

The NED

Independent intelligence on fund director issues

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Value of independent directors questioned

The usefulness of independent directors is being fiercely disputed in Australia at present. The debate is focussed upon the value that they bring to the corporate sector and to Australia's powerful superannuation funds. Although the questions raised are not directly related to asset management The NED believes that the points presented by both sides in this argument have much relevance to fund governance.

According to research conducted by Professor Peter Swan of the University of New South Wales independent directors are destroying shareholder value in Australia's corporate sector. Professor Swan has said that company performance declined significantly when non-independent directors departed boards to make way for independents, which is a requirement of the ASX Corporate Governance Council. Independents tend not to have the same level of expertise as the non-independents, the research findings have found.

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CIMA gets to capacity

In January 2013 CIMA announced a consultation process on corporate governance practices in Cayman. In July 2014, 19 months later, it has got around to the issue that some believe is the most important of all: director capacity. CIMA has begun to take soundings from Cayman's fund directors on this topic. Opposition is expected.

Given that there are a number of matters unresolved from the changes announced last year it is surprising that CIMA has raised the capacity issue now. For example there are many questions surrounding the Director Database that remain unanswered, as The NED covered last month. Cayman's capacity debate will likely run for as long as the one on the Director Database – and be at least as contentious, if not more so.

CIMA is proposing putting the following provisions into its new regulations: "In determining whether a natural person, or corporate director, under the primary Law has sufficient capacity to carry out their duties *Continued on page 10 >>*

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Companies and Associations mentioned in this issue:

ASX	JFSC
Baystar Capital	MPL
Bloomberg	Seward & Kissel
Carne	SQL
CIMA	THSH
DDCM	UNSW
Enhance	
Intertrust	
Jersey Finance	

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