BUSINESS COUNCIL OF CO-OPERATIVES AND MUTUALS

Co-operative and Mutual Enterprise (CME) Governance Principles

Incorporating recommendations, guidance and commentary

Edition 1.2 July 2020

GENERAL INQUIRIES:

info@bccm.coop

National Office
Business Council of Co-operatives and Mutuals
Level 23, 45 Clarence Street
Sydney NSW 2000

This document was prepared by the Business Council of Co-operatives and Mutuals (BCCM) with contributions from the CME 100 Chairs' Forum, BCCM members and academic colleagues. We wish to thank Trent Bartlett FAICD, Antony McMullen and Lyb Makin for their input and hard work in helping to prepare this governance framework. We also wish to acknowledge the contributions of Trish Ridsdale FAICD, the Hon Robert French AC and Eva Scheerlinck in guiding our thinking about the importance of corporate governance for CMEs. We thank the members of the reference group for their invaluable insights and feedback. Finally, we acknowledge and thank the ASX Corporate Governance Council for allowing our adaption of the ASX Corporate Governance Principles.

Edition 1.1 of the CME Governance Principles was published by the Business Council of Co-operatives and Mutuals in July 2018. This edition 1.2, published in July 2020, makes changes to the commentary reflecting developments in the operating environment and governance practices for CMEs over this two year period.

TABLE OF CONTENTS

FOREWORD

The first edition of the CME Governance Principles was developed by the Business Council of Co-operatives and Mutuals (BCCM) in partnership with the Co-operative and Mutual Enterprise (CME) 100 Chairs' Forum.

The Chairs' Forum was initiated by the BCCM in November 2015 to promote the development of the 'highest standards of corporate governance' in the co-operative and mutual sector.

The November 2017 Chairs' Forum approved the release of a first exposure draft of this document for sector consultation, which involved collection of feedback via an online survey and from a reference group representing CMEs in different industries.

The March 2018 Chairs' Forum and the subsequent final consultation period in April-May 2018 provided important confirmation and clarification of the purpose of this first iteration of the CME Governance Principles and Recommendations; it should be a resource that promotes good governance in the CME sector.

The BCCM Board of Directors approved an interim review in November 2019. There is no change to the principles or recommendations in this update. Commentary has been updated to reflect progress achieved by the CME community including reform to allow issuance of Mutual Capital Instruments, the launch of the Mutual Value Measurement (MVM) Framework and the establishment of the AICD Foundations of Directorship Course for CMEs. This updated Edition 1.2 also reflects broader developments impacting corporate governance including the Modern Slavery Act 2018, the Final Report of the Financial Services Royal Commission and the ASX Governance Code 4th Edition.

It is hoped that CME boards find it to be a concise document that can stand alone or complement other governance frameworks, and which provides useful suggestions for effective member-focussed governance.

Terry Agnew
Chair, BCCM
July 2020

'A state cannot survive without the confidence of its people.'

Confucius, 6th Century BCE

INTRODUCTION

What is corporate governance?

Corporate governance can be defined as, 'the framework of rules, relationships, systems and processes within and by which authority is exercised and controlled within corporations. It encompasses the mechanisms by which corporations, and those in control, are held to account.'[1]

For co-operative and mutual enterprises (CMEs), governance is concerned with establishing a clear set of internal and external mechanisms and controls that enable the members of a CME to achieve its purpose. In a study of governance in the largest 60 co-operatives and mutuals globally, Professor Johnston Birchall identified three key mechanisms for effective governance, 'with different emphasis in different co-operatives...These are to achieve representation, expertise or member voice.'[2]

Why governance matters to CMEs

In Australia as well as internationally, we are at a crossroads in relation to corporate governance. Such is the crisis in the governance and culture of corporations that governments are taking unprecedented steps to compel businesses to address systemic failures in their governance processes. Explicit action such as the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry,[3] sends a clear message - poor governance will not be tolerated, may be punishable and is having a real impact on compliance obligations for businesses. Similarly, shareholders and consumers punish poor corporate governance when they sell their shares or choose to do business elsewhere.

Poor governance is not good for businesses. Furthermore, it has a negative impact on consumer confidence. The wider crisis in trust, as evident in research such as The Edelman Trust Barometer,[4] is not only confined to business, but has infected other key institutions like the media, organised religion and sport.

Like government, industry groups, governance educators and peak bodies are taking steps to improve the standards of governance and the accountability of business. The ASX Corporate Governance Council issued a 4th edition of its Corporate Governance Principles in 2019.

In 2015, the International Co-operative Alliance (ICA) conducted a major review of the seven international co-operative principles, aimed at modernising the guidance notes to ensure the principles were suitable for instilling a modern governance culture in CMEs around the world.[5]

In 2019, Co-operatives Sweden published a new co-operative and mutual governance code.

The growing recognition of the contribution of co-operatives and mutuals to Australian economic and community development, suggests it is not only imperative but also opportune for the Australian CME sector to demonstrate, through its own efforts, a commitment to robust, member-focussed governance.

'Core to the identity of the [CME] form of businesses is the claim that it can be clearly distinguished from investor- owned enterprise through its member ownership and governance.'[6] The integral importance of governance, and, importantly, the paucity of understanding of it, in relation to co-operatives and mutuals, was highlighted in the Senate Economics References Committee inquiry into 'cooperative, mutual and member-owned firms'.[7] In its report, the Committee recognised the distinct nature of governance in CMEs when it found that, 'a change to the Corporations Act's definition of duties for directors of mutuals would support a strengthening of governance in mutual organisations' (a finding subsequently echoed by Greg Hammond OAM in his review of the Committee's findings).[8]

Furthermore, the Committee noted that the potential of the CME sector would be limited without 'access to expertise' in relation to governance.[9] The findings of the Committee prompted the sector, through the CME 100 Chairs' Forum, to consider how the level of expertise and knowledge (internally and externally) about CME governance could be improved, with positive outcomes such as the first Foundations of Directorship course for CMEs delivered by the AICD and BCCM in 2019.

Not only as individual firms, but as a sector, it is crucial we demonstrate a commitment to good governance if we are to realise the full value of the unprecedented opportunties before us that have been opened up by the positive reform environment for CMEs.

[1] Justice Owen in the HIH Royal Commission, The Failure of HIH Insurance Volume 1: A Corporate Collapse and Its Lessons, Commonwealth of Australia, April 2003 at page xxxiv.
[2] Johnston Birchall, 2017, The Governance of Large Co-operative Businesses, 5. Available online at https://www.uk.coop/sites/default/files/uploads/attachments/governance-report_2017_final_web.pdf
[3] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. https://financialservices.royalcommission.gov.au/Pages/default.aspx
[4] The Edelman Trust Barometer is available online at https://www.edelman.com/trust-barometer
[5] https://ica.coop/sites/default/files/publication-files/ica-guidance-notes-en-310629900.pdf Guidance Notes to the Co-operative Principles.
[6] Birchall, Governance in Large Co-operatives, 3.
[7] Senate Economics References Committee, 2016, Report about cooperative, mutual and member-owned firms, 31. Available online at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Cooperatives/Report
[8] Greg Hammond OAM, 2017, Independent Facilitator Review: Report on reforms for cooperatives, mutuals and member-owned firms, 57: 'When the directors' duties provisions of the Corporations Act are next reviewed, specific consideration should be given to the adequacy of the law in relation to the duties of directors of mutuals.' Available online at: https://static.treasury.gov.au/uploads/sites/1/2017/11/Independent_Facilitator_Review_Report.pdf
[9] Senate Economics References Committee, Report about cooperatives, 36.

'Every institution must play its part by educating its constituents and joining the public debate, going direct to the end-users of information.'

Richard Edelman, 2018 Edelman Trust Barometer

About the Business Council of Co-operatives and Mutuals (BCCM)

The BCCM is the peak body for Australian co-operatives, mutuals and member-owned enterprises. The BCCM represents a diverse range of enterprises operating in sectors including agriculture, finance and banking, insurance, mobility services, health services, aged care, disability, employment, education, indigenous services, housing, retail and wholesale. The BCCM raises awareness of the co-operative and mutual business model and the important contribution of member-owned businesses to the national economy and community development of Australia.

About the Co-operative and Mutual Enterprise (CME) 100 Chairs' Forum

The BCCM holds a CME 100 Chairs' Forum bi-annually, bringing together the Chairs of co-operative and mutual enterprises to discuss issues facing the sector and the economy more broadly. In 2017 and 2018 the Chairs' Forum focussed on the development of these governance principles for member-owned enterprises

Find out more about the BCCM and our members: bccm.coop

About Co-operative and Mutual Enterprises (CMEs)

Co-operative and Mutual Enterprises (CMEs) are an important part of Australia's economic and community life. CMEs have combined memberships of more than 31 million, indicating many Australians are members of more than one CME.[10] Excluding mutual superannuation funds, the turnover of the sector is approximately $31bn per annum.[11]

The CME sector is diverse in terms of size, industries and structures. These differences are reflected in different approaches to governance. Larger CMEs generally have remunerated directors, well-developed committee structures and a CEO and management team that is responsible for executing strategy. Smaller CMEs may have voluntary boards of directors who are, by necessity, more involved in day-to-day management of their organisation.

CMEs are prominent in the following sectors:

- Banking
- Insurance
- Superannuation
- Agriculture
- Retail
- Marketing and Purchasing Services
- Mobility Services
- Housing
- Health, Care and Community Services
- Indigenous Services

CMEs are most often registered under State and Territory-based co-operatives legislation or as a public company (whether limited by shares, by guarantee, or by shares and guarantee) under the *Corporations Act*.[12] However, there are examples of large mutuals that are registered under State or Territory incorporated associations legislation, and trust law is integral to the organisation of mutual superannuation funds. CMEs may be classified as not-for-profit or for-profit, they may or may not receive distinct tax treatment owing to their particular trading activities and ownership structure (e.g. the mutuality principle) and they may be registered as charities.

Despite all these differences, CMEs share something in common - their purpose is to deliver value to their members, generally through a transactional (customer or supplier) relationship. Hence the credit union motto: 'Not for profit, not for charity, but for service.' No matter the the size, industry or legal structure of a CME, this is an important starting point for effective governance.

[10] Business Council of Co-operatives and Mutuals, 2019, 2019 National Mutual Economy Report. Available online at https://bccm.coop/what-we-do/research-reports/nme-report/
[11] Ibid.
[12] The Co-operatives National Law or consistent legislation has been adopted in all States and Territories

How CMEs can use this document

This document seeks to promote nine central principles for CME governance. Eight of the nine CME governance principles adapt the Australian Securities Exchange (ASX) Corporate Governance Principles and Recommendations 3rd edition for use by CMEs. The ASX Principles[13] are highly regarded and used widely, especially by larger CMEs in Australia, hence adapting these principles with the unique characteristics of CMEs in mind was considered a more efficacious approach than producing a new set of principles. However, future iterations of this document may lead to a governance framework that is more distinct and tailored to the structure and purpose of CMEs. As with the process thus far, the development of these principles is led by and responds to the views of the CME sector.

While a CME may wish to formally adopt the governance principles and report against them (whether alongside another governance framework, or as a standalone framework), the recommendations and commentary in this document are primarily intended to aid consideration of what constitutes effective governance in an organisation that exists to deliver value to members.

Applying the 'if not, why not' approach

It may be a useful strategy for CME boards using this document to apply the 'if not, why not' approach.

The 'if not, why not' approach used in the application of the ASX Corporate Governance Principles and Recommendations is a means of reflecting on whether a recommendation is appropriate for an entity. 'If not why not' puts the onus on an entity to answer why it should not adhere to a recommendation. The test in the case of CMEs, as member-focussed organisations, is whether it is in the interests of its members to follow a recommendation.[14]

Using this document in co-operatives and smaller CMEs

Smaller CMEs, such as small non-distributing co-operatives and smaller friendly society pharmacies, can refer to the guidance notes for co-operatives and smaller CMEs for further suggestions about applying the CME Governance Principles in their entity, given the human and financial resources they have available and the level of risk in the organisation. There are more legal requirements for governance in a co-operative, compared with a company, and these matters are also discussed in the notes.

How the CME Governance Principles in this document relate to the international co-operative identity, values and principles[15]

Co-operatives are businesses owned and run by and for their members. Whether the members are the customers, employees or residents they have an equal say in what the business does and a share in the profits.

As businesses driven by values, not just profit, co-operatives share internationally agreed principles and act together to build a better world through co-operation. The International Co-operative Alliance (ICA) statement on co-operative identity, values and principles (the seven co-operative principles) is universally adopted by the co-operative movement. The principles are based on the principles of the Rochdale Society of Equitable Pioneers, formed in 1844.[16] The current version of the co-operative principles were adopted globally in 1995 by the ICA and, in Australia, are enshrined in sections 10 and 11 of the Co-operatives National Law.[17]

At a time when many business sectors are looking to improve their culture by defining core values (now recommended by the 4th edition of the ASX Corporate Governance Principles), the statement on co-operative identity, values and principles is an important framework for informing and applying the CME Governance Principles.

While recognising there may be differences between co-operatives and mutuals, it is desirable that both work under common frameworks as the two are increasingly seen as comprising a distinct and attractive sector of the Australian economy. Ultimately all co-operatives and mutuals are member-owned firms.[18]

[13] ASX Corporate Governance Council, 2014, Australian Securities Exchange (ASX) Corporate Governance Principles and Recommendations (3rd Edition). Available online at https://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf
[14] See the member-focussed 'if not why not' approach used in the AIST Governance Code. Australian Institute of Superannuation Trustees, 2017, AIST Governance Code, 4. Available online at https://www.aist.asn.au/AIST/media/General/Governance/Governance%20Code/aist-governance-code-2017.pdf
[15] See https://ica.coop/en/whats-co-op/co-operative-identity-values-principles
[16] See https://www.grocer.coop/articles/co-op-principles-then-and-now-parts-1-and-2
[17] Alongside the Co-operatives National Law, Queensland and Western Australian co-operatives legislation both enshrine the co-operative principles. See Sections 6-7 Co-operatives Act 2009.
[18] UK Government, 2012, Sharing Success: The Nuttall Review of Employee Ownership referenced in Commonwealth of Australia Senate Economics References Committee, 2016 Cooperative, Mutual and Member-Owned Firms, 3. Available online at: http://www.aph.gov.au/Parliamentary_Business/Committees/ Senate/Economics/Cooperatives

Notes for mutuals considering the co-operative principles

The ICA's definition of a co-operative emphasises joint ownership by the members. In some cases the members of a mutual are not its legal owners, but derive rights that resemble typical legal ownership rights through their customer relationship with the mutual. They may or may not have a beneficial ownership right.

The third co-operative principle emphasises the role of members as direct investors of capital, such that investment (even of a nominal amount) is usually a requirement of membership of a co-operative. Members of a mutual are often not direct investors, rather they contribute through their customer relationship with the mutual.

The international co-operative statement of identity, values and principles is included as an appendix on page 38 of this document.

The ICA provides guidance notes on the co-operative principles.[19]

The World Council of Credit Unions (WOCCU) provides an adapted version of the principles for financial co-operatives (credit unions, building societies and mutual banks).[20]

[19] International Co-operative Alliance, 2015, Guidance Notes on the Co-operative Principles. Available online at https://www.ica.coop/en/media/library/research-and-reviews/guidance-notes-cooperative-principles
[20] WOCCU International Operating Principles: https://www.woccu.org/documents/2017_WOCCU_International_Operating_Principles

THE 9 CME GOVERNANCE PRINCIPLES

Principle 1: Create, protect and return member value: A CME should act on behalf of its members to achieve its agreed purpose by pursuing the sustainable creation, protection and return of value to current and future members.

Principle 2: Lay solid foundations for management and oversight: A CME should establish and disclose the respective roles and responsibilities of its board and management and how their performance is monitored and evaluated.

Principle 3: Structure the board to add member value: A CME should have a board that meets the organisation's minimum requirements, is of an appropriate size, diversity and composition, and has the skills and commitment to discharge its duties and responsibilities effectively.

Principle 4: Act ethically and responsibly: A CME should act ethically and responsibly in relation to its members and other stakeholders.

Principle 5: Safeguard integrity in CME reporting: A CME should have formal controls and rigorous processes that safeguard its assets, provide independent attestations to members of the integrity of its financial processes and disclosures, and can demonstrate alignment with purpose.

Principle 6: Make timely and balanced disclosure: A CME should make timely, transparent and balanced disclosure of all matters concerning it that a reasonable person would expect to have a material effect on the value received from ongoing membership and the interests of members and other stakeholders.

Principle 7: Respect the rights of members and other stakeholders: A CME should respect the rights of its members and other stakeholders by enabling them to access information, and where appropriate, education and training to allow them to exercise those rights effectively.

Principle 8: Recognise and manage risk: A CME should establish a sound risk management framework and periodically review the effectiveness of that framework in relation to the creation, protection and return of member value.

Principle 9: Remunerate fairly and responsibly: A CME should pay director remuneration sufficient to attract and retain high quality member and independent directors and design its executive remuneration to attract, retain and motivate high quality senior executives and employees and to align their interests with the creation of value for members and other stakeholders

The CME Governance Principles are complemented by recommendations, guidance and commentary, which provide suggestions and prompt consideration about how different types of CME (whether by structure, sector or size) may apply the Governance Principles.

PRINCIPLE 1:
CREATE, PROTECT AND RETURN MEMBER VALUE

A CME should act on behalf of its members to achieve its agreed purpose by pursuing the sustainable creation, protection and return of value to current and future members.

Commentary

Principle 1 is arguably the most important. It is a new principle developed to make explicit the core difference between CMEs and other corporate forms; co-operatives and mutuals exist to create, protect and return value to members.

This purpose distinguishes CMEs from other types of organisation, such as investor owned firms (IOFs), which are owned by shareholders and exist primarily to maximise financial returns to them. The creation, protection and return of value to members therefore lies at the heart of CME governance, as boards are accountable to members through their capacity to achieve this. The development of strategic objectives to this effect that are ratified by, if not developed in collaboration with, the wider membership, provide an accountability framework between not only members and the board, but also between the board and management.

Recommendation 1.1 - Strategic Objectives

The board of a CME should:

a. consistent with its governing document, purpose and primary activities, develop a clear set of strategic objectives designed to ensure the sustainable creation, protection and return of value for current and future members;

b. obtain collaboration and support for these strategic objectives from the membership;

c. monitor and review implementation of these strategic objectives; and

d. report regularly to members as to the implementation, monitoring and review of these strategic objectives.

Commentary

How the CME board applies a member-focussed approach to the development, implementation, monitoring and reporting of the CME's strategic objectives is a matter for each CME and is different in each case. It is a function of many factors including the size of the entity, its specific legal structure, the regulatory regime in which it operates and the industry sector. Ultimately, members adjudicate on the effectiveness of an entity in delivering member value by choosing to remain members. The ongoing success or performance of a CME is therefore an expression of this 'adjudication' by members on the effectiveness of a CME's governance.

To be effective, CME boards should also consider how much weight they give to future members. The member value proposition of a CME will likely change over time: existing and prospective member needs may change, the external operating environment may change or the membership could become more diverse through mergers or through younger members joining. In such circumstances there is a need for leadership from the board and careful planning to make necessary changes so that the CME's purpose, activities and strategy continue to be aligned with the creation of member value.

Recommendation 1.1 suggests CMEs should 'monitor and review' and 'report regularly to members' in relation to their strategic objectives. In 2019, BCCM and Monash Business School launched the Mutual Value Measurement (MVM) framework as a tool for CMEs to measure their total value to members and the community. The MVM framework can assist CMEs to review and communicate to members about progress on strategic objectives, particularly where performance cannot be ascertained using standard financial measures.
(https://bccm.coop/mvm/)

> *'Core to the identity of the [CME] form of businesses is the claim that it can be clearly distinguished from investor-owned enterprise through its member ownership and governance.'*
>
> *Johnston Birchall, 2017, The Governance of Large Co-operative Businesses*

PRINCIPLE 2:
LAY SOLID FOUNDATIONS FOR MANAGEMENT AND OVERSIGHT

A CME should establish and disclose the respective roles and responsibilities of its board and management and how their performance is monitored and evaluated.

Recommendation 2.1 - Roles and responsibilities

A CME should disclose the respective roles and responsibilities of its board and management.

Commentary

Principle 2 adapts the 3rd edition ASX Corporate Governance Principle 1 by referring to a 'CME' rather than a 'listed entity'.

As with a listed entity, clearly articulating the division of responsibilities between the board and the management will help manage the expectations and avoid misunderstandings about their respective roles and accountabilities.

While CMEs may have different approaches and in most CMEs, operational decisions are delegated to key management positions, the matters reserved for the board and executive should be clearly set out to avoid role confusion and ensure that delegated authority is adhered to. Importantly, legal and fiduciary director duties arising under both company and co-operatives law are non-delegable duties.

CMEs should be clear in their disclosures to members regarding the specific role of non-member or independent directors, including their contribution to the creation, protection and return of value to members. CME boards may also consider how a clear policy on matters reserved to, and the processes for, board decision-making may also serve to guide effective governance of their organisation.

Birchall suggests that larger CMEs may consider not only the relationship and roles of board and management, but also the roles and relationships between members and board, management and staff, and in many CMEs, between frontline employees and members. Birchall posits that in a well-designed CME, the 'circle is complete when the relationship between employees and members becomes mutually reinforcing.'[21]

Recommendation 2.2 - Board accountability to members

A CME should have mechanisms in place to ensure board accountability to members.

Commentary

CMEs are distinguished from other types of enterprise by way of their member-focus. Members, whether they are the legal owners of the CME or not, will usually have the rights conventionally associated with ownership of an organisation: governance rights (for example, election of the board, right to information) and economic rights (receipt of or allocation of surpluses for agreed purposes).

For co-operatives the governance rights of members are enshrined in legislation. Co-operative boards must have a majority of member directors on the board, and retain one member one vote in member director elections and general meetings. Furthermore, there are some decisions in co-operatives that must be decided at a general meeting, such as the approval of director remuneration. While not a guarantee of accountability, these representation and voice mechanisms encourage co-operative boards to remain accountable to members.

CMEs using other legal forms have more flexibility in the extent or manner in which a board is representative of the members. Globally, it is common for insurance mutuals, for example, to have an appointed board of experts. In these types of governance structures, there is often an intermediate body between the members and the board, a representative Member Council, which holds the board to account on behalf of the members.

Often these governance structures are a product of the legal or regulatory environment, or the historical development of sustainable CME business models in a particular industry.

Nevertheless, Johnston Birchall argues that CME boards should 'include people who are intensive users of the [CME]'[22] because this helps build the relationship between members and the board, which is needed to develop trust with members, for the board to set a member-focussed strategy, and for the board to be confident in holding management to account on behalf of the members. At a minimum, it is suggested that CMEs provide members with information on how to nominate for the board (or equivalent body such as a Member Council, as the case may be).

Whatever governance structure a CME has, however, CME boards should reflect on and understand their role in relation to member representation and what mechanisms are in place to promote accountability of the board to members.

The Swedish approach

In 2019 the Swedish CME sector published the Swedish Co-operative Code.

'The objective of the code is to promote member dialogue and the democratic decision-making process in modern co-operative and mutual enterprises, and to improve transparency and the openness of the Board's management work.'

https://svenskkooperation.se/code-cooperatives-mutuals/

[21] Johnston Birchall, 2017, The Governance of Large Co-operatives Businesses, 5. Available online at https://www.uk.coop/resources/governance-large-co-operative-businesses-0
[22] Ibid., 31.

Recommendation 2.3 - Due diligence on board appointments

A CME should:

a. undertake appropriate checks before appointing a person, or putting forward to members a candidate for election, as a director;

b. provide members with all material information in its possession relevant to a decision on whether or not to elect or re-elect a director.

Commentary

CMEs have an imperative to ensure that the interests of their members are faithfully represented. This is perhaps no more important than in the election or appointment of directors to the board. CME boards may need to reflect on how they can balance screening, necessary skills and democratic processes and representation in the best interest of members. For example, if the CME is in a highly complex or competitive industry, are there ways of developing capable leadership through offering education, mentorship or training for a select pool of candidate members? Is it necessary to require some minimum skills for some or all member director positions? It will of course be necessary to conduct some screening of candidates (e.g. fit and proper test required by APRA and respective regulatory frameworks including criminal and bankruptcy checks or previous disqualifications from directorship).

The Australian Institute of Superannuation Trustees (AIST) Governance Code acknowledges that both representation and expertise are integral to funds delivering on their business strategy. The Guidance to the AIST Governance Code discusses how a 'renewal committee' (perhaps combined with the nominations committee) in profit-to-member superannuation funds, should engage with the stakeholders who are represented on the board to ensure there is a pool of potential directors within the represented groups with the necessary skills and values.[23]

Members should be made aware of the skills and experience required on the board in order to support the creation, protection and return of member value. With member approval, CMEs may impose skill or eligibility requirements for certain board roles (such, as for example, board roles for representatives from various member/stakeholder groups), however, any such roles must be consistent with the rules set out in each CME governing document and law.

Recommendation 2.4 - Terms of appointment

A CME should have a written agreement with each director and senior executive setting out the terms of their appointment.

Commentary

A document that clearly sets out the terms of an appointment in writing is good practice. At the most fundamental level, terms of appointment must clearly set out the rights, duties and responsibilities of both the appointee and the CME entity (including indemnity and insurance arrangements). These responsibilities should also include explanation of the board's code of conduct and policy in relation to managing conflicts of interest. This written agreement may also include a set of minimum standards for directorship.

Importantly also, the imposition of maximum terms for the holding of office should be consistent with the principles of democratic governance and, either through the governing document or otherwise, receive the support of the wider membership.

Well drafted terms of appointment for directors and senior executives will also provide the CME with an appropriate framework through which to monitor or review performance. The terms of appointment may include provisions for further training, mentoring or, in certain circumstances, termination of the appointment.

Recommendation 2.5 - Company secretary

The secretary of a CME should be accountable directly to the board, through the chair, on all matters to do with the proper functioning of the board.

Commentary

The CME secretary is appointed by the board in accordance with law and the CME's governing document. In many CMEs, the board sets the terms and conditions, including remuneration, of the secretary.

The secretary has duties to ensure the CME meets its registration and incorporation obligations, whether under company or co-operative law. As part of their role, CME secretaries must guide the board through all procedural matters relating to governance. CME entities should refer to their governing law and regulations to understand the legal duties of the secretary.

Recommendation 2.6 - Gender and cultural diversity

A CME entity should:

a. have a diversity policy which includes requirements for the board or a relevant committee of the board to set measurable objectives for achieving gender diversity and pay parity and to assess annually both

[23] See Australian Institute of Superannuation Trustees, 2017, AIST Governance Code Guidance, 17. Available online at https://www.aist.asn.au/AIST/media/General/Governance/Governance%20Code/aist-governance-code-2017.pdf

the objectives and the entity's progress in achieving them;

b. disclose that policy or a summary of it; and either:

i. the respective proportions of men and women on the board, in senior executive positions and across the whole organisation (including how the entity has defined "senior executive" for these purposes); or

ii. if the CME entity is a 'relevant employer' under the Workplace Gender Equality Act, the entity's most recent Gender Equality Indicators, as defined in and published under that Act; and

c. have a cultural diversity policy.

Commentary

At a general level, CME boards (or, as the case may be, Member Council) should be broadly representative of their wider membership. In most cases, a CME's membership will be gender diverse and it is therefore unsurprising that such diversity should be reflected on the board. In any well-functioning system, diversity is a sign of both health and resilience. Advantages that a CME may gain from a diverse board include access to a broader talent pool, improved board decision-making and better member representation.[24]

Additionally, a CME could consider cultural and socio-economic diversity, for similar reasons.

There is much that member-owned organisations can do to promote greater diversity on both their boards and, for larger entities, within their workforce. The 2017 BCCM and Per Capita report on gender diversity, 'Eliza's Project: Gender Inclusion in the CME Sector in Australia',[25] made 11 recommendations for the content of a gender diversity policy focussed on developing and embedding flexible work practices.

For CMEs with 100 or more staff, additional mandatory responsibilities will apply, as per the requirements of the Workplace Gender Equality Act 2012. For more information, visit the Workplace Gender Equality Agency: https://www.wgea.gov.au/.

A Disability Inclusion Toolkit was published by BCCM in December 2019 to assist CMEs to be employers of choice for people with disabilities: https://www.getmutual.coop/disability-inclusion-toolkit/

Suggestions for the content of a diversity policy

The Business Council of Co-operatives and Mutual's gender diversity report, undertaken by Per Capita in 2017, made a number of actionable recommendations for CMEs to address the matters referred to in recommendation 2.6. These include:

- Committing to implementing a flexible work policy across the workplace;
- Training for managers to support a flexible workforce; and,
- Putting the infrastructure in place to support flexible working practices

In addition, the report recommended:

- CMEs implement programs for organisational-wide cultural change for greater inclusion; and,
- Empower middle managers to enact cultural change

In responding to the need for leadership in the sector, the report recommended that the BCCM should develop a leadership role and encourage the sector to be more involved with mainstream diversity and inclusion programs, and commit to broader inclusion across the sector.

Detailed policies can be found in, 'Eliza's Project: Gender Inclusion in the CME Sector in Australia.'[26]

Recommendation 2.7 - Board Performance

A CME entity should have a process for periodically evaluating the performance of the board, its committees and individual directors.

Commentary

The board members of a CME entity - whether acting as a collective, on committees, or as individual directors - must act in the best interests of the membership as a whole.

A strong performance evaluation process will set clear standards or targets for each board member, so that expectations for performance are clear from the outset. The performance of individual directors (whether member, non-member or independent) should be evaluated on the basis of their unique statements of role and responsibility and also captured through any terms of appointment.

Performance against any standards should be regularly monitored and reviewed to ensure that there are appropriate mechanisms in place to improve upon poor performance, e.g. training, mentoring or re-evaluation of targets. While the details of this monitoring and review will not necessarily be shared with the wider membership, members can be made aware, through annual reporting and other communications, that continuous improvement in governance is a key priority for their organisation.

[24] Australian Government Workplace Gender Equality Agency, 2013, The business case for gender equality. Available online at https://www.wgea.gov.au/sites/default/files/business_case_for_gender_equality.pdf

[25] BCCM and Per Capita, 2017, Eliza's Project: Gender Inclusion in the CME Sector in Australia. Available online at https://percapita.org.au/wp-content/uploads/2018/05/Elizas-Report_Final-1.pdf

PRINCIPLE 3:
STRUCTURE THE BOARD TO ADD MEMBER VALUE

A CME should have a board that meets the organisation's minimum requirements, is of an appropriate size, diversity and composition, and has the skills and commitment to discharge its duties and responsibilities effectively.

Commentary

The discharge of duties in a CME is fundamentally shaped by its member focus. Whereas in a listed entity, the board needs to have an appropriate number of independent, non-executive directors who can challenge management and hold them to account, and also represent the best interests of the listed entity and its security holders as a whole, in a CME, boards must understand their role in relation to member representation and what mechanisms are in place to promote accountability of the board to members, and through this accountability to members, the purpose of the entity.

A CME should reflect on what level and form of member representation, and therefore what board structure, is appropriate for it to realise its organisational purpose over time. This may be informed by the historical structure of the CME. It may also be informed by the political, legal and regulatory environment in which the CME operates. CMEs in highly regulated or technical sectors may have a more pressing need to get external expertise on the board. They may design ways to attract the necessary expertise from within the membership, such as member education and skills qualifications for directors, without reducing the number of member directors on the board. Alternatively, they may consider increasing the number of non-member or independent skills based directors, and develop a Member Council that undertakes the member representation function.

Recommendation 3.1 - Nomination committee

The board of a CME should:

a. have a nomination committee that has at least three members; or

b. if it does not have a nomination committee, disclose that fact and the processes it employs to address board succession issues and to ensure that the board has the appropriate balance of skills, knowledge, experience, independence and diversity to enable it to discharge its duties and responsibilities effectively.

Commentary

CMEs need formal, rigorous and transparent processes for the nomination, election and appointment of all directors - member, non-member and independent directors alike. CME boards should reflect on the appropriate level of member engagement required in their entity in relation to board succession (regardless of whether succession takes place by way of election or board appointment). For larger organisations, this will likely include the development of a focussed nomination committee, informed by regular auditing of board skills and experience, along with a clear plan for board succession. To retain corporate knowledge, board succession may be a staged process, with induction and exit processes for incoming and outgoing directors.

Recommendation 3.2 - Board skills matrix

A CME should have and disclose a board skills matrix setting out the mix of skills and diversity that the board currently has or is looking to achieve in its membership, that is informed by the purpose and strategic objectives of that entity.[27]

Commentary

In addition to the skills that all boards require, such as financial literacy, risk management and strategic planning, it is important to ensure that skills audits undertaken accurately reflect the skills and experience that a CME requires on its board to meet its purpose and primary activity. A CME may put in place a board learning and development plan that addresses board education and training needs, and which also:

i. ensures understanding of the CME business model;

ii. increases board understanding of the economic, social and cultural factors relevant in the industry; and,

iii. addresses any skill gaps in the board.

Where specific skill sets require further development, the board may prioritise training and professional development opportunities for its member directors and its pool of member candidates. In some cases it may also be appropriate for the board to seek the support of a professional advisor and/or appointment of an independent or non-member director. At all times, the focus of the board in undertaking skills audits should be on how this contributes to creating, protecting and returning member value.

Given the democratic election of member directors in many CMEs, information about skill requirements should be disclosed to members in advance of director nomination and election processes, in such a manner that enables each member to be properly informed about the board's perceived needs, into the future.

Treasury Laws Amendment (Mutual Reforms) Act 2019 was passed on 5 April 2019. It creates a new Mutual Capital Instrument for eligible mutual entities. When considering issuing MCIs, CME boards should consider the skills required at board level for implementation and ongoing oversight of an entity with MCIs on issue.

[27] The disclosure need only be made collectively.

Recommendation 3.3 - Independent and Non-Member Directors

A CME should disclose:

a. the names of each independent or non-member director;

b. if a director has an interest or position in, association or relationship with the CME, but the board is of the opinion that that it does not compromise the independence of the director, the nature of the interest, position, association or relationship in question and an explanation of why the board is of that opinion;

c. the general terms of appointment of each independent or non-member director, including length of service; and,

d. the skills and experience of each independent or non-member director, and the relevance of these skills and experience to the creation, protection and return of member value.

Commentary

Many CMEs will have boards comprised wholly of member directors. For those CMEs that do appoint independent or, in the case of co-operatives, non-member directors to the board, it will be important to demonstrate to members the specific role of each director in creating, protecting and returning member value.

The appointment of an independent or non-member director to the board must be consistent with the rules set out in each CME entity's governing document, and under governing legislation.

Recommendation 3.4 - Member Representation

A CME entity should ensure there is adequate member representation in its governance.

Commentary

In his study of the 60 largest co-operatives and mutuals globally, Professor Birchall finds that the challenge of effective governance in CMEs is to balance member representation, expertise and member voice, each of which contributes to a CME's ability to deliver value to members over time. The two most common governance structures in the 60 largest CMEs are direct elections to a board of which the majority are member directors, and indirect election of the board via a Member Council.[28]

Member representation is achieved through the election of member directors to the board and/or to other governing bodies such as a Member Council.[29] Member representation provides strong links between a CME and its service users and assists the board to hold management to account in line with member expectations. Put simply, it increases the likelihood of a CME making decisions that are in the interests of its members.

Member voice is achieved through voting and elections in which members participate. Member voice can be important in building loyalty and trust.

Expertise involves the board ensuring it has the necessary skills and knowledge to govern the CME effectively as a business.

While some CME boards may be structured so as to comprise member directors representing various constituencies within the broader membership, it is incumbent upon all directors - whether member, non-member or independent - to represent the interests of all members, i.e. the CME as a whole. As with all governance matters, the structuring of the board must be consistent with the rules set out in each CME's governing document and the requirements of governing legislation.

Recommendation 3.5 - Role of the Chair

To provide leadership that ensures the creation, protection and return of value to the members, the Chair of the board of a CME entity should meet any governing document requirements and have appropriate skills.[30]

Commentary

The CME board plays a critical role in representing the organisation, providing leadership to the board and ensuring strong governance across various parts of the organisation - board, management and members. For smaller CME entities, the position of chair might be a rotating one, however, as an organisation grows in size and turnover, it becomes critical that the role of Chair is formalised in role statements and terms of appointment.

As member-focussed organisations, CMEs may seek to have a member Chair, all else being equal. However, CMEs will need to consider the requirements of their governing document and the need for a Chair with the appropriate skill set.

Whether a CME is small, or large, a separation between the strategic and operational functions of board and management is good governance practice. At the very

[28] Birchall, Governance of Large Co-operatives, 100.
[29] Ibid., 38.
[30] This recommendation should be read in conjunction with recommendation 2.1

least, such a separation promotes a culture of openness and accountability. The Chair should maintain a strong working relationship with the CEO (and through the CEO the management team) to manage appropriate communication flows between board and executive.

Recommendation 3.6 - Induction program for directors

The CME entity should have a program for inducting new directors and provide appropriate learning and development opportunities for directors to develop and maintain the skills and knowledge needed to effectively perform their role as a director.

BCCM members can access a CME director induction guide, available on request: info@bccm.coop

Commentary

Induction programs for new directors should be designed to ensure a smooth transition onto the board and, particularly for independent or non-member directors, provide an opportunity to become acquainted with organisational culture. This may be a particularly important opportunity to reinforce the values and member-focussed purpose of the CME to the new director. Induction programs must ensure that directors become as effective as possible, as quickly as possible - and this includes providing appropriate education, information and training to directors that will ensure that the board is effective as a collective decision making body.

Beyond being an exercise in team building, induction programs may also provide new directors with information about the key opportunities and challenges facing the board. The information gained during the induction process may also be used to inform the development of a CME-specific Education, Training and Information Plan - for directors, members and potential member directors.

Board induction topics

New directors should understand a range of matters including, but not limited to:

a. The history of the entity;

b. CME values and the CME business model;

c. the constitution/rules, strategic plan, budget, key financial statements and policies (including codes of conduct) of the CME;

d. the level and extent of board authority and delegations; the processes for member engagement;

e. all legal, financial management and compliance obligations; and,

f. the risk profile of the CME and related risk.

PRINCIPLE 4: ACT ETHICALLY AND RESPONSIBLY

A CME should act ethically and responsibly in relation to its members and other stakeholders

Commentary

The recent corporate governance failures that gave rise to the Royal Commission into banking[31] and other business conduct reviews provide added impetus for examining what it means to act ethically and responsibly with regard to corporate behaviour and conduct.

An entity's reputation is one of its most valuable assets, and if damaged, can be one of the most difficult to restore. In the case of a listed entity, reputation damage can destroy or seriously reduce its share value.[32] Acting ethically and responsibly goes beyond mere compliance with legal obligations and acting with honesty and integrity to create, protect and return value to members; it includes acting ethically towards the broader community. In the case of co-operatives, Co-operative Principle 7, Concern for Community, requires that 'Cooperatives work for the sustainable development of their communities through policies approved by their members.'[33]

The existence of prescribed co-operative principles (in the case of entities incorporated under co-operatives law) and the focus on member benefit in the case of CMEs more generally works to instill a culture of ethical and responsible behaviour from the base up.

Commonwealth Modern Slavery legislation has been enacted and there are reporting obligations for firms with a consolidated revenue of more than $100 million. Firms must prepare a Modern Slavery Statement within six months of the end of their first reporting year after 1 January 2019. (https://www.homeaffairs.gov.au/criminal-justice/Pages/modern-slavery.aspx)

Recommendations of the Hayne Royal Commission are in the process of being implemented. Boards of financial services CMEs will be aware there is a range of changing and additional compliance obligations for their firms. For example, BEAR requirements may be extended beyond ADIs to other APRA-regulated firms. The Implementation Roadmap provides a useful overview: https://treasury.gov.au/p2019-399667.

Instilling corporate values and culture

One of the main changes in the 4th edition of the ASX Corporate Governance Principles and Recommendations, published in 2019, is in Principle 3.[34]

Previously, this principle was to 'act ethically and resonsiblly'.

Now it is: 'Instil a culture of acting lawfully, ethically and responsibly'.

The change reflects the growing acceptance, particularly post-Hayne, that the role of the board of any organisation includes fostering an ethical culture. Indeed, the Government accepted the recommendation that firms should be expected to monitor culture on an ongoing basis.

The ASX now recommends that boards of listed firms are responsible for articulating and disclosing the purpose and values of the firm. The ASX commentary also encourages firms to consider its relations with a range of stakeholders (such as employees and the community) who will impact the firm's ability to deliver value to investors in the long run.

The CME Governance Principle 4 acknowledges the longstanding concern in the CME sector for non-member stakeholders by including 'other stakeholders'.

Recommendation 4.1 - Code of Conduct

A CME should have a code of conduct for its directors, senior executives and employees, which addresses expectations for ethical and responsible conduct in relation to members, employees and other stakeholders.

Commentary

CMEs may also choose to develop a general code of conduct to govern such issues as the ethical treatment of employees in line with Australian industrial law; creating safe and non-discriminatory workplaces; dealing honestly and fairly with suppliers and customers; instilling good environmental stewardship and only dealing with business partners that demonstrate similar ethics.

To safeguard its integrity and reputation, the board may have a documented procedure to enable employees (and in some cases volunteers or other members) to raise concerns in confidence, in relation to matters of financial reporting, financial control or any other issues (see recommendation 4.2).

[31] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://financialservices.royalcommission.gov.au/Pages/default.aspx
[32] See for example The Conversation, 2015, Why the Volkswagen share price slump goes beyond market logic. Available online at https://theconversation.com/why-the-volkswagen-share-price-slump-goes-beyond-market-logic-48123
[33] See International Co-operative Alliance, Statement of Co-operative Identity, Values and Principles. Available online at https://ica.coop/en/whats-co-op/co-operative-identity-values-principles
[34] Australian Securities Exchange (ASX) Corporate Governance Council, 2019, Corporate Governance Principles and Recommendations (4th edition): https://www.asx.com.au/documents/regulation/cgc-principles-and-recommendations-fourth-edn.pdf

The role of organisational culture

Culture is a set of shared values and assumptions that constitute the norms or 'unwritten rules' of a society or organisation.[35] Culture affects the decisions and conduct of members, boards, management and employees in an organisation, as conduct and decisions will never be made with reference to the letter of relevant laws, rules or policies. For CMEs, a positive culture will likely be rooted in fundamental values and principles of the CME, such as the co-operative values and principles.

Greg Medcraft, former Chair of the Australian Securities and Investments Commission, suggests that the following are drivers of a positive organisational culture rooted in the values of the organisation:[36]

- Tone from the top: Boards and senior management are responsible for driving culture, including setting the values and principles of the organisation.
- Accountability: Organisational culture is mostly 'lived' at the frontline, so it is important that staff at all levels understand the organisation's values. Staff should be rewarded for conduct that adheres to the values and held accountable for non-compliant conduct.
- Openness: An organisation should encourage a diversity of views, critical attitudes and testing of current practices.
- 'Recruitment, Training and Rewards': An organisation should recruit, train and reward staff based on its values.

In setting the tone, boards may consider whether culture is a regular feature of board agendas, whether any cultural indicators are included in board dashboard reports and whether there is engagement with members, staff and other stakeholders to understand alignment of values.

Recommendation 4.2 - Whistleblower protection policy

A CME should have and disclose a policy in relation to whistleblower protection.

Commentary

The 4th edition of the ASX Corporate Governance Principles and Recommendations recommends that firms have a whistleblower policy.

The 4th edition of the ASX Corporate Governance Principles and Recommendations also recommends that firms have an anti-bribery and corruption policy.

As of 1 January 2020, whistleblower policies are a legal requirement for most public companies, large proprietary companies and superannuation trustees[37].

In addition, a whistleblower should be afforded suitable protections and the board should be informed of any material concerns raised under that policy. This requirement is in line with the Australian government's proposed new whistleblower protection regime which creates a single regime to cover the corporate, financial and credit sectors.

For co-operatives it could be argued that the Oppressive Conduct provisions in the Co-operatives National Law[38] provide some avenues for members to refer matters relating to potentially corrupt or oppressive conduct externally.

In order to drive strong standards of governance across the CME sector and to enshrine the traditional co-operative values of honesty, openness and caring for others,[39] a policy concerning whistleblower protections is considered good practice - especially for larger CMEs. The board may have a documented procedure to enable employees (and members) to raise concerns in confidence, in relation to matters of financial reporting, financial control or any other issues.

[35] Greg Medcraft, 2017, The importance of corporate culture. Available online at http://download.asic.gov.au/media/4211539/greg-medcraft-speech-to-ahri-senior-hr-directors-forum-luncheon-published-6-april-2017.pdf
[36] Ibid.
[37] See https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/
[38] Sections 131-139, Co-operatives National Law
[39] See the co-operative values: https://ica.coop/en/whats-co-op/co-operative-identity-values-principles

PRINCIPLE 5: SAFEGUARD INTEGRITY IN CME REPORTING

A CME should have formal controls and rigorous processes that safeguard its assets, provide independent attestations to members of the integrity of its financial processes and disclosures, and can demonstrate alignment with purpose.

Recommendation 5.1 - Audit Committee[40]

The board of a CME should:

a. have an audit committee that:

i. has at least three members, the majority of whom may be (optional) independent/non-member directors (or independent appointees of the board); and

ii. is chaired by an independent/non-member director or an independent person appointed by the board; and

iii. discloses the following:

- the relevant qualifications and experience of the members of the committee; and
- in relation to each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or

b. if it does not have an audit committee, disclose that fact and the processes it employs that independently verify and safeguard the integrity of its corporate reporting, including the processes for the appointment and removal of the external auditor and the rotation of the audit engagement partner.

Commentary

The board of a CME has a responsibility to the members to ensure the adequacy of its corporate and finance reporting frameworks.

For larger organisations (with the capacity for a separate audit committee) an audit committee will likely deliver additional focus, consideration and transparency to a range of matters affecting the CME's internal systems and overall performance. Where audit committee members do not possess the requisite qualifications and experience, the board should make use of external professional advisors in order to strengthen committee functions.

Note: Most CMEs combine audit and risk into one committee. However, in the area of financial services, a CME will typically establish separate audit and risk committees.

Recommendation 5.2 - Financial Statements

The board of a CME entity should, before it approves the entity's financial statements for a financial period, receive from its CEO and CFO (or equivalent officers in a smaller entity) a declaration that, in their opinion, the financial records of the entity have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of the entity and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively.

Commentary

This recommendation reflects and extends the provisions of the Corporations Act, which at section 295A requires the chief executive officer and chief financial officer to provide a declaration that the financial records have been properly maintained, prepared in accordance with the relevant accounting standards, and give a true and fair view of the financial position of the entity.

For any large organisation with CEO and CFO functions, this is good practice; however regardless of the application of this recommendation, directors must not rely solely on the opinion of management when making such an appraisal themselves. Rather, to effectively fulfil their legal and fiduciary duties, directors should ensure that they have made appropriate enquiries (for example, through discussion at board meetings) to trust the veracity of any such declaration made by management.

While financial reporting is a baseline requirement for all firms, these measures may not capture the total value being generated in a CME. Responding to this challenge, in 2019, BCCM and Monash Business School launched the Mutual Value Measurement (MVM) framework. The MVM framework can assist the CME sector to measure and communicate the total value its creates for members and the community, thereby assisting the CME to produce reports that have integrity and more fully demonstrate alignment with CME purpose. (https://bccm.coop/mvm/)

Recommendation 5.3 - Annual General Meetings and Audits[41]

1. A CME that has an Annual General Meeting (AGM) should ensure that its external auditor (or equivalent, as applicable) attends its AGM and is available to answer questions from members relevant to the audit.

2. The board of a CME should ensure that all members are:

a. encouraged to attend AGMs and that attendance is made as easy as possible for as many members as possible; and

b. provided information about how they may democratically participate in AGMs.

[40] Where a CME combines audit and risk, then this recommendation can be read alongside recommendation 8.1
[41] See also recommendation 7.3

Commentary

As member-focussed organisations, CME boards are accountable to their members, many of whom will likely also be security holders. The capacity for members to appoint, direct and ask questions of an external auditor at the AGM is an important accountability measure and good governance practice for member-owned organisations, regardless of size.

Some CME security holders will not also be members. CMEs should seek legal advice in relation to the rights of these security holders when preparing relevant disclosure documents and terms of issue.

Developments in online technology make it less costly than in the past to provide members with flexible options for participation in the AGM such as remote access. CMEs may also consider innovative approaches to AGMs, such as that of the Co-operative Group in the UK, which holds workshops and a 'marketplace' where members can sample new Co-op Food products before and after the formal AGM proceedings.[42]

[42] See Co-op Group, AGM Booklet 2018: https://assets.ctfassets.net/5ywmq66472jr/1dHFHKhv9QIGmMGwq2YQCy/2c7c3953bba495ab6e8c1ae83ea4eb1d/AGM_Booklet_2018.pdf

PRINCIPLE 6: MAKE TIMELY AND BALANCED DISCLOSURE

A CME should make timely, transparent and balanced disclosure of all matters concerning it that a reasonable person would expect to have a material effect on the value received from ongoing membership and the interests of members and other stakeholders

Recommendation 6.1 - Continuous Disclosure Obligations

A CME should:

a. have and disclose a written policy for complying with continuous disclosure obligations if any;

b. ensure that members understand their rights to obtain and transfer shares;

c. ensure that members have access to information relevant to the CME that includes but is not limited to the following:

i. the financial and operating results of the CME;

ii. the names of directors and key executives;

iii. information about material and foreseeable risk factors;

iv. material issues regarding employees and other stakeholders; and,

v. the CME's governance structures and policies.

Commentary

CMEs are subject to obligations under both company and co-operatives law regarding the disclosure of financial and other information to members and other security holders. Given these obligations, it is critical that CMEs have a clear policy that covers the management of information relevant to these disclosures. Such a policy should include a process for the vetting and authorisation of any external communication that might affect the making of an investment decision by a current or potential member or security holder.

Raising capital in mutuals

Treasury Laws Amendment (Mutual Reforms) Act 2019 was passed on 5 April 2019. It creates a new Mutual Capital Instrument (MCI) for eligible mutual entities.

When considering issuing MCIs, CME boards should consider what new disclosure requirements this might entail. CME boards may consider whether greater measurement and disclosure of the CMEs total value creation, for example using the Mutual Value Framework, will be important in implementation of an MCI issuance.

https://bccm.coop/wp/wp-content/uploads/2019/05/BCCM-welcomes-Treasury-Laws-Act-2019.pdf

PRINCIPLE 7: RESPECT THE RIGHTS OF MEMBERS AND OTHER STAKEHOLDERS

A CME should respect the rights of its members and other stakeholders by enabling them to access information, and where appropriate, education and training to allow them to exercise those rights effectively.

Recommendation 7.1 - Member and Stakeholder Communications

A CME should provide information about itself and its governance to members and other stakeholders (e.g. other current security holders, potential members and business partners) via its website.

Commentary

This recommendation reflects a core principle driving the governance of CMEs: that boards are ultimately responsible to the members. Whereas in a listed entity, the firm needs to engage with its security holders and provide them with appropriate information and facilities to exercise their rights as security holders, CMEs should strive to engage with members to allow them to effectively exercise their rights as members.

Hence, information about the management and governance of the CME entity should be clear, transparent, readily available and designed to maximise member engagement.

In this digital era, a website will most often be the best way to communicate such information, however members may also appreciate newsletters and social media updates (preferably in electronic format).

Recommendation 7.2 - Member engagement

A CME should design and implement a member engagement program to facilitate effective two-way communication with members.

Commentary

The primary aim of any member engagement program is to allow members to gain a greater understanding of the organisation's business, governance, financial performance and prospects. Member engagement programs of this kind should promote two-way communication flows between the board and members, thereby ensuring a successful working relationship for strong governance of the organisation.

For democratically governed entities, a well-designed and implemented member engagement program also provides an opportunity for succession planning, through the provision of targeted education, information and training to potential future board members.

Recommendation 7.3 - General Meetings

A CME should disclose the policies and processes it has in place to facilitate and encourage participation at meetings of members and security holders.

Commentary

General meetings (especially the AGM) can be used to promote stronger member engagement and provide an important forum for two-way communication flows between the board and members of a CME. General meetings provide members with an opportunity to gain a better understanding of the business, governance, financial performance and prospects of the entity, as well as for members to raise and discuss areas of concern or interest with the board.

CMEs with a large or geographically dispersed membership, may consider the use of technology to facilitate maximum participation. This might include live webcasting, or electronically linked meetings held across several locations.

In the interest of member inclusion and equity, information that is presented should be accessible to the whole membership, including persons with disabilities. This may include the presence of an interpreter, reports being made available in several languages or consideration as to a suitably accessible venue.

Recommendation 7.4 - Electronic Communications

A CME should give members and security holders the option to receive communication from, and send communications to, the entity and its member database/security registry electronically.

Commentary

Most members appreciate the speed, convenience and environmental friendliness of electronic communications, compared with traditional methods of communication. Electronic communications to members can be provided in an easy to read format, and include a print-friendly version for members who prefer retaining a hard copy format of the communication.

PRINCIPLE 8: RECOGNISE AND MANAGE RISK

A CME should establish a sound risk management framework and periodically review the effectiveness of that framework in relation to the creation, protection and return of member value.

Commentary

Whereas with a listed entity, giving investors sufficient information to understand and assess investment risk is crucial to the investors' ability to make informed investment decisions, the forms of risk that will need to be considered and managed by CME boards include risks generic to both investor-owned firms and CMEs, and those risks specific to CMEs in relation to the creation, protection and return of value to members.

For example, the AIST Governance Code identifies the erosion of 'members-first culture' as a key risk to the ability of profit-to-member superannuation funds to deliver their business strategy and continue to outperform retail funds.[43]

Good risk management practices can not only help to protect established value, they can assist in identifying opportunities to create member value.

Treasury Laws Amendment (Mutual Reforms) Act 2019 was passed on 5 April 2019. It creates a new Mutual Capital Instrument (MCI) for eligible mutual entities. When considering issuing MCIs, CME boards and risk committees should consider their current risk appetite and whether their risk framework is adequate if the CME was to issue MCIs.

Recommendation 8.1 - Risk Committee

The board of a CME should:

a. have a committee/s to oversee risk, each of which:

i. has at least three members;

ii. is preferably (optional) chaired by an independent/ non-member director; and

iii. discloses the, members of the committee, and at the end of each reporting period, the number of times the committee met throughout the period and the individual attendance of the members at those committee meetings; or

b. if it does not have a risk committee that satisfies (a), disclose that fact and the processes it employs for overseeing the entity's risk management framework.

Commentary

In the context of risk management, a committee's role may include oversight of the entity's risk management framework as approved by the board, however it must not include full responsibility for risk management (given each director's non-delegable legal and fiduciary duties to the organisation).

Depending upon each CME's risk management priorities, the committee may function as a stand-alone committee, a combined risk and audit committee or, alternatively, may be established to focus on one or more discrete areas of risk.

CMEs may consider the merits of adopting a risk management framework consistent with the International Organization for Standardization[44] and Australian/New Zealand standards in relation to risk management (AS/NZS ISO 31000:2009, at the time of publication).

Recommendation 8.2 - Risk Management Framework

The board or a committee of the board should review the entity's risk management framework at least annually to satisfy that it continues to be sound.

Commentary

It is important that the board of a CME periodically review the entity's risk management framework to satisfy itself that it continues to be sound and that the entity is operating within the risk appetite set by the board.

Ideally, the review of the risk management framework should take place on at least an annual basis and a summary of each review should be provided to members through annual reporting. A facilitated, two-way discussion between board and members, at the Annual General Meeting, can be used to establish the risk appetite of member owners.

Recommendation 8.3 - Internal Audit

A CME:

a. should disclose if it has an internal audit function, how the function is structured and what role it performs; or, if it does not have an internal audit function, should disclose that fact, and the processes it employs for evaluating and continually improving the effectiveness of its risk management and internal control processes; and

b. must ensure that accountability and delegated responsibilities and authorisations are comprehensively mapped throughout the entity.

Commentary

An internal audit function can assist a CME to accomplish its objectives by bringing a systematic, disciplined approach to evaluating and continually improving the effectiveness of its risk management and internal control processes. For smaller CMEs, however, an internal audit may prove costly and impractical.

[43] See Australian Institute of Superannuation Trustees, 2017, AIST Governance Code, Principle 6. Available online at https://www.aist.asn.au/AIST/media/General/Governance/Governance%20Code/aist-governance-code-2017.pdf
[44] See https://www.iso.org

Regardless of whether a CME entity decides to undertake an internal audit, a strong working relationship between board and management, along with clear processes for board reporting will serve to minimise risk and highlight any deficiencies present within internal control processes.

Board members could also consider strategies that promote a culture of accountability (see Principle 4), for example, inviting key employees or members to board meetings to provide input on specific matters.

Recommendation 8.4 - Sustainability Reporting

A CME should identify its material exposure to economic, environmental and social sustainability risks and how it manages or intends to manage those risks.

Commentary

How a CME conducts its business activities impacts directly on a range of stakeholders, including members, security holders, employees, customers, suppliers, creditors, consumers, governments and the local communities in which it operates. Whether it does so sustainably can impact in the longer term on the local community and wider society and the environment

As entities grounded in corporate social responsibility not only to members but also the communities in which they operate, CMEs have a unique opportunity to highlight their triple bottom line approach to business.

Meaningful corporate social responsibility is simply good business practice and, indeed, good risk management. CMEs with strong sustainability frameworks in place may also have a competitive advantage in the broader marketplace.

CMEs will be aware of the increasing calls for businesses to address matters of economic, environmental and social sustainability and the increasing demand by consumers for greater transparency on these matters so that they can exercise their choice to engage with ethically motivated firms. Therefore, a CME might choose to publish a sustainability report to gain a market advantage.

ASX 4th edition commentary on risk suggests that boards should ensure that the 'risk management framework deals adequately with contemporary and emerging risks such as conduct risk, digital disruption, cyber-security, privacy and data breaches, sustainability and climate change.' The commentary in ASX recommendation 7.4 (CME recommendation 8.4) has shifted from the 3rd edition to acknowledge that there is a serious business case for firms to consider and disclose their non-financial risks. Climate change is identified as something all firms should consider, given potential policy, technology, market, reputation and physical risks it may give rise to. Pandemics and natural disasters are other recent events that may be considered. The Corporate Governance Council encourages firms to consider the recommendations of the Finanical Stability Board's Task Force on Climate Related Financial Disclosures: https://www.fsb-tcfd.org/

The shift to consider climate risk extends to regulators and large investment funds.

For example, APRA is increasingly scrutinising financial services firms on their attention to climate risk[46].

BlackRock now requires investees to disclose their environmental impact as part of how it assesses investment performance[47].

In 2019, BCCM and Monash Business School launched the Mutual Value Measurement framework. The MVM framework can be part of CME's approach to measuring and reporting their impact on members and other stakeholders, including the environment. (https://bccm.coop/mvm/)

8.4 Sustainability reporting using the international Co-operative Principles

Sustainable production and consumption of goods is at the core of how (and why) CMEs conduct their business. The theme for the 2018 United Nations International Day of Co-operatives (IDC)[48] was "Sustainable consumption and production", creating an opportunity for co-operatives to show how they run successful businesses while respecting the environment and the resources it offers and how they work towards including co-operatives in policy processes related to sustainability issues.

The 2018 IDC theme is aligned with that of the 2018 High-level Political Forum for Sustainable Development (HLPF): "Transformation towards sustainable and resilient societies". During the HLPF in July, UN Member States will review progress towards achieving these Sustainable Development Goals: 6 (clean water and sanitation), 7 (clean and affordable energy), 11 (sustainable cities and communities), 12 (responsible consumption and production) and 15 (life on land).

Co-operatives and mutuals have two centuries' experience building sustainable and resilient societies.

The following table provides some sample indicators for reporting against the international Co-operative Principles. A similar version can be found in ICA, 2016, Sustainability Reporting for Co-operatives: A Guidebook.

[45] See https://www.apra.gov.au/news-and-publications/apra-to-step-up-scrutiny-of-climate-risks-after-releasing-survey-results.
[46] The Motley Fool, 14 February 2020, "How big a deal is BlackRock's sustainable-investing push?", https://www.fool.com/investing/2020/02/14/how-big-a-deal-is-blackrocks-sustainable-investing.aspx
[47] Learn more about the International Day of Co-operatives: https://www.un.org/development/desa/cooperatives/2018/03/02/coopsday/

1. Voluntary and Open Membership	Number of members joining and leaving Member and board diversity
2. Democratic Member Control	Percentage of members present/voting at AGM Number of members' committees and/or other member groups and schemes
3. Member Economic Participation	Percentage of capital contributed by members Percentage of trade provided by members Member satisfaction Sharing profits e.g. distributing dividends or retained income to keep prices low.
4. Autonomy and Independence	Percentage of assets/equity owned by external investors
5. Education, Training and Information	Number of programs run through the co-operative Number of participants in each program
6. Co-operation among Co-operatives	Examples of partnerships (and membership of peak bodies such as BCCM and Employee Ownership Australia) Examples of CME entrepreneurship such as providing support for establishment of new CMEs Trading with other co-operatives
7. Concern for Community	Social and environmental impacts (e.g. net carbon emissions, rates of waste re-use or recycling) Progress against the Sustainable Development Goals Staff injury and absentee rates Consideration of ethical issues relating to procurement (suppliers) and investment Contributions to charitable and community based organisations.

PRINCIPLE 9: REMUNERATE FAIRLY AND RESPONSIBLY

A CME should pay director remuneration sufficient to attract and retain high quality member and independent directors and design its executive remuneration to attract, retain and motivate high quality senior executives and employees and to align their interests with the creation of value for members and other stakeholders.

Commentary

CMEs will be aware of the increasing calls for listed entities to modify executive remuneration strategies that tie performance bonuses to share market performance, and often produce inappropriate outcomes for consumers and investors.[48]

CMEs tie performance payments to member satisfaction rather than share price, and as such, CME executives are incentivised to return value to members.

When setting the level and composition of remuneration, the board of a CME entity should have due regard to the relationship between remuneration and performance and how it is aligned to the creation, protection and return of member value.

The board needs to balance the desire to attract and retain high quality directors and to attract, retain and motivate senior executives, and the need to ensure that the incentives for directors and for senior executives encourage them to pursue the growth and success of the entity without taking undue risks.

Recommendation 9.1 - Remuneration Committee

The board of a CME entity should:

a. have a remuneration committee that:

i. has at least three members,

ii. is chaired by an independent/non-member director who possesses experience in executive remuneration frameworks and contemporary models or, where necessary, is an independent person appointed by the board; and

iii. discloses, the members of the committee, and, the number of times the committee met throughout the reporting period and the individual attendance of the members at those meetings; or

b. if it does not have a remuneration committee, disclose that fact and the processes it employs for setting the level and composition of remuneration for directors and ensuring that such remuneration is appropriate.

Commentary

Larger CMEs will generally have a committee with responsibility for remuneration.

Where there is a remuneration committee, the charter of the committee should include a process for managing any conflicts of interest that may arise, therefore ensuring that no committee members are involved in determining their own remuneration packages.

Recommendation 9.2 - Remuneration Policy

A CME should disclose its policies and practices regarding the remuneration of non-executive directors and the remuneration of executive directors and other senior executives.

Commentary

A CME board should consider making all policies and practices relevant to the creation of member value, including all remuneration policies and procedures - available to members.

Additionally, some CMEs will have mandatory reporting requirements under the Corporations Act that will set the framework for remuneration reporting, and for which separate legal advice should be sought.[49]

[48] On 7 February 2018 the Senate passed the Treasury Laws Amendment (Banking Executive Accountability and Related Measures) Bill 2018. Under the regime known as the BEAR, ADIs and their subsidiaries will have additional obligations to conduct their business with integrity (and report on any failures), face restrictions in relation to variable remuneration of certain executives, and be subjected to a greater range of penalties under the increased powers of the Australian Prudential Regulation Authority (APRA).
[49] BEAR will require some mutual ADIs to report.

NEXT STEPS AND MATTERS FOR CONSIDERATION

The CME Governance Principles is a 'living document', shaped and developed by the Business Council of Co-operatives and Mutuals in dialogue with industry, led by the CME 100 Chairs' Forum.

The Chairs' Forum has stewarded the development of the CME Governance Principles in this document. The Forum has provided an industry led and governed feedback loop on iterative drafts of the principles leading to the publication of this first edition.

The Chairs' Forum will periodically review the principles with a view to subsequent editions reflecting the sector's take-up and usage of the principles.

The Chair's Forum convenes a reference sub-group to work closely with the BCCM on development and refinement of the principles.

It is our sincere hope that members of the BCCM and, more broadly, co-operative and mutual businesses in Australia will use the principles either alone or together with other adopted principles and codes. More importantly, we hope that the development of contextualised principles for the sector will assist CMEs to shape their governance frameworks informed by the knowledge of what distinguishes them from other corporate forms, as well as by what makes them the same.

The BCCM welcomes feedback on the principles. Please direct inquiries to info@bccm.coop.

Matters for Consideration

The following matters for consideration have been identified to be discussed in future iterations of the CME Governance Principles.

Principle 1 of the CME Governance Principles is based on the distinct member focus of CMEs. As member -focussed enterprises, CMEs exist to create value for members. The recommendation and commentary for Principle 1 further identifies that this distinguishing feature of CMEs is crucial for boards to consider when developing a strategy for the CME.

There are some 'generic' property rights problems that are faced by CMEs , which may help inform further development of the CME Governance Principles, particularly in relation to strategy (Principle 1).

The horizon problem arises where the 'life' of an investment in a CME is longer than the tenure of a typical member of the CME. This problem can arise in CMEs that have an ageing membership who will exit the CME before the value of their investment is fully realised. This can lead to underinvestment or to a temptation to 'cash out' the value locked in the CME through a demutualisation.

The 'freerider' problem arises when members get access to the same rights and benefits despite making different levels of investment in the CME. A CME may encounter this problem where it has shares of nominal value and/or which cannot be traded or redeemed.

How should CME boards set a strategy that delivers member value in these situations? Where assets are built up in a CME over many generations, is there an argument that these assets should remain in the CME for future generations? Is it appropriate or useful for the CME Governance Principles to highlight and provide suggestions on these matters?

Further matters for consideration that may b e informed by research into the management and governance of CMEs include:

- How well understood is the concept of member value, and what are the implications for CME governance?[50]
- How different is what constitutes effective governance in producer-owned and consumer-owned CMEs? Is there a need for further development of the principles, recommendations and commentary with consideration of different member types?
- What are the distinct risks for CMEs that CME governance should account for?

[50] The research of Tim Mazzarol provides insight on how CMEs can build strategies focussed on the specific needs and role of members in that CME. See Tim Mazzarol, 2015, Purpose, Identity and the Member Value Proposition in Co-operatives and Mutual Enterprises (Co-operative Enterprise Research Unit). Available online at http://www.cemi.com.au/sites/all/publications/CEMI_DP1501_Mazzarol_2015.pdf

The ASX Corporate Governance Principles (3rd edition)[51]

The CME Governance Principles are adapted from the ASX 3rd edition principles. ASX Corporate Goverance Princples 4th edition can be found here: https://www.asx.com.au/documents/regulation/cgc-principles-and-recommendations-fourth-edn.pdf

The Principles and Recommendations are structured around, and seek to promote, 8 central principles:

1. **Lay solid foundations for management and oversight:** A listed entity should establish and disclose the respective roles and responsibilities of its board and management and how their performance is monitored and evaluated.
2. **Structure the board to add value:** A listed entity should have a board of an appropriate size, composition, skills and commitment to enable it to discharge its duties effectively.
3. **Act ethically and responsibly:** A listed entity should act ethically and responsibly.
4. **Safeguard integrity in corporate reporting:** A listed entity should have formal and rigorous processes that independently verify and safeguard the integrity of its corporate reporting.
5. **Make timely and balanced disclosure:** A listed entity should make timely and balanced disclosure of all matters concerning it that a reasonable person would expect to have a material effect on the price or value of its securities.
6. **Respect the rights of security holders:** A listed entity should respect the rights of its security holders by providing them with appropriate information and facilities to allow them to exercise those rights effectively.
7. **Recognise and manage risk:** A listed entity should establish a sound risk management framework and periodically review the effectiveness of that framework.
8. **Remunerate fairly and responsibly:** A listed entity should pay director remuneration sufficient to attract and retain high quality directors and design its executive remuneration to attract, retain and motivate high quality senior executives and to align their interests with the creation of value for security holders. There are 29 specific recommendations intended to give effect to these general principles, as well as explanatory commentary in relation to both the principles and the recommendations. There is also a glossary at the end which explains the meaning of a number of the key terms used throughout this document, including 'executive director', 'non-executive director', 'senior executive' and 'substantial security holder.'

[51] Available online at https://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf

THE INTERNATIONAL CO-OPERATIVE STATEMENT OF IDENTITY, VALUES AND PRINCIPLES[52]

A co-operative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically-controlled enterprise.

International co-operative values:

- Self-help
- Self-responsibility
- Democracy
- Equality
- Equity
- Solidarity

The international co-operative principles are guidelines by which co-operatives put their values into practice:

1. Voluntary and Open Membership

Co-operatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.

2. Democratic Member Control

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions.

3. Member Economic Participation

Members contribute equitably to, and democratically control, the capital of their co-operative.

4. Autonomy and Independence

Co-operatives are autonomous, self-help organisations controlled by their members.

5. Education, Training and Information

Co-operatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their co-operatives.

6. Co-operation among CMEs

Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through local, national, regional and international structures.

7. Concern for Community

Co-operatives work for the sustainable development of their communities through policies approved by their members.

[52] Available online at https://www.ica.coop/en/whats-coop/co-operative-identity-values-principles

LIST OF KEY REFERENCES

1. Australian Institute of Company Directors, 2013, Good Governance Principles and Guidance for Not-for-Profit Organisations: https://aicd.companydirectors.com.au/resources/not-for-profit-resources/not-for-profit-governance-principles

2. Australian Institute of Superannuation Trustees, 2017, AIST Governance Code: https://www.aist.asn.au/Advocacy/Policy-advocacy/Leading-practice-governance

3. Australian Securities Exchange (ASX) Corporate Governance Council, 2014, Corporate Governance Principles and Recommendations: (3rd edition): https://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf

4. Australian Securities Exchange (ASX) Corporate Governance Council, 2019, Corporate Governance Principles and Recommendations (4th edition): https://www.asx.com.au/documents/regulation/cgc-principles-and-recommendations-fourth-edn.pdf

5. Business Council of Co-operatives and Mutuals and Per Capital, 2017, Eliza's Project: Gender Inclusion in the CME Sector in Australia. Available online at https://percapita.org.au/wp-content/uploads/2018/05/Elizas-Report_Final-1.pdf

6. Business Council of Co-operatives and Mutuals, 2019, BCCM welcomes Mutual Reforms Act 2019. Available online at https://bccm.coop/wp/wp-content/uploads/2019/05/BCCM-welcomes-Treasury-Laws-Act-2019.pdf

7. Business Council of Co-operatives and Mutuals, 2019, Disability Inclusion Tooklit. Available online at https://www.getmutual.coop/disability-inclusion-toolkit/

8. Co-ops NSW, 2017, 2nd edition, Co-operatives in Australia: A Manual: https://fed.coop/manual2.pdf.

9. Co-operation Sweden, Swedish Co-operative Code. Available online at https://svenskkooperation.se/code-cooperatives-mutuals/,

10. Co-operatives UK, Resources: https://www.uk.coop/resources

11 Co-operatives UK, 2013, 2nd edition, Corporate Governance Code for Consumer Co-operative Societies: https://www.uk.coop/developing-co-ops/grow-your-co-op/codes-governance/corporate-governance-code-consumer-co-operatives

12. Co-operatives UK, 2012, 2nd edition, The Worker Co- operative Code: https://www.uk.coop/about/about-co-operatives-uk/our-governance/strategic-members-groups/worker-co-op-council/worker-co

13. Greg Medcraft, 2017, The importance of corporate culture: https://download.asic.gov.au/media/4211539/greg-medcraft-speech-to-ahri-senior-hr-directors-forum-luncheon-published-6-april-2017.pdf

14. Johnston Birchall, 2017, Governance of Large Co- operative Businesses: https://www.uk.coop/resources/governance-large-co-operative-businesses-0

15. International Co-operative Alliance, 2015, Guidance Notes to the Co-operative Principles:https://www.ica.coop/en/cooperatives/cooperative-identity

16 Hon Robert French AC, 2018, Governance and Culture in the Real World, available on request from BCCM

17. World Council of Credit Unions, WOCCU International Operating Principles: https://www.woccu.org/documents/2017_WOCCU_International_Operating_Principles

GLOSSARY

AGM: The annual general meeting of members.

AIST Governance Code: Mandatory governance code (from July 2018) for profit-to-member superannuation funds registered with the Australia Institute of Superannuation Trustees.

Board: The governing body of a CME.

CME: A co-operative or mutual enterprise. The acronym may also be used collectively to refer to all 'CMEs'.

CEO: The chief executive officer of a CME. In smaller CMEs, the CEO's managerial role may be undertaken by a general manager or management committee of the board.

CFO: The chief financial officer of a CME. In smaller CMEs, the CFO's financial role may be undertaken by a bookkeeper, accountant or manager.

CME Governance Principles: The nine governance principles in this document adapted from the ASX governance principles for the CME sector

CNL: Co-operatives National Law 2012 - as adopted in NSW, ACT, Victoria, Queensland, South Australia, Tasmania & Northern Territory.

CNR: Co-operative National Regulations adopted in each respective state and territory.

Committee: An investigative body with a mandate set by the board of a CME, comprising directors and, if appropriate, other persons with relevant expertise. The role of a committee is established through its terms of reference, which will generally preclude the committee from decision making unless such power is delegated to it by the board.

Conflict of interest: A material interest in a matter or decision that affects that person's capacity for independent judgment. Conflicts of interest may be actual, potential or perceived.

Constitution: The governing document or rules of a CME entity. These terms are used interchangeably in this document.

Co-operative: A body registered as a co-operative under the Co-operatives National Law 2012, or Cooperatives Act 1997 (Qld), or Co-operatives Act 2009 (WA).

Co-operative capital unit (CCU): An interest issued by a co-operative conferring an interest in the capital (but not the share capital) of the co-operative, and described in section 345 of the Co-operatives National Law 2012.

Co-operative Statement of Identity, Values and Principles: The internationally recognised identity, values and principles of co-operatives as adopted by the International Co-operative Alliance.

Corporations Act: Corporations Act 2001 (Cth).

Debenture: A form of security (capital instrument) that creates debt in a CME, and may be held by a member or non-member.

Disclose: When used in a recommendation, this term means to include the information in the CME's annual report or on its website.

Distributing co-operative: As defined by section 18 of the Co-operatives National Law 2012: 'A distributing co-operative is a co-operative that is not prohibited from giving returns or distributions on surplus or share capital.' A distributing co-operative is known as a trading cooperative under the Cooperatives Act 1997 (Qld).

Executive director: A member of a CME's board of directors who is part of the executive team.

Governance: A set of internal and external mechanisms and controls that enable the members of a CME to define and ensure ongoing attainment of their collective purpose.

Independent director: A director of a mutual, who is not a member of that entity - and who has been deemed to be independent as per Recommendation 3.3.

IOF: An Investor Owned Firm. An organisation that is owned and controlled by the persons who have invested in it, and primarily exists to maximise financial value for those persons.

Material interest: An interest in a matter or decision that is of sufficient materiality - either personal, professional or pecuniary - so as to affect the capacity for independent judgment.

Member Council: A body made of elected representatives of the membership of a CME that supervises or advises the board of directors. Often a Member Council is instituted where the board of directors is appointed based on expertise.

Member director: A director of a CME, who is also a member of that entity.

Mutual: As the term 'mutual' is not currently defined by law, a mutual may be identified by its constitution. Evidence of mutuality is present in an organisation where the users or suppliers of its products or services are also the group that democratically controls the organisation.

Non-distributing co-operative: As defined by section 19 of the Co-operatives National Law 2012: 'A non-distributing co-operative is a co-operative that is prohibited from giving returns or distributions on surplus or share capital to members, other than the nominal value of shares (if any) at winding up.'

Non-delegable duty: A legal or fiduciary director duty, as set out in corporations or co-operatives specific legislation.

Non-executive director: A member of a CME's board of directors who is not part of the executive team.

Non-member director: A director of a co-operative entity, who is not a member of that entity.

Primary activity: A main activity of a co-operative as set out in its rules, and defined by section 144 of the Co-operatives National Law 2012.

Security holder: A person that holds one or more securities of a CME .

Share: A form of security (capital instrument) that creates equity in a CME. In co-operatives, share ownership does not equate with voting power at general meetings.

CME Governance Education

Education is one of the global co-operative principles and one of the BCCM's strategic priorities.

The BCCM has developed a unique partnership with the Australian Institute of Company Directors (AICD) to deliver a new course on the Foundations of Directorship for Co-ops and Mutual Enterprises.

To register your interest in this course or other BCCM educational programs please visit https://bccm.coop/what-we-do/education/

BUSINESS
COUNCIL OF
CO-OPERATIVES
AND MUTUALS