
BOARD GUIDELINES

I. INTRODUCTION

1. The Goldcorp Inc. (“Goldcorp” or the “Company”) Board of Directors (the “Board”) believes the principal objective of the Company is to generate acceptable returns to its security holders. It believes good corporate governance practices provide an important framework for a timely response by the Company’s Board to situations that may directly affect share value.
2. The Board wishes to emphasize that the substance of good corporate governance at Goldcorp is more important than its form; adoption of a set of guidelines or principles or any particular practice or policy is not a substitute for, and does not itself assure, good corporate governance.

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The Terms of Reference for the Board (Tab A-3) define the role of the Board. These guidelines govern how the Board will operate to carry out its duties of stewardship and accountability.

1. The Board-Management Relationship

- i) While the Board is called upon to "manage" the business by law, this is done by proxy through the CEO, who is charged with the day-to-day leadership and management of the Company.
- ii) The CEO’s prime responsibility is to lead the Company. The CEO formulates Company policies, strategic plans and goals in conjunction with the Board. The Board approves the goals of the business, the objectives and policies within which it is managed, and then steps back and evaluates management performance. Reciprocally, the CEO keeps the Board fully informed of the Company’s progress towards the achievement of its goals and of all material deviations from the goals or objectives and policies established by the Board in a timely and candid manner.
- iii) Once the Board has approved the goals, strategies and policies it acts in a unified and cohesive manner in supporting and guiding the CEO subject to its duty to act in the best interests of the Company.

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2. Corporate Strategy

Management is responsible for the development of an overall corporate strategy to be presented to the Board. The Board's role is to ensure there is a strategic planning process, and then review, question, validate, and ultimately approve the strategy and monitor its implementation.

3. Business Risks

The Board should have a continuing understanding of the principal risks associated with the business; and it is the responsibility of management to ensure the Board and its committees are kept well informed of changing risks. The principal mechanisms through which the Board reviews risks are:

- i) on-going reports by the CEO;
- ii) the strategic planning process; and
- iii) the Audit Committee.

4. Board Contact with Senior Management

- i) All directors have open access to the Company's senior management. It is expected that directors will exercise judgment to ensure that their contacts will not distract from the Company's business operations.
- ii) Written communications between directors and members of management will be copied to the Non-Executive Board Chair, the CEO and to the Chair of the Governance and Nominating Committee.
- iii) The Board encourages individual directors to make themselves available for consultation with management outside Board meetings in order to provide specific advice and counsel on subjects where such directors have special knowledge and experience.

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5. Succession Planning

The Board considers succession planning and management development to be an ongoing process, including periodic reports to the Board by the CEO. The CEO's views as to a successor in the event of unexpected incapacity should be discussed annually with the Compensation Committee.

6. Board Independence

The Board must have the capacity, independently of management, to fulfill the Board's responsibilities and must be able to make an objective assessment of management and assess the merits of management initiatives. Therefore, the Company is committed to the following practices:

- i) the recruitment of strong, independent directors, who shall compose a majority of the Board;
- ii) any director who is deemed independent and whose circumstances change such that he or she might be considered to no longer be an independent director, shall promptly advise the Board of the change in circumstances;
- iii) the Governance and Nominating Committee leads the director selection/evaluation process;
- iv) the Compensation Committee leads the CEO evaluation process;
- v) the Audit Committee, Compensation Committee and Governance and Nominating Committee are fully independent; and
- vi) Regular meetings of independent directors:
 - a) the independent directors shall meet as a group, without the presence of management or non-independent directors, at every quarterly Board meeting, or more frequently as needed, under the leadership of the Governance and Nominating Committee Chair;

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- b) the purpose of the meeting will be to provide an opportunity for the independent directors to raise issues that they did not wish to discuss with management present; and
- c) the Governance and Nominating Committee Chair will meet with the CEO to discuss the results of the meeting.

7. Board Size and Composition

- i) The Board is committed to reviewing its size periodically and currently considers 10 directors to be an appropriate number for the size of the Company and sufficient to provide an appropriate mix of backgrounds and skills for the stewardship of the Company. In general, the Board believes smaller boards are more cohesive and work more effectively than larger boards.
- ii) At its meeting to approve the Information Circular for the Annual General Meeting of the shareholders of the Company, the Board shall consider and determine whether each director or director nominee is independent.
- iii) The Non-Executive Board Chair will be selected by the Board. The Board may select the Chief Executive Officer as Chairman if that seems best for the Company at a given point in time.

8. Criteria for Board Membership

- i) The Governance and Nominating Committee will annually review the general and specific criteria applicable to candidates to be considered for nomination to the Board.
- ii) The objective of this review will be to maintain the composition of the Board in a way that provides the best mix of skills and experience to guide the long-term strategy and business operations of the Company.
- iii) This review will take into account the desirability of maintaining a reasonable diversity of background skills and experience and personal characteristics among the directors, along with the key common characteristics required for effective Board participation.

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- iv) Each director and director nominee must possess and exhibit the highest degree of integrity, professionalism, and values.

9. Selection of New Directors

- i) The Board is responsible for identifying suitable candidates to be recommended for election to the Board by the shareholders.
- ii) The Governance and Nominating Committee, in consultation with the Non-Executive Board Chair, has the responsibility of gathering the names of potential nominees, screening their qualifications against the current skill and experience needs of the Board and making recommendations to the full Board.
- iii) All directors are encouraged to identify potential candidates.
- iv) The CEO provides additional direct input to the process.
- v) An invitation to stand as a nominee for election to the Board will normally be made to a candidate by the Board through the Non-Executive Board Chair.

10. Director Terms

While directors are elected annually by shareholders, there is an informal expectation by the Board that each director commit to serving for at least five years. Each director who has served a term of five years will in the fifth year undergo a more comprehensive review prior to his or her renomination. This review will occur every five years thereafter and directors fully understand that nomination to the Board is not open-ended and is reviewed comprehensively every five years.

11. Directors' Outside Board Memberships

- i) Interlocking Boards
 - a) No two Goldcorp directors shall sit together on two or more corporate boards without the approval of the Board.

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- b) If such a situation does exist on the Board, the Governance and Nominating Committee shall annually review the continued appropriateness of the situation and make a recommendation to the Board.
- ii) Multiple Board Memberships
 - a) No director shall sit on six or more corporate boards without the approval of the Board.
 - b) If any director does sit on six or more corporate boards, the Governance and Nominating Committee shall annually review the appropriateness of that director's continued membership on the Goldcorp Board and make a recommendation to the Board.

12. Directors Who Change Their Present Job Responsibilities

- i) A director, including any inside director serving on the Board, who has a major change in principal occupation, shall offer his or her resignation to the Board for consideration. It is not intended that directors who retire or whose professional positions change should necessarily leave the Board.
- ii) The sense of the Board is that there should be an opportunity for the Board to review, through the Governance and Nominating Committee, the continued appropriateness of Board membership under such circumstances.

13. Director Retirement Age

There is no retirement policy for directors.

14. New Director Orientation

- i) The Governance and Nominating Committee, in conjunction with the Chair and CEO, is responsible for ensuring that new directors are provided with an orientation and education program, which will include:
 - a) written information about the duties and obligations of directors;

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- b) the business and operations of the Company;
 - c) documents from recent Board meetings; and
 - d) opportunities for meetings and discussion with senior management and other directors.
- ii) The details of the orientation of each new director will be tailored to that director's individual needs and areas of interest.

15. Ongoing Director Education

- i) The Board recognizes the importance of ongoing director education and the need for each director to take personal responsibility for this process.
- ii) To facilitate ongoing education the Governance and Nominating Committee will:
 - a) periodically canvas the directors to determine their training and education needs and interests;
 - b) arrange ongoing visitation by directors to Goldcorp facilities and operations;
 - c) arrange the funding for the attendance of directors at seminars or conferences of interest and relevance to their position as a director of the Company; and
 - d) encourage and facilitate presentations by outside experts to the Board or committees on matters of particular import or emerging significance.

16. Administrative Support for Directors

The CFO or his or her delegate will provide all required administrative services for directors in the pursuit of their Board responsibilities.

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17. Assessing the Board's Performance

The current practice of the Board is for the Governance and Nominating Committee and the Non-Executive Board Chair to facilitate annual, assessments of the performance of the Board, committees and individual directors.

18. Director Compensation

The Governance and Nominating Committee will review director compensation annually. The Committee will make recommendations to the Board for consideration when it believes changes in compensation are warranted.

19. Director Share Ownership

- i) The Board has determined that ownership of the company's shares by directors should be encouraged as one way of helping to align the interests of directors with those of the shareholders.
- ii) Directors are currently required to hold a minimum of 10,000 Common Shares (with a current approximate value of US\$150,000). This requirement shall be attained within three years of March 2005, or of becoming a director of the Company, whichever is later, and must be maintained throughout tenure as a director.
- iii) The Governance and Nominating Committee will periodically review and make recommendations to the Board as to what level of director shareholding requirement is appropriate for the Company.

20. Loans

The Company will not make any personal loans or extensions of credit to directors or executive officers.

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21. Internal Controls and Management Information Systems

- i) Integral to the Board's overall responsibilities is the existence of control systems that ensure the effective discharge of these responsibilities. A balance has to be achieved between imposing controls that give the Board reasonable assurance that its responsibilities are being discharged and avoiding the creation of an unnecessarily bureaucratic and costly system of control mechanisms.
- ii) Through the CEO, management will establish systems to ensure that an appropriate and responsible level of internal controls are in place for the Company. The confidence of the Board in the ability and integrity of management is the paramount control mechanism.

22. Succession Planning and Management Development

The Board considers succession planning to be an ongoing process that includes annual reports to the Board by the CEO. The CEO's views as to a successor in the event of unexpected incapacity should be discussed regularly with the Compensation Committee.

23. Board Communications Policy

- i) The Board approves the content of the Company's major communications to shareholders and the investing public, including the interim and annual reports, the Management Proxy Circular, the Annual Information Form, any prospectuses that may be issued and significant press releases.
- ii) The Board believes that it is the function of management, led by the CEO, to speak for the Company in its communications with the investment community, the media, customers, suppliers, employees, governments and the general public. It is understood that the Non-Executive Board Chair or other individual directors may, from time to time, be requested by management to assist with such communications.

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- iii) It is expected that when communications from stakeholders are made to individual directors, management will be informed and consulted to determine any appropriate response to be made by the Board or management, as the case may be.

24. Evaluation of the Chief Executive Officer

The Compensation Committee annually leads the Board in assessing the CEO's performance against objectives and other relevant criteria established the previous year by the Board and the CEO.

25. Code of Business Conduct and Ethical Behavior

- i) All directors, officers and employees are bound by the Company's Code of Business Conduct and Ethics. All who are affected by the Code review it and directors and officers acknowledge their support and understanding of the Code by signing it annually.
- ii) Directors must never be in an undisclosed conflict of interest with the Company. A director who has a real, perceived or potential conflict of interest regarding any particular matter under consideration should advise the Board, refrain from debate on the matter and abstain from any vote regarding that matter.
- iii) The Governance and Nominating Committee has responsibility for monitoring compliance with the Code of Business Conduct.

26. Board Meetings and Agendas

- i) The Board meets a minimum of four times per year, usually every quarter.
- ii) The Non-Executive Board Chair, in consultation with the CEO and the Corporate Secretary, develops the agenda for each Board meeting. All directors may, and are encouraged to, provide input to the agenda.

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- iii) Under normal circumstances the date, time and place of a regular meeting of the Board shall be fixed and notified not less than five (5) business days in advance of the meeting. In extenuating circumstances, the date, time and place of a meeting of the Board shall be fixed and notified in writing not less than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, in advance of the date when it shall occur unless notice is waived by all directors.
- iv) Under normal circumstances, the agenda and the material will be distributed to directors not less than four business days before the meeting.
- v) The Board may adopt the use of consent resolutions for its convenience from time to time.
- vi) Two-fifths of the number of the directors holding office constitutes a quorum for the transaction of business at a meeting and a quorum of directors may exercise all the powers of directors at a meeting. No business shall be transacted by the directors at a meeting unless a quorum is present.
- vii) A director may participate in a Board meeting by means of such telephonic, electronic or other communication facilities as permit all persons participating in the meeting to communicate adequately with each other. A member participating in such a meeting by any such means is deemed to be present at the meeting.
- viii) Directors will maintain the absolute confidentiality of Board deliberations and decisions and information received at meetings, except as may be specified by the Chair, if the information is publicly disclosed by the Company, or as required by applicable law. The views or opinions of individual directors or managers shall be treated with an appropriate level of respect and confidence.
- ix) At Board and Committee meetings there exists an open atmosphere that encourages discussion of alternative views. From time to time, informal offsite sessions may be held to further enhance/encourage discussion of ideas, strategies and issues.

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- x) Directors are expected to attend all meetings of the Board and the Committees upon which they serve, to come to such meetings fully prepared (including full review of all documentation sent prior to the meeting), and to remain in attendance for the duration of the meeting. Where a director's absence from a meeting is unavoidable, the director should, as soon as practicable after the meeting, contact the Chair, the CEO or the Corporate Secretary for a briefing on the substantive elements of the meeting.

27. Special Meetings of the Board

- i) Special meetings of the Board may be held at any time at the call of the Non-Executive Board Chair and the CEO, or any two directors.
- ii) Notice of a special meeting of the Board shall be given to all directors. Such notice shall be sent at least twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, before the time fixed for the meeting. If all of the directors are present at such meeting, notice thereof may be waived by them. If notice of the meeting is waived, all directors must sign a waiver.

28. Non-Directors at Board Meetings

- i) The Board appreciates the value of having non-directors attend Board meetings to provide information and opinions to assist the directors in their deliberations.
- ii) The Board, through the Chair or the CEO, will determine non-director attendees at Board meetings. For issues that fall within the terms of reference of a committee, a committee Chair may also recommend non-director attendees to the Board Chair.
- iii) No non-directors shall attend or table material at the Board without prior approval of the Non-Executive Board Chair, and in the case of Board committee meetings, the committee Chair.

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29. Board Minutes

The Non-Executive Board Chair, the CEO and the directors shall be provided with the draft minutes of each meeting of the Board within fourteen calendar days of its occurrence. The approved minutes serve as the official record of the Board meeting.

30. Information for Board Meetings

- i) All materials submitted for consideration by the Board or by a committee become part of the record of the Board, and shall be deposited with the Corporate Secretary for maintenance, safekeeping and access.
- ii) Materials assembled in support of Board meetings will be coordinated by the CEO and the CEO or their delegates, who will distribute it with the Board meeting agenda, not less than four business days prior to the meeting.
- iii) Material distributed to the directors in advance of Board meetings shall be concise, yet complete, and prepared in a way that focuses attention on critical issues to be considered.
- iv) Reports may be presented during Board meetings by directors, management or staff, or by invited outside advisors. Presentations on specific subjects at Board meetings shall briefly summarize the material sent to directors, so as to maximize the time available for discussion on questions regarding the material.
- v) It is recognized that under some circumstances, due to the confidential nature of matters to be discussed at a meeting, it would not be prudent or appropriate to distribute written material in advance.
- vi) Matters that are brought to the Board for a decision, particularly those of a strategic or financial matter, will be in a format and at a level and type of information that enables the Board to make a decision. The Board and management will agree on the format and the checklist of information items required for the Board to make a decision.

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31. Committees

- i) Committees analyze policies and strategies developed by management that are consistent with their terms of reference. They examine proposals and, where appropriate, make recommendations to the full Board. Committees do not take action or make decisions on behalf of the Board unless specifically mandated to do so.
- ii) The committee structure may be subject to change as the Board considers from time-to-time which of its responsibilities can best be fulfilled through more detailed review of matters in committee.
- iii) The current committee structure includes;
 - a) Audit Committee
 - b) Compensation
 - c) Governance and Nominating Committee
 - d) Sustainability, Environment, Health and Safety Committee
- iv) The Governance and Nominating Committee, in conjunction with the Non-Executive Board Chair, is responsible to the Board for annually proposing the leadership and membership of each committee. In preparing its recommendations they will take into account the skills, experience and preferences of the individual directors.
- v) The Board favours a periodic rotation in committee leadership and membership in a way that recognizes and balances the needs for new ideas, continuity and maintenance of functional expertise.
- vi) Each committee operates according to a Board approved written mandate outlining its duties and responsibilities. Each committee shall have a committee timetable, as part of its terms of reference, which outlines when the committee plans to address each of its duties and responsibilities during the course of the year.

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- vii) All Board committees operate under the following guidelines:
- a) Each committee will meet at least once each year, or more frequently as deemed necessary by the committee. In general, committee meetings will be scheduled each year in advance. However, the chair or any two members of a committee may call a meeting of the committee with notice in writing of not less than forty-eight (48) hours, exclusive of Saturdays, Sundays and holidays, unless notice is waived by all members of the committee.
 - b) Committee chairs, in consultation with committee members and management, will set the frequency and length of Committee meetings.
 - c) Each committee Chair, in consultation with the appropriate members of management, develops the agenda for committee meetings. Any member of a committee may request an agenda item.
 - d) If a committee Chair is not present at any meeting of a committee, one of the other members of the committee present at the meeting shall be chosen by the committee to preside at the meeting.
 - e) A committee member may participate in a committee meeting by means of such telephonic, electronic or other communication facilities as permit all persons participating in the meeting to communicate adequately with each other. A member participating in such a meeting by any such means is deemed to be present at the meeting.
 - f) A committee may invite such director or, in consultation with the CEO, such employees of the Company as may be considered desirable to attend meetings and assist in the discussion and consideration of the business of the committee.

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- g) A committee may, from time to time, require the expertise of outside resources. Each committee has the authority to engage, set the terms of and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties.
- h) Quorum for the transaction of business at any committee meeting shall be a majority of the number of members of the committee or such greater number as the committee shall by resolution determine.
- i) At the next Board meeting following each meeting of a committee, the committee chairs report to the Board on the committees' activities. Minutes of committee meetings are made available to all directors and copies should be filed with the Corporate Secretary.
- j) Each committee shall conduct an annual performance self-evaluation and shall report to the Board the results of the self-evaluation.
- k) Each committee shall annually assess the adequacy of its Terms of Reference and recommend any changes to the Board for approval.
- l) The Corporate Secretary or his or her designate shall act as secretary to each committee.

32. Terms of Reference for a Committee Chair

The chair of each Board committee shall:

- i) lead the committee in undertaking the duties and responsibilities that it is charged with by the Board, as outlined in its terms of reference;
- ii) ensure that committee members receive all the information they require in timely fashion;
- iii) ensure the committee has adequate access to all members of management necessary for it to undertake its responsibilities;

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- iv) set agendas for committee meetings;
- v) Chair committee meetings at which the committee chair is in attendance;
- vi) lead the committee in an annual review of its performance; and
- vii) ensure the committee is composed of members with the skill, experience and/or necessary training relative to the committee's responsibilities.

33. Outside Advisors for Individual Directors

Occasionally, individual directors may need the services of an advisor to assist on matters involving their responsibilities. Any director who wishes to engage an outside advisor at the expense of the Company, must obtain the approval of the Governance and Nominating Committee Chair, generally in consultation with the Non-Executive Board Chair.

34. Board Guideline Review

The Governance and Nominating Committee shall review these Guidelines periodically and any recommended changes will be submitted to the Board for approval.

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Appendix: Definition of an Independent Director

The concept of an independent director is central to modern corporate governance and Goldcorp supports the importance of independent directors when considering Board and Board committee composition. Goldcorp is subject to definitions of independence from regulators in both Canada and the United States, and has adopted the following definition of an independent director that fully encompasses all applicable definitions. All definitions that technically apply only to Audit Committee members have been adopted by the Company into the Board's definition of an independent director for all purposes.

Canadian Securities Administrators –¹ Definition of an Independent Director

- (1) A director is independent if he or she has no direct or indirect material relationship with the issuer.
- (2) For the purposes of subsection (1), a "material relationship" is a relationship which could, in the view of the issuer's board of directors, be reasonably expected to interfere with the exercise of a member's independent judgement.
- (3) Despite subsection (2), the following individuals are considered to have a material relationship with an issuer:
 - (a) an individual who is, or has been within the last three years, an employee or executive officer of the issuer;
 - (b) an individual whose immediate family member is, or has been within the last three years, an executive officer of the issuer;
 - (c) an individual who:
 - (i) is a partner of a firm that is the issuer's internal or external auditor,
 - (ii) is an employee of that firm, or
 - (iii) was within the last three years a partner or employee of that firm and personally worked on the issuer's audit within that time;
 - (d) an individual whose spouse, minor child or stepchild, or child or stepchild who shares a home with the individual:
 - (i) is a partner of a firm that is the issuer's internal or external auditor,
 - (ii) is an employee of that firm and participates in its audit, assurance or tax compliance (but not tax planning) practice, or
 - (iii) was within the last three years a partner or employee of that firm and personally worked on the issuer's audit within that time;

¹ Approved by the OSC and effective June 30, 2005.

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- (e) an individual who, or whose immediate family member, is or has been within the last three years, an executive officer of an entity if any of the issuer's current executive officers serves or served at that same time on the entity's compensation committee; and
 - (f) an individual who received, or whose immediate family member who is employed as an executive officer of the issuer received, more than \$75,000 in direct compensation from the issuer during any 12 month period within the last three years.
- (4) Despite subsection (3), an individual will not be considered to have a material relationship with the issuer solely because
- (a) he or she had a relationship identified in subsection (3) if that relationship ended before March 30, 2004; or
 - (b) he or she had a relationship identified in subsection (3) by virtue of subsection (8) if that relationship ended before June 30, 2005.
- (5) For the purposes of clauses (3)(c) and (3)(d), a partner does not include a fixed income partner whose interest in the firm that is the internal or external auditor is limited to the receipt of fixed amounts of compensation (including deferred compensation) for prior service with that firm if the compensation is not contingent in any way on continued service.
- (6) For the purposes of clause (3)(f), direct compensation does not include:
- (a) remuneration for acting as a member of the board of directors or of any board committee of the issuer, and
 - (b) the receipt of fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with the issuer if the compensation is not contingent in any way on continued service.
- (7) Despite subsection (3), an individual will not be considered to have a material relationship with the issuer solely because the individual or his or her immediate family member
- (a) has previously acted as an interim chief executive officer of the issuer, or
 - (b) acts, or has previously acted, as a chair or vice-chair of the board of directors or of any board committee of the issuer on a part-time basis.
- (8) For the purpose of section 1.4, an issuer includes a subsidiary entity of the issuer and a parent of the issuer.

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Additional Independence Requirements

- (1) Despite any determination made in the above definition of an independent director, an individual who
 - (a) accepts, directly or indirectly, any consulting, advisory or other compensatory fee from the issuer or any subsidiary entity of the issuer, other than as remuneration for acting in his or her capacity as a member of the board of directors or any board committee, or as a part-time chair or vice-chair of the board or any board committee; or
 - (b) is an affiliated entity of the issuer or any of its subsidiary entities, is considered to have a material relationship with the issuer.
- (2) For the purposes of subsection (1), the indirect acceptance by an individual of any consulting, advisory or other compensatory fee includes acceptance of a fee by
 - (a) an individual's spouse, minor child or stepchild, or a child or stepchild who shares the individual's home; or
 - (b) an entity in which such individual is a partner, member, an officer such as a managing director occupying a comparable position or executive officer, or occupies a similar position (except limited partners, non-managing members and those occupying similar positions who, in each case, have no active role in providing services to the entity) and which provides accounting, consulting, legal, investment banking or financial advisory services to the issuer or any subsidiary entity of the issuer.
- (3) For the purposes of subsection (1), compensatory fees do not include the receipt of fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with the issuer if the compensation is not contingent in any way on continued service."

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New York Stock Exchange Rule 303A.02, Independence Tests

In order to tighten the definition of "independent director" for purposes of these standards:

- (a) No director qualifies as "independent" unless the board of directors affirmatively determines that the director has no material relationship with the listed company (either directly or as a partner, shareholder or officer of an organization that has a relationship with the company). Companies must identify which directors are independent and disclose the basis for that determination.

Commentary: It is not possible to anticipate, or explicitly to provide for, all circumstances that might signal potential conflicts of interest, or that might bear on the materiality of a director's relationship to a listed company (references to "company" would include any parent or subsidiary in a consolidated group with the company). Accordingly, it is best that boards making "independence" determinations broadly consider all relevant facts and circumstances. In particular, when assessing the materiality of a director's relationship with the listed company, the board should consider the issue not merely from the standpoint of the director, but also from that of persons or organizations with which the director has an affiliation. Material relationships can include commercial, industrial, banking, consulting, legal, accounting, charitable and familial relationships, among others. However, as the concern is independence from management, the Exchange does not view ownership of even a significant amount of stock, by itself, as a bar to an independence finding.

The identity of the independent directors and the basis for a board determination that a relationship is not material must be disclosed in the listed company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10-K filed with the SEC. In this regard, a board may adopt and disclose categorical standards to assist it in making determinations of independence and may make a general disclosure if a director meets these standards. Any determination of independence for a director who does not meet these standards must be specifically explained. A company must disclose any standard it adopts. It may then make the general statement that the independent directors meet the standards set by the board without detailing particular aspects of the immaterial relationships between individual directors and the company. In the event that a director with a business or other relationship that does not fit within the disclosed standards is determined to be independent, a board must disclose the basis for its determination in the manner described above. This approach provides investors with an adequate means of assessing the quality of a board's

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independence and its independence determinations while avoiding excessive disclosure of immaterial relationships.

- (b) In addition, a director is not independent if:
- (i) The director is, or has been within the last three years, an employee of the listed company, or an immediate family member is, or has been within the last three years, an executive officer², of the listed company.

Commentary: Employment as an interim Chairman or CEO or other executive officer shall not disqualify a director from being considered independent following that employment.

- (ii) The director has received, or has an immediate family member who has received, during any twelve-month period within the last three years, more than \$100,000³ in direct compensation from the listed company, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service).

Commentary: Compensation received by a director for former service as an interim Chairman or CEO or other executive officer need not be considered in determining independence under this test. Compensation received by an immediate family member for service as an employee of the listed company (other than an executive officer) need not be considered in determining independence under this test.

- (iii) (A) The director or an immediate family member is a current partner of a firm that is the company's internal or external auditor; (B) the director is a current employee of such a firm; (C) the director has an immediate family member who is a current employee of such a firm and who participates in the firm's audit, assurance or tax compliance (but not tax planning) practice; or (D) the director or an immediate family member was within the last three years (but is no longer) a partner or employee of such a firm and personally worked on the listed company's audit within that time.

² For purposes of Section 303A, the term "executive officer" has the same meaning specified for the term "officer" in Rule 16a-1(f) under the Securities Exchange Act of 1934.

³ In this section excerpted from the New York Stock Exchange Listed Company Manual, "\$" represents United States dollars.

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- (iv) The director or an immediate family member is, or has been within the last three years, employed as an executive officer of another company where any of the listed company's present executive officers at the same time serves or served on that company's compensation committee.
- (v) The director is a current employee, or an immediate family member is a current executive officer, of a company that has made payments to, or received payments from, the listed company for property or services in an amount which, in any of the last three fiscal years, exceeds the greater of \$1 million, or 2% of such other company's consolidated gross revenues.

Commentary: In applying the test in Section 303A.02(b)(v), both the payments and the consolidated gross revenues to be measured shall be those reported in the last completed fiscal year. The look-back provision for this test applies solely to the financial relationship between the listed company and the director or immediate family member's current employer; a listed company need not consider former employment of the director or immediate family member.

Contributions to tax exempt organizations shall not be considered "payments" for purposes of Section 303A.02(b)(v), provided however that a listed company shall disclose in its annual proxy statement, or if the listed company does not file an annual proxy statement, in the company's annual report on Form 10-K filed with the SEC, any such contributions made by the listed company to any tax exempt organization in which any independent director serves as an executive officer if, within the preceding three years, contributions in any single fiscal year from the listed company to the organization exceeded the greater of \$1 million, or 2% of such tax exempt organization's consolidated gross revenues. Listed company boards are reminded of their obligations to consider the materiality of any such relationship in accordance with Section 303A.02(a) above.

General Commentary to Section 303A.02(b): An "immediate family member" includes a person's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than domestic employees) who shares such person's home. When applying the look-back provisions in Section 303A.02(b), listed companies need not consider individuals who are no longer immediate family members as a result of legal separation or divorce, or those who have died or become incapacitated.

In addition, references to the "company" would include any parent or subsidiary in a consolidated group with the company.

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Transition Rule. Each of the above standards contains a three-year "look-back" provision. In order to facilitate a smooth transition to the new independence standards, the Exchange will phase in the "look-back" provisions by applying only a one-year look-back for the first year after adoption of these new standards. The three-year look-backs provided for in Section 303A.02(b) will begin to apply only from and after November 4, 2004.

As an example, until November 3, 2004, a listed company need look back only one year when testing compensation under Section 303A.02(b)(ii). Beginning November 4, 2004, however, the listed company would need to look back the full three years provided in Section 303A.02(b)(ii).

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Appendix: Definition of an Independent Director

Affiliated Person under SEC Rules

An “affiliated person”, in accordance with the rules of the United States Securities and Exchange Commission adopted pursuant to the *Sarbanes Oxley Act*, means a person who directly or indirectly controls the Corporation, or a director, executive officer, partner, member, principal or designee of an entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Corporation.