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Submitted electronically

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Subject: ICGN Member Consultation Revisions to ICGN Global Governance Principles

Dear Mr. Payne,

Eumedion welcomes the opportunity to respond to the Initiation to Comment on the proposed revisions to ICGN Global Governance Principles (GGP). By way of background, Eumedion is the Dutch based corporate governance and sustainability forum for institutional investors. Our 53 Dutch and non-Dutch participants represent more than € 6 trillion assets under management. Participants include a wide range of institutional investors; pension funds, mutual funds, asset managers and insurance companies. It is the objective of Eumedion to maintain and further develop good corporate governance and sustainability performance of listed companies. Below you will find our detailed remarks regarding the proposed GGP revisions.

Guidance 1.1 (e)

“identity” should read: identify. We recommend to also explicitly mention ‘climate change’ as one of the relevant systemic risks.

Guidance 1.2

We believe the sentence “In the case of directors serving on boards of subsidiary companies, fiduciary duties are owed to the subsidiary as a separate legal entity and not to the holding company” lacks nuance. We suggest to rephrase it to reflect that in that situation the director’s primary duty is to serve the interest of the subsidiary, taking into account the interest of the parent or holding company.

Guidance 2.3

In the preamble it is stated that the “Principles are intended to be relevant to all types of board structures globally, including one-tier and two-tier arrangements”. However, in a two-tier board structure the appointment of a ‘Lead independent director’ is far from common. We suggest to either explicitly refer in the guidance to the one-tier structure or to refer to the ‘Vice-Chair’ in the situation of a two-tier board structure.

Guidance 3.5

We strongly support the principle that the shareholders meeting can hold board directors accountable for the company’s financial and non-financial performance. To enhance directors’ accountability, shareholders should have the possibility to submit a proposal to dismiss one or more directors for a vote at the shareholders’ meeting. The concept of annual re-election of all board directors, promoted by ICGN in this guidance, is in that respect not common practice in continental European countries such as Italy, Spain, The Netherlands, France, Belgium and Germany. We therefore doubt whether the concept of annual re-election of all board directors is an already widely accepted principle amongst institutional investors. We still prefer the text of guidance 3.5 in the 2017 edition of the Principles: “Accountability mechanisms may require directors to stand for election on an annual basis or stand for election at least once every three years, with annual elections recognised as best practice”. This text is also more principle-based than the proposed, rather prescriptive wording of guidance 3.5.

Guidance 6.6

Also the wording of the proposed text of guidance 6.6 is rather prescriptive. Moreover, the revised EU Shareholder Rights Directive allows a period of four years for submitting the executive remuneration policy for a renewed vote at the shareholders’ meeting. The proposed text of guidance 6.6 seems in particular inspired by ‘Anglo-Saxon’ practices. We doubt whether the proposed guidance is a reflection of generally accepted practices. Consequently, we prefer the text of guidance 6.6 in the 2017 edition of the Principles: “Shareholders should have an opportunity, where a jurisdiction allows, to a binding vote on executive remuneration policies (usually every three years), particularly where significant change to remuneration structure is proposed”.

Guidance 6.9

In some jurisdictions, at least in The Netherlands, it is not allowed that “the board as a whole should determine levels of pay for non-executive directors and the non-executive chair”. Possible conflicts of interest and the importance of adequate checks and balances are the most important reasons for these jurisdictions to grant the shareholders’ meeting the ability to determine the pay levels of non-executive directors. We agree with this line of reasoning. Therefore we cannot support the first part of

the proposed text of guidance 6.9. We recommend that the shareholders' meeting should at least have the right to approve the levels of pay for non-executive directors as proposed by the remuneration committee.

Guidance 7.1

Instead of distinguishing between primarily shareholders and subsequently providers of credit, we are in favour of referring to them on an equal footing. The primary audience of corporate reporting should not only include existing investors, but also potential investors. The information should not be limited to financial performance, but should also include non-financial performance. We therefore suggest amending this guidance to “The board should present a balanced and understandable assessment of the company’s position and prospects in the annual report and accounts in order for shareholders and other stakeholders to be able to assess the company’s financial and non-financial performance, business model, strategy and long-term prospects. While both present and potential investors, lenders and other creditors are the primary audience for corporate reporting, other stakeholders may also find general corporate reporting useful”.

Guidance 7.2

This guidance introduces two hurdles for information: both ‘relevant’ and ‘material’. We wonder if application of both hurdles could lead to divergences in practice. We would expect that a reference to ‘relevant’ only would suffice. Further, we prefer a reference to “value creation for the stakeholders of the company” as opposed to “wealth creation”.

Guidance 7.3 (d)

Eumedion is against a generic call for introducing the principle of conservatism regarding the valuation of assets and liabilities and the calculation of income and expenses. There may be a role for conservatism in situations of high uncertainty. Individual financial reporting standards can have elements of conservatism, but even within the IFRS reporting framework there is no generic call for conservatism in either standard setting or in the application of the standards. Generally, a neutral application of the standards is expected. Guidance 7.3 (d) can be read as a call on companies to apply standards in a conservative manner. This is at cross with IFRS and such call has the negative effect of trying to undermine the consistent application of IFRS around the globe. The second negative effect is that in general, overly pessimistic reporting is no improvement over neutral reporting. A call to report more conservatively than neutral, immediately raises the question how conservative an individual company should apply existing standards. Subsequently, investors will need to guess for each company how conservative the board has been in its application of the standards. There is the paradox that a conservative recognition of revenues and profits in one period is likely to result in recognition of these revenues and profits in a subsequent period. Compared to

neutral application, a conservative bias in accounting therefore results in delayed information to investors. Due to conservatism, investors will tend to discover at a later stage that a company is doing well; and also at a later stage that the company is no longer doing so well, as results seem too long more favourable due to the recognition of performance in a later period, i.e. that under neutral standards would have been recognised sooner in a previous period. Eumedion therefore concludes that useful reporting is generally best served by standard-setters to set neutral standards, and by a requirement for preparers to apply these standards in a neutral manner. Consequently, we strongly recommend you to reflect that in the wording of guidance 7.3 (d).

Guidance 7.4

Solvency ratios in general are in our opinion rather poor indicators of potential financial distress, especially if compared to for example financial leverage. Solvency ratios are also sensitive to how aggressive, or how mild, goodwill has been impaired. We therefore prefer this guidance to drop its reference to solvency. Financial leverage already is addressed in guidance 7.5. We support the reference to short term liquidity and would like to contrast this with a reference to “mid to long term viability”. We are not sure how valuable it is to require a board to state whether the company will be able to meet its liabilities as they fall due. We fear boilerplate disclosures and wonder if there will ever be a board that states that opines that it will not meet its liabilities.

Guidance 8.5

We wonder whether the heading ‘Auditor communications’ sufficiently reflect the text of guidance 8.5. The text of guidance 8.5 is much more focused on audit committee communications than on auditor communications. We recommend you to consider an alternative heading.

Guidance 10.6

We believe that shareholders should not only have the opportunity to submit questions in advance of the shareholders meeting, but also during the meeting. These are fundamental shareholder rights to hold the board accountable. Consequently we recommend to change the phrase “and/or” into: “and”.



We hope that our comments and suggestions are of any assistance. If you would like to discuss our views in further detail, please do not hesitate to contact us.

Yours sincerely,

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