

ZALICUS INC. BOARD OF DIRECTORS  
GUIDELINES ON SIGNIFICANT CORPORATE GOVERNANCE ISSUES

## SELECTION AND COMPOSITION OF BOARD OF DIRECTORS

### *Size of the Board*

Our charter and by-laws provide that the board of directors consist of not less than 3 directors with the exact number determined from time to time by resolution of the directors. We believe a board should neither be too small to maintain the needed expertise and independence nor too large to be efficiently functional. Our general expectation is that our board will consist of approximately 7 directors, although we periodically review the appropriate size and mix of the board in light of our stated objectives below.

### *Selection of New Directors*

The board of directors should be responsible for selecting its own members for election by the stockholders. The board of directors, however, delegates the process for identifying and reviewing candidates for director positions to the Governance and Nominating Committee with direct input from the Chairperson and the Chief Executive Officer.

### *Board Membership Criteria*

The Governance and Nominating Committee of the board of directors is responsible for reviewing with the entire board from time to time the appropriate skills and characteristics required of board members in the context of the current make-up of the board of directors. It is the policy of our board of directors that directors should possess the highest personal and professional ethics, integrity and values, and be committed to representing the long-term interests of the stockholders. It is also the policy of our board of directors that the composition of the board of directors at all times adhere to the standards of independence promulgated by the Nasdaq Stock Market, Inc. and as further clarified below under “*Director Independence*” and reflect a range of talents, ages, skills, character, diversity, and expertise, particularly in the areas of accounting and finance, management, leadership and corporate governance, the pharmaceuticals and drug development industry and related industries sufficient to provide sound and prudent guidance with respect to the operations and interests of Zalicus.

We also require that our board members be able to dedicate the time and resources sufficient to ensure the diligent performance of his or her duties on our behalf, including attending all board and applicable committee meetings. In this respect, absent unusual circumstances, we believe that no person should serve on more than five boards of directors of companies with securities registered pursuant to Section 12 or 15(d) of the Securities Exchange Act of 1934.

### *Director Independence*

The board of directors believes that as a matter of policy at least a majority of the members of our board of directors should be independent. The board of directors has adopted the following definition of what constitutes an independent director and the Governance and

Nominating Committee is responsible for assessing compliance with this standard on an annual basis. An “independent” director is one who:

- (1) has not been employed by Zalicus or any of its subsidiaries at any time within the previous three years;
- (2) is not, and in the previous three years has not been, affiliated with or employed by a present or former auditor of Zalicus;
- (3) is not, and in the previous three years has not been, part of an interlocking directorate in which an executive officer of Zalicus serves on the compensation committee of another company that concurrently employs such director;
- (4) does not, and in the previous three years has not, provided legal, consulting, investment banking, accounting or other professional services to Zalicus or any of its subsidiaries, and is not a director, executive officer, general partner or significant equity holder (i.e. in excess of five percent) of an entity that has provided legal, investment banking, accounting or other professional services to Zalicus or any of its subsidiaries;
- (5) is not, and in the previous three year has not been, a director, executive officer, general partner or significant equity holder (i.e. in excess of five percent) of a customer of or supplier of goods or services to Zalicus or any of its subsidiaries, where “significant customer or supplier” means a supplier or customer where the amount of indebtedness owed by Zalicus or the amount of compensation paid or to be paid to or by Zalicus or any of its subsidiaries during any of the previous three fiscal years or during the current fiscal year would require disclosure in the annual proxy statement under the rules and regulations for the Securities and Exchange Commission in effect, substituting therein five percent rather than five percent for the relevant percentage of revenues and assets used for determining such disclosure; and
- (6) is not, and in the previous three years has not been, an employee, officer or director of a foundation, university or other non-profit organization that has received grants or endowments from Zalicus or any of its subsidiaries in excess of the lesser of \$200,000 or five percent of the total annual donations received by such entity.

In addition, a director would not be deemed independent if he or she is a member of the immediate family of any person who would not qualify as independent under the foregoing criteria, provided that employment of a family member in a non-officer position will not preclude our board of directors from determining that a director is nonetheless independent. An immediate family member shall include the director’s spouse, parents, children, siblings and in-laws.

In addition to the above independence requirements, the members of the Audit Committee must also satisfy an additional independence requirement. Specifically, those directors may not receive, directly or indirectly, any fees from Zalicus other than those described below under “Board Compensation Policy and Stock Ownership.”

### *Non Independent Directors*

The board of directors is willing to have members of senior management, in addition to our Chief Executive Officer, and other individuals who may not meet the above definition of independence, as directors. In addition, the board of director believes that it may beneficial to the discharge of their duties as directors for managers that do not serve on the board of directors to nonetheless attend board meetings on a regular basis. It is understood, however, that all matters of corporate governance will be decided by the directors.

### *Selection of Chairperson*

The bylaws of Zalicus currently provide that the board of directors of Zalicus may appoint a Chairperson of the Board. In the absence of such appointment, the President will be the chairperson for Board and Stockholder meetings. In the future, the Board of Directors may choose to appoint or elect a chairperson.

### *Resignation of CEO and Resignation as a Director*

It is assumed that when the Chief Executive Officer resigns from that position that he or she should also offer his or her resignation from the board of directors. Whether that individual continues to serve on the board of directors is a matter for discussion at that time between the board of directors, through the Governance and Nominating Committee, and the new Chief Executive Officer.

### *Director Term Limits*

The board of directors does not believe it should establish term limits. While term limits could help insure that there are fresh ideas and viewpoints available to the board, they hold the disadvantage of losing the contribution of directors who over time have developed increasing insight into Zalicus and its operations and the pharmaceuticals industry and therefore provide an increasing contribution to the board of directors as a whole.

The Governance and Nominating Committee, in consultation with the Chief Executive Officer or any the Chairperson of the Board, will review each director's continuation on the board of directors every three years in connection with each the nomination of such director's class to be elected at the next annual meeting of stockholders. This will also allow each director the opportunity to conveniently confirm his/her desire to continue as a member of the board of directors.

### *Retirement Policy*

The board of directors has adopted a retirement policy for its directors. Under this policy, directors, other than the Chief Executive Officer, who are also employees of Zalicus, must retire from the board of directors at the same time they retire from employment with Zalicus. Other directors must retire from the board of directors at the Annual Meeting of Stockholders following their 72nd birthday.

## **BOARD COMPENSATION AND PERFORMANCE**

### *Board Compensation Policy and Stock Ownership*

The Governance and Nominating Committee shall have the responsibility for recommending to the entire board of directors the compensation and benefits for non-employee directors. It is appropriate for the Governance and Nominating Committee to report from time to time to the entire board of directors on the status of director compensation in relation to other companies in the United States and other companies operating in comparable industries. An executive officer of the company serving as a member of the board of directors shall not receive additional compensation for his or her service as director.

The proposed changes in director compensation, if any, should come at the suggestion of the Governance and Nominating Committee, but with full discussion and concurrence by the entire board of directors. It is the policy of the board of directors that a significant portion of director compensation should be in the form of stock or stock based instruments in order to align their interest with those of stockholders.

### *Evaluation of Board Performance*

The Governance and Nominating Committee is responsible to report annually to the board of directors an evaluation of the overall performance of the board of directors. If the Governance and Nominating Committee so desires, it may be assisted by an outside consultant in making its assessment of the overall performance of the board of directors. The report should be delivered following the end of each fiscal year and should be discussed with the full board at the same time, if applicable, as board membership criteria is discussed.

The report will include an evaluation of, among other things, (i) composition and independence of the board, (ii) access to and review of information from management, (iii) responsiveness of the board to stockholder concerns and (iv) maintenance and implementation of these corporate governance guidelines.

The evaluation to be provided by the Governance and Nominating Committee should be of the contribution of the board of directors as a whole and should specifically review areas in which the board of directors and/or management believes a better contribution could be made. The purpose of the evaluation is to increase the effectiveness of the board of directors.

### *Interaction with Institutional Investors, Press, Customers, Etc.*

The board of directors believes that management speaks for Zalicus. Our individual non-management board members may, from time to time, meet or otherwise communicate with various constituencies that are involved with Zalicus, but it is expected that these members would do this with the knowledge of management and, in most instances, at the request of management.

## **MEETINGS OF THE BOARD OF DIRECTORS**

### *Scheduling and Selection of Agenda Items for Board Meetings*

The Chairperson of the Board or, if there is no Chairperson, the President, in consultation with other members of the board of directors, will determine the frequency and length of board meetings. It is the sense of the board of directors that regular meetings at appropriate intervals are in general desirable for the performance of their responsibilities. In addition to regularly scheduled meetings, additional unscheduled meetings may be called upon appropriate notice at any time to address any special needs.

The Chairperson of the Board or, if there is no Chairperson, the President will establish the agenda for each board meeting and distribute it in advance to board members. Each director is free to suggest the inclusion of items on an agenda, to raise at any board meeting subjects that are not on the agenda for that meeting or to request the presence of or a report by any member of management. If the Chief Executive Officer is also Chairperson of the Board, a contact director should be specified for directors wishing to discuss issues or add agenda items that are not appropriately or best forwarded to the Chief Executive Officer.

### *Board Material and Presentations*

Information and data that is important to the understanding of the business and matters to be considered at the board meeting should be distributed in writing and in advance to board members. As a general rule, materials on specific subjects should be sent to the board members sufficiently in advance so directors will be prepared to discuss questions that they may have about the material.

The board of directors encourages management to schedule managers to present at board meetings who (i) can provide additional insight into the specific matters being discussed because of personal involvement in these areas or (ii) have future potential that management believes should be given exposure to the board of directors.

### *Participation in Board Meetings*

We expect our board members to rigorously prepare for, attend and participate in all board and applicable committee meetings. In determining whether to recommend a director for re-election, the Governance and Nominating Committee will consider the directors' past attendance at board and committee meetings and participation in and contributions to the activities of the board and the committees. Each board member is expected to ensure that other existing and planned future commitments do not materially interfere with their service as a director.

### *Access to Management, Employees and Advisors*

Each director is encouraged to keep himself informed of the affairs of Zalicus between board meetings through direct contact with employees, members of senior management and

outside advisors and each director will have complete access to any such employee, member of senior management and outside advisor. It is expected that any such contact will be coordinated through the Chairperson of the Board or Chief Executive Officer and that each director will use judgment to assure that such access is not distracting to the business operation of Zalicus.

#### *Meetings of the Non-Management Directors*

It is the policy of the board of directors to have a separate meeting session for the non-management directors regularly scheduled at least twice a year in conjunction with regularly scheduled board meetings to review matters concerning the relationship of the board of directors with the management directors and other members of senior management and such other matters as it deems appropriate. The non-management directors shall not take any formal actions at these meetings, although they may subsequently recommend matters for full consideration by the board of directors.

The Chairperson shall preside at all meetings of non-management directors. In order to allow interested parties the opportunity to make their concerns known to these non-management directors, the board of directors has established a procedure for these parties to communicate directly with the non-management directors.

### **COMMITTEES OF THE BOARD OF DIRECTORS**

#### *Number of Committees*

Our board of directors will establish committees from time to time to facilitate and assist in the execution of its responsibilities. These committees shall generally address issues that, because of their complexity and technical nature, level of detail and time requirements or because of proper corporate governance principles cannot be adequately addressed at larger board meetings.

We currently have three committees, which include the Compensation Committee, Audit Committee and Nominating and Corporate Governance Committee. There will, from time to time, be occasions on which the board of directors may want to form a new committee or disband a current committee depending upon the circumstances. Zalicus complies with all requirements of the NASDAQ Global Market relating to the constitution of key committees, including requirements relating to the independence of committee members. Accordingly, only independent directors serve on the Compensation, Audit and Governance and Nominating Committee.

Each committee shall have a written charter of responsibilities and authorities that shall be periodically reviewed by the board of directors. We have made the charter for each of our Compensation, Audit and Governance and Nominating Committees publicly available on our web site for review by our stockholders.

### *Assignment and Term of Service of Committee Members*

The board of directors is responsible for the appointment of committee members and committee chairpersons, taking into account the desires of individual members and the suggestions of the Chairperson and the Governance and Nominating Committee. It is expected that each committee Chairperson will have had previous service on the applicable committee. In making such appointments, the board of directors shall consider the rotation of committee membership and Chairpersonship at appropriate intervals, although the board does not believe that rotation should be mandated as a policy.

### *Frequency and Length of Committee Meetings and Committee Agenda*

The committee Chairperson, in consultation with the other committee members, will determine the frequency and length of committee meetings and, in consultation with the Chairperson of the Board or appropriate members of senior management, develop the agenda for committee meetings. The Chairperson of each relevant Committee shall make reports of the Committee's activities to the full board of directors at regular intervals, and the agendas and meeting minutes of the Committees will be shared with the full board of directors upon their request. Any director that is not a member of a particular committee may attend any committee meetings with the concurrence of the committee Chairperson.

## **LEADERSHIP DEVELOPMENT**

### *Formal Evaluation of Chief Executive Officer*

The independent directors should make this evaluation annually, and the evaluation should be communicated to the Chief Executive Officer by the Chairperson of the Governance and Nominating Committee.

The evaluation should be based on clearly articulated criteria, including performance of the business, accomplishment of long-term strategic objectives, development of senior management and specific criteria to be developed.

The evaluation will be considered by the Compensation Committee in the course of its deliberations when considering the compensation of the Chief Executive Officer.

### *Succession Planning and Management Development*

The Chief Executive Officer reviews succession planning and management development with the board of directors on an annual basis and with the Nominating and Governance Committee on a regular basis. This succession planning includes the development of policies and principles including succession of the Chief Executive Officer in the event of an emergency.