



## New principles of corporate governance. November 2015.

The Organisation for Economic Cooperation and Development (hereinafter OECD) and the G20 approved, at the Antalya summit held in September 2015, the **updated Principles of Corporate Governance for listed companies**. The principles of corporate governance, published in 1999 and updated for the first time in 2004, are a benchmark for jurisdictions all over the world and for institutions such as the World Bank or the Financial Stability Board. They are intended to help to evaluate and improve the legal and institutional frameworks applicable to the corporate governance of companies, and to orientate in the development of a good corporate governance pattern, which represents a determining factor in raising the confidence of increasingly wider sectors of the population active in the capital markets, while contributing to economic efficiency, sustainable growth and financial stability.

The recent review of the principles, initiated in March 2014, meets the challenges arising as a result of the recent financial crisis. The OECD's Corporate Governance Committee implemented a review process in order to promote the efficient application of the Principles and to help market participants and policy makers to respond to the new challenges for corporate governance. The Principles are of a cross-sectional nature in their contents and, in addition to the work carried out by several OECD Committees, contributions to their review were received from representatives from the corporate sector, investors, professional groups, trade unions, and domestic and international organisations.

The **review is intended** to ensure the permanent quality, relevance and usefulness of the Principles. The revised principles maintain and strengthen the common understanding that a high level of transparency, account reporting, appropriate supervision and respect to the shareholders' rights and to the role of stakeholders are the basis for the proper functioning of the corporate governance system.

It is incumbent on the public sector, through governments, as well as on the private sector, to promote the expansion of these updated principles and to perform actions for their implementation generally. The principles are intended to apply to listed and unlisted companies, including small and medium-sized enterprises, always respecting the particularities of each individual jurisdiction and taking into account their non-binding nature.

The **novelties** that may be generally highlighted include the fact that the new principles expressly recognise the importance of employees and other stakeholders in the long-term sustainability of companies; also explicitly mentioned are other factors affecting the life of companies, such as the environment, corruption and ethics.

The principles maintain the structure of six chapters that identify the common elements underlying all corporate governance models and contributing to the development of a culture of values at the level of professional and ethical behaviour within a corporate structure, which is the basis for the appropriate functioning of markets.

### **I. Ensuring the basis for an effective corporate governance framework.**

The corporate governance framework should promote transparent, efficient and fair markets; it should also be

consistent with the rule of law and ensure effective supervision and enforcement.

Greater emphasis is placed on supervisory activities and enforcement of the Principles, the role of stock markets, the implementation of corporate governance practices among the supervisory authorities and the need to enhance international cooperation, in particular in the events when companies are simultaneously listed in several stock markets.

## **II. The rights and equitable treatment of shareholders and key ownership functions.**

The corporate governance framework must protect and promote the exercise of shareholders' rights and guarantee the equitable treatment of all, including minority and foreign, shareholders. All shareholders must have the opportunity of obtaining effective relief for the violation of their rights.

New possibilities are added here for the shareholders to express their opinion on relevant matters, such as the compensation of directors (say-on-pay). The exercise of their voting rights in electronic format is recognised, and they are allowed a more active participation in connection with the approval of related-party transactions

## **III. Institutional investors, stock markets, and other intermediaries.**

The corporate governance framework should provide sound economic incentives throughout the investment chain so that shareholders may play an active part in the governance of listed companies. Institutional investors must disclose their strategies with respect to the management of their voting rights and their conflicts of interest.

Recognition is given to the fact that equal access to relevant and timely market information is key to ensuring investors' confidence in the integrity of markets.

## **IV. The role of stakeholders.**

The corporate governance framework should recognise the rights of stakeholders as established by law, international agreements or otherwise, and actively encourage cooperation between companies and stakeholders in creating wealth, jobs, and the sustainability of financially sound companies. The fact is recognised that mechanisms for employee participation contribute to improve corporate performance. Employees' rights to information, consultation and negotiation are also mentioned.

## **V. Disclosure and transparency.**

The corporate governance framework should ensure that timely and accurate disclosure is made of all material matters regarding the company, including its financial situation, performance, ownership and governance. The need is specifically envisaged of providing information on matters related to sustainability, payments to governments, political donations, issues in relation to beneficial ownership and to related-party transactions.

## **VI. The responsibilities of the Board.**

The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the Board, and the latter's accountability to the company and the shareholders.

New guidance appears on the Board's accountability as regards tax planning, management risk, the role of the various Board committees, the in-house audit function, the Board's regular assessments and the training of its members. Emphasis is made on gender diversity in the composition of boards of directors. Shareholders must have the possibility of removing directors and participating in the selection process for candidates to director positions.

Useful link:

