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Sent by email to Garvin Payne: Garvin.Payne@icgn.org

Dear Ms. Waring,

Re: 2020 Consultation on the ICGN's Global Governance Principles

We write to provide commentary on the purpose, usability, and content in the Global Governance Principles (GGP). With approximately C$8 billion in assets under management, NEI Investments' approach to investing incorporates the thesis that companies can mitigate risk and take advantage of emerging business opportunities by integrating best environmental, social and governance (ESG) practices into their strategies and operations. With this context in mind, we commend the ICGN for engaging its members on the usability of the GGP and we welcome the opportunity to share our comments.

With a view to addressing your guiding questions, we have divided our comments into two parts. In Part I we provide our general thoughts on the use and structure of the GGP. In Part II we provide comments on the current content of the GGP.

Part I: The Usefulness and Structure of the GGP

As an asset manager who has been consistently committed to responsible investment, the GGP helps us to evaluate our position on governance considerations in relation to global standards. The principles provide us with an international reference point for setting our governance expectations that supports various areas of our work including our corporate engagement, proxy voting, and ESG evaluation efforts.

The principles remain relatively conceptual and could generally benefit from more specific guidance on implementation of the principles. For example, as we note in our feedback below – the principles could go further to suggest excessive or appropriate tenure lengths for directors.

Within its current structure, the GGP does not acknowledge how governance structures may evolve as companies grow or change. As such, some distinctions pertaining to company size or ownership structure could be made to increase the usability and applicability of the GGP. It would be helpful to consider for example, how company size or ownership structure may influence reporting dynamics. The GGP could recognize that companies that have recently gone public, or small-cap entities may need to be evaluated differently, or within different timelines.

Part II: Commentary on the Content of the GGP

We believe the GGP would benefit from the inclusion of new topics, or deeper consideration of existing topics, such as the following:

- Stakeholder Capitalism (when contemplating the 'Purpose of the Company')
- Diversity
- Non-Financial Reporting and Key Performance Indicators
- The Role of the Creditor in Corporate Governance
- Remuneration and Sustainable Capital Allocation

Principles 1: Board Role and Responsibilities and 2: Leadership and Independence

Focus Topic: Stakeholder Capitalism

We believe the company's purpose includes accountability to a broad range of stakeholder groups, including but also beyond shareholders. Though the current GGP considers stakeholders, we are concerned that its overall tone prioritizes shareholder interests over those of other stakeholders.

For example, **Principle 1** states that the board is to act "for the benefit of shareholders, while having regard to relevant stakeholders, including creditors". **Principle 2** reinforces the idea that the board must "protect the interests of minority investors". Written as such, we feel that considerations for broader stakeholders are relegated to the background. We strongly encourage ICGN to emphasize in a more purposeful way, that the role of the board is to ensure that all key stakeholders are considered in all strategic decisions. We believe governance structures should explicitly consider the interests of all stakeholders, so that companies can properly assess risks and opportunities, with the goal of developing sustainable economies.

Principle 3: Composition and Appointment

Focus Topics: Diversity; Stakeholder Capitalism

Principle 3 could more purposefully and deliberately consider diversity on boards with respect to gender, race, ethnicity, sexual orientation, persons with disabilities and other underrepresented groups. The current language stating the need for a "sufficient mix of directors" with a "diversity of perspectives" falls short of promoting all facets of board diversity as is reflected in the demography of our society.

- **Guidance – 3.1** states the need for measurable targets with respect to fostering diversity and inclusion. We believe this suggestion should go further to prompt companies to explain why their targets are appropriate, given the markets they operate in and/or service, so that stakeholder groups are better positioned to hold companies accountable for their progress on diversity strategies and initiatives.
    - Along with succession planning for the board and executive levels, processes for identifying and addressing pay gaps affecting underrepresented groups should be considered to foster an inclusive business environment. We also believe that an inclusive "succession planning" strategy, should consider diversity and inclusion throughout the organization's workforce. A more diverse workforce is needed to facilitate the promotion and advancement of internal personnel to the executive and board levels. As such, we believe the principles should encourage companies to maintain measurable diversity targets for different levels of the organizational structure.
    - The GGP may also benefit from language that discourages the use of "meritocracy" as a defence against target setting for diversity strategies. When used in this way, the 'meritocracy' argument shows a misunderstanding of the goals behind diversity strategies and targets, as diversity strategies serve to enhance and broaden the skillsets, perspectives and qualifications of the board. To further combat this argument, the guidance could encourage companies to consider how their applicant pools may include barriers that limit the recruitment and advancement of qualified personnel from diverse backgrounds.
- **Guidance – 3.2** notes that "non-executive directors should serve for an appropriate length of time…". We believe there is value to explicitly encouraging boards to set term limits and specifying that directors who have passed stated tenure thresholds will no longer be considered independent. We know that a board that is well-balanced with respect to the tenure of directors is an important aspect of a rigorous but effective governance structure. Companies could benefit from clear considerations on what constitutes appropriate tenure for each director and for the average tenure across the board. We would further suggest that the ICGN include concrete suggestions on appropriate tenure, and set expectations on what could be viewed as excessive tenure lengths, and simultaneously, what would constitute a well-balanced board with respect to the tenure of directors.
- **Guidance – 3.3** – We urge the ICGN to suggest that boards consider the benefits of employee representation on the board. Considering company obligations to a range of stakeholders, this is a potential means of ensuring diverse stakeholder perspectives are recognized at the board level. Employee representation could advance dialogue at the

board level on board diversity, reasonable remuneration and promote long term sustainable value for the corporation through direct engagement with operational staff.

Principle 4: Corporate Culture

Focus Topics: Diversity; Non-Financial Reporting and Key Performance Indicators

While **Principle 4** fundamentally addresses the need to consider non-financial metrics in evaluating the company's ability to generate sustainable long-term value creation, there is merit to considering 'culture metrics' that enable the board to effectively assess the quality of corporate culture. From our perspective, the current guidance seems to focus on the negative implications of culture although it could also position corporate culture as a positive tool to be used by the board to achieve corporate goals. Instead of solely focusing on identifying and mitigating internal problems, the board should also ensure that the corporate culture empowers employees to innovate and take initiative. As such, we are proposing the addition of Guidance 4.7.

- **Proposing addition of Guidance 4.7.** We recommend that the principles encourage disclosure of corporate culture metrics to enable a better understanding of corporate values alignment and stakeholder relations within a company. We believe it is important that such metrics are integrated into a formal reporting mechanism to the board for effective oversight of the quality of corporate culture. This level of enhanced disclosure would assist us as investors in further understanding and evaluating corporate cultures. Corporate culture metrics could include: disclosure of the number of existing complaints from employees and external stakeholders, including customers; the nature of complaints; actions taken to remedy complaints; and employee satisfaction. From a diversity and inclusion perspective, metrics could reflect how women or racialized persons view inclusion and advancement within the company.

Principle 5: Risk Oversight

Focus Topic: The Role of the Creditor in Corporate Governance; Stakeholder Capitalism

We believe **Principle 5** could more explicitly state that sustainable long-term value creation requires alignment between shareholders and creditors, and board oversight of ESG risks. A board that properly articulates a prudent risk approach that aligns the interests of shareholders and creditors, and also critically engages the interests of other stakeholders will position a company for greater success.

- **Guidance -5.3 –** We believe the definition of risk culture should suggest that boards consider how best to align shareholder and creditor interest to promote long-term sustainable value creation given this could be an area where their interests could diverge.

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This guidance could go further to note that sustainable value creation cannot be obtained without considering broader stakeholder interests.

- **Guidance 5.5** – We recommend that the principles explicitly include oversight of ESG risks in defining the responsibility of the risk committee. Without proper governance at the board level, we fear that implementation of ESG strategies will likely be undermined. As such, we strongly suggest that the guidance convey the importance of formally integrating ESG risk oversight in board and committee mandates. In our view, this is critical to ensure that company strategies and disclosures fully integrate ESG considerations.

Principle 6: Remuneration

Focus Topics: Remuneration and Sustainable Capital Allocation; Stakeholder Capitalism

The need for compensation structures for executives and directors that align their interests with long term, sustainable value creation for the company and its stakeholders could be better addressed in **Principle 6**. The current statements that "remuneration should be designed to effectively align the interests of the CEO and executive officers with those of the company and its shareholders to help ensure long-term performance and sustainable value creation" and that "the board should also ensure that aggregate remuneration is appropriately balanced with the needs to pay dividends to shareholders and retain capital for future investment" reinforce our concerns about executive pay in that they seemingly only contemplate a structure that maximizes financial returns for shareholders. Directors should be more explicitly encouraged to consider incentive structures that foster consideration of stakeholder interests beyond just shareholders. More apt structures would consider performance indicators that relate to non-financial measures of success and more readily consider other stakeholder interests. With respect to promoting sustainable capital allocation, we believe the board should also be encouraged to consider non-financial incentives for executives. These non-financial incentives, alongside appropriate financial incentives, could more effectively bolster executive commitment to achieving company mandates.

- **Guidance - 6.1** states that remuneration should be "sensitive to the expectations of stakeholders and societal norms", yet "societal norms" seem to be oftentimes overlooked in compensation frameworks. The guidance could better explain "societal norms" considerations and emphasize the need to promote reasonable and equitable executive remuneration. Given increasing levels of income inequality, we believe it is critical to integrate an analysis of worker salaries when determining executive pay. Compensation committees should demonstrate that determined levels of executive pay are socially acceptable.

- **Guidance – 6.3** – While this guidance details how performance metrics should operate, we recommend that it also stress the benefits or preference for performance-based incentive awards over time-based incentive awards. Furthermore, to infuse a more stakeholder centric approach, it would be beneficial to consider suggesting that metrics that consider a range of stakeholder interests be incorporated into compensation frameworks. To ensure that as noted "performance pay is directly correlated with sustained value creation" it may be worthwhile to consider factors such as employee satisfaction, employee retention, and customer satisfaction.

- **Guidance 6.4** could further the objectives of Guidance 6.1 if companies are explicitly required to disclose metrics on "societal norms". These metrics could include vertical pay metrics, as well as the degree to which employee satisfaction and/or layoffs were considered in developing compensation structures.
- **Guidance – 6.6** – We have noted that the principles suggest that companies should have an opportunity to vote on executive remuneration issues every three years. We suggest that the principles be updated to promote best practice of annual voting on executive remuneration.
- **Guidance – 6.9 –** In addition to considering remuneration for non-executive directors, the principles could also address the fact that shareholders do not typically have a say in the compensation structures for non-executive directors. We view this as an important consideration, given that directors determine their own compensation. As mentioned, compensation structures should also align with metrics that are tied to broader stakeholder interests. The principles could also discourage pensions, severance arrangements and excessive director pay which could encourage directors to become too dependent on the company.
- **Guidance – 6.10** could additionally encourage boards to require that at least one remuneration committee member have direct human resources experience. This is an important skillset for this committee that is inherently grappling with a human resources issue. Furthermore, this requirement could in turn promote the shift towards a board with more diverse perspectives and director backgrounds.
- **Proposing addition of Guidance 6.11** which would encourage boards to consider sustainable capital allocation in developing compensation structures. Through infusing metrics that consider a range of stakeholder interests, companies will be better poised to foster sustainable value creation, and to appropriately balance decision making on capital allocation between for example: employee retention/layoffs, share buybacks and dividend distributions.

Principle 7: Reporting and Audit

Focus Topic: Non- Financial Reporting and Key Performance Indicators

The current framework under **Principle 7** could be updated to address best practices on ESG data disclosure. We have found that inconsistencies in ESG disclosure remains a consistent hurdle in assessing companies and their initiatives.

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- **Guidance – 7.5 e) and g) -** We suggest that the guidance express the importance of conducting a materiality assessment on ESG issues so that companies are encouraged to determine what material issues need to be disclosed. Boards should also be encouraged to disclose ESG data and information in accordance with widely used ESG and/or sustainability frameworks. If companies choose not to disclose in accordance with recognized frameworks as are commonly used in their industry, or are increasingly acknowledged by investors and other stakeholders, we feel they should be encouraged to explain why they have opted to use a different approach.

- **Guidance 7.12 –** We recommend that the guidance address the potential role of the audit committee in overseeing ESG risks. Where the oversight of ESG risks is not within the mandate of the audit committee, we believe it is important that the board and/or its key committees clarify who is responsible for maintaining oversight of ESG related policies, disclosure, and reporting standards within the governance structure.

- **Proposing addition of Guidance 7.13** which would detail expectations in relation to climate change governance. The systemic nature of climate change will require companies to act, albeit in potentially different ways, to consider a climate smart approach to business. Given the gravity of this issue, we believe it is reasonable to encourage accountability at the board level for climate change issues.

We would like to reiterate the usefulness of the GGP as it supports our efforts in developing a robust ESG approach to investment. We commend the ICGN for seeking to actively engage with stakeholders on the usefulness and applicability of the GGP, and for your efforts in fostering an accountable, efficient, and sustainable corporate landscape. We appreciate the opportunity to share our viewpoints on the GGP and remain open to engaging with the ICGN on any of the issues we have raised in our commentary.

Sincerely,
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