should be reviewed to confirm if any limits exist to this power of delegation. Typically the constitution will allow delegation so as to not limit s 198D, as well as provide for the rules of procedure to be followed. See, for example, AMP Ltd, *Constitution of AMP Ltd* (ACN 079 354 519) amended 19 May 2005, article 77.
- ² ASX Corporate Governance Council, *Principles of Corporate Governance and Recommendations* (2007), 35 (recommendation 8.1) (*ASX CG Council Principles*).
- ³ Australian Institute of Company Directors, *Executive Remuneration: Guidelines for Listed Company Boards* (2009), 9.
- ⁴ Australian Council of Super Investors, *Corporate Governance Guidelines: A Guide for Superannuation Trustees to Monitor Listed Australian Companies* (2009), 14 (guideline 10.3(a)) (*ACSI CG Guidelines*); Investment & Financial Services Association (IFSA), *Corporate Governance: A Guide for Fund Managers and Corporations*, 6th edition (2009), 20 (Guideline 7, 11.8) (*IFSA Blue Book*).
- ⁵ *ASX CG Council Principles*, above n 2, 35 (commentary to recommendation 8.1). This was revised in 2010 – *Marked-Up Amendments dated 30 June 2010 to the Second Edition August 2007 of the Corporate Governance Principles and Recommendations*, 16 (Recommendation 8.2) (*ASX CG 2010 Amends*).
- ⁶ Australian Institute of Company Directors, above n 3.
- ⁷ *ACSI CG Guidelines*, above n 4, 13 (guideline 10.1(g)); *IFSA Blue Book*, above n 4, 21 (11.8.3).
- ⁸ RiskMetrics (Australia) Pty Ltd, *2008 Australia Voting Guidelines* (2008), 12.
- ⁹ *ASX CG Council Principles*, above n 2, 35 (commentary to recommendation 8.1). This was revised in 2010 to include remuneration by gender, *ASX CG 2010 Amends*, 15.
- ¹⁰ Australian Institute of Company Directors, *Executive Equity Plan Guidelines, Position Paper No. 2* (2007), 5 (guideline 4.1).
- ¹¹ *ACSI CG Guidelines*, above n 4, 14-15 (guidelines 10.3(a)-(g)); *IFSA Blue Book*, above n 4, 21 (11.8.3).
- ¹² *ASX CG Council Principles*, above n 2, 35 (commentary to recommendation 8.1).
- ¹³ Australian Institute of Company Directors, above n 3, 9, 10-11, 12, 14.
- ¹⁴ *ACSI CG Guidelines*, above n 4, 15 (guideline 10.3(f)).
- ¹⁵ *ASX CG Council Principles*, above n 2, 35-36 (commentary to recommendation 8.1).
- ¹⁶ Australian Institute of Company Directors, above n 3, 16-25.
- ¹⁷ *ACSI CG Guidelines*, above n 4, 12 (guidelines 16.1(h)).
- ¹⁸ RiskMetrics (Australia) Pty Ltd, above n 8, 12.
- ¹⁹ AICD, above n 3, 19-20-22.
- ²⁰ *ACSI CG Guidelines*, above n 4, 18-19 (guidelines 16.2(a),(b),(d),(e),(f),(g),(h)).
- ²¹ *ASX CG Council Principles*, above n 2, 36 (Box 8.1, 1).
- ²² *ACSI CG Guidelines*, above n 4, 20 (guidelines 16.4(a)-(c)).
- ²³ *ASX CG Council Principles*, above n 2, 36 (Box 8.1, 2).
- ²⁴ *ACSI CG Guidelines*, above n 4, 20 (guideline 16.4(a),(b)).
- ²⁵ *ASX CG Council Principles*, above n 2, 36 (Box 8.1, 2).
- ²⁶ *ACSI CG Guidelines*, above n 4, 20 (guideline 16.4(a),(b)), 21-23; guideline 16.6).
- ²⁷ RiskMetrics (Australia) Pty Ltd, above n 8, 18.
- ²⁸ *Ibid*, 15-18.
- ²⁹ *ASX CG Council Principles*, above n 2, 36 (Box 8.1, 2, 3).
- ³⁰ ASX, *Listing Rules*, rule 10.14.
- ³¹ Australian Institute of Company Directors, above n 10, 4-6 (guidelines 3.1-4.7), 9 (guidelines 7.1-7.4).
- ³² *ACSI CG Guidelines*, above n 4, 22-23 (guideline 16.9), 24 (guidelines 16.10, 16.11).

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- ³³ RiskMetrics (Australia) Pty Ltd, above n 8, 18.
- ³⁴ Ibid, 15-18.
- ³⁵ ASX CG Council Principles, above n 2, 36 (Box 8.1, 2).
- ³⁶ Australian Institute of Company Directors, above n 10, 6-8 (guidelines 5.1-5.7).
- ³⁷ ACSI CG Guidelines, above n 4, 21 (guideline 16.8).
- ³⁸ RiskMetrics (Australia) Pty Ltd, above n 8, 16-17.
- ³⁹ *Superannuation Guarantee (Administration) Act 1992 (Cth)*, *Superannuation (Excess Concessional Contributions Tax) Act 2007 (Cth)*, *Superannuation (Excess Non-concessional Contributions Tax) Act 2007 (Cth)*, together with provisions in the *Income Tax Assessment Act 1997 (Cth)*.
- ⁴⁰ *Income Tax Assessment Act 1936 (Cth)*, *Income Tax Assessment Act 1997 (Cth)*.
- ⁴¹ *Corporations Act 2001 (Cth)*, ss 200A-200G.
- ⁴² ASX CG Council Principles, above n 2, 36 (Box 8.1, 4).
- ⁴³ ASX, *Listing Rules*, rules 10.18 and 10.19.
- ⁴⁴ AICD, above n 3, 22-23. Also Australian Institute of Company Directors, *Executive Termination Payments, Position Paper No. 13* (October 2008).
- ⁴⁵ ACSI CG Guidelines, above n 4, 18-19 (guideline 16.2).
- ⁴⁶ ASX CG Council Principles, above n 2, 23 (box 3.2, 3, 4, 6, 7).
- ⁴⁷ *Corporations Act 2001 (Cth)*, s 208(1) if the loan is on less than commercial terms *cf* s 210; a loan given by way of financial assistance to acquire shares in the company would trigger the prohibition contained in ss 260A(1)(a),(b), (c) unless the loan is given under an employee share scheme approved by shareholders in general meeting: s 260C(4)(a).
- ⁴⁸ Australian Institute of Company Directors, *Non-recourse Loans Provided to Executives*, Position Paper No. 8 (May 2008).
- ⁴⁹ IFSA Blue Book, above n 4, 21 (11.8.3). 26 (guideline 11.15.1); ACSI CG Guidelines, above n 4, 24 (guideline 16.13 (c)). ACSI does not take as strong a position on non-recourse loans as does IFSA who opposes non-recourse loans. Rather ACSI wants the loans to be on a commercial basis and, where the loan is non-recourse or limited recourse, to have a provision in the share plan which allows the company to sell on market the shares forfeited by the executive to recoup part of the cost. Neither NAPF nor ABI deal with non-recourse loans in their guidelines.
- ⁵⁰ Regnan, *Position Paper – Director and Executive Security Trading* (2008). Regnan undertakes engagement on behalf of a number of industry super funds and hence its policy statements can be said to be the policy positions of those investors. However, it is coded under ‘proxy advisors’ because it formulates its own views on these issues.
- ⁵¹ ASX CG Council Principles, above n 2, 23 (box 3.2, 7).
- ⁵² ACSI and IFSA, *Joint Statement by IFSA and ACSI on Market Integrity and Efficiency* (28 March 2008), 2.
- ⁵³ ASX CG Council Principles, above n 2, 23 (box 3.2, 8).
- ⁵⁴ ACSI CG Guidelines, above n 4, 24 (guideline 16.14).
- ⁵⁵ *Corporations Act 2001 (Cth)*, s 9.
- ⁵⁶ Australian Accounting Standards Board, *AASB 124 Related Party Disclosures* (2005) paragraphs 9, Aus 9.1, Aus 9.1.1.
- ⁵⁷ *Corporations Act 2001 (Cth)*, s 300A(1AAA) defines ‘key management personnel’ by reference to the definition in the applicable accounting standard, which is *AASB 124 Related Party Disclosures* (2005). It defines ‘key management personnel’ in clause 9 as ‘those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.’
- ⁵⁸ Australian Accounting Standards Board, *AASB 124 Related Party Disclosures* (2005) paragraphs 9, 16.
- ⁵⁹ ACSI CG Guidelines, above n 4, 17 (guideline 16.1(d) and 25 (guideline 16.15(a)); *IFSA Blue Book*, above n 49, 25 (guideline 14).
- ⁶⁰ *Corporations Act 2001 (Cth)*, s 300A(1A); s 674(2) (continuous disclosure obligations).
- ⁶¹ ASX *Listing Rules*, rule 3.1, rule 3.16 (where there is a change in a chief executive officer or equivalent); ASX, *Continuous Disclosure and Chief Executive Officer Remuneration* (2003), 1-2.
- ⁶² ASX CG Council Principles, above n 2, 29 (eliminating surprise about executive payments).

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- ⁶³ *Corporations Act 2001* (Cth), s 300A (1A).
- ⁶⁴ *Corporations Act 2001* (Cth), ss 300A(1)(b),(ba).
- ⁶⁵ ASX, *Listing Rules*, rule 4.10.3.
- ⁶⁶ *ASX CG Council Principles*, above n 2, 37 (guide to reporting on principle 8).
- ⁶⁷ *ACSI CG Guidelines*, above n 4, 23 (guideline 16.1(f)); *IFSA Blue Book*, above n 4, 25-26 (guideline 14).
- ⁶⁸ *Corporations Act 2001* (Cth), s 300(11).
- ⁶⁹ ASX, *Listing Rules*, rule 4.10.3.
- ⁷⁰ *ASX CG Council Principles*, above n 2, 37 (guide to reporting on principle 8).
- ⁷¹ *ACSI CG Guidelines*, above n 4, 31 (guideline 22); *IFSA Blue Book*, above n 4, 16-17 (guideline 1).
- ⁷² *Corporations Act 2001* (Cth), s 300(11).
- ⁷³ ASX, *Listing Rules*, rule 4.10.3.
- ⁷⁴ *ASX CG Council Principles*, above n 2, 37 (guide to reporting on principle 8).
- ⁷⁵ *ACSI CG Guidelines*, above n 4, 31 (guideline 22); *IFSA Blue Book*, above n 4, 16-17 (guideline 1).
- ⁷⁶ *Corporations Act 2001* (Cth), s 300A(1)(e)(vii).
- ⁷⁷ *Corporations Regulations 2001* (Cth), reg 2M.03(1), item 13.
- ⁷⁸ *ACSI CG Guidelines*, above n 4, 18 (guideline 16.2(a)).
- ⁷⁹ *Corporations Act 2001* (Cth), s 300A(1)(c).
- ⁸⁰ *Corporations Regulations 2001* (Cth), reg 2M.03(1), items 6, 7, 8, 9 and 11.
- ⁸¹ Australian Accounting Standards Board, *AASB 124 Related Party Disclosures* (2005), paragraph 16.
- ⁸² *ACSI CG Guidelines*, above n 4, 19 (guideline 16.3); *IFSA Blue Book*, above n 4, 25-26 (guideline 14).
- ⁸³ *Corporations Regulations 2001* (Cth), reg 2.M.3.03(1), item 7.
- ⁸⁴ Australian Accounting Standards Board, *AASB 124 Related Party Disclosures* (2005), paragraph 16(b); *AASB 119 Employee Benefits* (2006), paragraphs 29-30, 39, 44-47.
- ⁸⁵ Australian Accounting Standards Board, *AASB 124 Related Party Disclosures* (2005), paragraphs Aus 25.8, Aus 25.8.1 but loans involved in transactions that are essentially options, including non-recourse loans in such transactions, are excluded from the requirement to disclose under Aus 25.8.2.
- ⁸⁶ *Corporations Act 2001* (Cth), s 300(1)(d), ss 300(3),(5),(6),s 300A(1)(ba).
- ⁸⁷ *Corporations Regulations 2001* (Cth), reg 2M.03(1), item 11.
- ⁸⁸ Australian Accounting Standards Board, *AASB 124 Related Party Disclosures* (2005), paragraphs Aus 25.7.3-Aus 25.7.5; *AASB 2 Share-based payments* (2007), paragraphs 7-8, 10-12, 16-25, 30-31, 34-40, 44-52, appendix B.
- ⁸⁹ *ACSI CG Guidelines*, above n 4, 23 (guideline 16.9(f)); Investment and Financial Services Association, *Executive Equity Plan Guidelines* (2007), 10-11 (guidelines 8.1, 8.2, 8.3, 8.7) (*IFSA Equity Guidelines*).
- ⁹⁰ RiskMetrics (Australia) Pty Ltd, above n 8, 18.
- ⁹¹ *Corporations Act 2001* (Cth), ss 300(11)(a)-(c).
- ⁹² ASX Listing Rules, rule 4.10.4.
- ⁹³ *Corporations Act 2001* (Cth), s 205G. Board policy on hedging of share-based payments is required under s 300A(1)(da), with effect from 28 June 2007.
- ⁹⁴ Australian Securities and Investments Commission, *Notification of Directors' Interests in Securities – Listed Companies, Regulatory Guide 193* (2008).
- ⁹⁵ Australian Securities and Investments Commission, *Class Order 01/1519 Disclosure of Directors' Interests*.
- ⁹⁶ ASX, *ASX Listing Rules*, rule 3.19A.
- ⁹⁷ ASX, *Disclosure of Directors' Share Trading*, Guidance Note 22 (2002).
- ⁹⁸ *Corporations Regulations 2001* (Cth), reg 2M.03(1), item 9.
- ⁹⁹ Australian Accounting Standards Board, *AASB 124 Related Party Disclosures* (2005), paragraph 16; *AASB 119 Employee benefits* (2006), paragraphs 133-140, 143.
- ¹⁰⁰ *ACSI CG Guidelines*, above n 4, 18 (guideline 16.2(a)).
- ¹⁰¹ *IFSA Blue Book*, above n 4, 31-32 (Appendix A).
- ¹⁰² *IFSA Equity Guidelines*, above n 89, 10 (guidelines 8.2).

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- ¹⁰³ *Corporations Act 2001* (Cth), ss 300A(1)(b),(ba), (1AA), (1AB).
- ¹⁰⁴ *Corporations Regulations 2001* (Cth), reg 2M.3.03(1), items 12(c), (d), item 14 (c)(iii), item 15 (b)(vi).
- ¹⁰⁵ *ACSI CG Guidelines*, above n 4, 20 (guideline 16.6 – short-term incentive schemes) and 23 (guideline 16.9(f) *IFSA Equity Guidelines*, above n 89, 10 (guideline 8.2).
- ¹⁰⁶ RiskMetrics (Australia) Pty Ltd, *Assessing Remuneration Reports for ASX-listed Companies* (2008), 1-2.
- ¹⁰⁷ RiskMetrics (Australia) Pty Ltd, above n 8, 17.
- ¹⁰⁸ *Corporations Act 2001* (Cth), s 300A(1C)(a).
- ¹⁰⁹ *Corporations Regulations 2001* (Cth), reg 2M.3.03(1), items 10(a), item 14(e), item 15(b), regs 2M.3.03(2), (4)
- ¹¹⁰ Various accounting standards give guidance on valuations, including Australian Accounting Standards Board, *AASB 2 Share-based Payment* (2007), *AASB 101 Presentation of Financial Statements* (2007), *AASB 119 Employee Benefits* (2006).
- ¹¹¹ *ACSI CG Guidelines*, above n 4, 19 (guideline 16.3) and 23 (guideline 16.9(g)); *IFSA Equity Guidelines*, above n 89, 11 (guideline 8.7).
- ¹¹² RiskMetrics (Australia) Pty Ltd, above n 106, 1-2.
- ¹¹³ RiskMetrics (Australia) Pty Ltd, above n 8, 17.
- ¹¹⁴ *Corporations Act 2001* (Cth), s 298(2)(c) as the remuneration report forms part of the directors' report.
- ¹¹⁵ *ACSI CG Guidelines*, above n 4, 15 (guideline 10.3(g)).
- ¹¹⁶ *Corporations Act 2001* (Cth) s 308(3C) requires the auditor to state whether in the auditor's opinion, the remuneration report complies with s 300A. This section only applies from 28 June 2007; prior to this date, the remuneration report was not required to be audited, although disclosures made in the financial reports, including the notes to the financial reports, would be audited under s 307.
- ¹¹⁷ Australian Accounting Standards Board, *AASB 101 Presentation of Financial Statements* (2007), paragraphs AUS 138.2.
- ¹¹⁸ Various auditing standards impact upon the audit certification, including Auditing and Assurance Standards Board, *Auditing standard ASA 200 Objective and General Principles Governing an Audit of a Financial Report* (2006), paragraphs 7, 9, 14-15, 18, 20-21, 24; *Auditing Standard ASA 545 Auditing Fair Value Measurements and Disclosures* (2006), paragraphs 23-34, 40, 47, 64, 68-69; *Auditing Standard ASA 550 Related Parties* (2006), paragraphs 13, 18, 21, 23, 37-38; *Auditing Standard ASA 580 Management Representations* (2006), paragraphs 9, 12, 22; *Auditing Standard ASA 720 Other Information in Documents Containing Audited Financial Reports* (2006), paragraphs 14-16, 20, 22-23, 29; *Guidance Statement GS 008 The Auditor's Report on a Remuneration Report Pursuant to Section 300A of the Corporations Act 2001* (2008).
- ¹¹⁹ *Corporations Act 2001* (Cth), s 300(11)(e).
- ¹²⁰ *ACSI CG Guidelines*, above n 4, 31 (guideline 22).
- ¹²¹ ASX, *Listing Rules*, rule 4.10.3.
- ¹²² *ASX CG Council Principles*, above n 2, 5.
- ¹²³ *ACSI CG Guidelines*, above n 4, 6 (guideline 1(c)).