

INTERNATIONAL COMPARISON OF SELECTED CORPORATE GOVERNANCE GUIDELINES AND CODES OF BEST PRACTICE

THE AMERICAS · EUROPE · ASIA · AFRICA · AUSTRALIA

WEIL, GOTSHAL & MANGES_{LLP}

**Holly J. Gregory
March 2007**

Corporate Governance refers to that blend of law, regulation, and appropriate voluntary private-sector practices which enables the corporation to attract financial and human capital, perform efficiently, and thereby perpetuate itself by generating long-term economic value for its shareholders, while respecting the interests of stakeholders and society as a whole.

The principal characteristics of effective corporate governance are: transparency (disclosure of relevant financial and operational information and internal processes of management oversight and control); protection and enforceability of the rights and prerogatives of all shareholders; and, directors capable of independently approving the corporation's strategy and major business plans and decisions, and of independently hiring management, monitoring management's performance and integrity, and replacing management when necessary.

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Weil, Gotshal & Manges LLP: *Founded in 1931, Weil, Gotshal & Manges LLP has evolved into a leading international law firm, offering expertise in a wide range of diverse practice areas. With an extraordinary talent base of over 1,200 attorneys in 20 offices around the world, Weil Gotshal serves a broad array of clients across multiple industries.*

The Firm's Corporate Governance Group is recognized as the preeminent counselors of corporate boards, management and institutional investors on the full range of governance issues including: board composition, structure and processes; executive and director compensation; director responsibilities, including in connection with mergers, spin-offs and other extraordinary transactions; internal and governmental investigations of alleged accounting or other corporate misconduct; and shareholder initiatives.

The Corporate Governance practice is well-integrated with other practice areas, providing the Firm with an unparalleled capacity to serve as counselors to companies and their boards across the entire range of situations: from healthy companies using governance to reduce risks of future business distress or to protect extraordinary transactions, to companies facing takeovers or enterprise-threatening litigation, to companies on the brink of financial distress. The Business, Finance & Restructuring department is renowned for its ability to advise directors, investors, creditors, and companies on preventing and handling all forms of financial distress. The Business & Securities Litigation department is highly regarded for its representation of a wide variety of companies and their directors in various forms of shareholder litigation, including in litigation related to takeovers. The Firm's Corporate department regularly represents clients in the full range of merger and acquisition, private equity, capital markets, bank and securitized financing, and other commercial transactions, including in many of the largest and innovative transactions completed each year.

Weil Gotshal attorneys have advised the World Bank, the Organisation for Economic Co-operation and Development ("OECD"), the European Commission and various stock exchanges and regulatory bodies on governance reform efforts and have been leaders in providing director training programs worldwide. In addition, the Firm has played a leading role in the development of some of the world's most influential corporate governance recommendations and guidelines, including: National Association of Corporate Directors ("NACD"), REPORT OF THE NACD BLUE RIBBON COMMISSION ON DIRECTOR PROFESSIONALISM (1996, reissued 2001, 2005); General Motors Board of Directors, CORPORATE GOVERNANCE GUIDELINES (1994, revised 2004); OECD PRINCIPLES OF CORPORATE GOVERNANCE (1999, revised 2004); European Association of Securities Dealers ("EASD"), CORPORATE GOVERNANCE PRINCIPLES AND RECOMMENDATIONS (2000); International Corporate Governance Network ("ICGN"), STATEMENT ON GLOBAL CORPORATE GOVERNANCE PRINCIPLES (1999, revised 2005); REPORT OF THE BLUE RIBBON COMMITTEE ON IMPROVING THE EFFECTIVENESS OF CORPORATE AUDIT COMMITTEES (for the New York Stock Exchange ("NYSE") and National Association of Securities Dealers ("NASD")) (1999); and the REPORT OF THE OECD BUSINESS SECTOR ADVISORY GROUP ON CORPORATE GOVERNANCE ("Millstein Report") (1998). The Firm also completed a study of guidelines and codes for the European Commission entitled: COMPARATIVE STUDY OF CORPORATE GOVERNANCE CODES RELEVANT TO THE EUROPEAN UNION AND ITS MEMBER STATES (2002).

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March 2007

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
OVERVIEW				
<p><u>Code:</u> OECD PRINCIPLES OF CORPORATE GOVERNANCE (April 1999, revised April 2004)</p> <p><u>Related Document:</u> CORPORATE GOVERNANCE: IMPROVING COMPETITIVENESS AND ACCESS TO CAPITAL IN GLOBAL MARKETS – A REPORT TO THE OECD (“the Millstein Report”) (April 1998)</p> <p><u>Issuing Body:</u> Organisation for Economic Cooperation & Development (“OECD”), an intergovernmental organisation</p> <p><u>Legal Basis and Compliance:</u> Voluntary</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Listed companies; encouraged to all companies</p>	<p><u>Code:</u> PRINCIPLES OF GOOD CORPORATE GOVERNANCE AND BEST PRACTICE RECOMMENDATIONS (March 2003)</p> <p><u>Issuing Body:</u> Australian Stock Exchange (“ASX”)</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve company’s performance, competitiveness and/or access to capital; improve quality of governance-related information available to equity markets</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>	<p><u>Code:</u> THE BELGIAN CODE ON CORPORATE GOVERNANCE (December 2004)</p> <p><u>Issuing Body:</u> Corporate Governance Committee (“Lippens Committee”), a committee related to a stock exchange and a business, industry and/or academic association</p> <p><u>Legal Basis and Compliance:</u> This Code includes Principles, which are mandatory; Provisions, which are to be observed on a comply or explain basis; and Guidelines, which are optional</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Listed companies; encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>	<p><u>Codes:</u></p> <p>A) CVM RECOMMENDATIONS ON CORPORATE GOVERNANCE (June 2002) (“CVM Recommendations”)</p> <p>B) CODE OF BEST PRACTICE (March 2004) (“IBGC Code”)</p> <p><u>Issuing Body:</u></p> <p>A) Comissão de Valores Mobiliários (“CVM”) (Securities & Exchange Commission of Brazil)</p> <p>B) Instituto Brasileiro de Governança Corporativa (“IBGC”)</p> <p><u>Legal Basis and Compliance:</u></p> <p>A) Disclosure (comply or explain)</p> <p>B) Voluntary (disclosure encouraged)</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u></p> <p>A) Listed companies</p> <p>B) All companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary*</p> <p>* In addition to the Board of Directors, the CVM Recommendations refer to a “Fiscal Board, and the IBGC Code to an “Advisory Board.” The Fiscal or Advisory Board has limited powers; the Board of Directors hires the CEO and has traditional supervisory body powers. We therefore characterize the Brazilian board structure as unitary.</p>	<p><u>Codes:</u></p> <p>A) “WHERE WERE THE DIRECTORS?” GUIDELINES FOR IMPROVED GOVERNANCE IN CANADA (Dey Report) (December 1994)</p> <p>B) BEYOND COMPLIANCE: BUILDING A GOVERNANCE CULTURE (SAUCIER REPORT) (NOVEMBER 2001)</p> <p><u>Issuing Bodies:</u></p> <p>A) Toronto Stock Exchange</p> <p>B) Joint Committee on Corporate Governance, a committee related to a stock exchange and an accountants’ association</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Listed companies; encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>

¹ Holly J. Gregory, a partner in the law firm of Weil, Gotshal & Manges LLP, practices in the firm’s corporate governance group. Lyn F. Fay assisted in this comparative analysis. Other regional COMPARISONS are available at <http://www.weil.com/wgm/pages/Controller.jsp?z=p&sz=CorpGov&db=wgm/WGMDoc.nsf&d=7fa691ef5e6d00ef85256d81004b74ba>

China	Denmark	France	Germany	India
OVERVIEW				
<p><u>Code:</u> CODE OF CORPORATE GOVERNANCE FOR LISTED COMPANIES IN CHINA (January 2002)</p> <p><u>Issuing Bodies:</u> The China Securities Regulatory Commission (“CSRC”) and the State Economic and Trade Commission</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance; improve companies’ performance, competitiveness and/or access to capital; improve quality of governance-related information available to equity markets</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant board structure (listed companies):</u> Unitary*</p> <p>* This Code refers to a structure called the “supervisory board” in addition to the “board of directors.” Since the “supervisory board” has very limited powers, and since it is the board of directors that hires the CEO and has all traditional supervisory body powers, we characterize the Chinese system as having a unitary board.</p>	<p><u>Code:</u> REVISED CORPORATE GOVERNANCE RECOMMENDATIONS 2005 (October 2005)</p> <p><u>Issuing Body:</u> Copenhagen Stock Exchange</p> <p><u>Legal Basis and Compliance:</u> The Recommendations include Principles or Rationales; Recommendations, which are to be observed on a comply or explain basis; and Comments, which provide practical instructions and examples of how companies may apply the Recommendations</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Listed companies domiciled in Denmark, encouraged to other companies not currently subject to a corporate governance code</p> <p><u>Predominant Board Structure (listed companies):</u> Two-tier</p>	<p><u>Code:</u> THE CORPORATE GOVERNANCE OF LISTED CORPORATIONS (October 2003)*</p> <p><u>Issuing Bodies:</u> Mouvement des Entreprises de France (MEDEF) and Association Française des Entreprises Privées (“AFEP”)</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objectives:</u> Improve quality of board (supervisory) governance; improve quality of governance-related information available to equity markets</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p> <p>* This Code consolidates the Viénot I Report (1995), the Viénot II Report (1999) and the Bouton Report (2002).</p>	<p><u>Code:</u> GERMAN CORPORATE GOVERNANCE CODE (February 2002, most recently revised June 2005)</p> <p><u>Issuing Body:</u> Government Commission on Corporate Governance (“Cromme Commission”)</p> <p><u>Legal Basis and Compliance:</u> This Code includes Recommendations, which are to be observed on a comply or explain basis and which are indicated by use of the word “shall”; Suggestions, which are optional and which are indicated by terms such as “should” or “can”; and passages which do not use these terms and which are mandatory under applicable law (Cf. Foreword)</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital; improve quality of governance-related information available to equity markets</p> <p><u>Scope:</u> Listed companies, encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Two-tier</p>	<p><u>Code:</u> REPORT OF THE COMMITTEE APPOINTED BY THE SEBI ON CORPORATE GOVERNANCE (February 2000)</p> <p><u>Issuing Body:</u> Securities & Exchange Board of India (“SEBI”)</p> <p><u>Legal Basis and Compliance:</u> Mandatory as to specified recommendations</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
OVERVIEW				
<p><u>Code:</u> CODE FOR GOOD CORPORATE GOVERNANCE (April 2001)</p> <p><u>Issuing Body:</u> National Committee for Corporate Governance, a committee related to a business, industry and/or academic association</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance</p> <p><u>Scope:</u> Listed companies, state-owned enterprises and companies utilizing public funds; encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Two-tier*</p> <p>* This Code regularly uses the terms “Dewan Komisaris” for the supervisory board and “Direksi” for the management board.</p>	<p><u>Codes:</u> A) REPORT/CODE OF CONDUCT (“PREDA REPORT”) (OCTOBER 1999) B) CORPORATE GOVERNANCE CODE (“Code”) (revised July 2002, May 2003, March 2006)</p> <p><u>Issuing Body:</u> Committee for the Corporate Governance of Listed Companies, a committee related to a stock exchange</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital; improve quality of governance-related information available to equity markets</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary*</p> <p>* This Code refers to a structure called the “board of auditors” in addition to the “board of directors.” Since the board of auditors has very limited governance powers, and since it is the board of directors that hires the CEO and has all traditional supervisory body powers, we characterize the Italian system as having a unitary board.</p>	<p><u>Codes:</u> A) PRINCIPLES OF CORPORATE GOVERNANCE FOR LISTED COMPANIES (March 2004) (“TXS Principles”) B) REVISED CORPORATE GOVERNANCE PRINCIPLES (May 1998, revised October 2001) (“CGFJ Principles”)</p> <p><u>Issuing Bodies:</u> A) Tokyo Stock Exchange (“TSX”) B) Corporate Governance Forum of Japan (“CGFJ”), an organization related to a business, industry and/or academic association</p> <p><u>Legal Basis and Compliance:</u> Voluntary</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance; improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Two-tier (optional unitary structure)</p>	<p><u>Code:</u> CODE OF BEST PRACTICE FOR CORPORATE GOVERNANCE (September 1999)</p> <p><u>Issuing Body:</u> Korean Committee on Corporate Governance, a committee related to a stock exchange and a business, industry and/or academic association</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance; improve companies’ performance, competitiveness and/or access to capital; set standards for review of Korean law</p> <p><u>Scope:</u> Listed companies; encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>	<p><u>Code:</u> CORPORATE GOVERNANCE CODE FOR MEXICO (June 1999)</p> <p><u>Issuing Body:</u> El Consejo Coordinador Empresarial (“CCE”), a committee (commission) related to a stock exchange and a business, industry and/or academic association; and La Comisión Nacional Bancaria y de Valores (“CNBV”), a committee (commission) organized by government</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance; improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>

The Netherlands	Russia	South Africa	Spain	Sweden
OVERVIEW				
<p><u>Code:</u> THE DUTCH CORPORATE GOVERNANCE CODE – PRINCIPLES OF GOOD CORPORATE GOVERNANCE AND BEST PRACTICE PROVISIONS (December 2003)</p> <p><u>Issuing Body:</u> Corporate Governance Committee (“the Tabaksblat Committee”), a committee organized by government and related to a stock exchange and a business, industry and/or academic association</p> <p><u>Legal Basis and Compliance:</u> This Code includes Principles, which are mandatory; and Best Practice Provisions, which are to be observed on a comply or explain basis</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Two-tier*</p> <p>* This Code was drafted for the two-tier corporate board structure that predominates among Dutch listed companies, but also provides for the choice of a single-tier board, in which case:</p> <ul style="list-style-type: none"> ▪ Principles and Provisions regarding the supervisory board in a two-tier structure apply to the non-executive directors in a one-tier structure; ▪ Principles and Provisions regarding the management board in a two-tier structure apply to the executive directors in a one-tier structure; and ▪ Principles and Provisions regarding the chairman of the supervisory board in a two-tier structure apply to the nonexecutive chairman in a one-tier structure. <p>(Preamble ¶ 10)</p>	<p><u>Code:</u> RUSSIAN CODE OF CORPORATE CONDUCT (April 2002)</p> <p><u>Issuing Body:</u> Federal Securities Commission</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Joint stock companies; encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Two-tier*</p> <p>* The law “On Joint Stock Companies” (1995, as amended) requires that a joint stock company with more than fifty shareholders have a supervisory body (“board of directors”) in addition to an executive body. This Code recommends that the board of directors form the executive body into a management board accountable to it and to the shareholders.</p>	<p><u>Code:</u> KING REPORT ON CORPORATE GOVERNANCE FOR SOUTH AFRICA 2002 – EXECUTIVE SUMMARY (November 1994, revised March 2002)</p> <p><u>Issuing Body:</u> Institute of Directors in South Africa</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance</p> <p><u>Scope:</u> Listed companies, banks, financial and insurance entities, and public sector enterprises and agencies; all other companies expected to consider applying the principles of this Code, as appropriate in their particular circumstances</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>	<p><u>Code:</u> PRINCIPLES OF GOOD CORPORATE GOVERNANCE: CODE OF GOOD PRACTICE FOR BOARDS AND DIRECTORS (June 2004, August 2004, September 2004; English translation December 2004)</p> <p><u>Issuing Body:</u> Instituto de Consejeros-Administradores (“IC-A”) (Institute of Directors-Administrators)</p> <p><u>Legal Basis and Compliance:</u> Voluntary (disclosure encouraged)</p> <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Listed companies, encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>	<p><u>Code:</u> SWEDISH CODE OF CORPORATE GOVERNANCE (2005)</p> <p><u>Issuing Body:</u> Code Group (“Åsbrink Group”), a committee (commission) organized by government and related to a business, industry and/or academic association</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve accountability to shareholders and/or maximise shareholder value; improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u> Listed companies, encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
OVERVIEW				
<p><u>Codes:</u> A) SWISS CODE OF BEST PRACTICE (Böckli Report) (July 2002) (hereinafter “Code”) B) DIRECTIVE ON [DISCLOSURE OF] INFORMATION RELATING TO CORPORATE GOVERNANCE (August 2002, effective as of July 1, 2002) (hereinafter “Directive”)</p> <p><u>Issuing Body:</u> Panel of Experts, Economiesuisse (Swiss Business Federation) and SWX Swiss Exchange</p> <p><u>Legal Basis and Compliance:</u> A) Voluntary B) Mandatory as to Annex § 5; disclosure (comply or explain) as to remainder</p> <p><u>Objectives:</u> A) Improve quality of board (supervisory) governance B) Improve quality of governance-related information available to equity markets</p> <p><u>Scope:</u> Listed companies; encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Two-tier</p>	<p><u>Code:</u> REPORT OF THE COMMITTEE ON THE FINANCIAL ASPECTS OF CORPORATE GOVERNANCE (“Cadbury Report”) (December 1992, reissued 1996)</p> <p><u>Issuing Body:</u> Financial Reporting Council and the London Stock Exchange, a committee (commission) related to a stock exchange and a business, industry and/or academic association</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance; improve governance-related information available to equity markets</p> <p><u>Scope:</u> Listed companies; encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>	<p><u>Code:</u> THE COMBINED CODE ON CORPORATE GOVERNANCE (July 1998, revised July 2003)</p> <p><u>Issuing Body:</u> The Financial Reporting Council (“FRC”), a UK association that includes representatives of business, accountancy, law, government and the public sector</p> <p><u>Legal Basis and Compliance:</u> The Code includes Principles, which are mandatory; and Provisions, which are to be observed on a comply or explain basis. The Combined Code has been appended to the Listing Rules of both the London Stock Exchange and the Irish Stock Exchange</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance; improve governance-related information available to equity markets; improve investor confidence by raising standards of corporate governance</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>	<p><u>Code:</u> REPORT OF THE NACD BLUE RIBBON COMMISSION ON DIRECTOR PROFESSIONALISM (November 1996, reissued 2001, 2005)</p> <p><u>Issuing Body:</u> National Association of Corporate Directors (“NACD”)</p> <p><u>Legal Basis and Compliance:</u> Voluntary</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance; improve governance-related information available to equity markets</p> <p><u>Scope:</u> Listed companies; encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p>	<p><u>Code:</u> PRINCIPLES OF CORPORATE GOVERNANCE (May 2002, revised November 2005)*</p> <p><u>Issuing Body:</u> The Business Roundtable (“BRT”), a committee related to a business, industry and/or academic association</p> <p><u>Legal Basis and Compliance:</u> Voluntary</p> <p><u>Objective:</u> Improve quality of board (supervisory) governance; improve governance-related information available to equity markets</p> <p><u>Scope:</u> Listed companies; encouraged to all companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p> <p>* The 2005 BRT Principles are a restatement of the 2002 BRT Principles, which updated the Statement on Corporate Governance (September 1997), that had updated Corporate Governance and American Competitiveness (March 1990), which in turn updated The Role and Composition of the Board of Directors of the Large Publicly Owned Corporation (January 1978).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
1. Definition of Corporate Governance				
<p>Corporate governance involves a set of relationships between a company’s management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined. Good corporate governance should provide proper incentives for the board and management to pursue objectives that are in the interests of the company and shareholders, and should facilitate effective monitoring....</p> <p>Corporate governance is only part of the larger economic context in which firms operate, which includes, for example, macroeconomic policies and the degree of competition in product and factor markets. The corporate governance framework also depends on the legal, regulatory and institutional environment. In addition, factors such as business ethics and corporate awareness of the environmental and societal interests of the communities in which a company operates can also have an impact on its reputation and its long-term success. (Preamble at 2)</p> <p><i>See</i> Principle I (The corporate governance framework should promote transparent and efficient markets, be consistent with the rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities.).</p> <p><i>See also</i> Principle VI (The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the board of directors, and the board of director’s accountability to the supervisory board, company and the shareholders.).</p>	<p>Corporate governance is the system by which companies are directed and managed. It influences how the objectives of the company are set and achieved, how risk is monitored and assessed, and how performance is optimised. (Introduction, p. 3)</p>	<p>Corporate governance is a set of rules and behaviours according to which companies are managed and controlled. A good corporate governance model will achieve its goal by setting a proper balance between entrepreneurship and control, as well as between performance and conformance.</p> <p>For entrepreneurship, corporate governance rules should not only facilitate performance-driven direction, but should also provide mechanisms for direction and leadership while ensuring integrity and transparency in the decisionmaking process. Good corporate governance should help determine a company’s objectives, the means through which these objectives are attained and how performance is to be evaluated. In this sense, corporate governance should provide incentives for the board and management to pursue objectives that are in the interest of the company, its shareholders and other stakeholders.</p> <p>Control means effective evaluation of performance, careful management of potential risks, and proper supervision of conformity with agreed procedures and processes. Here, the emphasis is on monitoring whether robust control systems are effectively in operation, whether potential conflicts of interest are managed and whether sufficient checks are in place to prevent abuse of power leading to private benefits prevailing over corporate benefits. (Preamble ¶ 1)</p>	<p>Corporate governance is a set of practices aiming to optimize a company’s performance and protect stakeholders such as investors, employees, and creditors, thus facilitating access to capital....</p> <p>The adoption of good corporate governance practices constitutes a set of mechanisms through which investors ... protect themselves against deviation of assets by individuals with the power to influence or take decisions in the name of the company.</p> <p>Companies with a governance system that protects all investors tend to have higher valuations, because investors recognize that everyone will receive the due and respective return on their investment. (CVM Recommendations, Introduction)</p> <p>Corporate Governance is a corporate managing and monitoring system, involving relations with the Owners, Board of Directors, Officers, Independent Auditors, and Fiscal Council. Good corporate governance practices are geared to add value to a company, facilitate its access to capital and contribute to its perpetuation. (IBGC Code, Introduction)</p>	<p>“Corporate governance” means the process and structure used to direct and manage the business and affairs of the corporation with the objective of enhancing shareholder value, which includes ensuring the financial viability of the business. The process and structure define the division of power and establish mechanisms for achieving accountability among shareholders, the board of directors and management. The direction and management of the business should take into account the impact on other stakeholders such as employees, customers, suppliers and communities. (Dey Report, 2.1)</p> <p><i>See</i> Saucier Recommendation 15 (The Canadian Securities Administrators, in cooperation with the TSE, CDNX, the CICA and other appropriate professional bodies, should develop a program to support and encourage ongoing research, analysis and education in the area of corporate governance. They should consider establishing a standing committee or some other permanent structure that would be mandated with overseeing such a program.)</p> <p><i>See also</i> Saucier Report, p. 13 ([T]here are four conditions that can materially assist boards in developing [a governance] culture:</p> <ul style="list-style-type: none"> ▪ ... “outside directors”; ▪ ... an “independent board leader”...; ▪ a CEO who understands the role of the board and is openly supportive of building a healthy governance culture; and ▪ regular meetings of the outside directors without management....).

China	Denmark	France	Germany	India
1. Definition of Corporate Governance				
<p><i>Not covered directly, but see Preface (In accordance with ... commonly accepted standards in international corporate governance, [this] Code ... is formulated to promote the establishment and improvement of [a] modern enterprise system by listed companies, to standardize the operation of listed companies and to bring forward the healthy development of the securities market.).</i></p>	<p><i>Not covered directly, but see Principle I (Corporate governance implies that the supervisory board and the executive board understand that interaction between the management and the shareholders is of vital importance to the company. As owners of the company, the shareholders can actively exercise their rights and use their influence resulting in management protecting the interests of shareholders as best as possible, and ensuring efficient deployment of the company's funds, both in the short as well as the long term. Therefore, good corporate governance depends on appropriate frameworks which encourage shareholders to enter into a dialogue with the management of the company and each other.).</i></p>	<p><i>Not covered, but see Bouton Report, p. 4 (Recent events raise the fundamental issue of the distribution of responsibilities among the various market players, such as executive management, boards of directors, auditors and regulators.... What is needed is for all concerned parties to apply, in good faith, a set of "ground rules", the aims of which are understood and accepted by all.).</i></p>	<p><i>Not covered directly, but see the Foreword (This German Corporate Governance Code ... presents essential statutory regulations for the management and supervision (governance) of German listed companies and contains internationally and nationally recognized standards for good and responsible governance. The Code aims at making the German Corporate Governance system transparent and understandable.).</i></p>	<p>The Committee's recommendations have looked at corporate governance from the point of view of the stakeholders and in particular that of the shareholders and investors, because they are the <i>raison d'être</i> for corporate governance and also the prime constituency of SEBI.... The other way of looking at corporate governance is from the contribution that good corporate governance makes to the efficiency of a business enterprise, to the creation of wealth and to the country's economy. In a sense, both these points of view are related, and during discussions at the meetings of the Committee there was a clear convergence of both points of view. (§ 1.5)</p> <p><i>See § 2.7 (The Committee has identified the three key constituents of corporate governance as the Shareholders, the Board of Directors and the Management, and has attempted to identify, in respect of each of these constituents, their roles and responsibilities as also their rights, in the context of good corporate governance. Fundamental to this examination, and permeating this exercise, is the recognition of the three key aspects of corporate governance, namely: accountability, transparency and equality of treatment for all stakeholders.).</i></p> <p><i>See also § 4.2 ([T]he fundamental objective of corporate governance is the "enhancement of shareholder value, keeping in view the interests of other stakeholders").</i></p> <p><i>See also End Note (Corporate governance extends beyond corporate law. Its fundamental objective is not mere fulfillment of the requirements of the law but ensuring commitment of the board in managing the company in a transparent manner for maximising long-term shareholder value.).</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
1. Definition of Corporate Governance				
<p><i>Not covered directly, but see</i> Foreword (The objective of the Code is to provide a guide to excellence in corporate governance for the business world which has drawn on international best practice in corporate governance appropriately adjusted to suit the Indonesian legal and regulatory environment.... In this era of globalization, the business world is faced with a new paradigm, the stakeholders' value-added maximization paradigm. Without providing a value increase, it is difficult for a business to maintain its competitiveness.).</p>	<p>Corporate Governance, in the sense of the set of rules according to which firms are managed and controlled, is the result of norms, traditions and patterns of behaviour developed by each economic and legal system and is certainly not based on a single model that can be exported and imitated everywhere. (Report, 2)</p> <p><i>See</i> Report, 4 (The Committee has identified the maximisation of shareholder value as the primary objective of good Corporate Governance, considering that, in the longer term, the pursuit of this goal can give rise to a virtuous circle in terms of efficiency and company integrity, with beneficial effects for other stakeholders....).</p>	<p>Corporate governance is generally defined as the framework for disciplining corporate activities. (TXS Principles, Introduction)</p> <p>The nature of supervision by a present-day board of directors, having independent directors at the heart of its activities, is the undertaking of appropriate monitoring from the aspect of fulfilling the duties entrusted to them, while motivating the executive managers and employees with an appropriate compensation system in order to encourage independence. The balancing of this supervision (from the standpoint of the shareholders) with management (the administration of the company business) is called governance.... (CGFJ Principles, Foreword ¶ 8)</p> <p><i>See</i> TSX Principles, Appendix (In Japan, the legal framework prescribes two types of mechanisms for corporate governance that apply to most listed companies: a corporate auditors system consisting of ... the board of directors ... and the board of corporate auditors ("corporate auditors system"); and a committees system consisting of ... the board of directors and committees composed of members of the board of directors (nomination committee, audit committee, and compensation committee) ... ("committees system"). The selection is left to individual companies.).</p>	<p><i>Not covered directly, but see</i> Preamble ([T]he Committee enacts this Code to present a direction for better corporate governance that will render companies more credible, domestically and internationally, and enhance transparency and efficiency of the management.).</p>	<p><i>Not covered directly, but see</i> the Code, "Motive and Intent" ([The] purpose [of the Code] is to encourage more transparent management practices in order to ... attract more investment....).</p>

The Netherlands	Russia	South Africa	Spain	Sweden
1. Definition of Corporate Governance				
<p><i>Not covered directly, but see Preamble ¶ 3 (The code is based on the principle accepted in the Netherlands that a company is a long-term form of collaboration between the various parties involved. The stakeholders are the groups and individuals who directly or indirectly influence (or are influenced by) the achievement of the aims of the company. In other words: employees, shareholders and other providers of capital, suppliers and customers, but also government and civil society. The management board and the supervisory board have overall responsibility for weighing up the interests, generally with a view to ensuring the continuity of the enterprise. In doing so, the company endeavours to create long-term shareholder value. The management board and supervisory board should take account of the interests of the different stakeholders. The confidence of the stakeholders that their interests are represented is essential if they are to cooperate effectively within and with the company. Good entrepreneurship, including integrity and transparency of decisionmaking by the management board, and proper supervision thereof, including accountability for such supervision, are essential if the stakeholders are to have confidence in the management board and the supervision. These are the two pillars on which good corporate governance rests and on which this code is based.)</i></p>	<p>“Corporate governance” is a term that encompasses a variety of activities connected with the management of companies. Corporate governance affects the performance of economic entities and their ability to attract the capital required for economic growth. Improvement of corporate governance in the Russian Federation is vital for increasing investment in all sectors of the Russian economy from both domestic sources and foreign investors. One means to foster such improvement is to introduce standards that are based on an analysis of best practices of corporate governance. (Introduction)</p>	<p>“Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals.... [T]he aim is to align as nearly as possible the interests of individuals, corporations and society.” (Introduction and Background, <i>quoting</i> Sir Adrian Cadbury, CORPORATE GOVERNANCE OVERVIEW, World Bank Report, 1999)</p> <p><i>See</i> Introduction and Background § 18 ([S]even characteristics of good corporate governance:</p> <ul style="list-style-type: none"> ▪ <u>Discipline</u> ... management to adhere to behaviour ... correct and proper.... ▪ <u>Transparency</u> ... the ease with which an outsider is able to make meaningful analysis of a company.... ▪ <u>Independence</u> ... mechanisms ... to minimise or avoid ... conflicts of interest.... ▪ <u>Accountability</u> Individuals or groups ... need to be accountable for their decisions and actions.... ▪ <u>Responsibility</u> ... behaviour that allows for corrective action and for penalising mismanagement.... ▪ <u>Fairness</u> ... taking into account all those that have an interest in the company [including] minority shareowners ▪ <u>Social responsibility</u> ... respon[siveness] to social issues [and] a high priority on ethical standards.) 	<p><i>Not covered directly, but see Foreword (The purpose of this document is to provide Spanish Company Boards and Directors with a set of principles which relate to international best practice for good corporate governance. When drafting this work, we sought practical, widely accepted proposals that correlate with the “comply or explain” principle. The IC-A upholds the need for a reasonable balance between regulation, mandatory rules, and self-regulation, rules which are not obligatory and may be followed by all those who wish to spearhead corporate governance, but, if not observed, require an explanation for noncompliance....).</i></p> <p><i>See also</i> Introduction (Corporate Governance in Spain started out with the Olivencia Commission. Subsequently, mention should be made of the recommendations of the Aldama Commission, the Spanish Transparency Act ... as well as the Spanish Securities and Exchange Commission (CNMV) Circular 1/2004 issued in March 2004 on the Annual Corporate Governance Report, as the most relevant milestones to date. There is still a long way to go in pursuit of the goal of full implementation of good corporate governance in companies.)</p> <p><i>See also</i> § II.1 (The Shareholders’ right to information is an essential principle underlying the philosophy of Corporate Governance, and the Board as a whole is responsible for ensuring it....).</p>	<p>Corporate governance deals with the management of companies with a view to meeting the owners’ required return on invested capital, and thus it contributes to economic growth and efficiency. (§ I, Commentary)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
1. Definition of Corporate Governance				
<p>Corporate governance encompasses the full range of principles directed towards shareholders' interest seeking a good balance between direction and control and transparency at the top company level while maintaining decisionmaking capacity and efficiency. (Code, Introduction)</p>	<p>Corporate governance is the system by which businesses are directed and controlled. (Report § 2.5)</p> <p><i>See</i> Report § 1.1 ([B]oards ... must be free to drive their companies forward, but exercise that freedom within a framework of effective accountability. This is the essence of any system of good corporate governance.).</p>	<p><i>Not covered directly, but see</i> Cadbury Report, <i>left</i>.</p>	<p><i>Not covered directly, but see</i> Introduction, p. 1 (The accepted governance paradigm is simple: management is accountable to the board, and the board is accountable to shareholders.).</p>	<p>A good corporate governance structure is a working system for principled goal setting, effective decisionmaking, and appropriate monitoring of compliance and performance. Through this vibrant and responsive structure, the CEO, the senior management team and the board of directors can interact effectively and respond quickly and appropriately to changing circumstances, within a framework of solid corporate values, to provide enduring value to the shareholders who invest in the enterprise. (p. 6)</p> <p><i>See</i> p. 5 (Effective corporate governance requires a clear understanding of the respective roles of the board and senior management and of their relationships with others in the corporate structure.... Effective corporate governance requires a proactive, focused state of mind on the part of directors, the CEO and senior management, all of whom must be committed to business success through maintenance of the highest standards of responsibility and ethics.).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
2. The Corporate Objective & Mission of the Board of Directors				
<p>The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the board, and the board's accountability to the company and the shareholders.</p> <p>A. Board members should act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the company and the shareholders.</p> <p>B. Where board decisions may affect different shareholder groups differently, the board should treat all shareholders fairly.</p> <p>C. The board should apply high ethical standards. It should take into account the interests of stakeholders.</p> <p>(Principle VI)</p> <p>The board should be able to exercise objective independent judgment on corporate affairs. (Principle VI.E)</p> <p>See Millstein Report, Perspective 21 ([C]orporations should disclose the extent to which they pursue projects and policies that diverge from the primary corporate objective of generating long-term economic profit so as to enhance shareholder value in the long term.).</p> <p>See also Topic Heading 2a, below.</p>	<p>Recognise and publish the respective roles and responsibilities of board and management. (Principle 1)</p> <p>The company's framework should be designed to:</p> <ul style="list-style-type: none"> ▪ enable the board to provide strategic guidance for the company and effective oversight of management; ▪ clarify the respective roles and responsibilities of board members and senior executives in order to facilitate board and management accountability to both the company and its shareholders; [and] ▪ ensure a balance of authority so that no single individual has unfettered powers. <p>(Commentary on Principle 1)</p> <p>See Topic Heading 2a, below.</p>	<p>In a "one-tier board" model, the board has a dual role to play: to support entrepreneurship and to ensure effective monitoring and control. (Preamble ¶ 6)</p> <p>The company shall adopt a clear governance structure. (Principle 1)</p> <p>The company shall have an efficient and effective board taking decisions in the corporate interest. (Principle 2)</p> <p>The company shall define a clear executive management structure. (Principle 6)</p> <p>See Provision 1.1 (The company should define and disclose the board's terms of reference in its Corporate Governance Charter....).</p> <p>See also Provision 6.1 (The board should determine, in close consultation with the CEO, the terms of reference of the executive management detailing its responsibilities, duties, powers, composition and operation.).</p> <p>See also Topic Heading 2a, below.</p>	<p><u>Board of Directors</u></p> <p>The board of directors should seek to protect the company's assets, ensure that the objectives of the company are carried out, and guide management with the goal of maximizing return on investments, adding value to the company. (CVM Recommendation II.1)</p> <p>The board of directors supervises management. (Commentary on CVM Recommendation II.4)</p> <p>The mission of the Board of Directors is to protect and add value to the company and maximize the return on the investment. (IBGC Code ¶ 2.3)</p> <p><u>Fiscal/Advisory Board</u></p> <p>The Fiscal Council, an essential part of the Brazilian companies' governance system, is a non-mandatory institution whose purpose is to oversee the actions of their administrative bodies and give its opinion on certain matters to the owners. It should be seen as a tool designed to add value to the company, since it works as an independent control for the owners of the company. (IBGC Code ¶ 5.1)</p> <p>See Commentary on CVM Recommendation § IV.5 (The fiscal board's supervisory capacity shall be the broadest possible, due to responsibilities imposed by law in the case of misconduct.).</p> <p><u>See also Family Council</u></p> <p>Family companies should consider setting up a Family Council. A Family Council is a small group set up to discuss family matters and organize expectations regarding the company. (IBGC Code ¶ 1.10)</p> <p>See Topic Heading 2a, below.</p>	<p>The board of directors of every corporation should explicitly assume responsibility for the stewardship of the corporation.... (Dey Report, Guideline 1)</p> <p>We define the principal objective of directing and managing the business and affairs of the corporation as enhancing shareholder value. (Dey Report, § 2.2(2))</p> <p>Boards of directors are stewards of the corporation's assets and their behaviour should be focused on adding value to those assets by working with management to build a successful corporation and enhance shareholder value. (Saucier Report, p. 7)</p> <p>See Saucier Report, p. 12 (The Canada Business Corporations Act (CBCA) states that "the directors shall manage the business and affairs of the corporation." The Dey Report observed that this description is confusing, as boards today may "supervise, direct or oversee" but the "day-to-day management must be delegated to others." The Dey Report recommended that, to eliminate confusion, the CBCA be amended to make it clear that the responsibility of directors is "to supervise the management of the business." We agree with that position and believe that the Act should be amended to reflect this.).</p> <p>See Saucier Report, p. 25 (Role of the board of a controlled corporation).</p> <p>See Topic Heading 2a, below.</p>

China	Denmark	France	Germany	India
2. The Corporate Objective & Mission of the Board of Directors				
<p><i>Not covered directly, but see</i> Ch. 3, (3) 42 (The board of directors shall be made accountable to shareholders. A listed company’s corporate governance framework shall ensure that the board of directors can exercise its power in accordance with laws, administrative regulations and the company’s articles of association.).</p> <p><u>Supervisory Board</u></p> <p>The supervisory board shall supervise the corporate finance, the legitimacy of directors, managers and other senior management personnel’s performance of duties, and shall protect the company’s and the shareholders’ legal rights and interests. (Ch. 4, (1) 59)</p> <p>The supervisory board may report directly to securities regulatory authorities and other related authorities, as well as reporting to the board of directors and the shareholders’ meetings when the supervisory board learns of any violation of laws, regulations or the company’s articles of association by directors, managers or other senior management personnel. (Ch. 4, (1) 63)</p> <p><i>See</i> Ch. 4, (1) 59 (The supervisory board of a listed company shall be accountable to all shareholders.).</p> <p><i>See also</i> Topic Heading 2a, below.</p>	<p>The supervisory board is responsible for safeguarding the interests of the shareholders with care and due consideration of the other stakeholders. As concerns the managerial division of tasks between the supervisory board and the executive board, the supervisory board is assigned with, and responsible for, undertaking the overall management of the company, as well as establishing guidelines for and supervising the executive board’s work. One important management task is to develop and establish appropriate strategies for the company. It is essential that the supervisory board ensure ongoing development of, and follow-up on, the necessary strategies in collaboration with the executive board. (Principle IV)</p> <p><i>See</i> Topic Heading 2a, below.</p>	<p>In exercising its statutory prerogatives, the Board of Directors is carrying out a four-fold mission: it defines the corporation’s strategy; appoints the corporate officers in charge of managing the corporation, in line with that strategy; selects the form of organization (separation of the offices of chairman and chief executive officer or combination of such offices); and monitors management and secures the quality of information provided to shareholders and to the market.... (¶ 1.2)</p> <p>The Board of Directors represents all the shareholders. It is collectively accountable for performance of its assignments to the meeting of shareholders.... (¶ 5)</p> <p><i>See</i> ¶ 5.1 (The Board of Directors must take care not to infringe upon the specific powers of the shareholders if the transaction that it proposes is such as to modify, in fact or in law, the object[ive]s of the company, which is the very basis of the contract founding the corporation.).</p> <p><i>See also</i> Topic Heading 2a, below.</p>	<p>[T]he General Meeting resolves on the Articles of Association, the purpose of the company, amendments to the Articles of Association and essential corporate measures.... (§ 2.2.1)</p> <p><u>Supervisory Board</u></p> <p>The Supervisory Board appoints, supervises and advises the members of the Management Board and is directly involved in decisions of fundamental importance to the enterprise....</p> <p>The representatives elected by the shareholders and the representatives of the employees are equally obliged to act in the enterprise’s best interests. (Foreword)</p> <p><u>Management Board</u></p> <p>The Management Board is responsible for managing the enterprise. Its members are jointly accountable for the management of the enterprise. (Foreword)</p> <p>The Management Board coordinates the enterprise’s strategic approach with the Supervisory Board and discusses the current state of strategy implementation with the Supervisory Board at regular intervals. (§ 3.2)</p> <p>The Management Board is responsible for independently managing the enterprise. In doing so, it is obliged to act in the enterprise’s best interests and undertakes to increase the sustainable value of the enterprise. (§ 4.1.1)</p> <p>The Management Board develops the enterprise’s strategy, coordinates it with the Supervisory Board and ensures its implementation. (§ 4.1.2)</p> <p><i>See</i> Topic Heading 2a, below.</p>	<p>The pivotal role in any system of corporate governance is performed by the board of directors. It is accountable to the stakeholders [including shareholders] and directs and controls the Management. It stewards the company, sets its strategic aim and financial goals and oversees their implementation, puts in place adequate internal controls and periodically reports the activities and progress of the company in a transparent manner to the stakeholders. (§ 2.8)</p> <p>The board of a company provides leadership and strategic guidance, objective judgment independent of management to the company and exercises control over the company, while remaining at all times accountable to the shareholders. (§ 6.1)</p> <p><i>See</i> § 14.1 (The shareholders are the owners of the company and as such they have certain rights and responsibilities.... The shareholders ... delegate many of their responsibilities as owners of the company to the directors....).</p> <p><i>See also</i> Topic Heading 2a, below.</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
2. The Corporate Objective & Mission of the Board of Directors				
<p><u>Supervisory Board</u></p> <p>The Dewan Komisaris shall be responsible and shall have the authority to supervise the actions of the Direksi, and shall give advice to the Direksi when required. (§ II, Principle 2.1)</p> <p><u>Management Board</u></p> <p>The Direksi are charged with the overall management of the Company. The Direksi shall be responsible for the implementation of their duties to the shareholders at the GMOS [AGM]. (§ III, Principle 3.1)</p> <p><i>See Topic Heading 2a, below.</i></p>	<p>Listed companies are governed by a Board of Directors that meets at regular intervals, and that adopts an organisation and a modus operandi which enable it to perform its functions in an effective, efficient manner. (Code, 1.P.1)</p> <p>The Committee believes that the Board of Directors has the primary responsibility for determining and pursuing the strategic objectives of the issuer and of the group of which it is a member or which it heads. (Comment on Code Article 1)</p> <p><i>See Report, 5.1 ([T]he fundamental feature [of the Code] is the central position of the board of directors, charged with providing strategic and organisational guidance and verifying the existence of the controls needed to monitor companies' performance.).</i></p> <p><i>See also Topic Heading 2a, below.</i></p>	<p>Corporate governance for listed companies should enhance the supervision of management by the Board of Directors, Auditors [or] Board of Corporate Auditors ... and ensure their accountability to shareholders. (TSX Principle 5)</p> <p>The legal framework or basis for corporate governance permits the choice of a corporate auditors system or committees system. In either case, the Board of Directors, Auditors, Board of Corporate Auditors, and other relevant group(s) should evaluate whether management has been accurately and efficiently executing business pursuant to their strategic guidance on strategies, and prevent the occurrence of conflicts of interest.... (Commentary on TSX Principle 5)</p> <p>[In the (Board of Directors) Committees System,] the board of directors is positioned as the management supervision body of the company. (CGFJ Principle I)</p> <p><i>See CGFJ Principles, Foreword ¶ 2 (Shareholders, who have been charged with the responsibility of governance, first determine a company's objectives, and also the smaller goals that are milestones toward achieving these objectives.).</i></p> <p><i>See also CGFJ Principles, Foreword ¶ 12 (The objective of many shareholders of public companies is the long-term increase in the value of their assets through their ownership of shares.).</i></p> <p><i>See also Topic Heading 2a, below.</i></p>	<p>The Board shall make the key management policy decisions in the best interests of the corporation and its shareholders, and shall perform effective supervision of the directors and management. (§ II.1)</p> <p>[I]t is highly advised that the Board concentrate on key management decisionmaking and mandate lesser or trivial matters to the respective director or management; or that the Board establish internal committees within itself to which a portion of the authority can be delegated. (§ II.1.2)</p> <p>Directors shall perform their duties ... in the best interests of the corporation and its shareholders. (§ II.7)</p> <p><i>See Topic Heading 2a, below.</i></p>	<p>In addition to the obligations stipulated in the General Mercantile Companies Law, the Credit Institutions Law, the Securities Market Law and other specific laws, the following should be included in the functions of the Board of Directors:</p> <ol style="list-style-type: none"> i. establish a strategic vision for the company; ii. ensure that stockholders and the market have access to public information about the company; iii. establish internal control mechanisms; iv. ensure that the company has the necessary mechanisms to prove that it complies with the various legal provisions to which it is subject; and v. regularly evaluate the performance of the chief executive officer and other senior management of the company. <p>(Principle at I.1)</p> <p>[T]he definition of [the company's] strategic vision and approval of its management should be the responsibility of the Board of Directors. All the members of the Board share in the responsibility for these tasks. (Recommendation at I)</p> <p><i>See Topic Heading 2a, below.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
2. The Corporate Objective & Mission of the Board of Directors				
<p><u>1. In a Two-Tier Board Structure</u> The management board and the supervisory board are responsible for the corporate governance structure of the company and compliance with this code. They are accountable for this to the general meeting of shareholders. (Principle I)</p> <p><u>a. Supervisory Board</u> The role of the supervisory board is to supervise the policies of the management board and the general affairs of the company and its affiliated enterprise, as well as to assist the management board by providing advice. In discharging its role, the supervisory board shall be guided by the interests of the company and its affiliated enterprise, and shall take into account the relevant interests of the company's stakeholders. (Principle III.1)</p> <p><u>b. Management Board</u> The role of the management board is to manage the company, which means, among other things, that it is responsible for achieving the company's aims, strategy and policy, and results. The management board is accountable for this to the supervisory board and to the general meeting of shareholders. In discharging its role, the management board shall be guided by the interests of the company and its affiliated enterprise, taking into consideration the interests of the company's stakeholders. (Principle II.1)</p> <p><u>2. In a One-Tier Board Structure</u> The composition and functioning of a ... board comprising both ... executive directors and ... nonexecutive directors shall be such that proper and independent supervision by the latter category of members is assured. (Principle III.8)</p>	<p><u>Board of Directors</u> Corporate governance practice should provide for the strategic management of the company's business by the board of directors, for effective control by the board over the executive bodies of the company, and for the accountability of the board of directors to shareholders. (Ch. 1, § 3)</p> <p>Pursuant to the law, the board of directors should exercise general management of the company's operations, have wide powers of supervision and control, and be liable for a failure to perform its duties. (Ch. 3)</p> <p>[M]embers of the board of directors should act in the interests of the entire company.... (Ch. 3, § 3.1.1)</p> <p>See Ch. 1, § 4.1 (It is recommended that companies create a ... "managerial board"....).</p> <p><u>Management Board</u> Corporate governance practice should provide executive bodies of the company with the ability to manage the day-to-day activities of the company reasonably, in good faith and solely in the interests of the company, and ensure that executive bodies report to the board of directors and the shareholders. (Ch. 1, § 4)</p> <p>[T]he executive bodies are charged with management of the company's current affairs, making them responsible for attainment of the company's goals and objectives and implementation of the company's strategies and policies. (Ch. 4)</p> <p>See Topic Heading 2a, below.</p>	<p>Companies should be headed by an effective board that can both lead and control the company. (§ 2.2.1)</p> <p>The board ... is ultimately accountable and responsible for the performance and affairs of the company. (§ 2.1.1)</p> <p>The board must give strategic direction to the company, appoint the chief executive officer and ensure that succession is planned. (§ 2.1.3)</p> <p>The board must retain full and effective control over the company, and monitor management in implementing board plans and strategies. (§ 2.1.4)</p> <p>See Topic Heading 2a, below.</p>	<p>The Board of Directors is the supreme governing body of the company, except for those matters which, by law or as provided by the Articles of Incorporation, must be decided by the General Shareholders' Meeting. The effective supervision of all corporate activities is vested in the Board. (§ I.1)</p> <p>See Topic Heading 2a, below.</p>	<p>The board is responsible for the company's organisation and the management of the company's affairs. The extensive decisionmaking authority thus assigned the board is limited primarily by the exclusive decisionmaking powers of the shareholders' meeting in certain matters and the meeting's right to issue instructions to the board. (§ I, 2 Commentary)</p> <p>The principal task of the board of directors is to manage the company's affairs in such a way as to satisfy the owners that their interests in a good long-term return on capital are being met in the best possible way. (§ III, 3.1 Commentary)</p> <p>See Topic Heading 2a, below.</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
2. The Corporate Objective & Mission of the Board of Directors				
<p><u>Board of Directors</u> The Board of Directors, which [is] elected by the shareholders, is responsible for the strategic direction of the company or the group. (Code ¶ 9)</p> <p><u>Management Board</u> <i>Not covered.</i> <i>See Topic Heading 2a, below.</i></p>	<p>The board should ... retain full and effective control over the company and monitor the executive management. (Code § 1.1)</p> <p>[B]oards ... must be free to drive their companies forward, but exercise that freedom within a framework of effective accountability. (Report § 1.1)</p> <p><i>See Topic Heading 2a, below.</i></p>	<p>Every company should be headed by an effective board, which is collectively responsible for the success of the company. (Main Principle A.1)</p> <p>The board's role is to provide entrepreneurial leadership of the company within a framework of prudent and effective controls which enables risk to be assessed and managed. The board should set the company's strategic aims, ensure that the necessary financial and human resources are in place for the company to meet its objectives and review management performance. The board should set the company's values and standards and ensure that its obligations to its shareholders and others are understood and met. (Supporting Principle A.1)</p> <p><i>See Topic Heading 2a, below.</i></p>	<p>The objective of the corporation (and therefore of its management and board of directors) is to conduct its business activities so as to enhance corporate profit and shareholder gain. In pursuing this corporate objective, the board's role is to assume accountability for the success of the enterprise by taking responsibility for the management, in both failure and success. This means selecting a successful corporate management team, overseeing corporate strategy and performance, and acting as a resource for management in matters of planning and policy. (p. 3)</p> <p>Among the most important missions of the board is ensuring that shareholder value is both enhanced through corporate performance and protected through adequate internal financial controls. (p. 10)</p> <p><i>See Topic Heading 2a, below.</i></p> <p><i>See also</i> REPORT OF THE NACD BLUE RIBBON COMMISSION ON BOARD LEADERSHIP (2004).</p>	<p>The business of a corporation is managed under the direction of the corporation's board. The board delegates to the CEO – and through the CEO to other senior management – the authority and responsibility for managing the everyday affairs of the corporation. Directors monitor management on behalf of the corporation's shareholders. (p. 7)</p> <p><i>See Topic Heading 2a, below.</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
2a. Board Job Description/Director Responsibilities				
<p>[The board's key functions include:]</p> <ol style="list-style-type: none"> 1. Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans; setting performance objectives; monitoring implementation and corporate performance; and overseeing major capital expenditures, acquisitions and divestitures. 2. Monitoring the effectiveness of the company's governance practices and making changes as needed. 3. Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning. 4. Aligning key executive and board remuneration with the longer term interests of the company and its shareholders. 5. Ensuring a formal and transparent board nomination and election process. 6. Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions. 7. Ensuring the integrity of the corporation's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards. 8. Overseeing the process of disclosure and communications. <p>(Principle VI.D)</p> <p><i>See Topic Headings 2, above, and 30, below.</i></p>	<p>Formalize and disclose the functions reserved to the board and those delegated to management. (Recommendation 1.1)</p> <p>Usually the board would be responsible for:</p> <ul style="list-style-type: none"> ▪ oversight of the company, including its control and accountability systems; ▪ appointing and removing the chief executive officer (or equivalent); ▪ ratifying the appointment and, where appropriate, the removal of the chief financial officer (or equivalent) and the company secretary; ▪ input into and final approval of management's development of corporate strategy and performance objectives; ▪ reviewing and ratifying systems of risk management and internal compliance and control, codes of conduct, and legal compliance; ▪ monitoring senior management's performance and implementation of strategy, and ensuring appropriate resources are available; ▪ approving and monitoring the progress of major capital expenditure, capital management, and acquisitions and divestitures; ▪ approving and monitoring financial and other reporting. <p>(Commentary on Recommendation 1.1)</p> <p><i>See Topic Headings 2, above, and 30, below.</i></p>	<p>The board's responsibilities should be defined in the articles of association of the company and in the terms of reference of the board. It is the board's duty to define its terms of reference.... (Guideline 1.1)</p> <p>The board should decide on the company's values and strategy, its risk appetite and key policies. (Provision 1.2)</p> <p>The board should ensure that its obligations to all its shareholders are understood and met. It should account to shareholders for the discharge of its responsibilities. (Provision 1.6)</p> <p>Independence of judgement is required in the decisions of all directors, executive and nonexecutive alike, whether the nonexecutive directors are independent or not. (Provision 3.1)</p> <p>[E]xecutive and nonexecutive directors ... have each a specific and complementary role to play on the board.</p> <p>Guideline Executive directors should provide all relevant business and financial information for the board to function effectively.</p> <p>Guideline Nonexecutive directors should constructively challenge and help develop strategy and key policies proposed by executive management.</p> <p>Guideline Nonexecutive directors should scrutinise the performance of executive management in meeting agreed goals.</p> <p>(Provision 3.3)</p> <p>The board should determine ... terms of reference of each committee.... (Provision 5.1)</p> <p><i>See Topic Headings 2, above, and 30, below.</i></p>	<p><u>Board of Directors</u></p> <p>The main responsibilities of a Board of Directors include the determination of strategies, election and removal of the CEO, approval of the selection or removal of Officers proposed by the CEO, oversight of management, monitor company risks, and appointment and replacement of Independent Auditors. It is also the duty of the Board to oversee relations between the CEO and other stakeholders. The Board is also in charge of approving the company's Code of Conduct and its own Internal Regulations. (IBGC Code ¶ 2.4)</p> <p>A Director must have a constant focus on the organization and understand that his/her duties and responsibilities are comprehensive, and not merely limited to Board meetings. (IBGC Code ¶ 2.16)</p> <p><i>See Commentary on CVM Recommendation IV.2 (The board of directors should provide appropriate means for the good functioning of the fiscal board....).</i></p> <p><i>See also IBGC Code ¶ 2.5 (The activities of the Board of Directors should be laid down in its own Internal Regulations, so as to clarify its responsibilities and functions and prevent conflict of interest situations with the Officers, particularly the CEO.).</i></p> <p><u>Fiscal/Advisory Board</u></p> <p>The fiscal board should adopt bylaws covering its duties, with a focus on analyzing the relationship with the auditor. (CVM Recommendation IV.2)</p> <p><i>See also Topic Headings 2, above, and 30 & 31, below.</i></p>	<p>[The board] should assume responsibility for the following matters:</p> <ol style="list-style-type: none"> i. adoption of a strategic planning process; ii. the identification of the principal risks of the corporation's business and ensuring the implementation of appropriate systems to manage these risks; iii. succession planning, including appointing, training and monitoring senior management; iv. a communications policy for the corporation; and v. the integrity of the corporation's internal control and management information systems. <p>(Dey Report, Guideline 1)</p> <p>The board should be responsible for contributing to the development of strategic direction and approving a strategic plan.... (Saucier Report, Recommendation 7)</p> <p>[F]ive core [board] functions [are]:</p> <ul style="list-style-type: none"> ▪ <u>choosing the CEO</u>, and ensuring that the senior management team is sound...; ▪ <u>setting the broad parameters</u> within which the management team operates...; ▪ <u>coaching</u> the CEO and the management team...; ▪ <u>monitoring</u> and assessing the performance of the CEO, setting the CEO's compensation and approving the compensation of senior management, and ... replacing the CEO if necessary; and ▪ <u>providing assurance</u> to shareholders and stakeholders about the integrity of the corporation's reported financial performance. <p>(Saucier Report, pp. 12-13)</p> <p><i>See Topic Headings 2, above, and 30, below.</i></p>

China	Denmark	France	Germany	India
2a. Board Job Description/Director Responsibilities				
<p>Directors shall faithfully, honestly and diligently perform their duties for the best interests of the company and all the shareholders. (Ch. 3, (2) 33)</p> <p>The board of directors shall abide by relevant laws, regulations, rules and the company’s articles of association, and shall strictly fulfill the undertakings they made publicly. (Ch. 3, (2) 36)</p> <p>The board of directors ... shall treat all the shareholders equally and shall be concerned with the interests of stakeholders. (Ch. 3, (3) 43)</p> <p>[I]ndependent directors ... shall be especially concerned with protecting the interests of minority shareholders from being infringed. (Ch. 3, (5) 50)</p> <p>See Ch. 3, (4) 48 (authorization for chairman to exercise certain board powers).</p> <p><u>Supervisory Board</u></p> <p>Not covered directly, but see Ch. 4, (2) 65 (A listed company shall formulate in its articles of association standardized rules and procedures governing the steering of the supervisory board.)</p> <p>See Topic Headings 2, above, and 30, below.</p>	<p>The Committee recommends that the supervisory board discuss and establish its most important tasks related to overall strategic management as well as the financial and managerial supervision of the company, and regularly evaluate the executive board’s work. (Recommendation IV.1)</p> <p>The supervisory board’s most important tasks normally include:</p> <ul style="list-style-type: none"> ▪ Establishing the overall goals and strategies, and being responsible for follow-up in this respect. ▪ Ensuring clear guidelines for responsibility, distribution of responsibilities, planning and follow-up as well as risk management. ▪ Appointing a qualified executive board, establishing conditions of employment for the members of the board, including preparing guidelines for its appointment and composition, as well as ensuring that the remuneration of the members of the board reflects their performance. ▪ Ensuring that relations with the company’s stakeholders are good and constructive. <p>(Commentary on Recommendation IV.1)</p> <p>Supervisory board members elected by [the employees] have the same rights, duties and responsibilities as supervisory board members elected by the general meeting. (Commentary on Recommendation V.5)</p> <p>See Topic Headings 2, above, and 30, below.</p>	<p>The Board of Directors ... calls the meeting [of shareholders] and sets its agenda, appoints and dismisses the chairman and chief executive officers in charge of the corporation’s management, supervises their management, determines the annual accounts submitted to the meeting of shareholders for approval, and reports on its action in the annual report. (¶ 5)</p> <p>Any director of a listed corporation should consider himself or herself bound by the following obligations:</p> <ul style="list-style-type: none"> ▪ Before accepting office, the director should ensure that he or she has taken cognisance of the general or specific obligations connected with that office.... ▪ The director should be a shareholder.... ▪ [T]he director represents all the shareholders.... ▪ The director is bound to report to the Board any conflict of interest.... ▪ The director should apply to his or her duties the necessary time and attention.... ▪ The director should be regular in attendance and take part in all meetings of the Board.... ▪ The director is under a duty to obtain information.... ▪ [T]he director should consider that he or she is bound by a strict confidentiality duty.... ▪ [T]he director should abstain from [insider trading and] disclose transactions in the corporation’s securities.... <p>It is up to each Board to supplement, if appropriate, this list.... (§ 17)</p> <p>See also Topic Headings 2, above, and 30, below.</p>	<p>The Management Board and Supervisory Board cooperate closely to the benefit of the enterprise. (§ 3.1)</p> <p><u>Supervisory Board</u></p> <p>For transactions of fundamental importance, the Articles of Association or the Supervisory Board specify provisions requiring the approval of the Supervisory Board. They include decisions or measures which fundamentally change the asset, financial or earnings situations of the enterprise. (§ 3.3)</p> <p>The task of the Supervisory Board is to advise regularly and supervise the Management Board in the management of the enterprise. It must be involved in decisions of fundamental importance to the enterprise. (§ 5.1.1)</p> <p>The Supervisory Board appoints and dismisses the members of the Management Board. (§ 5.1.2)</p> <p>The Supervisory Board shall issue Terms of Reference [regulating Management Board responsibilities]. (§ 5.1.3)</p> <p><u>Management Board</u></p> <p>[T]he shareholders’ General Meeting is to be convened by the Management Board.... (§ 2.3.1)</p> <p>The Management Board ensures that all provisions of law are abided by and works to achieve their compliance by group companies. (§ 4.1.3)</p> <p>The Management Board ensures appropriate risk management and risk controlling in the enterprise. (§ 4.1.4)</p> <p>Terms of Reference shall regulate the allocation of areas of responsibility and cooperation in the Management Board. (§ 4.2.1)</p> <p>See Topic Headings 2, above, and 30, below.</p>	<p>The board directs the company, by formulating and reviewing company’s policies, strategies, major plans of action, risk policy, annual budgets and business plans, setting performance objectives, monitoring implementation and corporate performance, and overseeing major capital expenditures, acquisitions and divestitures, change in financial control and compliance with applicable laws, taking into account the interests of stakeholders. It controls the company and its management by laying down the code of conduct, overseeing the process of disclosure and communications, ensuring that appropriate systems for financial control and reporting and monitoring risk are in place, evaluating the performance of management, chief executive, executive directors and providing checks and balances to reduce potential conflict between the specific interests of management and the wider interests of the company and shareholders including misuse of corporate assets and abuse in related party transactions. It is accountable to the shareholders for creating, protecting and enhancing wealth and resources for the company, and reporting to them on the performance in a timely and transparent manner. However, it is not involved in day-to-day management of the company, which is the responsibility of the management. (§ 6.2)</p> <p>See Topic Headings 2, above, and 30, below.</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
2a. Board Job Description/Director Responsibilities				
<p><u>Supervisory Board</u></p> <p>The Dewan Komisaris shall observe the Articles of Association of the Company and all applicable regulations having the force of law when performing its duties, and shall ensure that the Direksi also complies with the Articles of Association of the Company and all applicable regulations having the force of law. (§ II, Principle 2.3)</p> <p>[T]he Dewan Komisaris ... shall perform their duties honorably in the best interests of the Company, and shall also ensure that the Company performs its social responsibilities.... [It] should monitor the effectiveness of the Good Corporate Governance practices ... and make changes as needed. (§ II, 2.1)</p> <p>See § II, Principle 2.8 (<i>appointment, evaluation and remuneration of key executives in addition to the Direksi</i>).</p> <p><u>Management Board</u></p> <p>The Direksi shall observe the Articles of Association of the Company and all applicable regulations having the force of law when performing its duties. (Principle 3.3)</p> <p>The Direksi shall perform their duties faithfully in the best interests of the Company and ... cause the Company to perform its social responsibilities.... The Direksi should consistently promote compliance with the principles of Good Corporate Governance contained in this Code. (§ III, 3.1)</p> <p>The function of the corporate secretary can be carried out by a member of the Direksi. (§ V, Principle 5.2)</p> <p>See Topic Headings 2, above, and 30, below.</p>	<p>The Board of Directors shall:</p> <ol style="list-style-type: none"> a) examine and approve the company's strategic, operational and financial plans, and the corporate structure of the group it heads...; b) evaluate the adequacy ... of the structure of the issuer...; c) delegate powers to the managing directors and the executive committee...; d) determine ... remuneration...; e) evaluate the general performance of the company...; f) examine and approve ... transactions ... having a significant impact on the company's profitability, assets and liabilities or financial position...; g) evaluate ... the size, composition and performance of the Board of Directors...; h) provide information ... on the application of the present article 1.... (Code, 1.C.1) <p>Non-executive directors shall bring their specific expertise to board discussions and contribute to the taking of ... decisions paying particular care to ... conflicts of interest[s].... (Code, 2.P.2)</p> <p>The Board of Directors shall evaluate the adequacy of the internal control system.... (Code, 8.P.3)</p> <p><u>Board of Auditors</u></p> <p>[M]embers of the Board of Auditors shall keep confidential the documents and information acquired in the performance of their duties and shall comply with the procedure adopted by the issuer for the internal handling and disclosure to third parties of such documents and information. (Code, 4.P.1)</p> <p>See Topic Headings 2, above, and 30, below.</p>	<p>Listed companies should ... ensure...:</p> <ol style="list-style-type: none"> (1) Monitoring of management by the Board of Directors and Auditors or Board of Corporate Auditors and other relevant group(s).... (2) Motivation for management to maximize corporate value through positive convergence of management and company interests by appropriate means. (3) Development and improvement of a mutual monitoring system by directors under which fulfillment of duty and integrity as prudent managers should be secured and under which illegal activities and inappropriate activities from the perspective of generally accepted views are prevented. <p>(TSX Principle 5 Issues Requiring Attention)</p> <p>[In the (Board of Directors) Committees System.] Function and Powers of the Board of Directors:</p> <ol style="list-style-type: none"> 1. Matters to be decided by the board of directors should be limited to management supervision matters, <i>i.e.</i>, approval of high level strategic decisions, nomination of candidates for director and executive positions, appointment and removal of the CEO, review and setting of management salaries, general control of accounting and auditing, and other similar matters. 2. In addition to the matters prescribed by law to be decided by the board, ... a requirement that the board approve certain decisions of the CEO may also be provided for. (CGFJ Principle 2) <p>See Topic Headings 2, above, and 30, below.</p>	<p>The Board ... shall perform the following functions ...:</p> <ul style="list-style-type: none"> ▪ Setting business goals and strategies; ▪ Approving business plans and budgets; ▪ Supervising management and evaluating management performance; ▪ Replacing the management and also reviewing the remuneration; ▪ Monitoring major capital expenditures and corporate takeover; ▪ Mediating the conflicting interests among directors, management and shareholders; ▪ Ensuring integrity of the accounting and financial reporting systems; ▪ Supervising risk management and financial control; ▪ Supervising the compliance of statutes and ethics-related regulations; ▪ Monitoring the effectiveness of governance practices; [and] ▪ Overseeing the process of information disclosure. <p>(§ II.1.1)</p> <p>The most important role of outside directors is to enable the Board to perform its management supervisory functions effectively. (§ II.2.2)</p> <p>Outside directors have the same rights and responsibilities as standing directors. However, considering the limitations ... due to time constraints and the limitations in acquiring information as a nonstanding director, outside directors shall be given responsibilities proportionate to the range of operations that may realistically be performed. (Recommendation 6)</p> <p>See Topic Headings 2, above, and 30, below.</p>	<p>[I]t is important for a company to have a general frame of action that establishes standards of conduct for its board members. Companies should address six principles of conduct, recommending that Board members:</p> <ul style="list-style-type: none"> ▪ Notify the Chairman and Secretary of the Board of Directors of any situation that constitutes, or could be construed as, a conflict of interest, and refrain from participating in the corresponding debate; ▪ Use the company's assets and services exclusively in pursuing its corporate purpose, and define clear policies to apply in exceptional cases...; ▪ Dedicate the necessary time and attention to their job, attending at least 70% of the meetings...; ▪ Hold all information that might affect company operations ... in utmost confidence; ▪ Board members and their respective alternates, if any, must be kept mutually informed of the matters discussed in the Board meetings they attend; and ▪ Support the Board of Directors with opinions, recommendations and directions that are based on an analysis of the company's performance, so that decisions it makes are duly founded on professional criteria and qualified personnel who can offer a broader independent focus on the company's operations. <p>(Principles at I.5)</p> <p>See Topic Headings 2, above, and 30, below.</p>

The Netherlands	Russia	South Africa	Spain	Sweden
2a. Board Job Description/Director Responsibilities				
<p><u>1. In a Two-Tier Board Structure</u></p> <p><u>a. Supervisory Board</u> The division of duties within the supervisory board and the procedure of the supervisory board shall be laid down in a set of regulations. The supervisory board shall include in the regulations a paragraph dealing with its relations with the management board, the general meeting of shareholders and the works council, where relevant. (Best Practice Provision III.1.1)</p> <p>The supervisory board shall be assisted by the company secretary [who] shall see to it that correct procedures are followed and that the supervisory board acts in accordance with its statutory obligations and its obligations under the articles of association. (Best Practice Provision III.4.3)</p> <p><u>b. Management Board</u> The management board is responsible for complying with all relevant legislation and regulations, for managing the risks associated with the company activities and for financing the company. The management board shall report related developments to and shall discuss the internal risk management and control systems with the supervisory board and its audit committee. (Principle II.1)</p> <p>The management board shall submit to the supervisory board for approval:</p> <p>(a) the operational and financial objectives of the company;</p> <p>(b) the strategy designed to achieve the objectives....</p> <p>(Best Practice Provision II.1.2)</p> <p><u>2. In a One-Tier Board Structure</u> See Preamble, ¶ 10 (supervisory and management board responsibilities devolve to nonexecutive and executive directors, respectively).</p> <p>See Topic Headings 2 and 30.</p>	<p><u>Board of Directors</u> The board of directors should determine the company's development strategy and effectively control financial and business activities.... (Ch. 1, § 3.1)</p> <p>The board of directors should provide for the efficient operation and supervision of executive bodies of the company. To this end, it is recommended that the board of directors:</p> <p>(1) be vested with the right to suspend the authorities of the director general (managing organization)...;</p> <p>(2) should define eligibility criteria applicable to candidates for the position of director general (managing organization ...) and members of the company's managerial board;</p> <p>(3) should approve the terms and conditions of contracts between the company and the director general (managing organization ...) and the members of the managerial board, including their remuneration....</p> <p>(Ch. 1, § 3.4)</p> <p>See generally Ch. 3, § 1 (Functions of the Board of Directors); <i>id.</i>, § 2.2.2 (functions of independent directors); <i>id.</i>, § 3 (Duties of Members of the Board of Directors) and <i>id.</i>, § 4 (Operations of the Board of Directors).</p> <p><u>Management Board</u> [E]xecutive bodies ... are responsible for everyday operations of the company and their compliance with the financial and business plan of the company, and act timely, efficiently and in good faith to fulfill resolutions passed by the board of directors and the general shareholders meeting. (Ch. 4)</p> <p>See Ch. 4, § 1 (Authority of Executive Bodies) and § 3 (Responsibilities of Executive Bodies).</p> <p>See Topic Headings 2 and 30.</p>	<p>The board should define levels of materiality, reserving specific power to itself and delegating other matters with the necessary written authority to management. These matters should be monitored and evaluated on a regular basis. (§ 2.1.6)</p> <p>Every board should have a charter setting out its responsibilities, which should be disclosed in its annual report. At a minimum, the charter should confirm the board's responsibility for the adoption of strategic plans, monitoring of operational performance and management, determination of policy and processes to ensure the integrity of the company's risk management and internal controls, communications policy, and director selection, orientation and evaluation. (§ 2.1.17)</p> <p>The board must find the correct balance between conforming with governance constraints and performing in an entrepreneurial way. (§ 2.1.18)</p> <p>See Topic Headings 2, above, and 30, below.</p>	<p>The board of directors must be active, informed and independent. (§ I)</p> <p>In order [for an independent Director] to maintain [informed judgment], the Director must at all times:</p> <ul style="list-style-type: none"> ▪ Demand an initial, comprehensive, adequate and scheduled training scheme (induction programme) and continuous development (regular training) and updating of skills; ▪ possess sufficient knowledge about the Company and its environment (sector) and adequate knowledge of major business issues; and ▪ demand, in each case, sufficient, accurate, clear information which must be provided sufficiently in advance to formulate an opinion and have an informed judgment. <p>(§ I.4)</p> <p>The Board must approve the Company's corporate strategy and become familiar with the business strategies. The Board must approve any major change involving the Company's main business units. [It] must ensure that adequate risk management and internal control systems are in place which guarantee the financial soundness of corporate assets. (§ I.12)</p> <p>The Chairman of the Board and other Directors must seek counsel from the Secretary to the Board and, when the latter is not a lawyer, from the Legal Counsel, on the extent of their responsibility under current legislation, the Articles of Incorporation and Board Regulations. (§ I.13)</p> <p>See § I.1 (A set of Board Regulations must exist which provide a specific definition of the purpose, functions, obligations and priorities of this body and the way it operates.).</p> <p>See Topic Headings 2, above, and 30, below.</p>	<p>[T]he board of directors is to pay particular attention to:</p> <ul style="list-style-type: none"> ▪ establishing the overall goals for the company and deciding the company's strategy for achieving these goals, ▪ evaluate the company's operative management on an ongoing basis and, if necessary, appoint or dismiss the managing director, ▪ ensure ... an effective system for follow-up and control of the company's operations and financial position vis-à-vis the established goals, ▪ ensure that the company's external communications are open, objective and appropriate.... ▪ ensure that there is a satisfactory process for monitoring the company's compliance with laws and other regulations.... and ▪ ensure that the necessary guidelines governing the company's ethical conduct are established. <p>(§ III, Rule 3.1.1)</p> <p>The director's position in relation to the company is similar to that of a trustee. This means that the director is obliged to devote the time and the care and have the competence required to look after the interests of the company and its owners in the best possible manner. (§ III, 3.3 Commentary)</p> <p>Whether or not the managing director is a member of the board, he or she has a special role in the work of the board. As part of this role, the managing director reports to the board on the company's progress, submits reports and recommendations on matters prepared by company management and provides the board with information on which it bases its work. (§ III, 4.1 Commentary)</p> <p>See Topic Headings 2 and 30.</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
2a. Board Job Description/Director Responsibilities				
<p><u>Board of Directors</u></p> <p>The Board of Directors should determine the strategic goals, the general ways and means to achieve them and the individuals charged with management. In its planning it should ensure the fundamental harmonization of strategy and finances. (Code ¶ 9)</p> <p>Swiss company law lays down the inalienable and nontransferable primary functions of the Board of Directors. The primary functions are:</p> <ol style="list-style-type: none"> 1. the ultimate direction of the company and the giving of the necessary directives; 2. establishment of the organization; 3. structuring of the accounting system and of the financial controls as well as financial planning, insofar as necessary to manage the company; 4. appointment and removal of persons entrusted with the management and representation of the company; 5. the ultimate supervision of the persons entrusted with the management, with regard, in particular, to compliance with the law, the Articles of Association, regulations and directives; 6. preparation of the annual report as well as preparation of the general shareholders' meeting and the implementation of its resolutions; 7. notification of the court in case of an excess of indebtedness over assets.... (Code ¶ 10) <p>Subject to the provisions of the Articles of Association, the Board of Directors should lay down the powers and responsibilities of the persons in charge of managing the business. (Code ¶ 11)</p> <p><u>Management Board</u></p> <p><i>Not covered.</i></p> <p><i>See Topic Headings 2 and 30.</i></p>	<p>The board should have a formal schedule of matters specifically reserved to it for decision to ensure that the direction and control of the company is firmly in its hands. (Code § 1.4)</p> <p>All directors should have access to the advice and services of the company secretary, who is responsible to the board for ensuring that board procedures are followed and that applicable rules and regulations are complied with. (Code § 1.6; <i>see</i> Report § 4.25)</p> <p>Nonexecutive directors should bring an independent judgement to bear on issues of strategy, performance, resources, including key appointments, and standards of conduct. (Code § 2.1)</p> <p>It is the board's duty to present a balanced and understandable assessment of the company's position. (Code § 4.1)</p> <p>The directors should report on the effectiveness of the company's system of internal control. (Code § 4.5)</p> <p>Shareholders have delegated many of their responsibilities as owners to the directors who act as their stewards. (Report § 6.6)</p> <p><i>See Topic Headings 2, above, and 30, below.</i></p>	<p>All directors must take decisions objectively in the interests of the company. As part of their role as members of a unitary board, nonexecutive directors should constructively challenge and help develop proposals on strategy. Nonexecutive directors should scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance. They should satisfy themselves on the integrity of financial information and that financial controls and systems of risk management are robust and defensible. They are responsible for determining appropriate levels of remuneration of executive directors and have a prime role in appointing, and where necessary removing, executive directors, and in succession planning. (Supporting Principle A.1)</p> <p>The chairman should ensure that the views of shareholders are communicated to the board as a whole. The chairman should discuss governance and strategy with major shareholders. Nonexecutive directors should be offered the opportunity to attend meetings with major shareholders and should expect to attend them if requested by major shareholders. The senior independent director should attend sufficient meetings with a range of major shareholders to listen to their views in order to help develop a balanced understanding of the issues and concerns of major shareholders. (Provision D.1.1)</p> <p><i>See Appendix – Related Guidance and Good Practice Suggestions: Suggestions for Good Practice from the Higgs Report, pp. 61-64, and Topic Headings 2, above, and 16 and 30, below.</i></p>	<p>[E]ach board has the freedom – and, the Commission believes, the obligation – to define its role and duties in detail. (p. 3)</p> <p>[B]oard responsibilities include:</p> <ul style="list-style-type: none"> ▪ approving a corporate philosophy and mission ▪ selecting, monitoring, evaluating, compensating, and – if necessary – replacing the CEO.... ▪ reviewing and approving management's strategic and business plans.... ▪ reviewing and approving the corporation's financial objectives, plans, and actions.... ▪ reviewing and approving material transactions not in the ordinary course of business ▪ monitoring corporate performance against the strategic and business plans ▪ ensuring ethical behavior and compliance with laws.... ▪ assessing its own effectiveness.... ▪ performing such other functions as are prescribed by law. <p>(pp. 3-4)</p> <p>Boards should periodically review board and CEO role descriptions to accommodate changes in corporate governance and company operations. (p. 6)</p> <p><i>See generally</i> Chapter 2, How Boards Should Fulfill Their Responsibilities, pp. 5-8.</p> <p><i>See also</i> Topic Heading 2, above.</p>	<p>[T]he paramount duty of the board of directors of a public corporation is to select a chief executive officer and to oversee the CEO and senior management in the competent and ethical operation of the corporation on a day-to-day basis. (p. 2)</p> <p>Effective directors maintain an attitude of constructive skepticism; they ask incisive, probing questions and require accurate, honest answers; they act with integrity and diligence; and they demonstrate a commitment to the corporation, its business plans and long-term shareholder value. (p. 7)</p> <p>[Board] responsibilities include:</p> <ul style="list-style-type: none"> ▪ Planning for management development and succession.... ▪ Understanding, reviewing and monitoring the implementation of the corporation's strategic plans.... ▪ Understanding and approving annual operating plans and budgets.... ▪ Focusing on the integrity and clarity of ... financial statements and financial reporting.... ▪ Advising management on significant issues.... ▪ Reviewing and approving significant corporate actions.... ▪ Reviewing management's plans for business resiliency.... ▪ Nominating directors and committee members and overseeing effective corporate governance.... ▪ Overseeing legal and ethical compliance. <p>(pp. 8-10)</p> <p><i>See</i> p. 2 (The CEO and board of directors should set a "tone at the top" that establishes a culture of legal compliance and integrity.).</p> <p><i>See also</i> Topic Heading 2, above.</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
2b. The Role of Stakeholders				
<p>The corporate governance framework should recognize the rights of stakeholders established by law or through mutual agreements and encourage active cooperation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises.</p> <p>A. The rights of stakeholders that are established by law or through mutual agreements are to be respected.</p> <p>B. Where stakeholder interests are protected by law, stakeholders should have the opportunity to obtain effective redress for violation of their rights.</p> <p>C. Performance-enhancing mechanisms for employee participation should be permitted to develop.</p> <p>D. Where stakeholders participate in the corporate governance process, they should have access to relevant, sufficient and reliable information on a timely and regular basis.</p> <p>E. Stakeholders, including individual employees and their representative bodies, should be able to freely communicate their concerns about illegal or unethical practices to the board, and their rights should not be compromised for doing this.</p> <p>F. The corporate governance framework should be complemented by an effective, efficient insolvency framework and by effective enforcement of creditor rights.</p> <p>(Principle IV)</p> <p>See Millstein Report, 1.2.16 (Attending to legitimate social concerns should, in the long run, benefit all parties, including investors.).</p>	<p>Recognise legal and other obligations to all legitimate stakeholders. (Principle 10)</p> <p>Companies have a number of legal and other obligations to nonshareholder stakeholders such as employees, clients/customers and the community as a whole. There is growing acceptance of the view that organisations can create value by better managing natural, human, social and other forms of capital. Increasingly, the performance of companies is being scrutinised from a perspective that recognises these other forms of capital. That being the case, it is important for companies to demonstrate their commitment to appropriate corporate practices. (Commentary on Principle 10)</p> <p>Establish and disclose a code of conduct to guide compliance with legal and other obligations to legitimate stakeholders. (Recommendation 10.1)</p> <p>Codes of conduct should address matters relevant to the company’s compliance with its legal obligations to stakeholders....</p> <p>A code of conduct should enable employees to alert management and the board in good faith to potential misconduct without fear of retribution, and should require recording and investigation of such alerts.</p> <p>The company should have a system for ensuring compliance with its code of conduct and for dealing with complaints. In devising and implementing that system, the laws concerning defamation and privacy need to be considered. (Commentary on Recommendation 10.1)</p> <p>See Commentary on Recommendation 10.1 (<i>guidelines for the content of a code of conduct, including provisions regarding stakeholders</i>).</p>	<p>[C]orporate governance should provide incentives for the board and management to pursue objectives that are in the interest of the company, its shareholders and other stakeholders. (Preamble ¶ 1)</p> <p>Business success demonstrates that good governance leads to creation of wealth, not only for shareholders but also for all other stakeholders. Recent examples of corporate malpractice, however, have shown that failing corporate governance may lead to significant losses well beyond the loss of shareholder capital. Governance practices, based on transparency and accountability, will reinforce the confidence of investors in companies and will benefit other stakeholders. (Preamble ¶ 2)</p>	<p>FAIRNESS. Fairness typically conveys fair and equal treatment of all minority groups, whether of owners or other stakeholders such as associates, customers, suppliers, or creditors....</p> <p>CORPORATE RESPONSIBILITY. Directors and Officers must gear their efforts to the life-long existence of their organizations (long-term vision, sustainability) and should therefore include social and environmental concerns in defining businesses and operations of their company. Corporate responsibility is a broader view of corporate strategy, contemplating all kinds of relations with the community where the company operates. The “social role” of the company should include the creation of wealth and job opportunities, work force skills and diversity, promotion of scientific advancements through technology, and improved standards of living through educational, cultural, social, and environmental initiatives. This principle should include preferred treatment of local people and resources. (IBGC Code, Introduction)</p> <p>It is ... the duty of the Board to oversee relations between the CEO and other stakeholders. The Board is also in charge of approving the company’s Code of Conduct.... (IBGC Code ¶ 2.4)</p> <p>At least once a year, and with prior approval from the Board, every organization should disclose its policies and social, environmental, occupational and health safety practices. (IBGC Code ¶ 2.40)</p> <p>The CEO and Officers are accountable for a transparent relationship with stakeholders. (IBGC Code ¶ 3.3)</p> <p>The Code of Conduct should ... establish the social and environmental duties of the organization. (IBGC Code ¶ 6.1)</p>	<p>A system of corporate governance recognizes the role of other stakeholders. We have already identified the responsibility of the board to manage the corporation to enhance value for shareholders – in contrast to managing in order to address the interests of stakeholders, including employees, the community, suppliers, creditors and customers. Notwithstanding the primary responsibility of the board, the longer-term interests of shareholders will not be well-served if the interests of other stakeholders are not addressed. Creating shareholder wealth in a market economy will usually be in the best interests of stakeholders generally. (Dey Report, § 2.2(4))</p> <p>Having said that directors have no corporate law duty to act in the best interests of any particular stakeholder group, it is obvious that a board cannot make a decision without understanding the implications of its decision for this broader group of stakeholders. In making decisions to enhance shareholder value, the board must take into account the interests of other stakeholders. In today’s environment it is difficult for a corporation to prosper if it is not “on side” with all of its stakeholders. (Dey Report, § 4.17)</p> <p>When boards add value by fulfilling their responsibilities...., it will result in greater transparency and understanding of a company’s situation by its major stakeholders. (Saucier Report, p. 7)</p>

China	Denmark	France	Germany	India
2b. The Role of Stakeholders				
<p><i>The Company Law stipulates that the supervisory board of a listed company must include representatives of both the company's shareholders and the company's employees, in a ratio to be determined by each company's articles of association.</i> (Company Law, Art. 52 as cited in Martindale-Hubbell International Law Digest (2001), p. CHN-8)</p> <p>A listed company shall respect the legal rights of banks and other creditors, employees, consumers, suppliers, the community and other stakeholders. (Ch. 6, 81)</p> <p>A listed company shall actively cooperate with its stakeholders and jointly advance the company's sustained and healthy development. (Ch. 6, 82)</p> <p>Stakeholders shall have opportunities and channels for redress for infringement of rights. (Ch. 6, 83)</p> <p>A company shall provide necessary information to banks and other creditors to enable them to make judgments and decisions about the company's operating and financial situation. (Ch. 6, 84)</p> <p>A company shall encourage employees' feedback regarding the company's operating and financial situations and important decisions affecting employees' benefits through direct communications with the board of directors, the supervisory board and the management personnel. (Ch. 6, 85)</p> <p>While maintaining the listed company's development and maximizing the benefits of shareholders, the company shall be concerned with the welfare, environmental protection and public interests of the community.... (Ch. 6, 86)</p> <p><i>See Ch. 2, (1) 17 (bankruptcy, layoffs) and Ch. 2, (1) 18 (equal employment opportunity, incentive pay).</i></p>	<p>It is essential for a company's prosperity and future possibilities that the company have a good relationship with its stakeholders. Stakeholders are everyone directly affected by the company's decisions and business. Thus, it is desirable that the company's management run and develop the company with due consideration of its stakeholders, and that management provide an incentive for dialogue with stakeholders. Successful interaction between the company and its stakeholders implies openness and mutual respect. (Principle II)</p> <p>The Committee recommends that the supervisory board adopt a policy on the company's relationship with its stakeholders. (Recommendation II.1)</p> <p>The Committee recommends that the supervisory board ensure that the interests and roles of the stakeholders are respected in accordance with the company's policy on such issues. (Recommendation II.2)</p> <p><i>See Topic Heading 16, below.</i></p>	<p>French legislation has a double specific feature of involving representatives of the Works Council in proceedings of the Board in an advisory capacity, and providing for appointment of one or more directors from among employee shareholders if the employee shareholdings exceed three percent of the corporate capital, or the possibility of full participation of employee representatives on the Board. (§ 7.1)</p> <p><i>See</i> ¶ 7.1, footnote 2 ([T]he law limits to a maximum of three the number of directors bound to the corporation by contracts of employment....)</p> <p><i>See also</i> ¶ 7 (It is not desirable to have within the Board representatives of various specific groups or interests, first because the Board could become a battleground for vested interests instead of representing the shareholders as a whole, and second because the presence of independent directors is sufficient to ensure that all interests that it may be appropriate to have taken into account indeed have been.)</p>	<p>In enterprises having more than 500 or 2000 employees in Germany, employees are also represented on the Supervisory Board, which then is composed of employee representatives to one-third or to one-half respectively.... The representatives elected by the shareholders and the representatives of the employees are equally obliged to act in the enterprise's best interests. (Foreword)</p> <p><i>See</i> Foreword ([The Code's] purpose is to promote the trust of international and national investors, customers, employees and the general public in the management and supervision of listed German stock corporations.)</p>	<p>The Committee's recommendations have looked at corporate governance from the point of view of the stakeholders and in particular that of the shareholders and investors, because they are the <u>raison d'être</u> for corporate governance and also the prime constituency of SEBI.... (§ 1.5)</p> <p>The pivotal role in any system of corporate governance is performed by the board of directors. It is accountable to the stakeholders and directs and controls the Management. It stewards the company, sets its strategic aim and financial goals and oversees their implementation, puts in place adequate internal controls and periodically reports the activities and progress of the company in the company in a transparent manner to the stakeholders. (§ 2.8)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
2b. The Role of Stakeholders				
<p>The rights of stakeholders under prevailing regulations having the force of law and/or pursuant to any contracts entered into by the Company with customers, suppliers, creditors and surrounding community shall be respected. Furthermore, stakeholders shall be afforded appropriate means of redress.... (§ VI, Principle 6.1)</p> <p>Stakeholders shall be provided with an opportunity to monitor and offer input to the Company’s Direksi. (§ VI, Principle 6.2)</p> <p>The Company shall provide stakeholders with relevant information necessary for protecting their rights. The Company will cooperate with stakeholders for their mutual benefit. (§ VI, 6.2)</p> <p>[C]ompanies shall take the initiative to disclose not only matters required under ... law, but also those of material importance to the decision making of stakeholders.... (§ VII, Principle 7.2(i))</p> <p>[T]he Dewan Komisaris ... shall ... ensure that the Company performs its social responsibilities and consider the interests of the various stakeholders in the Company. (§ II, 2.1)</p> <p>[D]uring the process of nomination and appointment of the “outside members” of the Dewan Komisaris, the opinion of minority shareholders [shall be] considered ... to provide real protection for the interest of the minority shareholders and stakeholders. (§ II, 2.2)</p> <p>[T]he Direksi shall ... cause the Company to perform its social responsibilities and consider the interests of various stakeholders. (§ III, 3.1)</p> <p>See § XII, Compliance with Health, Safety and Environmental Protection Regulations, and § XIII, Equal Employment Opportunity.</p>	<p>The Committee has identified the maximisation of shareholder value as the primary objective of good Corporate Governance, considering that, in the longer term, the pursuit of this goal can give rise to a virtuous circle in terms of efficiency and company integrity, with beneficial effects for other stakeholders – such as customers, creditors, consumers, suppliers, employees, local communities and the environment – whose interests are already protected in the Italian legal system. (Report, 4)</p>	<p>Corporate governance for listed companies should help create corporate value and jobs through the establishment of smooth relationships between the company and its stakeholders, and encourage further sound management of the enterprise. (TSX Principle 3)</p> <p>That companies sustain and improve their competitive strengths and enhance their values through the pursuit of profit on a continuous basis is a principal interest common to shareholders, but this is the result of the provision of company resources by all stakeholders. Thus, the establishment of smooth relationships with stakeholders other than shareholders based on active cooperation and constructive criticism would be in the long-term interests of enterprises. (Commentary on TSX Principle 3)</p> <p>Listed companies should direct their attention to the following issues in order to establish smooth relationships with stakeholders...:</p> <ol style="list-style-type: none"> (1) Cultivation of a corporate culture that respects the positions of stakeholders, and development of internal systems to this end; (2) Timely and accurate disclosure of material information relating to stakeholders, and development of internal systems to this end. <p>(TSX Principle 3 Issues Requiring Attention)</p> <p>[T]he board should examine the performance of the company’s management from all perspectives, such as ... whether environmental standards have been complied with, whether the treatment of employees is appropriate, whether the company is playing its role as a member of the local community, and whether all public regulations ... have been observed. (Explanation of CGFJ Principle I)</p>	<p>The rights of stakeholders according to law and contract shall be protected, and stakeholders shall have appropriate means of redress for infringement of rights. (§ IV.1)</p> <p>Corporations shall observe creditor protection procedures concerning matters such as mergers, capital decrease and split mergers. (IV.1.1)</p> <p>Corporations shall ... observ[e] labor-related statutes.... (§ IV.1.2)</p> <p>The corporation shall not be negligent in its social responsibilities.... (§ IV.1.3)</p> <p>When stakeholders hold the dual position of shareholders, each of the rights pertaining to stakeholders and shareholders is protected and can be exercised. (§ IV.1.4)</p> <p>The form and level of monitoring of management by stakeholders shall be determined separately by each corporation.... (§ IV.2)</p> <p>The form and level of management monitoring by creditors shall be determined through discussion among the related parties.... (§ IV.2.1)</p> <p>The form and level of employee participation in corporate governance shall be determined so that the corporation may achieve sound development. (§ IV.2.2)</p> <p>The corporation shall ... provide stakeholders with relevant information necessary for protecting their rights; and the stakeholders shall have access to relevant information. (§ IV.2.3)</p> <p>[M]anagement shall be supervised properly so that unilateral decisions of the management do not infringe upon the interests of corporate bondholders. (Recommendation 8)</p> <p>See generally IV, STAKEHOLDERS.</p>	<p><i>Not covered.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
2b. The Role of Stakeholders				
<p>In discharging its role, the supervisory board shall be guided by the interests of the company ... and shall take into account the relevant interests of the company's stakeholders. (Principle III.1)</p> <p>In discharging its role, the management board shall be guided by the interests of the company ... taking into consideration the interests of the company's stakeholders. (Principle II.1)</p> <p>The chairman of the supervisory board shall see to it that ... the supervisory board has proper contact with ... the works council (or central works council). (Best Practice Provision III.4.1)</p> <p>See Preamble, ¶ 3 ([I]n the Netherlands ... a company is a long-term form of collaboration between the various parties involved. The stakeholders are the groups and individuals who directly or indirectly influence (or are influenced by) the achievement of the aims of the company. In other words employees, shareholders and other providers of capital, suppliers and customers, but also government and civil society.... The management board and supervisory board should take account of the interests of the different stakeholders. The confidence of the stakeholders that their interests are represented is essential if they are to cooperate effectively within and with the company.).</p>	<p>Corporate governance practice should take into account the statutory rights of interested persons, including employees of the company, and encourage active cooperation between the company and interested persons with a view to increasing the assets of the company and the value of its shares and other securities, and to creating new jobs. (Ch. 1, § 6)</p> <p>Ethical Standards should reflect the company's social responsibilities ... as well as the company's awareness of the need to ... improve conditions of labor. (Ch. 3, § 4.12)</p> <p>It is advisable that the company regularly conduct conferences inviting both members of executive bodies and employees when executive bodies need to make a decision that will directly affect working conditions. Such conferences will enable executive bodies to learn employees' opinions and incorporate them into any proposed resolution that directly bears upon their interests. (Ch. 4, § 3.4)</p> <p>See Ch. 3, § 3.1.5 (Members of the board of directors should tak[e] into account the interests of other affected persons, including employees, counter-agents of the company, and government and municipal bodies in which the company or its separate structural subdivisions are located.).</p> <p>See also Ch. 1, § 6.1 ([E]xecutive bodies should take into account the interests of third persons, including creditors of the company and state and municipal bodies....).</p> <p>See generally Ch. 4, § 3.3 (interests of third parties) and § 3.4 (employees' working conditions, health care, etc.).</p>	<p>[S]takeholders such as the community in which the company operates, its customers, its employees and its suppliers need to be considered when developing the strategy of a company. The relationship between a company and these stakeholders is either contractual or noncontractual. (Introduction and Background, § 5.3)</p> <p>[T]he purpose of the company [should] be defined, and the values by which the company will carry on its daily life should be identified and communicated to all stakeholders. The stakeholders relevant to the company's business should also be identified. These three factors must be combined in developing the strategies to achieve the company's goals. The relationship between the company and its stakeholders should be mutually beneficial. A wealth of evidence has established that this inclusive approach is the way to create sustained business success and steady, long-term growth in share-owner value. (Introduction and Background, § 6)</p> <p>The board should make use of generally recognised ... internal control models and frameworks in order to ... behav[e] responsibly towards all stakeholders. (§ 3.1.4)</p> <p>Every company should engage its stakeholders in determining the company's standards of ethical behaviour. (§ 5.2.1)</p> <p>It is the board's duty to present a balanced and understandable assessment of the company's position in reporting to stakeholders.... Reporting should address material matters of significant interest and concern to all stakeholders. (§ 8.1)</p> <p>See §§ 5.1.2 – 5.1.4 (stakeholder reporting).</p>	<p>The Board will exercise its functions in the best interests of the company in terms of viability and maximizing the long-term value of the company in the common interest of all shareholders, stakeholders and other legitimate interests involved, either of a public or private nature, and in particular taking into account other interest groups of the company: employees, customers, business partners and society in general. (§ I.1)</p>	<p>[E]mployees have the right to representation on the board of Swedish companies.... [I]n companies with at least 25 employees, employees have the right to appoint two representatives to the board of directors and two deputy members, while in companies with activities in several lines of business and a minimum of 1,000 employees, they have the right to appoint three representatives and two deputies. However, employee representatives may never constitute a majority on the board. (§ I, 2 Commentary)</p> <p>See § I, 2 Commentary ([T]he auditors are ... considered to have the aim of protecting the interests of ... stakeholders in the company, such as employees, creditors and capital market actors.).</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
2b. The Role of Stakeholders				
<p><i>Not covered.</i></p>	<p><i>Not covered directly, but see Report § 2.7 (Although the reports of the directors are addressed to the shareholders, they are important to a wider audience, not least to employees whose interests boards have a statutory duty to take into account.).</i></p> <p><i>See also Report § 3.2 (Openness on the part of companies, within the limits set by their competitive position, is the basis for the confidence which needs to exist between business and all those who have a stake in its success.).</i></p> <p><i>See also Report § 4.29 (It is important that all employees should know what standards of conduct are expected of them. We regard it as good practice for boards of directors to draw up codes of ethics or statements of business practice and to publish them both internally and externally.).</i></p> <p><i>See also Report § 4.50 (What shareholders (and others) need from the report and accounts is a coherent narrative, supported by the figures, of the company's performance and prospects. We recommend that boards should pay particular attention to their duty to present a balanced and understandable assessment of their company's position.).</i></p>	<p>All employees have some responsibility for internal control as part of their accountability for achieving objectives. They, collectively, should have the necessary knowledge, skills, information and authority to establish, operate and monitor the system of internal control. This will require an understanding of the company, its objectives, the industries and markets in which it operates, and the risks it faces. (Appendix – Related Guidance and Good Practice Suggestions: Guidance on Internal Control (The Turnbull Guidance), ¶ 19, p. 32)</p> <p><i>See id.</i>, ¶ 1, p. 39 ([Q]uestions the board may wish to consider [include:]</p> <ul style="list-style-type: none"> ▪ Does the company have clear objectives and have they been communicated so as to provide effective direction to employees on risk assessment and control issues?) ▪ Does the company communicate to its employees what is expected of them and the scope of their freedom to act? This may apply to areas such as customer relations; service levels for both internal and outsourced activities; health, safety and environmental protection; security of tangible and intangible assets; business continuity issues; expenditure matters; accounting; and financial and other reporting. ▪ Do people in the company (and in its providers of outsourced services) have the knowledge, skills and tools to support the achievement of the company's objectives and to manage effectively risks to their achievement?). 	<p>In consultation with the CEO, the board should clearly define its role, considering both its legal responsibilities to shareholders and the needs of other constituencies, provided shareholders are not disadvantaged. (p. 21)</p>	<p>[I]t is the responsibility of the corporation to deal with its employees, customers, suppliers and other constituencies in a fair and equitable manner. (p. 3)</p> <p>Corporations are often said to have obligations to shareholders and other constituencies, including employees, the communities in which they do business, and government, but these obligations are best viewed as part of the paramount duty to optimize long-term shareholder value. Business Roundtable believes that shareholder value is enhanced when a corporation treats its employees well, serves its customers well, fosters good relationships with suppliers, maintains an effective compliance program and strong corporate governance practices, and has a reputation for civic responsibility. (p. 31)</p> <p>It is in a corporation's best interest to treat employees fairly and equitably. (p. 33)</p> <p>Corporations have obligations to be good citizens of the local, national and international communities in which they do business. Failure to meet these obligations can result in damage to the corporation, both in immediate economic terms and in longer-term reputational value. (p. 33)</p> <p>Corporations have an important perspective to contribute to the public policy dialogue and should be actively involved in discussions about the development, enactment and revision of the laws and regulations that affect their businesses and the communities in which they operate and their employees reside. (p. 34)</p> <p><i>See generally</i> Employees (p. 33), Communities (pp. 33-34) and Government (p. 34).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
3. Board Membership Criteria/Director Qualification Standards				
<p>[B]oards in many companies have established nomination committees ... to facilitate and coordinate the search for a balanced and qualified board. (Annotation to Principle II.C.3)</p> <p>[T]he board has a key role in identifying potential members for the board with the appropriate knowledge, competencies and expertise to complement the existing skills of the board and thereby improve its value-adding potential for the company. (Annotation to Principle VI.D.5)</p> <p>See Annotation to Principle II (Shareholders' rights to influence the corporation center on certain fundamental issues, such as ... the composition of the board.).</p>	<p>Have a board of an effective composition, size and commitment to adequately discharge its responsibilities and duties. (Principle 2)</p> <p>An effective board is one that ... adds value in the context of the particular company's circumstances. This requires that the board be structured in such a way that it:</p> <ul style="list-style-type: none"> ▪ has a proper understanding of, and competence to deal with, the current and emerging issues of the business; [and] ▪ can effectively review and challenge the performance of management and exercise independent judgement. <p>(Commentary on Principle 2)</p> <p>The board should establish a nomination committee. (Recommendation 2.4)</p> <p>Corporate performance is enhanced when there is a board with the appropriate competencies to enable it to discharge its mandate effectively. An evaluation of the range of skills, experience and expertise on the board is therefore beneficial before a candidate is recommended for appointment. Such an evaluation enables identification of the particular skills, experience and expertise that will best complement board effectiveness.</p> <p>The nomination committee should consider developing and implementing a plan for identifying, assessing and enhancing director competencies.</p> <p>The nomination committee should also consider whether succession plans are in place to maintain an appropriate balance of skills, experience and expertise on the board. (Commentary on Recommendation 2.4)</p>	<p>The board's composition ... should be determined on the basis of the necessary diversity and complementary skills, experience and knowledge. (Provision 2.1)</p> <p>For any new appointment to the board, the skills, knowledge and experience already present and those needed on the board should be evaluated and, in the light of that evaluation, a description of the role and skills, experience and knowledge needed should be prepared (also referred to as a "profile"). (Provision 4.3)</p>	<p><u>Board of Directors</u></p> <p>The board of directors should have five to ten technically qualified members, with at least two members possessing experience in finance.... (CVM Recommendation II.1)</p> <p>Directors should:</p> <ul style="list-style-type: none"> ▪ Be able to read and understand management and financial reports; ▪ Have no conflicts of interest; ▪ Align their values with those of the organization; ▪ Be familiar with the Best Practice of Corporate Governance; ▪ Have personal integrity; ▪ Have enough time available; ▪ Be motivated; ▪ Be capable of working on a team; ▪ Have a strategic vision. <p>(IBGC Code ¶ 2.16)</p> <p>The composition of the Board should seek diversified board member experience, background and profiles, [e.g.]:</p> <ul style="list-style-type: none"> ▪ Experience serving on other Boards of Directors; ▪ CEO experience; ▪ Experience in managing crises; ▪ Experience in identifying and controlling risks; ▪ Financial knowledge; ▪ Accounting knowledge; ▪ Knowledge of the businesses of the organization; ▪ Knowledge of national and international markets; and ▪ Connections of interest to the organization. <p>(IBGC Code ¶ 2.17)</p> <p><u>Fiscal/Advisory Board</u></p> <p>Not covered directly, but see IBGC Code ¶ 5.2 (Controlling and minority shareholders should discuss the composition of the Fiscal Council prior to its election, in order to achieve a desirable diversity of professional backgrounds).</p>	<p>We recommend that:</p> <ol style="list-style-type: none"> 1) The full board should engage in a disciplined process to determine, in light of the opportunities and risks facing the company, what competencies, skills, and personal qualities it should seek in new board members in order to add value to the corporation. The results of such a discussion should provide a framework for the work of those directors charged with developing lists of candidates. 2) Boards should actively look beyond traditional sources in seeking men and women with the right mix of experience and competencies. Diversity of background and experience can add value to boardroom deliberations. <p>(Saucier Report, Recommendation 2)</p> <p>The desirability of providing for a strong independent board leader should be a consideration in recruiting new board members. (Saucier Report, Recommendation 3)</p> <p>See Saucier Report, p. 26 (Composition of the board of a controlled corporation).</p>

China	Denmark	France	Germany	India
3. Board Membership Criteria/Director Qualification Standards				
<p>The board of directors shall possess proper professional background. The directors shall possess adequate knowledge, skill and quality to perform their duties. (Ch. 3, (3) 41)</p> <p>Relevant laws and regulations shall be complied with for matters such as the qualifications, procedure of election and replacement, and duties of independent directors. (Ch. 3, (5) 51)</p> <p>The main duties of the nomination committee [include] to extensively seek qualified candidates for directorship.... (Ch. 3, (6) 55)</p> <p>See Ch. 2, (1) 20 ([C]andidates [nominated by controlling shareholders] shall possess certain relevant professional knowledge and the capability to make decisions or supervise.).</p> <p>See also Ch. 3, (1) 30 (Candidates for directorship shall give written undertakings to accept their nomination, to warrant the truthfulness and completeness of the candidate's information that has been publicly disclosed....).</p> <p><u>Supervisory Board</u></p> <p>Supervisors shall have professional knowledge or work experience in such areas as law and accounting. The members and the structure of the supervisory board shall ensure its capability to independently and efficiently conduct its supervision of directors, managers and other senior management personnel, and to supervise and examine the company's financial matters. (Ch. 4, (2) 64)</p>	<p><u>Supervisory Board</u></p> <p>It is essential that the supervisory board be composed in such a way as to allow it to perform its managerial tasks, including the strategic tasks of the company, in an effective and forward-looking manner and, at the same time, to act as a constructive and qualified sounding board for the members of the executive board. It is also essential that the members of the supervisory board always act independently of special interests. The supervisory board must regularly ensure that its composition and its procedures reflect the demands made by the company's current situation and circumstances. (Principle V)</p> <p>[T]he Committee recommends that ... the recruitment criteria established by the supervisory board be stated, including the requirements for professional qualifications, international experience, etc., which, in the opinion of the supervisory board, represent essential qualities with regard to the supervisory board, and that the owners of the company be given an opportunity to discuss these criteria. (Recommendation V.1)</p> <p><u>Management Board</u></p> <p>Not covered directly, but see Recommendation V.4 (The Committee recommends that the members of the executive board of a company not be members of the supervisory board of the same company.).</p> <p>See Appendix A (A nomination committee should ... describe the qualifications needed for individual [supervisory board and executive board] office....).</p>	<p>The first quality of a Board of Directors is in its membership: directors who are, naturally, honest, but also able, who understand the corporation's operations, are concerned with the best interests of all shareholders, and are sufficiently involved in the definition of strategy and in discussions to play an active part in decisionmaking, which is collegial, in order subsequently to support them effectively. (¶ 6.1)</p> <p>See ¶ 17 (Before accepting office, the director should ensure that he or she has taken cognisance of the general or specific obligations connected with the office. In particular, he or she should familiarise himself/herself with relevant statutes and regulations, the company charter, these [Code] rules ... as supplemented from time to time by the Board, and the rules of internal operation adopted by the Board.).</p>	<p><u>Supervisory Board</u></p> <p>For nominations for the election of members of the Supervisory Board, care shall be taken that the Supervisory Board, at all times, is composed of members who, as a whole, have the required knowledge, abilities and expert experience to properly complete their tasks and are sufficiently independent. Furthermore, the international activities of the enterprise, potential conflicts of interest and an age limit to be specified for the members of the Supervisory Board shall be taken into account. (§ 5.4.1)</p> <p>To permit the Supervisory Board's independent advice and supervision of the Management Board ... [n]ot more than two former members of the Management Board shall be members of the Supervisory Board, and Supervisory Board members shall not exercise directorships or similar positions or advisory tasks for important competitors of the enterprise. (§ 5.4.2)</p> <p><u>Management Board</u></p> <p>Not covered directly, but see § 5.1.2 (The Supervisory Board appoints and dismisses the members of the Management Board.... The Supervisory Board may delegate preparations for the appointment of members of the Management Board to a committee, which also determines the conditions of the employment contracts, including compensation.).</p>	<p>Good corporate governance dictates that the board be comprised of individuals with certain personal characteristics and core competencies such as recognition of the importance of the board's tasks, integrity, a sense of accountability, track record of achievements, and the ability to ask tough questions. Besides, having financial literacy, experience, leadership qualities and the ability to think strategically, the directors must show significant degree of commitment to the company and devote adequate time for meeting, preparation and attendance. (§ 6.7)</p> <p>See § 6.6 (The Committee is of the view that the nonexecutive directors, <u>i.e.</u>, those who are independent and those who are not, help bring an independent judgment to bear on board's deliberations especially on issues of strategy, performance, management of conflicts and standards of conduct. The Committee therefore lays emphasis on the calibre of the nonexecutive directors, especially of the independent directors.).</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
3. Board Membership Criteria/Director Qualification Standards				
<p><u>Supervisory Board</u></p> <p>Each member of the Dewan Komisaris shall be a person of good character and shall have relevant experience. (§ II, Principle 2.1)</p> <p>The composition of the Dewan Komisaris shall be such as to allow effective, appropriate and swift decision-making. The Dewan Komisaris should be composed in such a way that its members act independently and that they shall hold no interests that might impair their ability to perform their duties independently and critically in relation to each other and the Direksi, in order to increase the effectiveness and transparency of its deliberations. (§ II, Principle 2.2)</p> <p>See § I, 1.5 ([The Nomination and Remuneration] Committee shall endeavour to attract members of the Dewan Komisaris and the Direksi of high quality....).</p> <p><u>Management Board</u></p> <p>Each member of the Direksi shall be a person of good character and relevant experience. (§ III, 3.1)</p> <p>The composition of the Direksi shall be such as to allow effective, appropriate and swift decisionmaking. The Direksi should be composed in such a way that its members act independently [insofar as] they shall hold no interests that might impair their ability to perform their duties independently and critically. (§ III, Principle 3.2)</p>	<p>The Committee recommends that the shareholders, when appointing directors, evaluate the number, experience, and personal characteristics of the candidates in relation to the size of the issuer, the complexity and specificity of the business sector in which the issuer operates, as well as the size of the Board of Directors. (Comment on Code Article 2)</p>	<p>[In the (Board of Directors) Committees System,] the nominating committee should predetermine separate qualification criteria for external and internal directors, and the candidates should be appointed objectively based on these criteria. (CGFJ Principles, Explanation of Principle 7)</p>	<p>The Board shall ... appoint[] competent professional directors. (§ II.3.3)</p> <p>[D]irectors shall be competent and professional. Such directors ... possess[] the following qualities: a vision for and a strategic perception of corporate management; a level-headed and sound managerial judgment; an ability for managing and supervising an organization; a knowledge of law and finance; and some experience suitable for the corporation concerned. (§ II.3.3)</p> <p>See § II.2 (The Board shall be composed so as to allow effective decision-making and supervision of management.).</p>	<p>Outside Board members are those selected for their professional prestige, experience and capacity. (Principle at I.2)</p> <p>It is also important that the Board include what are called owning Directors. This type of member has assumed the risk of a significant participation in the company's equity, and their presence on the Board is helpful because, as they keep a constant watch on their investment, they benefit the entire company. (Recommendation at I.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
3. Board Membership Criteria/Director Qualification Standards				
<p><u>Supervisory Board</u></p> <p>Each supervisory board member shall be capable of assessing the broad outline of the overall policy. Each supervisory board member shall have the specific expertise required for the fulfilment of the duties assigned to the role designated to him within the framework of the supervisory board profile. The composition of the supervisory board shall be such that it is able to carry out its duties properly. A supervisory board member shall be re-appointed only after careful consideration. The profile criteria referred to above shall also be fulfilled in the case of a reappointment. (Principle III.3)</p> <p>The supervisory board shall prepare a profile of its size and composition, taking account of the nature of the business, its activities and the desired expertise and background of the supervisory board members. The profile shall be made generally available and ... be posted on the company's website. (Best Practice Provision III.3.1)</p> <p>The selection and appointment committee shall... draw[] up selection criteria ... for supervisory board members [and] mak[e] a proposal for a composition profile of the supervisory board.... (Best Practice Provision III.5.13(b))</p> <p><u>Management Board</u></p> <p>The selection and appointment committee shall ... draw[] up selection criteria ... for ... management board members.... (Best Practice Provision III.5.13(a))</p>	<p><u>Board of Directors</u></p> <p>[Board] members should have the knowledge, skills and experience required for making decisions on matters within the usual scope of authority of the board of directors, and for performing efficiently the functions of the board of directors of a particular company. Therefore, it is advisable that the charter of the company explicitly sets forth specific criteria for members of the board of directors. (Ch. 3, § 2.1.3)</p> <p>[M]embers of the managerial board ... may serve as members of the board of directors.... (Ch. 3, § 1.4.3)</p> <p><i>See generally</i> Ch. 3, § 2 (<i>composition of the board of directors, including § 2.2.2 (eligibility criteria for independent directors)</i>).</p> <p><u>Management Board</u></p> <p>The composition of the executive bodies of the company should provide for the most efficient performance of the functions entrusted to them. (Ch. 1, § 4.2)</p> <p>[T]he company should seek to retain highly qualified experts for leading managerial positions. Among other things, the company charter should set forth ... requirements of candidates for the positions of director general (managing organization, manager), members of the managerial board and heads of major divisions as well as to their remuneration, other than those provided by the law. (Ch. 3, § 1.4.2)</p>	<p>Nonexecutive directors should be individuals of calibre and credibility, and have the necessary skill and experience to bring judgment to bear independent of management, on issues of strategy, performance, resources, transformation, diversity and employment equity, standards of conduct and evaluation of performance. (§ 2.4.2)</p> <p>Boards should ascertain whether potential new directors are fit and proper and are not disqualified from being directors. Prior to their appointment, their backgrounds should be investigated along the lines of the approach required for listed companies by the JSE and under the Banks Act. The nomination committee would prove useful for this purpose. (§ 2.4.8)</p> <p><i>See also</i> § 2.2.1 (An obvious consideration for South African companies would be to consider the demographics in relation to the composition of the board.).</p>	<p>The Board shall be made up of Directors who, as a collective body, have the necessary knowledge, judgment and experience to perform their tasks adequately. (§ I.3)</p> <p>Quality and Professional Reputation [of independent Director candidates] involves:</p> <ul style="list-style-type: none"> ▪ contributing knowledge and experience relevant to the Company which complements the skills of other members of the Board and is appropriate to the requirements of the Board Regulations; ▪ adding prestige to the Board and generating shareholder confidence on the basis of their professional qualifications. <p>Proven independence. Character and personality:</p> <ul style="list-style-type: none"> ▪ Quality as such is not sufficient for independence. Directors are also required to have their own judgment and the capacity to defend their views. <p>Informed judgment.... Availability in terms of time and required dedication to ensure the successful performance of the functions and duties attached to his/her position. (§ I.4)</p> <p>The profile of Directors must be suited to the requirements and demands set out in the Board Regulations. (§ I.7)</p>	<p>With the company's operations, phase of development, and other conditions taken into consideration, the board is to have an appropriate composition, exhibiting diversity and breadth in the directors' qualifications, experience and background. An equal gender distribution on the board is to be an aim. (§ III, Rule 3.2.1)</p> <p><i>See</i> § III, 3.2 Commentary (The board should have a size and composition that enable it to embrace the various qualifications and experience needed and to meet the independence criteria required to manage the company's affairs effectively and independently. The renewal of the board should be paced with due consideration for the development of the company's operations as well as for the need for continuity in the work of the board.)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
3. Board Membership Criteria/Director Qualification Standards				
<p><u>Board of Directors</u> A well-balanced membership of the Board of Directors should be sought.... Members of the Board of Directors should be persons with the abilities necessary to ensure an independent decisionmaking process in a critical exchange of ideas with the Executive Management.... If a significant part of the company's operations is abroad, the Board of Directors should also include members having long-standing international experience or members from abroad. (Code ¶ 12)</p> <p>The Board of Directors should ... lay down the criteria for selecting candidates. (Code ¶ 13)</p> <p><u>Management Board</u> <i>Not covered directly, but see Code ¶ 27</i> (The Nomination Committee may ... be assigned responsibilities in connection with the selection and assessment of candidates for top management.).</p>	<p><i>Not covered directly, but see Report § 4.15</i> (Given the importance of their distinctive contribution, nonexecutive directors should be selected with the same impartiality and care as senior executives. We recommend that their appointment should be a matter for the board as a whole and that there should be a formal selection process, which will reinforce the independence of non-executive directors and make it evident that they have been appointed on merit and not through any form of patronage.).</p>	<p>Appointments to the board should be made on merit and against objective criteria. (Supporting Principle A.4)</p> <p><i>See</i> Supporting Principle A.4 (The board should satisfy itself that plans are in place for orderly succession for appointments to the board ... so as to maintain an appropriate balance of skills and experience ... on the board.).</p> <p><i>See also</i> Provision A.7.2 (The board should set out to shareholders in the papers accompanying a resolution to elect a nonexecutive director why they believe an individual should be elected.).</p>	<p>To be considered for board membership, <u>individual directors</u> should possess all of the following <u>personal characteristics</u>:</p> <ul style="list-style-type: none"> Integrity and Accountability.... Informed Judgment.... Financial Literacy.... Mature Confidence.... [and] High Performance Standards.... <p>(pp. 9-10)</p> <p>The Commission recommends that <u>the board as a whole</u> should possess all of the following <u>core competencies</u>, with each candidate contributing knowledge, experience, and skills in at least one domain:</p> <ul style="list-style-type: none"> Accounting and Finance.... Business Judgment.... Management.... Crisis Response.... Industry Knowledge.... International Markets.... Leadership.... [and] Strategy/Vision.... <p>(pp. 10-11)</p> <p>Boards should seriously consider ... the distinctive skills, perspectives, and experiences that candidates diverse in gender, ethnic background, geographic origin and professional experience ... can bring to the boardroom. (p. 15)</p> <p><i>See</i> p. 14 (To have greater congruence with shareholders' interests, candidates should be prepared to own a significant equity position in the company....).</p>	<p>Business Roundtable believes that having directors with relevant business and industry experience is beneficial to the board as a whole. Directors with this experience can provide a useful perspective on significant risks and competitive advantages and an understanding of the challenges facing the business. A diversity of backgrounds and experience, consistent with the corporation's needs, also is important to the overall composition of the board. Because the corporation's need for particular backgrounds and experience may change over time, the board should monitor the mix of skills and experience that directors bring to the board against established board membership criteria to assess, at each stage in the life of the corporation, whether the board has the necessary tools to perform its oversight function effectively. (p. 13)</p> <p><i>See</i> p. 29 (Planning for the departure of directors and the designation of new board members is essential. The board should plan ahead for changes in membership, and it should have written criteria for director candidates that should be re-evaluated periodically.).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
4. Selecting, Inviting & Orienting New Directors				
<p>Basic shareholder rights should include the right to ... elect and remove members of the board.... (Principle II.A)</p> <p>The board should fulfill certain key functions, including ... ensuring a formal and transparent board nomination and election process. (Principle VI.D.5)</p> <p>For the election process to be effective, shareholders should be able to participate in the nomination of board members and vote on individual nominees or on different lists of them. To this end, shareholders have access in a number of countries to the company's proxy materials.... With respect to nomination of candidates, boards in many companies have established nomination committees to ensure proper compliance with established nomination procedures and to facilitate and coordinate the search for a balanced and qualified board. It is increasingly regarded as good practice in many countries for independent board members to have a key role on this committee. (Annotation to Principle II.C.3)</p> <p>[A]n increasing number of jurisdictions are now encouraging companies to engage in board training and voluntary self-evaluation that meets the needs of the individual company. This might include that board members acquire appropriate skills upon appointment, and thereafter remain abreast of relevant new laws, regulations, and changing commercial risks through in-house training and external courses. (Annotation to Principle VI.E.3)</p> <p>In two-tier board systems the supervisory board is ... responsible for appointing the management board.... (Annotation to Principle VI.D.3)</p>	<p>The board should establish a nomination committee. (Recommendation 2.4)</p> <p>The names of candidates submitted for election as director should be accompanied by the following information to enable shareholders to make an informed decision on their election:</p> <ul style="list-style-type: none"> ▪ biographical details, including competencies and qualifications and information sufficient to enable an assessment of the independence of the candidate; ▪ details of relationships between: <ul style="list-style-type: none"> - the candidate and the company; - the candidate and directors of the company; ▪ directorships held; ▪ particulars of other positions which involve significant time commitments; ▪ the term of office currently served by any directors subject to re-election; ▪ any other particulars required by law. <p>(Commentary on Recommendation 2.4)</p> <p>The company should implement induction procedures designed to allow new board appointees to participate fully and actively in board decision-making at the earliest opportunity. New directors cannot be effective until they have a good deal of knowledge about the company and the industry within which it operates. An induction program should be made available that enables directors to gain an understanding of:</p> <ul style="list-style-type: none"> ▪ the company's financial, strategic, operational and risk management position; ▪ their rights, duties and responsibilities; [and] ▪ the role of the board committees. <p>(Commentary on Recommendation 8.1)</p>	<p>The company shall have a rigorous and transparent procedure for the appointment and evaluation of the board and its members. (Principle 4)</p> <p>The board should draw up nomination procedures and selection criteria for board members, allowing for specific rules for executive and nonexecutive directors where appropriate. (Provision 4.1)</p> <p>Nonexecutive directors should be made aware of the extent of their duties at the time of their application, in particular as to the time commitment involved.... (Provision 4.5)</p> <p>Controlling shareholders can appoint representatives to the board. (Preamble ¶ 6)</p> <p>Any proposal for the appointment of a director by the shareholders' meeting should be accompanied by a recommendation from the board, based on the advice of the nomination committee.... (Provision 4.6)</p> <p>The chairman should ensure that newly appointed directors receive an appropriate induction.... (Provision 4.8)</p> <p>Directors should update their skills and improve their knowledge of the company to fulfill their role both on the board and on board committees. (Provision 4.10)</p> <p>The nomination committee should consider proposals made by relevant parties, including management and shareholders. In particular, the CEO should be entitled to submit proposals to, and [be] adequately consulted by, the nomination committee, especially when dealing with issues related to executive directors or executive management. (Appendix D, Provision 5.3./5)</p>	<p><u>Board of Directors</u></p> <p>The company should immediately allow holders of preferred shares to elect a representative to the board of directors.... (CVM Recommendation II.3)</p> <p>[R]esponsibilities of the Family Council include ... establishing criteria to appoint members to make up the Board of Directors. (IBGC Code ¶ 1.10)</p> <p>[Re-nomination] should only be possible after a formal performance evaluation. (IBGC Code ¶ 2.18)</p> <p>A new director should be given an introduction program, which should include [a] description of duties and activities...., the latest annual reports, minutes of regular and special General Meetings, minutes of Board meetings, strategic planning, risk management and control system, and other relevant company information. The new Director should be introduced to his/her teammates, to the Officers and key persons in the organization [and] visit the main places where the company operates. (IBGC Code ¶ 2.28)</p> <p>[I]t is essential that [Directors] attend continuing training and refresher courses.... (IBGC Code ¶ 2.37)</p> <p><u>Fiscal/Advisory Board</u></p> <p>Holders of preferred shares and holders of common shares ... should have the right to elect an equal number of members as the controlling group. The controlling group should renounce the right to elect the last member (third or fifth member), who should be elected by the majority of share capital, in a shareholder's meeting at which each share represents one vote. (CVM Recommendation IV.2)</p> <p>The Fiscal Council is elected by the owners. Directors cannot serve on the Fiscal Council. (IBGC Code ¶ 2.35)</p>	<p>The board of directors of every corporation should appoint a committee of directors composed exclusively of outside, <u>i.e.</u>, nonmanagement, directors, a majority of whom are unrelated directors, with the responsibility for proposing to the full board new nominees to the board and for assessing directors on an ongoing basis. (Dey Report, Guideline 4)</p> <p>Every corporation, as an integral element of the process for appointing new directors, should provide an orientation and education program for new recruits to the board. (Dey Report, Guideline 6)</p> <p>We recommend that ... (4) Prospective candidates, once identified, should be approached by the "independent board leader", with or without the CEO, to explore their interest in joining the board. (Saucier Report, Recommendation 2)</p> <p>For boards of smaller companies, which do not have formal committee structures, all the outside directors acting together might carry out this function [of proposing board candidates to the full board]. (Saucier Report, p. 14)</p> <p>See Saucier Report, p. 14 (We cannot overemphasize the importance of recruitment.)</p> <p>See also Saucier Report, p. 16 (We believe that it is important to emphasize the significance of, and our support for, continuing education for directors. The pace of change is so rapid, and the complexities of modern business are increasing so quickly, that continuing education and lifelong learning are as critical for directors as they are for anyone.)</p>

China	Denmark	France	Germany	India
4. Selecting, Inviting & Orienting New Directors				
<p>A company shall establish a standardized and transparent procedure for director election in its articles of association, so as to ensure the openness, fairness, impartialness and independence of the election. (Ch. 3, (1) 28)</p> <p>Detailed information regarding the candidates for directorship shall be disclosed prior to the convening of the shareholders' meeting to ensure adequate understanding of the candidates by the shareholders at the time of voting. (Ch. 3, (1) 29)</p> <p>Institutional investors shall play a role in the appointment of company directors.... (Ch. 1, (2) 11)</p> <p>[C]ontrolling shareholders shall nominate the candidates for directors ... in strict compliance with the terms and procedures provided for by laws, regulations and the company's articles of association. (Ch. 2, (1) 20)</p> <p>Relevant laws and regulations shall be complied with for matters such as the ... procedure of election ... of independent directors. (Ch. 3, (5) 51)</p> <p>Directors shall earnestly attend relevant trainings to learn about the rights, obligations and duties of a director, to familiarize themselves with relevant laws and regulations and to master relevant knowledge necessary for acting as directors. (Ch. 3, (2) 37)</p> <p><u>Supervisory Board</u></p> <p>[C]ontrolling shareholders shall nominate the candidates for ... supervisors in strict compliance with the terms and procedures provided for by laws, regulations and the company's articles of association. (Ch. 2, (1) 20)</p>	<p><u>Supervisory Board</u></p> <p>The Committee recommends that the supervisory board ensure a formal, thorough and transparent process for selection and nomination of candidates, with a view to ensuring a board composition that provides the competence needed.... As a way to achieve this, the Committee recommends that:</p> <ul style="list-style-type: none"> ▪ the supervisory board include a description of the nominated candidates' background in the notice convening the general meeting ... [and] ▪ the recruitment criteria established by the supervisory board be stated ... and that the owners of the company be given an opportunity to discuss these criteria. <p>(Recommendation V.1)</p> <p>The Committee recommends that new members joining the supervisory board be given an introduction to the company and that the chairman, in collaboration with each individual supervisory board member, decide whether it is necessary to offer the member in question relevant supplementary training. The Committee recommends that every year the supervisory board assess whether the competence and expertise of the members need to be updated in some respect (Recommendation V.2)</p> <p>See Appendix A (An audit committee should be offered an introduction programme to be followed up, to the extent necessary, by regular relevant supplementary briefing.).</p> <p><u>Supervisory and Management Boards</u></p> <p>A nomination committee [should be responsible for] nominating supervisory board and executive board candidates to be presented to the supervisory board.... (Appendix A)</p>	<p>[The appointments or nominations] committee is in charge of submitting proposals to the board [for achieving a] desirable balance in the membership of the Board..., identification and evaluation of potential candidates [and] desirability of extensions of terms. In particular, it should organise a procedure for the nomination of future independent directors. (¶¶ 16.2.1 - 6.2.2)</p> <p>One of the major requirements for appointment of a director consists of his or her business knowledge and judgement, but these cannot extend to specific prior knowledge of the corporation's organisation and activities. Each director should accordingly be provided, if he or she considers it to be necessary, with supplementary training relating to the corporation's specific features, its businesses and its markets. (¶ 11)</p> <p>See ¶ 14.3.1 ([A]udit committee members ... should be provided, at the time of appointment, with information relating to the corporation's specific accounting, financial and operational features.).</p>	<p><u>Supervisory Board</u></p> <p><i>Not covered directly, but see</i> Foreword (The members of the Supervisory Board are elected by the shareholders at the General Meeting. In enterprises having more than 500 or 2000 employees in Germany, employees are also represented on the Supervisory Board, which then is composed of employee representatives to one-third or to one-half respectively.... The representatives elected by the shareholders and the representatives of the employees are equally obliged to act in the enterprise's best interests.).</p> <p>See also Topic Heading 3, above.</p> <p><u>Management Board</u></p> <p>The Supervisory Board appoints and dismisses the members of the Management Board.... The Supervisory Board can delegate preparations for the appointment of members of the Management Board to a committee, which also determines the conditions of the employment contracts including compensation. (§ 5.1.2)</p> <p>The Chairman of the Supervisory Board shall also chair the committees that handle contracts with members of the Management Board.... (§ 5.2)</p>	<p>The shareholders' role in corporate governance is to appoint the directors.... (§ 2.8)</p> <p>[Besides executive, nonexecutive and independent directors,] there is another set of directors in Indian companies who are the nominees of the financial or investment institutions to safeguard their interest ["nominee directors"]. The nominees of the institutions are often chosen from among the present or retired employees of the institutions or from outside.... The Committee would ... recommend that institutions should appoint nominees on the boards of companies only on a selective basis where such appointment is pursuant to a right under loan agreements or where such appointment is considered necessary to protect the interest of the institution. (§§ 7.1, 7.3)</p> <p>The Committee recommends that in case of the appointment of a new director or reappointment of a director the shareholders must be provided with the following information:</p> <ul style="list-style-type: none"> ▪ A brief resume of the director; ▪ Nature of his expertise in specific functional areas; and ▪ Names of companies in which the person also holds the directorship and the membership of Committees of the board. <p>(§ 14.4)</p> <p>See § 14.3 (The shareholders must ... show a greater degree of interest and involvement in the appointment of directors.... [T]hey should demand complete information about the directors before approving their directorship.).</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
4. Selecting, Inviting & Orienting New Directors				
<p>At a GMOS [general meeting of shareholders], the shareholders shall adopt a system for the appointment of members of the Dewan Komisaris and the Direksi.... (§ I, Principle 1.5(a))</p> <p>Procedures regarding ... nomination [of members of both the Dewan Komisaris and the Direksi] can be formulated by the Dewan Komisaris or by retaining independent professional advisors appointed by the Dewan Komisaris, subject to approval of the GMOS. (§ I, 1.5)</p> <p><u>Supervisory Board</u></p> <p>It shall be afforded that during the process of nomination and appointment of the “outside members” of the Dewan Komisaris, the opinion of the minority shareholders shall be considered in order to provide real protection for the interest of the minority shareholders and stakeholders. (§ II, 2.2)</p> <p><u>Management Board</u></p> <p>It shall be afforded that during the process of nomination and appointment of the “outside directors” [of the Direksi], the opinion of the minority shareholders shall be considered in order to provide actual protection for the interest of the minority shareholders and stakeholders. (§ III, 3.2)</p>	<p><u>Board of Directors</u></p> <p>The lists of candidates to the office of director, accompanied by exhaustive information on the personal traits and professional qualifications of the candidates with an indication where appropriate of their eligibility to qualify as independent directors as defined in Article 3, shall be deposited at the company’s registered office at least fifteen (15) days before the date fixed for the shareholders’ meeting. The lists ... shall be timely published through the Internet site of the issuer. (Code, 6.C.1)</p> <p>[I]ssuers are required to evaluate whether it is useful to establish, within the Board of Directors, a nomination committee, made up [of a] majority of independent directors... [T]he nomination committee may perform a useful consultative role in the identification of the best [board composition].... (Comment on Code Article 6)</p> <p><u>Board of Auditors</u></p> <p>The lists of candidates to the position of auditor, accompanied by detailed information on the personal traits and professional qualifications of the candidates, shall be deposited at the company’s registered office at least fifteen (15) days before the date fixed for the shareholders’ meeting. The lists complete [with] information on the characteristics of the candidates shall be timely published through the internet site of the issuer. (Code, 10.C.1)</p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p>[In a Corporate Auditors System,] when a director intends to submit an agenda concerning the election of any corporate auditor, that director must obtain the consent on such submission from the board of corporate auditors. (TSX Principles, Appendix)</p> <p>[In a (Board of Directors) Committees System,] the nominating committee should decide on candidates for directorships who meet certain predetermined qualification criteria, and propose the removal of directors at shareholders’ meetings. (CGFJ Principle 7.1.(1))</p>	<p>Directors shall be appointed through a transparent procedure that reflects broadly the diverse opinions of shareholders. (§ II.3)</p> <p>It is advised that a committee be established and managed for the fair nomination of directors. The committee shall be organized such that the fairness and independence of the nomination process are ensured. (§ II.3.1)</p> <p>The opinions of shareholders other than the controlling shareholder shall also be reflected when appointing directors. (§ II.3.2)</p> <p>The corporation shall, by disclosing the nominated directors prior to the general shareholder meeting, ensure that shareholders exercise their voting rights with information on the nominees. (§ II.3.4)</p> <p>When minority shareholders are looking to nominate directors, such intentions shall be announced at the time the general shareholder meeting is notified; then the nominees shall be recommended and disclosed before the general shareholder meeting. (§ II.3.4)</p>	<p>It is important ... that stockholders receive all pertinent information on nominees to the Board of Directors, which can be contained in a brief résumé, so that they can assess the candidate’s profile and issue an informed vote. (Recommendation at V.1)</p> <p>New Board members should be given the information necessary for them to properly perform their duties. They should therefore have a broad knowledge of the business including, among other aspects, the company’s position within its sector, its main competitors, clients and suppliers.</p> <p>In addition, board members are legally bound to perform their duties. Ignorance of their responsibilities does not exempt them from these duties. It is therefore important that new board members are informed of the scope and the legal and statutory consequences of their position.</p> <p>When Board members are first appointed, they should be given proper orientation with regard to their new responsibilities. At the least, the company should supply them with information regarding the company and its environment, as well as the obligations, responsibilities and powers that accompany appointment to the Board. (Recommendation at I.4)</p> <p>See Recommendation at I.2 (It is important to avoid situations in which regular members who are unable to attend meetings are replaced at random by any alternate....).</p>

The Netherlands	Russia	South Africa	Spain	Sweden
4. Selecting, Inviting & Orienting New Directors				
<p><u>Supervisory Board</u></p> <p>The selection and appointment committee shall...: draw[] up selection criteria and appointment procedures for supervisory board members; periodically assess[] the size and composition of the supervisory board ... and mak[e] a proposal for a composition profile of the supervisory board; [and] mak[e] proposals for appointments and re-appointments.... (Best Practice Provision III.5.13(a), (b), (d))</p> <p>After their appointment, all supervisory board members shall follow an induction programme ... cover[ing] general financial and legal affairs, financial reporting by the company, any specific aspects that are unique to the company and its business activities, and the responsibilities of a supervisory board member. (Best Practice Provision III.3.3)</p> <p>The chairman of the supervisory board ... arranges for the induction and training programme for the members.... (Principle III.4)</p> <p><u>Management Board</u></p> <p>The selection and appointment committee shall...: draw[] up selection criteria and appointment procedures for ... management board members; periodically assess[] the size and composition of ... the management board...; [and] supervis[e] the policy of the management board on the selection criteria and appointment procedures for senior management. (Best Practice Provision III.5.13(a), (b), (e))</p>	<p>[M]embers of the board of directors and the company’s executive bodies, and the director general should be elected in accordance with a transparent procedure which provides shareholders with full information on such persons.... (Ch. 1, § 2(4))</p> <p><u>Board of Directors</u></p> <p>[I]t is recommended that members of the board of directors should be elected by means of a transparent procedure which takes into account the diversity of shareholders’ opinions, ensures that the composition of the board of directors meets the relevant legal requirements and allows for the election of independent members.... (Ch. 1, § 3.2(1) and Ch. 3, § 2.3)</p> <p><i>See generally</i> Ch. 3, § 2 (<i>election of the board of directors</i>).</p> <p><u>Management Board</u></p> <p>[T]he director general and members of the managerial board should be elected by means of a transparent procedure that provides the shareholders with full information about such persons.... (Ch. 1, § 4.2)</p> <p><i>See</i> Ch. 1, § 4.2(2) ([I]n making a decision on the transfer of powers of a sole executive body (hereinafter “director general”) to a managing organization (manager), shareholders should have full information on the managing organization....).</p>	<p>A brief CV of each director standing for election or re-election at the annual general meeting should accompany the notice contained in the annual report. (§ 2.1.16)</p> <p>Every board should have a charter setting out its responsibilities.... At a minimum, the charter should confirm the board’s responsibility for ... director selection [and] orientation. (§ 2.1.17)</p> <p>Procedures for appointments to the board should be formal and transparent, and a matter for the board as a whole, assisted where appropriate by a nomination committee. (§ 2.2.2)</p> <p>The board should establish a formal orientation programme to familiarise incoming directors with the company’s operations, senior management and its business environment, and to induct them in their fiduciary duties and responsibilities. Directors should receive further briefings from time to time on relevant new laws and regulations as well as on changing commercial risks. (§ 2.4.6)</p> <p>New directors with no or limited board experience should receive development and education to inform them of their duties, responsibilities, powers and potential liabilities. (§ 2.4.7)</p> <p>[T]he company secretary must provide the board as a whole and directors individually with detailed guidance as to how their responsibilities should be properly discharged in the best interests of the company.</p> <p>The company secretary has an important role in the induction of new or inexperienced directors.... (§§ 2.10.3, 2.10.4)</p>	<p>Appointment, re-election or removal [of independent Directors] will take place through the Nominations Committee. (§ I.4)</p> <p>A formal and transparent procedure must exist for the proposal, appointment, re-election and removal of Directors. Such procedure must be included in the Board Regulations and in the Annual Corporate Governance Report. (§ I.7)</p> <p>The procedure and criteria followed for the drafting of proposals relating to the appointment and re-election of Directors must be formal, accurate, transparent and objective, and furthermore recorded in the Annual Corporate Governance Report. (§ I.8)</p> <p>An “Induction Programme” must be in place in order to ensure that each Director becomes acquainted with the Company in a sufficient and rapid manner. The Director must be familiar with, or be trained in, the key issues and in the best understanding of the Company, attending external or internal training programmes as required. The continuous training of Directors falls under the Chairman’s responsibility, who must also ensure that such programmes are available for Directors and that they are conducted in an adequate manner. (§ I.5)</p> <p><i>See</i> § I.4 (In order [for an independent Director] to maintain [informed judgment], the Director must at all times demand an initial, comprehensive, adequate and scheduled training scheme (induction programme) and continuous development (regular training) and updating of skills.).</p>	<p>The company is to have a nomination committee that represents the company’s shareholders. (§ 3, Rule 2.1.1)</p> <p>As the basis for its recommendations, the nomination committee is to:</p> <ul style="list-style-type: none"> ▪ assess the extent to which the current board meets the demands that will be made of the board as a consequence of the company’s current position and future direction, among other things, by studying the result of the evaluation made of the board, ▪ establish requirements profiles for the new member or members who, according to this assessment, should be recruited, and ▪ execute a systematic procedure for the recruitment of directors, with due consideration for shareholders’ recommendations. <p>(§ III, Rule 2.2.2)</p> <p>A director is obliged to acquire the familiarity with the company’s operations, organisation, market, etc. needed to discharge his or her duties. (§ III, Rule 3.3.3)</p> <p>A new director is to receive the necessary introductory training about the company and any other training that the chair of the board and the director mutually consider appropriate. (§ III, Rule 3.3.4)</p> <p>[T]he chair is to ... ensure that the board regularly updates and improves its knowledge of the company and its operations and receives any other training required to conduct the board’s work effectively.... (§ III, Rule 3.4.4)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
4. Selecting, Inviting & Orienting New Directors				
<p><u>Board of Directors</u></p> <p>The powers of the shareholders are defined by statute. They alone are entitled to make decisions with regard to personnel matters at the top company level [including] electing and granting release to members of the Board of Directors.... (Code ¶ 1)</p> <p>The Nomination Committee should lay down the principles for the selection of candidates for election or re-election to the Board of Directors and prepare a selection of candidates in accordance with these criteria. (Code ¶ 27)</p> <p>The Board of Directors should ... ensure that members receive continuing education.... [It] should ensure that newly elected members receive appropriate introduction and that Board Members, where required, receive further training with respect to their responsibilities. (Code ¶ 13)</p> <p>See Code ¶ 28 (The rules contained in this Code may be adapted to actual circumstances, depending on the shareholder structure and size of the company.).</p> <p><u>Management Board</u></p> <p>Swiss company law lays down the inalienable and nontransferable primary functions of the Board of Directors. The primary functions [include] appointment and removal of persons entrusted with the management and representation of the company.... (Code ¶ 10.4)</p> <p>The Nomination Committee may ... be assigned responsibilities in connection with the selection and assessment of candidates for top management. (Code ¶ 27)</p>	<p>Nonexecutive directors should be selected through a formal process, and both this process and their appointment should be a matter for the board as a whole. (Code § 2.4)</p> <p>We recommend that [a nonexecutive director's] appointment should be a matter for the board as a whole and that there should be a formal selection process, which will reinforce the independence of nonexecutive directors and make it evident that they have been appointed on merit and not through any form of patronage. (Report § 4.15)</p> <p>One approach to making board appointments, which makes clear how these appointments are made and assists boards in making them, is through the setting up of a nomination committee, with the responsibility of proposing to the board, in the first instance, any new appointments, whether of executive or of nonexecutive directors. A nomination committee should have a majority of nonexecutive directors on it and be chaired either by the chairman or a nonexecutive director. (Report § 4.30)</p> <p>The formal relationship between the shareholders and the board of directors is that the shareholders elect the directors [and] the directors report on their stewardship to the shareholders.... Thus the shareholders, as owners of the company, elect the directors to run the business on their behalf and hold them accountable for its progress. (Report § 6.1)</p>	<p>There should be a formal, rigorous and transparent procedure for the appointment of new directors to the board. (Main Principle A.4)</p> <p>All directors should receive induction on joining the board and should regularly update and refresh their skills and knowledge. (Main Principle A.5)</p> <p>The chairman should ensure that the directors continually update their skills and the knowledge and familiarity with the company.... The company should provide the necessary resources.... (Supporting Principle A.5)</p> <p>The chairman should ensure that new directors receive a full, formal and tailored induction on joining the board. (Provision A.5.1)</p> <p>All directors should be subject to election by shareholders at the first annual general meeting after their appointment, and to re-election thereafter at intervals of no more than three years. The names of directors submitted for election or re-election should be accompanied by sufficient biographical details and any other relevant information to enable shareholders to take an informed decision on their election. (Provision A.7.1)</p> <p>The board should set out to shareholders in the papers accompanying a resolution to elect a nonexecutive director why they believe an individual should be elected. (Provision A.7.2)</p> <p>See Appendix – Related Guidance and Good Practice Suggestions: Suggestions for Good Practice from the Higgs Report, Pre-Appointment Due Diligence Checklist for New Board Members, pp. 69-70; Sample Letter of Non-executive Director Appointment, p. 74; and Induction Checklist, pp. 75-76.</p>	<p>Boards should establish a wholly independent committee that is responsible for ... nominating directors for board membership.... (p. 5)</p> <p>Creating an independent and inclusive process for nominating ... both directors and the CEO will ensure board accountability to shareholders and reinforce perceptions of fairness and trust between and among management and board members. (p. 6)</p> <p>Boards should involve all directors in all stages of the CEO and board member selection and compensation processes. (p. 6)</p> <p>Boards should institute as a matter of course an independent director succession plan and selection process, through a committee or overseen by a designated director or directors. (p. 7)</p> <p>In selecting members, the board must assure itself of their commitment to:</p> <ul style="list-style-type: none"> ▪ learn the business of the company and the board ▪ meet the company's stock ownership requirements ▪ offer to resign on change of employment or professional responsibilities, or under other specified conditions, and ▪ importantly, devote the necessary time and effort. <p>(p. 22)</p> <p>Directors have an obligation to develop broad, current knowledge of all the company's major businesses, including, specifically, the relevant technology, markets, and economics, as well as the strengths and weaknesses of the company vis-à-vis its major competitors. (p. 13)</p> <p>See generally Chapter 3, Selection: Who Directors Should Be, pp. 9-16.</p>	<p>The corporate governance committee ... should select and recommend to the board qualified director candidates for election by the corporation's shareholders. (p. 3)</p> <p>It is the responsibility of the board, through its corporate governance committee, to nominate directors and committee members and to oversee the composition, independence, structure, practices and evaluation of the board and its committees. (p. 9)</p> <p>Corporations should have an orientation process for new directors that is designed to familiarize them with the corporation's business, industry and corporate governance practices. Common practices include briefings from senior management, onsite visits to the corporation's facilities, informal meetings with other directors and written materials. Corporations also should encourage directors to take advantage of educational opportunities on an ongoing basis to enable them to better perform their duties and to keep informed about developments in areas such as the corporation's industry, corporate governance and director responsibilities. (p. 27)</p> <p>See The Business Roundtable, THE NOMINATING PROCESS AND CORPORATE GOVERNANCE COMMITTEES: PRINCIPLES AND COMMENTARY (April 2004).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
5. Separation of Chairman & CEO				
<p>In a number of countries with single-tier board systems, the objectivity of the board and its independence from management may be strengthened by the separation of the role of chief executive and chairman, or, if these roles are combined, by designating a lead nonexecutive director to convene or chair sessions of the outside directors. Separation of the two posts may be regarded as good practice, as it can help to achieve an appropriate balance of power, increase accountability and improve the board’s capacity for decision making independent of management. The designation of a lead director is also regarded as a good practice alternative in some jurisdictions. Such mechanisms can also help to ensure high quality governance of the enterprise and the effective functioning of the board. The Chairman or lead director may, in some countries, be supported by a company secretary. In the case of two-tier board systems, consideration should be given to whether corporate governance concerns might arise if there is a tradition for the head of the lower board becoming the Chairman of the Supervisory Board on retirement. (Annotation to Principle VI.E)</p> <p><i>See Topic Heading 6, below.</i></p>	<p>The chairperson should be an independent director. (Recommendation 2.2)</p> <p>The roles of chairperson and chief executive officer should not be exercised by the same individual. There needs to be a clear division of responsibility at the head of the company. The division of responsibilities between the chairperson and the chief executive officer should be agreed by the board and set out in a statement of position authority. The chief executive officer should not go on to become chairperson of the same company. (Recommendation 2.3)</p> <p><i>See Commentary on Recommendation 1.1 (Disclosing the division of responsibility assists those affected by corporate decisions to better understand the respective accountabilities and contributions of board and management of the particular company. That understanding can be further enhanced if the disclosure includes an explanation of the balance of responsibility between the chairperson, the lead independent director (if any) and the chief executive officer (or equivalent.).</i></p> <p><i>See also Topic Heading 6, below.</i></p>	<p>There should be a clear division of responsibilities at the head of the company between the running of the board and the executive responsibility for the running of the company’s business. The chairman of the board and the chief executive officer (hereinafter “CEO”) should not be the same individual. The division of responsibilities between the chairman and the CEO should be clearly established, set out in writing and agreed by the board. (Provision 1.5)</p> <p><i>See Provision 4.7 (The board should designate its chairman.).</i></p> <p><i>See also Topic Heading 6, below.</i></p>	<p>The chairman of the board [of directors] and the chief executive officer shall not be the same person. (CVM Recommendation II.4)</p> <p>The board of directors supervises management. Therefore, in order to avoid conflicts of interests, the chairman of the board should not also be the chief executive officer. (Commentary on CVM Recommendation II.4)</p> <p>The responsibilities of the Chairperson are quite different from the CEO’s. In order to avoid concentration of power and to enable an adequate supervision of management, the two positions should be filled by different people. (IBGC Code ¶ 2.7)</p> <p>The activities of the Board of Directors should be laid down in its own Internal Regulations.... The rules and regulations might include ... appointment of the Chairperson (and, if applicable, the Vice Chairperson) if not elected by the owners. (IBGC Code ¶ 2.5)</p> <p><i>See IBGC Code ¶ 2.6 (It is the basic responsibility of the Chairperson to ensure the efficiency and good performance of the Board and each of its Members. The Chairperson should lay down objectives and programs, so that the Board may fulfill its purpose of representing all the owners, and overseeing and assessing Management actions.).</i></p> <p><i>See also IBGC Code ¶ 2.7 (The CEO may be a Director, provided the Board also holds regular executive sessions.).</i></p> <p><i>See also Topic Heading 6, below.</i></p>	<p>Every board of directors should have in place appropriate structures and procedures to ensure that the board can function independently of management. An appropriate structure would be to</p> <ol style="list-style-type: none"> i. appoint a chair of the board who is not a member of management with responsibility to ensure the board discharges its responsibilities or ii. adopt alternate means such as assigning this responsibility to a committee of the board or to a director, sometimes referred to as the “lead director.” <p>(Dey Report, Guideline 12)</p> <p>It continues to be our preference that Canadian boards move towards having a nonexecutive chair.... This leader must be empowered by the full board to carry out the functions set out in Appendix B, which sets out our views of the areas of functional responsibility that should reside in the “independent board leader”. (Saucier Report, pp. 16-17)</p> <p><i>See Topic Heading 6, below.</i></p>

China	Denmark	France	Germany	India
5. Separation of Chairman & CEO				
<p><i>Not covered.</i></p>	<p>The Committee recommends that the members of the executive board of a company not be members of the supervisory board of the same company. (Recommendation V.4)</p> <p><i>See Recommendation IV.2 (The Committee recommends that the company prepare a work and task description specifying the tasks, duties and responsibilities of the chairman, and of the deputy chairman, if required.).</i></p> <p><i>See also Topic Heading 6, below.</i></p>	<p>French law offers an option between a unitary formula (Board of Directors) and a two-tier formula (Supervisory Board and Management Board) for all corporations, including listed corporations.</p> <p>In addition, a recent statute provides corporations with Boards of Directors with the option of either separating the offices of chairman and chief executive officer, or combining them. As recommended by the Viénot report of July 1999, the statute does not favour either formula and allows the Board of Directors to choose between the two forms of exercise of executive management. It is up to each corporation to decide on the basis of its own specific constraints. French <u>sociétés anonymes</u> accordingly can choose from among three forms of organisation of management and supervisory powers. (¶ 3.1)</p> <p><i>See ¶ 1.3 (It is not desirable, having regard to the great diversity of listed corporations, to impose formal and identical ways of organisation and operation for all Boards of Directors. The organization of the Board's work, and likewise its membership, must be suited to the shareholder make-up, to the size and nature of each firm's business, and to the particular circumstances facing it. Each Board is the best judge of this, and its foremost responsibility is to adopt the ways of organisation and operation enabling it to carry out its mission in the best possible manner.).</i></p> <p><i>See also Topic Heading 6, below.</i></p>	<p><i>The two-tier board envisioned by the German Code has a chairman of the Supervisory Board separate from the chairman of the Management Board (CEO).</i></p> <p>Elections to the Supervisory Board shall be made on an individual basis.... Proposed candidates for the Supervisory Board chair shall be announced to the shareholders. (§ 5.4.3)</p> <p><i>See § 5.4.4 (It shall not be the rule for the former Management Board chairman or a Management Board member to become Supervisory Board chairman or the chairman of a Supervisory Board committee. If this is intended, special reasons shall be presented to the annual general meeting.).</i></p> <p><i>See also Topic Heading 6, below.</i></p>	<p>The Committee is of the view that the Chairman's role should in principle be different from that of the chief executive, though the same individual may perform both roles. (§ 8.1)</p> <p><i>See Topic Heading 6, below.</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
5. Separation of Chairman & CEO				
<p><i>Not covered directly, but the Indonesian system provides for a two-tier board structure and appears to assume that the chairmen of the respective boards are separate individuals.</i></p>	<p>The Committee has found that it is not uncommon in Italy for management powers to be delegated to the chairman, either alone or together with other managing directors. Accordingly, it does not recommend the separation of the two roles as a matter of principle. It does, however, recommend that listed companies should make the division of tasks and responsibilities among the various positions absolutely clear and disclose adequate information in this respect. (Report, 5.2)</p> <p>It is appropriate to avoid the concentration of corporate offices in one single individual. (Code, 2.P.4)</p> <p>In the event that the chairman of the Board of Directors is the chief executive officer of the company, as well as in the event that the office of chairman is covered by the person controlling the issuer, the board shall designate a lead independent director, who represents a reference and coordination point for the requests and contributions of non-executive directors.... (Code, 2.C.3)</p> <p>[I]nternational best practice recommends [avoidance of] the concentration of offices in one single individual without adequate counterbalances; in particular, the separation [of the roles of chairman and CEO] is often recommended....</p> <p>The Committee is of the opinion that ... in Italy, the separation of the above-mentioned roles may strengthen the characteristics of impartiality and balance that are required from the chairman of the Board of Directors. (Comment on Code Article 2)</p>	<p>[In the (Board of Directors) Committees System,] the leader of the board of directors should, as chairperson or leader of the meeting which supervises the CEO and other executives, discharge his or her duties from the standpoint of good corporate governance. (CGFJ Principle 5)</p> <p>Under the traditional management model in Japan ... [o]ften the company president, who is also the CEO, performs the role of chairperson at meetings.... Now, however, with the board of directors being designated as a management supervision organization, it is important that the chairperson, who is in charge of the conduct of the meetings of the supervisory body, is sufficiently aware of this role. (Explanation of CGFJ Principle 5)</p> <p><i>See Topic Heading 6, below.</i></p>	<p><i>Not covered directly, but see Topic Heading 6, below.</i></p>	<p><i>Not covered.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
5. Separation of Chairman & CEO				
<p><u><i>In a Two-Tier Board Structure</i></u> The chairman of the supervisory board shall not be a former member of the management board of the company. (Best Practice Provision III.4.2)</p> <p><u><i>In a One-Tier Board Structure</i></u> The chairman of the ... board shall not also be and shall not have been an executive director. (Best Practice Provision III.8.1)</p>	<p><i>Not covered directly, but the Code distinguishes between the roles of the chairman of the board and the “director general” or general manager. The Code appears to allow that the positions of chairman and director general may be held either by the same person or by separate persons.</i></p>	<p>The chairperson should preferably be an independent nonexecutive director. (§ 2.3.2)</p> <p>Given the strategic operational role of the chief executive officer, this function should be separate from that of the chairperson. (§ 2.3.3)</p> <p><i>See</i> § 2.3.1 (There should be a clearly accepted division of responsibilities at the head of the company, to ensure a balance of power and authority, such that no one individual has unfettered powers of decisionmaking.).</p> <p><i>See also</i> § 2.3.4 ([A] decision to combine roles should be justified each year in the company’s annual report.).</p> <p><i>See also</i> Topic Heading 6, below.</p>	<p>[T]he positions of Chairman and Managing Director/Chief Executive Officer should be held by different persons. The position of Chairman should not be of an executive nature. A clear, express, written and approved separation should exist between the functions, tasks and responsibilities of the Board’s Nonexecutive Chairman and those of the Managing Director/Chief Executive Officer as the company’s top executive. The Board must approve the written rules which [establish] such separation....</p> <p>In the event that the functions of Chairman and Managing Director are performed by the same person, or in the case of an Executive Chairman, a Senior Independent Director/Lead Director must be appointed.... (§ I.2)</p> <p><i>See</i> Topic Heading 6, below.</p>	<p>The Swedish Companies Act requires a certain degree of separation in the exercise of the executive and management authorities. Thus in public limited liability companies, the same person cannot be the managing director and chair the board. (§ II, 2 Commentary)</p> <p>The nomination committee is to make recommendations for the chair and other members of the board.... (§ III, Rule 2.2.1)</p> <p>The chair of the board is to be elected at the shareholders’ meeting. If the chair relinquishes his or her duties during the mandate period, the board is to elect a chair from amongst its members to serve until the end of the next shareholders’ meeting. (§ III, Rule 3.4.1)</p> <p>If the nomination committee proposes that the outgoing managing director, soon after leaving that position, become the chair, the committee is to give special cause for its proposal. (§ III, Rule 3.4.2)</p> <p>If the chair of the board is employed in the company or, in addition to his or her responsibilities as chair, has duties assigned by the company, these may not involve tasks that are part of the managing director’s responsibilities in the day-to-day management of the company. In such cases, the division of work between the chair and the managing director is to be clearly stated in the formal work plan of the board of directors and in the board’s instruction to the managing director. (§ III, Rule 3.4.3)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
5. Separation of Chairman & CEO				
<p>The principle of maintaining a balance between direction and control should also apply to the top of the company. The Board of Directors should determine whether a single person (with joint responsibility) or two persons (with separate responsibility) should be appointed to the Chair of the Board of Directors and the top position of the Executive Management (Managing Director, President of the Executive Board or Chief Executive Officer). (Code ¶ 18)</p> <p><i>See Topic Heading 6, below.</i></p>	<p>Given the importance and particular nature of the chairman’s role, it should in principle be separate from that of the chief executive. (Report § 4.9)</p> <p><i>See Code § 1.2 (There should be a clearly accepted division of responsibilities at the head of a company which will ensure a balance of power and authority, such that no one individual has unfettered powers of decision.).</i></p> <p><i>See also Topic Heading 6, below.</i></p>	<p>There should be a clear division of responsibilities at the head of the company between the running of the board and the executive responsibility for the running of the company’s business. No one individual should have unfettered powers of decision. (Main Principle A.2)</p> <p>The roles of chairman and chief executive should not be exercised by the same individual. The division of responsibilities between the chairman and chief executive should be clearly established, set out in writing and agreed by the board. (Provision A.2.1)</p> <p>The chairman should on appointment meet the independence criteria ... A chief executive should not go on to be chairman of the same company. If exceptionally a board decides that a chief executive should become chairman, the board should consult major shareholders in advance and should set out its reasons to shareholders at the time of the appointment and in the next annual report. (Provision A.2.2)</p> <p>For the appointment of a chairman, the nomination committee should prepare a job specification, including an assessment of the time commitment expected, recognizing the need for availability in the event of crises. A chairman’s other significant commitments should be disclosed to the board before appointment.... (Provision A.4.3)</p> <p><i>See Appendix – Related Guidance and Good Practice Suggestions: Suggestions for Good Practice from the Higgs Report (Guidance on the Role of the Chairman), pp. 61-62.</i></p> <p><i>See also Topic Heading 6, below.</i></p>	<p>The roles of nonexecutive chairman or board leader have been under consideration for some years.... The purpose of creating these positions is not to add another layer of power but instead to ensure organization of, and accountability for, the thoughtful execution of certain critical independent director functions. The board should ensure that someone is charged with: organizing the board’s evaluation of the CEO and providing continuous ongoing feedback; chairing executive sessions of the board; setting the agenda with the CEO; and leading the board in anticipating and responding to crises.... Boards should consider formally designating a nonexecutive chairman or other independent board leader. If they do not make such a designation, they should designate, regardless of title, independent members to lead the board in its most critical functions.... (p. 6)</p> <p><i>See Topic Heading 6, below.</i></p>	<p>Most American corporations have been well served by a structure in which the CEO also serves as chairman of the board. The CEO serves as a bridge between management and the board, ensuring that both act with a common purpose.</p> <p>The decision whether the CEO also should serve as chairman of the board often is part of the succession planning process, and the board should make that decision in light of the corporation’s facts and circumstances. Although no one structure is right for every corporation, it is critical that the board has independent leadership. Some corporations have found it useful to separate the roles of CEO and chairman of the board. (p. 15)</p> <p><i>See Topic Heading 6, below.</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
6. “Presiding” or Lead Director				
<p>In a number of countries with single-tier board systems, the objectivity of the board and its independence from management may be strengthened by the separation of the role of chief executive and chairman, or, if these roles are combined, by designating a lead nonexecutive director to convene or chair sessions of the outside directors.... The designation of a lead director is ... regarded as a good practice alternative in some jurisdictions. Such mechanisms can also help to ensure high quality governance of the enterprise and the effective functioning of the board. (Annotation to Principle VI.E)</p> <p><i>See Topic Heading 5, above.</i></p>	<p>Where the chairperson is not an independent director, it may be beneficial to consider the appointment of a lead independent director. (Commentary on Recommendation 2.2)</p> <p><i>See Topic Heading 5, above.</i></p>	<p><i>Not covered directly, but see Topic Heading 5, above.</i></p>	<p>If the Chairperson and the CEO positions cannot be separated and are held by the same person, it is recommended that the Board count on another key leader, respected by his/her colleagues and the business community in general, who can counterweigh the power of the person serving in both capacities. (IBGC Code ¶ 2.23)</p> <p><i>See Topic Heading 5, above.</i></p>	<p>Every board of directors should have in place appropriate structures and procedures to ensure that the board can function independently of management. An appropriate structure would be to:</p> <ol style="list-style-type: none"> i. appoint a chair of the board who is not a member of management with responsibility to ensure the board discharges its responsibilities; or ii. adopt alternate means such as assigning this responsibility to a committee of the board or to a director, sometimes referred to as the “lead director.” <p>(Dey Report, Guideline 12)</p> <p>All boards should have a designated “independent board leader” who is chosen by the full board and who is an outside and unrelated director. This requirement should be a condition of listing on a stock exchange. The independent board leader should exercise those substantive functions (set out in Appendix B of this report) that are essential to ensure the ability of the board to act independently in carrying out its responsibilities.</p> <p>Where the board chair is an outside and unrelated director, the chair should be the independent board leader. Where the board chair is the CEO, the independent board leader should be given an appropriate title and be identified as such in the Annual Report. There should be a position description for the independent board leader, approved by the board. (Saucier Report, Recommendation 3)</p> <p>The “independent board leader” must be an outside and unrelated director. (Saucier Report, p. 17)</p> <p><i>See Saucier Report, Appendix B, “A Position Description For the ‘Independent Board Leader’,” pp. 44-45.</i></p>

China	Denmark	France	Germany	India
6. “Presiding” or Lead Director				
<p><i>Not covered.</i></p>	<p><i>Not covered directly, but see Recommendation IV.2 (The Committee recommends that the company appoint a deputy chairman, who must be able to act in the chairman’s absence and also to act as an effective sounding board for the chairman.).</i></p> <p><i>See also Topic Heading 5, above.</i></p>	<p><i>Not covered directly, but see ¶ 9.3 ([F]ormal [board] evaluation ... could be implemented ... under the leadership of an independent director....).</i></p> <p><i>See also Topic Heading 5, above.</i></p>	<p><i>Not covered directly, but see § 5.4.7 (Compensation of the members of the Supervisory Board ... takes into account ... the exercising of the Chair and Deputy Chair positions on the Supervisory Board....).</i></p> <p><i>See also Topic Heading 5, above.</i></p>	<p><i>Not covered directly, but see Topic Heading 5, above.</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
6. “Presiding” or Lead Director				
<p><i>Not covered directly, but see Topic Heading 5, above.</i></p>	<p>In the event that the chairman of the Board of Directors is the chief executive officer of the company, as well as in the event that the office of chairman is covered by the person controlling the issuer, the board shall designate a lead independent director, who represents a reference and coordination point for the requests and contributions of non-executive directors and, in particular, those who are independent pursuant to Article 3.... (Code, 2.C.3)</p> <p>The Committee, in acknowledging that the existence of situations of [aggregation] of the two roles may satisfy, in particular in issuers of smaller size, valuable organizational requirements, recommends that, should this be the case ... [a] lead independent director be created.</p> <p>[T]he lead independent director shall collaborate with the chairman for the purpose of ensuring that the directors [receive] complete timely flows of information.</p> <p>The lead independent director is granted ... the power to convene, autonomously or upon demand of other directors, appropriate meetings of independent directors only, for the discussion of subject matters judged of interest regarding the functioning of the Board of Directors or the company’s operations. (Comment on Code Article 2).</p>	<p>In Japan ... there are cases where, in addition to the chairman of the board, there is also the position of chairman of the board meeting. There is likely to be diversity in the degree of difference between the managerial role of chairman and the role of chairman of the board meeting, the degree of that diversity depending on the different speeds at which companies position their boards as supervisory bodies. (CGFJ Principles, Explanation of Principle 5)</p> <p><i>See Topic Heading 5, above.</i></p>	<p>[A] representative shall be appointed among the outside directors to supervise [executive sessions of outside directors] and to handle important issues delegated to them. (§ II.4.5)</p>	<p><i>Not covered.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
6. “Presiding” or Lead Director				
<p><i>Not covered directly, but see Topic Heading 5, above.</i></p>	<p><i>Not covered directly, but see Topic Heading 5, above.</i></p>	<p>Where the roles of the chairperson and chief executive officer are combined, there should be either an independent nonexecutive director serving as deputy chairperson or a strong independent nonexecutive director element on the board. (§ 2.3.4)</p> <p><i>See § 2.3.1 (There should be a clearly accepted division of responsibilities at the head of the company, to ensure a balance of power and authority, such that no one individual has unfettered powers of decisionmaking.).</i></p> <p><i>See also Topic Heading 5, above.</i></p>	<p>In the event that the functions of Chairman and Managing Director are performed by the same person, or in the case of an Executive Chairman, a Senior Independent Director/Lead Director must be appointed from among the independent external Directors who will liaise between the Board and its Chairman and shall keep the Chairman informed. The [Lead Director] will consult the Chairman when drafting the agenda for the meetings, and shall conduct the evaluation process of the Chairman, chair the Nominations Committee and the external/Nonexecutive Directors Meetings, coordinate the external/independent Directors, and stand in for the Chairman of the Board in the latter’s absence. (§ I.2)</p> <p><i>See Topic Heading 5, above.</i></p>	<p><i>Not covered directly, but see Topic Heading 5, above.</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
6. “Presiding” or Lead Director				
<p>If, for reasons specific to the company or because the circumstances relating to availability of senior management makes it appropriate, the Board of Directors decides that a single individual should assume joint responsibility at the top of the company, it should provide for adequate control mechanisms. The Board of Directors may appoint an experienced nonexecutive member (“lead director”) to perform this task. Such person should be entitled to convene on his own and chair meetings of the Board when necessary. (Code ¶ 18)</p> <p><i>See Topic Heading 5, above.</i></p>	<p>Where the chairman is also the chief executive, it is essential that there should be a strong and independent element on the board, with a recognized senior member. (Code § 1.2; see Report § 4.9)</p> <p>If the chairman is also the chief executive, board members should look to a senior nonexecutive director, who might be the deputy chairman, as the person to whom they should address any concerns about the combined office of chairman/chief executive and its consequences for the effectiveness of the board. A number of companies have recognized that role and some have done so formally in their Articles. (Report § 4.5)</p> <p><i>See Topic Heading 5, above.</i></p>	<p>The board should appoint one of the independent nonexecutive directors to be the senior independent director. The senior independent director should be available to shareholders if they have concerns which contact through the normal channels of chairman, chief executive or finance director has failed to resolve or for which such contact is inappropriate. (Provision A.3.3)</p> <p><i>See Topic Heading 5, above.</i></p>	<p>The roles of nonexecutive chairman or board leader have been under consideration for some years.... The purpose of creating these positions is not to add another layer of power but instead to ensure organization of, and accountability for, the thoughtful execution of certain critical independent director functions. The board should ensure that someone is charged with: organizing the board’s evaluation of the CEO and providing continuous ongoing feedback; chairing executive sessions of the board; setting the agenda with the CEO; and leading the board in anticipating and responding to crises.... Boards should consider formally designating a nonexecutive chairman or other independent board leader. If they do not make such a designation, they should designate, regardless of title, independent members to lead the board in its most critical functions.... A designated director or directors should work with the CEO to create board agendas (incorporating other board members’ input as provided) and to ensure that all relevant materials are provided in a timely manner prior to each meeting. (p. 6)</p>	<p>[Where CEO and chairman roles are combined,] there is a growing trend for boards to appoint a “lead” or “presiding” director. A lead director generally advises on board meeting schedules and agendas, chairs executive sessions of the board, oversees the flow of information to the board, and serves as liaison between the independent directors and the CEO. The lead director also may play a key role in overseeing performance evaluations of the CEO and the board, be available for communication with shareholders, and lead the board in crisis situations. Still other boards have designated an independent director to preside over the executive sessions of a board’s independent or nonmanagement directors that are required by securities market listing standards. Depending on the corporation, the so-called presiding director also may perform some or all of the other functions performed by the lead director. (p. 15)</p> <p><i>See Topic Heading 5, above.</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
7. Board Size				
<p><i>Not covered directly, but see Millstein Report, Perspective 15 (Board structure ... is not a “one-size-fits-all” proposition, and should be left, largely, to individual participants.).</i></p>	<p>Have a board of an effective composition, size and commitment to adequately discharge its responsibilities and duties. (Principle 2)</p> <p>It is important that the board be of a size and composition that is conducive to making decisions expediently, with the benefit of a variety of perspectives and skills, and in the best interests of the company as a whole rather than of individual shareholders or interest groups. The size of the board should be limited so as to encourage efficient decisionmaking. (Commentary on Recommendation 2.4)</p>	<p>Under the lead of its chairman, the board should regularly (e.g., at least every two or three years) assess its size.... (Provision 4.11)</p> <p>The board should be small enough for efficient decisionmaking. It should be large enough for its members to contribute experience and knowledge from different fields and for changes to the board’s composition to be managed without undue disruption. (Guideline 2.1)</p> <p>[T]he nomination committee should ... periodically assess the size and composition of the board and make recommendations to the board with regard to any changes.... (Appendix D, Guideline 5.3.4)</p>	<p><u><i>Board of Directors</i></u></p> <p>The board of directors should have five to ten technically qualified members.... For companies under shared control, boards with more than nine members are justifiable. (CVM Recommendation II.1)</p> <p>The recommendation about the number of members takes into consideration that the board of directors should be large enough as to ensure wide representation but not so large as to impair efficiency. (Commentary on CVM Recommendation II.1)</p> <p>The number of members that make up the Board of Directors should be between 5 and 9, depending on the profile of the company. (IBGC Code ¶ 2.10)</p> <p><u><i>Fiscal/Advisory Board</i></u></p> <p>The fiscal board should have a minimum of three and a maximum of five members. (CVM Recommendation IV.2)</p>	<p>Every board of directors should examine its size and, with a view to determining the impact of the number upon effectiveness, undertake where appropriate, a program to reduce the number of directors to a number which facilitates more effective decision-making. (Dey Report, Guideline 7)</p> <p><u><i>Saucier Report</i></u></p> <p><i>Not covered.</i></p>

China	Denmark	France	Germany	India
7. Board Size				
<p>The number of directors and the structure of the board of directors shall be in compliance with laws and regulations and shall ensure the effective discussion and efficient, timely and prudent decisionmaking process of the board of directors. (Ch. 3, (3) 40)</p>	<p><u>Supervisory Board</u> The Commission recommends that the supervisory board have only so many members as to allow a constructive debate and an effective decisionmaking process that enables all the members of the supervisory board to play an active role and so that the size of the supervisory board allows the competence and experience of the supervisory board members to match the requirements of the company. The Commission recommends that at regular intervals, the supervisory board consider whether the number of supervisory board members is appropriate in relation to the requirements of the company. (Recommendation V.3)</p> <p><u>Supervisory and Management Boards</u> A nomination committee should ... at regular intervals, assess the structure, size, composition and results of the supervisory board/executive board, and draw up recommendations for changes, if needed, to the supervisory board. (Appendix A)</p>	<p><i>Not covered directly, but see ¶ 1.3 (It is not desirable, having regard to the great diversity of listed corporations, to impose formal and identical ways of organisation and operation for all Boards of Directors. The organisation of the Board's work, and likewise its membership, must be suited to the shareholder make-up, to the size and nature of each firm's business, and to the particular circumstances facing it. Each Board is the best judge of this, and its foremost responsibility is to adopt the ways of organisation and operation enabling it to carry out its mission in the best possible manner.)</i></p>	<p><u>Supervisory Board</u> <i>Not covered.</i></p> <p><u>Management Board</u> The Management Board shall comprise several persons and have a Chairman or Spokesman. Terms of Reference shall regulate the allocation of areas of responsibility and cooperation on the Management Board. (§ 4.2.1)</p>	<p><i>Not covered.</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
7. Board Size				
<p><u>Supervisory and Management Boards</u> [The Nomination Committee shall] provide recommendations in respect of the number of members of the Dewan Komisaris and Direksi in the Company. (§ II, 2.9.1)</p>	<p>The Committee recommends that the shareholders, when appointing directors, evaluate the number, experience and personal characteristics of the candidates in relation to the size of the issuer, the complexity and specificity of the business sector in which the issuer operates, as well as the size of the Board of Directors. (Comment on Code Article 2)</p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p>[The board of directors] consists of three members or more [and the board of corporate auditors] consists of three corporate auditors or more.... (TSX Principles, Appendix)</p> <p>The number of members on the board of directors should be set so as to allow for meaningful discussion and accurate and prompt decisionmaking. (CGFJ Principle 3.1)</p>	<p>The Board shall be composed so as to allow effective decisionmaking and supervision of the management. (§ II.2)</p> <p>The number of directors shall be such that it allows the Board to have fruitful discussions and to make appropriate, swift and prudent decisions. For large public corporations, it is highly advised that the number of directors on the Board be appropriate for effectively managing internal committees. (§ II.2.1)</p> <p>There is no perfect number of directors appropriate for all the different circumstances of corporations. The reason lies with the many different factors that may influence the Board's size, <u>e.g.</u>, the corporation's size, the business environment, and special characteristics. Nevertheless, the Board's size shall be such that it allows the discussions to be fruitful and the decisions made to be appropriate, swift and prudent. (§ II.2.1)</p>	<p>The Board of Directors should consist of between 5 and 15 regular members. (Principle at I.2)</p> <p>There should be no alternate Board members; if there are, they should be assigned to replace only a previously established regular member, and each prospective regular Board member should be asked to suggest their alternate. (Principle at I.2)</p> <p>The Board should ... include at least enough members to offer an adequate range of opinions, but not so many that members cannot effectively express and discuss their viewpoints without provoking inefficient practices by an excessive number of Board members. (Recommendation at 3)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
7. Board Size				
<p><u>Supervisory Board</u> The supervisory board shall prepare a profile of its size and composition, taking account of the nature of the business, its activities and the desired expertise and background of the supervisory board members. (Best Practice Provision III.3.1)</p> <p>The selection and appointment committee shall ... periodically assess[] the size and composition of the supervisory board.... (Best Practice Provision III.5.13(b))</p> <p><u>Management Board</u> The selection and appointment committee shall ... periodically assess[] the size and composition of ... the management board.... (Best Practice Provision III.5.13(b))</p>	<p><u>Board of Directors</u> The number of members of the board of directors can be affected by many different factors. However, ... companies should primarily seek a number that will enable the board of directors to hold productive and constructive discussions, make prompt and rational decisions, and efficiently organize the work of its committees. (Ch. 3, § 2.1.4)</p> <p><u>Management Board</u> <i>Not covered.</i></p>	<p>Every board should consider whether or not its size, diversity and demographics make it effective. (§ 2.1.10)</p>	<p><i>Not covered.</i></p>	<p>The board is not to exceed the size that will allow it to employ simple and effective working methods. There are to be no deputies to the directors chosen by the shareholders' meeting. (§ III, Rule 3.2.2)</p> <p><i>See § III, 3.2 Commentary</i> (The board should have a size and composition that enable it to embrace the various qualifications and experience needed and to meet the independence criteria required to manage the company's affairs effectively and independently. The renewal of the board should be paced with due consideration for the development of the company's operations as well as for the need for continuity in the work of the board.).</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
7. Board Size				
<p><u>Board of Directors</u> The Board of Directors should be small enough in numbers for efficient decisionmaking and large enough for its members to contribute experience and knowledge from different fields and to allocate management and control functions ... among themselves. The size of the Board should match the needs of the individual company. (Code ¶ 12)</p> <p><u>Management Board</u> Not covered.</p>	<p>Not covered.</p>	<p>The board should not be so large as to be unwieldy. The board should be of sufficient size that the balance of skills and experience is appropriate for the requirements of the business and that changes to the board's composition can be managed without undue disruption. (Supporting Principle A.3)</p>	<p>Boards should determine the appropriate board size, and periodically assess overall board composition to ensure the most appropriate and effective board membership mix. (p. 6)</p>	<p>Boards of directors of large, publicly-owned corporations vary in size from industry to industry and from corporation to corporation. In determining board size, directors should consider the nature, size, and complexity of the corporation as well as its stage of development. The experiences of many Business Roundtable members suggest that smaller boards are more cohesive and work more effectively than larger boards. (p. 13)</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
8. Mix of Executive, Nonexecutive & Independent Directors				
<p>A number of national principles and, in some cases, laws ... recommend that a majority of the board should be independent. (Annotation to Principle V.A.4)</p> <p><i>See</i> Annotation to Principle VI.E (Board independence ... usually requires that a sufficient number of board members will need to be independent of management. [However,] [t]he variety of board structures, ownership patterns and practices in different countries ... require different approaches to the issue of board objectivity. In many instances objectivity requires that ... independence from controlling shareholders or another controlling body will need to be emphasized.... This has led to both codes and the law in some jurisdictions to call for some board members to be independent of dominant shareholders, independence extending to not being their representative or having close business ties with them. In other cases, parties such as particular creditors can also exercise significant influence. Where there is a party in a special position to influence the company, there should be stringent tests to ensure the objective judgment of the board.)</p> <p><i>See</i> Millstein Report, Perspective 15 (Policy makers and regulators should encourage some degree of independence in the composition of corporate boards. Stock exchange listing requirements that address a minimal threshold for board independence ... have proved useful, while not unduly restrictive or burdensome.)</p>	<p>A majority of the board should be independent directors. (Recommendation 2.1)</p>	<p>At least half the board should comprise nonexecutive directors and at least three of them should be independent. (Provision 2.2)</p> <p><i>See</i> Preamble ¶ 6 ([T]o be able to play its role as the guardian of corporate interest, it is important that the board is composed of both executive and non-executive directors, including independent nonexecutive directors. All directors should demonstrate independence of judgement, and objectivity in making board decisions, but the independent directors will have a crucial role to play in that respect.)</p>	<p><u><i>Board of Directors</i></u></p> <p>As many board members as possible should be independent of company management. (CVM Recommendation II.1).</p> <p>There are three types of Directors:</p> <ul style="list-style-type: none"> ▪ Independent (see item 2.12). ▪ External: Directors without any current ties to the organization, but not independent. For example: former Officers and former employees, attorneys that provide services to the company, controlling owners or employees of the controlling group, close relatives of Officers, etc. ▪ Internal: Directors that are also Officers or company employees. (IBGC Code ¶ 2.11) <p>The Board of the company should consist mostly of independent members.... Depending on the situation, it might be necessary to make a distinction between a listed company and a privately-owned family company. Listed companies are advised to appoint only – or mostly – independent Directors. However, it is natural for private companies under family control to have a few non-independent members on their Boards. (IBGC Code ¶ 2.12)</p> <p><u><i>Fiscal/Advisory Board</i></u></p> <p>According to principles of good corporate governance, the fiscal board’s majority should not be elected by the controlling shareholder. (Commentary on CVM Recommendation IV.2)</p>	<p>The board of directors of every corporation should be constituted with a majority of individuals who qualify as unrelated directors.... If the corporation has a significant shareholder, in addition to a majority of unrelated directors, the board should include a number of directors who do not have interest in or relationships with either the corporation or the significant shareholder and which fairly reflects the investment in the corporation by shareholders other than the significant shareholder. A significant shareholder is a shareholder with the ability to exercise a majority of the votes for the election of the board of directors. (Dey Report, Guideline 2)</p> <p>The board of directors of every corporation should be constituted with a majority of individuals who qualify as unrelated directors.... If a corporation has a significant shareholder, in addition to a majority of unrelated directors, the board should include a number of directors who do not have interests in or relationships with either the corporation or the significant shareholder and which fairly reflects the investment in the corporation by shareholders other than the significant shareholder. (Saucier Report, Appendix A, p. 36)</p>

China	Denmark	France	Germany	India
8. Mix of Executive, Nonexecutive & Independent Directors				
<p>A listed company shall introduce independent directors to its board of directors in accordance with relevant regulations. (Ch. 3, (5) 49)</p> <p><i>The CSRC issued a regulation in August 2001 that one-third of the members of the board of directors of each listed company should be independent directors by June 30, 2003.</i> (People's Daily, September 11, 2001)</p> <p><u>Supervisory Board</u></p> <p><i>The Company Law stipulates that the supervisory board of a listed company must include representatives of both the company's shareholders and the company's employees, in a ratio to be determined by each company's articles of association.</i> (Company Law, Art. 52, as cited by Martindale-Hubbell International Law Digest (2001), p. CHN-8)</p>	<p><u>Supervisory Board</u></p> <p>In order for supervisory board members to act independently of special interests, the Committee recommends that at least half of the supervisory board members elected by the general meeting be independent persons. (Recommendation V.4)</p> <p><i>See Recommendation V.5 (there are also employee-elected members of the supervisory board).</i></p> <p><u>Management Board</u></p> <p><i>The management board, by definition, consists exclusively of executives.</i></p>	<p>Even though the quality of the Board of Directors cannot be defined simply by reference to a percentage of independent directors ... it is important to have on the board of directors the presence of a significant proportion of independent directors not only in order to satisfy an expectation of the market but also in order to improve the quality of proceedings.</p> <p>The independent directors should account for half the members of the Board in widely-held corporations and without controlling shareholders. In others, the rule of "a third at least," set by the Viénot report of July 1999, should be observed. (¶ 8.2)</p> <p>Each Board should consider what would be the desirable balance within its membership and within that of the committees of Board members which is established, and take appropriate action to ensure to the shareholders and market that its duties will be performed with the necessary independence and objectivity. (¶ 6.3)</p> <p>French legislation has a double specific feature of involving representatives of the Works Council in proceedings of the Board in an advisory capacity, and providing for appointment of one or more directors from among employee shareholders if the employee shareholdings exceed 3% of the corporate capital, or the possibility of full participation of employee representatives on the Board. (¶ 7.1)</p> <p>[T]he law limits to a maximum of three the number of directors bound to the corporation by contracts of employment.... (¶ 7.1, footnote 2)</p>	<p><u>Supervisory Board</u></p> <p>[T]he Supervisory Board shall include what it considers an adequate number of independent members.... Not more than two former members of the Management Board shall be members of the Supervisory Board.... (§ 5.4.2)</p> <p><i>See § 1 ([M]embers of the Supervisory Board are elected by the shareholders at the General Meeting. In enterprises with more than 500 or 2000 employees in Germany, employees are also represented on the Supervisory Board, which then is composed of employee representatives to one-third or to one-half respectively.).</i></p> <p><u>Management Board</u></p> <p><i>Members of the Management Board are, by definition, executives.</i></p>	<p>The Committee recommends that the board of a company have an optimum combination of executive and non-executive directors with not less than fifty percent of the board comprising the nonexecutive directors. The number of independent directors ... would depend on the nature of the chairman of the board. In case a company has a nonexecutive chairman, at least one-third of board should comprise of independent directors and in case a company has an executive chairman, at least half of board should be independent. (§ 6.9)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
8. Mix of Executive, Nonexecutive & Independent Directors				
<p><u>Supervisory Board</u> Depending on the specific characteristics of a Company, at least 20% of the members of the Dewan Komisaris should fall under the category of outside members. (§ II, Principle 2.2)</p> <p><u>Management Board</u> Depending on the specific character of the Company, at least 20% of the members of the Direksi should be “outside directors” as mentioned in section 2.2 in order to increase the effectiveness of its management role, and the transparency of its deliberations. (§ III, 3.2)</p>	<p>The Board of Directors shall be made up of executive and non-executive directors. (Code, 2.P.1)</p> <p>The number and competences of independent directors shall be adequate in relation to the size of the board and the activity performed by the issuer.... (Code, 3.C.3)</p> <p>In [Italy] the number of non-executive directors usually exceeds the number of executive directors. The Committee recommends that the shareholders, when appointing directors, evaluate the number, experience, and personal characteristics of the candidates in relation to the size of the issuer ,the complexity and specificity of the business sector in which the issuer operates, as well as the size of the Board of Directors. (Comment on Code Article 2)</p> <p>The balanced composition of the board, with the participation of executive directors and non-executive directors, of which some [are] classifiable as “independent”, guarantees the good governance of the company as the outcome of the confrontation and dialective between management powers and those of strategic guidance and supervision, while ensuring that the necessary attention is paid to the performance of the company and the prevention of conflicts of interest. (Report, 5.1)</p> <p><i>See Comment on Code Article 3 ([T]he Committee believes that the presence in the Board of Directors of directors who may be qualified as “independent” is the most suitable solution for guaranteeing the [consideration] of the interests of all the shareholders, both majority and minority....).</i></p> <p><i>See Comment on Code Article 3 (mix of directors on boards of “controlled companies”).</i></p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p>[In a Corporate Auditors System,] outside auditors must be nominated, but the appointment of outside directors is not required.... [A]t least half the members [of the board of corporate auditors] must be outside auditors. (TSX Principles, Appendix)</p> <p>[In a (Board of Directors) Committees System,] the majority of the board of directors should be comprised of outside directors. (CGFJ Principle 3.2, 3.3)</p>	<p>The Board shall include outside directors capable of performing their duties independently from management, controlling shareholders and the corporation. The number of outside directors shall be such that the Board is able to maintain practical independence. Particularly, it is recommended that financial institutions and large-scale public corporations gradually increase the ratio of outside directors to more than half of the total number of directors (minimum three outside directors). (§ II.2.2)</p> <p>To raise transparency of corporate management and to improve corporate governance, stock-listed corporations shall appoint outside directors to fill a minimum one-quarter of the total; banks and public sector corporations, a minimum one-half....</p> <p>For outside directors to perform their functions properly, it is important that the number of outside directors appointed is sufficient for them to exercise real influence in the Board’s decisionmaking process. Therefore, the proportion of outside directors shall be decided at the level where the Board would be able to maintain actual independence from management and controlling shareholders while exercising influential authority over management decisions. (§ II.2.2)</p> <p><i>See Korean Stock Exchange Listing Regulations, Art. 48-5 (outside directors to comprise at least one-fourth of board members).</i></p>	<p>Owning directors are selected from among major stockholders or the individuals that direct them. Depending on whether the major stockholder or its director qualify to be outside directors, they can be appointed as outside owning directors or inside owning directors. (Principle at I.2)</p> <p>Inside directors are those that do not fall into either of the previous two described categories. (Principle at I.2)</p> <p>Outside and owning members should together make up at least 40% of the Board of Directors. ... Outside members should make up at least 20% of the Board of Directors. (Principle at I.2)</p> <p>To fulfill its purpose, the Code recommends that the Board include members that are not involved in the daily operation of the company so that they can provide an external, independent perspective. (Recommendation at I)</p> <p>In order for outside and owning directors to fulfill their purpose, they must be represented in a sufficient percentage on the Board. (Recommendation at I.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
8. Mix of Executive, Nonexecutive & Independent Directors				
<p><u>1. In a Two-Tier Board Structure</u></p> <p><u>a. Supervisory Board</u></p> <p>The composition of the supervisory board shall be such that the members are able to act critically and independently of one another and of the management board and any particular interests. (Principle III.2)</p> <p>All supervisory board members, with the exception of not more than one person, shall be independent.... (Best Practice Provision III.2.1)</p> <p><u>b. Management Board</u></p> <p><i>The management board, by definition, consists of company executives.</i></p> <p><u>2. In a One-Tier Board Structure</u></p> <p>The majority of the members of the ... board shall be nonexecutive directors and are independent.... (Best Practice Provision III.8.4)</p>	<p><u>Board of Directors</u></p> <p>As a rule, boards of directors of Russian companies consist of three categories of directors – executive, non-executive and independent directors.</p> <p>Under the law, executive directors ... may not exceed one-fourth of the total number of members of the board of directors of the company.... Efficient performance by the board of directors of its functions requires that some of its members are independent directors.... (Ch. 3, § 2.2.1)</p> <p>[I]ndependent directors ... should comprise at least one-fourth of the total number of members of the board of directors. In any event, it is recommended that the company’s charter should provide that the board of directors include at least three independent directors. (Ch. 3, § 2.2.3)</p> <p><i>See Ch. 3, § 2.3.3 ([T]he company should develop internal documents detailing the steps necessary in order to comply with statutory requirements and these recommendations. In particular, it is advisable to require that shareholders be informed of the statutory criteria applicable to the composition of the board of directors and of the consequences of failure to comply with such criteria before nomination of candidates for the positions of members of the board of directors begins.).</i></p> <p><u>Management Board</u></p> <p><i>The management board is by definition composed entirely of executive members.</i></p>	<p>The board should comprise a balance of executive and nonexecutive directors, preferably with a majority of non-executive directors, of whom sufficient [sic] should be independent of management so that shareowner interests (including minority interests) can be protected. (§ 2.2.1)</p>	<p>The Board must be made up of internal/Executive Directors and external/Nonexecutive Directors. In the case of those companies in which there is no majority shareholder or a controlling group holding a majority interest, there must be a majority of independent Directors among the external/Non-executive Directors. In any event, the number of independent Directors should not fall below one-third of the total Board members. (§ I.3)</p>	<p>[T]he board of directors in a Swedish company listed on the stock exchange is normally composed exclusively of nonexecutive directors. Persons with links to major shareholders usually constitute a majority on the board and only a few directors are independent of the major shareholders. (§ II, 2 Commentary)</p> <p>The majority of the directors elected by the shareholders’ meeting are to be independent of the company and its management. (§ III, Rule 3.2.4)</p> <p>At least two of the directors who are independent of the company and its management are also to be independent of the company’s major shareholders. A director who represents a major owner or is employed or a member of the board in a company that is a major shareholder is not considered independent. (§ III, Rule 3.2.5)</p> <p>[I]n companies with at least 25 employees, employees have the right to appoint two representatives to the board of directors and two deputy members, while in companies with activities in several lines of business and a minimum of 1,000 employees, they have the right to appoint three representatives and two deputies. However, employee representatives may never constitute a majority on the board. (§ I, 2 Commentary)</p> <p><i>See § III, Rule 3.2.3 (No more than one person from senior management may be a member of the board.).</i></p> <p>Whether or not the managing director is a member of the board, he or she has a special role in the work of the board. (§ III, 4.1 Commentary)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
8. Mix of Executive, Nonexecutive & Independent Directors				
<p><u>Board of Directors</u> The majority of the Board should, as a rule, be composed of members who do not perform any line management function within the company (non-executive members). (Code ¶ 12)</p> <p><u>Management Board</u> <i>The members of the management board are, by definition, executives.</i></p>	<p>The board should include nonexecutive directors of sufficient calibre and number for their views to carry significant weight in the board's decisions. (Code § 1.3)</p> <p>Nonexecutive directors should bring an independent judgement to bear on issues of strategy, performance, resources, including key appointments, and standards of conduct. (Code § 2.1)</p> <p>Every public company should be headed by an effective board which can both lead and control the business.... [T]his means a board made up of a combination of executive directors, with their intimate knowledge of the business, and of outside, nonexecutive directors, who can bring a broader view to the company's activities, under a chairman who accepts the duties and responsibilities which the post entails. (Report § 4.1)</p>	<p>The board should include a balance of executive and nonexecutive directors (and in particular independent non-executive directors) such that no individual or small group of individuals can dominate the board's decision taking. (Main Principle A.3)</p> <p>To ensure that power and information are not concentrated in one or two individuals, there should be a strong presence on the board of both executive and nonexecutive directors. (Supporting Principle A.3)</p> <p>Except for smaller companies, at least half the board, excluding the chairman, should comprise nonexecutive directors determined by the board to be independent. A smaller company should have at least two independent non-executive directors. (Provision A.3.2)</p>	<p>Boards should require that independent directors fill the substantial majority of board seats. ... Boards should ensure that any director candidate under consideration, with the exception of their own CEO or senior managers, is independent. (p. 11)</p>	<p>A substantial majority of directors of the board of a publicly-owned corporation should be independent, both in fact and appearance, as determined by the board. In accordance with the listing standards of the major securities markets, the board should make an affirmative determination as to the independence of each director annually and should have a process in place for making these determinations. (p. 14)</p> <p><i>See p. 14 (The board of a publicly-owned corporation should have a substantial degree of independence from management. Board independence depends not only on directors' individual relationships but also on the board's overall attitude toward management. Providing objective independent judgment is at the core of the board's oversight function, and the board's composition should reflect this principle.)</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
9. Definition of “Independence”				
<p><i>Not covered directly, but see Principle VI.E (The board should be able to exercise objective independent judgment on corporate affairs.).</i></p> <p><i>See also Annotation to Principle VI.E ([I]t is essential that the board is able to exercise objective judgment. In the first instance this will mean independence and objectivity with respect to management.... The variety of board structures, ownership patterns and practices in different countries will ... require different approaches to the issue of board objectivity. In many instances objectivity requires that a sufficient number of board members not be employed by the company or its affiliates and not be closely related to the company or its management through significant economic, family or other ties. This does not prevent shareholders from being board members. In others, independence from controlling shareholders or another controlling body will need to be emphasized, in particular if the <u>ex ante</u> rights of minority shareholders are weak and opportunities to obtain redress are limited. This has led to both codes and the law in some jurisdictions to call for some board members to be independent of dominant shareholders, independence extending to not being their representative or having close business ties with them. In other cases, parties such as particular creditors can also exercise significant influence. Where there is a party in a special position to influence the company, there should be stringent tests to ensure the objective judgment of the board.).</i></p>	<p>An independent director is a nonexecutive director ... and:</p> <ol style="list-style-type: none"> 1. is not a substantial shareholder of the company or an officer of, or otherwise associated directly with, a substantial shareholder...; 2. within the last three years has not been employed in an executive capacity by the company or another group member, or been a director after ceasing to hold any such employment; 3. within the last three years has not been a principal of a material professional adviser or a material consultant to the company or another group member, or an employee materially associated with the service provided; 4. is not a material supplier or customer of the company..., or an officer of, or otherwise associated directly or indirectly with, a material supplier or customer; 5. has no material contractual relationship with the company...other than as a director of the company; 6. has not served on the board for a period which could, or could reasonably be perceived to, materially interfere with the director’s ability to act in the best interests of the company; 7. is free from any interest and any business or other relationship which could, or could reasonably be perceived to, materially interfere with the director’s ability to act in the best interests of the company. <p>(Commentary on Recommendation 2.1, adapted from CORPORATE GOVERNANCE, A GUIDE FOR FUND MANAGERS AND CORPORATIONS – BLUE BOOK (IFSA, December 2002))</p>	<p>To be considered independent, a director should be free from any business, close family or other relationship with the company, its controlling shareholders or the management.... (Provision 2.3)</p> <p>The assessment of independence should be made taking into account the following criteria:</p> <ul style="list-style-type: none"> ▪ not being an executive or managing director of the company or an associated company, and not having been in such a position for the previous three years; ▪ not being an employee of the company...; ▪ not receiving, or having received, significant additional remuneration from the company ... apart from a fee received as nonexecutive director; ▪ not being a controlling shareholder or a shareholder with a shareholding of more than 10%, or a director or officer of such a shareholder; ▪ not having, or having had within the last year, a significant business relationship with the company...; ▪ not being, or having been within the last three years, a partner or employee of the current or former external auditor of the company...; ▪ ... not having ... significant links with executive directors of the company through involvement in other companies or bodies; ▪ not having served on the board as a nonexecutive director for more than three terms; ▪ not being a close family member of an executive or managing director or of persons in the situations described above. <p>(Appendix A, 2.3./1)</p>	<p>An independent board member:</p> <ul style="list-style-type: none"> ▪ has no ties with the organization, with the possible exception of some shares of its capital; ▪ is not a controlling owner, nor a member of the controlling group, spouse, or relation up to the second degree of kinship or affinity to any party in the aforementioned group, or having any ties with organizations related to the controlling owner; ▪ is not a former employee or Officer of the organization or any of its subsidiaries; ▪ is not directly or indirectly providing or buying company services and/or products; ▪ is not an employee or Officer of any company supplying service and/or product; ▪ is not a spouse or relative up to the second degree of kinship or affinity to any company Officer or manager; and ▪ receives no payment from the company other than his/her Directors fees (dividends from any interest in the share capital of the company are not hereby restricted). <p>(IBGC Code ¶ 2.12)</p> <p>The independent board member who has served at the same company board for several years should judge whether his/her independence remains intact. (IBGC Code ¶ 2.12)</p> <p><i>See IBGC Code ¶ 2.12 (Directors should seek the maximum independence possible with regard to the owner, equity group or stakeholder that may have nominated them to their positions, and be aware that, once elected, their responsibility is to all the owners of the company.).</i></p>	<p>An unrelated director is ... free from any interest and any business or other relationship which could, or could reasonably be perceived to, materially interfere with the director’s ability to act with a view to the best interests of the corporation, other than interests and relationships arising from shareholding. (Dey Report, Guideline 2)</p> <p>If a corporation has a significant shareholder, in addition to a majority of unrelated directors, the board should include a number of directors who do not have interests in or relationships with either the corporation or the significant shareholder and which fairly reflects the investment in the corporation by shareholders other than the significant shareholder. (Saucier Report, Appendix A, p. 36, <i>citing existing disclosure requirements and guidelines, Sec. 474.2</i>)</p> <p><i>See Dey Report, Guideline 3 (The application of the definition of “unrelated director” to the circumstances of each individual director should be the responsibility of the board which will be required to disclose on an annual basis whether the board has a majority of unrelated directors or, in the case of a corporation with a significant shareholder, whether the board is constituted with the appropriate number of directors which are not related to either the corporation or the significant shareholder.).</i></p>

China	Denmark	France	Germany	India
9. Definition of “Independence”				
<p>Independent directors shall be independent from the listed company that employs them and the company’s major shareholders. An independent director may not hold any other position apart from independent director in the listed company. (Ch. 3, (5) 49)</p> <p>Independent directors ... shall not subject themselves to the influence of the company’s major shareholders, actual controllers, or other entities or persons who are interested parties of the listed company. (Ch. 3, (5) 50)</p> <p>See Guidelines For Introducing Independent Directors to the Board of Directors of Listed Companies (August 16, 2001).</p> <p>See generally Ch. 2, (2), Independence of [the] Listed Company [from controlling shareholders], including: A listed company shall be separated from its controlling shareholders in such aspects as personnel, assets and financial affairs, shall be independent in institution and business, shall practice independent business accounting, and shall independently bear risks and obligations. (Ch. 2, (2) 22)</p> <p><u>Supervisory Board</u></p> <p>Not covered directly, but see Ch. 4, (2) 64 (The members and the structure of the supervisory board shall ensure its capability to independently and efficiently conduct its supervision of directors, managers and other senior management personnel and to supervise and examine the company’s financial matters.).</p>	<p>[A]n independent supervisory board member elected by the general meeting may not:</p> <ul style="list-style-type: none"> ▪ be an employee of the company or have been employed by the company within the past five years. ▪ be or have been a member of the executive board of the company. ▪ be a professional consultant to the company or be employed by, or have a financial interest in, a company which is a professional consultant to the company. ▪ have some other essential strategic interest in the company other than that of a shareholder. <p>Furthermore, any person related, in terms of business or in any other way, to the company’s major shareholder is not regarded as an independent person. Family ties with persons not regarded as independent persons also imply a situation of nonindependence. (Recommendation V.4)</p>	<p>A director is independent when he or she has no relationship of any kind whatsoever with the corporation, its group, or the management of either, that is such as to colour his or her judgment. Accordingly, an independent director is to be understood not only as a nonexecutive director, i.e., one not performing management duties in the corporation or its group, but also one devoid of any particular bonds of interest (significant shareholder, employee, other) with them. (¶ 8.1)</p> <p>[C]riteria ... to have a director qualify as independent...:</p> <ul style="list-style-type: none"> ▪ not an employee or corporate officer of the corporation [or group], and not having been in such a position for the previous five years; ▪ not a corporate officer of a company in which the corporation holds a directorship ... or in which an employee appointed as such, or a corporate officer of the corporation (currently or within the previous five years) is a director; ▪ not a customer, supplier, investment banker or commercial banker (i) that is material to the corporation or its group; or (ii) for a significant part of whose business the corporation or its group accounts; ▪ not related by close family ties to a corporate officer; ▪ not an auditor of the corporation within the previous five years; [and] ▪ not a director of the corporation for more than twelve years. <p>(¶ 8.4)</p> <p>[D]irectors representing major shareholders of the corporation ... may be considered independent provided that they do not take part in control of the corporation. (¶ 8.5)</p> <p>See ¶ 8.3 (board is ultimate judge of a director’s independent status).</p>	<p><u>Supervisory Board</u></p> <p>A Supervisory Board member is considered independent if he/she has no business or personal relations with the company or its Management Board which cause a conflict of interests. (§ 5.4.2)</p> <p><u>Management Board</u></p> <p>Not applicable.</p>	<p>Independent directors are directors who, apart from receiving director’s remuneration, do not have any other material pecuniary relationship or transactions with the company, its promoters, its management or its subsidiaries which in the judgment of the board may affect their independence of judgment. (§ 6.5)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
9. Definition of “Independence”				
<p><u>Supervisory Board</u> [Outside members] of the Dewan Komisaris should be independent from the Direksi and controlling shareholders. (§ II, 2.2)</p> <p>See § II, Principle 2.2 (The Dewan Komisaris should be composed in such a way that its members act independently and that they shall hold no interests that might impair their ability to perform their duties independently and critically in relation to each other and the Direksi, in order to increase the effectiveness and transparency of its deliberations.).</p> <p><u>Management Board</u> [Outside members] of the Direksi shall be independent from the Dewan Komisaris and controlling shareholders. (§ III, 3.2)</p> <p>See § III, Principle 3.2 (The Direksi should be composed in such a way that its members act independently by means that they shall hold no interests that might impair their ability to perform their duties independently and critically.).</p>	<p><u>Board of Directors</u> The directors’ independence shall be periodically assessed by the Board of Directors. (Code, 3.P.2)</p> <p>[A] director [is not usually] independent ...</p> <p>a) if he/she controls ... the issuer [even] through subsidiaries, trustees, or ... third party...;</p> <p>b) if he/she is, or has been in the preceding three fiscal years, a relevant representative of the issuer... ;</p> <p>c) if he/she has ... a significant commercial, financial or professional relationship [with the issuer]...;</p> <p>d) if he/she receives a significant additional remuneration [from the issuer]...;</p> <p>e) if he/she was a director of the issuer for more than nine years in the last twelve years...;</p> <p>f) if he/she is vested with the executive director office in another company in which an executive director of the issuer holds the office of director;</p> <p>g) if he/she is [a] shareholder or quotholder or director of [an] entity belonging to the same network as the company appointed for the accounting audit of the issuer;</p> <p>h) if he/she is a close relative of a person [above].... (Code, 3.C.1)</p> <p><u>Board of Auditors</u> The auditors shall act with autonomy and independence.... (Code, 10.P.2)</p> <p>[M]embers of the board of auditors proposed or elected by the majority or the minority [shareholders] are not their “representatives” on the board and even less are they authorised to communicate information to third parties, especially the shareholders who elected them. (Comment on Code Article 10)</p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p>Outside [board of] auditors [members] are limited to those who are not, and were not, directors or employees of the company or its subsidiaries. (TSX Principles, Appendix)</p> <p>Outside directors are directors who are not executive officers of the company, were not executive directors or executive officers of the company or any of its subsidiaries in the past, and currently are not executive directors or executive officers of any of its subsidiaries, nor employees of the company or any of its subsidiaries. (TSX Principles, Appendix)</p> <p>If an independent director falls within any of the following categories, he or she should not be regarded as being an independent director....</p> <p>(1) A person who is a full-time director, executive or employee of the company, its parent, subsidiary or affiliate ... or a relative of a full-time director or executive....</p> <p>(2) A person who is currently providing legal, accounting, strategic or other professional services to the Company, etc. (including attorneys, accountants and consultants).</p> <p>(3) A person who is a major client or trading partner of the Company, etc. (including officers of financial institutions that fall under that category). The interpretation of “major” may be left to the discretion of each company.</p> <p>(Annotation to CGFJ Principle 4.2)</p>	<p><i>Not covered directly, but see § II.4</i> (Outside directors shall be able to independently participate in important corporate management decision-making, and to supervise and support the management as Board members.).</p> <p>See also § II.4.1 (Outside directors shall hold no interests that may hinder their independence from the corporation, management or controlling shareholder. The outside director shall submit a letter of confirmation, which the corporation shall disclose, stating that he holds no interests affiliated with the corporation, management or controlling shareholder at the time of his consent to the appointment.... [S]hould there be any change in the information stated in the letter [which a nominee for outside director is required to present confirming his or her independence] following inauguration into office, the outside director shall immediately submit a corrected letter, which the corporation shall disclose.).</p> <p>See also Korean Stock Exchange Listing Regulations, Art. 48-5 (<i>persons who do not qualify as “outside directors” include: controlling shareholders; a spouse or a family member of a director who is not an outsider; current or recent officers and employees of the company, its affiliates, or of corporations that have “important business relations” with the corporation; and persons who serve as outside directors on three or more listed companies.</i>).</p>	<p>Outside Board members are those ... who do not fit into the following hypothetical situations at the time of their assignments:</p> <ul style="list-style-type: none"> i. employees or executives of the company; ii. stockholders that have control over the company’s directors; iii. consultants to the company ... whose revenues depend significantly on their contractual relationship; iv. clients, suppliers, lenders or borrowers of the company ...; v. employees of a foundation, university or nonprofit organization that receives substantial donations from the company; vi. chief executive officers or senior management of a firm on whose Board of Directors the company’s chief executive officer or an upper-level executive sits; or vii. relatives of any of the individuals mentioned above. <p>(Principle at I.2)</p> <p>[I]t is important that the Board include outside members. The term outside member is used to identify members who are not connected with the company’s management team. These members are called to join the Board by virtue of their personal and professional prestige. Their main purpose is to offer an impartial perspective on the company’s strategic planning and other tasks that fall to the Board. (Recommendation at I.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
9. Definition of “Independence”				
<p>A supervisory board member shall be deemed to be independent if the following criteria of dependence do not apply [to him/her or a family member]:</p> <p>(a) has been an employee or member of the management board of the company (including associated companies...) in the five years prior to the appointment;</p> <p>(b) receives personal financial compensation from the company, or a company associated with it, other than ... as a supervisory board member...;</p> <p>(c) has had an important business relationship with the company, or a company associated with it, in the year prior...;</p> <p>(d) is a member of the management board of a company in which a member of the management board of the company that he supervises is a supervisory board member;</p> <p>(e) holds at least ten percent of the shares in the company (including the shares held by natural persons or legal entities which cooperate with him under an express or tacit, oral or written agreement);</p> <p>(f) is a member of the management board or supervisory board – or is a representative in some other way – of a legal entity which holds at least ten percent of the shares in the company, unless such entity is a member of the same group as the company;</p> <p>(g) has temporarily managed the company during the previous twelve months where management board members have been absent or unable to discharge their duties.</p> <p>(Best Practice Provision III.2.2)</p>	<p><u>Board of Directors</u></p> <p>[I]ndependent directors [are] persons who not only do not serve as members of the managerial board, but are also independent from the officers of the company and their affiliated persons and from major business partners of the company, and do not have any other relations with the company that may affect the independence of their opinions....</p> <p>[I]t is advisable that an independent director should be a director who:</p> <p>(1) over the last three years has not been ... an officer (manager) or employee of the company or ... managing organization of the company;</p> <p>(2) is not an officer of another company in which any of the officers of the company is a member of the appointments and remuneration committee...;</p> <p>(3) is not an ... officer of the company’s managing organization;</p> <p>(4) is not an affiliated person of the company or an affiliated person of such affiliated persons;</p> <p>(5) is not bound by contractual relations with the company ... other than through receipt of remuneration for participation in the operations of the board of directors;</p> <p>(6) is not a major business partner of the company...; and</p> <p>(7) is not a representative of the government.</p> <p>No director may be deemed to be independent if he has acted in the capacity of a member of the board of directors of the company for 7 years. (Ch. 3, § 2.2.1)</p> <p><u>Management Board</u></p> <p><i>Not applicable.</i></p>	<p>Independent director – is a nonexecutive director who:</p> <p>(i) is not a representative of a shareholder who has the ability to control ... management;</p> <p>(ii) has not been employed by the company or the group ... in any executive capacity for the preceding three financial years;</p> <p>(iii) is not a member of the immediate family of an individual who is, or has been in any of the past three financial years, employed by the company or the group in an executive capacity;</p> <p>(iv) is not a professional advisor to the company or the group...;</p> <p>(v) is not a significant supplier to, or customer of, the company/group;</p> <p>(vi) has no significant contractual relationship with the company/group; and</p> <p>(vii) is free from any business or other relationship which could be seen to materially interfere with the individual’s capacity to act in an independent manner.</p> <p>(§ 2.4.3)</p> <p><i>See § 2.4.3 (Nonexecutive director – an individual not involved in the day to day management and not a full-time salaried employee of the company or of its subsidiaries. An individual in the full-time employment of the holding company or its subsidiaries, other than the company concerned, would also be considered to be a nonexecutive director....).</i></p> <p><i>See also § 2.4.4 (A “shadow director” is ... a person in accordance with whose directions ... the directors of the company are accustomed to act. Shadow directors should be discouraged.).</i></p>	<p>[Director independence may be defined as having] no professional, business or family ties with the Company, its majority shareholder or relevant shareholders, or with the group of companies controlled by the company.... [This] occurs at least [when]:</p> <ul style="list-style-type: none"> ▪ he/she has not been an officer or an employee of the Company, its majority shareholder or any major shareholder of the company during the last five years; ▪ he/she has not conducted business, or provided external services to the Company, to its majority shareholder or any major shareholder during the last three years...; ▪ he/she has not been an external auditor for the company, its majority shareholder or any major shareholder, or a significant partner or officer of the Company’s external auditor during the last three years; ▪ he/she has not been an employee of a company which pays or receives from the Company, its majority shareholder or any major shareholder, monies for goods and services exceeding 1 million euros or more than 2% of the Company’s gross income in the last financial year; ▪ he/she has no close family ties or significant financial relationship with Directors, Senior Officers or Advisors of the Company, with the majority shareholder or any major shareholders.... ▪ does not exceed a ten-year period as an Independent Director...; ▪ [not] a representative of any of the Company’s major shareholders; ▪ [not] a Director ... with another company which has the right to appoint shareholding Directors to the Board of the Company; ▪ [not] an executive in other companies belonging to the same Corporate Group as the Company. <p>(§ I.4)</p>	<p>A director is not to be considered independent if he or she:</p> <ul style="list-style-type: none"> ▪ is the managing director, or in the preceding five years has been the managing director, of the company or associated enterprises, ▪ is employed, or in the preceding three years has been employed, by the company or an associated enterprise, ▪ receives significant remuneration for advice or services in addition to board work from the company or an associated enterprise or from someone in the senior management, ▪ has, or in recent years has had, extensive business ties or other extensive financial dealings with the company or an associated enterprise, in his or her capacity as customer, supplier or part-owner, either personally or as part of the senior management or the board or by being a major partner in another enterprise having such a business relationship with the company, ▪ is, or in the past three years has been, a partner or employee of the audit firm currently or then auditing the company or an associated enterprise, ▪ is part of senior management in another enterprise having a director who is part of senior management in the company, ▪ has been a member of the board for more than twelve years, or ▪ is a close relative or family associate of someone in the senior management or of some other person as provided in the preceding clauses.... <p>(§ III, Rule 3.2.4)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
9. Definition of “Independence”				
<p><u>Board of Directors</u> Independent members shall mean non-executive members of the Board of Directors who never were or were more than three years ago a member of the executive management and who have no or comparatively minor business relations with the company. Where there is a cross membership in Boards of Directors, the independence of the respective member should be carefully examined case by case. The Board of Directors may lay down further criteria of independence. (Code ¶ 22)</p> <p><u>Management Board</u> <i>Not applicable.</i></p>	<p>The majority [of nonexecutive directors] should be independent of management and free from any business or other relationship which could materially interfere with the exercise of their independent judgement, apart from their fees and shareholding. Their fees should reflect the time which they commit to the company. (Code § 2.2)</p> <p>We recommend that the majority of nonexecutives on a board should be independent of the company. This means that apart from their directors’ fees and shareholdings, they should be independent of management and free from any business or other relationship which could materially interfere with exercise of their independent judgement. It is for the board to decide in particular cases whether this definition is met. Information about the relevant interests of directors should be disclosed in the Directors’ Report. (Report § 4.12)</p>	<p><i>Relationships or circumstances relevant to a board’s determination of director independence include whether the director:</i></p> <ul style="list-style-type: none"> ▪ has been an employee of the company or group within the last five years; ▪ has, or has had within the last three years, a material business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company; ▪ has received or receives additional remuneration from the company apart from a director’s fee, participates in the company’s share option or a performance-related pay scheme, or is a member of the company’s pension scheme; ▪ has close family ties with any of the company’s advisers, directors or senior employees; ▪ holds cross-directorships or has significant links with other directors through involvement in other companies or bodies; ▪ represents a significant shareholder; or ▪ has served on the board for more than nine years from the date of their first election. <p>(Provision A.3.1)</p> <p><i>See Provision A.7.2 (Serving more than nine years could be relevant to the determination of a nonexecutive director’s independence....).</i></p> <p><i>See also Provision B.1.3 (Holding of share options could be relevant to the determination of a nonexecutive director’s independence....).</i></p>	<p>Relationships that may compromise a director’s independence include, but are not limited to: reciprocal directorships (or “director interlocks”); an existing significant consulting or employment relationship; an existing substantial commercial relationship between the director’s organization and the board’s company; or new business relationships that develop through board membership. (p. 11)</p> <p><i>See p. 12 ([T]o ensure board independence:</i></p> <ul style="list-style-type: none"> ▪ Boards should define and disclose to shareholders a definition of “independent director.” ▪ Boards should require that director candidates disclose all existing business relationships between them or their employer and the board’s company. ▪ Boards should then evaluate the extent to which, if any, a candidate’s other activities may impinge on his or her independence as a board member, and determine when relationships are such that a candidate can no longer be considered independent.). 	<p>An independent director should not have any relationships with the corporation or its management – whether business, employment, charitable or personal – that may impair, or appear to impair, the director’s ability to exercise independent judgment. The listing standards of the major securities markets define “independence” and enumerate specific relationships (such as employment with the corporation or its outside auditor) that preclude a director from being considered independent....</p> <p>When considering whether a director is independent, the board should consider not only whether the director has any of the relationships covered by the board’s independence standards, but also whether the director has any other relationships ... with the corporation, senior management or other board members that could affect the director’s actual or perceived independence. (p. 14)</p> <p>The board’s director independence standards should include standards for assessing directors’ relationships with not-for-profit organizations that receive support from the corporation.... Independence issues are most likely to arise when a director is an employee of the not-for-profit organization and when a substantial portion of the organization’s funding comes from the corporation. (p. 15)</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
10. Conflicts of Interest & Ethics				
<p>Insider trading and abusive self-dealing should be prohibited. (Principle III.B)</p> <p>Members of the board and key executives should be required to disclose to the board whether they, directly, indirectly or on behalf of third parties, have a material interest in any transaction or matter directly affecting the corporation. (Principle III.C)</p> <p>Stakeholders, including individual employees and their representatives, should be able to freely communicate their concerns about illegal or unethical practices to the board and their rights should not be compromised for doing this. (Principle IV.E)</p> <p>The board should fulfill certain key functions including ... [m]onitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions. (Principle VI.D)</p> <p>Boards should consider assigning a sufficient number of nonexecutive board members capable of exercising independent judgement to tasks where there is a potential for conflict of interest. (Principle VI.E.1)</p> <p><i>See Annotation to Principle III.B (Abusive self-dealing, e.g., by controlling shareholders, and insider trading, are prohibited in most, but not all, OECD jurisdictions; such practices violate the principle of equitable treatment of shareholders.).</i></p> <p><i>See also Principle II.F.2 (Institutional investors acting in a fiduciary capacity should disclose how they manage material conflicts of interest that may affect the exercise of key ownership rights regarding their investments.).</i></p> <p><i>See also Topic Headings 11 & 29, below.</i></p>	<p>Actively promote ethical and responsible decisionmaking. (Principle 3)</p> <p>The company should:</p> <ul style="list-style-type: none"> ▪ clarify the standards of ethical behaviour required of company directors and key executives ... and encourage observance.... ▪ publish [the company's] position concerning the issue of board and employee trading in company securities and in associated products which operate to limit the economic risk of those securities. <p>(Commentary on Principle 3)</p> <p>Establish a code of conduct to guide the directors, the chief executive officer (or equivalent), the chief financial officer (or equivalent) and any other key executives as to:</p> <ul style="list-style-type: none"> ▪ the practices necessary to maintain confidence in the company's integrity ▪ the responsibility and accountability of individuals for reporting and investigating reports of unethical practices. <p>(Recommendation 3.1)</p> <p>Disclose the policy concerning trading in company securities by directors, officers and employees. (Recommendation 3.2)</p> <p>The company should consider introducing appropriate compliance standards and procedures to facilitate implementation of any code of conduct and trading policy adopted.... (Commentary on Recommendation 3.2)</p> <p><i>See Commentary on Recommendation 3.2 (suggested components of a code of conduct and a trading policy).</i></p>	<p>Each member of the board should arrange his or her personal and business affairs so as to avoid direct and indirect conflicts of interest with the company. All directors should inform the board of conflicts of interest as they arise and abstain from voting on the matter involved.... (Provision 3.5)</p> <p>The board should establish a policy for transactions or other contractual relationships between the company, including its related companies, and its board members, which are not covered by the legal provisions on conflicts of interest. This policy should be disclosed in the [Corporate Governance] Chapter of the annual report. Transactions between the company and its board members should take place at arms' length. (Provision 3.6)</p> <p>The company should take all necessary and useful measures to comply with Directive 2003/6/EC on insider dealing and market manipulation (market abuse). (Provision 3.7)</p> <p>Provision 3.6 ... also applies to transactions between the company and executive managers. (Provision 6.7)</p> <p>Provision 3.7 ... also applies to transactions between the company and executive managers. (Provision 6.8)</p> <p><i>See generally Appendix B, Transactions in Shares and Compliance with Directive 2003/6/EC on Insider Dealing and Market Manipulation (Market Abuse).</i></p> <p><i>See also Appendix C, Audit Committee, Provision 5.2./9 (The audit committee should review the specific arrangements made, by which staff of the company may, in confidence, raise concerns about possible improprieties in financial reporting or other matters.).</i></p>	<p>It is duty of the Directors to monitor and manage potential conflicts of interest, whether from Officers, Directors or Owners, to avoid an inappropriate use of the organization's assets, and particularly abusive transactions between related parties. The Directors should make sure that such transactions are conducted within market parameters, in terms of deadlines, rates, and guarantees, and that they are all clearly reflected in the corporate reports. (IBGC Code ¶ 6.2.1)</p> <p>The Audit Committee should ... see that the organization's Code of Conduct is enforced. (IBGC Code ¶ 2.9)</p> <p>[E]very organization should have its Code of Conduct to be followed by its entire administration and employees, prepared by Management, in accordance with the principles and policies set forth and approved by the Board of Directors. (IBGC Code ¶ 6.1)</p> <p>The Code of Conduct should comprise the relations between Directors, owners, employees, suppliers, and other stakeholders. Directors and officers should not exercise their authority for their own benefit or for the benefit of third parties. (IBGC Code ¶ 6.1.1)</p> <p><i>See IBGC Code ¶ 6.2 (A conflict of interest exists when someone is not independent with regard to the subject at hand, and may influence or make decisions based on interests that differ from those of the corporation.).</i></p> <p><i>See also CVM Recommendations III.1, III.4 (transactions among related parties.).</i></p> <p><i>See also IBGC Code ¶ 1.8, Use of Insider Information, and ¶ 1.9, Arbitration.</i></p>	<p>The issue of the director with a conflict of interest should not be confused with the related/unrelated director issue.... [C]orporate and securities law prescribes a code of conduct to be followed when a director is asked to approve a transaction in which he or she has an interest, e.g., the director must disclose the interest and refrain from participating in the board discussion and voting on the matter.... The existence of a conflict of interest on a specific matter will not necessarily define whether a director is related or unrelated. (Dey Report, § 5.17)</p> <p><i>See Saucier Report, Recommendation 9 (Where a company is a public corporation, the fact that it may be controlled by a significant shareholder does not relieve the independent directors of their responsibilities to ensure that shareholders are protected. The significant shareholder, the controlled corporation, and the directors must be prepared to accept their responsibility to ensure that the proper functions of governance are carried out.).</i></p>

China	Denmark	France	Germany	India
10. Conflicts of Interest & Ethics				
<p><u>Board of Directors and Supervisory Board</u> <i>Not covered.</i></p> <p><u>Controlling Shareholders</u> The controlling shareholders of a listed company shall strictly comply with laws and regulations while exercising their rights as investors, and shall be prevented from damaging the listed company's or other shareholders' legal rights and interests, through means such as assets restructuring, or from taking advantage of their privileged position to gain additional benefit. (Ch. 2, (1) 19)</p> <p><i>See generally</i> Ch. 2, Listed Company and Its Controlling Shareholders.</p> <p><i>See also</i> Ch. 1, (3), Related Party Transactions.</p>	<p>Performance-related pay may result in conflicting interests between the shareholders and the management of the company and may cause the management to focus on increasing the company's value creation. (Principle VI)</p>	<p>The director is bound to report to the Board any conflict of interest, whether actual or potential, and abstain from taking part in voting on the related resolution. (¶ 17)</p> <p>[T]he director should:</p> <ul style="list-style-type: none"> ▪ abstain from engaging in transactions in securities of the corporation, including derivatives where (and insofar as) he or she, as a result of his or her duties, has information not yet made public; ▪ disclose transactions entered into in the corporation's securities, as required by statute and regulation. (¶ 17) <p><i>See</i> ¶ 7.2.1 (When a corporation is controlled by a majority shareholder (or a group of shareholders acting in concert), ... [t]hat shareholder must take particular care to avoid possible conflicts of interest, to secure transparency of the information provided to the market, and to take all interests into account fairly.).</p> <p><i>See also</i> ¶ 7.2.2 (Rather than seeking to provide specific representation for minority shareholders, the best formula consists of appointing independent directors in controlled corporations in the proportions defined by this set of principles.).</p>	<p><u>Supervisory Board</u> No member of the Supervisory Board may pursue personal interests in his/her decisions or use business opportunities intended for the enterprise for himself/herself. (§ 5.5.1)</p> <p>Each member of the Supervisory Board shall inform the Supervisory Board of any conflicts of interest which may result from a consultant or directorship function with clients, suppliers, lenders or other business partners. (§ 5.5.2)</p> <p><i>See</i> § 5.5.4 ([S]ervice agreements and contracts ... between a member of the Supervisory Board and the company require Supervisory Board approval.). <i>See generally</i> § 5.5, Conflicts of Interest.</p> <p><u>Management Board</u> During their employment for the enterprise, members of the Management Board are subject to a comprehensive non-competition obligation. (§ 4.3.1)</p> <p>No member of the Management Board may pursue personal interests in his decisions or use business opportunities intended for the enterprise for himself. (§ 4.3.3)</p> <p>All members of the Management Board shall disclose conflicts of interest to the Supervisory Board without delay and inform the other members of the Management Board thereof. All transactions between the enterprise and the members of the Management Board as well as persons they are close to or companies they have a personal association with must comply with standards customary in the sector. Important transactions shall require the approval of the Supervisory Board. (§ 4.3.4)</p> <p><i>See generally</i> § 4.3, Conflicts of Interest.</p>	<p>[N]on-executive directors ... help bring an independent judgment to bear on ... management of conflicts.... (§ 6.6)</p> <p>[T]here is another set of directors in Indian companies who are the nominees of the financial or investment institutions to safeguard their interest ["nominee directors"].... [T]hose who oppose this practice ... argue that there is an inherent conflict The Committee would therefore recommend that institutions should appoint nominees on the boards of companies only on a selective basis.... (§§ 7.1 - 7.3)</p> <p>The policy [on director remuneration] should avoid potential conflicts of interest between the shareholders, the directors, and the management. (§ 10.1)</p> <p>The Committee recommends that to avoid conflicts of interest, the remuneration committee ... should comprise at least three directors, all of whom should be nonexecutive directors, the chairman of committee being an independent director. (§ 10.4)</p> <p>The Committee ... recommends that disclosures must be made by the management to the board relating to all material financial and commercial transactions, where they have personal interest, that may have a potential conflict with the interest of the company at large (e.g., dealing in company shares, commercial dealings with bodies which have shareholdings of management and their relatives, etc.). (§ 13.5)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
10. Conflicts of Interest & Ethics				
<p>No shareholder, member of the Dewan Komisaris, or member of the Direksi may engage in insider trading or self-dealing.... The Company ... must have an effective internal control mechanism to monitor and address these types of practices. (§ I, 1.3.3)</p> <p>In the Annual Reports, the Direksi shall clearly specify if there exists any other business relationship between any member of the Dewan Komisaris and/ or the Direksi and the Company.... (§ II, Principle 2.6)</p> <p>[C]ompanies shall take the initiative to disclose not only matters required under ... law, but also those of material importance to the decision making of institutional investors, shareholders, creditors and other stakeholders [including] potential and ongoing conflicts of interest.... (§ VII, Principle 7.2(k))</p> <p>See § X, Principle (Members of the Dewan Komisaris, the Direksi, and all employees of the Company shall never make or offer, directly or indirectly, anything of value to a customer or government official to influence or reward an action, in accordance with the prevailing regulations having the force of law.).</p> <p>See also § X (A business courtesy, such as a gift, contribution or entertainment, should never be offered under circumstances that might create the appearance of an impropriety. The Company should adopt a codification of ethical conduct ... to give a clear direction to the behavior of those to whom it is directed.).</p> <p>See also § XI, Principle (It is inappropriate that any of the corporate funds or assets or profits ... be diverted to political donations.).</p>	<p>[T]he most delicate aspect in issuers with a broad shareholder base consists in aligning the interests of executive directors with those of the shareholders.... [W]here a controlling group of shareholders can be identified, the problem of aligning the interests of the executive[] directors with those of the shareholders continues to exist, but there emerges the need for some directors to be independent also from the controlling shareholders. (Comment on Code Article 3)</p> <p>[T]ransactions carried out with related parties [should be] performed in a transparent manner and meet criteria of substantial and procedural fairness. (Code 9.P.1)</p> <p>The new provisions contained in the Italian Civil Code regarding directors' interests and transactions with related parties (Articles 2391 and 2391-second) dictate a precise set of rules governing the matter Therefore, the definition of best practice simply clarifies certain aspects relating to the procedures for handling said transactions. With regard to the handling of transactions governed by Article 2391 ..., it is not seldom that the director concerned – even though there is no obligation provided by the law in this regard – is asked to abstain from voting or to leave the meeting at the time of discussion and resolution. (Comment on Code Article 9).</p> <p>The balanced composition of the board [ensures] prevention of conflicts of interest. (Report, 5.1)</p>	<p>Management, directors, auditors and controlling shareholders may find opportunities to abuse their positions to benefit themselves, and such activities are certain to cause disadvantages to investors and minority shareholders. The prohibition of abusive or fraudulent use of corporate assets or insider information by parties closely related to the company is an inevitable step to be taken both to protect investors and to maintain their confidence in the capital markets. (Commentary on TSX Principle 2)</p> <p>[T]he Board of Directors, Auditors, Board of Corporate Auditors, and other relevant group(s) should evaluate whether management has been accurately and efficiently executing business pursuant to their strategic guidance on strategies, and prevent the occurrence of conflicts of interest.... (Commentary on TSX Principle 5)</p>	<p>The Board [mediates] conflicting interests among directors, management and shareholders.... (§ II.1.1)</p> <p>Directors shall faithfully perform their duty of loyalty toward the corporation and shareholders. Directors shall not exercise their authority for their own benefit or that of a third party, and shall place the interests of the corporation and shareholders before themselves. The duty of loyalty particularly applies when a conflict of interest arises between the corporation and the director, or when a certain opportunity may be used by both of them. When the director – as a party of the corporation, directly or indirectly – has any economic or personal gain in a contract or other transaction, or when he plans to engage in a transaction which is in competition with the corporation, then such director is considered as having an interest. In such cases, the director shall act with the interests of the corporation before himself. When a conflict arises for the director having interests in a transaction or contract, he shall clearly disclose such interests and related important information to the board, and also shall receive the approval of a director having no such interests. (§ II.7.2)</p> <p>See Recommendation 5.2 (Institutional investors, in transactions with the corporation and all other acts, shall not engage in insider trading [activities] which abuse their position or use important undisclosed information.).</p>	<p>[Committees should have] no conflict of interest among their members.... (Principle at I.3)</p> <p>Companies should address ... principles of conduct, recommending that Board members [n]otify the Chairman and Secretary of the Board of Directors of any situation that constitutes, or could be construed as, a conflict of interest, and refrain from participating in the corresponding debate.... (Principles at I.5)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
10. Conflicts of Interest & Ethics				
<p><u>Supervisory Board</u> Any conflict of interest or apparent conflict of interest between the company and supervisory board members shall be avoided. Decisions to enter into transactions under which supervisory board members would have conflicts of interest that are of material significance to the company and/or to the relevant supervisory board members require the approval of the supervisory board. The supervisory board is responsible for deciding on how to resolve conflicts of interest between management board members, supervisory board members, major shareholders and the external auditor on the one hand and the company on the other. (Principle III.6)</p> <p><i>See generally</i> Best Practice Provisions III.6.1 – III.6.6 (<i>supervisory board conflicts of interest</i>).</p> <p><u>Management Board</u> Any conflict of interest or apparent conflict of interest between the company and management board members shall be avoided. Decisions to enter into transactions under which management board members would have conflicts of interest that are of material significance to the company and/or to the relevant management board member require the approval of the supervisory board. (Principle II.3)</p> <p>The company shall have ... a code of conduct.... (Best Practice Provision II.1.3)</p> <p>The management board shall ensure that employees have the possibility of reporting alleged irregularities.... (Best Practice Provision II.1.6)</p> <p><i>See generally</i> Best Practice Provisions II.3.1 – II.3.4 (<i>management board conflicts of interest</i>).</p>	<p>Ethical standards and best practice, together with the law, form a company’s policy of corporate governance.... (Introduction, § 3)</p> <p>[O]perations based on inside and confidential information should be prohibited.... (Ch. 1, § 2(3))</p> <p>Inasmuch as members of the managerial board of the company may serve as members of the board of directors, in order to avoid conflicts of interest, such members should refrain from voting on the terms and conditions of employment contracts pertaining to the director general and members of the managerial board. (Ch. 3, § 1.4.3)</p> <p>[C]orporate conflicts [are] conflicts between the company’s bodies and its shareholders, or between shareholders, if such conflicts jeopardize corporate interests. Prevention and resolution of corporate conflicts makes it possible to safeguard the rights of shareholders.... (Ch. 10)</p> <p>The director general of a company should resolve corporate conflicts related to all matters ... not within the authority of other company bodies. (Ch. 10, § 2.1.1)</p> <p>A company’s board of directors should resolve corporate conflicts related to issues which are within its authority. For this purpose, the board of directors may form ... a corporate conflict resolution committee. (Ch. 10, 2.1.2)</p> <p>[P]ersons whose interests are or may be affected by the conflict should not take part in its resolution. (Ch. 10, § 2.2)</p> <p><i>See</i> Ch. 3, § 3.1.3 (<i>pressuring directors; bribes</i>), Ch. 8, § 1.3.4 (<i>conflicts of interest of audit committee members</i>) and Ch. 10 (<i>conflict of interest resolution</i>).</p>	<p>[T]he values by which the company will carry on its daily life should be identified and communicated to all stakeholders. (Introduction and Background, § 5.3)</p> <p>[G]ood corporate governance [includes] a high priority on ethical standards. (Introduction and Background, § 18)</p> <p>The board should consider developing a corporate code of conduct that addresses conflicts of interest, particularly relating to directors and management, which should be regularly reviewed and updated as necessary. (§ 2.1.8)</p> <p>Every company should engage its stakeholders in determining the company’s standards of ethical behaviour. (§ 5.2.1)</p> <p><i>See</i> § 2.9.1 (Every listed company should have a practice prohibiting dealing in its securities by directors, officers and other selected employees for a designated period preceding the announcement of its financial results or in any other period considered sensitive, and have regard to the listings requirements of the JSE in respect of dealings of directors.).</p> <p><i>See also</i> § 2.9.2 (The practice in § 2.9.1 should be determined by way of a formal policy established by the board and implemented by the company secretary.).</p>	<p>The Company must establish a procedure for the control and resolution of any conflict of interest which may arise. (§ I.14)</p> <p><i>See</i> § I.14 (The Company must disclose operations which involve the transfer of resources or obligations between the Company and its significant Shareholders, Directors or Officers. Such operations must have previously received a favourable report by the Audit Committee or, where applicable, by the Nominations and Remuneration Committees, and must be approved by the Board of Directors, at least when the foregoing Committees qualify such transactions as significant in terms of content or amount, or if they are not conducted at arm’s length or are beyond the Companies’ usual business scope. Within the Board of Directors the decision will be taken by Directors not affected by such conflict of interest. They may seek external advice at the cost of the Company.</p> <p>Any situation of conflict of interest between the Company and its significant Shareholders, Directors or Officers must be reviewed by the Audit Committee or, where applicable, by the Nominations and Remunerations Committees, and the provisions of the previous paragraph shall apply when it may lead to a related-party transaction.).</p> <p><i>See also</i> § I.11 (The [Audit] Committee must revise the nature and scope of services other than audit services provided by the external auditor, or by companies or individuals linked to the latter, in order to avoid any conflicts of interest.).</p>	<p><i>Not covered directly, but see</i> § II Commentary ([I]nstitutional owners should ... provide information about potential conflicts of interest that might affect the exercise of the ownership function. Investors should have easy access to information on how the voting rights have been exercised in each instance as well as the underlying considerations.)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
10. Conflicts of Interest & Ethics				
<p>Each member of the Board of Directors and Executive Board should arrange his personal and business affairs so as to avoid, as far as possible, conflicts of interest with the company. Should a conflict of interest arise, the member of the Board of Directors or Executive Management concerned should inform the Chairman of the Board. The Chairman, or Vice-Chairman, should request a decision by the Board of Directors which reflects the seriousness of the conflict of interest. The Board shall decide without participation of the person concerned.</p> <p>Anyone who has interests in conflict with the company or is obligated to represent such interests on behalf of third parties should not participate to that extent in decisionmaking. Anyone having a permanent conflict of interest should not be a member of the Board of Directors or the Executive Management.</p> <p>Transactions between the company and members of corporate bodies or related persons should be carried out “at arm’s-length” and should be approved without participation of the party concerned. If necessary, a neutral opinion should be obtained. (Code ¶ 16)</p> <p>The Board of Directors should ... take measures to prevent insider-dealing offences. (Code ¶ 17)</p> <p>The Board of Directors should take measures to ensure compliance with applicable rules.... [It] should review at least once a year whether the principles of compliance applicable to themselves and the company are sufficiently known and are constantly observed. (Code ¶ 20)</p>	<p><i>Not covered directly, but see Code § 2.2. (The majority [of nonexecutive directors] should be independent of management and free from any business or other relationship which could materially interfere with the exercise of their independent judgement, apart from their fees and shareholding.)</i></p> <p><i>See also Report § 4.13 (In order to safeguard [nonexecutive directors’] independent position, we regard it as good practice for nonexecutive directors not to participate in share option schemes and for their service as nonexecutive directors not to be pensionable by the company.)</i></p> <p><i>See also Report § 5.3.c (Audit firms are in competition with each other for business.... To the extent however that audit firms compete on price and on meeting the needs of their clients (the companies they audit), this may be at the expense of meeting the needs of shareholders.)</i></p> <p><i>See also Topic Headings 10 and 11, above.</i></p>	<p>The board should set the company’s values and standards.... (Supporting Principle A.1)</p> <p>Where executive directors or senior management are involved in advising or supporting the remuneration committee, care should be taken to recognize and avoid conflicts of interest. (Supporting Principle B.2)</p> <p>The audit committee should review arrangements by which staff of the company may, in confidence, raise concerns about possible improprieties in matters of financial reporting or other matters. The audit committee’s objective should be to ensure that arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action. (Provision C.3.4)</p> <p>The effective chairman upholds the highest standards of integrity and probity. (Appendix – Related Guidance and Good Practice Suggestions: Suggestions for Good Practice From the Higgs Report, p. 61)</p> <p>The effective nonexecutive director upholds the highest ethical standards of integrity and probity. (Appendix – Related Guidance and Good Practice Suggestions: Suggestions for Good Practice From the Higgs Report, p. 64)</p>	<p><i>Not covered directly, but see p. 12 (Boards should require that director candidates disclose all existing business relationships between them or their employer and the board’s company. Boards should then evaluate the extent to which, if any, a candidate’s other activities may impinge on his or her independence as a board member, and determine when relationships are such that a candidate can no longer be considered independent.)</i></p> <p><i>See also p. 22 ([T]he board should ... seek disclosure of any relationships that would appear to compromise director independence.)</i></p> <p><i>See also NACD, CORPORATE DIRECTOR’S ETHICS AND COMPLIANCE HANDBOOK (2003).</i></p>	<p>Management and directors should never put personal interests ahead of or in conflict with the interests of the corporation. (p. 2)</p> <p>It is the responsibility of the CEO and senior management, under the CEO’s direction, to operate the corporation in an effective and ethical manner. (p. 10)</p> <p>Business Roundtable believes that ... corporations should have:</p> <ul style="list-style-type: none"> ▪ A CEO of integrity ... who takes responsibility for the corporation adhering to the highest ethical standards. ▪ A strong, ethical “tone at the top” [set by the CEO and senior management] that establishes a culture of legal compliance and integrity communicated to personnel at all levels of the corporation. ▪ An effective compliance program. Senior management should take responsibility for implementing and managing an effective compliance program relating to legal and ethical conduct. As part of its compliance program, a corporation should have a code of conduct with effective reporting and enforcement mechanisms. Employees should have a means of seeking guidance and alerting management and the board about potential or actual misconduct without fear of retribution, and violations of the code should be addressed promptly and effectively. (p. 12)

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
11. Commitment, Limits on Other Board Service & Changes in Job Responsibility				
<p>Board members should be able to commit themselves effectively to their responsibilities. (Principle VI.E.3)</p> <p>Service on too many boards can interfere with the performance of board members. Companies may wish to consider whether multiple board memberships by the same person are compatible with effective board performance and disclose the information to shareholders. Some countries have limited the number of board positions that can be held. Specific limitations may be less important than ensuring that members of the board enjoy legitimacy and confidence in the eyes of shareholders. Achieving legitimacy would also be facilitated by the publication of attendance records for individual board members (e.g., whether they have missed a significant number of meetings) and any other work undertaken on behalf of the board and the associated remuneration. (Annotation to Principle VI.E.3)</p> <p>It is important to disclose membership [on] other boards not only because it is an indication of experience and possible time pressures facing a member of the board, but also because it may reveal potential conflicts of interest and makes transparent the degree to which there are interlocking boards. (Annotation to Principle V.A.4)</p>	<p>Have a board of an effective composition, size and commitment to adequately discharge its responsibilities and duties. (Principle 2)</p> <p>It is vital that the chairperson commit the time necessary to discharge that role effectively. In that context the number of other positions, and time commitment associated with them, should be taken into account. (Commentary on Recommendation 2.2)</p> <p>It is also important that individual board members devote the necessary time to the important tasks entrusted to them. In this context, all directors should consider the number and nature of their directorships and calls on their time from other commitments.... The nomination committee should regularly review the time required from a nonexecutive director, and whether directors are meeting this. A non-executive director should inform the chairperson and the nomination committee before accepting any new appointments. (Commentary on Recommendation 2.4)</p> <p><i>See Commentary on Recommendation 2.4 (In support of their candidature for directorship, nonexecutive directors should provide the nomination committee with details of other commitments and an indication of time involved. Nonexecutive directors should specifically acknowledge to the company prior to appointment or being submitted for election that they will have sufficient time to meet what is expected of them.).</i></p>	<p>All directors shall demonstrate integrity and commitment. (Principle 3)</p> <p>Nonexecutive directors should be made aware of the extent of their duties at the time of their application, in particular as to the time commitment involved in carrying out those duties. They should not consider taking on more than five directorships in listed companies. Changes to their other relevant commitments and their new commitments outside the company should be reported to the chairman of the board as they arise. (Provision 4.5)</p> <p>Nonexecutive directors should undertake to have sufficient time to meet what is expected of them, taking into account the number and importance of their other commitments. (Guideline 4.5)</p>	<p>[A]ttendance and active participation in meetings is key to [a director's] nomination for re-election. (IBGC Code ¶ 2.15)</p> <p>The main occupation of the Directors is an important factor in choosing him/her for Board service. Whenever a significant change occurs, the Director should let the Chairperson know. It is up to the Board of Directors to determine whether or not it is convenient for the Director to continue serving, or if he/she should leave. (IBGC Code ¶ 2.20)</p> <p><i>See IBGC Code ¶ 2.9.2 (The term of office of the Audit Committee can be limited through an automatic rotation system and/or by restricting the number of committees in which a member can serve in other companies.).</i></p>	<p>While we agree there must be a limit to the number of appointments, we have concluded that a specific guideline is unnecessary. The nominating committee, in assessing the suitability of an individual to be elected to a board, will take into account the individual's other commitments, resources, and time available for input to the board. (Dey Report, § 5.48)</p> <p><u>Saucier Report</u> <i>Not covered.</i></p>

China	Denmark	France	Germany	India
11. Commitment, Limits on Other Board Service & Changes in Job Responsibility				
<p>Directors shall ensure adequate time and energy for the performance of their duties. (Ch. 3, (2) 34)</p> <p>See Ch. 2, (2) 23 (In the case where a member of a controlling shareholder's senior management concurrently holds the position of director of the listed company, such member shall ensure adequate time and energy to perform the work for the listed company.).</p>	<p><u>Supervisory Board</u></p> <p>The Committee recommends that a supervisory board member who is also a member of the executive board of an active company hold not more than three ordinary directorships, or one chairmanship and one ordinary directorship, in companies not forming part of the group, unless in exceptional circumstances. (Recommendation V.7)</p> <p>It is essential that individual members of the supervisory board understand in advance the demands in terms of time placed on them by supervisory board work, and that they allocate sufficient time for such tasks.... (Commentary on Recommendation V.7)</p> <p><u>Supervisory and Management Boards</u></p> <p>See Appendix A (A nomination committee should ... specify the estimated time needed to perform the duties of [supervisory and executive board] office.).</p>	<p>The director should apply to his or her duties the necessary time and attention. If performing executive duties, he or she should not, in principle, agree to hold more than four other directorships in listed corporations, including foreign corporations, not affiliated with the [company] group.</p> <p>The director should be regular in attendance and take part in all meetings of the Board, and any committees of which he or she is a member. (¶ 17)</p>	<p><u>Supervisory Board</u></p> <p>Not more than two former members of the Management Board shall be members of the Supervisory Board, and Supervisory Board members shall not exercise directorships or similar positions or advisory tasks for important competitors of the enterprise. (§ 5.4.2)</p> <p>It shall not be the rule for the former Management Board chairman or a Management Board member to become Supervisory Board chairman or the chairman of a Supervisory Board committee. If this is intended, special reasons shall be presented to the annual general meeting. (§ 5.4.4)</p> <p>Every member of the Supervisory Board must take care that he/she has sufficient time to perform his/her mandate. (§ 5.4.5)</p> <p><u>Management Board</u></p> <p>Members of the Management Board shall take on sideline activities, especially Supervisory Board mandates outside the enterprise, only with the approval of the Supervisory Board. (§ 4.3.5)</p> <p>Members of the Management Board of a listed company shall not accept more than a total of five Supervisory Board mandates in non-group listed companies. (§ 5.4.5)</p>	<p>[D]irectors must show significant degree of commitment to the company and devote adequate time for meeting, preparation and attendance. (§ 6.7)</p> <p>The Committee ... recommends that to ensure that the members of the board give due importance and commitment to the meetings of the board and its committees, there should be a ceiling on the maximum number of committees across all companies in which a director could be a member or act as Chairman. The Committee recommends that a director should not be a member in more than 10 committees or act as Chairman of more than five committees across all companies in which he is a director. Furthermore it should be a mandatory annual requirement for every director to inform the company about the committee positions he occupies in other companies and notify changes as and when they take place. (§ 11.2)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
11. Commitment, Limits on Other Board Service & Changes in Job Responsibility				
<p><i>Not covered.</i></p>	<p>[D]irectors shall accept the directorship when they deem that they can devote the necessary time to the diligent performance of their duties, also taking into account the number of offices held as director or auditor in other companies listed on regulated markets (including foreign markets) in financial companies, banks, insurance companies or companies of a considerably larger size. The board shall record, on the basis of the information received from the directors, on a yearly basis, the offices of director or auditor held by the directors in the above-mentioned companies and include them in the report on corporate governance. (Code, 1.C.2)</p> <p>The board shall issue guidelines regarding the maximum number of offices as director or auditor for the types of companies referred to in the above paragraph that may be considered compatible with an effective performance of a director's duties. To this end, the board identifies the general criteria, differentiating them according to the commitment entailed by each role (executive or non-executive or independent director), as well as the nature and size of the companies in which the offices are performed, plus whether or not the companies are members of the issuer's group; it may also take into account the participation of the directors in committees established within the ranks of the board. (Code, 1.C.3)</p> <p>The Committee did not ... deem it desirable to lay down quantitative guidelines in terms of number of directorships [held simultaneously by a director]. (Report, 5.1)</p>	<p><i>Not covered.</i></p>	<p>Outside directors shall allot sufficient time towards performing their duties, and shall review all related information before attending a Board meeting. Outside directors shall listen to the opinions of shareholders and shall make every effort to acquire information from various sources within and outside the corporation. (§ II.4.3)</p>	<p><i>Not covered.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
11. Commitment, Limits on Other Board Service & Changes in Job Responsibility				
<p><u>Supervisory Board</u></p> <p>The number of supervisory boards of Dutch listed companies of which an individual may be a member shall be limited to such an extent that the proper performance of his duties is assured; the maximum number is five, for which purpose the chairmanship of a supervisory board counts double. (Best Practice Provision III.3.4)</p> <p>Supervisory board members who are frequently absent shall be called to account for this. The report of the supervisory board shall state which supervisory board members have been frequently absent from meetings of the supervisory board. (Best Practice Provision III.1.5)</p> <p>A supervisory board member who temporarily takes on the management of the company ... shall resign from the supervisory board. (Best Practice Provision III.6.7)</p> <p><u>Management Board</u></p> <p>A management board member may not be a member of the supervisory board of more than two listed companies. Nor may a management board member be the chairman of the supervisory board of a listed company. Membership of the supervisory board of other companies within the group to which the company belongs does not count for this purpose. The acceptance by a management board member of membership of the supervisory board of a listed company requires the approval of the supervisory board. Other important positions held by a management board member shall be notified to the supervisory board. (Best Practice Provision II.1.7)</p>	<p><u>Board of Directors</u></p> <p>If after election of an independent director to the board of directors such person ceases to be independent due to any changes or new circumstances, such director should notify the board of directors accordingly, and give a detailed account of all such changes and new circumstances. Upon receipt of such notice, or if the board of directors becomes otherwise aware of such changes or new circumstances, the board of directors should notify shareholders accordingly and, if necessary, may call an extraordinary general shareholders meeting to elect a new board of directors. The procedure and grounds for election of a new board of directors should be set forth in the company's charter. (Ch. 3, § 2.2.4)</p> <p>Members of the board of directors should have sufficient time for performance of their functions. Therefore, it is advisable that the board of directors of the company develops rules for participation of its members in the boards of directors of other companies, and ensures that these rules are observed in situations where members of the board of directors are nominated, or accept nominations, for positions in the boards of directors of, or other official positions with, other companies. (Ch. 3, § 3.2.3)</p> <p><u>Management Board</u></p> <p>[T]he director general and members of the managerial board should have sufficient time to discharge their duties. (Ch. 1, § 4.2(3))</p>	<p>Executive directors should be encouraged to hold other nonexecutive directorships only to the extent that these do not interfere with their immediate management responsibilities. Non-executive directors should carefully consider the number of appointments they take in that capacity so as to ensure that the companies on which they serve enjoy the full benefit of their expertise, experience and knowledge. (§ 2.4.5)</p>	<p>Each Director must devote the necessary time and care to the tasks entrusted to him/her and must agree to limit his/her involvement on other Boards if this may hinder the adequate discharge of his/her duties as a Director. At the time of his/her appointment, he/she must [disclose] his/her significant commitments as a Director. Any change of such situation must be [disclosed] to the Board of Directors. (§ I.3)</p>	<p>A director is not to have so many other duties that he or she is unable to devote the necessary time and care to the company's board work. (§ III, Rule 3.3.1)</p> <p>See § III, Rule 4.1.2 (The board is to approve any significant professional commitments of the managing director outside the company.)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
11. Commitment, Limits on Other Board Service & Changes in Job Responsibility				
<p><u>Board of Directors</u> <i>Not covered directly, but see Directive, Annex ¶ 3.2 (For each member of the board of directors:</i></p> <p>a) Activities in governing and supervisory bodies of important Swiss and foreign organizations....</p> <p>b) Permanent management and consultancy functions for important Swiss and foreign interest groups [and]</p> <p>c) Official functions and political posts [must all be disclosed].)</p> <p><i>See also Directive, Annex ¶ 3.3 (An indication of cross-involvement among the boards of directors of listed companies [must be disclosed].).</i></p> <p><u>Management Board</u> <i>Not covered directly, but see Directive, Annex ¶ 4.2 (For each member of the Management Board:</i></p> <p>a) Activities in governing and supervisory bodies of important Swiss and foreign organizations....</p> <p>b) Permanent management and consultancy functions for important Swiss and foreign interest groups [and]</p> <p>c) Official functions and political posts [must all be disclosed].)</p>	<p><i>Not covered.</i></p>	<p>Care should be taken to ensure that appointees have enough time available to devote to the job. This is particularly important in the case of chairmanships. (Supporting Principle A.4)</p> <p>For the appointment of a chairman, the nomination committee should prepare a job specification, including an assessment of the time commitment expected, recognizing the need for availability in the event of crises. A chairman's other significant commitments should be disclosed to the board before appointment and included in the annual report. Changes to such commitments should be reported to the board as they arise, and included in the next annual report. No individual should be appointed to a second chairmanship of a FTSE 100 Company. (Provision A.4.3)</p> <p>The letter of appointment [of non-executive directors] should set out the expected time commitment. Non-executive directors should undertake that they will have sufficient time to meet what is expected of them. Their other significant commitments should be disclosed to the board before appointment, with a broad indication of the time involved, and the board should be informed of subsequent changes. (Provision A.4.4)</p> <p>The board should not agree to a full-time executive director taking on more than one nonexecutive directorship in a FTSE 100 company nor the chairmanship of such a company. (Provision A.4.5)</p>	<p>Boards should consider whether a change in an individual's professional responsibilities directly or indirectly impacts that person's ability to fulfill his or her directorship obligations. To facilitate the board's consideration:</p> <ul style="list-style-type: none"> ▪ Boards should require that the CEO and other inside directors submit a resignation as a matter of course upon retirement, resignation, or other significant change in their professional roles and responsibilities. ▪ Boards should require that all directors submit a resignation as a matter of course upon retirement, a change in employer, or other significant changes in their professional roles and responsibilities. <p>If the board determines that a director continues to make a contribution to the organization, the Commission supports the continued membership of that director on the board. (p. 14)</p> <p>[T]he board should consider guidelines that limit the number of positions on other boards, subject to individual exceptions – for example, for CEOs and senior executives, one or two; for others fully employed, three or four; and for all others, five or six. (p. 22)</p>	<p>Serving on a board requires significant time and attention on the part of directors. Directors must participate in board meetings, review relevant materials, serve on board committees, and prepare for meetings and discussions with management. They must spend the time needed and meet as frequently as necessary to properly discharge their responsibilities. The appropriate number of hours to be spent by a director on his or her duties, and the frequency and length of board meetings, depend largely on the complexity of the corporation and its operations. (p. 25)</p> <p>Business Roundtable does not endorse a specific limitation on the number of directorships an individual may hold. However, service on too many boards can interfere with an individual's ability to perform his or her responsibilities, either as a member of senior management or as a director. Before accepting an additional board position, a director should consider whether the acceptance of a new directorship will compromise the ability to perform present responsibilities. It also is good practice for directors to notify the chair of the corporate governance committee for each board on which they serve before accepting a seat on the board of another corporation. (pp. 25-26)</p> <p>The board [may require] that directors who change their primary employment tender a board resignation, providing an opportunity for the governance committee to consider the desirability of their continued service on the board. (p. 29)</p> <p><i>See p. 17 (limitations on number of audit committees on which a director may serve).</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
12. Election Term, Term Limits & Mandatory Retirement				
<p><i>Not covered directly, but see Topic Headings 3, 4 and 11, above.</i></p>	<p>Nonexecutive directors should be appointed for specific terms subject to re-election and to the ASX Listing Rules and Corporations Act provisions concerning removal of a director. Re-appointment of directors should not be automatic. (Commentary on Recommendation 2.4)</p> <p><i>See</i> Commentary on Recommendation 2.1 (The tenure of each director is important to an assessment of independence. The board should disclose the period of office of each director in the corporate governance section of the annual report.).</p>	<p>[Any proposal for appointment of a director by the shareholders' meeting] should specify the proposed term of the mandate, which should not exceed four years. (Provision 4.6)</p> <p><i>See</i> Appendix A, 2.3./1 (The assessment of independence should be made taking into account ... not having served on the board as a nonexecutive director for more than three terms....).</p>	<p>All board members should serve concurrent one-year terms of office, with the possibility of re-election. (CVM Recommendation II.1)</p> <p>Directors should preferably have one-year terms of office. Re-election is desirable to build a seasoned, productive Board, but should never be automatic. It should only be possible after a formal performance evaluation. All Directors should be elected at the same General Meeting. (IBGC Code ¶ 2.18)</p> <p>Once a Director meets the requirements ... to serve on the Board, the only concern about his/her performance is his/her effective contribution to the Board, organization, and owners — age is not so relevant.</p> <p>To prevent a Director from becoming permanent in his/her position, a maximum number of years of continuous service should be established in the bylaws of the Board. (IBGC Code ¶ 2.19)</p>	<p>Some commentators to the Committee recommended that each director hold office for a period of not more than a specified number of years. The period these commentators had in mind was approximately six or seven years. The basis for the proposal for a maximum term is that it would ensure an ongoing supply of fresh thinking to the board. Our view is that a guideline to this effect is artificial and unnecessary. We believe that the nominating committee, which will be assessing the performance of the board, can propose changes to the board composition which can result in the injection of a fresh approach to board decisions where appropriate. (Dey Report, § 5.47)</p> <p><u>Saucier Report</u> <i>Not covered.</i></p>

China	Denmark	France	Germany	India
12. Election Term, Term Limits & Mandatory Retirement				
<p>Appointment agreements shall be entered into by a listed company and its directors to clarify such matters as ... the term of the directorship ... and the compensation from the company in case of early termination of the appointment agreement for cause by the company. (Ch. 3, (1) 32)</p>	<p><u>Supervisory Board</u> The Committee recommends that the company agree on a retirement age for members of the supervisory board and that the annual report contain information about the age of individual members of the supervisory board. (Recommendation V.8)</p> <p>The Committee recommends that members of the supervisory board be up for re-election every year at the general meeting, and that the supervisory board in this connection makes special efforts to ensure the balance between replacement and continuity on the supervisory board as regards the chairmanship and the deputy chairmanship. (Recommendation V.9)</p> <p><u>Management Board</u> <i>Not covered.</i></p>	<p>Without affecting the duration of current terms, the duration of directors' terms of office set by the company charter (<u>statuts</u>) should not exceed a maximum of four years, so that the shareholders are called to express themselves through elections with sufficient frequency. Terms should be staggered so as to avoid replacement as a body and to favour a smooth replacement of directors. (¶ 12)</p> <p><i>See ¶ 12, footnote 5 (Under French law, the duration of directors' terms of office is set by the by-laws, and may not exceed six years.).</i></p>	<p><u>Supervisory Board</u> [A]n age limit to be specified for the members of the Supervisory Board shall be taken into account. (§ 5.4.1)</p> <p>Material conflicts of interest and those which are not merely temporary in respect of the person of a Supervisory Board member shall result in the termination of his mandate. (§ 5.5.3)</p> <p><i>See § 5.4.6 (The election or re-election of members of the Supervisory Board at different dates and for different periods of office enables changing requirements to be taken into account.).</i></p> <p><u>Management Board</u> For first time appointments [to the Management Board], the maximum possible appointment period of five years should not be the rule. A re-appointment prior to one year before the end of the appointment period with a simultaneous termination of the current appointment shall only take place under special circumstances. An age limit for members of the Management Board shall be specified. (§ 5.1.2)</p>	<p>The tenure of office of the directors will be as prescribed in the Companies Act. (§ 6.10)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
12. Election Term, Term Limits & Mandatory Retirement				
<p><i>Not covered.</i></p>	<p>The Committee did not ... deem it desirable to lay down quantitative guidelines in terms of number of directorships or the duration of appointments. (Report, 5.1)</p> <p>[There is a] legal requirement for appointments to the board of directors not to last more than three years.... (Report, 5.4.1)</p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p>[In a Corporate Auditors System,] the terms of office for directors and corporate auditors are two years and four years, respectively. (TSX Principles, Appendix)</p> <p>[In a {Board of Directors) Committees System,] the terms of office for directors and executive officers shall be one year (unlike companies with a corporate auditors system, companies that have a committees system must annually entrust directors through the general meetings of shareholders, since the authority of the definitive plan for distribution of profit is given to the board of directors instead of the general meetings of shareholders). (TSX Principles, Appendix)</p>	<p>The Board shall ... respect the appointed directors' term of office.... [T]he term of office for the director – appointed through due process at a general shareholder meeting – shall be respected so that his functions as managing agent for all shareholders may be performed dutifully. The exceptions are the following: the director is found liable for any illegal act; gross violation is made of the statutes or the Articles of Incorporation; or the director is deemed quite inept for office. (§ II.3.3)</p> <p>If a director does not perform his duties properly, he may not be reappointed or may even be dismissed. (§ II.8.1)</p>	<p><i>Not covered.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
12. Election Term, Term Limits & Mandatory Retirement				
<p><u>Supervisory Board</u></p> <p>A person may be appointed to the supervisory board for a maximum of three four-year terms. (Best Practice Provision III.3.5)</p> <p>The supervisory board shall draw up a retirement schedule in order to avoid, as far as possible, a situation in which many supervisory board members retire at the same time. The retirement schedule shall be made generally available and shall ... be put on the company's website. (Best Practice Provision III.3.6)</p> <p>A supervisory board member shall retire early in the event of inadequate performance, structural incompatibility of interests, and in other instances in which this is deemed necessary by the supervisory board. (Best Practice Provision III.1.4)</p> <p><u>Management Board</u></p> <p>A management board member is appointed for a maximum period of four years. A member may be reappointed for a term of not more than four years at a time. (Best Practice Provision II.1.1)</p>	<p><i>Not covered.</i></p>	<p><i>Not covered directly, but see § 2.2.3 (Board continuity, subject to performance and eligibility for re-election, is imperative, and a programme ensuring a staggered rotation of directors should be put in place by the board to the extent that this is not already regulated.).</i></p>	<p>All Directors should be subject to re-election at regular periods of time, subject to the satisfactory discharge of their duties. The Board must ensure that its composition is renewed in an orderly and gradual manner. (§ I.8)</p> <p><i>See § I.8 (Should a Director fail to be re-elected or be removed, such decision must be examined and submitted by the Nominations Committee, and should be based on objective reasons which must be explained and presented to the Board for their discussion and decision. As regards Independent Directors, their removal or non-reelection must be based on the lack of objective circumstances of independence, or following a negative evaluation of their performance, as determined in a verifiable and objective manner.).</i></p>	<p>Members of the board are to be appointed for one year at a time. (§ III, Rule 3.2.6)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
12. Election Term, Term Limits & Mandatory Retirement				
<p><u>Board of Directors</u> The ordinary term of office for members of the Board of Directors should, as a rule, not exceed four years. Adequately staggered terms of office are desirable. (Code ¶ 13)</p> <p><i>See</i> Code ¶ 13 (The Board of Directors should plan for the succession of its members....).</p> <p><i>See also</i> Directive, Annex ¶ 3.4.1 (The principles of the election procedure (total renewal or staggered renewal) and limits on the terms of office [must be disclosed].).</p> <p><i>See also</i> Directive, Annex ¶ 3.4.2 (The time of the first election and the remaining term of office for each member of the board of directors [must be disclosed].)</p> <p><u>Management Board</u> <i>Not covered.</i></p>	<p>Nonexecutive directors should be appointed for specified terms and reappointment should not be automatic. (Code § 2.3)</p> <p>[Executive] directors' service contracts should not exceed three years without shareholders' approval. (Code § 3.1)</p> <p>Companies have to be able to bring about changes in the composition of their boards to maintain their vitality. Nonexecutive directors may lose something of their independent edge if they remain on a board too long. Furthermore, the make-up of a board needs to change in line with new challenges. We recommend, therefore, that nonexecutive directors should be appointed for specified terms. Their Letter of Appointment should set out their duties, term of office, remuneration and its review. Reappointment should not be automatic, but a conscious decision by the board and the director concerned. (Report § 4.16)</p>	<p>All directors should be submitted for re-election at regular intervals, subject to continued satisfactory performance. The board should ensure planned and progressive refreshing of the board. (Main Principle A.7)</p> <p>All directors should be subject to election by shareholders at the first annual general meeting after their appointment, and to re-election thereafter at intervals of no more than three years. (Provision A.7.1)</p> <p>Nonexecutive directors should be appointed for specified terms subject to re-election and to Companies Acts provisions relating to the removal of a director.... Any term beyond six years (<i>e.g.</i>, two three-year terms) for a non-executive director should be subject to particularly rigorous review, and should take into account the need for progressive refreshing of the board. Nonexecutive directors may serve longer than nine years (<i>e.g.</i>, three three-year terms), subject to annual re-election. Serving more than nine years could be relevant to the determination of a nonexecutive director's independence. (Provision A.7.2)</p> <p><i>See</i> Provision B.1.6 (Notice or contract periods should be set at one year or less. If it is necessary to offer longer notice or contract periods to new directors recruited from outside, such periods should reduce to one year or less after the initial period.).</p>	<p>Until ... processes are established [for a strong individual director evaluation process], boards should recognize that when certain predetermined criteria are met – for example, 10 to 15 years of service or a specified retirement age – it may be desirable to promote director turnover to obtain the fresh ideas and critical thinking that a new director can bring to the board. However – for the sake of continuity – some directors' tenures should survive that of the CEO. Unless boards have a process to evaluate the performance of individual directors, they should establish tenure conditions under which, as a matter of course, directors should submit a resignation for consideration or offer to withdraw from consideration for renomination. (pp. 14-15)</p>	<p>The board ... should establish procedures for the retirement or replacement of board members. These procedures may, for example, include a mandatory retirement age, a term limit and/or a requirement that directors who change their primary employment tender a board resignation, providing an opportunity for the governance committee to consider the desirability of their continued service on the board. (p. 29)</p> <p><i>See</i> p. 29 (Planning for the departure of directors and the designation of new board members is essential. The board should plan ahead for changes in membership, and it should have written criteria for director candidates that should be re-evaluated periodically.).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
13. Director Compensation & Stock Ownership				
<p>The board should fulfill certain key functions, including ... aligning key executive and board remuneration with the longer-term interests of the company and its shareholders. (Principle VI.D.4)</p> <p>In an increasing number of countries it is regarded as good practice for boards to develop and disclose a remuneration policy statement covering board members and key executives. Such policy statements specify the relationship between remuneration and performance, and include measurable standards that emphasise the longer run interests of the company over short term considerations. Policy statements generally tend to set conditions for payments to board members for extra-board activities, such as consulting. They also often specify terms to be observed by board members and key executives about holding and trading the stock of the company, and the procedures to be followed in granting and re-pricing of options. In some countries, policy also covers the payments to be made when terminating the contract of an executive.</p> <p>It is considered good practice in an increasing number of countries that remuneration policy and employment contracts for board members and key executives be handled by a special committee of the board comprising either wholly or a majority of independent directors. There are also calls for a remuneration committee that excludes executives that serve on each others' remuneration committees, which could lead to conflicts of interest. (Annotation to Principle VI.D.4)</p>	<p>Ensure that the level and composition of remuneration is sufficient and reasonable and that its relationship to corporate and individual performance is defined. (Principle 9)</p> <p>This means that companies need to adopt remuneration policies that attract and maintain talented and motivated directors and employees so as to encourage enhanced performance of the company. (Commentary on Principle 9)</p> <p>The board should establish a remuneration committee. (Recommendation 9.2)</p> <p>The company should design its remuneration policy in such a way that it motivates directors ... to pursue the long-term growth and success of the company.... (Commentary on Recommendation 9.2)</p> <p>Clearly distinguish the structure of nonexecutive directors' remuneration from that of executives. (Recommendation 9.3)</p> <p>Guidelines for nonexecutive director remuneration:</p> <ol style="list-style-type: none"> 1. Nonexecutive directors should normally be remunerated by way of fees ...; they should not participate in schemes designed for ... executives. 2. Nonexecutive directors should not receive options or bonus payments. 3. Nonexecutive directors should not be provided with retirement benefits other than statutory superannuation. <p>(Commentary on Recommendation 9.3)</p> <p>See Commentary on Recommendation 9.2 ([N]o individual should be directly involved in deciding his/her remuneration.).</p>	<p>The company shall remunerate directors and executive managers fairly and responsibly. (Principle 7)</p> <p>Levels of remuneration should be sufficient to attract, retain and motivate directors and executive managers who have the profile determined by the board. (Provision 7.1)</p> <p>The remuneration of nonexecutive directors should take into account their responsibilities and time commitment. (Provision 7.3)</p> <p>Nonexecutive directors should not be entitled to performance-related remuneration such as bonuses, stock-related long-term incentive schemes, fringe benefits or pension benefits. (Provision 7.4)</p> <p>Provisions on the remuneration of non-executive directors apply to the remuneration of executive directors in their capacity as board members. (Provision 7.6)</p> <p>Provisions on the remuneration of executive managers apply to the remuneration of executive directors in their executive capacity. (Provision 7.7)</p> <p>The remuneration committee should make recommendations on individual remuneration of directors and executive managers, including on bonuses and long-term incentives, whether stock-related or not, in the form of stock options or other financial instruments. (Appendix E, Provision 5.4./5)</p> <p>See Topic Heading 25, below.</p>	<p><u>Board of Directors</u></p> <p>Directors should be paid for their work and this compensation should be established by the owners. Director compensation should (i) adequately reflect time, effort and experience dedicated to their functions; (ii) provide an adequate incentive to align the interests of the Directors to those of the owners; and (iii) not compromise the ability of the Director to use his/her own judgment in serving the best interests of the organization and its owners. A recommendation is to establish the fees of the Director on the same hourly basis used for the CEO, including bonuses and benefits commensurate with the time effectively dedicated to his/her function. (IBGC Code ¶ 2.21)</p> <p><u>Fiscal/Advisory Board</u></p> <p>Fiscal Council members should be adequately compensated, bearing in mind their experience and necessary qualifications for the job. They should be entitled to reimbursement of their work-related expenses. (IBGC Code ¶ 5.8)</p>	<p>The board of directors should review the adequacy and form of the compensation of directors and ensure the compensation realistically reflects the responsibilities and risk involved in being an effective director. (Dey Report, Guideline 8)</p> <p>We favour directors owning shares. The ownership of shares will facilitate the directors' identification with the interests of shareholders. Indeed, we think corporations can assist directors in acquiring shares by, for example, remunerating directors wholly or partly in shares. The shares could be made to vest over a specified period of time. (Dey Report, § 5.51)</p> <p>We do not object to the use of stock options as a form of director compensation. However, the options should be valued and the value of the options plus the amount of other compensation should not exceed the amount of the compensation which the board believes is reasonable in the circumstances. In addition, the conditions attached to the options should discourage short-term exercise and holding. (Dey Report, § 5.52)</p> <p>Boards should continue to be concerned that their total remuneration packages are competitive. In particular, we are concerned that the director who is charged with the functions of "independent board leader" and committee chairs may not be receiving compensation that adequately reflects the responsibilities they should be assuming. As well, some form of minimum shareholding requirement for directors is appropriate in aligning director and shareholder interests. (Saucier Report, p. 5)</p> <p>See generally Dey Report, Remuneration of Directors, §§ 5.49-5.52.</p>

China	Denmark	France	Germany	India
13. Director Compensation & Stock Ownership				
<p>The board of directors shall propose a scheme for the amount and method of compensation for directors to the shareholders' meeting for approval. When the board of directors or the remuneration and appraisal committee ... discusses the compensation for a certain director, such director shall withdraw. (Ch. 5, (1) 71)</p> <p><i>See generally</i> Ch. 5, Performance Assessments and Incentive and Disciplinary Systems.</p>	<p><u><i>Supervisory and Management Boards</i></u></p> <p>Competitive remuneration is a prerequisite for attracting and retaining competent members of the supervisory board and executive board. Remuneration ... should be reasonable in relation to tasks assigned and responsibilities involved.... (Principle VI)</p> <p>The Committee recommends that total remuneration (basic pay, bonus, price-related incentive schemes, pension schemes, severance pay and other benefits) be at a competitive and fair level, reflecting independent performance and value creation in the company.... (Recommendation VI.1)</p> <p>The Committee recommends that the remuneration policy reflect the interests of the shareholders and the company, match the specific conditions of the company ... and that it promote long-term behaviour and be transparent and easy to understand. (Recommendation VI.2)</p> <p>The Committee recommends that, as part of the company's remuneration policy, the supervisory board lay down principles and guidelines governing the design of incentive schemes for the company's executive board and supervisory board.... The Committee recommends that remuneration to the supervisory board not consist of share option schemes, but, <u>e.g.</u>, bonus schemes and shares at market price.... (Recommendation VI.4)</p> <p>A remuneration committee should consult the chairman of the supervisory board as regards remuneration of other members of the supervisory board and consult the CEO as regards remuneration of other executives. (Appendix A)</p>	<p>[T]he method of allocation of directors' compensation, the total amount of which is determined by the meeting of shareholders, is set by the Board of Directors. It should take account, in such ways as it shall determine, of the directors' attendance at meetings of the Board and committees, and therefore include a variable portion. It seems natural that the directors' attendance at specialised committees should be rewarded with an additional amount of attendance fees. (¶ 18.1)</p> <p>The amount of attendance fees should reflect the level of responsibility assumed by the directors and the time they need to apply to their duties. The new definitions of directors' duties and responsibilities ought to incite all Boards to consider the adequacy of the level of attendance fees. (¶ 18.2)</p> <p><i>See</i> ¶ 17 (The director should be a shareholder personally and hold – above and beyond the minimum provided for by the company charter – a fairly significant number of shares; if he or she does not hold them when assuming office, he or she should apply his or her attendance fees to acquiring them.).</p>	<p><u><i>Supervisory Board</i></u></p> <p>Compensation of the members of the Supervisory Board is specified by resolution of the General Meeting or in the Articles of Association. It takes into account the responsibilities and scope of tasks of the members of the Supervisory Board as well as the economic situation and performance of the enterprise. Also to be considered here shall be the exercising of the Chair and Deputy Chair positions in the Supervisory Board as well as the chair and membership in committees.</p> <p>Members of the Supervisory Board shall receive fixed as well as performance-related compensation. Performance-related compensation should also contain components based on the long-term performance of the enterprise. (§5.4.5)</p> <p><u><i>Management Board</i></u></p> <p>Compensation of the members of the Management Board is determined by the Supervisory Board at an appropriate amount based on a performance assessment in considering any payments by group companies. Criteria for determining the appropriateness of compensation are, in particular, the tasks of the respective member of the Management Board, his personal performance, the performance of the Management Board as well as the economic situation, the performance and outlook of the enterprise.... (§ 4.2.2)</p> <p><i>See</i> Topic Heading 25, <i>below</i>.</p>	<p>[I]t is important that adequate compensation package[s] be given to the non-executive independent directors so that these positions become sufficiently financially attractive to attract talent and that the nonexecutive directors are sufficiently compensated for undertaking this work. (§ 6.7)</p> <p>The Committee recommends that the board of directors should decide the remuneration of nonexecutive directors. (§ 10.7)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
13. Director Compensation & Stock Ownership				
<p><i>Supervisory and Management Boards</i> At a GMOS [general meeting of shareholders], the shareholders shall adopt a system for the determination of the remuneration of the members of the Dewan Komisaris and the Direksi.... (§ I, Principle 1.5(b))</p> <p>Procedures regarding ... remuneration can be formulated by the Dewan Komisaris or by retaining independent professional advisors appointed by the Dewan Komisaris subject to approval of the GMOS....</p> <p>[The Nomination and Remuneration] Committee ... should keep in mind that the amount of ... remuneration should be appreciable and reflect ... responsibility and commitment.</p> <p>The remuneration of the members of the Dewan Komisaris and the Direksi as determined by any GMOS shall not be dependent upon the results of the Company, without prejudice to the right of the GMOS to decide payment of bonuses to members of the Dewan Komisaris and the Direksi dependent upon the results of the Company.</p> <p>A member of the Dewan Komisaris or the Direksi shall not be remunerated separately for his/her advice to any organ of the Company. (§ I, 1.5)</p> <p>[The Remuneration Committee may] prepare a remuneration system and provide recommendations in respect of (i) the assessment of such system, (ii) the granting of options ..., (iii) pension rights, and (iv) redundancy and other compensation schemes. (§ II, 2.9.2)</p> <p>See § II, Principle 2.7 (Members of the Dewan Komisaris should derive no form of personal gain from the Company's activities other than through their remuneration as members of the Dewan Komisaris.).</p>	<p>[I]f the shareholders' meeting has not already done so, [the board of directors shall] determine the total amount to which the members of the board ... are entitled. (Code, 1.C.1)</p> <p>Directors' pay is a field where decisions must be taken in such a way that no director can influence the determination of his or her remuneration It is also important that remuneration packages should be able to attract and motivate persons with adequate experience and ability.... The Committee considers that the need to align the interests of the directors with those of the shareholders means recommending at least partly variable systems of remuneration, linked to economic objectives. (Report, 5.4.2)</p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p>[In a {Board of Directors) Committees System,] the compensation committee should review the executive compensation programs and each director's and executive's compensation pursuant to preset compensation principles. The objective of compensation programs is to motivate directors and executives to work diligently, and therefore the compensation committee should respectfully review the incentive plans, which should be designed in a fair and reasonable manner. (CGFJ Principle 7.2)</p> <p>The compensation committee should determine the programs for remuneration of directors (those who monitor the company management) and executives (those who undertake the company management), and also set the specific compensation package for them. (CGFJ Principles, Explanation of Principle 7)</p>	<p>To promote active performance of duties by management, outside directors and the Board, their activities shall undergo fair evaluation; based on such results, the matters of remuneration and reappointment shall be decided. (§ II.9)</p> <p>The activities of an outside director should be evaluated fairly, with the remuneration being commensurate to the evaluation results. (§ II.9.2)</p>	<p>The Committee recommends that there be a mechanism to support the Board in its responsibilities with regard to evaluation and compensation of the chief executive officer and senior management of the company. This mechanism may be supported by the company's internal structure, such as the human resources area. (Recommendation at II)</p> <p>The evaluation and compensation mechanism should ... analyze and bring before the Board of Directors the chief executive officer's proposal regarding the structure and amount of compensation for the company's senior management. (Principle at II.1)</p> <p>The mechanism or intermediate body should assist the Board in evaluating policies to determine compensation for the chief executive officer and senior management of the company. (Recommendation at II.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
13. Director Compensation & Stock Ownership				
<p><u>Supervisory Board</u></p> <p>The general meeting of shareholders shall determine the remuneration of supervisory board members. The remuneration of a supervisory board member is not dependent on the results of the company. The notes to the annual accounts shall ... contain the information prescribed by law on the level and structure of the remuneration of individual supervisory board members. (Principle III.7)</p> <p>A supervisory board member shall not be granted any shares and/or rights to shares by way of remuneration. (Best Practice Provision III.7.1)</p> <p>Any shares held by a supervisory board member in the company on whose board he sits are long-term investments. (Best Practice Provision III.7.2)</p> <p><u>Management Board</u></p> <p>The supervisory board shall determine the remuneration of the individual members of the management board, on a proposal by the remuneration committee, within the scope of the remuneration policy adopted by the general meeting of shareholders. (Principle II.2)</p> <p>See Best Practice Provision III.7.4 (loans prohibited unless also available to all employees).</p> <p>See also Topic Heading 25, below.</p>	<p><u>Board of Directors</u></p> <p>It is advisable that the amount of remuneration payable to all members of the board of directors be the same, regardless of whether the member of the board of directors is an executive, non-executive or independent director. (Ch. 3, § 5.1.1)</p> <p>Criteria for determination of the amount of remuneration payable to members of the board of directors should be developed by the human resources and remuneration committee and approved by the board of directors. Inasmuch as these criteria may significantly affect the operations of the board of directors, it is recommended that they should be incorporated into the internal documents governing these operations. This will create a transparent mechanism enabling shareholders to exercise control over the quality of the performance of members of the board of directors and the level of their remuneration. (Ch. 3, § 5.1.2)</p> <p><u>Management Board</u></p> <p>See Topic Heading 25, below.</p>	<p>Share options may be granted to non-executive directors but must be the subject of prior approval of shareowners (usually at the annual general meeting) having regard also to the specific requirements of the Companies Act. Because of the apparent dilution of independence, in some international markets the view is that nonexecutive directors should preferably receive shares rather than share options. (§ 2.5.6)</p> <p>In regard to the allocation of share options, boards should be mindful of the following:</p> <ul style="list-style-type: none"> ▪ A vesting period in relation to the allocation of share options to non-executive directors should be applied.... ▪ Where it is proposed to re-price share options, this should be the subject of prior shareowner approval.... ▪ If share options are to be issued at a discount..., shareowners should vote separately on this clause in the trust deed at its inception.... <p>(§ 2.5.7)</p> <p>The remuneration committee should consider, and recommend to the board, the fees to be paid to each nonexecutive director. The proposed fees, as confirmed by the board, should be submitted to the shareowners in general meeting for approval prior to implementation and payment. The practice of paying nonuniform fees to non-executive directors should also be carefully considered. The level of fees should preferably be determined according to the relative contributions of each nonexecutive director and their participation in the activities of the board and its committees. (§ 2.5.12)</p> <p>See Topic Heading 25, below.</p>	<p>The remuneration package for [Independent] Directors must be sufficient to compensate their dedication and responsibility and to attract, retain and motivate adequately qualified Directors, avoiding paying more than is necessary to meet this objective, ensuring that their independence is not compromised. (§ I.10)</p> <p>[Independent Director] remuneration ... should not include pension plans or share option benefits. (§ I.4)</p>	<p>The nomination committee is to make recommendations ... on the division of board fees among the chair and other directors and on remuneration for committee work, if any. (§ III, Rule 2.2.1)</p> <p>The shareholders' meeting is to decide on directors' fees and all other remuneration for board work, and the allocation to the chair and other members of the board, and remuneration for committee work, if any. (§ III, Rule 2.2.6)</p> <p>Directors are not to participate in share or share-price incentive schemes aimed at company management or other employees. If such a programme is intended for the board alone, the shareholders' meeting is to decide the programme. The decision is to specify the maximum number of instruments that may be issued, the main terms of the allocation, the main terms and principles to be observed when estimating the value of the instrument and the latest date that the instrument can be issued or transferred to the board member. (§ III, Rule 2.2.7)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
13. Director Compensation & Stock Ownership				
<p><i>Not covered directly, but see Directive, Annex ¶ 5 (The following information must be disclosed on the compensations for and shareholdings of the members of the issuer's management board and board of directors and on loans granted these members:</i></p> <p>5.1 Content and method of determining the compensations and of the shareholding programmes....</p> <p>5.2 Compensations for acting members of governing bodies....</p> <p>5.3 Compensations for former members of governing bodies....</p> <p>5.4 Share allotment in the year under review....</p> <p>5.5 Share ownership....</p> <p>5.6 Options....</p> <p>5.7 Additional honorariums and remunerations....</p> <p>5.8 Loans granted by governing bodies....</p> <p>5.9 Highest total compensation....).</p> <p><i>See also the Code ¶ 28 (Companies with active major shareholders (including subsidiaries listed on the stock exchange) may adapt or simplify the guidelines. Such companies should implement in their own way an appropriate arrangement for ... the remuneration policy for members of the Board of Directors and the Executive Management....).</i></p> <p><i>See also Topic Heading 25, below.</i></p>	<p><i>Not covered directly, but see Code § 3.2 (There should be full and clear disclosure of directors' total emoluments and those of the chairman and highest-paid UK director, including pension contributions and stock options. Separate figures should be given for salary and performance-related elements, and the basis on which performance is measured should be explained.)</i></p> <p><i>See Topic Heading 25, below.</i></p>	<p>Levels of remuneration should be sufficient to attract, retain and motivate directors of the quality required to run the company successfully, but a company should avoid paying more than is necessary for this purpose. (Main Principle B.1)</p> <p>No director should be involved in deciding his or her own remuneration. (Main Principle B.2)</p> <p>Levels of remuneration for nonexecutive directors should reflect the time commitment and responsibilities of the role. Remuneration for nonexecutive directors should not include share options. If, exceptionally, options are granted, shareholder approval should be sought in advance and any shares acquired by exercise of the options should be held until at least one year after the nonexecutive director leaves the board. (Provision B.1.3)</p> <p>The board itself or, where required by the Articles of Association, the shareholders should determine the remuneration of the nonexecutive directors within the limits set in the Articles of Association. Where permitted by the Articles, the board may however delegate this responsibility to a committee, which might include the chief executive. (Provision B.2.3)</p> <p>Shareholders should be invited specifically to approve all new long-term incentive schemes (as defined in the Listing Rules) and significant changes to existing schemes, save in the circumstances permitted by the Listing Rules. (Provision B.2.4)</p> <p><i>See Schedule A: Provisions on the Design of Performance-Related Remuneration, p. 21.</i></p>	<p>A significant ownership stake leads to a stronger alignment of interests between directors and shareholders. Increasingly, compensation programs for directors and senior management are emphasizing stock over benefits. The REPORT OF THE NACD BLUE RIBBON COMMISSION ON DIRECTOR COMPENSATION, issued in 1995, recommended the following best practices with respect to director compensation:</p> <ul style="list-style-type: none"> ▪ Boards should establish a process by which directors can determine the compensation program in a deliberative and objective way. ▪ Boards should set a substantial target for stock ownership by each director and a time period during which this target is to be met. ▪ Boards should define the desirable total value of all forms of director compensation. ▪ Boards should pay directors solely in the form of equity and cash with equity representing a substantial portion of the total up to 100 percent; boards should dismantle existing benefit programs and avoid creating new ones. ▪ Boards should disclose fully in the proxy statement the philosophy and process used to determine director compensation and the value of all elements of compensation. <p>(p. 7)</p>	<p>Directors should receive incentives to focus on long-term stockholder value. Including equity as part of directors' compensation helps align the interests of directors with those of the corporation's shareholders. Accordingly, a meaningful portion of a director's compensation should be in the form of long-term equity. In this regard, corporations increasingly are providing the long-term equity component of directors' compensation in the form of restricted stock, rather than stock options, to better align directors' interests with those of shareholders. Corporations should establish a requirement that directors acquire a meaningful amount of the corporation's stock and hold that stock for as long as they remain on the board. (p. 25)</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
14. Executive Sessions of Outside Directors				
<p>In a number of countries with single-tier board systems, the objectivity of the board and its independence from management may be strengthened by the separation of the role of chief executive and chairman, or, if these roles are combined, by designating a lead nonexecutive director to convene or chair sessions of the outside directors. (Annotation to Principle VI.E)</p>	<p>Nonexecutive directors should consider the benefits of conferring regularly at scheduled sessions without management present. Their discussions can be facilitated by the chairperson or lead independent director. (Commentary on Recommendation 2.1)</p>	<p>The nonexecutive directors should regularly (preferably once a year) assess their interaction with executive management. In this respect, non-executive directors should meet at least once a year in absence of the CEO and the other executive directors. (Provision 4.12)</p> <p><i>See Appendix C, Provision 5.2./21</i> (The audit committee should decide whether and, if so, when the CEO, the chief financial officer (or senior employees responsible for finance, accounting, and treasury matters), the internal auditor and the external auditor should attend its meetings. The committee should be entitled to meet with any relevant person without any executive manager present.)</p>	<p><u><i>Board of Directors</i></u></p> <p>In order for the Board to appraise Management performance without constraints, it is important for External and Independent Directors to be able to meet regularly, without any Officers and/or Internal Directors being present. (IBGC Code ¶ 2.13)</p> <p><u><i>Fiscal/Advisory Board</i></u></p> <p><i>Not covered directly, but see CVM Recommendation IV.3</i> (As part of the analysis of the company's financial statements, the fiscal board and the audit committee should meet regularly and separately with the auditors, without the presence of executive officers.)</p>	<p>Every board of directors should have in place appropriate structures and procedures to ensure that the board can function independently of management... Appropriate procedures may involve the board meeting on a regular basis without management present or may involve expressly assigning the responsibility for administering the board's relationship to management to a committee of the board. (Dey Report, Guideline 12)</p> <p>The outside board members should meet at every regularly scheduled meeting without management and under the chairmanship of the "independent board leader." (Saucier Report, Recommendation 5)</p> <p>[R]egular meeting of outside directors without management present ... can be used to provide feedback about board processes, including the adequacy and timeliness of information being provided to the board. At times, such meetings might also focus on substantive issues that may be more difficult for some board members to discuss with management present. They can also provide opportunities for the independent board leader to discuss areas where the performance of the outside directors could be strengthened. It is important that these opportunities occur regularly, even if the meetings are short, so that they become a recognized and accepted governance practice. Any issues arising in these sessions that bear on the relationship between the board and management should be communicated quickly and directly to the CEO by the independent board leader. (Saucier Report, p. 19)</p>

China	Denmark	France	Germany	India
14. Executive Sessions of Outside Directors				
<p><i>Not covered, but note that the board of directors of each listed company was required to have one-third of its membership be independent by June 30, 2003.</i></p> <p><u>Supervisory Board</u></p> <p>The supervisory board shall meet periodically and shall convene interim meetings in a timely manner when necessary. (Ch. 4, (2) 66)</p>	<p><i>Not covered.</i></p>	<p>It is recommended that the directors that are external to the company (i.e., are neither corporate officers nor employees) meet periodically without the “in-house” directors. The internal rules of operation of the Board of Directors could provide for such a meeting once a year, at which time the evaluation of the chairman’s and chief executive officer’s respective performance would be carried out and the participants could reflect on the future of the company’s executive management. (¶ 9.3)</p> <p><i>See ¶ 14.3.2</i> (The audit committee should interview the statutory auditors, but also the persons responsible for finance, accounting and treasury matters. It should be possible to hold these interviews, if the committee so wishes, out of the presence of the corporation’s general management.).</p>	<p>In Supervisory Boards with co-determination, representatives of the shareholders and of the employees should prepare the Supervisory Board meetings separately, possibly with members of the Management Board. If necessary, the Supervisory Board should meet without the Management Board. (§ 3.6)</p> <p>The Chairman of the Supervisory Board will be informed by the Chairman or Spokesman of the Management Board without delay of important events which are essential for the assessment of the situation and development as well as for the management of the enterprise. The Chairman of the Supervisory Board shall then inform the Supervisory Board and, if required, convene an extraordinary meeting of the Supervisory Board. (§ 5.2)</p>	<p><i>Not covered directly, but see § 9.6</i> ([T]he audit committee ... may also meet without the presence of any executives of the company.).</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
14. Executive Sessions of Outside Directors				
<p><u>Supervisory Board</u> Meetings of the Dewan Komisaris [supervisory board] shall be held regularly, <u>i.e.</u>, at least once every month in principle, depending on the specific characteristics of the Company. The Dewan Komisaris shall adopt procedures for Meetings of the Dewan Komisaris and shall clearly set out such procedures in the Minutes of the Meetings of the Dewan Komisaris and when such procedures were determined and decided. A member of the Dewan Komisaris can only be represented by another member of the Dewan Komisaris at a meeting of the Dewan Komisaris. (§ II, Principle 2.4)</p> <p><u>Management Board</u> <i>Although the management board is to have some independent directors, meetings of the independent directors are not covered.</i></p>	<p>The independent directors shall meet at least once a year without the presence of the other directors. (Code, 3.C.6)</p> <p><i>See Comment on Code Article 2 (The lead independent director is granted ... the power to convene, autonomously or upon demand of other directors, appropriate meetings of independent directors only, for the discussion of subject matters judged of interest regarding the functioning of the Board of Directors or the company's operation.).</i></p>	<p><i>Not covered.</i></p>	<p>To raise the outside director's management supervision and supporting functions, a regular meeting participated by outside directors only is recommended. Outside directors and management shall make every effort to provide opportunities for regular discussions on managerial issues....</p> <p>Meetings for outside directors only shall be held regularly; a representative shall be appointed among the outside directors to supervise such a meeting and to handle important issues delegated to them. (§ II.4.5)</p>	<p><i>Not covered.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
14. Executive Sessions of Outside Directors				
<p><u>1. In a Two-Tier Board Structure</u> ([T]he supervisory board shall discuss, at least once a year, without the management board being present, both the functioning of the management board as an organ of the company and the performance of its individual members, and the conclusions that must be drawn on the basis thereof. Reference to these discussions shall be made in the report of the supervisory board. (Best Practice Provision III.1.7)</p> <p><u>2. In a One-Tier Board Structure</u> <i>Not covered directly, but see Best Practice Provision III.8.1 (requiring that the chairman of a single-tier board be a nonexecutive director) and Preamble, ¶ 10 (indicating that provisions regarding the supervisory board are applicable to the nonexecutive directors of a single-tier board).</i></p>	<p><i>Not covered.</i></p>	<p><i>Not covered directly, but see § 2.6.3 (Nonexecutive directors ... may ... meet separately with management, without the attendance of executive directors. This should, however, be agreed collectively by the board, usually facilitated by the nonexecutive chairperson or lead independent non-executive director.).</i></p>	<p>Nonexecutive Directors should meet at least once a year without the Chairman and the Executive Directors. (§ I.3)</p> <p><i>See § I.2 (In the event that the functions of Chairman and Managing Director are performed by the same person, or in the case of an Executive Chairman, a Senior Independent Director/Lead Director must be appointed from among the independent external Directors who will ... chair the ... External/Nonexecutive Directors Meetings....).</i></p>	<p><i>Not covered directly, but see § III, Rule 3.5.3 (The board is to evaluate the work of the managing director on a regular basis. At least once a year, the board is to take up this matter. At that time, no one from senior management is to be present.).</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
14. Executive Sessions of Outside Directors				
<p><i>Swiss law envisages a two-tier board structure. When the chairmanships of both boards are held by the same person –</i></p> <p>The Board of Directors may appoint an experienced nonexecutive member (“lead director”) ... entitled to convene on his own and chair meetings of the [supervisory] Board when necessary. (Code ¶ 18)</p>	<p><i>Not covered.</i></p>	<p>The chairman should hold meetings with the nonexecutive directors without the executives present. Led by the senior independent director, the nonexecutive directors should meet without the chairman present at least annually to appraise the chairman’s performance ... and on such other occasions as are deemed appropriate. (Provision A.1.3)</p>	<p>Executive sessions, defined here as meetings comprised solely of independent directors, provide board members the opportunity to react to management proposals and/or actions in an environment free from formal or informal constraints. They also provide an opportunity for dialogue between and among independent directors that facilitates a more open and timely exchange of ideas, perspectives, and feelings.</p> <p>Regularly scheduled executive sessions set an expectation that private discussions among independent directors will be held as a matter of course, thus disarming concern over an action that may otherwise be perceived as unusual or threatening.</p> <p>Boards should adopt a policy of holding periodic executive sessions at both the full board and committee levels on a preset schedule. (p. 8)</p>	<p>The board’s independent or nonmanagement directors should have the opportunity to meet regularly in executive session, outside the presence of the CEO and any other management directors, in accordance with applicable listing standards.</p> <ul style="list-style-type: none"> ▪ Time for an executive session should be placed on the agenda for every regularly scheduled board meeting. ▪ To maximize the effectiveness of executive sessions, there should be follow-up with the CEO and other appropriate members of senior management. <p>(p. 26)</p> <p><i>See p. 15 ([T]here is a growing trend for boards to appoint a “lead” or “presiding” director [who] chairs executive sessions of the board.... [O]ther boards have designated an independent director to preside over the executive sessions of a board’s independent or nonmanagement directors that are required by securities market listing standards.).</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
15. Evaluating Board Performance				
<p>Independent board members ... can bring an objective view to the evaluation of the performance of the board and management. (Annotation to Principle VI.E)</p> <p>In order to improve board practices and the performance of its members, an increasing number of jurisdictions are now encouraging companies to engage in board training and voluntary self-evaluation that meets the needs of the individual company. (Annotation to Principle VI.E.3)</p>	<p>Fairly review and actively encourage enhanced board and management effectiveness. (Principle 8)</p> <p>This means that directors and key executives should be equipped with the knowledge and information they need to discharge their responsibilities effectively, and that individual and collective performance is regularly and fairly reviewed. (Commentary on Principle 8)</p> <p>The performance of the board and key executives should be reviewed regularly against both measurable and qualitative indicators. The nomination committee should take responsibility for evaluating the board's performance. (Commentary on Recommendation 8.1)</p> <p>The board should regularly assess the independence of each director in light of interests disclosed by them. So that it can do this, each independent director should provide to the board all relevant information. (Commentary on Recommendation 2.1)</p> <p>The nomination committee should regularly review the time required from a nonexecutive director, and whether directors are meeting this. (Commentary on Recommendation 2.4)</p>	<p>The company shall have a rigorous and transparent procedure for ... evaluation of the board and its members. (Principle 4)</p> <p>Under the lead of its chairman, the board should regularly ... assess its size, composition, operation and interaction with executive management. (Provision 4.11)</p> <p>The evaluation process should have four objectives:</p> <ul style="list-style-type: none"> ▪ assessing how the board operates; ▪ checking that the important issues are suitably prepared/discussed; ▪ evaluating the actual contribution of each director's work, the director's presence at board and committee meetings and his constructive involvement in discussions and decisionmaking; and ▪ checking the board's current composition against the board's desired composition. <p>(Guideline 4.11)</p> <p>[T]he board should be assisted in this evaluation by the nomination committee, and possibly by external experts. (Guideline 4.11)</p> <p>There should be a periodic evaluation of the contribution of each director aimed at adapting the composition of the board to take account of changing circumstances. (Provision 4.13)</p> <p>Special attention should be given to the evaluation of the chairman of the board and the chairmen of the committees. (Guideline 4.13)</p> <p>The board should act on the results of the performance evaluation.... Where appropriate, this will involve proposing new members for appointment, proposing not to re-elect existing members or taking any measure deemed appropriate.... (Provision 4.14)</p>	<p><u>Board of Directors</u></p> <p>Every year a formal performance evaluation of the Board and each Director should be conducted. The evaluation system should be adapted to each organization's individual situation. It should, however, be supported by formal processes with a well-defined scope of action and qualifications. The Chairperson is responsible for assessing this process. The individual assessment of the Directors – particularly with regard to attendance and active participation in meetings – is key to his/her nomination for reelection. (IBGC Code ¶ 2.15)</p>	<p>Every board of directors should implement a process to be carried out by the nominating committee or other appropriate committee for assessing the effectiveness of the board as a whole, the committees of the board, and the contribution of individual directors. (Dey Report, Guideline 5)</p> <p>[The independent board leader's] performance should be evaluated annually against the position description. (Saucier Report, Recommendation 3)</p> <p>The "independent board leader" should be accountable to the board, personally or through delegating to a committee, for ensuring that regular assessments of the effectiveness of the board and its committees, as well as the contribution of individual directors, are carried out. The results of the assessment of the board and its committees should be reported to the full board. Results of individual assessments should be given to individual directors to help them enhance their contribution. (Saucier Report, Recommendation 4)</p> <p>Regular assessment of the board's effectiveness, and the contribution of individual directors, is essential to improve governance practices. The governance system should include a process for the evaluation of the work of the board, its committees, and individual directors. The focus of such assessments should be on how performance can be made more meaningful in setting and achieving goals that add value. The results of such evaluations should be internal to the board, but disclosure should be made that such evaluations are indeed carried out. (Saucier Report, p. 18)</p>

China	Denmark	France	Germany	India
15. Evaluating Board Performance				
<p>A listed company shall establish fair and transparent standards and procedures for the assessment of the performance of directors.... (Ch. 5, (1) 69)</p> <p>The evaluation of the directors ... shall be conducted by the board of directors or by the remuneration and appraisal committee of the board of directors. The evaluation of the performance of independent directors ... shall be conducted through a combination of self-review and peer review. (Ch. 5, (1) 70)</p> <p>When the board of directors or the remuneration and appraisal committee reviews the performance of ... a certain director, such director shall withdraw. (Ch. 5, (1) 71)</p> <p>The record of the supervisory committee's supervision as well as the results of financial or other specific investigations shall be used as an important basis for performance assessment of directors.... (Ch. 4, (1) 63)</p> <p><i>See generally</i> Ch. 5, Performance Assessments and Incentive and Discipline Systems.</p> <p><u>Supervisory Board</u></p> <p>A listed company shall establish fair and transparent standards and procedures for the assessment of the performance of ... supervisors.... (Ch. 5, (1) 69)</p> <p>The evaluation of the performance of ... supervisors shall be conducted through a combination of self-review and peer review. (Ch. 5, (1) 70)</p>	<p><u>Supervisory Board</u></p> <p>The Committee recommends that the supervisory board establish an assessment procedure that regularly and systematically evaluates the work, results and composition of the supervisory board as well as the work and results of the individual members, including the chairman, for the purpose of improving the supervisory board's work, and that the criteria of assessment be clearly defined.... The Committee recommends that such assessment be made once a year, that the chairman of the supervisory board be in charge of this process, drawing on external support, if necessary, that the outcome be discussed by the entire supervisory board and that the supervisory board provide details of its procedures of self-assessment in the company's annual report. (Recommendation V.11)</p> <p><u>Management Board</u></p> <p>The Committee recommends that the supervisory board assess the executive board's work and results once a year according to previously established explicit criteria. (Recommendation V.11)</p> <p><i>See</i> Recommendation V.11 (The Committee recommends that the executive board and the supervisory board establish a procedure to assess the collaboration between the two boards....).</p> <p><i>See also</i> Appendix A (A nomination committee should ... at regular intervals, assess the competence, knowledge and experience of the individual members of the supervisory board/executive board, and report such details to the supervisory board.).</p>	<p>[T]he Board of Directors should evaluate its ability ... by reviewing from time to time its membership, organisation and operation.... Accordingly, each Board should think about the desirable balance in its membership and that of the committees created from among its members, and consider from time to time the adequacy of its organisation and operation for the performance of its tasks. (¶ 9.1)</p> <p>The evaluation should have three objectives:</p> <ul style="list-style-type: none"> ▪ assess the way in which the Board operates; ▪ check that the important issues are suitably prepared and discussed; ▪ measure the actual contribution of each director to the Board's work through his or her competence and involvement in discussions. <p>(¶ 9.2)</p> <p>The evaluation, which it would be desirable to see becoming annual, should be performed in the following manner:</p> <ul style="list-style-type: none"> ▪ once a year the Board should dedicate one of the points on its agenda to a debate concerning its operation; ▪ there should be a formal evaluation at least once every three years. It could be implemented, possibly under the leadership of an independent director, with help from an external consultant.... ▪ it is recommended that the directors that are ... neither corporate officers nor employees meet periodically, without the "in-house" directors..., at which time the evaluation of the chairman's and chief executive officer's respective performance would be carried out.... <p>(¶ 9.3)</p> <p><i>See</i> ¶ 8.3 (regular re-evaluation of independent director status).</p>	<p><u>Supervisory Board</u></p> <p>The Supervisory Board shall examine the efficiency of its activities on a regular basis. (§ 5.6)</p> <p><u>Management Board</u></p> <p>Compensation of the members of the Management Board is determined by the Supervisory Board ... based on a performance assessment [of] the tasks of the respective member of the Management Board, his personal performance [and] the performance of the Management Board.... (§ 4.2.2)</p> <p><i>See</i> § 5.1.3 (The Supervisory Board shall issue Terms of Reference [indicating Management Board responsibilities].).</p> <p><i>See also</i> Topic Heading 25, below.</p>	<p><i>Not covered directly, but see</i> § 14.16 (The Committee is of the view that the institutional shareholders:</p> <ul style="list-style-type: none"> ▪ Take active interest in the composition of the Board of Directors. ▪ Be vigilant. ▪ Maintain regular and systematic contact at senior level for exchange of views on management, strategy, performance and the quality of management. ▪ Ensure that voting intentions are translated into practice. ▪ Evaluate the corporate governance performance of the company.)

Indonesia	Italy	Japan	Republic of Korea	Mexico
15. Evaluating Board Performance				
<p><i>Supervisory and Management Boards</i> At a GMOS [AGM], the shareholders shall adopt a system for the evaluation of [the] performance [of the members of the Dewan Komisaris and the Direksi of the Company]. (§ I, Principle 1.5(b) & (c))</p> <p>[The Nomination Committee may] formulate a system of assessments.... (§ II, 2.9.1)</p>	<p>[D]irectors' independence shall be periodically assessed by the Board of Directors. The results of the assessments of the board shall be communicated to the market. (Code, 3.P.2)</p> <p>The importance of the responsibilities and tasks of directors led the Committee to call on them to make a conscientious self-assessment of their ability to devote sufficient care and attention to the duties of the office. (Report, 5.1)</p> <p><i>See Topic Heading 16, below.</i></p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p><i>See TSX Principles Appendix, Flow Charts (the Board of Directors is charged with supervision of the performance of the duties of directors.)</i></p> <p>[In a (Board of Directors) Committees System,] the corporate governance committee should evaluate and report annually to the board of directors ... whether the ... board of directors [and] Committees ... are acting in accordance with the ideals set out in the corporate governance guidelines prescribed by the board of directors. (Explanation of CGFJ Principle 7)</p>	<p>To promote active performance of duties by management, outside directors and the Board, their activities shall undergo fair evaluation.... (§ II.9)</p> <p>The activities of an outside director should be evaluated fairly, with remuneration being commensurate to the evaluation results. (§ II.9.2)</p> <p>Activities of the Board shall be evaluated fairly.... (§ II.9.3)</p>	<p><i>Not covered.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
15. Evaluating Board Performance				
<p><u>1. In a Two-Tier Board Structure</u></p> <p><u>a. Supervisory Board</u></p> <p>The chairman of the supervisory board ... initiates the evaluation of ... the supervisory board and the management board.... (Principle III.4)</p> <p>The supervisory board shall discuss at least once a year ... its own functioning and that of its individual members, and the conclusions that must be drawn.... (Best Practice Provision III.1.7)</p> <p>The supervisory board shall conduct an annual review to identify any aspects with regard to which the supervisory board members require further training or education.... (Best Practice Provision III.3.3)</p> <p>The selection and appointment committee shall ... periodically assess[] the functioning of individual supervisory board members and management board members, and report[] on this to the supervisory board.... (Best Practice Provision III.5.13(c))</p> <p><u>b. Management Board</u></p> <p>[T]he supervisory board shall discuss at least once a year without the management board being present both the functioning of the management board as an organ of the company and the performance of its individual members, and the conclusions that must be drawn.... Reference to these discussions shall be made in the report of the supervisory board. (Best Practice Provision III.1.7)</p> <p><i>See Best Practice Provision III.1.6 (supervision of the management board by the supervisory board).</i></p> <p><u>2. In a One-Tier Board Structure</u></p> <p>The chairman of the ... board shall check the proper composition and functioning of the entire board. (Best Practice Provision III.8.2)</p>	<p><u>Board of Directors</u></p> <p><i>Not covered directly, but see Ch. 3, § 5.1.3 (It is recommended that the annual report of the company reflect the results of the evaluation of the performance of the board of directors....).</i></p> <p><u>Management Board</u></p> <p><i>Not covered.</i></p>	<p>The board, through its nomination committee or similar board committee, should regularly review its required mix of skills and experience and other qualities such as its demographics and diversity in order to assess the effectiveness of the board. This should be by means of a self-evaluation of the board as a whole, its committees and the contribution of each individual director. (§ 2.8.1)</p> <p>The evaluations in § 2.8.1 should be conducted at least annually. (§ 2.8.2)</p> <p>The board should appraise performance of the chairperson on an annual or such other basis as the board may determine. If the roles of chairperson and chief executive officer are combined, then the independent deputy chairperson should play a leading part in the evaluation process. (§ 2.3.5)</p> <p>Board committees should be subject to regular evaluation by the board to ascertain their performance and effectiveness (see § 2.8.1). (§ 2.7.10)</p> <p>[The board] charter should confirm the board's responsibility for ... director ... evaluation. (§ 2.1.17)</p>	<p>The Board must conduct an annual performance evaluation of its own actions as a collegiate body, in a formal and exacting manner, and also of its Committees and its Directors, with regard to which it should have the freedom to hire external advice from independent experts when deemed necessary. (§ 1.6)</p> <p><i>See § 1.2 (The Nonexecutive Chairman ... shall organize the evaluations of the Board....).</i></p>	<p>The board is to ensure that there is an annual evaluation of its work and that this evaluation employs a systematic and structured process. (§ III, Rule 3.1.2)</p> <p>[T]he chair is to ... see that the work of the board is evaluated annually and that the nomination committee is informed of the result of the evaluation. (§ III, Rule 3.4.4)</p> <p><i>See § III, Rule 3.5.1 (The board's statutory instructions in the form of its formal work plan, instruction to the managing director and reporting instruction are to be tailored to the company's circumstances and are to be so clear, detailed and functional that they can serve as guiding documents for the board's work. At least once a year, the board is to review the relevance and currency of these instructions.).</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
15. Evaluating Board Performance				
<p><u>Board of Directors</u> The Board of Directors should discuss annually its own and its members' performance. (Code ¶ 14)</p> <p><u>Management Board</u> <i>Not covered directly, but see Code ¶ 10.4 (Swiss company law lays down the inalienable and nontransferable primary functions of the Board of Directors. The primary functions [include] appointment and removal of persons entrusted with the management and representation of the company....).</i></p>	<p><i>Not covered.</i></p>	<p>The board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors. (Main Principle A.6)</p> <p>Individual evaluation should aim to show whether each director continues to contribute effectively and to demonstrate commitment to the role.... The chairman should act on the results of the performance evaluation by recognizing the strengths and addressing the weaknesses of the board and, where appropriate, proposing new members be appointed to the board or seeking the resignation of directors. (Supporting Principle A.6)</p> <p>The board should state in the annual report how performance evaluation of the board, its committees and its individual directors has been conducted. The non-executive directors, led by the senior independent director, should be responsible for performance evaluation of the chairman, taking into account the views of executive directors. (Provision A.6.1)</p> <p>The chairman should confirm to shareholders when proposing re-election that, following formal performance evaluation, the individual's performance continues to be effective and to demonstrate commitment to the role. (Provision A.7.2)</p> <p><i>See Provision A.1.3 (Led by the senior independent director, the nonexecutive directors should meet without the chairman present at least annually to appraise the chairman's performance....).</i></p> <p><i>See Appendix – Related Guidance and Good Practice Suggestions: Suggestions for Good Practice from the Higgs Report (Performance Evaluation Guidance), pp. 77-79.</i></p>	<p>There are three separate aspects to effective evaluation at the board level, each of which constitutes a critical component of board professionalism and effectiveness: CEO evaluation, board evaluation, and individual director evaluation. All three of these evaluations should be assessed vis-à-vis pre-established criteria to provide the CEO, the board as a whole, and each director with critical information pertaining to their collective and individual performance and areas that can be improved.</p> <ul style="list-style-type: none"> ▪ Boards should regularly and formally evaluate the CEO, the board as a whole, and individual directors; ▪ Boards should ensure that independent directors create and control the methods and criteria for evaluating the CEO, the board, and individual directors. <p>Such an evaluation practice will enable boards to identify and address problems before they reach crisis proportions. (p. 7)</p> <p><i>See Ch. 4, Evaluation: How Boards and Directors Should Be Judged, pp. 17-20; and Summary and Conclusion, p. 22</i></p> <p><i>See also Appendix D1, Board Evaluation Practicalities: Creating a Board Self-Assessment Methodology; and Appendix D2, Sample Evaluation Forms.</i></p> <p><i>See also REPORT OF THE NACD BLUE RIBBON COMMISSION ON PERFORMANCE EVALUATION OF CHIEF EXECUTIVE OFFICERS, BOARDS, AND DIRECTORS (1994).</i></p>	<p>The board should have an effective mechanism for evaluating performance on a continuing basis. Meaningful board evaluation requires an assessment of the effectiveness of the full board, the operations of board committees and the contributions of individual directors....</p> <ul style="list-style-type: none"> ▪ [T]he performance of the full board should be evaluated annually, as should the performance of its committees. The board should use the annual self-evaluation to assess whether it is following the procedures necessary to function effectively. Each board committee should conduct an annual self-evaluation to assess its effectiveness, and the results of this evaluation should be reported to the full board. ▪ The board should have a process for evaluating whether the individuals sitting on the board bring the skills and expertise appropriate for the corporation and how they work as a group. Board positions should not be regarded as permanent. Directors should serve only so long as they add value to the board, and a director's ability to continue to contribute to the board should be examined by the corporate governance committee each time the director is considered for renomination. (pp. 28-29) <p><i>See generally Board and Committee Evaluation, pp. 28-29.</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
16. Board Interaction/Communication with Shareholders, Press, Customers, etc.				
<p>The exercise of ownership rights by all shareholders, including institutional investors, should be facilitated. (Principle II.F)</p> <p>The corporate governance framework should be complemented by an effective approach that addresses and promotes the provision of analysis or advice by analysts, brokers, rating agencies and others, that is relevant to decisions by investors, free from material conflicts of interest that might compromise the integrity of their analysis or advice. (Principle V.F)</p> <p><i>See</i> Principle II.G (Shareholders, including institutional shareholders, should be allowed to consult with each other on issues concerning their basic shareholder rights as defined in the Principles, subject to exceptions to prevent abuse.).</p> <p><i>See also</i> Topic Heading 28, <i>below</i>.</p>	<p>Respect the rights of shareholders and facilitate the effective exercise of those rights. (Principle 6)</p> <p>This means that a company should empower its shareholders by:</p> <ul style="list-style-type: none"> ▪ communicating effectively with them; ▪ giving them ready access to balanced and understandable information about the company and corporate proposals; [and] ▪ making it easy for them to participate in general meetings. <p>(Commentary on Principle 6)</p> <p>Design and disclose a communications strategy to promote effective communication with shareholders and encourage effective participation at general meetings. (Recommendation 6.1)</p> <p>Companies may wish to consider allowing beneficial owners to choose to receive shareholder materials directly; for example, by electronic means. (Commentary on Recommendation 6.1)</p> <p><i>See also</i> Topic Heading 28, <i>below</i>.</p>	<p>The company should enter into a dialogue with shareholders based on the mutual understanding of objectives and concerns. (Guideline 8.1)</p> <p>The shareholders' meeting should be used to communicate with shareholders and to encourage their participation. (Provision 8.6)</p> <p>Given the reliance on market monitoring to enforce the flexible "comply or explain" approach of the Code, the board should encourage investors, and in particular institutional investors, to play an important role in carefully evaluating a company's corporate governance. The board should endeavour to have institutional and other investors give weight to all relevant factors drawn to their attention. (Provision 8.13)</p> <p>The chairman should ask institutional investors' explanations on their voting behaviours. (Guideline 8.13)</p> <p>The board should endeavour to have investors carefully consider explanations given for departure from this Code and have them be able to make reasoned judgements in each case. The board should engage in a dialogue with investors if those investors do not accept the company's position, bearing in mind in particular the company's size and complexity and the nature of the risks and challenges it faces. (Provision 8.14)</p> <p><i>See</i> Guideline 6.6 (The powers to represent the company ... shall be clearly defined....).</p> <p><i>See also</i> Topic Heading 28, <i>below</i>.</p>	<p>The Board of Directors should appoint just one person in charge of speaking on behalf of the corporation, to avoid any risk of contradictions between the Chairperson and the CEO. The Investor Relations Officer has powers delegated by the corporate spokesperson. (IBGC Code ¶ 2.24)</p> <p>The decisions of the Board of Directors should be strictly confidential. There should be no privileged information for any owner. (IBGC Code ¶ 2.39)</p> <p>The CEO should make pertinent information accessible to all the parties concerned, as soon as available, in addition to information that is mandatory by law or regulation, with substance prevailing over form. (IBGC Code ¶ 3.4)</p> <p><i>See also</i> Topic Heading 28, <i>below</i>.</p>	<p>We heard from many institutional shareholders of their desire to better understand the business of the corporations in which they have invested in order to improve the quality of their investment decisionmaking. We also heard from a number of CEOs that they also want to be able to treat significant shareholders more like "partners".... The objectives of the investors and CEOs appear to be quite compatible. We encourage this relationship provided two issues are properly addressed.... [T]he first issue ... is to ensure that the information will not be misused.... Second, the same opportunity should be available to all shareholders.... Dey Report, §§ 7.6-7.8)</p> <p><i>See</i> Dey Report, Guideline 1(iv) (The board of directors of every corporation should explicitly assume responsibility for the stewardship of the corporation and, as part of the overall stewardship responsibility, should assume responsibility for ... a communications policy for the corporation.).</p> <p><i>See also</i> Saucier Report, Appendix B, A Position Description For the "Independent Board Leader," p. 45 (At the request of the board, and with the agreement of the CEO, the independent board leader could represent the corporation to external groups such as shareholders and other stakeholders....).</p> <p><i>See generally</i> Dey Report, Shareholder/Corporation Lines of Communication, §§ 7.4-7.11.</p> <p><i>See also</i> Topic Heading 28, <i>below</i>.</p>

China	Denmark	France	Germany	India
16. Board Interaction/Communication with Shareholders, Press, Customers, etc.				
<p><i>Not covered directly, but see Topic Heading 28, below.</i></p>	<p>[I]t is necessary to provide shareholders, including potential shareholders, and other stakeholders with information about the company. Understanding and relating to the company depends on the amount of information and the quality of information published or provided by the company. Openness and transparency are essential conditions for ensuring that the company’s shareholders and other stakeholders are able to regularly evaluate and relate to the company and its prospects and so to contribute to constructive interaction with the company. (Principle III)</p> <p>The Committee recommends that the supervisory board adopt an information and communication policy. (Recommendation III.1)</p> <p>The Committee recommends that the supervisory board lay the groundwork for an ongoing dialogue between the company and the company’s shareholders and potential shareholders. (Recommendation III.2)</p> <p>Such dialogue can take place in the following ways:</p> <ul style="list-style-type: none"> ▪ Holding investor meetings. ▪ Evaluating on an ongoing basis whether information technology can be used for improving investor relations, including using part of the company’s website to deal with corporate governance-related issues. ▪ Making all investor presentations accessible on the Internet at the same time as they are made. <p>(Commentary on Recommendation II.2)</p> <p><i>See Topic Heading 28, below.</i></p>	<p>It is up to each Board of Directors to define its communication policy, in particular as regards the frequency of publication of results (quarterly statements or not). (§ 2.1.1)</p> <p>Each corporation should have a very rigorous policy for communications with analysts and the market. Certain practices of “selective disclosure”, intended to assist analysts with their forecasts of results, should be dropped. The normal method for communication is a press release, which makes the same information available to all at the same time. (§ 2.1.2)</p> <p><i>See Topic Heading 28, below.</i></p>	<p>The company shall inform all domestic and foreign shareholders, shareholders’ associations and financial services providers who, in the preceding twelve months, have requested such notification, of the convening of the General Meeting together with the convention documents, upon request, also using electronic channels. (§ 2.3.2)</p> <p>The company’s treatment of all shareholders in respect to information shall be equal. All new facts made known to financial analysts and similar addressees shall also be disclosed to the shareholders by the company without delay. (§ 6.3)</p> <p>The company shall use suitable communications media, such as the Internet, to inform shareholders and investors in a prompt and uniform manner. (§ 6.4)</p> <p>Any information which the company discloses abroad, in line with corresponding capital market law provisions, shall also be disclosed domestically without delay. (§ 6.5)</p> <p><i>See Topic Heading 28, below.</i></p>	<p><i>Not covered directly, but see § 14.16</i> (The Committee is of the view that the institutional shareholders:</p> <ul style="list-style-type: none"> ▪ Take active interest in the composition of the Board of Directors. ▪ Be vigilant. ▪ Maintain regular and systematic contact at senior level for exchange of views on management, strategy, performance and the quality of management. ▪ Ensure that voting intentions are translated into practice. ▪ Evaluate the corporate governance performance of the company.). <p><i>See Topic Heading 28, below.</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
16. Board Interaction/Communication with Shareholders, Press, Customers, etc.				
<p>[C]ompanies shall take the initiative to disclose not only matters required under the regulations having the force of law, but also those of material importance to the decisionmaking of institutional investors, shareholders, creditors and other stakeholders with respect to such matters.... (§ VII, Principle 7.2)</p> <p><i>See Topic Heading 28, below.</i></p>	<p>The Board of Directors shall endeavour to develop a continuing dialogue with the shareholders based on the understanding of their reciprocal roles. (Code, 11.P.1)</p> <p>The Board of Directors shall ensure that a person is identified as responsible for handling the relationships with the shareholders.... (Code, 11.C.2)</p> <p>[I]t is in the best interest of the general-ity of shareholders to know the personal traits and professional qualifications of candidates ... sufficiently in advance for them to be able to exercise their votes in an informed manner, especially in the case of institutional investors, which are often represented in shareholders' meetings by proxies. (Comment on Code Article 6)</p> <p>The Committee believes that it is in the interest of listed companies to establish a continuous dialogue with the general-ity of shareholders and, in particular, with institutional investors.... [T]his dialogue can be fostered by ... an <u>ad hoc</u> corporate structure for this function, although, especially in smaller companies, it can be performed directly by members of the company's govern-ing bodies. The Committee ... hopes that recognition by [institutional investors] of the importance of the rules of Corporate Governance contained in this Code may help to promote a more whole-hearted and widespread applica-tion of its principles by listed compa-nies. (Report, 5.5)</p> <p><i>See Report, 6 (The task of verifying the suitability of the choices made and the extent of the Code's application, is ... reserved to shareholders' meetings and encounters with institutional inves-tors.).</i></p> <p><i>See also Topic Heading 27, below.</i></p>	<p>[I]t is imperative for the executive managers, on a regular basis, to strive to communicate with the shareholders, investors and other people related [to] the market, and to endeavor to create and maintain a relationship of trust. This is called investor relations. (CGFJ Principles, Foreword ¶ 13)</p> <p>[I]t is desirable for the CEO to create ... internal information management rules which appoint a person to be responsible for information manage-ment. (CGFJ Principles, Explanation of Principle 12)</p> <p><i>See Topic Heading 28, below.</i></p>	<p>[T]he corporation shall not show partiality to certain shareholders by providing undisclosed information. (§ I.2.2)</p> <p><i>See Recommendation 5 (Institutional investors that manage trust assets shall actively exercise their shareholder rights and monitor corporate manage-ment.).</i></p> <p><i>See also Topic Heading 28, below.</i></p>	<p>Every company should have policies, mechanisms and designated personnel responsible for reporting to investors in order to keep the lines of communica-tion open with stockholders and potential investors. (Principle at V.2)</p> <p><i>See Recommendation at V.2 (The pre- vailing lack of stockholder participa-tion in stockholders' meetings, and the meetings' limitations as a forum of communication between the company and its investors, reveal the need for additional efforts to create other means of communication that allow investors and the general public to obtain the information they need on the com-pany.).</i></p> <p><i>See also Topic Heading 28, below.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
16. Board Interaction/Communication with Shareholders, Press, Customers, etc.				
<p>[C]ontacts between the management board on the one hand and press and analysts on the other shall be carefully handled and structured, and the company shall not engage in any acts that compromise the independence of analysts in relation to the company and vice versa. (Principle IV.3)</p> <p>Institutional investors shall be prepared to enter into a dialogue with the company if they do not accept the company's explanation of nonapplication of a best practice provision of this code. The guiding principle in this connection is the recognition that corporate governance requires a tailor-made approach and that it is perfectly possible for a company to justify instances of nonapplication of individual provisions. (Principle IV.4)</p> <p>Meetings with analysts, presentations to analysts, presentations to investors and institutional investors and press conferences shall be announced in advance on the company's website and by means of press releases. Provision shall be made for all shareholders to follow these meetings and presentations in real time, for example, by means of webcasting or telephone.... After the meetings, the presentations shall be posted on the company's website. (Best Practice Provision IV.3.1)</p> <p><i>See generally Best Practice Provisions IV.3.2 – IV.3.8 (guidelines for release of information related to analysts, shareholders, the press, the public, etc.).</i></p> <p><i>See also Topic Heading 28, below.</i></p>	<p><i>Not covered directly, but the Code applies primarily to joint stock companies that are seeking access to capital markets.</i></p> <p><i>See also Topic Heading 28, below.</i></p>	<p>Companies should be ready, where practicable, to enter into dialogue with institutional investors based on constructive engagement and the mutual understanding of objectives. This should take due regard of statutory, regulatory and other directives regulating the dissemination of information by companies and their directors and officers. (§ 7.1)</p> <p><i>See Topic Heading 28, below.</i></p>	<p>The shareholders' right to information is an essential principle underlying the philosophy of Corporate Governance. The Board as a whole is responsible for ensuring its adequate operation and the establishment of a successful dialogue with shareholders. Stable, adequate and regular information channels between the Company and investors must be in place...</p> <p>The Board must ensure that a dialogue with institutional investors exists so that these may become familiar with and participate in corporate plans, objectives and achievements. The Board must be aware of such information and ensure that it is accurate and reliable (§ II.1)</p> <p><i>See Topic Heading 28, below.</i></p>	<p>[T]he chair is to ... be receptive to owners' views and communicate these views to members of the board.... (§ III, Rule 3.4.4)</p> <p><i>See Topic Heading 28, below.</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
16. Board Interaction/Communication with Shareholders, Press, Customers, etc.				
<p>The Board of Directors should appoint a position for shareholders relations. In the dissemination of information, the statutory principle of equal treatment should be respected. (Code ¶ 8)</p> <p><i>See Topic Heading 28, below.</i></p>	<p><i>Not covered directly, but see Report § 6.11.1 (Institutional investors should encourage regular, systematic contact at senior executive level to exchange views and information on strategy, performance, board membership and quality of management.).</i></p> <p><i>See also Report §§ 6.1 - 6.16 (accountability of boards to shareholders).</i></p> <p><i>See also Topic Heading 28, below.</i></p>	<p>There should be a dialogue with shareholders based on the mutual understanding of objectives. The board as a whole has responsibility for ensuring that a satisfactory dialogue with shareholders takes place. (Main Principle D.1)</p> <p>Whilst recognising that most shareholder contact is with the chief executive and finance director, the chairman (and the senior independent director and other directors as appropriate) should maintain sufficient contact with major shareholders to understand their issues and concerns. (Supporting Principle D.1)</p> <p>The chairman should ensure that the views of shareholders are communicated to the board as a whole.... Non-executive directors should be offered the opportunity to attend meetings with major shareholders.... (Provision D.1.1)</p> <p><i>See Main Principle E.1 (Institutional shareholders should enter into a dialogue with companies based on the mutual understanding of objectives.).</i></p> <p><i>See also Main Principle E.2 (When evaluating companies' governance arrangements, particularly those relating to board structure and composition, institutional shareholders should give due weight to all relevant factors drawn to their attention.).</i></p> <p><i>See also Topic Heading 28, below.</i></p>	<p><i>Not covered.</i></p>	<p>[I]t is the responsibility of the board to respond appropriately to shareholders' concerns. (p. 3)</p> <p>Corporations have a responsibility to communicate effectively and candidly with shareholders. The goal of shareholder communications should be to help shareholders understand the business, risk profile, financial condition and operating performance of the corporation and the board's corporate governance practices.</p> <p>Corporations communicate with investors and other constituencies not only in proxy statements, annual and other reports, and formal shareholder meetings, but in many other ways as well. All of these communications should provide consistency, clarity and candor. Corporations should have effective procedures for shareholders to communicate with the board and for directors to respond to shareholder concerns. The board, or an independent committee such as the corporate governance committee, should establish, oversee and regularly review and update these procedures as appropriate....</p> <p>A corporation's procedures for shareholder communications and its governance practices should be readily available to shareholders....</p> <p>The board should be notified of shareholder proposals, and the board or its corporate governance committee should oversee the corporation's response to these proposals. (pp. 31-32)</p> <p><i>See Topic Heading 28, below.</i></p> <p><i>See also The Business Roundtable, GUIDELINES FOR SHAREHOLDER-DIRECTOR COMMUNICATIONS (May 2005).</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
17. Board Access to Senior Management				
<p>The contributions of nonexecutive board members to the company can be enhanced by providing access to certain key managers within the company such as, for example, the company secretary and the internal auditor.... (Annotation to Principle VI.F)</p>	<p><i>Not covered directly, but see Commentary on Recommendation 8.1 (Directors should be entitled to, and prepared to request, additional information where they consider that the information supplied by management is insufficient to support informed decisionmaking.).</i></p>	<p>The chairman should establish a close relationship with the CEO, providing support and advice, while fully respecting the executive responsibilities of the CEO. (Guideline 1.5)</p> <p>The chairman should promote effective interaction between the board and the executive management. (Guideline 2.4)</p>	<p>Key company personnel, technical assistants or advisors may occasionally be invited to meetings of the Board of Directors in order to provide information, explain their activities, or give their opinion on subjects of their area of specialty. (IBGC Code ¶ 2.14)</p> <p><i>See Commentary on CVM Recommendation IV.3 (Any member of the audit committee may request an individual meeting with management ... when necessary.).</i></p>	<p><i>Not covered.</i></p>

China	Denmark	France	Germany	India
17. Board Access to Senior Management				
<p><u>Board of Directors' Meetings</u> <i>Not covered.</i></p> <p><u>Supervisory Board Meetings</u> The supervisory board may ask directors, managers and other senior management personnel, internal auditing personnel and external auditing personnel to attend the meetings of the supervisory board and to answer the questions that the supervisory board is concerned with. (Ch. 4, (2) 67)</p>	<p><i>Not covered directly, but see Recommendation V.11 (The Committee recommends that the executive board and the supervisory board establish a procedure to assess the collaboration between the two boards at an annual meeting between the CEO and the chairman of the supervisory board and that the outcome of such assessment be presented to the entire supervisory board.)</i></p> <p><i>See also Commentary on Recommendation V.2 ([T]raining and updating of the [supervisory board] members' competence and expertise must be adjusted to the needs of the individual supervisory board member and must ensure that each of the members of the supervisory board is capable of taking part in a qualified dialogue with the executive board about the company's strategic development and prospects.)</i></p> <p><i>See also Appendix A (A supervisory board committee may invite or summon specific employees or experts to participate in its meetings.)</i></p>	<p>Directors should meet with the corporation's main managers, even outside the presence of corporate officers. In the latter case, these should be given prior notice. (¶ 11)</p> <p><i>See ¶ 13 (The committees of the Board may contact, for the carrying out of their duties, the main executives of the corporation, after informing the chairman of the Board of Directors and subject to reporting back to the Board on such contacts.)</i></p>	<p>The Management Board and Supervisory Board cooperate closely to the benefit of the enterprise. (§ 3.1)</p> <p>The Management Board coordinates the enterprise's strategic approach with the Supervisory Board and discusses the current state of strategy implementation with the Supervisory Board at regular intervals. (§ 3.2)</p> <p>Good corporate governance requires an open discussion between the Management Board and Supervisory Board as well as among the members within the Management Board and the Supervisory Board. The comprehensive observance of confidentiality is of paramount importance for this. (§ 3.5)</p> <p>The Chairman of the Supervisory Board shall regularly maintain contact with the Management Board, in particular, with the Chairman or Spokesman of the Management Board and consult with him on strategy, business development and risk management of the enterprise. The Chairman of the Supervisory Board will be informed by the Chairman or Spokesman of the Management Board without delay of important events which are essential for the assessment of the situation and development as well as for the management of the enterprise. The Chairman of the Supervisory Board shall then inform the Supervisory Board.... (§ 5.2)</p>	<p><i>Not covered directly, but see § 9.6 (The committee ... recommends that ... the audit committee should invite such of the executives as it considers appropriate (and particularly the head of the finance function) to be present at the meetings of the Committee.... Finance director and head of internal audit and when required, a representative of the external auditor should be present as invitees for the meetings of the audit committee....)</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
17. Board Access to Senior Management				
<p><i>Not covered.</i></p>	<p>The Board of Directors may request of the managing directors that executives of the issuer or the group participate in the meetings of the board, in order to supply the appropriate supplemental information on the items of the agenda. (Comment on Code Article 1)</p> <p><i>See</i> the Code, 8.P.4 ([T]he Board of Directors shall establish an internal control committee, made up of non-executive directors...).</p> <p><i>See also</i> Code, 8.C.3 (The chairman of the Board of Auditors or another auditor designated by the chairman of the board shall participate in the works for the internal control.).</p>	<p><i>Not covered directly, but see</i> Explanation of Principle 8 (It is preferable for executives, as members of the board of directors, to attend meetings of the board of directors in order to ensure that the strategic decisionmaking of the company is being duly carried out, and also demonstrate that management is being performed properly. For this reason, several people are recognized as performing dual roles as directors and executives.).</p>	<p>The outside director may receive support from executives ... through due process when necessary, for which the corporation shall cover any reasonable expense. (§ II.4.4)</p> <p>Outside directors and the management shall make every effort to provide opportunities for regular discussions on matters concerning management. Through regular contact with the management, outside directors will be better able to manage the Board by clearly grasping the managerial situation; the management, on the other hand, will be able to gain the understanding and cooperation of outside directors concerning corporate management. (§ II.4.5)</p>	<p><i>Not covered for the Board as a whole, but see</i> Principle at 8 (The Chairman of each [committee] may invite company executives whose duties correspond to the [committee's] area of concern to attend meetings.).</p>

The Netherlands	Russia	South Africa	Spain	Sweden
17. Board Access to Senior Management				
<p>The management board shall ... discuss the internal risk management and control systems with the supervisory board and its audit committee. (Principle II.1)</p> <p>The external auditor shall ... attend the meeting of the supervisory board, at which the annual accounts are to be adopted or approved. The external auditor shall report his findings in relation to the audit of the annual accounts to the management board and the supervisory board simultaneously. (Principle V.4)</p> <p>The supervisory board may require that certain officers and external advisers attend its meetings. (Best Practice Provision III.1.9)</p> <p>The chairman of the supervisory board shall see to it that ... the supervisory board has proper contact with the management board.... (Best Practice Provision III.4.1)</p> <p>The external auditor shall report his findings in relation to the audit of the annual accounts to the management board and the supervisory board simultaneously. (Principle V.4)</p> <p><i>See Best Practice Provision III.5.8 (The audit committee shall decide whether and, if so, when the chairman of the management board (chief executive officer), the chief financial officer, the external auditor and the internal auditor, should attend its meetings.).</i></p> <p><i>See generally Best Practices V.4.1 – V.4.3 (supervisory and management board interaction with the external auditor).</i></p>	<p>[I]t is very important that the directors ... have [access] to request information from members of executive bodies and officers of the company, and receive full and accurate answers. (Ch. 3, § 4.6)</p>	<p>Nonexecutive directors should have access to management and may even meet separately with management, without the attendance of executive directors. This should, however, be agreed collectively by the board, usually facilitated by the nonexecutive chairperson or lead independent non-executive director. (§ 2.6.3)</p>	<p>Directors must have access to the senior officers of the company. When there is a Senior Independent Director/Lead Director, such access may be channelled through him/her. The Senior Independent Director/Lead Director may ask senior officers to provide information for the Board meetings. (§ I.3)</p> <p><i>See § I.11 (The Audit Committee may, when necessary, request the attendance of Executive Directors, the Chief Executive Officer or any key employee of the Company.).</i></p>	<p>[T]he chair is to ... keep in regular contact with the company's managing director and function as a discussion partner and support for the managing director.... (§ III, Rule 3.4.4)</p> <p><i>See § III, 4.1 Commentary (Whether or not the managing director is a member of the board, he or she has a special role in the work of the board. As part of this role, the managing director reports to the board on the company's progress, submits reports and recommendations on matters prepared by company management and provides the board with information on which it bases its work.).</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
17. Board Access to Senior Management				
<p>As a rule, persons responsible for a particular business should be present at the [Board of Directors'] meeting. Anyone who is indispensable for answering questions in greater depth should be available. (Code ¶ 15)</p>	<p><i>Not covered.</i></p>	<p><i>Not covered directly, but see</i> Supporting Principle A.3 (No one other than the committee chairman and members is entitled to be present at a meeting of the nomination, audit or remuneration committee, but others may attend at the invitation of the committee.).</p>	<p><i>Not covered directly, but see</i> p. 3 ([T]he board should act as a resource for management in matters of planning and policy. To ensure effective decisionmaking ... board members must not only act as advisors, question-askers and problemsolvers, but also as active participants and decisionmakers in fostering the overall success of the company.).</p>	<p>Board members should have full access to senior management. (p. 26)</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
18. Board Meetings & Agenda				
<p><i>Not covered directly, but see Annotation to Principle VI.B (In carrying out its duties, the board should not be viewed, or act, as an assembly of individual representatives for various constituencies. While specific board members may indeed be nominated or elected by certain shareholders (and sometimes contested by others), it is an important feature of the board’s work that board members, when they assume their responsibilities, carry out their duties in an even-handed manner with respect to all shareholders. This principle is particularly important to establish in the presence of controlling shareholders that <u>de facto</u> may be able to select all board members.).</i></p> <p><i>See also Topic Headings 2a, above, and 22, below.</i></p>	<p>The chairperson is responsible for leadership of the board, for the efficient organisation and conduct of the board’s function, and for the briefing of all directors in relation to issues arising at board meetings. It is important that the chairperson facilitate the effective contribution of all directors and promote constructive and respectful relations between board members and between board and management. (Commentary on Recommendation 2.2)</p> <p>The company secretary plays an important role in supporting the effectiveness of the board by monitoring that board policy and procedures are followed, and coordinating the completion and dispatch of board agenda and briefing materials. The company secretary should be accountable to the board, through the chairperson, on all governance matters. (Commentary on Recommendation 8.1)</p>	<p>The chairman sets the agenda of the board meetings, after consultation with the CEO, and ensures that procedures relating to preparatory work, deliberations, passing of resolutions and implementation of decisions are properly followed. The minutes of the meeting should sum up the discussions, specify any decisions taken and state any reservations voiced by directors. (Provision 2.5)</p> <p>The agenda should list the topics to be discussed and specify whether they are for information, for deliberation or for decisionmaking purposes. (Guideline 2.5)</p> <p>The board should meet sufficiently regularly to discharge its duties effectively. (Guideline 2.7)</p> <p>The board should appoint a company secretary reporting to the board on how board procedures, rules and regulations are followed and complied with. Where necessary, the company secretary should be assisted by the company lawyer. Individual directors should have access to the company secretary. (Provision 2.8)</p>	<p><u><i>Board of Directors’ Meetings</i></u></p> <p>The board should adopt its own by-laws about its duties and how often, at a minimum, it should meet. (CVM Recommendation II.2)</p> <p>It is ... the duty of the Chairperson to preside over meetings, harmonizing Board activities with the interests of the company and its owners, organize and coordinate the agenda, coordinate and supervise the activities of the other Directors, assign responsibilities and deadlines, monitor the assessment process of the Board and lead it in accordance with good corporate governance principles. (IBGC Code ¶ 2.6)</p> <p>The Chairperson shall be in charge of proposing an annual calendar of regular meetings and convening special meetings whenever necessary. Board meeting frequency should be determined by each company’s needs. (IBGC Code ¶ 2.30)</p> <p><u><i>Fiscal/Advisory Board Meetings</i></u></p> <p>The fiscal board should adopt by-laws covering its duties, with a focus on analyzing the relationship with the auditor. (CVM Recommendation IV.2)</p> <p>[B]ylaws should stipulate the frequency of [fiscal] board meetings, the method for calling such meetings, that meeting materials be provided in advance, rights and duties of board members, relationship with management and auditors, and procedures to request information. The fiscal board should also meet when requested by representatives of the minority shareholders, if such a request is deemed to be well grounded. (Commentary on CVM Recommendation IV.2)</p>	<p>The [board] chair will ... have responsibility for setting the agenda for directors’ meetings.... If the chair is also the CEO, the board should have in place a procedure to ensure that its agenda items are placed on the agenda. For example, the chair may be required to review the agenda of each meeting with the chair of the governance committee prior to settling the agenda. (Dey Report, § 6.27)</p> <p>The “independent board leader” should be responsible for:</p> <ul style="list-style-type: none"> ▪ setting the agenda of the board, in consultation with the CEO; ▪ adopting procedures to ensure that the board can conduct its work effectively and efficiently, including committee structure and composition, scheduling, and management of meetings; and ▪ ensuring that, where functions are delegated to appropriate committees, the functions are carried out and results reported to the board. <p>(Saucier Report, Appendix B, p. 45)</p> <p><i>See Saucier Report, Appendix B, p. 45 (The independent board leader must work to ensure that relationships between the board and management are conducted in a professional and constructive manner. This involves working closely with the CEO to ensure that the conduct of board meetings provides adequate time for serious discussion of relevant issues and that the corporation is building a healthy governance culture.).</i></p> <p><i>See also Dey Report, § 6.15 (The chair, or the committee or other director assigned this responsibility, is responsible for managing the processes of the board and for ensuring that the board discharges the responsibilities we have previously defined for it.).</i></p>

China	Denmark	France	Germany	India
18. Board Meetings & Agenda				
<p>Directors shall attend the board of directors meetings in a diligent and responsible manner, and shall express their clear opinion on the topics discussed. When unable to attend a board of directors meeting, a director may authorize another director in writing to vote on his behalf.... (Ch. 3, (2) 35)</p> <p>The board of directors shall meet periodically and shall convene interim meetings in a timely manner when necessary. Each board of directors' meeting shall have a predetermined agenda. (Ch. 3, (4) 45)</p> <p>The meetings of the board of directors of a listed company shall be conducted in strict compliance with prescribed procedures. The board of directors shall send notice to all directors in advance, at the stipulated time.... (Ch. 3, (4) 46)</p> <p>The minutes of the board of directors' meetings shall be complete and accurate. (Ch. 3, (4) 47)</p> <p><u>Supervisory Board Meetings</u></p> <p>A listed company shall formulate in its articles of association standardized rules and procedures governing the steering of the supervisory board. The supervisory board's meetings shall be convened in strict compliance with the rules and procedures. (Ch. 4, (2) 65)</p> <p>The supervisory board shall meet periodically and shall convene interim meetings in a timely manner when necessary. (Ch. 4, (2) 66)</p> <p>Minutes shall be drafted [and] signed by the supervisors that attended the meetings and the person who drafted the minutes. (Ch. 4, (2) 68)</p>	<p><u>Supervisory Board</u></p> <p>The Committee recommends that the supervisory board meet at regular intervals according to a predetermined meeting and work schedule or when meetings are deemed necessary or appropriate as required by the company and that the annual meeting frequency be published in the annual report. (Recommendation V.6)</p> <p>See Recommendation IV.2 (The Committee recommends that the chairman ensure that the special knowledge and competence of each individual member of the supervisory board are used in the best possible manner in the supervisory board's work, to the benefit of the company.).</p> <p><u>Management Board</u></p> <p>Not covered.</p>	<p>The frequency and duration of meetings of the Board of Directors should be such that they allow in-depth review and discussion of the matters subject to the board's authority. The same applies for meetings of the Board's committees.... (¶ 10.2)</p> <p>Proceedings should be unambiguous. The minutes of the meeting should summarise the discussion and specify the decisions made. They are of particular importance since they provide, if necessary, a record of what the Board has done in order to carry out its duties. Without being unnecessarily detailed, they should mention briefly questions raised or reservations stated. (¶ 10.3)</p>	<p><u>Supervisory Board Meetings</u></p> <p>In Supervisory Boards with co-determination, representatives of the shareholders and of the employees should prepare the Supervisory Board meetings separately, possibly with members of the Management Board. (§ 3.6)</p> <p>The Chairman of the Supervisory Board coordinates work within the Supervisory Board, chairs its meetings and attends to the affairs of the Supervisory Board externally. (§ 5.2)</p> <p>The Supervisory Board can arrange for committees to prepare Supervisory Board meetings and to make decisions in place of the Supervisory Board. (§ 5.3.4)</p> <p><u>Management Board Meetings</u></p> <p>The Chairman of the Management Board coordinates the work of the Management Board. (Foreword)</p>	<p>The Committee ... recommends that board meetings should be held at least four times in a year, with a maximum time gap of four months between any two meetings. (§ 11.2)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
18. Board Meetings & Agenda				
<p><u>Supervisory Board Meetings</u> Meetings of the Dewan Komisaris shall be held regularly, <u>i.e.</u>, at least once every month in principle, depending on the specific characteristics of the Company. The Dewan Komisaris shall adopt procedures for Meetings of the Dewan Komisaris and shall clearly set out such procedures in the Minutes of the Meetings of the Dewan Komisaris and when such procedures were determined and decided. A member of the Dewan Komisaris can only be represented by another member of the Dewan Komisaris at a meeting of the Dewan Komisaris. (§ II, Principle 2.4)</p> <p>Minutes of the Meeting of the Dewan Komisaris shall be drawn up for each Meeting.... (§ II, 2.4)</p> <p><u>Management Board Meetings</u> The meetings of the Direksi shall be held periodically, ... in principle at least once every month, depending on the specific characteristics of the Company. (§ III, Principle 3.5)</p> <p>The Direksi shall adopt procedures for Meetings of the Direksi and shall clearly set out such procedures in the Minutes of the Meeting of the Direksi during which such procedures were determined and decided. Minutes of the Meetings of the Direksi shall be drawn up for each Meeting.... (§ III, 3.5)</p>	<p>Listed companies are governed by a Board of Directors that meets at regular intervals, and that adopts an organisation and a modus operandi which enable it to perform its functions in an effective, efficient manner. (Code, 1.P.1)</p> <p>The chairman of the Board of Directors shall use his/her best efforts in order to ensure that the material information and documents for enabling the board to [m]ake its decisions are made available to its members according to adequate procedures and timing. (Comment on Code Article 1)</p> <p>The Code ... notes that the guidance function [of the board of directors] requires regular and sufficiently frequent meetings.... (Report, 5.1)</p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p>[In the Corporate Auditors System,] corporate auditors must attend the meetings of the board of directors and express their opinions as the occasion demands. (TSX Principles, Appendix)</p> <p>[In the (Board of Directors) Committees System,] the role of the meeting of the Board of Directors is to determine objectives for the company that will enable the aims of the shareholders to be achieved. Under this stewardship, projects are undertaken and goals are realized. (CGFJ Principles, Foreword ¶ 2)</p>	<p>The Board shall be operated efficiently and rationally to allow the best course for management to be decided in the interests of the corporation and shareholders. (§ II.5)</p> <p>Board meetings shall, in principle, be held regularly, at least once every quarter. (§ II.5.1)</p> <p>To efficiently operate Board meetings, the Board Meeting Operating Regulation shall be drafted that specifically states the Board's rights and responsibilities, along with the steering procedures. (§ II.5.2)</p> <p>Outside directors shall ... collect and review sufficient information on the agenda up for decisionmaking and shall make every effort to make the best decision in the interests of the corporation. For this, the outside director shall allot sufficient time towards performing his duties, attending all Board meetings, and reviewing the material provided carefully. If the material proves insufficient, the outside director shall collect the necessary material himself and review it, <u>e.g.</u>, reading the account books or related documents. (Commentary on § II.4.3)</p> <p>The Board shall draft minutes or audio record proceedings of the meeting each time. (§ II.5.3)</p>	<p>The Board of Directors should meet at least four times a year. One of its meetings should be devoted to defining the company's medium- and long-term strategy. (Principle at I.4)</p> <p>A procedure should be in place under which a Board meeting can be called by agreement of at least 25% of its members. (Principle at I.4)</p> <p>The Board should meet frequently enough to ensure proper and continuous oversight of the company's affairs. (Recommendation at I.4)</p> <p>It is also important for companies to have mechanisms that guarantee openness within the Board, so that its functions do not depend on just one person. (Recommendation at I.4)</p> <p>The active participation and responsibility of the members of the Board of Directors makes the Board a stronger institution. To promote this, it is important that Board members are supplied with information in advance to give them the elements they need to fulfill their duties. (Recommendation at I.4)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
18. Board Meetings & Agenda				
<p><u>1. In a Two-Tier Board Structure</u></p> <p><u>a. Supervisory Board Meetings</u></p> <p>The chairman of the supervisory board determines the agenda, chairs the supervisory board meetings, monitors the proper functioning of the supervisory board and its committees, arranges for the adequate provision of information to the members, ensures that there is sufficient time for making decisions, arranges for the induction and training programme for the members, acts on behalf of the supervisory board as the main contact for the management board, initiates the evaluation of the functioning of the supervisory board and the management board and ensures, as chairman, the orderly and efficient conduct of the general meeting of shareholders. The chairman of the supervisory board is assisted in his role by the company secretary. (Principle III.4)</p> <p><u>b. Management Board Meetings</u></p> <p><i>Not covered directly, but see Topic Heading 19, below.</i></p> <p><u>2. In a One-Tier Board Structure</u></p> <p><i>Not covered directly, but see Preamble ¶ 10 (provisions regarding the chairman of the supervisory board, such as those set forth in Principle III.4 above, apply to the nonexecutive chairman of a single-tier board).</i></p>	<p><u>Board of Directors Meetings</u></p> <p>[M]eetings of the board of directors should be held ... in accordance with a specially drafted plan; and ... with personal attendance or by remote poll.... (Ch. 1, § 3.3)</p> <p>The chairman ... should form the agenda of meetings of the board [and] facilitate efficient resolution of the issues.... (Ch. 3, § 4.1.2)</p> <p>It is recommended that meetings ... be conducted ... generally at least once every six weeks.... (Ch. 3, § 4.2.1)</p> <p>It is recommended that the charter of the company provide for the right of shareholders to demand convocation of a meeting of the board of directors. (Ch. 3, § 4.13)</p> <p><i>See</i> Ch. 1, § 3.2(3) ([A] quorum ... should provide for the participation of nonexecutive and independent directors.).</p> <p><i>See generally</i> Ch. 3, § 4 (Operations of the Board of Directors).</p> <p><u>Management Board Meetings</u></p> <p>[M]eetings of the managerial board ... should be held at least once a week.... [A]ny member of the managerial board should be able to call extraordinary meetings of the managerial board and propose matters.... (Ch. 4, § 4.1.1)</p> <p>[I]t is advisable that the agenda of the meeting of the managerial board be furnished to each member of the managerial board concurrently with notice of the meeting. (Ch. 4, § 4.1.3)</p> <p><i>See generally</i> Ch. 4, § 4 (The Operation of Executive Bodies).</p>	<p>The board should meet regularly, at least once a quarter if not more frequently as circumstances require, and should disclose in the annual report the number of board and committee meetings held in the year and the details of attendance of each director (as applicable). (§ 2.6.1)</p> <p>The company secretary has an important role ... in assisting the chairperson and chief executive officer in determining the annual board plan and the administration of other issues of a strategic nature at the board level. (§ 2.10.4)</p>	<p>The Nonexecutive Chairman is responsible for convening and preparing the agenda of the Board meetings, will preside at the meetings ... and coordinate its functioning....</p> <p>In the event that the functions of Chairman and Managing Director are performed by the same person, or in the case of an Executive Chairman, a Senior Independent Director/Lead Director must be appointed from among the independent external Directors who will ... consult the Chairman when drafting the agenda for the meetings ... and stand in for the Chairman of the Board in the latter's absence. (§ I.2)</p> <p>The Secretary to the Board plays a key role in guaranteeing that the Board's rules of procedure are complied with and are regularly reviewed. (§ I.13)</p> <p><i>See</i> § I.5 (With regard to [Directors'] voting practices, the basic principle is that a Director should "not approve any matter which he does not understand or is not aware of, or with which he does not fully agree.").</p>	<p>The chair is to ensure that the work of the board is pursued effectively.... Specifically, the chair is to:</p> <ul style="list-style-type: none"> ▪ organise and lead the board's work, encourage an open and constructive discussion in the board in which all the directors participate...., ▪ ensure that the board regularly updates and improves its knowledge of the company and its operations...., ▪ be receptive to owners' views and communicate these views to members of the board, ▪ keep in regular contact with the company's managing director and function as a discussion partner and support for the managing director, ▪ see that the board in its work receives sufficient information and supporting data on which to base its decisions, ▪ after consulting with the managing director, draw up proposals for the board meeting's agenda, ▪ verify that the board's decisions are implemented efficiently, and ▪ see that the work of the board is evaluated annually and that the nomination committee is informed of the result of the evaluation <p style="padding-left: 20px;">(§ III, Rule 3.4.4)</p> <ul style="list-style-type: none"> ▪ The board is to be assisted by a board secretary who is not a member of the board. (§ III, Rule 3.5.4) <p>Whether or not the managing director is a member of the board, he or she has a special role in the work of the board. As part of this role, the managing director reports to the board on the company's progress, submits reports and recommendations on matters prepared by company management and provides the board with information on which it bases its work. (§ III, 4.1 Commentary)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
18. Board Meetings & Agenda				
<p><u>Board of Directors' Meetings</u></p> <p>The Board of Directors should determine the procedures appropriate to perform its function. [It] should, as a rule, meet at least four times a year according to the requirements of the company. The Chairman should ensure that deliberations are held at short notice whenever necessary. The Board of Directors should review regulations it has issued at regular intervals and amend them as required. (Code ¶ 14)</p> <p>The Chairman is responsible for the preparation and conduct of meetings; the providing of appropriate information is one of his core responsibilities. The Chairman is entrusted with conducting the Board of Directors in the company's interest. He should ensure that procedures relating to preparatory work, deliberation, passing resolutions and implementation of decisions are carried out properly.... As a rule, persons responsible for a particular business should be present at the meeting. Anyone who is indispensable for answering questions in greater depth should be available. (Code ¶ 15)</p> <p><u>Management Board Meetings</u></p> <p><i>Not covered.</i></p>	<p>The board should meet regularly. (Code § 1.1)</p> <p>The board should have a formal schedule of matters specifically reserved to it for decision to ensure that the direction and control of the company is firmly in its hands. (Code § 1.4)</p>	<p>The board should meet sufficiently regularly to discharge its duties effectively. There should be a formal schedule of matters specifically reserved for its decision. The annual report should include a statement of how the board operates, including a high level statement of which types of decisions are to be taken by the board and which are to be delegated to management. (Provision A.1.1)</p> <p>The chairman is responsible for leadership of the board, ensuring its effectiveness on all aspects of its role and setting its agenda.... The chairman should also facilitate the effective contribution of nonexecutive directors in particular and ensure constructive relations between executive and nonexecutive directors. (Supporting Principle A.2)</p>	<p>Board and committee meetings are the settings in which most of the directors' decisions are made. Therefore, developing the agenda for such meetings is a critical element in determining and reinforcing board independence and effectiveness.</p> <ul style="list-style-type: none"> ▪ Boards should ensure that members are actively involved with their CEO in setting the agendas for full board meetings. A designated director or directors should work with the CEO to create board agendas (incorporating other board members' input as provided).... ▪ For committee meetings, committee chairs should work with the CEO and committee members to create agendas (incorporating other board members' input as provided).... <p>(p. 6)</p>	<p>When arranging a meeting schedule for the board, each corporation should consider the nature and complexity of its operations and transactions, as well as its business and regulatory environment. (p. 25)</p> <p>The board's agenda must be carefully planned, yet flexible enough to accommodate emergencies and unexpected developments. The chairman of the board should work with the lead director (when the corporation has one) in setting the agenda and should be responsive to individual directors' requests to add items to the agenda, and open to suggestions for improving the agenda. It is important that the agenda and meeting schedule permit adequate time for discussion and a healthy give-and-take between board members and management. Board agendas should be structured to allow time for open discussion. (p. 26)</p> <p><i>See pp. 10-11 (The CEO and senior management generally take the lead in strategic planning. They identify and develop strategic plans for the corporation; present those plans to the board; [and] implement the plans once board review is completed....</i></p> <p><i>With the corporation's overall strategic plans in mind, senior management develops annual operating plans and annual budgets for the corporation and presents the plans and budgets to the board. Once the board has reviewed and approved [them], the management team implements [them].).</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
19. Board Information Flow, Materials & Presentations				
<p>In order to fulfill their responsibilities, board members should have access to accurate, relevant and timely information. (Principle VI.F)</p> <p>Board members require relevant information on a timely basis in order to support their decisionmaking. Non-executive board members do not typically have the same access to information as key managers within the company. The contributions of nonexecutive board members to the company can be enhanced by providing access to certain key managers within the company such as, for example, the company secretary and the internal auditor, and recourse to independent external advice at the expense of the company. In order to fulfill their responsibilities, board members should ensure that they obtain accurate, relevant and timely information. (Annotation to Principle VI.F)</p> <p>See Principle IV.D (Where stakeholders participate in the corporate governance process, they should have access to relevant, sufficient and reliable information on a timely and regular basis.).</p>	<p>[D]irectors and key executives should be equipped with the knowledge and information they need to discharge their responsibilities effectively.... (Commentary on Principle 8)</p> <p>The board should be provided with the information it needs to efficiently discharge its responsibilities. In particular it is important that:</p> <ul style="list-style-type: none"> ▪ there be a procedure agreed by the board for directors to take independent professional advice if necessary, at the company's expense; ▪ all directors have access to the company secretary; [and] ▪ the appointment and removal of the company secretary be a matter for decision by the board as a whole. <p>Management should supply the board with information in a form, time frame and quality that will enable the board to effectively discharge its duties. Directors should be entitled to, and prepared to request, additional information where they consider that the information supplied by management is insufficient to support informed decisionmaking. (Commentary on Recommendation 8.1)</p> <p>The remuneration committee should ensure that the board, management and the remuneration committee are provided with sufficient information to ensure informed decisionmaking. (Commentary on Recommendation 9.2)</p>	<p>The chairman is responsible for ensuring that the directors receive accurate, timely and clear information before the meetings and, when necessary, between meetings. All directors should receive the same board information. (Provision 2.6)</p> <p>Directors should make sure they receive detailed and accurate information and should study it carefully so as to acquire and maintain a strong command of the key issues relevant to the company's business. They should seek clarification whenever they deem it necessary. (Provision 3.2)</p> <p>The chairman should ensure that all directors can make a knowledgeable and informed contribution to board discussions and that there is sufficient time for consideration and discussion before decisionmaking. (Guideline 2.6)</p> <p>When dealing with a new appointment, the chairman of the board should ensure that, before considering the candidate, the board has received sufficient information.... (Provision 4.4)</p> <p>Executive management should ... present the board with a balanced and understandable assessment of the company's financial situation [and] provide the board in due time with all information necessary for the board to carry out its duties.... (Provision 6.5)</p> <p>Clear procedures should exist for:</p> <ul style="list-style-type: none"> ▪ proposals from executive management for decisions to be made by the board; ▪ decisionmaking by executive management; ▪ reporting to the board of key decisions made by executive management. <p>(Provision 6.6)</p>	<p><u>Board of Directors</u></p> <p>Board members should receive materials for their meetings in advance.... (CVM Recommendation II.2)</p> <p>The Board of Directors should ... be free to request all the necessary information for the performance of its functions from whoever can best provide it, including external specialists, if necessary. (IBGC Code ¶ 2.4)</p> <p>The Chairperson should ... make sure Directors get full and timely information on the topics to be discussed at meetings. (IBGC Code ¶ 2.6)</p> <p>The effectiveness of Board meetings depends, to a great extent, on the quality of the documentation distributed in advance (minimum of seven days) to Directors. Proposals should be adequately supported. Directors must have read the entire documentation and be well-prepared for the meeting. (IBGC Code ¶ 2.31)</p> <p>See IBGC Code ¶ 2.9.3 (<i>information to be supplied to the Audit Committee by Management</i>).</p> <p><u>Fiscal/Advisory Board</u></p> <p>The company should make information available at the request of any member of the fiscal board ... as long as such information is related to matters currently under analysis, and with no limitations on subsidiaries or related companies.... (CVM Recommendation IV.5)</p> <p>[B]y-laws should stipulate ... that [fiscal board] meeting materials be provided in advance.... (Commentary on CVM Recommendation IV.2)</p> <p>See IBGC Code ¶ 3.10 (<i>board of directors' and fiscal council members' access to facilities and files</i>).</p>	<p>We ... want to underline the importance of boards receiving information that is not just historical or bottom line and financial oriented. The effective board of directors will seek information that goes beyond assessing the quantitative performance of the enterprise and looks at other performance factors such as customer satisfaction, product and service quality, market share, market reaction, environmental performance and so on. (Dey Report, § 6.26)</p> <p>The chair will have primary responsibility for organizing the information necessary for the board to deal with the agenda and for providing this information to the directors on a timely basis. (Dey Report, § 6.27)</p> <p>The "independent board leader" should be explicitly accountable for ... ensuring that the resources available to the board (in particular timely and relevant information) are adequate to support its work.... (Saucier Report, Appendix B, A Position Description For the "Independent Board Leader," p. 44)</p> <p>See generally Dey Report, §§ 6.25-6.28 (Qualitative and Quantitative Information).</p>

China	Denmark	France	Germany	India
19. Board Information Flow, Materials & Presentations				
<p>The board of directors ... shall provide sufficient materials, including relevant background materials for the items on the agenda [of upcoming board meetings] and other information and data that may assist the directors in their understanding of the company's business development. When two or more independent directors deem the materials inadequate or unclear, they may jointly submit a written request to postpone the meeting or to postpone the discussion of the related matter, which shall be granted by the board of directors. (Ch. 3, (4) 46)</p> <p><u>Supervisory Board</u></p> <p>Supervisors shall have the right to learn about the operating status of the listed company and shall have the corresponding obligation of confidentiality. (Ch. 4, (1) 60)</p> <p>A listed company shall adopt measures to ensure supervisors' right to learn about company's matters and shall provide necessary assistance to supervisors for their normal performance of duties. No one shall interfere with or obstruct supervisors' work. (Ch. 4, (1) 61)</p>	<p>The Committee recommends that the supervisory board establish procedures for how the executive board reports to the supervisory board and for any other communication between the supervisory board and the executive board with a view to ensuring that such information about the company's business as required by the supervisory board is regularly provided to the supervisory board. (Recommendation IV.4)</p> <p>In all circumstances, the executive board must ensure that the supervisory board is provided with essential information, whether the supervisory board has requested such information or not. (Commentary on Recommendation IV.4)</p> <p>[M]embers of the supervisory board are solely responsible for actively obtaining knowledge and regularly keeping themselves posted on the conditions of the company and the industry in question. (Recommendation V.2)</p> <p>See Appendix A (The [supervisory board's remuneration] committee should be notified of the internal auditor's work programme and should receive material internal audit opinions or periodical summaries.... [T]he committee should supervise the executive board's follow-up on the conclusions and recommendations of the internal audit.).</p>	<p>Corporations are bound to provide to their directors the information required for effective participation in proceedings of the Board, prior, if appropriate, to meetings of the Board, in order to enable them to perform their duties in an appropriate manner. The same is true throughout the life of the corporation between meetings of the Board, if the importance or urgency of the information so require....</p> <p>Conversely, the directors are bound to request the appropriate information that they consider as necessary to perform their duties....</p> <p>The law recently laid down the principle that the chairman or the chief executive officer is bound to disclose to each director all the documents and information required for performance of his or her duties. The manner in which this right to disclosure is exercised, and the related confidentiality duty, should be set out in the internal rules of the Board of Directors.... (¶ 11)</p> <p>[The audit committee's] operating reports to the Board of Directors should provide the Board with full information, thereby facilitating the latter's proceedings. (¶ 14.3)</p> <p>[The compensation committee's] operating reports to the Board of Directors should provide the Board with full information, thereby facilitating its proceedings. (¶ 15.2)</p> <p>The director is under a duty to obtain information. To that end, he or she should demand of the chairman in due time the information required for useful meeting participation with respect to the matters on the Board's agenda. (¶ 17)</p> <p>See ¶ 17 (<i>confidentiality of information</i>).</p>	<p>Providing sufficient information to the Supervisory Board is the joint responsibility of the Management Board and Supervisory Board.</p> <p>The Management Board informs the Supervisory Board regularly, without delay and comprehensively, of all issues important to the enterprise with regard to planning, business development, risk situation and risk management. The Management Board points out deviations of the actual business development from previously formulated plans and targets, indicating the reasons therefor.</p> <p>The Supervisory Board shall specify the Management Board's information and reporting duties in more detail. The Management Board's reports to the Supervisory Board are, as a rule, to be submitted in writing (including electronic form). Documents required for decisions, in particular, the Annual Financial Statements, the Consolidated Financial Statements and the Auditors' Report are to be sent to the members of the Supervisory Board, to the extent possible, in due time before the meeting. (§ 3.4)</p> <p>Good corporate governance requires an open discussion between the Management Board and Supervisory Board as well as among the members within the Management Board and the Supervisory Board. The comprehensive observance of confidentiality is of decisive importance for this. All board members ensure that the staff members they employ observe the confidentiality obligation accordingly. (§ 3.5)</p>	<p>The responsibility of the management is ... to provide information to the board on a timely basis and in a transparent manner to enable the board to monitor the accountability of management to it. (§ 2.8)</p> <p>The Committee believes that the management should [provide] timely, accurate, substantive and material information, including financial matters and exceptions, to the board [and] board committees.... (§ 13.3)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
19. Board Information Flow, Materials & Presentations				
<p><u>Supervisory Board</u></p> <p>The Dewan Komisaris shall be entitled to have access to information of the Company in a timely and comprehensive manner. Since the Dewan Komisaris have no executive authority within the Company, the Direksi are responsible for ensuring that the information regarding the Company is furnished to the Dewan Komisaris in a timely and comprehensive manner. (§ II, Principle 2.5)</p> <p>[E]ach member of the Dewan Komisaris ... shall be entitled to read [the] Minutes of [each] Meeting of the Direksi. (§ III, 3.5)</p> <p>The corporate secretary shall periodically provide ... any information relevant to their duties ... to the Dewan Komisaris when required. (§ V, Principle 5.4)</p> <p><u>Management Board</u></p> <p>[E]ach member of the Direksi shall be entitled to read [the] Minutes of [each] Meeting of the Dewan Komisaris. (§ II, 2.4)</p> <p>The corporate secretary shall periodically provide to the Direksi any information relevant to their duties. (§ V, Principle 5.4)</p> <p>See § IV, Principle 4.4 and § VIII (Confidentiality).</p>	<p>Directors shall know the duties and responsibilities relating to their office. The chairman of the Board of Directors shall use his best efforts for causing the directors to participate in initiatives aimed at increasing their knowledge of reality and business dynamics, also having regard to the relevant regulatory framework, so that they may carry out their role effectively. (Code, 2.C.2)</p> <p>In carrying out their duties, the directors shall review the information received from the delegated bodies, ask the same for any clarifications, elaborations or supplements that are deemed necessary.... The chairman of the Board of Directors shall use his/her best efforts in order to ensure that the material information and documents for enabling the board to [m]ake its decisions are made available to its members according to adequate procedures and timing. (Comment on Code Article 1)</p> <p>See Code, 4.P.1 (Directors and members of the Board of Auditors shall keep confidential the documents and information acquired in the performance of their duties and shall comply with the procedure adopted by the issuer for the internal handling and disclosure to third parties of such documents and information.)</p>	<p><i>Not covered.</i></p>	<p>The corporation shall provide, at the appropriate time, outside directors with information necessary to perform duties to allow accurate assessment of the corporation's managerial situation. Particularly, when a Board meeting is to be convened, information shall be provided beforehand so that the director may sufficiently review the agenda. Also, the outside director may request information necessary for performing duties to be swiftly provided. For important confidential information of the corporation, however, it shall be provided only at the request of the majority of outside directors, to which the management, barring any justifiable reason, shall comply. (§ II.4.2)</p> <p>Outside directors ... shall review all related information before attending a Board meeting. Outside directors ... shall make every effort to acquire information from various sources within and outside the corporation. (§ II.4.3)</p>	<p>Board members should have access to any information relevant to decisions that are on the meeting agenda at least five days in advance of that meeting. This does not apply to confidential strategic matters that are to be discussed, in which cases there should be mechanisms available by which Board members can properly assess proposals regarding those strategic matters. (Principle at I.4)</p> <p>[I]t is important that Board members are supplied with information in advance in order to give them the elements they need to perform their duties. (Recommendation at I.4)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
19. Board Information Flow, Materials & Presentations				
<p><u>Supervisory Board</u> The management board shall provide the supervisory board in good time with all information necessary for the exercise of the duties of the supervisory board.... The management board shall report [all legal, regulatory, risk-related and financial] developments to ... the supervisory board and its audit committee. (Principle II.1)</p> <p>The management board shall submit to the supervisory board for approval: (a) the operational and financial objectives of the company; (b) the strategy designed to achieve the objectives; (c) the parameters to be applied in relation to the strategy, e.g., in respect of the financial ratios. (Best Practice Provision II.1.2)</p> <p>The chairman of the supervisory board ... arranges for the adequate provision of information to the members.... (Principle III.4)</p> <p>The supervisory board and its individual members each have their own responsibility for obtaining all information from the management board and the external auditor that the supervisory board needs in order to be able to carry out its duties properly as a supervisory organ. (Best Practice Provision III.1.9)</p> <p><u>Management Board</u> The management board is responsible for establishing and maintaining internal procedures which ensure that all major financial information is known to the management board, so that the timeliness, completeness and correctness of the external financial reporting are assured.... The supervisory board shall see to it that the internal procedures are established and maintained. (Best Practice Provision V.1.3)</p>	<p><u>Board of Directors</u> [T]he board of directors (primarily nonexecutive directors) largely depends on the form, timeliness and quality of information available to them. If they rely solely on the information periodically furnished by executive bodies, they will not be able properly to discharge their duties.</p> <p>Therefore, it is advisable that members of the board of directors demand additional information, when such information is necessary to make a balanced decision. The duty of the officers of the company to provide members of the board of directors with such information should be fixed in internal documents of the company. (Ch. 3, § 3.1.2)</p> <p>[T]he chairman of the board of directors [should] ensure that all members of the board of directors receive in a timely fashion all information required for resolution of the agenda issues.... (Ch. 3, § 4.1.2)</p> <p>[Relevant reference] materials should be delivered to members of the board of directors concurrently with the notice of the meeting.... (Ch. 3, § 4.5.2)</p> <p>[I]t is necessary for the company to create a mechanism that will ensure that members of the board of directors are provided with information.... (Ch. 3, § 4.6)</p> <p><i>See Ch. 3, §§ 3.3 & 4.12 (confidentiality), Ch. 7, § 4 (trade secret and insider information), and Ch., 8, § 2.3.1 (unlimited audit committee access to all company information).</i></p> <p><u>Management Board</u> Members of the managerial board should be provided with complete and accurate information and given sufficient time to review it. (Ch. 4, § 4.1.4)</p>	<p>The board should have unrestricted access to all company information, records, documents and property. The information needs of the board should be well defined and regularly monitored. (§ 2.1.7)</p> <p>Efficient and timely methods should be determined for informing and briefing board members prior to meetings while each board member is responsible for being satisfied that, objectively, they have been furnished with all the relevant information and facts before making a decision. (§ 2.6.2)</p> <p>The board should ensure that it receives relevant nonfinancial information going beyond assessing the financial and quantitative performance of the company, and should look at other qualitative performance factors that involve broader stakeholder interests. (§ 2.6.5)</p> <p><i>See § 2.10.5 (The company secretary should provide a central source of guidance and advice to the board, and within the company, on matters of ethics and good governance.).</i></p>	<p>The role of the Chairman is to foster debate and determine with the Board Secretary's support what information must be provided in order to ensure that Directors may have an opinion and sound judgment on the matters within their competence. Nonexecutive Directors must at all times decide whether the information received is appropriate, of sufficient quality and if it has been submitted to them sufficiently in advance in order to be able to form an opinion and have sound judgment on the matter, and must request any additional information or clarifications they consider necessary. (§ I.5)</p> <p>The Secretary to the Board will help the Chairman to identify the information that must be made available to the Directors. (I.13)</p> <p><i>See § I.4 (In order [for an independent Director] to maintain [informed judgment], the Director must at all times:</i> ▪ possess sufficient knowledge about the Company and its environment (sector) and adequate knowledge of major business issues; and ▪ demand, in each case, sufficient, accurate, clear information which must be provided sufficiently in advance to formulate an opinion and have an informed judgment.).</p>	<p>[T]he chair is to ... see that the board in its work receives sufficient information and supporting data on which to base its decisions.... (§ III, Rule 3.4.4)</p> <p>The managing director is to see that the board gets as objective, full and relevant an information basis as it requires to make well-founded decisions and that the board is kept informed of the progress of the company's business operations between board meetings. (§ III, Rule 4.1.1)</p> <p><i>See § III, Rule 3.3.2 (A director is to request whatever supplementary information that he or she believes is necessary for the board to make well-founded decisions.).</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
19. Board Information Flow, Materials & Presentations				
<p><u>Board of Directors</u> The Chairman is responsible for the preparation and conduct of meetings; the providing of appropriate information is one of his core responsibilities.... The Chairman should ensure in mutual cooperation with the Executive Management that information is made available in good time on all aspects of the company relevant for decision-making and supervision. The Board of Directors should receive, as far as possible prior to the meeting, the well presented and clearly organized documentation; if that is not possible, the Chairman should make the documentation available prior to the meeting, allowing sufficient time for perusal. (Code ¶ 15)</p> <p><i>See Directive, Annex ¶ 3.7 (The structure of the board of directors' information and control instruments vis-à-vis the issuer's management board such as internal auditing, risk-management systems and management information systems [must be disclosed].)</i></p> <p><u>Management Board</u> <i>Not covered.</i></p>	<p>It is for chairmen to make certain that their nonexecutive directors receive timely, relevant information tailored to their needs, [and] that they are properly briefed on the issues arising at board meetings.... (Report § 4.8)</p> <p>Nonexecutive directors lack the inside knowledge of the company of the executive directors, but have the same right of access to information as they do. Their effectiveness turns to a considerable extent on the quality of the information which they receive and on the use which they make of it. Boards should regularly review the form and the extent of the information which is provided to all directors. (Report § 4.14)</p> <p>[T]he board should meet regularly, with due notice of the issues to be discussed supported by the necessary paperwork.... (Report § 4.23)</p>	<p>The board should be supplied in a timely manner with information in a form and of a quality appropriate to enable it to discharge its duties. All directors should receive induction on joining the board and should regularly update and refresh their skills and knowledge. (Main Principle A.5)</p> <p>The chairman is responsible for ensuring that the directors receive accurate, timely and clear information. Management has an obligation to provide such information but directors should seek clarification or amplification where necessary. (Supporting Principle A.5)</p> <p>Under the direction of the chairman, the company secretary's responsibilities include ensuring good information flows within the board and its committees and between senior management and nonexecutive directors, as well as facilitating induction and assisting with professional development as required. The company secretary should be responsible for advising the board through the chairman on all governance matters. (Supporting Principle A.5)</p> <p>The chairman should ensure that the views of shareholders are communicated to the board as a whole. The chairman should discuss governance and strategy with major shareholders. Nonexecutive directors should be offered the opportunity to attend meetings with major shareholders and should expect to attend them if requested by major shareholders. The senior independent director should attend sufficient meetings with a range of major shareholders to listen to their views in order to help develop a balanced understanding of the issues and concerns of major shareholders. (Provision D.1.1)</p>	<p>Board and committee meetings are the settings in which most of the directors' decisions are made. Therefore, developing the agenda for such meetings is a critical element in determining and reinforcing board independence and effectiveness....</p> <ul style="list-style-type: none"> ▪ A designated director or directors should work with the CEO to create board agendas (incorporating other board members' input as provided) and to ensure that all relevant materials are provided in a timely manner to each meeting. ▪ For committee meetings, committee chairs should work with the CEO and committee members to create agendas (incorporating other board members' input as provided) and to ensure that all relevant materials are provided in a timely manner to each meeting. <p>(p. 6)</p>	<p>The board must have accurate, complete information to do its job; the quality of information received by the board directly affects its ability to perform its oversight function effectively. Directors should receive and review information from a variety of sources, including management, board committees, outside experts, auditor presentations, and analyst and media reports. The board should be provided with information before board and committee meetings, with sufficient time to review and reflect on key issues and to request supplemental information as necessary. (p. 27)</p> <p>See p. 5 (Senior management, led by the CEO, is responsible for running the day-to-day operations of the corporation and properly informing the board of the status of these operations.).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
20. Number, Structure & Independence of Committees				
<p>Boards should consider assigning a sufficient number of nonexecutive board members capable of exercising independent judgment to tasks where there is a potential for conflict of interest. Examples of such key responsibilities are ensuring the integrity of financial and nonfinancial reporting, the review of related party transactions, nomination of board members and key executives, and board remuneration. (Principle VI.E.1)</p> <p>The board may ... consider establishing specific committees to consider questions where there is a potential for conflict of interest. These committees may require a minimum number or be composed entirely of nonexecutive members. In some countries, shareholders have direct responsibility for nominating and electing nonexecutive directors to specialized functions. (Annotation to Principle VI.E.1)</p> <p>See Principle IV.E.2 (When committees of the board are established, their mandate, composition and working procedures should be well defined and disclosed by the board.).</p>	<p>The board should establish an audit committee. (Recommendation 4.2)*</p> <p>Structure the audit committee so that it consists of:</p> <ul style="list-style-type: none"> ▪ only nonexecutive directors; ▪ a majority of independent directors; ▪ an independent chairperson, who is not chairperson of the board; ▪ at least three members. <p>(Recommendation 4.3)</p> <p>The board should establish a nomination committee.... [that] should consist of a minimum of three members, the majority being independent directors [and] be chaired by the chairperson of the board or an independent director. (Recommendation 2.4)</p> <p>The board should establish a remuneration committee ... [that] should consist of a minimum of three members, the majority being independent directors [and] be chaired by an independent director. (Recommendation 9.2)</p> <p><i>* ASX Listing Rules mandate the establishment of audit committees by S&P/ASX All Ordinaries Index companies and require that the composition, operation and responsibility of the audit committee comply with the best practice recommendations set forth in this code. (Cf. p. 5, footnote 1)</i></p>	<p>The board shall set up specialized committees. (Principle 5)</p> <p>Each committee is composed of at least three members. (Provision 5.5)</p> <p>The board should set up an audit committee composed exclusively of non-executive directors. At least a majority of its members should be independent. (Appendix C, Provision 5.2./1)</p> <p>The board should set up a nomination committee composed of a majority of independent nonexecutive directors. (Appendix D, Provision 5.3./1)</p> <p>The chairman of the board or another nonexecutive director should chair the [nomination] committee. (Appendix D, Provision 5.3.2)</p> <p>The board should set up a remuneration committee composed exclusively of nonexecutive directors. At least a majority of its members should be independent. The [board] chairman or another nonexecutive director should chair the committee. (Appendix E, Provision 5.4./1)</p> <p>See Provision 6.2 (Executive management should at least include all executive directors. If there exists a management committee, executive management also includes all members of that committee....).</p>	<p>The board should ... set up specialized committees to analyze certain questions in depth.... (CVM Recommendation II.2)</p> <p>Several activities of the Board of Directors need more thorough analysis that may exceed the meeting time available and might be better handled by special Board Committees. Different committees, each made up of a few Directors, may be set up. For example: the Audit Committee, the Compensation Committee, the Finance Committee, the Governance Committee, etc.... The Internal Regulations of the Board should guide the formation and the composition of the committees and their coordination by independent Directors. (IBGC Code ¶ 2.8)</p> <p>An audit committee [should comprise] at least one board member representing minority shareholders.... [Executive directors] should not participate in the audit committee. (CVM Recommendation IV.3)</p> <p>The Audit Committee should preferably be made up of independent members of the Board of Directors. Directors also serving as Officers should not take part in the Audit Committee. (IBGC Code ¶ 2.9.1)</p> <p>See IBGC Code ¶ 5.5 (The Fiscal Council does not replace the Audit Committee. While the latter is a monitoring instrument with functions delegated by the Board of Directors, the former is a controlling instrument with functions directly defined by the owners. When both are in place, some overlapping of functions might be expected. In this case, both the Board and the Fiscal Council should coordinate their activities.).</p>	<p>The board of directors of every corporation should appoint a committee of directors composed exclusively of outside, <i>i.e.</i>, nonmanagement directors, a majority of whom are unrelated directors, with the responsibility for proposing to the full board new nominees to the board and for assessing directors on an ongoing basis. (Dey Report, Guideline 4)</p> <p>Committees of the board of directors should generally be composed of outside directors, a majority of whom are unrelated directors, although some board committees, such as the executive committee, may include one or more inside directors. (Dey Report, Guideline 9)</p> <p>Every board of directors should expressly assume responsibility for, or assign to a committee of directors, the general responsibility for, developing the corporation's approach to governance issues. This committee would, amongst other things, be responsible for the corporation's response to these governance guidelines. (Dey Report, Guideline 10)</p> <p>The audit committee of every board of directors should be composed only of outside directors. (Dey Report, Guideline 13)</p> <p>The governance guidelines relating to audit committees should be amended to reflect the following: Audit committees should be composed solely of outside directors who are also "unrelated".... We further recommend some flexibility with regard to related directors, but not outside directors, be provided by CDNX for Tier 2 companies that have small boards. (Saucier Report, Recommendation 11)</p>

China	Denmark	France	Germany	India
20. Number, Structure & Independence of Committees				
<p>The board of directors of a listed company may establish a corporate strategy committee, an audit committee, a nomination committee, a remuneration and appraisal committee and other special committees in accordance with the resolutions of the shareholders' meetings. All committees shall be composed solely of directors. The audit committee, the nomination committee and the remuneration and appraisal committee shall be chaired by an independent director, and independent directors shall constitute the majority of the committees. (Ch. 3, (6) 52)</p>	<p><u>Supervisory Board Committees</u></p> <p>The Committee recommends that the supervisory board consider and decide whether to establish committees, including nomination, remuneration and audit committees. If the supervisory board appoints a committee, the Committee recommends that such appointment take place only in connection with matters relating to specific issues for the purpose of preparing decisions to be made by all the members of the supervisory board. (Recommendation V.10)</p> <p>In companies with complex accounting and audit conditions, the Committee recommends that the supervisory board consider establishing an audit committee.... (Recommendation VIII.7)</p> <p>At least three persons should sit on a supervisory board committee. In companies where the supervisory board consists of a limited number of persons, a committee may consist of two members only. For the purpose of ensuring a committee's independence and objectivity, members of management should only participate in its meetings if so requested by the committee. (Appendix A)</p> <p>The majority of the members of a nomination committee should be independent persons. (Appendix A)</p> <p>The majority of the members of a remuneration committee should be independent persons. (Appendix A)</p> <p>The majority of the members of an audit committee should be independent persons. (Appendix A)</p> <p><u>Management Board Committees</u></p> <p><i>Not covered.</i></p>	<p>The number and structure of the committees are determined by each Board. However, it is recommended that:</p> <ul style="list-style-type: none"> ▪ the review of accounts, ▪ the monitoring of internal auditing, ▪ the selection of statutory auditors, ▪ the compensation and stock options policies, and ▪ appointments of directors and corporate officers <p>should be subject to preparatory work by specialised committees.... (¶ 13)</p> <p>Each Board should appoint an audit committee.... The proportion of independent directors on the audit committee should be raised to two-thirds and the committee should not include any corporate officer.... One should avoid the appointment to corporation A's audit committee of a director from a company on whose similar committee a director from corporation A is a member. (¶¶ 14 – 14.1)</p> <p>[The compensation committee] should not include any corporate officers, and should have a majority of independent directors. The recommendation relating to cross-directorships in committees stated for the audit committee also applies to the compensation committee. (¶ 15.1)</p> <p>[E]ach Board should appoint from among its members a committee for the appointment or nomination of directors and corporate officers, which may or may not be separate from the compensation committee.... [T]he foregoing recommendations relating to the latter's membership and mode of operation are also applicable to it. (¶ 16 – 16.1)</p> <p><i>See ¶ 13 [(C)reation of ... committees shall in no event remove the matter from the purview of the Board itself, which has sole statutory decision-making authority....).</i></p>	<p><u>Supervisory Board Committees</u></p> <p>Depending on the specifics of the enterprise and the number of its members, the Supervisory Board shall form committees with sufficient expertise. They serve to increase the efficiency of the Supervisory Board's work and the handling of complex issues. The respective committee chairmen report regularly to the Supervisory Board on the work of the committees. (§ 5.3.1)</p> <p>The Supervisory Board shall set up an Audit Committee.... The chairman of the Audit Committee ... should not be a former member of the Management Board of the company. (§ 5.3.2)</p> <p>The Supervisory Board may delegate preparations for the appointment of members of the Management Board to a committee.... (§ 5.1.2)</p> <p>The Supervisory Board can delegate other subjects to be handled by one or several committees. These subjects include the strategy of the enterprise, the compensation of the members of the Management Board, investments and financing. (§ 5.3.3)</p> <p>The Supervisory Board can arrange for committees to prepare Supervisory Board meetings and to make decisions in place of the Supervisory Board. (§ 5.3.4)</p> <p><u>Management Board Committees</u></p> <p><i>Not covered.</i></p>	<p>The Committee ... recommends that a qualified and independent audit committee should be set up by the board of a company. (§ 9.4)</p> <p>The composition of the audit committee is based on the fundamental premise of independence and expertise. The Committee therefore recommends that the audit committee should have [a] minimum [of] three members, all being nonexecutive directors, with the majority being independent, and with at least one director having financial and accounting knowledge; [and] the chairman of the committee should be an independent director.... (§ 9.6)</p> <p>[T]he Committee recommends that the board should set up a remuneration committee.... (§ 10.2)</p> <p>[T]he remuneration committee ... should comprise at least three directors, all of whom should be nonexecutive directors, the chairman of [the] committee being an independent director. (§ 10.4)</p> <p>The Committee recommends that a board committee under the chairmanship of a nonexecutive director should be formed to specifically look into the redressing of shareholder complaints like transfer of shares, nonreceipt of balance sheet, nonreceipt of declared dividends, etc. (§ 14.12)</p> <p>[T]he board ... should delegate the power of share transfer to an officer, or a committee or to the registrar and share transfer agents. (§ 14.13)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
20. Number, Structure & Independence of Committees				
<p><u>Supervisory Board Committees</u></p> <p>The Dewan Komisaris shall consider ... establish[ing] from among their members certain committees to support the implementation of the tasks of the Dewan Komisaris. (§ II, Principle 2.9)</p> <p>Such committees shall report their findings and make recommendations with respect to their relevant mandates to the Dewan Komisaris....</p> <p>Dewan Komisaris duties ... can be prepared by the various Committees.</p> <ol style="list-style-type: none"> 1. Nomination Committee.... 2. Remuneration Committee.... 3. Insurance Committee.... 4. Audit Committee.... <p>(§ II, 2.9)</p> <p>The ... Nomination and Remuneration Committee ... shall consist of at least 1 (one) member of the Dewan Komisaris and 1 (one) member of the Direksi who both fall under the category of “outside members”.... (§ I, 1.5)</p> <p>The Audit Committee shall be independent of the Direksi and external auditors and thus should report solely to the Dewan Komisaris. (§ IV, Principle 4.2)</p> <p><u>Management Board Committees</u></p> <p>[T]he Direksi may, pursuant to procedures it has adopted, ... establish special committees. (§ III, 3.1)</p>	<p>The Board of Directors shall ... delegate powers to the managing directors and to the executive committee and ... specify the limits on these delegated powers.... (Code, 1.C.1(c))</p> <p>The Board of Directors shall evaluate whether to establish among its members a nomination committee made up [by] a majority ... of independent directors. (Code, 6.P.2)</p> <p>The Board of Directors shall establish among its members a remuneration committee, made up of non-executive directors, the majority of which are independent. (Code, 7.P.3)</p> <p>[T]he Board of Directors shall establish an internal control committee, made up of non-executive directors, the majority of which are independent. If the issuer is controlled by another listed company, the internal control committee shall be made up exclusively of independent directors. (Code, 8.P.4)</p> <p>The Committee believes that some companies may consider it helpful to establish a [nominating] committee to propose the appointments [of directors]. However, the large proportion of companies with concentrated ownership ... and the by-laws providing for election lists in some companies with a broad shareholder base, suggested that it would not be advisable to institutionalize such a committee. (Report, 5.4.1)</p> <p>See Report, 5.5 ([D]ialogue [with institutional investors] can be fostered by ... an <u>ad hoc</u> corporate structure for this function....).</p>	<p>Three committees must be established in a company with a committees system: a nomination committee, an audit committee and a compensation committee (each committee should be made up of three or more directors, and at least half of the members of each committee should be outside directors). (TSX Principles, Appendix)</p> <p>Establishment and Composition of Committees:</p> <ol style="list-style-type: none"> 1. The board of directors should establish a nominating committee, compensation committee and audit committee within the board. The board may, if necessary, establish a litigation committee or any other committee for a specific purpose.... 2. Each Committee should consist of three or more directors. 3. The majority of directors on the nominating committee and the compensation committee should be outside directors, and there should be one or more independent directors. The majority of audit committee members should be independent directors. 4. An outside director should be appointed as the chairperson of each Committee. <p>(CGFJ Principle 6)</p> <p>[I]t is preferable to establish special committees ... targeting specific purposes, in accordance with the circumstances of the company. Also, there is merit in setting up a permanent corporate governance committee.... (CGFJ Principles, Explanation of Principle 6)</p> <p>See CGFJ Principle 9 (<i>executive management committee</i>) and Principle 10 (<i>litigation committee</i>).</p>	<p>The Board may mandate its authority to an internal committee or to a respective director. Excluded, however, are key matters as stated in the articles of incorporation and the Regulation on Operation of Board of Directors. (§ II.1.2)</p> <p>It is advised that a committee be established and managed for the fair nomination of directors.... At least one-half [of the nomination committee should be] outside directors.... (§ II.3.1)</p> <p>The Board may, if necessary, establish internal committees ... such as Audit, Operation and Remuneration Committees. (§ II.6.1)</p> <p>[A]n internal committee may evaluate the Board, and its results may be tendered to the Board for examination. (§ II.9.3)</p> <p>Internal auditing bodies, such as audit committees and auditors, shall perform auditing operations faithfully by maintaining independence from management and controlling shareholders. (§ III.1)</p> <p>The Boards of large public corporations, government-invested institutions and financial institutions shall establish an audit committee as an internal committee. A corporation establishing an audit committee shall not employ auditors. (§ III.1.1)</p> <p>An audit committee shall be composed of the following: a minimum of three Board members; a minimum two-thirds, including the committee chairperson, shall be outside directors; and one member shall be a person possessing professional knowledge of auditing. A corporation without an audit committee shall employ at least one standing auditor. (§ III.1.2)</p>	<p>In order to make better informed decisions, the Board of Directors should perform the tasks of evaluation and compensation, auditing, finances and planning ... through one or more [committees]. (Principle at I.3)</p> <p>The following principles should be considered when creating [committees]:</p> <ul style="list-style-type: none"> ▪ [T]hey have a clear purpose and there is no conflict of interest among their members...; ▪ They should have between three and seven members...; ▪ The Chairman of each [committee] may invite company executives whose duties correspond to the [committee’s] area of concern to attend meetings; ▪ [E]ach outside Board member should participate in at least one [committee]; and ▪ the [committee] in charge of auditing should be chaired by an outside Board member. <p>(Principle at I.3)</p> <p>The Committee recommends that there be a mechanism to support the Board in ensuring that the auditing functions are performed, ensuring that internal and external audits are performed as objectively as possible and that the financial information is useful, timely and reliable. (Recommendation at III)</p> <p>The Committee recommends that the Board of Directors have a support mechanism in the area of finances and planning, particularly for evaluating the long-term strategy of the business and its central investment and financing policies. (Recommendation at IV)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
20. Number, Structure & Independence of Committees				
<p><u>1. In a Two-Tier Board Structure</u></p> <p><u>a. Supervisory Board Committees</u></p> <p>If the supervisory board consists of more than four members, it shall appoint from among its members an audit committee, a remuneration committee and a selection and appointment committee. The function of the committees is to prepare the decisionmaking of the supervisory board. If the supervisory board decides not to appoint an audit committee, remuneration committee or selection and appointment committee, best practice provisions III.5.4, III.5.5, III.5.8, III.5.9, III.5.10, III.5.13, V.1.2, V.2.3 and V.3.1 shall apply to the entire supervisory board. (Principle III.5)</p> <p>The supervisory board shall draw up a set of regulations for each committee [that] contain a provision that a maximum of one member of each committee need not be independent.... (Best Practice Provision III.5.1)</p> <p>See Principle III.4 (The chairman of the supervisory board ... monitors the proper functioning of the supervisory board and its committees....).</p> <p><u>b. Management Board Committees</u></p> <p>Not covered.</p> <p><u>2. In a One-Tier Board Structure</u></p> <p>The [audit, remuneration and selection and appointment] committees ... shall consist only of nonexecutive ... board members. (Best Practice Provision III.8.3)</p>	<p><u>Board of Directors Committees</u></p> <p>[T]he board of directors should create committees for preliminary consideration of the most important issues falling within its competence:</p> <p>(1) the strategic planning committee...;</p> <p>(2) the audit committee...;</p> <p>(3) the personnel and remuneration committee...; and</p> <p>(4) the committee for settlement of corporate conflicts....</p> <p>The board of directors may also consider the establishment of other committees, including risk management and ethics committees. (Ch. 1, § 3.3)</p> <p>[I]t is advisable that committees of the board of directors are headed by members of the board of directors who do not hold official positions with the company.... (Ch. 3, § 4.7.3)</p> <p>[I]t is advisable that [the human resources and compensation committee] is staffed exclusively with independent directors. (Ch. 3, § 4.10.3)</p> <p>[I]t is recommended that all members of the [corporate conflicts resolution] committee should be independent directors. (Ch. 3, § 4.11)</p> <p>[T]he audit committee should include only independent directors. If ... this is impossible, the audit committee should be headed by an independent director and its members should be independent and nonexecutive directors. (Ch. 8, § 1.3.1)</p> <p><u>Management Board Committees</u></p> <p>Not covered.</p>	<p>At a minimum, each board should have an audit and a remuneration committee. Industry and company specific issues will dictate the requirement for other committees. (§ 2.7.5)</p> <p>Nonexecutive directors must play an important role in board committees. (§ 2.7.6)</p> <p>All board committees should preferably be chaired by an independent nonexecutive director, whether this is the board chairperson or some other appropriate individual. Exceptions should be a board committee fulfilling an executive function. (§ 2.7.7)</p> <p>[The nomination] committee should consist of only nonexecutive directors, of whom the majority should be independent, and be chaired by the board chairperson. (§ 2.2.2)</p> <p>Companies should appoint a remuneration committee ... consisting entirely or mainly of independent nonexecutive directors.... This committee must be chaired by an independent nonexecutive director. (§ 2.5.2)</p> <p>A board committee ... should be appointed to assist the board in reviewing the risk management process and the significant risks facing the company. (§ 3.1.6)</p> <p>The board should appoint an audit committee that has a majority of independent nonexecutive directors. (§ 6.3.1)</p> <p>The chairperson [of the audit committee] should be an independent non-executive director and not the chairperson of the board. (§ 6.3.2)</p>	<p>Nominations, Remunerations and Audit Committees should ... be established. (§ I.1)</p> <p>There must be a Nominations Committee made up solely of external Directors and with a majority of independent external Directors. (§ I.8)</p> <p>A Remunerations Committee must be created which will not include Executive Directors. (§ I.9)</p> <p>An Audit Committee must be created, and Executive Directors may not attend or be appointed members of it.... The Committee shall consist of a majority of independent Directors and shall be chaired by one such Director. (§ I.11)</p> <p>See Best Practice I.1 ([B]oard Regulations must set out, <u>inter alia</u>, the internal structure of the company based on Committees, determining their nature, scope and functions, and the requirements for a Director to belong to each of them. Committees are therefore internal bodies within the Board and report to the latter about their activities on a regular basis.).</p>	<p>The board may establish special committees to prepare the board's decisions in specific areas and, if ... appropriate, to delegate certain decisionmaking powers.... (§ III, Rule 3.5.2)</p> <p>The company is to have a nomination committee that represents the company's shareholders. The shareholders' meeting is to appoint members of the nomination committee or to specify how they are to be appointed. (§ III, Rule 2.1.1)</p> <p>The nomination committee is to have at least three members. The majority of the members of the nomination committee are not to be members of the board of directors [nor] company managers.... (§ III, Rule 2.1.2)</p> <p>The board is to establish an audit committee consisting of at least three directors. The majority of the audit committee members are to be independent of the company and senior management. At least one member of the committee is to be independent of the company's major shareholders. A board member who is part of senior management may not be a member of the committee. In companies with smaller boards, the entire board may perform the audit committee's tasks.... (§ III, Rule 3.8.2)</p> <p>The board is to establish a remuneration committee with the task of preparing proposals on remuneration and other terms of employment for senior management. The chair of the board may chair the remuneration committee. The other members of the committee are to be independent of the company and senior management. In companies with smaller boards, the entire board may perform the remuneration committee's tasks.... (§ III, Rule 4.2.1)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
20. Number, Structure & Independence of Committees				
<p><u>Board of Directors Committees</u></p> <p>The Board of Directors should form committees to perform defined tasks. The Board of Directors should appoint committees from amongst its members responsible for carrying out an in-depth analysis of specific business related or personnel matters for the full Board in preparation for passing resolutions or exercising its supervisory function. (Code ¶ 21)</p> <p>It is recommended that a majority of the members of certain committees be independent. (Code ¶ 22)</p> <p>The Board of Directors should set up an Audit Committee. The Committee should consist of nonexecutive, preferably independent members of the Board of Directors. (Code ¶ 23)</p> <p>The Board of Directors should set up a Compensation Committee. A majority of the Compensation Committee should consist of nonexecutive and independent members of the Board of Directors. (Code ¶ 25)</p> <p>The Boards of Directors should set up a Nomination Committee. (Code ¶ 27)</p> <p><i>See Code, ¶ 21 (The Board may combine the functions of several committees provided that all their members fulfill the respective qualifications.).</i></p> <p><i>See Code ¶ 28 (Small and medium-sized companies may assign responsibilities to individuals instead of setting up committees, or have the full Board of Directors perform these tasks.).</i></p> <p><u>Management Board Committees</u></p> <p><i>Not covered.</i></p>	<p>The board should establish an audit committee of at least three nonexecutive directors with written terms of reference which deal clearly with its authority and duties. (Code § 4.3)</p> <p>A nomination committee should have a majority of nonexecutive directors on it and be chaired by either the chairman or a nonexecutive director. (Report § 4.30)</p> <p>Membership [on the audit committee] should be confined to the nonexecutive directors of the company, and a majority of the nonexecutives serving on the committee should be independent.... (Report § 4.35(b))</p> <p>We also recommend that boards should appoint remuneration committees consisting wholly or mainly of non-executive directors, and chaired by a nonexecutive director, to recommend to the board the remuneration of the executive directors in all its forms, drawing on outside advice as necessary. (Report § 4.42)</p>	<p>There should be a nomination committee which should lead the process for board appointments and make recommendations to the board. A majority of members of the nomination committee should be independent nonexecutive directors. The chairman or an independent nonexecutive director should chair the committee, but the chairman should not chair the nomination committee when it is dealing with the appointment of a successor to the chairmanship. (Provision A.4.1)</p> <p>The board should establish a remuneration committee of at least three, or in the case of smaller companies two, members, who should all be independent nonexecutive directors. (Provision B.2.1)</p> <p>The board should establish an audit committee of at least three, or in the case of smaller companies two, members, who should all be independent nonexecutive directors. (Provision C.3.1)</p> <p><i>See Supporting Principle A.3 (No one other than the committee chairman and members is entitled to be present at a meeting of the nomination, audit or remuneration committee, but others may attend at the invitation of the committee.).</i></p>	<p>Boards should require that key committees – compensation, audit, and nominating or governance – include <u>only</u> independent directors.... (p. 7)</p> <p><i>See p. 7 (Boards should establish guidelines for, and discuss with some predefined frequency, the number of committees [and] the size and structure of committees....).</i></p>	<p>Every publicly-owned corporation should have an audit committee of at least three members, who should all be independent directors. (p. 17)</p> <p>Every publicly-owned corporation should have a committee composed solely of independent directors that addresses director nominations and corporate governance matters. [It] should have at least three members.... (p. 21)</p> <p>Every publicly-owned corporation should have a committee composed solely of independent directors that addresses compensation issues. (p. 23)</p> <p>Additional committees, such as finance or risk management committees, also may be used. Some corporations find it useful to establish committees to examine special problems or opportunities in greater depth than would otherwise be feasible. (p. 16)</p> <p><i>See p. 9 (It is the responsibility of the board, through its corporate governance committee ... to oversee the ... structure ... of the board and its committees.).</i></p> <p><i>See also p. 16 (Business Roundtable believes that the functions generally performed by the audit, compensation and corporate governance committees are central to effective corporate governance [but] does not believe that a particular committee structure is essential for all corporations. What is important is that key issues are addressed effectively by the independent members of the board.).</i></p> <p><i>See also p. 16 (Virtually all boards of directors of large, publicly-owned corporations operate using committees to assist them. A committee structure permits the board to address key areas in more depth than may be possible in a full board meeting.).</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
21. Assignment & Rotation of Committee Members				
<p><i>Not covered directly, but see Topic Heading 20, above.</i></p>	<p>The audit committee should include members who are all financially literate (<i>i.e.</i>, are able to read and understand financial statements); at least one member who has financial expertise (<i>i.e.</i>, is a qualified accountant or other financial professional with experience of financial and accounting matters); and some members who have an understanding of the industry in which the entity operates. (Commentary on Recommendation 4.3)</p>	<p>The chairman of the board should ensure that the board appoints committee members and a chairman for each of those committees. Each committee is composed of at least three members. Designation should not be for a term exceeding that of board membership. (Provision 5.5)</p> <p>The chairman of the board should not chair the audit committee. The board should satisfy itself that the committee has sufficient relevant expertise to fulfill its role effectively, notably in financial matters. (Appendix C, Provision 5.2./1)</p> <p>The chairman of the board or another nonexecutive director should chair the [nomination] committee. (Appendix D, Provision 5.3.2)</p> <p>The chairman of the board can be involved but should not chair the nomination committee when dealing with the designation of his or her successor. (Appendix D, 5.3./3)</p> <p>The chairman [of the board] or another nonexecutive director should chair the [remuneration] committee. (Appendix E, Provision 5.4./1)</p> <p>The CEO should participate in the meetings of the remuneration committee when it deals with the remuneration of other executive managers. (Appendix E, 5.4./2)</p> <p>In deciding on the specific composition of a committee, consideration should be given to the needs and qualifications required for the optimal functioning of that committee. (Guideline 5.5)</p>	<p>[The] audit committee [should be] composed of members of the board of directors with experience in finance.... (CVM Recommendation IV.3)</p> <p>The Board of Directors should provide a formal description of the qualifications, efforts, and time commitment expected from the Audit Committee. The Committee should set up its own Internal Regulation and consist of at least three members, all of whom are familiar with basic financial and accounting matters. At least one member should be more experienced in accounting issues, audits, and financial management.</p> <p>The term of office of the Audit Committee can be limited through an automatic rotation system and/or by restricting the number of committees in which a member can serve in other companies. (IBGC Code ¶ 2.9.2)</p>	<p>If the chair of the board is separate from the CEO, he or she might be an appropriate person to chair the governance committee or the committee responsible for governance matters. (Dey Report, § 6.6 at p. 39)</p> <p>Any concern that the governance committee or the nominating committee has the real power of the board and therefore creates two classes of directors can be addressed by providing for rotation of membership through the committees. (Dey Report, § 6.8 at p. 40)</p> <p>The governance guidelines relating to audit committees should be amended to reflect the following: All members of the audit committee should be “financially literate” and at least one member should have accounting or related financial expertise. The definition of and criteria for “financial literacy” should be determined by each board. (Saucier Report, Recommendation 11)</p> <p>[W]ith regard to “financial literacy”, we are following the Blue Ribbon Committee’s recommendation that audit committee members be “financially literate”.... Our recommendation is that we follow the practice of the NYSE. (Saucier Report, p. 28)</p>

China	Denmark	France	Germany	India
21. Assignment & Rotation of Committee Members				
<p>At least one independent director of the audit committee shall be an accounting professional. (Ch. 3, (6) 52)</p>	<p>The members of a committee should be appointed in due consideration of their qualifications.... If the supervisory board deems it appropriate that a nomination committee consist of a minority of nonindependent members, the CEO may be appointed to sit on that committee.... Between them, the members of an audit committee should possess such an amount of expertise and experience as to provide an updated insight into, and experience in, the financial, accounting and audit conditions of listed companies. (Appendix A)</p>	<p>When extension of the term of office of the audit committee's chairman is proposed by the appointments committee, it should be specially reviewed by the Board. (¶ 14.1)</p> <p>[A]udit committee members ... should be competent in finance or accounting.... (¶ 14.3.1)</p> <p>[T]he current Board chairman shall be associated with the appointments or nominations committee's proceedings.... It is natural for the chairman to be a member of the committee ... but, while his or her views should be considered, it is not desirable that he or she should chair this committee. (¶ 16.1)</p>	<p><u>Supervisory Board Committees</u></p> <p>The Chairman of the Supervisory Board shall also chair the committees that handle contracts with members of the Management Board and prepare the Supervisory Board meetings. He should not be Chairman of the Audit Committee. (§ 5.2)</p> <p>The Chairman of the Audit Committee shall have specialist knowledge and experience in the application of accounting principles and internal control processes. He should not be a former member of the Management Board of the company. (§ 5.3.2)</p> <p>See § 5.4.4 (It shall not be the rule for the former Management Board chairman or a Management Board member to become Supervisory Board chairman or the chairman of a Supervisory Board committee. If this is intended, special reasons shall be presented to the annual general meeting.).</p> <p><u>Management Board Committees</u></p> <p>Not covered.</p>	<p>Not covered directly, but see Topic Heading 20, above.</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
21. Assignment & Rotation of Committee Members				
<p><u>Supervisory Board Committees</u> The ... Nomination and Remuneration Committee ... shall consist of at least 1 (one) member of the Dewan Komisaris and 1 (one) member of the Direksi who both fall under the category of “outside members” (§ I, 1.5)</p> <p>The Dewan Komisaris shall establish an Audit Committee comprised of certain members of the Dewan Komisaris. The Dewan Komisaris may invite outsiders as member(s) of the Audit Committee with the requisite mixture of relevant skills, experience and other qualities to achieve all of the Audit Committee’s objectives.... The removal of a member of the Audit Committee should require the approval of more than 50% of the number of the members of the Dewan Komisaris. (§ IV, Principle 4.2)</p> <p><u>Management Board Committees</u> <i>Not covered.</i></p>	<p>The Board of Directors shall establish among its members one or more committees with proposing and consultative functions.... (Code, 5.P.1)</p> <p>[C]ommittees shall be made up of at least three members. However, in those issuers whose Board of Directors is made up of no more than five members, committees may be made up of two directors only, provided, however, that they are both independent. (Code, 5.C.1(a))</p> <p>[T]he Board of Directors shall establish an internal control committee.... (Code, 8.P.4)</p> <p>The chairman of the Board of Auditors or another auditor designated by the chairman of the board shall participate in the works for the internal control. (Code, 8.C.4)</p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p>[In a (Board of Directors) Committees System,] members of the nomination committee, audit committee and compensation committee are elected by the board of directors. (TSX Principles, Appendix)</p> <p>An outside director should be appointed as the chairperson of each Committee. (CGFJ Principle 6.4)</p> <p>The CEO should not be a member of the nominating, compensation or audit committees. (CGFJ Principle 8.4)</p>	<p>[D]irectors having ... expertise or those interested shall be placed on [each] committee. (§ II.6.1)</p>	<p>In addition to his or her duties on the Board, each outside Board member should participate in at least one [committee]. (Principle at I.3)</p> <p>The [committee] in charge of auditing should be chaired by an outside Board member. (Principle at I.3)</p> <p>[I]t is considered important that the owning and outside directors participate in the work of the [committees]. The latter because they were selected for their professional prestige and experience, and the former because they have the incentive to get involved in and resolve the affairs of those [committees]. (Recommendation at I.3)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
21. Assignment & Rotation of Committee Members				
<p><u>Supervisory Board Committees</u></p> <p>The supervisory board shall draw up a set of regulations for each committee [that] indicate ... its composition.... (Best Practice Provision III.5.1)</p> <p>The audit committee shall not be chaired by the chairman of the supervisory board or by a former member of the management board of the company. (Best Practice Provision III.5.6)</p> <p>At least one member of the audit committee shall be a financial expert.... (Best Practice Provision III.5.7)</p> <p>The remuneration committee shall not be chaired by the chairman of the supervisory board or by a former member of the management board of the company, or by a supervisory board member who is a member of the management board of another listed company. (Best Practice Provision III.5.11)</p> <p>No more than one member of the remuneration committee shall be a member of the management board of another Dutch listed company. (Best Practice Provision III.5.12)</p> <p>See Principle III.4 (The chairman of the supervisory board ... monitors the proper functioning of the supervisory board and its committees....).</p> <p><u>Management Board Committees</u></p> <p>Not covered.</p>	<p><u>Board of Directors Committees</u></p> <p>The chairman of the board of directors should ... take the initiative in nominating members of the board of directors for positions in various committees based upon such members' professional and personal qualities, taking into account the views of members of the board of directors with respect to the creation of such committees.... (Ch. 3, § 4.1.5)</p> <p>The number of members in each committee should be determined with a view to enable the committee to review matters under consideration in the most comprehensive fashion and taking into account the opinions of all members. Inasmuch as the work of a committee involves detailed review by committee members of each matter under consideration, it is recommended that participation of members of the board of directors in multiple committees should be restricted.</p> <p>If necessary, committees may enroll experts with required professional skills relevant to the work of a particular committee. (Ch. 3, § 4.7.2)</p> <p>The composition of the audit committee ... should allow for efficient supervision of the financial and business operations of the company. (Ch. 8, § 1.3)</p> <p>The charter of the company should set forth special professional qualifications for members of the audit committee.... In particular, members of the audit committee should possess special knowledge of the basics of accounting and financial reporting. (Ch. 8, § 1.3.2)</p> <p><u>Management Board Committees</u></p> <p>Not covered.</p>	<p>The majority of the members of the audit committee should be financially literate. (§ 6.3.1)</p> <p>[T]he board chairperson should not be a member of the audit committee at all, but could be invited to attend meetings as necessary by the chairperson of that committee. The board should consider whether or not it is desirable for the chief executive officer to be a member of the audit committee, or to attend only by invitation. (§ 6.3.2)</p> <p>The audit committee should have written terms of reference that deal adequately with its membership.... (§ 6.3.3)</p> <p>See Topic Heading 20, above.</p>	<p>[B]oard Regulations must set out, <u>inter alia</u>, ... the requirements for a Director to belong to each [committee]. (§ I.1)</p> <p>The Nonexecutive Chairman may be a member of the [Nominations] Committee, but he/she should not chair its meetings. Should there be a Senior Independent Director/Lead Director, it is advisable that he/she should chair this Committee. (§ I.8)</p> <p>Executive Directors may not attend or be appointed members of [the Audit Committee].... The [Audit] Committee shall consist of a majority of independent Directors and shall be chaired by one such Director. Chairmanship of this Committee must be renewed (or re-elected) regularly and at least every four years. Members of this Committee – especially the Chairman – must be singularly/particularly qualified, and they should abide by the rule “not to approve what you do not understand and what you are unable to explain to other Directors”. The Chairman must be an expert in financial matters. (§ I.11)</p>	<p>The shareholders' meeting is to appoint members of the nomination committee or to specify how they are to be appointed. The decision is to include procedures for replacing members of the nomination committee who resign before its work is concluded, if necessary. If members of the nomination committee are not appointed by the shareholders' meeting, the meeting is to decide on the criteria to be used in appointing the chair and members of the nomination committee. (§ 3, Rule 2.1.1)</p> <p>The chair of the board of directors or another board member is not to chair the nomination committee. (§ 3, Rule 2.1.2)</p> <p>The chair of the board may chair the remuneration committee. (§ III, Rule 4.2.1)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
21. Assignment & Rotation of Committee Members				
<p><u>Board of Directors Committees</u> The Board of Directors should appoint the members as well as the Chairman of each committee and determine its procedures. (Code ¶ 21)</p> <p>A majority of members [of the audit committee], including the Chairman, should be financially literate. (Code ¶ 23)</p> <p>See Code ¶ 25 (The Chairman of the Board [and] the President of the Executive Management should, as a rule, be consulted [by the Compensation Committee] except when their own remuneration is under review.).</p> <p><u>Management Board Committees</u> Not covered.</p>	<p>Not covered directly, but see Topic Heading 20, above.</p>	<p>The value of ensuring that committee membership is refreshed and that undue reliance is not placed on particular individuals should be taken into account in deciding chairmanship and membership of committees. (Supporting Principle A.3)</p> <p>The chairman or an independent non-executive director should chair the [nomination] committee, but the chairman should not chair the nomination committee when it is dealing with the appointment of a successor to the chairmanship. (Provision A.4.1)</p> <p>The board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience. (Provision C.3.1)</p>	<p>Boards should establish guidelines for, and discuss with some pre-defined frequency ... the selection and rotation of committee members. (p. 7)</p>	<p>Decisions about committee membership and chairs should be made by the full board based on recommendations from the corporate governance committee. Consideration should be given to whether periodic rotation of committee memberships and chairs would provide fresh perspectives and enhance directors' familiarity with different aspects of the corporation's business, consistent with applicable listing standards. (p. 16)</p> <p>[Q]ualifications required for committee membership should be clearly defined and set out in a written charter that is approved by the board and publicly available. (p. 17)</p> <p>Audit committee members should meet minimum financial literacy standards, as required by the listing standards of the major securities markets, and at least one member of the audit committee should be an audit committee financial expert, as determined by the board in accordance with regulations of the Securities and Exchange Commission. (p. 17)</p> <p>The corporate governance committee ... recommends directors for appointment to committees of the board. The committee should periodically review the board's committee structure and annually recommend candidates for membership on the board's committees. The committee should see that the key board committees, including the audit, compensation and corporate governance committees, are composed of directors who meet applicable independence and qualification standards. (p. 22)</p> <p>All [compensation] committee members should have sufficient knowledge of executive compensation and related issues to perform their duties effectively. (p. 23)</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
22. Committee Meeting Frequency, Length & Agenda				
<p>It is increasingly common for external auditors to be recommended by an independent audit committee of the board or an equivalent body and to be appointed either by that committee/ body or by shareholders directly. (Annotation to Principle V.C)</p> <p>The audit committee or an equivalent body is often specified as providing oversight of the internal audit activities and should also be charged with overseeing the overall relationship with the external auditor including the nature of nonaudit services provided by the auditor to the company. (Annotation to Principle V.C)</p> <p>With respect to nomination of candidates, boards in many companies have established nomination committees to ensure proper compliance with established nomination procedures and to facilitate and coordinate the search for a balanced and qualified board. (Annotation to Principle II.C.3)</p> <p>It is considered good practice in an increasing number of countries that remuneration policy and employment contracts for board members and key executives be handled by a special committee of the board comprising either wholly or a majority of independent directors. There are also calls for a remuneration committee that excludes executives who serve on each others' remuneration committees, which could lead to conflicts of interest. (Annotation to Principle VI.D.4)</p> <p>See Annotation to Principle VI.D.6 (<i>audit or ethics committee as contact point for whistleblowers</i>).</p> <p>See also Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 3, 4 & 27 (<i>nomination committee</i>).</p>	<p>The audit committee should have a formal charter.... The audit committee should review the integrity of the company's financial reporting and oversee the independence of the external auditors.... The audit committee should meet often enough to undertake its role effectively. (Recommendation 4.4)</p> <p>The nomination committee should have a charter that clearly sets out its role and responsibilities, composition, structure and membership requirements. Responsibilities ... include:</p> <ul style="list-style-type: none"> ▪ assessment of the necessary and desirable competencies of board members; ▪ review of board succession plans; ▪ evaluation of the board's performance; ▪ recommendations for appointment and removal of directors. <p>(Commentary on Recommendation 2.4)</p> <p>The remuneration committee should have a formal charter that clearly sets out its role and responsibilities, composition, structure and membership requirements. Responsibilities...include:</p> <ul style="list-style-type: none"> ▪ executive remuneration and incentive policies; ▪ remuneration packages of senior management; ▪ ... recruitment, retention and termination policies and procedures for senior management; ▪ incentive schemes; ▪ superannuation arrangements; ▪ the remuneration framework for directors. <p>(Commentary on Recommendation 9.2)</p> <p>See Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 3 (<i>nomination committee</i>).</p>	<p>The audit committee should monitor the integrity of the financial information.... (Appendix C, Provision 5.2./4)</p> <p>[T]he audit committee should review the internal control and risk management systems set up by executive management, with a view to ensuring that the main risks ... are properly identified, managed and disclosed. (Appendix C, Provision 5.2./7)</p> <p>The audit committee should meet at least three times a year. (Appendix C, Provision 5.2./19)</p> <p>[T]he nomination committee should:</p> <ul style="list-style-type: none"> ▪ draft appointment procedures for board members; ▪ periodically assess the size and composition of the board and make recommendations...; ▪ identify and nominate, for the approval of the board, candidates to fill vacancies as they arise; ▪ advise on proposals for appointment originating from shareholders; ▪ properly consider issues related to succession planning. <p>(Appendix D, Provision 5.3./4)</p> <p>The nomination committee should meet at least twice a year.... (Appendix D, Provision 5.3./6)</p> <p>The remuneration committee should make proposals to the board on the remuneration policy for nonexecutive directors and the resulting proposals to be submitted to the shareholders, and the remuneration policy for executive management. (Appendix E, 5.4./3)</p> <p>The remuneration committee should meet at least twice a year.... (Appendix E, 5.4./6)</p> <p>See Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 4 (<i>nomination committee</i>).</p>	<p>[C]ommittees examine the specific issues of their area and prepare the proposals to be submitted to the Board. (IBGC Code ¶ 2.8)</p> <p>An audit committee ... should supervise the relationship with the auditor. As part of the analysis of the company's financial statements, the fiscal board and the audit committee should meet regularly and separately with the auditors, without the presence of executive officers. (CVM Recommendation IV.3)</p> <p>Every company Board of Directors should encourage the implementation of an Audit Committee to analyze the financial statements in detail, support financial supervision and accountability, making sure that Management adequately develops and adheres to sound internal controls, that the Internal Audit Department satisfactorily fulfills its role and that the Independent Auditors assess and review Management and Internal Audit Department practices. (IBGC Code ¶ 2.9)</p> <p>The Audit Committee should discuss with the Independent Auditors: (i) changes in or maintenance of accounting principles and criteria; (ii) the use of reserves and provisions; (iii) relevant estimates and conclusions in preparing the financial statements; (iv) risk assessment methods and findings; (v) changes in auditing scope; (vi) high risk areas; (vii) relevant deficiencies and significant flaws in the internal controls; (viii) awareness of illegal activity; and (ix) external factor impacts (economic, regulatory, and industry) on the financial statements and auditing process. (IBGC Code ¶ 2.9.4)</p> <p>See Topic Headings 30 & 31 (<i>audit committee</i>) and 25 & 29 (<i>compensation policies/recommendations</i>).</p>	<p>[The nominating/governance] committee would propose changes to the board of directors necessary to respond to the governance guidelines. [It] would also be responsible for the explanation to the investment community of the differences between the corporation's governance system and the guidelines [and] also function as a forum for concerns of individual directors about matters that are not readily or easily discussed in a full board meeting. (Dey Report, §§ 6.4, 6.5, 6.7 at p. 39)</p> <p>The audit committee should have direct communication channels with the internal and external auditors to discuss and review specific issues as appropriate. [Its] duties should include oversight responsibility for management reporting on internal control. (Dey Report, § 6.21 at p. 3)</p> <p>Audit committees should adopt a formal written mandate that is approved by the full board and that sets out the scope of the committee's responsibilities. This mandate should be disclosed to shareholders.... [It] should set out explicitly the role and responsibility of the audit committee with respect to:</p> <ul style="list-style-type: none"> ▪ its relationship with and expectation of the external auditors; ▪ its relationship with and expectation of the internal auditor function; ▪ its oversight of internal control; ▪ disclosure of financial and related information; and ▪ any other matters that the audit committee feels are important to its mandate or that the board chooses to delegate to it. <p>(Saucier Report, Recommendation 11)</p> <p>See Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 3 & 4 (<i>nominating/governance committee</i>).</p>

China	Denmark	France	Germany	India
22. Committee Meeting Frequency, Length & Agenda				
<p>The main duties of the audit committee are: (1) to recommend the engagement or replacement of the company’s external auditing institutions; (2) to review the internal audit system and its execution; (3) to oversee the interaction between the company’s internal and external auditing institutions; (4) to inspect the company’s financial information and its disclosure; and (5) to monitor the company’s internal control system. (Ch. 3, (6) 54)</p> <p>The main duties of the nomination committee are: (1) to formulate standards and procedures for the election of directors and make recommendations; (2) to extensively seek qualified candidates for directorship and management; and (3) to review the candidates for directorship and management and make recommendations. (Ch. 3, (6) 55)</p> <p>The main duties of the remuneration and appraisal committee are: (1) to study the appraisal standard for directors and management personnel, to conduct appraisal and to make recommendations; and (2) to study and review the remuneration policies and schemes for directors and senior management personnel. (Ch. 3, (6) 56)</p> <p>Each ... committee shall be accountable to the board of directors. All proposals by ... committees shall be submitted to the board of directors for review and approval. (Ch. 3, (6) 58)</p> <p>See (Ch. 3, (6) 53) (<i>corporate strategy committee</i>).</p> <p>See also Topic Headings 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 3 & 4 (<i>nomination committee</i>).</p>	<p>A nomination committee should ... nominate supervisory board and executive board candidates to be presented to the supervisory board [and] consider proposals submitted by relevant persons, including shareholders, members of the supervisory board and members of the executive board. (Appendix A)</p> <p>A remuneration committee should ... submit recommendations to the supervisory board about the remuneration policy established for the supervisory board and the executive board. The remuneration policy should cover all types of pay and remuneration, including regular pay, performance-related schemes (including share-based remuneration), pension schemes as well as severance pay, etc. [It should also] submit proposals to the supervisory board for standard agreements for executives. (Appendix A)</p> <p>An audit committee should ... check the accuracy of financial information disclosed in annual, semi-annual and quarterly reports, etc. issued by the company, including ensuring that accounting policies are relevant and applied consistently. (Appendix A)</p> <p>See Recommendation V.10 (In the event of appointment of a supervisory board committee, the Committee recommends the supervisory board draw up terms of reference for that committee, setting out its responsibilities and powers.).</p> <p>See generally Appendix A (<i>responsibilities of the nomination, remuneration and audit committees</i>).</p> <p>See also Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 28 (<i>compensation principles/recommendations</i>) and 3, 4 & 15 (<i>nomination committee</i>).</p>	<p>The main tasks of the audit committee are to review the accounts and ensure the relevance and consistency of accounting methods [and] in-house procedures for the collection and review of information.... [It] should [also] steer the procedure for selection of the statutory auditors.... (¶¶ 14.2.1-14.2.2) See generally ¶ 14 (<i>audit committee</i>).</p> <p>[T]he Board of Directors has sole authority to determine the compensation of the chairman, chief executive officer and chief operating officers.... The compensation committee should define the rules for determination of the variable portion [of corporate officers’ compensation and] review the annual application of those rules. It should also evaluate the total compensation and benefits collected by such managers, if any, from other group affiliates [and] be informed of the policy for compensation of the main managers who are not corporate officers. (¶ 15.3.1) See generally ¶ 15 (<i>compensation committee</i>).</p> <p>[The appointments or nominations] committee is in charge of submitting proposals to the board [for achieving a] desirable balance in the membership of the Board..., identification and evaluation of potential candidates [and] desirability of extensions of terms. In particular, it should organise a procedure for the nomination of future independent directors.... [It] should [also] design a plan for replacement of corporate officers.... (¶¶ 16.2.1-6.2.2) See generally ¶ 16 (<i>appointments or nominations committee</i>).</p> <p>See also Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 4 (<i>nominations committee</i>).</p>	<p><u><i>Supervisory Board Committees</i></u></p> <p>The Supervisory Board shall set up an Audit Committee which, in particular, handles issues of accounting and risk management, the necessary independence required of the auditor, the issuing of the audit mandate to the auditor, the determination of auditing focal points and the fee agreement. (§ 5.3.2)</p> <p>The Supervisory Board may delegate preparations for the appointment of members of the Management Board to a committee, which also determines the conditions of the employment contracts including compensation. (§ 5.1.2)</p> <p>The Supervisory Board can delegate other subjects to be handled by one or several committees. These subjects include the strategy of the enterprise, the compensation of the members of the Management Board, investments and financing. (§ 5.3.3)</p> <p>The Supervisory Board can arrange for committees to prepare Supervisory Board meetings and to take decisions in place of the Supervisory Board. (§ 5.3.4)</p> <p>See Topic Headings 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 3 & 4 (<i>nomination committee</i>).</p> <p><u><i>Management Board Committees</i></u></p> <p><i>Not covered.</i></p>	<p>[T]he audit committee should meet at least three times a year. (§ 9.4)</p> <p>[The audit committee’s] role should include...:</p> <ul style="list-style-type: none"> ▪ Oversight of the company’s financial reporting process and the disclosure of its financial information.... ▪ Recommending the appointment and removal of external auditor.... ▪ Reviewing with management the annual financial statements before submission to the board.... ▪ Reviewing with the management, external and internal auditors, the adequacy of internal control systems. ▪ Reviewing the adequacy of internal audit function.... ▪ Discussion with internal auditors of any significant findings.... ▪ Reviewing the findings of any internal investigations by the internal auditors into matters where there is suspected fraud or irregularity or a failure of internal control systems.... ▪ Discussion with external auditors ... of the nature and scope of audit [and] any area of concern. ▪ Reviewing the company’s ... risk management policies. ▪ Looking into the reasons for substantial defaults.... (§ 9.10) <p>[T]he Committee recommends that the board should set up a remuneration committee to determine on their behalf and on behalf of the shareholders with agreed terms of reference, the company’s policy on specific remuneration packages for executive directors including pension rights and any compensation payment. (§ 10.2)</p> <p>See Topic Headings 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 4 (<i>nomination of directors</i>).</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
22. Committee Meeting Frequency, Length & Agenda				
<p><i>Supervisory Board Committees</i></p> <p>[The Nomination and Remuneration Committee proposes] candidates for the Dewan Komisaris and the Direksi and their remuneration.... Such Committee shall endeavour to attract members ... of high quality, and should keep in mind that ... remuneration should be appreciable and reflect their responsibility.... (§ I, 1.5)</p> <p>[The Nomination Committee may have responsibility for] selection criteria and nomination procedures for the executives who are not members of the Direksi ... and to formulate a system of assessments and provide recommendations in respect of the number of members of the Dewan Komisaris and Direksi in the Company. (§ II, 2.9.1)</p> <p>[The Remuneration Committee may] prepare a remuneration system and provide recommendations in respect of (i) the assessment of such system, (ii) the granting of options, such as a stock option, (iii) pension rights, and (iv) redundancy and other compensation schemes. (§ II, 2.9.2)</p> <p>The duties and responsibilities of the Audit Committee shall be specified in a Charter. Such duties and responsibilities should <u>inter alia</u> include: (a) promoting an adequate structure of internal control; (b) improving the quality of financial disclosure ...; (c) reviewing the scope, accuracy and cost effectiveness of the external audit and the independence and objectivity of the external auditors.... (§ IV, Principle 4.2)</p> <p>See § II, 2.9.3 (<i>insurance committee</i>). See also Topic Headings 31 (<i>audit committee</i>) and 13, 25 & 29 (<i>compensation principles/recommendations</i>).</p>	<p>The executive committee – in the person of its chairman – and the managing directors shall periodically report to the board of directors on the activities performed in the exercise of their delegated powers. (Code, 5)</p> <p>[T]he remuneration committee shall submit to the Board of Directors proposals on the remuneration of managing directors [and] the adoption of general remuneration criteria of the company’s executives with strategic responsibilities. (Comment on Code Article 7)</p> <p>[T]he internal control committee shall:</p> <ol style="list-style-type: none"> evaluate ... the correct utilization of the accounting principles...; ... express opinions on specific aspects relating to the identification of the principal risks for the company as well as on the design, implementation and management of the internal control system; review the work plan [and periodic reports] prepared by the officers in charge of internal control...; evaluate the proposals submitted by the auditing firm for obtaining the relevant appointment...; supervise the validity of the accounting audit process; perform any additional duties that are assigned to it...; report to the board, at least on a half yearly basis, ... on the activity carried out, as well as on the adequacy of the internal control system. (Code, 8.C.3) <p>[S]ome companies may consider it helpful to establish a [nominating] committee to propose the appointments [of directors]. (Report, 5.4.1)</p>	<p>[In a (Board of Directors) Committees System,] the nomination committee is given authority to determine the agenda concerning the election and discharge of directors submitted to the general meetings of shareholders; the audit committee must audit the performance of duties of directors and executives; and the compensation committee is given authority to determine compensation for individual directors and executive officers. (TSX Principles, Appendix)</p> <p>Role of each Committee:</p> <ol style="list-style-type: none"> The nominating committee should: (1) decide on candidates for directorships ... and (2) propose appointment, removal and related matters with respect to executives. The compensation committee should review executive compensation programs and each director’s and executive’s compensation.... The audit committee should organize the overall accounting and audit functions, assess the audits conducted by certified public accountants, appoint and discharge certified public accountants, evaluate and make improvements to internal audit procedures and controls, and the internal control environment, and be responsible for related tasks. (CGFJ Principle 7) <p>The corporate governance committee should evaluate and report annually to the board of directors whether the company is organized effectively to realize proper corporate governance.... (Explanation of CGFJ Principle 7)</p> <p>See also Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>), 3 (<i>nomination committee</i>) and 27 (<i>corporate governance committee</i>).</p>	<p>[A] committee’s resolution on a matter mandated by the Board shall hold the same effect as a Board resolution, and the committee shall report such resolutions to the Board. (§ II.6.2)</p> <p>The [nomination] committee shall be organized such that the fairness and independence of the nomination process are ensured. (§ II.3.1)</p> <p>If a committee centered on outside directors is established within the Board, then that committee may make the decisions [on executive remuneration]. (§ II.9.1)</p> <p>Audit committees and auditors shall, at a minimum ...:</p> <ul style="list-style-type: none"> ▪ Audit ... the manager’s execution of operations; ▪ Review ... financial activities and the accuracy of the corporation’s financial reports; ▪ Review the adequacy of major accounting standards ...; ▪ Evaluate internal control systems; ▪ Approve appointment/dismissal of persons heading internal auditing divisions; ▪ Evaluate the auditing activities of external auditors; ▪ Recommend ... external auditors; ▪ Check ... on those matters corrected as a result of auditing. <p>(§ III.1.3)</p> <p>The audit committee shall hold meetings at least once each quarter and, if the need arises, may allow the attendance of management, financial officers, the chairperson of an internal audit division or external auditors. (§ III.1.5)</p> <p>The audit committee shall draft minutes of proceedings.... (§ III.1.6)</p> <p>See Topic Headings 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 4 (<i>nomination of directors</i>).</p>	<p><i>The executive evaluation and compensation committee is responsible for:</i></p> <ol style="list-style-type: none"> suggesting procedures ... to propose candidates for [CEO] and senior management positions; proposing criteria ... to evaluate the [CEO] and senior management ...; analyzing ... the [CEO’s] proposal regarding the structure and amount of compensation for ... senior management. <p>(Principle at II.1)</p> <p>See Topic Headings 25 & 28 (<i>compensation principles/recommendations</i>).</p> <p><i>Audit committee functions:</i></p> <ol style="list-style-type: none"> recommend ... external auditors ...; recommend contract clauses and the scope of external auditors’ professional responsibilities for Board approval; ... supervis[e] performance of the auditors’ contracts; serve as a channel of communication between the Board of Directors and external auditors, and guarantee the independence and objectivity of the latter; review ... auditing reports and notify the Board of Directors of the results; ... help define the general guidelines for the internal control system, and evaluate its effectiveness; assist the Board in coordinating and evaluating annual internal audit programs; coordinate the tasks of the external, internal and statutory auditors; and check that the necessary mechanisms are in place in order to prove that the company is in compliance with the ... provisions to which it is subject. <p>(Principle at III.1)</p> <p>See III, Auditing, and IV, Finances and Planning, and Topic Headings 30 & 31.</p>

The Netherlands	Russia	South Africa	Spain	Sweden
22. Committee Meeting Frequency, Length & Agenda				
<p><u>Supervisory Board Committees</u></p> <p>The audit committee shall ... focus on supervising the activities of the management board with respect to:</p> <ul style="list-style-type: none"> (a) the operation of the internal risk management and control systems ...; (b) the provision of financial information by the company...; (c) compliance with recommendations and observations of internal and external auditors; (d) the role and functioning of the internal audit department; (e) the policy of the company on tax planning; (f) relations with the external auditor...; (g) the financing of the company; [and] (h) the applications of information and communication technology. <p>(Best Practice Provision III.5.4)</p> <p>The remuneration committee shall ...:</p> <ul style="list-style-type: none"> (a) draft[] a proposal to the supervisory board for the remuneration policy to be pursued...; [and] (b) draft[] a proposal for the remuneration of the individual members of the management board, for adoption by the supervisory board.... <p>(Best Practice Provision III.5.10)</p> <p>The selection and appointment committee shall ... draw[] up selection criteria and appointment procedures for supervisory board members and management board members.... (Best Practice Provision III.5.13(a))</p> <p><i>See Topic Headings 31 (audit committee), 13, 25 & 29 (compensation principles/recommendations) and 4 & 24 (selection and appointment committee).</i></p>	<p><u>Board of Directors Committees</u></p> <p>The chairman of the board of directors should efficiently organize the work of committees [and] ensure that [they] operate in the most efficient manner possible. (Ch. 3, § 4.1.5)</p> <p>[T]he audit committee should evaluate each nominee auditor ... and ... the opinion rendered by the independent ... auditor.... (Ch. 1, § 7.3)</p> <p>[P]roposals for improvement of the internal control procedures ... should be assigned to the audit committee. (Ch. 8, § 1.2)</p> <p>The audit committee ensures proper supervision of the company's financial and business operations by the board of directors. (Ch. 3, § 4.9)</p> <p>The audit committee should hold meetings at least once a month and prepare its recommendations for the board of directors.... (Ch. 8, § 1.4)</p> <p><i>See generally Ch. 8 (audit committee supervision of financial and business operations).</i></p> <p>The human resources and remuneration committee deals with filling managerial positions with qualified specialists and providing adequate incentives for their successful work. (Ch. 3, § 4.10)</p> <p><i>See generally Ch. 3, § 2 (election of the board of directors).</i></p> <p><i>See also Ch. 3, § 4.8 (strategic planning committee), Ch. 3, § 4.11 (corporate conflicts resolution committee), and Ch. 3, § 4.12 (ethics committee).</i></p> <p><i>See also Topic Headings 31 (audit committee) and 13, 25 & 29 (compensation principles/recommendations).</i></p>	<p>Board committees with formally determined terms of reference, life span, role and function ... should be established with clearly agreed upon reporting procedures and written scope of authority. (§ 2.7.3)</p> <p>[The] remuneration committee or such other appropriate board committee ... make[s] recommendations to the board within agreed terms of reference on the company's framework of executive remuneration and ... determine[s] specific remuneration packages for each of the executive directors. In order to obtain his or her input on the remuneration of the other executives, the [remuneration] committee should consult the chief executive officer, who may attend meetings by invitation. However, a chief executive should play no part in decisions regarding his/her own remuneration. (§ 2.5.2)</p> <p>The remuneration or such other similar board committee should play an integral part in the succession planning.... (§ 2.5.11)</p> <p>The audit committee should approve the internal audit work plan. (§ 4.2.4)</p> <p>The audit committee should draw up a recommendation to the board for consideration and acceptance by the shareowners for the appointment of the external auditors. (§ 6.1.1)</p> <p>The audit committee should set the principles for recommending using the accounting firm of the external auditors for nonaudit services. (§ 6.1.5)</p> <p>The audit committee should consider whether or not an interim report should be subject to an independent review by the external auditor. (§ 6.2.2)</p> <p><i>See Topic Headings 13, 25 & 29 (compensation principles/recommendations) and 3 (nomination committee).</i></p>	<p>The [Nominations] Committee is responsible for evaluating whether the required knowledge and experience occurs on the Board, and for making use of such evaluation in order to designate new Directors. The Committee will submit its proposals for appointment, re-election and removal of Directors to the Board ... and, where applicable, to the General Meeting.... (§ I.8)</p> <p>[The Remunerations] Committee will propose to the Board, and the Board shall submit for the General Meeting's approval, the remuneration policies ... for Executive Directors and other Directors, and the individual remuneration package of each Director. Likewise, [it] must make proposals on pension schemes, payments in cash and in kind, share option schemes, and [long-term] remuneration plans for Senior Management officers.... (§ I.9)</p> <p>[T]he Audit Committee will ...:</p> <ul style="list-style-type: none"> ▪ supervise the accuracy of the financial statements and annual accounts and ensure that the accounting principles applied are relevant and have been applied consistently; [and] ▪ propose to the Board, which will submit to the General Meeting, the appointment, renewal and revocation of an external auditor and the contractual terms under which it shall provide services to the Board. (§ I.11) <p><i>See generally §§ I.8, Nominations Committee; I.9, Remunerations Committee; and I.11, Audit Committee.</i></p> <p><i>See also Topic Headings 28, 30, 31 & 35 (audit committee); 13, 25, 29 & 35 (remunerations committee); and 3, 4, 24 & 35 (nominations committee).</i></p>	<p>[T]he nomination committee is to:</p> <ul style="list-style-type: none"> ▪ assess the extent to which the current board meets ... demands..., ▪ establish requirement profiles for new members ... and ▪ execute a systematic procedure for the recruitment of directors, with due consideration for shareholders' recommendations. <p>(§ III, Rule 2.2.2)</p> <p>Recommendations on the appointment of auditors are to be made by the company's nomination committee.... (§ III, Rule 2.3.1)</p> <p>The audit committee is to:</p> <ul style="list-style-type: none"> ▪ ... ensure the quality of the company's financial statements, ▪ meet regularly with the company's auditors to keep informed of the aims and scope of the audit work and to discuss coordination between external and internal audit and views on the company's risks, ▪ establish guidelines on other services in addition to audit that the company is allowed to procure from the company's auditors, ▪ evaluate the audit work and inform the company's nomination committee, or where appropriate, the separate nomination committee appointed to propose auditors, of the result of the evaluation, and ▪ assist the company's nomination committee in preparing nominations for auditors and recommendations on audit fees. <p>(§ III, Rule 3.8.3)</p> <p>[The] remuneration committee ... prepar[es] proposals on remuneration and other terms of employment for senior management. (§ III, Rule 4.2.1)</p> <p><i>See Topic Headings 13, 25 & 29 (compensation principles/recommendations) and 4 & 31 (nomination committee).</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
22. Committee Meeting Frequency, Length & Agenda				
<p><u>Board of Directors Committees</u></p> <p>The committees should report to the Board of Directors on their activities and findings. The overall responsibility for duties delegated to the committees remains with the Board of Directors. (Code ¶ 21)</p> <p>The Compensation Committee should draw up the principles for remuneration of members of the Board of Directors and the Executive Management and submit them to the Board of Directors for approval. (Code ¶ 25)</p> <p>The [Compensation] Committee should see to the defining of a remuneration policy, primarily at top company level. [It] should take care that the company offers an overall package of remuneration, which corresponds to performance and the market, in order to attract and retain persons with the necessary skills and character. (Code ¶ 26)</p> <p>The Nomination Committee should lay down the principles for the selection of candidates for election or re-election to the Board of Directors and prepare a selection of candidates in accordance with these criteria. (Code ¶ 27)</p> <p>See Topic Headings 30 & 31 (<i>audit committee</i>) and Topic Headings 13, 25 & 29 (<i>compensation principles/recommendations</i>).</p> <p><u>Management Board Committees</u></p> <p>The Nomination Committee may also be assigned responsibilities in connection with the selection and assessment of candidates for top management. (Code ¶ 27)</p>	<p>[A] nomination committee [has] the responsibility of proposing to the board ... any new appointments, whether of executive or of nonexecutive directors. (Report § 4.30)</p> <p>[Audit committees] should normally meet at least twice a year. (Report § 4.35(a))</p> <p>The audit committee's duties should be determined in the light of the company's needs but should normally include:</p> <p>(i) making recommendations to the board on the appointment of the external auditor, the audit fee, and any questions of resignation or dismissal;</p> <p>(ii) review of the half-year and annual financial statements before submission to the board;</p> <p>(iii) discussion with the external auditor about the nature and scope of the audit, coordination where more than one audit firm is involved, any problems or reservations arising from the audit, and any matters which the external auditor wishes to discuss without executive board members present;</p> <p>(iv) review of the external auditor's management letter;</p> <p>(v) review of the company's statement on internal control systems prior to endorsement by the board;</p> <p>(vi) review of any significant findings of internal investigations. (Report § 4.35(e))</p> <p>See Report, Appendix 4, Audit Committees.</p> <p>See also Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 3 & 4 (<i>nomination committee</i>).</p>	<p>[The] nomination committee ... should lead the process for board appointments and make recommendations to the board.... (Provisions A.4.1, A.4.2)</p> <p>The remuneration committee should have delegated responsibility for setting remuneration for all executive directors and the chairman [and] recommend and monitor ... remuneration for senior management. (Provision B.2.2)</p> <p>The main role and responsibilities of the audit committee ... should include:</p> <ul style="list-style-type: none"> ▪ to monitor the integrity of the financial statements...; ▪ to review the company's internal financial controls...; ▪ to monitor and review the effectiveness of the company's internal audit function; ▪ to make recommendations to the board [regarding] the external auditor and to approve the remuneration and terms of engagement of the external auditor...; ▪ to ... monitor the external auditor's independence and ... the effectiveness of the audit process...; ▪ to develop and implement policy on the engagement of the external auditor to supply nonaudit services.... (Provision C.3.2) <p>See generally C.3, Audit Committee; Guidance on Audit Committees (The Smith Guidance), pp. 43-57; Principal Duties of the Remuneration and Nomination Committees (Higgs Guidance), pp. 65-68; and Schedule A: Provisions on the Design of Performance-Related Remuneration, p. 21.</p> <p>See also Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 27 (<i>nomination committee</i>).</p>	<p>For committee meetings, committee chairs should work with the CEO and committee members to create agendas (incorporating other board members' input as provided) and to ensure that all relevant materials are provided in a timely manner prior to each meeting. (p. 6)</p> <p>See p. 7 (Boards should establish guidelines for ... committees ...).</p> <p>See also Topic Headings 30 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 3, 4 & 27 (<i>nomination/governance committee</i>).</p>	<p>The audit committee is responsible for supervising the ... outside auditor [and] overseeing the corporation's financial reporting process. ... [It] should ... be familiar with the ... system of internal controls over financial reporting and disclosure controls and procedures....</p> <p>[T]he audit committee should oversee the corporation's ... compliance with ethical and legal standards and important corporate policies.... [It] should understand the corporation's risk profile and oversee its risk assessment and risk management practices. [It] should oversee the corporation's internal audit function.... Audit committee meetings should be held frequently enough to allow the committee to monitor the corporation's financial reporting appropriately. (pp. 18-20)</p> <p>The corporate governance committee recommends director nominees to the full board and the corporation's shareholders; oversees the composition, structure, operation and evaluation of the board and its committees; and plays a leadership role in shaping the corporate governance of the corporation.... [It] may also oversee the compensation of the board.... The corporate governance committee also recommends directors for appointment to committees of the board.... [It] should develop and recommend to the board a set of corporate governance principles [and] oversee the evaluation of the board and its committees. (pp. 21-23)</p> <p>The compensation committee's responsibilities include overseeing the corporation's overall compensation structure, policies and programs; establishing or recommending to the board performance goals and objectives for the CEO and other members of senior management; and establishing or recommending to the independent directors compensation for the CEO and senior management. (p. 23)</p> <p>See Topic Headings 30 & 31 (<i>audit committee</i>), 13, 25 & 29 (<i>compensation principles/recommendations</i>) and 3, 4 & 27 (<i>nomination/governance committee</i>).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
23. Formal Evaluation of the Chief Executive Officer				
<p><i>Not covered directly, but see Principle VI (The corporate governance framework should ensure ... the effective monitoring of management by the board....).</i></p> <p><i>See also Principle VI.D.3 (The board should fulfill certain key functions, including ... [s]electing, compensating, monitoring and, when necessary, replacing key executives....).</i></p> <p><i>See also Annotation to Principle VI.D.4 (In an increasing number of countries it is regarded as good practice for boards to develop and disclose a remuneration policy statement covering board members and key executives ... specify[ing] the relationship between remuneration and performance, and includ[ing] measurable standards that emphasise the longer run interests of the company over short-term considerations.).</i></p> <p><i>See also Annotation to Principle VI.E (Independent board members ... can bring an objective view to the evaluation of the performance of the board and management.).</i></p>	<p><i>Not covered directly, but see Principle 8 (Fairly review and actively encourage enhanced board and management effectiveness.).</i></p> <p><i>See also Commentary on Principle 8 (This means that directors and key executives should be equipped with the knowledge and information they need to discharge their responsibilities effectively, and that individual and collective performance is regularly and fairly reviewed.).</i></p> <p><i>See also Commentary on Recommendation 1.1 (Usually the board would be responsible for ... appointing and removing the chief executive officer (or equivalent) [and] monitoring senior management's performance and implementation of strategy.... [T]he chief executive officer (or equivalent) and the chief financial officer (or equivalent) should have a formal job description and letter of appointment describing their term of office, duties, rights and responsibilities, and entitlement on termination.).</i></p>	<p>At least once a year, the remuneration committee should discuss with the CEO both the operation and performance of executive management. The CEO should not be present at the discussion of his or her own evaluation. The evaluation criteria should be clearly specified. (Provision 7.14)</p> <p><i>See Principle 4 (The company shall have a rigorous and transparent procedure for the ... evaluation of the board and its members.).</i></p> <p><i>See also Provision 1.3 ([T]he board should ... review executive management performance....).</i></p> <p><i>See also Provision 7.12 (Where executive managers are eligible for incentives, their grant should be subject to relevant and objective performance conditions designed to enhance corporate value. Evaluation and review procedures for executive managers' performance should be established.).</i></p>	<p>The board of directors should make annual formal evaluations of the chief executive officer's performance. (CVM Recommendation II.2)</p> <p>The Board of Directors should make, on an annual basis, an official evaluation of the CEO. (IBGC Code ¶ 2.26)</p> <p>The CEO is evaluated by the Board of Directors on an annual basis, and is in charge of evaluating the Officers and submitting results to the Board of Directors. (IBGC Code ¶ 3.8)</p> <p><i>See IBGC Code ¶ 3.1 (The Chief Executive Officer is accountable to the Board of Directors and is in charge of implementing its directives. The loyalty of the CEO should be to the company.).</i></p>	<p>The "independent board leader" should be accountable to the board for ensuring that the assessment of the CEO and the succession planning functions are carried out and the results discussed by the full board. (Saucier Report, Recommendation 6)</p> <p>There are five core functions that boards must be explicitly responsible for [including] <u>monitoring</u> and assessing the performance of the CEO ... and taking remedial action where warranted, including replacing the CEO if necessary.... (Saucier Report, pp. 12-13)</p> <p>The board has the responsibility to monitor the performance of the CEO and senior management.... Performance monitoring requires that the board establish a position description for the CEO, setting out his or her authorities and accountabilities, as well as performance indicators agreed upon by the board on a regular basis to provide monitoring benchmarks. (Saucier Report, p. 20)</p> <p>The director with the responsibility of "independent board leader" should be accountable to the board for ensuring that the assessment of the CEO and the succession planning functions are carried out and the results discussed by the full board. (Saucier Report, Appendix A, p. 40)</p> <p><i>See Dey Report, Guideline 1(iii) (The board of directors of every corporation should explicitly assume responsibility for ... appointing, training and monitoring senior management.).</i></p> <p><i>See also Dey Report, § 6.7 at pp. 39-40 (The governance committee ... will also function as a forum for concerns of individual directors [that] could include the performance of management or individual members of management....).</i></p>

China	Denmark	France	Germany	India
23. Formal Evaluation of the Chief Executive Officer				
<p><i>Not covered directly, but see Ch. 5, (1) 69 (A listed company shall establish fair and transparent standards and procedures for the assessment of the performance of ... management personnel.).</i></p> <p><i>See also Ch. 5, (1) 70 (The evaluation of ... management personnel shall be conducted by the board of directors or by the remuneration and appraisal committee of the board of directors.).</i></p> <p><i>See also Ch. 5, (3) 79 (The results of the performance assessment [of management personnel] shall be approved by the board of directors, explained at the shareholders' meetings and disclosed.).</i></p> <p><i>See also Ch. 4, (1) 63 (The record of the supervisory committee's supervision as well as the results of financial or other specific investigations shall be used as an important basis for performance assessment of ... senior management personnel.).</i></p> <p><i>See also Ch. 1, (2)11 (Institutional investors shall play a role in ... supervision of management....).</i></p> <p><i>See also Ch. 5, (2) (fair and transparent recruitment of management personnel; employment agreements; and appointment and removal of management personnel).</i></p>	<p><i>Not covered directly, but see Recommendation IV.1 (The Committee recommends that the supervisory board ... regularly evaluate the executive board's work.).</i></p>	<p>It is recommended that the directors that are external to the company (<u>i.e.</u>, are neither corporate officers nor employees) meet periodically without the "in-house" directors. The internal rules of operation of the Board of Directors could provide for such a meeting once a year, at which time the evaluation of the chairman's and chief executive officer's respective performance would be carried out.... (§ 9.3)</p> <p><i>See § 15.3.1 (The compensation committee should define the rules for determination of the variable portion [of corporate officers' compensation], ensuring that they are consistent with the annual evaluation of the corporate officers' performance and the corporation's medium-term strategy; it should then review the annual application of those rules.).</i></p>	<p><i>Not covered directly, but see § 4.2.2 (Compensation of the members of the Management Board is determined by the Supervisory Board ... based on a performance assessment.... Criteria for determining the appropriateness of compensation are, in particular, the tasks of the respective member of the Management Board, his personal performance, the performance of the Management Board as well as the economic situation, the performance and outlook of the enterprise, taking into account its peer companies.).</i></p> <p><i>See also 4.2.3 (The overall compensation of the members of the Management Board shall comprise a fixed salary and variable components. Variable compensation should include one-time and annually-payable components linked to the business performance as well as long-term incentives containing risk elements. All compensation components must be appropriate, both individually and in total.).</i></p>	<p><i>Not covered directly, but see § 13.3 (The Committee believes that the management should carry out the following functions:</i></p> <ul style="list-style-type: none"> ▪ <i>Assisting the board in its decision-making process in respect of the company's strategy, policies, code of conduct and performance targets, by providing necessary inputs. Implementing the policies and code of conduct of the board.</i> ▪ <i>Managing the day-to-day affairs of the company to best achieve the targets and goals set by the board, to maximize the shareholder value.</i> ▪ <i>Providing timely, accurate, substantive and material information, including financial matters and exceptions, to the board, board committees and the shareholders.</i> ▪ <i>Ensuring compliance of all regulations and laws.</i> ▪ <i>Ensuring timely and efficient service to the shareholders and to protect shareholder's rights and interests.</i> ▪ <i>Setting up and implementing an effective internal control system, commensurate with the business requirements.</i> ▪ <i>Implementing and complying with the Code of Conduct as laid down by the board. Cooperating and facilitating efficient working of board committees.).</i> <p><i>See also § 14.16 (The Committee is of the view that the institutional shareholders ... [m]aintain regular and systematic contact at senior level for exchange of views on management, strategy, performance and the quality of management.).</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
23. Formal Evaluation of the Chief Executive Officer				
<p><i>Not covered directly, but see § I, Principle 1.5(c) (At a GMOS [AGM], the shareholders shall adopt a system for the evaluation of [the] performance [of the Direksi].).</i></p> <p><i>See also § II, Principle 2.1 (The Dewan Komisaris shall be responsible and shall have the authority to supervise the actions of the Direksi....).</i></p> <p><i>See also § II, 2.9.1 ([The Nomination Committee may] formulate a system of assessments....).</i></p> <p><i>See also § 3.1, Principle (The Direksi shall be responsible for the implementation of their duties to the shareholders at the GMOS [AGM].).</i></p>	<p><i>Not covered directly, but see Code, 7.C.3 (The remuneration committee shall ... periodically evaluate the criteria adopted for the remuneration of executives with strategic responsibilities ...).</i></p> <p><i>See also Comment on Code Article 7 (The remuneration committee shall submit to the Board of Directors proposals on the remuneration of managing directors.... In particular, the remuneration committee shall submit proposals to the Board in relation to the incentive system considered the most appropriate ... and shall monitor the evolution and application ... of the plans approved by the shareholders' meeting upon proposal of the board.).</i></p>	<p>[T]he CEO should be accountable, as a nonsupervisor, to the board of directors and each Committee, which are management supervisory organizations. The board of directors may remove the CEO if the CEO cannot prove that he or she has fulfilled the responsibilities entrusted to him or her. (Explanation of CGFJ Principle 8)</p> <p>The corporate governance committee should evaluate and report annually to the board of directors ... whether the executives (including the CEO) ... are acting in accordance with the ideals set out in the corporate governance guidelines prescribed by the board of directors. (Explanation of CGFJ Principle 7)</p> <p>[T]he board should examine ... whether the CEO's conduct of the business is in breach of any law or regulation (including any special legislation....). (Explanation of CGFJ Principle I)</p> <p>The audit committee should evaluate the CEO's policies for strengthening internal audit and control. (<i>CGFJ Principles</i>, Principle 11.2)</p>	<p><i>Not covered directly, but see § II.9 (To promote active performance of duties by the management ... their activities shall undergo fair evaluation....).</i></p> <p><i>See also § II.2.2 (The most important role of outside directors is to enable the Board to perform its management supervisory functions effectively. Such directors ... mak[e] possible effective management supervision and objective management counseling.).</i></p>	<p><i>The executive evaluation and compensation committee should encompass the following functions:</i></p> <ul style="list-style-type: none"> (i) suggesting procedures for the Board of Directors to propose candidates for chief executive officer and senior management positions; (ii) proposing criteria for the Board of Directors to evaluate the chief executive officer and senior management, according to general guidelines established by the Board of Directors; and (iii) analyzing and bringing before the Board of Directors the chief executive officer's proposal regarding the structure and amount of compensation for the company's senior management. <p>(Principle at II.1)</p> <p>The [committee] established for assisting the Board of directors in its evaluation and compensation functions should verify whether the hiring conditions of the chief executive officer and senior management, as well as any severance pay commitments, comply with Board-approved guidelines. (Principle at II.2)</p> <p>The mechanism or intermediate body should assist the Board in evaluating policies to determine compensation for the chief executive officer and senior management of the company. These policies should encompass aspects such as established goals, individual performance, and the performance of the company itself. (Recommendation at II.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
23. Formal Evaluation of the Chief Executive Officer				
<p><i>Not covered directly, but see Best Practice Provision III.1.7 ([T]he supervisory board shall discuss at least once a year, without the management board being present, both the functioning of the management board as an organ of the company and the performance of its individual members, and the conclusions that must be drawn on the basis thereof. Reference to these discussions shall be made in the report of the supervisory board.)</i></p> <p><i>See also Best Practice Provisions II.2.9 – II.2.10 (The remuneration report of the supervisory board shall contain...:</i></p> <ul style="list-style-type: none"> <i>....</i> <i>(e) a description of the performance criteria on which any right of the management board members to options, shares or other variable remuneration components [depends];</i> <i>(f) an explanation of the chosen performance criteria;</i> <i>(g) a summary of the methods that will be applied in order to determine whether the performance criteria have been fulfilled and an explanation of the choice of these methods;</i> <i>(h) if performance criteria are based on a comparison with external factors, a summary ... of the factors ... used to make the comparison....).</i> <p><i>See also Best Practice Provision III.1.6 (Supervision of the management board by the supervisory board shall include:</i></p> <ul style="list-style-type: none"> <i>(i) achievement of the company’s objectives;</i> <i>(ii) corporate strategy and the risks inherent in the business activities;</i> <i>(iii) the structure and operation of the internal risk management and control systems;</i> <i>(iv) the financial reporting process;</i> <i>(v) compliance with the legislation and regulations.).</i> 	<p><i>Not covered directly, but see Ch. 3, § 1.4.1 ([T]he board of directors is the major player in controlling the operations of executive bodies. This function implies that the board of directors should be able to suspend the director general (managing organization, manager) appointed by the general shareholders meeting. Such authority should be granted to the board of directors in the company’s charter.</i></p> <p><i>The board of directors should suspend the powers of the director general (managing organization, manager) if violations are revealed in the performance of such person’s duties. Therefore, if the executive bodies of the company are appointed by the general shareholders meeting, it is advisable that the company’s charter provide that the responsibilities of the board of directors include suspension of the director general (managing organization, manager), as well as the period of and reasons for such suspension.).</i></p>	<p>The chairperson, or a subcommittee appointed by the board, should appraise the performance of the chief executive officer. The board should satisfy itself that an appraisal of the chief executive officer is performed at least annually. (§ 2.3.6)</p> <p><i>See § 2.1.17 (Every board should have a charter setting out its responsibilities.... At a minimum, the charter should confirm the board’s responsibility for ... monitoring of operational performance and management....).</i></p>	<p>The Board will conduct an annual performance evaluation of its Chief Executive Officer. This performance evaluation will be co-ordinated by the Nonexecutive Chairman (or by the Senior Independent Director/Lead Director in the case of an Executive Chairman), who shall present the results thereof to the Chief Executive Officer. (§ I.6)</p>	<p>The board is to evaluate the work of the managing director on a regular basis. At least once a year, the board is to take up this matter. At that time, no one from senior management is to be present. (§ III, Rule 3.5.3)</p> <p><i>See § III, Rule 3.1.1 (To meet its obligations to the company’s owners, the board of directors is to pay particular attention to ... evaluate the company’s operative management on an ongoing basis and, if necessary, appoint or dismiss the managing director....).</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
23. Formal Evaluation of the Chief Executive Officer				
<p><i>Not covered directly, but see Code ¶ 10.4-5 (The primary functions [of the Board of Directors include] appointment and removal of persons entrusted with the management [and] ultimate supervision of the persons entrusted with the management....).</i></p> <p><i>See also Code ¶ 11 (The Board of Directors should ensure that management and control functions are allocated appropriately.).</i></p>	<p><i>Not covered directly, but see Report §§ 4.4 - 4.5 (noting the important contributions nonexecutive directors have in reviewing the performance of the board and of the CEO).</i></p>	<p><i>Not covered directly, but see Supporting Principle A.1 (The board should ... review management performance.... Nonexecutive directors should scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance. They should satisfy themselves on the integrity of financial information and that financial controls and systems of risk management are robust and defensible. They are responsible for determining appropriate levels of remuneration of executive directors and have a prime role in appointing, and where necessary removing, executive directors.... (Supporting Principle A.1)</i></p> <p><i>See also Appendix – Related Guidance and Good Practice Suggestions: Suggestions for Good Practice From the Higgs Report, p. 64 (The effective non-executive director ... supports executives in their leadership of the business while monitoring their conduct....).</i></p>	<p>There are three separate aspects to effective evaluation at the board level, each of which constitutes a critical component of board professionalism and effectiveness: CEO evaluation, board evaluation, and individual director evaluation. All three of these evaluations should be assessed vis-à-vis pre-established criteria to provide the CEO, the board as a whole, and each director with critical information pertaining to their collective and individual performance and areas that can be improved.</p> <ul style="list-style-type: none"> ▪ Boards should regularly and formally evaluate the CEO, the board as a whole, and individual directors; ▪ Boards should ensure that independent directors create and control the methods and criteria for evaluating the CEO, the board, and individual directors. <p>(p. 7)</p> <p><i>See Topic Heading 28, below.</i></p> <p><i>See also REPORT OF THE NACD BLUE RIBBON COMMISSION ON PERFORMANCE EVALUATION OF CHIEF EXECUTIVE OFFICERS, BOARDS, AND DIRECTORS (1994).</i></p>	<p>Making decisions regarding the selection, compensation and evaluation of a well-qualified and ethical CEO is the single most important function of the board. (p. 7)</p> <p>Under the oversight of an independent committee or the lead director, the board should annually review the performance of the CEO and participate with the CEO in the evaluation of members of senior management. All nonmanagement members of the board should participate with the CEO in senior management evaluations. The results of the CEO’s evaluation should be promptly communicated to the CEO in executive session by representatives of the independent directors and used by the compensation committee or board in determining the CEO’s compensation. (p. 28)</p> <p><i>See pp. 10-12 (responsibilities of the CEO and senior management).</i></p> <p><i>See also Topic Heading 28, below.</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
24. Management Succession & Development				
<p>The board should fulfill certain key functions, including ... overseeing succession planning. (Principle VI.D.3)</p> <p>Independent board members ... can play an important role in areas where the interests of management, the company and shareholders may diverge, such as ... succession planning.... (Annotation to Principle VI.E)</p>	<p>The nomination committee should be responsible for ensuring that an effective induction process [for directors] is in place.... Similar induction processes may also be desirable for key executives. Directors and key executives should have access to continuing education to update and enhance their skills and knowledge. This should include education concerning key developments in the company and within the industry and environments within which it operates. (Commentary on Recommendation 8.1)</p>	<p>The nomination committee should assist the board for the nomination and succession planning of executive management, unless otherwise decided by the board. (Provision 6.3)</p> <p>The board should empower executive management to enable it to perform its responsibilities and duties. Taking into account the company's values, its risk appetite and key policies, executive management should have sufficient latitude to propose and implement corporate strategy. (Provision 6.4)</p> <p><i>See</i> Guideline 4.14 (The board should satisfy itself that plans are in place for orderly succession for appointments to the board. It should satisfy itself that any appointment and re-election, whether of executive or nonexecutive directors, will allow an appropriate balance of skills and experience to be maintained on the board.)</p>	<p>The Board of Directors should always have an updated succession plan in place for the CEO and all other key persons in the organization. (IBGC Code ¶ 2.27)</p>	<p>The board of directors of every corporation should explicitly assume responsibility for ... succession planning, including, appointing, training and monitoring senior management. (Dey Report, Guideline 1(iii))</p> <p>The "independent board leader" should be accountable to the board for ensuring that the assessment of the CEO and the succession planning functions are carried out and the results discussed by the full board. (Saucier Report, Recommendation 6)</p> <p>The board has the responsibility to ... ensure that succession planning is in place for critical positions. (Saucier Report, p. 20)</p> <p>The "independent board leader" may choose to delegate the assessment and succession planning functions to committees or committee chairs, but he or she should be accountable for ensuring that they are done. (Saucier Report, Appendix A, p. 40)</p>

China	Denmark	France	Germany	India
24. Management Succession & Development				
<p><i>Not covered directly, but see Ch. 5, (2) (fair and transparent recruitment of management personnel, employment agreements, and appointment and removal of management personnel).</i></p> <p><i>See also Ch. 2, (1) 20 (The controlling shareholders are forbidden to appoint senior management personnel by circumventing the shareholders' meetings or the board of directors.).</i></p>	<p><i>Not covered.</i></p>	<p>The appointments or nominations committee (or an ad hoc committee) should design a plan for replacement of corporate officers in order to be able to submit to the Board solutions for replacement in the event of an unforeseeable vacancy. This is one of the committee's main tasks, even though it may, if necessary, be entrusted by the Board to an ad hoc committee. (¶ 16.2.2)</p> <p><i>See ¶ 9.3 (It is recommended that the directors that are external to the company (i.e., are neither corporate officers nor employees) meet periodically without the "in-house" directors. The internal rules of operation of the Board of Directors could provide for such a meeting once a year, at which time ... the participants could reflect on the future of the company's executive management.).</i></p>	<p>Together with the Management Board, [the Supervisory Board] shall ensure that there is long-term succession planning. (§ 5.1.2)</p>	<p><i>Not covered.</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
24. Management Succession & Development				
<i>Not covered.</i>	<i>Not covered.</i>	<p>[In a (Board of Directors) Committees System,] the CEO should present plans regarding his or her successor to the nominating committee on an annual basis. (CGFJ Principle 8.3)</p> <p>[A] stable system for the selection, evaluation and preparation of the successor of the CEO needs to be established within the company. (Explanation of CGFJ Principle 8.3)</p> <p>See CGFJ Principle 9 (Executive Management Committee:</p> <ol style="list-style-type: none"> 1. An executive management committee should be set up under the CEO. 2. The executive management committee should assist the CEO in conducting all aspects of the business of the company.). 3. Each company needs to be creative in setting the structure, authority and responsibility of the executive management committee so as to facilitate efficient executive decisionmaking.). 	<i>Not covered.</i>	<i>Not covered.</i>

The Netherlands	Russia	South Africa	Spain	Sweden
24. Management Succession & Development				
<p>The selection and appointment committee [of the supervisory board] shall ... focus on:</p> <ul style="list-style-type: none"> (a) drawing up selection criteria and appointment procedures for ... management board members; (b) periodically assessing the size and composition of ... the management board...; (c) periodically assessing the functioning of individual ... management board members, and reporting on this to the supervisory board; (d) making proposals for appointments and reappointments; [and] (e) supervising the policy of the management board on the selection criteria and appointment procedures for senior management. <p>(Best Practice Provision III.5.13)</p> <p><i>See also Topic Heading 23, above.</i></p>	<p><i>Not covered directly, but see</i> Ch. 4, § 1.1 (The law permits creation of a managerial board of the company, leaving the matter of separation of powers between the sole [manager arrangement] and [the] managerial board [arrangement] to the company's discretion. This approach is based on the fact that management of the current affairs of the company implies the necessity of resolving some issues collectively as opposed to individually. These may include both matters lying beyond the framework of customary business operations of the company, and matters that, although they can be characterized as customary, have significant impact on the company or require collegiate approval.</p> <p>In order to resolve the above matters, companies are advised to create a managerial board whose authority ... should be defined in the company's charter in the most comprehensive manner possible.).</p>	<p>The board must ... ensure that succession is planned. (§ 2.1.3)</p> <p>The remuneration or such other similar board committee should play an integral part in the succession planning, particularly in respect of the chief executive officer and executive management. (§ 2.5.11)</p>	<p>The Board is responsible for the succession plan of Directors (including the Chairman and the [Chief] Executive). The Nominations Committee shall be responsible for the development and continuous updating of the succession plan, with regard to which it may request external advice on this matter if deemed necessary....</p> <p>The Committee must at least be familiar with the evaluation and succession plan for the Company's Senior Management and of any changes made in such plan, including any appointment or resignation, as well as the grounds on which it is based. Any [additions] to Senior Management reporting to the Chief Executive Officer/Managing Director require the approval of the Board following a favourable report prepared by the Nominations Committee. (§ I.8)</p>	<p><i>Not covered.</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
24. Management Succession & Development				
<p>The Nomination Committee may ... be assigned responsibilities in connection with the selection and assessment of candidates for top management. (Code ¶ 27)</p> <p>See Code ¶ 11 (The Board of Directors should ensure that management and control functions are allocated appropriately.).</p> <p>See also Topic Headings 4 and 23, above.</p>	<p><i>Not covered.</i></p>	<p>The board should satisfy itself that plans are in place for orderly succession for appointments to the board and to senior management, so as to maintain an appropriate balance of skills and experience within the company and on the board. (Supporting Principle A.4)</p>	<p>Boards should institute a CEO succession plan and selection process, through an independent committee or overseen by a designated director or directors. (p. 7)</p> <p>See REPORT OF THE NACD BLUE RIBBON COMMISSION ON CEO SUCCESSION (2000).</p>	<p>Long-term planning for CEO and senior management development and succession is one of the board's most important functions. The board, its corporate governance committee or another committee of independent directors should identify and regularly update the qualities and characteristics necessary for an effective CEO. With these principles in mind, the board or committee should periodically monitor and review the development and progression of potential internal candidates against these standards.</p> <p>Emergency succession planning is also critical. Working with the CEO, the board or committee should see that plans are in place for contingencies such as the departure, death or disability of the CEO or other members of senior management to facilitate the transition to both interim and longer-term leadership in the event of an untimely vacancy. (pp. 27-28)</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
25. Executive Compensation & Stock Ownership				
<p>The board should fulfill certain key functions, including ... [s]electing, compensating, monitoring and, when necessary, replacing key executives [and] [a]ligning key executive and board remuneration with the longer term interests of the company and its shareholders. (Principles VI.D.3 – VI.D.4)</p> <p>In an increasing number of countries it is regarded as good practice for boards to develop and disclose a remuneration policy statement covering board members and key executives. Such policy statements specify the relationship between remuneration and performance, and include measurable standards that emphasise the longer run interests of the company over short-term considerations. Policy statements generally tend to set conditions for payments to board members for extra-board activities such as consulting. They also often specify terms to be observed by board members and key executives about holding and trading the stock of the company, and the procedures to be followed in granting and re-pricing of options. In some countries, policy also covers the payments to be made when terminating the contract of an executive.</p> <p>It is considered good practice in an increasing number of countries that remuneration policy and employment contracts for board members and key executives be handled by a special committee of the board comprising either wholly or a majority of independent directors. There are also calls for a remuneration committee that excludes executives that serve on each others' remuneration committees, which could lead to conflicts of interest. (Annotation to Principle VI.D.4)</p>	<p>Ensure that the level and composition of remuneration is sufficient and reasonable and that its relationship to corporate and individual performance is defined. (Principle 9)</p> <p>This means that companies need to adopt remuneration policies that attract and maintain talented and motivated directors and employees so as to encourage enhanced performance of the company. It is important that there be a clear relationship between performance and remuneration, and that the policy underlying executive remuneration be understood by investors. (Commentary on Principle 9)</p> <p>Ensure that payment of equity-based executive remuneration is made in accordance with thresholds set in plans approved by shareholders. (Recommendation 9.4)</p> <p>Executive remuneration packages should involve a balance between fixed and incentive pay, reflecting short- and long-term performance objectives appropriate to the company's circumstances and goals. A proportion of executive directors' remuneration should be structured in a manner designed to link rewards to corporate and individual performance. (Commentary on Recommendation 9.2)</p> <p>See Commentary on Recommendation 9.2 ([N]o individual should be directly involved in deciding his/her remuneration.).</p>	<p>The company shall remunerate directors and executive managers fairly and responsibly. (Principle 7)</p> <p>Levels of remuneration should be sufficient to attract, retain and motivate directors and executive managers who have the profile determined by the board. (Provision 7.1)</p> <p>The board should determine formal and transparent procedures on the remuneration of executive managers. No individual should be involved in deciding his or her own remuneration. (Provision 7.8)</p> <p>The board determines the remuneration policy for executive managers. (Provision 7.9)</p> <p>An appropriate proportion of an executive manager's remuneration package should be structured so as to link rewards to corporate and individual performance, thereby aligning the executive manager's interest with the interest of the company and its shareholders. (Provision 7.11)</p> <p>Schemes under which executive managers are remunerated in shares, share options or any other right to acquire shares should be subject to prior shareholder approval.... (Provision 7.13)</p> <p>As a rule, shares should not vest and options should not be exercisable within less than three years. (Guideline 7.13)</p> <p>Compensation commitments in the event of early termination should ... avoid rewarding poor performance. (Guideline 7.18)</p> <p>The remuneration committee should make recommendations on individual remuneration of directors and executive managers, including on bonuses and long-term incentives.... (Appendix E, Provision 5.4./5)</p>	<p>One of the main responsibilities of the Board is to select and/or replace the CEO and define his/her compensation and benefits. It is the responsibility of the CEO to name the Officers and their respective compensation for submittal to the Board. (IBGC Code ¶ 2.25)</p> <p>Management compensation should be structured in a way that links it to results, through intelligent and coherent incentives, so that performance coincides with results that are in the best interests of the organization and the owners.</p> <p>Compensation should be established to create the appropriate incentives and to promote the long-term creation of value, not just with regard to Management, but also other employees on all company levels.</p> <p>Organizations should have a formal and transparent procedure in place, in order to develop their compensation policy and establish the compensation package of their management. No Officer should be involved in any decision concerning his/her own compensation.</p> <p>Company stock purchasing options at discount prices should be avoided.</p> <p>Evaluation and compensation systems should have a long-term character, in addition to risk symmetry to prevent attitudes that could benefit the Officers to the detriment of the owners.</p> <p>The compensation package, for instance, should be sufficiently attractive, without exaggeration, always bearing in mind its value-creating potential for the owners.</p> <p>The incentive structure should avoid that the same person oversee the decision process and its corresponding control. (IBGC Code ¶ 3.9)</p>	<p>[T]he relationship between management performance and compensation must be reasonable. This relationship is being closely monitored by the investment community as a result of the fairly recent executive compensation disclosure requirements. (Dey Report, § 4.6(3))</p> <p>There are five core functions that boards must be explicitly responsible for [including] setting the CEO's compensation and approving the compensation of senior management.... (Saucier Report, pp. 12-13)</p>

China	Denmark	France	Germany	India
25. Executive Compensation & Stock Ownership				
<p>To attract qualified personnel and to maintain the stability of management, a listed company shall establish rewarding systems that link the compensation for management personnel to the company's performance and to the individual's work performance. (Ch. 5, (3) 77)</p> <p>The performance assessment for management personnel shall become a basis for determining the compensation and other rewarding arrangements for the person reviewed. (Ch. 5, (3) 78)</p> <p>See Ch. 1, (2) 11 (Institutional investors shall play a role in ... the compensation and supervision of management....).</p> <p>See generally Ch. 5, Performance Assessments and Incentive and Disciplinary Systems.</p>	<p>Competitive remuneration is a prerequisite for attracting and retaining competent members of the supervisory board and executive board. Remuneration ... should be reasonable in relation to tasks assigned and responsibilities involved.... (Principle VI)</p> <p>The Committee recommends that total remuneration (basic pay, bonus, price-related incentive schemes, pension schemes, severance pay and other benefits) be at a competitive and fair level, reflecting independent performance and value creation in the company.... (Recommendation VI.1)</p> <p>The Committee recommends that the remuneration policy reflect the interests of the shareholders and the company, match the specific conditions of the company ... and that it promote long-term behaviour and be transparent and easy to understand. (Recommendation VI.2)</p> <p>The Committee recommends that, as part of the company's remuneration policy, the supervisory board lay down principles and guidelines governing the design of incentive schemes for the company's executive board and supervisory board.... The Committee recommends that remuneration to the supervisory board not consist of share option schemes, but, e.g., bonus schemes and shares at market price.... (Recommendation VI.4)</p> <p>A remuneration committee should consult the chairman of the supervisory board as regards remuneration of other members of the supervisory board and consult the CEO as regards remuneration of other executives. (Appendix A)</p>	<p>The law provides that the Board of Directors has sole authority to determine the compensation of the chairman, chief executive officer and chief operating officers....</p> <p>The compensation committee should define the rules for determination of the variable portion [of corporate officers' compensation], ensuring that they are consistent with the annual evaluation of the corporate officers' performance and the corporation's medium-term strategy; it should then review the annual application of those rules. It should also evaluate the total compensation and benefits collected by such managers, if any, from other group affiliates, including pension benefits and other benefits of all kinds. In addition, the committee should be informed of the policy for compensation of the main managers who are not corporate officers. For this, the committee shall act in conjunction with the corporate officers. (¶ 15.3.1)</p> <p>Only the General Meeting of shareholders has the power to authorise the granting of options, to set their maximum number and to determine the main conditions of the granting process.... The general policy regarding the granting of options should be debated by the compensation committee and made the subject of a proposal by the latter to the Board of Directors. That policy, which must be reasonable and appropriate, is to be stated in the annual report and also to the meeting of shareholders when a resolution for authorisation to grant options is submitted to it. (¶ 15.3.2)</p> <p>See generally ¶ 15.3.2 (stock options).</p>	<p>Compensation of the members of the Management Board is determined by the Supervisory Board at an appropriate amount based on a performance assessment in considering any payments by group companies. Criteria for determining the appropriateness of compensation are, in particular, the tasks of the respective member of the Management Board, his personal performance, the performance of the Management Board as well as the economic situation, the performance and outlook of the enterprise, taking into account its peer companies. (§ 4.2.2)</p> <p>The overall compensation of the members of the Management Board shall comprise a fixed salary and variable components. Variable compensation should include one-time and annually payable components linked to the business performance, as well as long-term incentives containing risk elements. All compensation components must be appropriate, both individually and in total.</p> <p>In particular, company stocks with a multi-year blocking period, stock options or comparable instruments (e.g., phantom stocks) serve as variable compensation components with long-term incentive effect and risk elements. Stock options and comparable instruments shall be related to demanding, relevant comparison parameters. Changing such performance targets or the comparison parameters retroactively shall be excluded. For extraordinary, unforeseen developments a possibility of limitation (cap) shall be agreed to by the Supervisory Board. (§ 4.2.3)</p>	<p>The Committee ... recognised that the remuneration package should be good enough to attract, retain and motivate the executive directors of the quality required, but not more than necessary for the purpose. The remuneration committee should be in a position to bring about objectivity in determining the remuneration package while striking a balance between the interest of the company and the shareholders. (§ 10.3)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
25. Executive Compensation & Stock Ownership				
<p>At a GMOS [AGM], the shareholders shall adopt a system for the determination of the remuneration of ... the Direksi.... (§ I, Principle 1.5(b))</p> <p>Procedures regarding ... remuneration can be formulated by the Dewan Komisaris or by retaining independent professional advisors appointed by the Dewan Komisaris, subject to approval of the GMOS....</p> <p>[The Nomination and Remuneration] Committee ... should keep in mind that the amount of [Direksi's] remuneration should be appreciable and reflect their responsibility and commitment.</p> <p>The remuneration of ... the Direksi as determined by any GMOS shall not be dependent upon the results of the Company, without prejudice to the right of the GMOS to decide payment of bonuses to ... the Direksi dependent upon the results of the Company. A member of ... the Direksi shall not be remunerated separately for his/her advice to any organ of the Company. (§ I, 1.5)</p> <p>[The Remuneration Committee may] prepare a remuneration system and provide recommendations in respect of (i) the assessment of such system, (ii) the granting of options, such as a stock option, (iii) pension rights, and (iv) redundancy and other compensation schemes. (§ II, 2.9.2)</p> <p>The Dewan Komisaris shall establish a transparent system for ... the determination of [the] remuneration [of executives who are not members of the Direksi]. (§ II, Principle 2.8)</p> <p>See § III, Principle 3.4 (Members of the Direksi should derive no forms of personal gain from the Company's activities other than through their remuneration as members of the Direksi.).</p>	<p>The board of directors shall ... determine, after examining the proposal of the special committee and consulting the board of auditors, the remuneration of the managing directors and of those directors who are appointed to particular positions within the company and, if the shareholders' meeting has not already done so, determine the total amount to which the members of the board and of the executive committee are entitled. (Code, 1.C.1)</p> <p>The Board of Directors shall establish among its members a remuneration committee, made up of non-executive directors, the majority of which are independent. (Code, 7.P.3)</p> <p>The remuneration committee shall submit to the Board of Directors proposals on the remuneration of managing directors [and] the adoption of general remuneration criteria of the company's executives with strategic responsibilities. (Comment on Code Article 7)</p> <p>A significant part of the remuneration of executive directors and executives with strategic responsibilities is linked to the economic results achieved by the issuer and/or the achievement of specific goals indicated in advance by the Board of Directors or ... by the managing directors. (Code, 7.C.1)</p> <p>It is ... important that remuneration packages should be able to attract and motivate persons with adequate experience and ability.... (Report, 5.4.2)</p>	<p>[In a (Board of Directors) Committees System,], the compensation committee should review executive compensation programs and each director's and executive's compensation, pursuant to preset compensation principles. The objective of the compensation programs is to motivate directors and executives to work diligently, and therefore the compensation committee should respectfully review the incentive plans, which should be designed in a fair and reasonable manner. (CGFJ Principle 7.2)</p> <p>The compensation committee should determine the programs for remuneration of ... executives ... and also set the specific compensation package for them. The role of the compensation committee is especially important as the interests of shareholders depend on the abilities of the executives. Recently, [a] so-called incentive plan has been receiving attention as a means of motivating executives to achieve the targets of the company.... Under this pay for performance, the setting of targets, selecting the metrics and determination of the performance range for compensation are important matters to be decided. (CGFJ Principles, Explanation of Principle 7)</p> <p>[In a break with Japanese tradition, in which the status of a position of employment was more important than its monetary compensation,] [i]t is necessary [today] to provide adequate compensation to qualified people, in particular to CEOs, who have specialist managerial skills and who naturally require compensation that is appropriate to their status as CEOs. (CGFJ Principles, Explanation of Principle 7)</p>	<p>To promote active performance of duties by management ... their activities shall undergo fair evaluation; based on such results, the matters of remuneration and reappointment shall be decided. (§ II.9)</p> <p>Business activities of management shall be evaluated fairly, and the evaluation results shall be reflected appropriately in the remuneration. Remuneration for the management shall be decided by the Board, <u>i.e.</u>, within the limits approved by the general shareholder meeting. If a committee centered on outside directors is established within the Board, then that committee may make the decision. (§ II.9.1)</p>	<p>In order to make better informed decisions, the Board of Directors should perform the tasks of evaluation and compensation, auditing, finances and planning ... through one or more [committees]. (Principle at I.3)</p> <p><i>The functions of the executive evaluation and compensation committee should include the following:</i></p> <p>....</p> <p>(ii) proposing criteria for the Board of Directors to evaluate the chief executive officer and senior management, according to general guidelines established by the Board of Directors; and</p> <p>(iii) analyzing and bringing before the Board of Directors the chief executive officer's proposal regarding the structure and amount of compensation for the company's senior management. (Principle at II.1)</p> <p>The [committee] established for assisting the Board of Directors in its evaluation and compensation functions should verify whether the hiring conditions of the chief executive officer and senior management, as well as any severance pay commitments, comply with Board-approved guidelines. (Principle at II.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
25. Executive Compensation & Stock Ownership				
<p>The amount and structure of the remuneration which the management board members receive from the company for their work shall be such that qualified and expert managers can be recruited and retained. If the remuneration consists of a fixed and a variable part, the variable part shall be linked to previously-determined, measurable and influenceable targets, which must be achieved partly in the short-term and partly in the long-term.... The remuneration structure, including severance pay, is such that it promotes the interests of the company in the medium- and long-term, does not encourage management board members to act in their own interests and neglect the interests of the company and does not 'reward' failing board members upon termination of their employment. The level and structure of remuneration shall be determined in the light of ... the results, the share price performance and other developments relevant to the company. The shares held by a management board member in the company on whose board he sits are long-term investments. The amount of compensation which a management board member may receive on termination of his employment may not exceed one year's salary.... (Principle II.2)</p> <p><i>See Best Practice Provisions II.2.1, II.2.2, II.2.4 & II.2.5 (options); II.2.3 (vesting period for shares); and II.2.8 (loans prohibited unless available to all employees).</i></p>	<p>[T]he board of directors ... should approve the terms and conditions of contracts between the company and the director general (managing organization, manager) and the members of the managerial board, including their remuneration and other fees. (Ch. 1, § 3.4(3))</p> <p>It is recommended that remuneration of the director general (managing organization, manager) and members of the managerial board correspond to their qualifications and reflect their real contribution.... (Ch. 1, § 4.4)</p> <p>[I]t is advisable that the charter of the company explicitly state that approval of the terms and conditions of such employment contracts, including those stipulating the amount of remuneration and other payments, is included in the responsibilities of the board of directors. (Ch. 3, § 1.4.3)</p> <p>The [human resources and remuneration] committee prepares its proposals with respect to the remuneration of the director general (managing organization, manager) or a member of the managerial board in compliance with the company's remuneration and development policies and the interests of the company. (Ch. 3, § 4.10.2)</p> <p><i>See generally Ch. 4, § 5 (Remuneration of Executive Bodies) (compensation should be competitive, performance-related, share price-related, and have an incentive component).</i></p>	<p>The results of [the board chairperson's or sub-committee's annual] appraisal [of the CEO] should ... be considered by the Remuneration Committee to guide it in its evaluation of the performance and remuneration of the chief executive officer. (§ 2.3.6)</p> <p>Levels of remuneration should be sufficient to attract, retain and motivate executives of the quality required by the board. (§ 2.5.1)</p> <p>Performance-related elements of remuneration should constitute a substantial portion of the total remuneration package of executives in order to align their interests with those of the shareholders, and should be designed to provide incentives to perform at the highest operational standards. (§ 2.5.5)</p>	<p>[The Remunerations] Committee will propose to the Board, and the Board shall submit to the General Meeting's approval, the remuneration policies (including without limitation, pension schemes, payments in cash and in kind, and share options) for Executive Directors and other Directors, and the individual remuneration package of each Director.</p> <p>Likewise, the Remunerations Committee must make proposals on pension schemes, payments in cash and in kind, share option schemes, and [long-term] remuneration plans for Senior Management officers ... prior to submitting them to the Board, and must be informed of the remuneration policies and the individual remuneration of Senior Management officers.... (§ I.9)</p> <p>A formal and transparent procedure must exist for the implementation of remuneration policies and in order to determine a specific remuneration, in particular with regard to Executive Directors. No Director will take part in the decisionmaking process concerning his/her own remuneration. (§ I.10)</p>	<p>The board is to present a proposal for the company's policy on remuneration and other terms of employment for senior management to the annual general meeting for its approval. The proposal is to be posted on the company's website in connection with the notice of the shareholders' meeting. The policy is to include:</p> <ul style="list-style-type: none"> ▪ the relative importance of fixed and variable components of the remuneration and the linkage between performance and remuneration, ▪ the principal terms of bonus and incentive schemes, ▪ the principal terms of nonmonetary benefits, pension, notice of termination and severance pay, and ▪ the members of senior management covered by the terms. <p>The proposal is to state whether the terms recommended differ significantly from the policy approved earlier by the shareholders' meeting and how matters of senior management remuneration are prepared and decided by the board. (§ III, Rule 4.2.2)</p> <p>The shareholders' meeting is to decide all share and share-price incentive schemes for senior management. The decision is to specify the maximum number of instruments that may be issued, the main terms and principles to be observed when estimating the value of the instrument and the latest date on which the instrument can be issued or transferred to senior management. (§ III, Rule 4.2.3)</p> <p><i>See § III, Rule 2.2.7 (Even though the managing director is a member of the board, he or she may participate in incentive schemes intended for management and employees.)</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
25. Executive Compensation & Stock Ownership				
<p>The Compensation Committee should take care that the company offers an overall package of remuneration, which corresponds to performance and the market, in order to attract and retain persons with the necessary skills and character.</p> <p>The remuneration should be demonstrably contingent upon sustainable company success and the individual contribution by the person in question. False incentives should be avoided. The dilution effect caused by share option schemes for senior managers should be minimized and the conditions for exercising options shall not be modified subsequently in favour of the option holders.</p> <p>Contracts of employment with top managers should contain such provisions on termination of employment as are commensurate with market conditions and which protect the company's interest. In case of early termination of a top management contract only such severance compensation should be paid which is either owed due to the contract or which has been negotiated in compatibility with the interests of the company. (Code ¶ 26)</p> <p><i>See Code ¶ 28 (Companies with active major shareholders (including subsidiaries listed on the stock exchange) may adapt or simplify the guidelines. Such companies should implement in their own way an appropriate arrangement for ... the remuneration policy for members of the Board of Directors and the Executive Management...).</i></p>	<p>[Executive] Directors' service contracts should not exceed three years without shareholders' approval. (Code § 3.1)</p> <p>Executive directors' pay should be subject to the recommendations of a remuneration committee made up wholly or mainly of nonexecutive directors. (Code § 3.3)</p> <p>We also recommend that boards appoint remuneration committees consisting wholly or mainly of nonexecutive directors, and chaired by a nonexecutive director, to recommend to the board the remuneration of the executive directors in all its forms, drawing on outside advice as necessary. (Report § 4.42)</p>	<p>Levels of remuneration should be sufficient to attract, retain and motivate directors of the quality required to run the company successfully, but a company should avoid paying more than is necessary for this purpose. A significant proportion of executive directors' remuneration should be structured so as to link rewards to corporate and individual performance. (Main Principle B.1)</p> <p>There should be a formal and transparent procedure for developing policy on executive remuneration.... (Main Principle B.2)</p> <p>The performance-related elements of remuneration should form a significant proportion of the total remuneration package of executive directors and should be designed to align their interests with those of shareholders and to give these directors keen incentives to perform at the highest levels. In designing schemes of performance-related remuneration, the remuneration committee should follow the provisions in Schedule A to this Code. (Provision B.1.1)</p> <p>Executive share options should not be offered at a discount save as permitted by the relevant provisions of the Listing Rules. (Provision B.1.2)</p> <p>Shareholders should be invited specifically to approve all new long-term incentive schemes (as defined in the Listing Rules) and significant changes to existing schemes, save in the circumstances permitted by the Listing Rules. (Provision B.2.4)</p> <p><i>See Schedule A: Provisions on the Design of Performance-Related Remuneration, p. 21.</i></p>	<p>Creating an independent and inclusive process for remunerating ... the CEO will ensure board accountability to shareholders and reinforce perceptions of fairness and trust between and among management and board members. Boards should involve all directors in all stages of the CEO ... selection and compensation processes.... (p. 6)</p> <p>A significant ownership stake leads to a stronger alignment of interests between directors and shareholders, and between executives and shareholders. Increasingly, compensation programs for directors and senior management are emphasizing stock over benefits. (p. 7)</p> <p><i>See Topic Headings 13, above, and 29, below.</i></p> <p><i>See also REPORT OF THE NACD BLUE RIBBON COMMISSION ON EXECUTIVE COMPENSATION AND THE ROLE OF THE COMPENSATION COMMITTEE (2003).</i></p>	<p>[I]t is the responsibility of the board, through its compensation committee, to adopt and oversee the implementation of compensation policies, establish goals for performance-based compensation, and determine the compensation of the CEO and senior management. (p. 3)</p> <p>The compensation committee should require senior management to build and maintain significant continuing equity investment in the corporation The committee also should consider whether to require senior management to hold for a period of time a specified amount of stock earned through incentive-based awards....</p> <p>[T]he compensation committee ... establishes appropriate incentives for management.... Executive compensation should directly link the interests of senior management ... to the long-term interest of shareholders. It should include significant performance-based criteria related to long-term shareholder value and should reflect upside potential and downside risk.</p> <p>The compensation committee should consider whether the benefits and perquisites provided to senior management are proportional to the contributions made by management. (p. 24)</p> <p><i>See The Business Roundtable, EXECUTIVE COMPENSATION: PRINCIPLES AND COMMENTARY (November 2003).</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
26. Board Access to Independent Advisors				
<p>The contributions of nonexecutive board members to the company can be enhanced by providing ... recourse to independent external advice at the expense of the company. (Annotation to Principle VI.F)</p> <p><i>See Topic Heading 31, below.</i></p>	<p>All directors should bring an independent judgement to bear in decision-making. To facilitate this, there should be a procedure agreed by the board for directors to take independent professional advice if necessary, at the company's expense. (Commentary on Recommendation 2.1)</p> <p>The board should be provided with the information it needs to efficiently discharge its responsibilities. In particular it is important that there be a procedure agreed by the board for directors to take independent professional advice if necessary, at the company's expense.... (Commentary on Recommendation 8.1)</p> <p><i>See Topic Heading 31, below.</i></p>	<p>Directors should have access to independent professional advice at the company's expense, subject to compliance with the relevant procedure laid down by the board. (Guideline 2.6)</p> <p>Although evaluation is a board responsibility, the board should be assisted in this evaluation by the nomination committee, and possibly by external experts. (Guideline 4.11)</p> <p><i>See Provision 5.6 (Board committees should be entitled to seek external professional advice at the company's expense after informing the chairman of the board.)</i></p> <p><i>See also Appendix C, Provision 5.2./6 (The [audit] committee should discuss significant financial reporting issues with both executive management and the external auditor.)</i></p> <p><i>See also Topic Heading 31, below.</i></p>	<p><u><i>Board of Directors</i></u></p> <p>The board should be allowed to request the hiring of external specialists to assist with decisions, when it deems necessary. (Commentary on CVM Recommendation II.2)</p> <p>Directors should be entitled to consult with outside professionals (lawyers, auditors, and tax and human resource specialists, among others), paid by the company, in order to get specific advice on relevant matters. (IBGC Code ¶ 2.22)</p> <p><i>See Commentary on CVM Recommendation IV.3 (Any member of the audit committee may request an individual meeting with ... auditors when necessary.)</i></p> <p><u><i>Fiscal/Advisory Board</i></u></p> <p><i>Not covered directly, but see Topic Heading 31, below.</i></p>	<p>The audit committee should have direct communication channels with the internal and external auditors to discuss and review specific issues as appropriate. (Dey Report, Guideline 13)</p> <p>The board of directors should implement a system which enables an individual director to engage an outside adviser at the expense of the corporation in appropriate circumstances. The engagement of the outside adviser should be subject to the approval of an appropriate committee of the board. (Dey Report, Guideline 14)</p> <p>There are any number of circumstances in which an individual director will want to obtain outside advice. A director, we believe, will function more effectively if the director knows that he or she has a reasonable access to his or her own experts. We support the right of individual directors to engage outside advisors, at the expense of the corporation, in appropriate circumstances. To impose some discipline upon the engagement of outside experts, we recommend that the engagement by an individual director of an outside expert be subject to the approval of an appropriate committee of the board. (Dey Report, § 6.29)</p> <p><i>See generally Dey Report (Individual Directors Engaging Outside Directors), §§ 6.29-6.32.</i></p> <p><u><i>Saucier Report</i></u></p> <p><i>Not covered.</i></p> <p><i>See Topic Heading 31, below.</i></p>

China	Denmark	France	Germany	India
26. Board Access to Independent Advisors				
<p><i>Not covered directly, but see Ch. 3, (6) 57 (Each specialized committee may engage intermediary institutions to provide professional opinions, the relevant expenses to be borne by the company.).</i></p> <p><u><i>Supervisory Board</i></u></p> <p>The supervisory board may independently hire intermediary institutions to provide professional opinions. (Ch. 4, (1) 60)</p> <p><i>See Topic Heading 31, below.</i></p>	<p><i>Not covered directly, but see Appendix A (A supervisory board committee may invite or summon ... experts to participate in its meetings....</i></p> <p>When performing its duties, a nomination committee should be able to draw on necessary resources, including external advisory or advertising services. The company should provide all the resources needed for this purpose....</p> <p>A remuneration committee should be able to draw on the expertise of consultants for the purpose of providing the necessary information about market remuneration practice. The company should provide all the resources needed for this purpose....</p> <p>An audit committee must be able to seek advice and help from external legal advisers, accounting consultants and other advisers when this is deemed necessary to enable the committee to perform its duties. The company should provide all the resources needed for this purpose.).</p>	<p>The committees of the Board may request external technical studies relating to matters within their competence, at the corporation's expense, after informing the chairman of the Board of Directors or the board of directors itself, and subject to reporting back to the Board thereon. (¶ 13)</p> <p><i>See ¶ 9.3 (There should be a formal [board] evaluation at least once every three years. It could be implemented, possibly under the leadership of an independent director, with help from an external consultant.).</i></p> <p><i>See also ¶ 14.3.2 (The [audit] committee should be able to call upon outside experts as needed.).</i></p> <p><i>See also Topic Heading 31, below.</i></p>	<p>The Supervisory Board commissions the auditor to carry out the audit and concludes an agreement on the latter's fee. (§ 7.2.2)</p> <p>The auditor takes part in the Supervisory Board's deliberations on the Annual Financial Statements and Consolidated Financial Statements and reports on the essential results of its audit. (§ 7.2.4)</p> <p><i>See Topic Heading 31, below.</i></p>	<p><i>Not covered directly, but see § 9.6 (The Committee ... recommends that ... the audit committee should invite ... a representative of the external auditor [to] be present ... for the meetings of the audit committee....).</i></p> <p><i>See also § 9.9 ([Audit committee] powers should include powers ... [t]o obtain outside legal or other professional advice [and] [t]o secure attendance of outsiders with relevant expertise, if it considers necessary.).</i></p> <p><i>See Topic Heading 31, below.</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
26. Board Access to Independent Advisors				
<p><u>Supervisory Board</u> [T]he Dewan Komisaris may, pursuant to the procedures it has adopted, retain, independent professional advisors.... (§ II, Principle 2.1)</p> <p>Procedures regarding ... nomination and remuneration can be formulated ... by retaining independent professional advisors appointed by the Dewan Komisaris, subject to approval of the GMOS [AGM]. (§ I, 1.5)</p> <p><u>Management Board</u> [T]he Direksi may, pursuant to procedures it has adopted, retain independent professional advisors.... (§ III, Principle 3.1)</p> <p>See <i>Topic Heading 31</i>, below.</p>	<p>[The Board of Directors] shall define, in particular, the specific transactions (or shall determine the criteria for identifying those transactions), which must be approved after consulting with the internal control committee and/or with the assistance of independent experts. (Code, 9.C.1)</p> <p>[T]he Committee wishes that adequate practices [be] adopted by the Board of Directors, aimed at pursuing the objective ... of substantial and procedural fairness in the transactions with related parties.</p> <p>[S]everal criteria ... may be adopted ... for ensuring a substantial procedural fairness of such transactions [including as an example] the recourse to independent experts (possibly selected by independent directors). (Comment on Code Article 9)</p> <p>[The internal control committee] should assess ... the reports of the external auditors ... and the offers and work programmes of auditing firms. (Report, 5.4.3)</p> <p>See <i>Topic Heading 31</i>, below.</p>	<p><i>Not covered directly, but see Topic Heading 31, below.</i></p>	<p>[O]utside director[s] may receive support from ... outside professionals through due process when necessary, for which the corporation shall cover any reasonable expense. (§ II.4.4)</p> <p>Members of the audit committee and auditors shall be allowed full access to information necessary for audits and, if the need arises, may receive the advice of external experts. (§ III.1.7)</p> <p>External auditors shall attend the general shareholder meeting and answer any shareholders' question on audit reports. (§ III.2.2)</p> <p>External auditors are liable for damages incurred from negligent accounting audit to the corporation concerned and to other information users. (§ III.2.3)</p> <p>External auditors shall make every effort to check the existence of any wrongdoing or law violation by the corporation during audits. (§ III.2.4)</p> <p>See <i>Topic Heading 31 (Auditor Independence)</i>, below.</p>	<p><i>Not covered directly, but see Topic Heading 31, below.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
26. Board Access to Independent Advisors				
<p>If the supervisory board considers it necessary, it may obtain information from officers and external advisers of the company. The company shall provide the necessary means for this purpose. The supervisory board may require that certain officers and external advisers attend its meetings. (Best Practice Provision III.1.9)</p> <p><i>See Topic Heading 31, below.</i></p>	<p>It is advisable that major transactions be executed with the participation of independent assessors. (Ch. 6, § 1.3)</p> <p><i>See Ch. 3, § 4.7.2 (If necessary, committees may enroll experts with required professional skills relevant to the work of a particular committee.).</i></p> <p><i>See also Topic Heading 31, below.</i></p>	<p>The board should have an agreed procedure whereby directors may, if necessary, take independent professional advice at the company's expense. (§ 2.1.9)</p> <p>Board committees should be free to take independent outside professional advice as and when necessary. (§ 2.7.8)</p> <p>Companies should aim for efficient audit processes using external auditors in combination with the internal audit function. (§ 6.1.3)</p> <p>Management should encourage consultation between external and internal auditors. Coordination of efforts involves periodic meetings to discuss matters of mutual interest, the exchange of working papers and management letters and reports, and a common understanding of audit techniques, methods and terminology. (§ 6.1.4)</p> <p><i>See Topic Heading 31, below.</i></p>	<p>Whenever necessary, the Director may request external advice, the cost of which shall be borne by the Company. (§ I.5)</p> <p>The Board must conduct an annual performance evaluation ... for which it should have the freedom to hire external advice from independent experts, when deemed necessary. (§ I.6)</p> <p>Within the Board of Directors, decisions will be taken by Directors not affected by [a] conflict of interest. They may seek external advice at the expense of the Company. (§ I.14)</p> <p><i>See § I.8 (The [Nominations] Committee is authorised to hire external consultancy services, as it deems necessary, in order to identify candidates or to evaluate them.</i></p> <p>The Nominations Committee shall be responsible for the development and continuous updating of the succession plan, for which it may request external advice on this matter, if deemed necessary.).</p> <p><i>See Topic Heading 31, below.</i></p>	<p>At least once a year, the board is to meet the company's auditors without the managing director or any other company executive being present. (§ III, Rule 3.8.4)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
26. Board Access to Independent Advisors				
<p>The Board of Directors may obtain at the company’s expense independent advice from external experts on important business matters. (Code ¶ 14)</p> <p><i>See Topic Heading 31, below.</i></p>	<p>There should be an agreed procedure for directors, in the furtherance of their duties, to take independent professional advice if necessary, at the company’s expense. (Code § 1.5)</p> <p>The board should ensure that an objective and professional relationship is maintained with the auditors. (Code § 4.2)</p> <p>Occasions may arise when directors have to seek legal or financial advice in the furtherance of their duties. They should always be able to consult the company’s advisors. If, however, they consider it necessary to take independent professional advice, we recommend that they should be entitled to do so at the company’s expense, through an agreed procedure laid down formally, for example in a Board Resolution, in the Articles, or in the Letter of Appointment. (Report § 4.18)</p> <p>We also recommend that boards should appoint remuneration committees [that draw] on outside advice as necessary. (Report § 4.42)</p> <p>[T]he shareholders appoint the auditors to provide an external check on the directors’ financial statements. (Report § 6.1)</p> <p>The company’s statement of compliance should be reviewed by the auditors.... (Footnote, p. 60)</p> <p><i>See Topic Heading 31, below.</i></p>	<p>The board should ensure that directors, especially nonexecutive directors, have access to independent professional advice at the company’s expense where they judge it necessary to discharge their responsibilities as directors. Committees should be provided with sufficient resources to undertake their duties. (Provision A.5.2)</p> <p>The remuneration committee should ... be responsible for appointing any consultants in respect of executive director remuneration. (Supporting Principle B.2)</p> <p><i>See Provision A.5.3 (All directors should have access to the advice and services of the company secretary, who is responsible to the board for ensuring that board procedures are complied with. Both the appointment and removal of the company secretary should be a matter for the board as a whole.)</i></p>	<p>Boards and board committees occasionally need independent advice. In most cases, the company and the board can jointly satisfy their needs through the retention of a common resource. In other cases, given the different roles and responsibilities of management and the board, the board may need to retain its own professional advisors.</p> <ul style="list-style-type: none"> ▪ Board members and senior management, as necessary, should concurrently participate in the selection of outside professionals who give advice both to the board and to management. ▪ Under special circumstances, the board and board committees may wish to hire their own outside counsel, consultants, and other professionals to advise the board. <p>(p. 8)</p> <p><i>See p. 7 (Boards should require that key committees – compensation, audit, and nominating or governance – ... are free to hire independent advisors as necessary.)</i></p>	<p>Where appropriate, boards and board committees should seek advice from outside advisers independent of management with respect to matters within their responsibility.... The board and its committees should have the authority to select and retain advisers and approve the terms of their retention and fees. (p. 27)</p> <p><i>See p. 18 ([T]he primary functions of the audit committee include retaining the auditor....)</i></p> <p><i>See also p. 23 (The compensation committee should have the authority to retain compensation consultants, counsel and other advisers to provide the committee with independent advice.)</i></p> <p><i>See also Topic Heading 31, below.</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
27. Corporate Governance Guidelines & Related Disclosure				
<p>Disclosure should include, but not be limited to, material information on:</p> <p>....</p> <p>2. Company objectives.</p> <p>3. Major share ownership and voting rights.</p> <p>4. [I]nformation about board members [including] whether they are regarded as independent by the board.</p> <p>....</p> <p>8. Governance structures and policies, in particular, the content of any corporate governance code or policy and the process by which it is implemented.</p> <p>(Principle V.A.8)</p> <p>Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed. (Principle II.D)</p> <p>Particularly for enforcement purposes, and to identify potential conflicts of interest, related party transactions and insider trading, information about record ownership may have to be complemented with information about beneficial ownership. In cases where major shareholdings are held through intermediary structures or arrangements, information about the beneficial owners should therefore be obtainable at least by regulatory and enforcement agencies and/or through the judicial process. (Annotation to Principle V.A.3)</p> <p>[C]orporations should disclose the extent to which they pursue projects and policies that diverge from the primary corporate objective of generating long-term economic profit so as to enhance shareholder value in the long term. (Millstein Report, Perspective 21)</p>	<p>Under ASX Listing Rule 4.10, companies are required to provide a statement in their annual report disclosing the extent to which they have followed these best practice recommendations in the reporting period. Where companies have not followed all the recommendations, they must identify the recommendations that have not been followed and give reasons for not following them. (Introduction, p. 5)</p> <p>Formalise and disclose the functions reserved to the board and those delegated to management. (Recommendation 1.1)</p> <p>Disclose the process for performance evaluation of the board, its committees and individual directors, and key executives. (Recommendation 8.1)</p> <p>Directors considered by the board to be independent should be identified as such in the corporate governance section of the annual report.... Where the independent status of a director is lost, this should be immediately disclosed to the market. (Commentary on Recommendation 2.1)</p> <p><i>See pp. 17, 24, 28, 33, 37, 41, 45, 49, 57 and 61 (material to be included in the corporate governance section of the annual report relating to each of the Principles enumerated in this Code).</i></p>	<p>The company shall ensure adequate disclosure of its corporate governance. (Principle 9)</p> <p>The company should establish a CG [Corporate Governance] Charter describing all the main aspects of its corporate governance policy.... (Provision 9.1)</p> <p>The company should state in its CG Charter that it follows the Corporate Governance Principles laid down in this Code. (Provision 9.2)</p> <p>The CG Charter ... should be available on the company's website.... (Provision 9.3)</p> <p>The company should establish a CG Chapter in its annual report describing all relevant corporate governance events that took place during the year under review.... If the company does not fully comply with one or more provisions of this Code, it should explain why in the CG Chapter of its annual report. (Provision 9.4)</p> <p>Whenever price-sensitive information or information relating to changes in the shareholders' rights occur in relation to corporate governance, the company should disclose it immediately. (Provision 9.5)</p> <p><i>See generally Appendix F, Disclosure Requirements.</i></p> <p><i>In addition, the Code, passim, provides for disclosure of: identity of board members and who among them are considered independent; number of board and committee meetings held; individual director attendance records; abstentions from voting relating to conflicts of interest; terms of reference for the board, committees and executive management; company articles of association; the shareholding/control structure; and cross-shareholdings.</i></p>	<p>The Annual Report should mention the corporate governance practices that are being adhered to or will be shortly implemented by the company. (IBGC Code ¶ 3.5.1)</p> <p>The analysis of corporate governance practices applied to the securities markets involves: transparency of ownership and control, equal treatment of shareholders, and disclosure. (CVM Recommendations, Introduction)</p> <p>The company should make available to all shareholders any shareholders' agreements of which it is aware, including those to which the company is a party. (CVM Recommendation I.3)</p> <p>The company should adopt and release standard procedures that enable shareholders easily to obtain the list of shareholders. The quantity of shares held should be specified in the list. In the case of a request by shareholders with at least 0.5% of share capital, a contact address should also be provided. (CVM Recommendation I.4)</p> <p>[I]t is imperative to give transparency to contracts between related parties, in order to enable shareholders to supervise and follow the actions of the company. (Commentary on CVM Recommendation III.4)</p> <p>Owners agreements on sales or purchases of their shares or units, share acquisition preference, and the exercise of voting rights or controlling power should be available to all other owners and filed at the headquarters of the company, as well as their amendments and termination. (IBGC Code ¶ 1.3)</p> <p>The company should make available to any of its owners all owners records, with their respective holdings in the company and class of shares or units and any other securities issued by the company. (IBGC Code ¶ 1.4)</p>	<p>The disclosure – a “Statement of Corporate Governance Practices” – should be made in the corporation’s annual report [and] would address at least the following points:</p> <ul style="list-style-type: none"> ▪ Mandate of the board...; ▪ The composition of the board...; ▪ If the board does not have a chair separate from the CEO, the structures and processes which are in place to facilitate functioning of the board independently of management; ▪ Description of board committees...; ▪ Description of decisions requiring prior approval by the board; ▪ Procedures for recruiting new directors and other performance-enhancing measures...; ▪ Measures for receiving shareholder feedback and ... dealing with shareholder concerns; ▪ The board’s expectation of management. <p>(Dey Report, § 8.1)</p> <p>Corporations are obligated to disclose whether the board has a majority of unrelated directors and, if the corporation has a significant shareholder, the corporation will be obligated to disclose whether the board is constituted with the appropriate number of directors who are not related to either the corporation or the significant shareholder. (Dey Report, Appendix A)</p> <p>TSE requirements ... require disclosure of the mandates and activities of the board and all committees. (Saucier Report, p. 28)</p> <p><i>See Topic Heading 22, above.</i></p>

China	Denmark	France	Germany	India
27. Corporate Governance Guidelines & Related Disclosure				
<p>A listed company shall disclose information regarding its corporate governance in accordance with laws, regulations and other relevant rules, including but not limited to: (1) the members and structure of the board of directors and the supervisory board; (2) the performance and evaluation of the board of directors and the supervisory board; (3) the performance and evaluation of the independent directors, including their attendance at board of directors' meetings, their issuance of independent opinions and their opinions regarding related party transactions and appointment and removal of directors and senior management personnel; (4) the composition and work of the specialized committees of the board of directors; (5) the actual state of corporate governance of the company, the gap between the company's corporate governance and the Code, and the reasons for the gap; and (6) specific plans and measures to improve corporate governance. (Ch. 7, (2) 91)</p> <p>The results of the performance assessment [of management personnel] shall be approved by the board of directors, explained at the shareholders' meetings and disclosed. (Ch. 5, (3) 79)</p> <p>[Related party transaction] agreements shall be disclosed.... (Ch. 1, (3) 12)</p> <p>See Ch. 2, (1) (Behavior Rules for Controlling Shareholders).</p> <p>See also Ch. 2, (2) (Independence of Listed Company [from controlling shareholders]).</p> <p>See also Ch. 7, (3) (Disclosure of Controlling Shareholder's Interests).</p> <p>See also Ch. 8 (This Code shall come into effect on the date of issuance).</p>	<p>The Committee recommends that, at least once a year, the supervisory board list the names of the members of the supervisory board who are not regarded as independent [and] disclose whether new candidates ... are considered independent.... (V.4)</p> <p>The Committee recommends that the annual report [state] supervisory board members' occupation ... other managerial positions or directorships held [and] number of shares, options and warrants held by the supervisory board member in the company and group enterprises.... (Recommendation V.4)</p> <p>The Committee recommends that the individual company consider the need to explain the system of [employee-] elected supervisory board members in the company's annual report or on its website. (Recommendation V.5)</p> <p>The Committee recommends that the annual report state when the individual member of the supervisory board joined the board, whether the member ... was re-elected, and when the [term] expires. (Recommendation V.9)</p> <p>The Committee recommends that the company's annual report describe important issues included in the terms of reference of each supervisory board committee and ... list the names of members of each committee, as well as the number of meetings each committee held during the financial year. (Recommendation V.10)</p> <p>The Committee recommends that ... the supervisory board provide details of its procedures of self-assessment in the company's annual report. (V.11)</p> <p>[T]he company's annual report [should] include information about the company's risk management activities. (Recommendation VII.3)</p>	<p>Listed corporations should report with particulars, in their reference documents or in their annual reports, on implementation of these [Code] recommendations and, if applicable, explain the reasons why any of them may not have been implemented. (¶ 19)</p> <p>[I]t is essential for shareholders and third parties to be fully informed of the choice made between separating the offices of chairman and chief executive officer or combining [them]. (¶ 3.2)</p> <p>[I]dentification of independent directors is carried out not only by the corporation's management but by the Board itself. (¶ 8.3)</p> <p>[S]hareholders should be informed each year in the annual report of the evaluations [of the board and management] carried out and, if applicable, of any steps taken as a result. (¶ 9.3)</p> <p>The number of meetings of the Board of Directors and of the committees held during the past financial year should be mentioned in the annual report, which must also provide the shareholders with any relevant information relating to the directors' attendance.... (¶ 10.1)</p> <p>Rules laying down the duties and mode of operation [of the audit committee] should be drafted by the audit committee and approved by the Board. (¶ 14.3)</p> <p>Rules laying down the duties and mode of operation [of the compensation committee] should be drafted by the compensation committee and approved by the Board. (¶ 15.2)</p>	<p>The Management Board and Supervisory Board shall report each year on the enterprise's Corporate Governance in the Annual Report (Corporate Governance Report). This includes the explanation of possible deviations from the recommendations of this Code. The company shall keep previous declarations of conformity with the Code available for viewing on its website for five years. (§ 3.10)</p> <p>If a member of the Supervisory Board took part in less than half of the meetings ... in a financial year, this shall be noted in the Report of the Supervisory Board. (§ 5.4.8)</p> <p>In its report, the Supervisory Board shall inform the General Meeting of any conflicts of interest ... together with their treatment. (§ 5.5.3)</p> <p>The purchase or sale of shares in the company or of related financial instruments ... by members of the Management Board and Supervisory Board ... or other persons with management duties who regularly have access to insider information on the company and are authorized to take material entrepreneurial decisions, as well as by parties closely related to them, must be reported by them without delay to the company. The reporting requirement relates to purchase and sale transactions exceeding 5,000 euros in a calendar year. The company must publish the disclosure without delay. The ownership of shares in the company or related financial instruments by Management Board and Supervisory Board members shall be reported if these directly or indirectly exceed one percent of the shares issued by the company. (§ 6.6)</p> <p>See § 6.2 (disclosure of significant changes in voting rights).</p>	<p>The Committee recommends that there should be a separate section on Corporate Governance in the annual reports of companies, with a detailed compliance report on Corporate Governance. Noncompliance of any mandatory recommendation with reasons thereof and the extent to which the nonmandatory recommendations have been adopted should be specifically highlighted. This will enable the shareholders and the securities market to assess for themselves the standards of corporate governance followed by a company. A suggested list of items to be included in the compliance report is enclosed in Annexure 4. (§ 15.6)</p> <p>The Committee also recommends that the company should arrange to obtain a certificate from the auditors of the company regarding compliance of mandatory recommendations and annex the certificate with the directors' report, which is sent annually to all the shareholders of the company. The same certificate should also be sent to the stock exchanges along with the annual returns filed by the company. (§ 15.7)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
27. Corporate Governance Guidelines & Related Disclosure				
<p>The Company shall actively disclose how they have applied the principles of Good Corporate Governance set out in this Code and any discrepancies from and/or noncompliance with such principles, including reasons therefor. (§ VII, Principle 7.3)</p> <p>This should include a statement of the corporate governance issues specific to the Company so that investors understand how a particular company deals with those issues. (§ VII, 7.3)</p> <p>[C]ompanies shall take the initiative to disclose not only matters required under the regulations having the force of law, but also those of material importance to the decisionmaking of institutional investors, shareholders, creditors and other stakeholders with respect to such matters [including] Good Corporate Governance implementations. (§ VII, Principle 7.2(l))</p> <p>The Annual Reports of the Company shall include not only the names of the members of the Dewan Komisaris, but also their occupation, and their principal external jobs, to the extent that such jobs are relevant to the performance of their tasks as members of the Dewan Komisaris. (§ II, 2.2)</p> <p>In the Annual Reports, the Direksi shall clearly specify if there exists any other business relationship between any member of the Dewan Komisaris and/or the Direksi and the Company, and what kind of business relationship that is. (§ II, Principle 2.6)</p> <p>The establishment of ... Committees shall be reported in the Annual Reports. (§ II, 2.9)</p> <p>See § III, 3.1 (The Direksi should consistently promote compliance with the principles of Good Corporate Governance contained in this Code.)</p>	<p>[D]irectors' independence shall be periodically assessed by the board of directors [and] communicated to the market. (Code 3.P.2)</p> <p>Where ... the board has delegated powers to the chairman, it shall disclose adequate information in the report on corporate governance on the reasons for such organisational choice. (Code 2.P.5)</p> <p>[T]he issuers should...ensure transparency in the selection and appointment process of directors.... [I]t is in the interest of the generality of shareholders to know the personal traits and professional qualifications of candidates (as well as the positions they hold) sufficiently in advance for them to be able to cast their votes in an informed manner.... (Comment on Code Article 6)</p> <p>[T]he Committee recommends that the members of the board of auditors should ... be elected by means of a transparent procedure and that shareholders should receive the information they need to exercise their voting rights in an informed manner. (Comment on Code Article 10)</p> <p>See Report, 6 (The task of verifying the suitability of the choices [set forth in this Code], and the extent of the Code's application, is ... reserved to shareholders' meetings and encounters with institutional investors.)</p> <p><i>On May 2, 2003, the Italian stock market regulator ("CONSOB") issued new guidelines that require listed companies to publish a report on their governance-related activities annually, and a recommendation that they disclose the identity, powers, and term of office of directors, and list criteria used to select them.</i> (Securities Regulation & Law Report (BNA Inc., Vol. 35, No. 19), May 12, 2003, at 807).</p>	<p>[In a (Board of Directors) Committees System,] the corporate governance committee should evaluate and report annually to the board of directors whether the company is organized effectively to realize proper corporate governance, and whether the executives (including the CEO), board of directors, Committees and other members of the company are acting in accordance with the ideals set out in the corporate governance guidelines prescribed by the board of directors.</p> <p>There are currently numerous companies that have established corporate governance committees. The corporate governance guidelines describe the ideals and policy of corporate governance of the company. (Explanation of CGFJ Principle 7)</p>	<p>The corporation shall, by disclosing the nominated directors prior to the general shareholder meeting, ensure that shareholders exercise their voting rights with information on the nominees. (§ II.3.4)</p> <p>[S]hould there be any change in the information stated in the letter [which a nominee for outside director is required to present confirming his or her independence] following inauguration into office, the outside director shall immediately submit a corrected letter, which the corporation shall disclose. (§ II.4.1)</p> <p>In the annual report, a public corporation shall explain any differences between its corporate governance and this Code, and the reasons for such; any plans for future changes should also be explained. (§ V.2.3)</p> <p>Corporations holding a significant portion of shares to enable foreigners to participate in corporate governance are advised to make disclosures in both English and Korean for audit reports and material timely disclosure. (§ V.2.7)</p> <p>The corporation shall designate a person to oversee disclosure matters.... (§ V.2.8)</p> <p>The corporation shall disclose detailed information on the share ownership status of controlling shareholders and on persons of special relation to them. (§ V.2.9)</p> <p>See§ III.1.4 (Matters concerning the authority, responsibility and operation of the audit committee or auditors shall be stated in the corporation's bylaws.)</p>	<p>The recommendations contained in this Code ... complement many of the applicable legal provisions.... Compliance is voluntary, but publicly-traded firms must report to the Bolsa on the degree to which their practices conform to the Code. If they do not follow the Code, they must establish an alternative mechanism for this purpose. (The Code, Motive and Intent)</p> <p>The annual report ... should mention which members are outside and which are owners, and which type the owning members are. (Principle at I.2)</p> <p>The annual report ... should also describe the main positions held by each Board member as of the report date. (Principle at I.2)</p> <p>The annual report ... should describe [the statutory auditor's] professional profile. (Principle at III.2)</p> <p>The Board of Directors should include information on the work of each [committee] in its annual report to stockholders. The reports on each [committee] which are presented to the Board should be made available to stockholders along with the other material for the meeting, with the exception of confidential information whose disclosure might hurt the company's competitiveness The annual report should also include the names of the members of each [committee]. (Principle at V.2)</p> <p>In order for the market to be able to evaluate the makeup of the Board, the company should provide information on the background and category of each member. (Recommendation at I.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
27. Corporate Governance Guidelines & Related Disclosure				
<p>The broad outline of the corporate governance structure of the company shall be explained in a separate chapter of the annual report, partly by reference to the principles mentioned in this code. ... [T]he company shall indicate expressly to what extent it applies the best practice provisions in this corporate governance code and, if it does not do so, why and to what extent it does not apply them. (Best Practice Provision I.1)</p> <p>The division of duties within the supervisory board and [its] procedure[s] ... shall be laid down in a set of regulations ... posted on the company's website. (Best Practice Provision III.1.1)</p> <p>The annual financial report of the company shall include a report of the supervisory board in which the supervisory board describes its activities in the financial year and which includes the specific statements and information required by the provisions of this code. (Best Practice Provision III.1.2)</p> <p>In its report, the supervisory board shall report on how the duties of the committees have been carried out in the financial year. (Principle III.5)</p> <p>The supervisory board shall draw up a set of regulations for each committee.... The regulations and the composition of the committees shall ... be posted on the company's website. (Best Practice Provision III.5.1)</p> <p>The report of the supervisory board shall state ... the number of committee meetings and the main items discussed. (Best Practice Provision III.5.2)</p> <p><i>See also Best Practice Provision III.1.3 (Disclosure of individual supervisory board member data).</i></p>	<p>[O]ne of the sections of the annual report of the company should be dedicated to the company's compliance with the recommendations of this Code, indicating whether the company follows all such recommendations or only some of them. In the latter case, the annual report should explain the reasons for the failure to follow certain recommendations. It is also necessary to disclose corporate conflicts associated with improper implementation by the company of those recommendations of this Code that the company has declared binding upon itself in one form or another. (Ch. 7, § 3.3.6)</p> <p>The authority of the board of directors should be clearly defined in the company's charter ... to avoid ambiguity with respect to the division of powers among the board of directors, executive bodies and the general shareholders meeting. (Ch. 3, § 1.5)</p> <p>It is advisable that information about independent directors be disclosed in the annual report.... (Ch. 3, § 2.2.5)</p> <p>[I]t is advisable that the company should ... determine in its charter what information about candidates for ... the board of directors is subject to disclosure to shareholders. (Ch. 3, § 2.3.1)</p> <p>It is recommended that the company develop internal regulations, which should be approved by the board of directors and contain a description of the ethical standards by which the company is guided.... (Ch. 3, § 4.12)</p> <p><i>See Ch. 2, § 2.1.2 (directors, general manager, managerial board, internal audit commission and independent auditor should all be present at the general shareholders meeting to answer shareholders' questions).</i></p> <p><i>See also Ch. 9 (Dividends).</i></p>	<p>All boards and individual directors have a duty and responsibility to ensure that the principles set out in this Code are observed. (§ 9)</p> <p>Every board should have a charter setting out its responsibilities, which should be disclosed in its annual report. (§ 2.1.17)</p> <p>[A] decision to combine [board chairperson and CEO] roles should be justified each year in the company's annual report. (§ 2.3.4)</p> <p>In the annual report, ... directors should be categorised as ... Executive [or] Nonexecutive.... (§ 2.4.3)</p> <p>Membership of the remuneration committee ... must be disclosed in the annual report. (§ 2.5.3)</p> <p>The Board ... should disclose in the annual report the number of board and committee meetings held in the year and the details of attendance of each director (as applicable). (§ 2.6.1)</p> <p>Committee composition, a brief description of its remit, the number of meetings held and other relevant information should be disclosed in the annual report. (§ 2.7.9)</p> <p>The board is responsible for disclosures in relation to risk management.... (§ 3.2.6)</p> <p>Companies should, in their annual report, disclose whether or not the audit committee has adopted formal terms of reference and ... whether [it] has [complied] with its terms of reference. (§ 6.3.4)</p> <p>Membership of the audit committee should be disclosed in the annual report. (§ 6.3.5)</p> <p><i>See § 5.2 (disclosure of adherence to business code of ethics).</i></p>	<p>A set of Board Regulations must exist [and] be made public. (§ I.1)</p> <p>The Annual Corporate Governance Report will record meetings of Nonexecutive Directors during the year. (§ I.3)</p> <p>The independence criteria to be fulfilled by the external independent Directors must be set out in the Directors Code Provisions (which must be incorporated in the Board Regulations) [and] must be verified annually prior to drafting the Annual Corporate Governance Report. (§ I.4)</p> <p>The procedure and criteria followed for drafting proposals for appointment or re-election of Directors must be formal, accurate, transparent and objective, and furthermore [disclosed] in the Annual Corporate Governance Report. (§ I.8)</p> <p>The [Nominations, Remunerations and Audit Committees] must have a written regulation approved by the Board and published.... (§§ I.8, I.9, I.11)</p> <p>Companies must comply with the principle of transparency [regarding] the existence and publication of Corporate Governance rules.... (§ I.14)</p> <p>The Board must ensure ... approval of the General Meeting Charter by said body. The Charter must have been previously examined by the Board [and, after approval by the General Meeting,] disclosed to the public. (§ II.2)</p> <p><i>See § I.13 (The Secretary to the Board will report to the Board and shall be held liable, through the Chairman, in all matters of corporate governance. The Secretary shall ensure that the Articles of Incorporation and the Regulations of the Company are observed, and shall be in charge of the custody and safekeeping of corporate documents and of issuing certificates.)</i></p>	<p>A special report on corporate governance is to be attached to the company's annual report. The report is to include a statement on whether or not the company's auditors have reviewed it. (§ III, Rule 5.1.1)</p> <p>In the corporate governance report, the company is to state that it is applying the Code and give a brief description of how this has been done in the most recent financial year. The company is to indicate where it has departed from the rules in the Code. The reasons for each departure are to be clearly explained. (§ III, Rule 5.1.2)</p> <p>The corporate governance report is to present information on the manner in which the board ensures the quality of the financial reports and communicates with the company's auditors.... (§ III, Rule 5.1.3)</p> <p><i>See § III, Rule 5.1.4 (additional information to be included in the corporate governance report).</i></p> <p>The board's report on internal controls and the auditors' review of this report is to be appended to the company's annual report.... (§ III, Rule 5.2.1)</p> <p>The company is to have a special section on its website for corporate governance matters. This section is to provide current information on the state of corporate governance in the company that is included in the corporate governance report, together with other information as required under the Code. (§ III, Rule 5.3.1)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
27. Corporate Governance Guidelines & Related Disclosure				
<p>[I]nformation to be published includes details on the management and control mechanisms at the highest corporate level of the issuer (corporate governance).... The publication of information relating to corporate governance should be limited to what is essential to investors, and the information should be provided in an appropriate and comprehensible form. Information relating to corporate governance must be published in a separate chapter of the annual report. (Directive)</p> <p>The company should disclose information on Corporate Governance in its annual report. The SWX Swiss Exchange Directive on information relating to Corporate Governance is applicable with regard to detailed disclosures. (Code ¶ 30)</p> <p>Scope and extent of the information relating to Corporate Governance [that must be disclosed]:</p> <ol style="list-style-type: none"> 1. Group structure and shareholders.... 2. Capital structure.... 3. Board of Directors.... 4. Management board.... 5. Compensations, shareholdings and loans.... 6. Shareholders' participation rights.... 7. Changes of control and defense measures.... 8. Auditors.... 9. Information policy.... <p>(Directive, Annex <u>in toto</u>)</p> <p>See Code ¶ 2 (The Articles of Association should be available....).</p> <p>See also Code ¶ 6 (The minutes of [the general shareholders'] meeting should be made available to the shareholders as soon as possible but not later than three weeks after the meeting's date.).</p>	<p>We recommend that listed companies ... should state in the report and accounts whether they comply with the Code and identify and give reasons for any areas of noncompliance. (Report § 3.7)</p> <p>We envisage, however, that many companies will wish to go beyond the strict terms of the London Stock Exchange rule and make a general statement about the corporate governance of their enterprises, as some leading companies have already done. We welcome such statements and leave it to boards to decide the terms in which they make their statements of compliance. (Report § 3.8)</p> <p><i>Companies must state whether or not they comply with the remuneration committees and policy sections of the Cadbury Report. See London Stock Exchange Listing Rule 12.43 (w) and (x).</i></p>	<p>The annual report should identify the chairman, the deputy chairman (where there is one), the chief executive, the senior independent director and the chairmen and members of the nomination, audit and remuneration committees. It should also set out the number of meetings of the board and those committees and individual attendance by directors. (Provision A.1.2)</p> <p>The board should identify in the annual report each nonexecutive director it considers to be independent.... (Provision A.3.1)</p> <p>The nomination committee should make available its terms of reference, explaining its role and ... authority.... (Provision A.4.1)</p> <p>[T]erms and conditions of appointment of nonexecutive directors should be made available.... (Provision A.4.4)</p> <p>A separate section of the annual report should describe the work of the nomination committee, including the process it has used in relation to board appointments. (Provision A.4.6)</p> <p>The board should state in the annual report how performance evaluation of the board, its committees and its individual directors has been conducted. (Provision A.6.1)</p> <p>The remuneration committee should make available its terms of reference, explaining its role and ... authority.... (Provision B.2.1)</p> <p>[T]erms of reference of the audit committee, including its role and ... authority... should be made available. A separate section of the annual report should describe the work of the committee in discharging those responsibilities. (Provision C.3.3)</p> <p>See Schedule C: Disclosure of Corporate Governance Arrangements.</p>	<p>Boards should establish guidelines for ... committees.... (p. 7)</p> <p>[T]o ensure board independence: [b]oards should define and disclose to shareholders a definition of "independent director." (p. 12)</p> <p>Shareholders' understanding of board and director assessment processes and criteria is indispensable to both board credibility and shareholders' ability to appraise the board's recommended resolutions and proposed slate of directors. Boards should disclose evaluation procedures to shareholders in the proxy statement or other shareholder communication. Board disclosure of procedures is distinct from sharing the substance of such deliberations, which should be confidential. (p. 19)</p> <p>[T]he board should ... seek disclosure of any relationships that would appear to compromise director independence. (p. 22)</p>	<p>The corporate governance committee should develop and recommend to the board a set of corporate governance principles, review them annually, and recommend changes to the board as appropriate. The corporation's corporate governance principles should be publicly available and should address, at a minimum, board leadership, qualifications for directors (including independence standards), director responsibilities, the structure and functioning of board committees, board access to management and advisers, director compensation, director orientation and continuing education, board evaluations, and management succession. (pp. 22-23)</p> <p>A corporation's procedures for shareholder communications and its governance practices should be readily available to shareholders. Information about the board's structure and operations, committee composition and responsibilities, corporate governance principles and codes of ethics should be widely disseminated to shareholders. (p. 32)</p> <p>See pp. 5-6 (Effective corporate governance requires a proactive, focused state of mind on the part of directors, the CEO and senior management, all of whom must be committed to business success through the maintenance of the highest standards of responsibility and ethics.... Even the most thoughtful and well-drafted policies and procedures are destined to fail if directors and management are not committed to enforcing them in practice.).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
28. Content, Character & Accuracy of Disclosure				
<p>The corporate governance framework should ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and governance of the company. (Principle V)</p> <p>Disclosure should include, but not be limited to, material information on:</p> <ol style="list-style-type: none"> 1. The financial and operating results of the company. 2. Company objectives. 3. Major share ownership and voting rights. 4. Remuneration policy for members of the board and key executives, and information about board members, including ... whether they are regarded as independent by the board. 5. Related party transactions. 6. Foreseeable risk factors. 7. Issues regarding employees and other stakeholders. 8. Governance structures and policies.... <p>(Principle V.A)</p> <p>Information should be prepared and disclosed in accordance with high quality standards of accounting and financial and nonfinancial disclosure. (Principle V.B)</p> <p>Channels for disseminating information should provide for equal, timely and cost-efficient access to relevant information by users. (Principle V.E)</p> <p>See Millstein Report, Perspectives 9 – 10 (Regulators should require that corporations disclose accurate, timely information concerning corporate financial performance [and] co-operate internationally in developing clear, consistent and comparable standards for disclosure.).</p>	<p>Promote timely and balanced disclosure of all material matters concerning the company. (Principle 5)</p> <p>This means that the company must put in place mechanisms designed to ensure compliance with the ASX Listing Rule requirements such that:</p> <ul style="list-style-type: none"> • all investors have equal and timely access to material information concerning the company – including its financial situation, performance, ownership and governance; [and] • company announcements are factual and presented in a clear and balanced way. “Balance” requires disclosure of both positive and negative information. <p>(Commentary on Principle 5)</p> <p>Companies should include commentary on their financial results to enhance the clarity and balance of reporting. This commentary should include information needed by an investor to make an informed assessment of the entity’s activities and results. (Commentary on Recommendation 5.1)</p> <p>Require the chief executive officer (or equivalent) and the chief financial officer (or equivalent) to state in writing to the board that the company’s financial reports present a true and fair view, in all material respects, of the company’s financial condition and operational results and are in accordance with relevant accounting standards. (Recommendation 4.1)</p> <p>Companies are encouraged, but not required, to maintain a company website, and to communicate with shareholders via electronic methods. (Commentary on Recommendation 6.1)</p>	<p>Executive management should ... be responsible for the complete, timely, reliable and accurate preparation of the company’s financial statements, in accordance with the accounting standards and policies of the company.... (Provision 6.5)</p>	<p>Each quarter, along with the financial statements, the company should release reports prepared by management with a discussion and analysis of the factors that most influenced results, indicating the main internal and external risk factors to which the company is subject. (CVM Recommendation IV.1)</p> <p>TRANSPARENCY. More than the duty to inform, Management should cultivate the desire to inform, knowing that good internal and external communications, particularly when spontaneous, straightforward and fast, lead to an atmosphere of trust, both internally and externally. (IBGC Code, Introduction)</p> <p>The CEO should make pertinent information accessible to all the parties concerned, as soon as available, in addition to information that is mandatory by law or regulation, with substance prevailing over form. Management should seek clarity and straightforwardness when providing information by using language that is accessible to the target audience. The company should provide balanced and top quality information addressing both positive and negative points, to enable the reader to correctly understand and appraise the organization. Any information that may influence investment decisions should be disclosed immediately and simultaneously to all parties.... (IBGC ¶ Code 3.4)</p> <p>The Annual Report is the most important and comprehensive source of company information, and therefore should not be limited to legally required data. It involves all aspects of business activities in a full year compared with previous years.... (IBGC ¶ Code 3.5.1)</p> <p>[I]nformation disclosure policies ... should include Fiscal Council opinions and documents.... (IBGC ¶ Code 5.9)</p>	<p>We support ... the imposition of civil liability upon boards of directors for the accuracy of corporate disclosures concerning material changes in the business and affairs of corporations. (Dey Report, § 1.17).</p> <p>The prospectus is the most comprehensive disclosure document and its accuracy is certified by the corporation and the board of directors. The directors, in addition to the corporation, are liable for any misrepresentations contained in the prospectus.... (Dey Report, § 7.13)</p> <p>[E]ither the audit committee or the board should review quarterly financial reports and related financial documents before any public disclosure of the information. Audit committees, as a matter of best practice, should ask external auditors to review this material before considering it. (Saucier Report, Recommendation 14)</p> <p>See Saucier Report, Appendix C, Blue Ribbon Committee Recommendations, Recommendation 9, p. 49 (The Committee recommends that the SEC require all reporting companies to include a letter from the audit committee in the company’s annual report to shareholders and Form 10-K Annual Report disclosing whether or not...: (i) management has reviewed the audited financial statements...; (ii) the outside auditors have discussed with the audit committee ... the quality of [the] principles applied...; (iii) the members of the audit committee have discussed among themselves ... the information disclosed...; and (iv) the audit committee ... believes that the company’s financial statements are fairly presented in conformity with [GAAP]....)</p> <p>See generally Dey Report, §§ 7.12-7.18, Reliability of Corporate Information.</p>

China	Denmark	France	Germany	India
28. Content, Character & Accuracy of Disclosure				
<p>Information disclosure is an ongoing responsibility of listed companies. A listed company shall truthfully, accurately, completely and timely disclose information as required by laws, regulations and the company's articles of association. (Ch. 7, (1) 87)</p> <p>In addition to disclosing mandatory information, a company shall also voluntarily and timely disclose all other information that may have a material effect on the decisions of shareholders and stakeholders, and shall ensure equal access to information for all shareholders. (Ch. 7, (1) 88)</p> <p>Disclosed information by a listed company shall be easily comprehensible. Companies shall ensure economical, convenient and speedy access to information through various means (such as the Internet). (Ch. 7, (1) 89)</p> <p>The secretary of the board of directors shall be in charge of information disclosure, including formulating rules for information disclosure, receiving visits, providing consultation, contacting shareholders and providing publicly disclosed information about the company to investors. The board of directors and the management shall actively support the secretary's work. No institutions or individuals shall interfere with the secretary's work. (Ch. 7, (1) 90)</p> <p>See Ch. 1, (1) 3 (Shareholders shall have the right to know about and the right to participate in major matters of the company set forth in the laws, administrative regulations and articles of association. A listed company shall establish efficient channels of communication with its shareholders.)</p>	<p>Openness and transparency are essential conditions for ensuring that the company's shareholders and other stakeholders are able to regularly evaluate and relate to the company and its prospects.... (Principle III)</p> <p>[T]he Committee recommends that the company draw up procedures to ensure immediate publication of all essential information for how shareholders and financial markets evaluate the company and its activities, as well as its business goals, strategies and results.... (Recommendation III.1)</p> <p>The Committee recommends that the supervisory board consider to what extent generally accepted accounting standards other than those required, such as US-GAAP, shall be applied as a supplement to the annual report.... In connection with the preparation of the annual report, the Committee recommends that the supervisory board decide whether it is expedient that the company publish details of a non-financial nature, even where this is not required.... (Recommendation III.3)</p> <p>The Committee recommends that companies publish quarterly reports. (Recommendation III.4)</p> <p>When the supervisory board reviews the annual report (or a draft of it) together with the auditor, the Committee recommends that particular efforts be made to discuss the accounting policies applied in the most important areas as well as important accounting estimates, and that the expediency of the accounting policies applied be assessed. (Recommendation VIII.5)</p> <p>[A] remuneration committee should ... review information about ... remuneration disclosed in the annual report and at the general meeting. (Appendix A)</p>	<p>Listed corporations should take all appropriate action to comply with the following schedule:</p> <ul style="list-style-type: none"> ▪ Final consolidated half-yearly accounts should be published no later than two and a half months after the end of the first half, if estimated or provisional accounts have not been published earlier. ▪ If the corporation publishes estimated or provisional consolidated annual accounts, they should be published no later than one month after the close of the financial year and followed by final accounts no later than three months after that time. ▪ Otherwise, the final accounts should be published within two months after the close of the financial year. <p>(¶ 2.2)</p> <p>In addition to the forms of disclosure required by decree, the annual report is the medium for the disclosure to which shareholders are entitled, and the Board should report to them the grounds and justification for its decisions. (¶ 3.2)</p> <p>The annual report should detail the dates of the beginning and expiration of each director's term of office, so as to make clear the existing staggering [of terms of office of directors on classified boards]. It should also mention for each director, in addition to the list of offices and positions held in other corporations, his or her age and principal position, and a list by name of members of each Board committee. (¶ 12)</p> <p>See ¶¶ 14.3, 15.2 and 16.2.2 (the annual report should include statements on the activities of the audit, compensation and nominations committees during the elapsed financial year).</p>	<p>The Management Board must disclose insider information ... without delay.... (§ 6.1)</p> <p>The company's treatment of all shareholders in respect of information shall be equal. All new facts made known to financial analysts and similar addressees shall also be disclosed to the shareholders without delay. (§ 6.3)</p> <p>Any information which the company discloses abroad, in line with corresponding capital market law provisions, shall also be disclosed domestically without delay. (§ 6.5)</p> <p>The Consolidated Financial Statements and interim reports shall be prepared under observance of internationally recognised accounting principles. For corporate law purposes (calculation of dividend, shareholder protection), Annual Financial Statements will be prepared according to national regulations (the German Commercial Code), which also form the basis for taxation. (§ 7.1.1)</p> <p>The Consolidated Financial Statements must be prepared by the Management Board and examined by the auditor and the Supervisory Board. In addition, the Financial Reporting Enforcement Panel and the Federal Financial Supervisory Authority are authorized to check that the Consolidated Financial Statements comply with applicable accounting regulations (enforcement). The Consolidated Financial Statements shall be publicly accessible within 90 days of the end of the financial year; interim reports shall be publicly accessible within 45 days of the end of the reporting period. (§ 7.1.2)</p> <p>See generally § 6, Transparency, and §VII, Reporting and Audit of the Annual Financial Statements.</p>	<p>The shareholders' role in corporate governance is ... to hold the board accountable for the proper governance of the company by requiring the board to provide them periodically with the requisite information, in a transparent fashion, of the activities and progress of the company. (§ 2.8)</p> <p>[The audit committee's] role should include ... [r]eviewing with management the annual financial statements before submission to the board.... (§ 9.10)</p> <p>[A]s part of the directors' report or as an addition thereto, a Management Discussion and Analysis report should form part of the annual report to the shareholders. This Management Discussion and Analysis should include discussion on...:</p> <ul style="list-style-type: none"> ▪ Industry structure and developments. ▪ Opportunities and Threats. ▪ Segment-wise or product-wise performance. ▪ Outlook. ▪ Risks and concerns Internal control systems and their adequacy. ▪ Discussion on financial performance with respect to operational performance. ▪ Material developments in Human Resources /Industrial Relations front, including number of people employed. <p>(§ 13.4)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
28. Content, Character & Accuracy of Disclosure				
<p>The Company shall disclose material information through its Annual Reports and financial statements to shareholders and the relevant government authorities in accordance with the prevailing regulations having the force of law in a timely, accurate, understandable and objective manner. (§ VII, Principle 7.1)</p> <p>[C]ompanies shall take the initiative to disclose not only matters required under the regulations having the force of law, but also those of material importance to the decision making of institutional investors, shareholders, creditors and other stakeholders with respect to such matters.... (§ VII, Principle 7.2)</p> <p>Each and every shareholder shall be provided with full and accurate information about the Company unless there is a justifiable reason not to do so. The Company shall not show partiality to certain shareholders by providing information not disclosed to the other shareholders. (§ I, 1.3.2)</p> <p>The duties and responsibilities of the Audit Committee [include] improving the quality of financial disclosure and reporting [and] preparing a letter (signed by the Chairman of the Audit Committee) describing the Audit Committee's duties and responsibilities during the year under review, which letter shall be included in the Annual Reports.... (§ IV, 4.2(b), (d))</p> <p>The corporate secretary shall ensure that the Company complies with prevailing regulations having the force of law in respect of disclosure requirements. (§ V, Principle 5.4)</p> <p><i>See § VII, Principle 7.4 (disclosure of price-sensitive information).</i></p>	<p>[M]anaging directors ... shall propose to the Board of Directors the adoption of a procedure for the internal handling and disclosure to third parties of documents and information concerning the issuer.... (Code, 4.C.1)</p> <p><i>See Topic Headings 30, 31 and 32, below.</i></p>	<p>Corporate governance for listed companies should ensure that timely and accurate disclosure is conducted on all material matters including the financial condition, performance results and ownership distribution. (TSX Principle 4)</p> <p>Disclosure:</p> <ol style="list-style-type: none"> 1. The CEO should ... promptly disclose any information which will influence the company stock price so as to ensure that price reflects its fair value, and should immediately notify the securities exchange or make the information public by other appropriate means when such information becomes available.... [M]easures should be taken so that important information is not selectively given to a particular party. 2. The CEO should disclose information regularly and whenever necessary in order to show shareholders, investors, employees, customers, and local communities, etc. that the corporation's business affairs have been efficient and fair. 3. The CEO should prepare and make public in-house administrative protocols for announcing important information.... (CGFJ Principle 12) <p>Executives should be enthusiastic in meeting with analysts and other people who provide information to investors and shareholders, and it is desirable that these analysts and other such people convey to the investors and shareholders their assessment of the qualifications, capabilities, and vision of the executives. As information can be posted simultaneously on the Internet, it is essential that measures are taken to avoid any inequality arising among the investors and shareholders. (CGFJ Principle 14)</p>	<p>Shareholders shall be provided with all necessary information ... from the corporation in a timely manner, and the corporation shall not show partiality to certain shareholders by providing undisclosed information. (§ I.2.2)</p> <p>Audit committees and auditors shall ... [r]eview the soundness and reasonableness of financial activities and the accuracy of the corporation's financial reports, [and] the adequacy of major accounting standards and changes in accounting estimates.... (§ III.1.3)</p> <p>The corporation shall disclose material information in a timely and accurate manner. (§ V.2)</p> <p>Corporations shall disclose any information, not limited only to what is required by law, that may materially influence the decisionmaking of shareholders and other stakeholders. (§ V.2.1)</p> <p>The corporation shall prepare and disclose semi-annual reports, apart from annual reports. If one corporation is in fact under a control and subordinate relationship to another corporation, consolidated financial statements and combined financial statements, as determined by law, shall additionally be disclosed. (§ V.2.4)</p> <p>The corporation shall make timely and accurate disclosure when matters of importance have been decided.... If the decision has been made through a resolution of the Board, details on the attending directors and voting results shall also be disclosed. (V.2.5)</p> <p>The corporation shall prepare items for disclosure that may be easily understood, and shall assist so that access to them is possible at minimal cost. (§ V.2.6)</p> <p><i>See generally V.2, Disclosure.</i></p>	<p>[T]he functions of the Board of Directors ... ensure that the stockholders and the market have access to the public information about the company. (Principle at I.1)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
28. Content, Character & Accuracy of Disclosure				
<p>The management board or, where appropriate, the supervisory board shall provide all shareholders and other parties in the financial markets with equal and simultaneous information about matters that may influence the share price....</p> <p>If price-sensitive information is provided during a general meeting of shareholders, or the answering of shareholders' questions has resulted in the disclosure of price-sensitive information, this information shall be made public without delay. (Principle IV.3)</p> <p>The management board is responsible for the quality and completeness of publicly disclosed financial reports. The supervisory board shall see to it that the management board fulfills this responsibility. (Principle V.1)</p>	<p>Corporate governance practice should provide for timely disclosure of full and accurate information about the company, including information about its financial position, economic parameters, ownership and management structure, to enable shareholders and investors to make informed decisions. (Ch. 1, § 5)</p> <p>Shareholders should have equal ... access to the same information. (Ch. 1, § 5.1)</p> <p>The information policy of the company should provide for free and unhindered access.... (Ch. 1, § 5.2)</p> <p>The company should promptly disclose information about all factors that may be material to shareholders and investors. (Ch. 7, § 2.3)</p> <p>[T]he annual report should incorporate a statement by the chairman of the board of directors and a statement prepared by the director general evaluating the company's performance for the year. (Ch. 7, § 3.3.7)</p> <p>[T]he annual report should be signed by the company's director general, its financial and accounting managers, and members of the board of directors. (Ch. 7, § 3.3.8)</p> <p><i>See</i> Ch. 7, § 1.1.1 (It is advisable that an internal company document setting forth rules of and approaches to disclosure (Regulation on Information Policy) be approved by the board of directors. It is expedient that this document contain a list of items subject to disclosure ... as well as rules for their disclosure, including [dissemination via] mass media....).</p> <p><i>See generally</i> Ch. 7, Disclosure of Information About a Company.</p>	<p>The board should ensure ... that it communicates with its shareowners and relevant stakeholders (internal and external) openly and promptly and with substance prevailing over form. (§ 2.1.5)</p> <p>Every company should report at least annually on the nature and extent of its social transformation, ethical, safety, health and environmental management policies and practices. The board must determine what is relevant for disclosure.... (§ 5.1.1)</p> <p>Stakeholder reporting requires an integrated approach. This would be best achieved gradually as the board and the company develop an understanding of the intricate relationships and issues associated with stakeholder reporting. Companies should categorise issues into the following levels of reporting:</p> <ul style="list-style-type: none"> ▪ ... disclosures relating to acceptance and adoption of business principles and/or codes of practice.... ▪ ... implementation of practices.... ▪ ... demonstration of changes and benefits that have resulted.... <p>(§ 5.1.2)</p> <p>Companies should make every effort to ensure that information is distributed via a broad range of communication channels ... while bearing in mind the need that critical financial information reaches all shareowners simultaneously. (§ 6.2.6)</p> <p>The results of all decisions taken at company meetings should be publicly disseminated in the most appropriate form, immediately on conclusion of the meeting.... (§ 7.4)</p> <p><i>See</i> § 8.4 (<i>contents of annual reports</i>).</p>	<p>The [Audit] Committee will issue an annual report which shall be made available to shareholders prior to the General Meeting. The annual report must have been previously approved by the Board....</p> <p>The Audit Committee shall be responsible for supervising and revising all relevant financial information, including that of a public nature, the information made available to Shareholders and information provided to analysts....</p> <p>The [Audit] Committee will meet regularly, and separately, with the External Auditors, the Internal Auditors and the Company's Management, providing regular information to the Board on its activities, plans and views. (§ I.11)</p> <p>Companies must comply with the principle of transparency, conceived not only as a formal concept of the existence and publication of Corporate Governance rules, but from a qualitative point of view of conveying to the market in a full, true, equitable, symmetrical and timely manner all the information reflecting the management, organisation, activities, figures and results, taking specially into consideration related-party transactions and conflicts of interest. (§ I.14)</p> <p>The Board is responsible for submitting complete and comprehensive financial and management information in order to facilitate a balanced view of the current situation and the Company's foreseeable future. (§ II.1)</p>	<p>The board of directors is responsible for seeing that the company's financial reports have been prepared in accordance with the law, the relevant accounting standards and other requirements for listed companies. (§ III, 3.6, Commentary).</p> <p>The annual report and interim reports are to make clear those parts that are formal financial statements, the regulatory regime on which they are based, and those parts of the annual report or interim report that are audited or reviewed by the company's auditors. (§ III, Rule 3.6.1)</p> <p>The board of directors and the managing director, immediately before signing the annual report, are to certify that to the best of their knowledge, the annual accounts have been prepared in accordance with good accounting practices for a stock market company and that the information presented is consistent with the actual conditions and that nothing of material value has been omitted that would affect the picture of the company presented in the annual report. (§ III, Rule 3.6.2)</p> <p>The company's six- or nine-month report is to be reviewed by the auditors. (§ III, Rule 3.6.3)</p> <p>The board is to document and present information on the manner in which the board ensures the quality of the financial reports and how it communicates with the company's auditors. (§ III, Rule 3.8.1)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
28. Content, Character & Accuracy of Disclosure				
<p>The Board of Directors should inform the shareholders in such a way that they can exercise their rights in the knowledge of the essential basis of their decisions. (Code ¶ 3)</p> <p>The Audit Committee should review the individual and consolidated financial statements as well as the interim statements intended for publication. It should discuss these with the Chief Financial Officer and the head of the internal audit and, separately, should the occasion warrant, with the head of the external audit. The Audit Committee should decide whether the individual and consolidated financial statements be recommended to the Board of Directors for presentation to the General Shareholders' Meeting. (Code ¶ 24)</p>	<p>What is required of financial reporting is that it should be honest and that it should present a balanced picture of the state of the company's affairs. (Report § 3.3)</p> <p>It is the board's duty to present a balanced and understandable assessment of the company's position. (Code § 4.1)</p> <p>The directors should explain their responsibility for preparing the accounts next to a statement by the auditors about their reporting responsibilities. (Code § 4.4)</p> <p>The lifeblood of markets is information, and barriers to the flow of relevant information represent imperfections in the market. The need to sift and correct the information put out by companies adds cost and uncertainty to the market's pricing function. The more the activities of companies are transparent, the more accurately will their securities be valued. (Report § 4.48)</p> <p>The cardinal principle of financial reporting is that the view presented should be true and fair. Further principles are that boards should aim for the highest level of disclosure consonant with presenting reports which are understandable and with avoiding damage to their competitive position. They should also aim to ensure the integrity and consistency of their reports and they should meet the spirit as well as the letter of reporting standards. (Report § 4.51)</p> <p>The demand for an ever-increasing amount of detail in reports and accounts has to be weighed against the need for them to be understandable by the reasonably informed shareholder. (Report § 4.58)</p>	<p>The board should present a balanced and understandable assessment of the company's position and prospects. (Main Principle C.1)</p> <p>The board's responsibility to present a balanced and understandable assessment extends to interim and other price-sensitive public reports and reports to regulators as well as to information required to be presented by statutory requirements. (Supporting Principle C.1)</p> <p>The directors should explain in the annual report their responsibility for preparing the accounts and there should be a statement by the auditors about their reporting responsibilities. (Provision C.1.1)</p> <p>The directors should report that the business is a going concern, with supporting assumptions or qualifications as necessary. (Provision C.1.2)</p> <p>The board should state in the annual report the steps they have taken to ensure that the members of the board, and in particular the nonexecutive directors, develop an understanding of the views of major shareholders about their company, for example through direct face-to-face contact, analysts' or brokers' briefings and surveys of shareholder opinion. (Provision D.1.2)</p> <p><i>See</i> Preamble ¶ 8 (Nothing in this Code should be taken to override the general requirements of law to treat shareholders equally in access to information.).</p>	<p><i>Not covered directly, but see</i> Topic Headings 27, above, and 29 & 30, below.</p>	<p>The board, assisted by its audit committee, should be satisfied that the financial statements and other disclosures prepared by management accurately present the corporation's financial condition and results of operations to shareholders and that they do so in an understandable manner. (pp. 8-9)</p> <p>Corporations communicate with investors and other constituencies not only in proxy statements, annual and other reports, and formal shareholder meetings, but in many other ways as well. All of these communications should provide consistency, clarity and candor. (p. 31)</p> <p>In planning communications with shareholders and investors, corporations should consider:</p> <ul style="list-style-type: none"> ▪ Candor.... ▪ Need for timely disclosure.... ▪ Use of technology.... ▪ Ultimate goal of shareholder communications [that] furnish information that is honest, intelligible, meaningful, timely and broadly disseminated, and that gives investors a realistic picture of the corporation's financial condition and results of operations through the eyes of management. (pp 32-33)

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
29. Disclosure Regarding Compensation				
<p>Disclosure should include, but not be limited to, material information on ... [r]emuneration policy for members of the board and key executives.... (Principle V.A.4)</p> <p>Information about board and executive remuneration is ... of concern to shareholders. Of particular interest is the link between remuneration and company performance. Companies are generally expected to disclose information on the remuneration of board members and key executives so that investors can assess the costs and benefits of remuneration plans and the contribution of incentive schemes, such as stock option schemes, to company performance. Disclosure on an individual basis (including termination and retirement provisions) is increasingly regarded as good practice and is now mandated in several countries. In these cases, some jurisdictions call for remuneration of a certain number of the highest paid executives to be disclosed, while in others it is confined to specified positions. (Annotation to Principle V.A.4)</p> <p>The remuneration committee should make a report each year to the shareholders on behalf of the Board. The report should form part of, or be annexed to, the company's Annual Report and Accounts. It should be the main vehicle through which the company accounts to shareholders for Directors' remuneration. (Millstein Report, p. 65, quoting DIRECTORS' REMUNERATION: REPORT OF A STUDY GROUP chaired by Sir Richard Greenbury, at B1 (July 1995) ("Greenbury Report")).</p>	<p>Provide disclosure in relation to the company's remuneration policies to enable investors to understand (i) the costs and benefits of those policies and (ii) the link between remuneration paid to directors and key executives and corporate performance. (Recommendation 9.1)</p> <p>Transparency as to the remuneration policy should be complemented by full and effective disclosure, in keeping with the spirit and intent of the Corporations Act and the ASX Listing Rules, of the remuneration paid to directors and senior management. The Corporations Act requires annual disclosure by a listed company of the details of the nature and amount of each element of the fee or salary of:</p> <ul style="list-style-type: none"> ▪ each director; ▪ each of the five highest-paid officers of the company. <p>This includes disclosure in respect of nonmonetary components such as options. (Commentary on Recommendation 9.1)</p> <p>Entering employment agreements with key executives, or obligations under these agreements falling due, may trigger a continuous disclosure obligation under ASX Listing Rule 3.1. Where this is the case, disclosure to the market should include a summary of the main elements and terms of the agreement, including termination entitlements.</p> <p>In considering the appropriate matters for disclosure to the market and fostering a constructive relationship with shareholders, the sensitivities of significant payments to key executives should be considered. (Commentary on Recommendation 9.1)</p>	<p>The company should disclose its remuneration policy in its CG [Corporate Governance] Charter. (Provision 7.2)</p> <p>In the CG Chapter of the annual report, the company should disclose on an individual basis the amount of the remuneration and other benefits granted directly or indirectly to nonexecutive directors, by the company or any other undertaking belonging to the same group. (Provision 7.5)</p> <p>In the CG Chapter of the annual report, the company should disclose, on an individual basis, the amount of the remuneration and other benefits granted directly or indirectly to the CEO [in terms of]:</p> <ul style="list-style-type: none"> ▪ basic remuneration; ▪ variable remuneration...; ▪ other components.... <p>(Provision 7.15)</p> <p>In the CG Chapter of the annual report, the company should disclose, on a global basis, the amount of the remuneration and other benefits granted directly or indirectly to the other members of executive management [in terms of]:</p> <ul style="list-style-type: none"> ▪ basic remuneration; ▪ variable remuneration...; ▪ other components.... <p>(Provision 7.16)</p> <p>For the CEO and the other executive managers, the CG Chapter of the annual report should disclose, on an individual basis, the number and key features of shares, share options, or any other right to acquire shares, granted during the year. (Provision 7.17)</p> <p>The company should disclose in the CG Chapter of the annual report the main contractual terms of hiring and termination arrangements with executive managers. (Provision 7.18)</p>	<p>All kinds of compensation, including stock options and Board of Directors, Management, or Fiscal Council benefits, should be disclosed by group, if not individually. (IBGC Code ¶ 2.21)</p> <p>The Annual Report should specify the shareholdings and compensation of the Directors and Officers on an individual or aggregate basis. Changes in shareholdings during the year should be reported as well as the variable remuneration system and its impact on results. (IBGC Code ¶ 3.5.2)</p>	<p>We are in an era of openness and accountability. A current example is the enactment of the Ontario rules requiring disclosure of executive compensation. These rules are intended to enable shareholders to better relate executive and corporate performance to compensation. The amount of executive compensation and the process for determining the amount are high profile aspects of corporate governance.... (Dey Report, § 3.2)</p>

China	Denmark	France	Germany	India
29. Disclosure Regarding Compensation				
<p>The board of directors and the supervisory board shall report to the shareholder meetings the performance of the directors and the supervisors, the results of the assessment of their work and their compensation, and shall disclose such information. (Ch. 5, (1) 72)</p>	<p>It is essential that there be openness about all important issues regarding the principles and amounts of the total remuneration offered to members of the supervisory board and executive board. (Principle VI)</p> <p>The Committee recommends that the supervisory board adopt a remuneration policy and that the company disclose the contents of such policy in its annual report.... [T]he remuneration policy [should] include a statement explaining basic pay, the basis on which the bonus is calculated, price-related incentive schemes, pension schemes and other benefits, as well as the relationship between basic pay and such benefits. (Recommendation VI.2)</p> <p>The Committee recommends that the annual report include information about amounts of total remuneration of individual members of the supervisory board and executive board, as well as other benefits of a material nature provided or granted to them.... As regards defined-contribution pension schemes, the Committee recommends that details be provided for contributions made, or to be made, by the company for an executive in the relevant financial year, and for defined-benefit pension schemes.... (Recommendation VI.3)</p> <p>A remuneration committee should ... assist the supervisory board in checking how the company complies with the current rules governing public insight into pay and remuneration issues.... (Appendix A)</p>	<p>The law [requires] corporations to specify in their annual reports total compensation and benefits of all kinds paid during the financial year to each corporate officer, and the amount of compensation and benefits of all kinds received ... by each such officer from group affiliates....</p> <p>Listed corporations' annual reports should include a chapter, drafted with assistance from the compensation committee, dedicated to information to the shareholders relating to the compensation received by managers, containing the following three parts:</p> <ul style="list-style-type: none"> ▪ [P]rinciples for allocation of fixed and variable portions, criteria determining the grounds used for the variable parts [and] rules for awards of bonuses; ▪ [T]he individual compensation of each corporate officer and the total amount of compensation paid to corporate officers during the elapsed financial year ... broken down between fixed and variable parts, in aggregate; ▪ [A]ggregate and individual amount of attendance fees paid to directors and the rules for allocation among them, and the rules for collection of attendance fees paid to members of the general management team in connection with corporate offices held in group affiliates. (¶ 15.3.1) <p>[R]ules for allocation of attendance fees and individual amounts of payments made to directors should be set out in the annual report. (¶ 18.3)</p> <p>See ¶ 12 (The number of shares in the corporation held personally by each director should appear in the annual report and in the notice calling the meeting of shareholders.).</p>	<p><u>Supervisory Board Compensation</u></p> <p>The compensation of the members of the Supervisory Board shall be reported individually in the Corporate Governance Report, subdivided according to components. Also, payments made by the enterprise to the members of the Supervisory Board or advantages extended for services provided individually, in particular, advisory or agency services, shall be listed separately in the Notes to the Consolidated Financial Statements. (§ 5.4.7)</p> <p><u>Management Board Compensation</u></p> <p>The salient points of the compensation system and the concrete form of a stock options scheme or comparable instruments for components with long-term incentive effect and risk elements shall be published on the company's website in plainly understandable form and be detailed in the annual report. This shall include information on the value of the stock options.</p> <p>The chairman of the Supervisory Board shall outline the salient points of the compensation system and any changes thereto to the General Meeting. (§ 4.2.3)</p> <p>Compensation of the members of the Management Board shall be reported in the Notes of the Consolidated Financial Statements subdivided according to fixed, performance-related and long-term incentive components. The figures shall be individualized. (§ 4.2.4)</p> <p>The Corporate Governance Report shall contain information on stock option programmes and similar securities-based incentive systems of the company. (§ 7.1.3)</p>	<p>[A]ll pecuniary relationships or transactions of the nonexecutive directors should be disclosed in the annual report. (§ 6.5)</p> <p>The overriding principle in respect of directors' remuneration is that of openness and shareholders are entitled to a full and clear statement of benefits available to the directors. (§ 10.1)</p> <p>It is important for the shareholders to be informed of the remuneration of the directors of the company. The Committee therefore recommends that the following disclosures should be made in the section on corporate governance of the annual report:</p> <ul style="list-style-type: none"> ▪ All elements of remuneration package of all the directors <i>i.e.</i>, salary, benefits, bonuses, stock options, pension, etc. ▪ Details of fixed component and performance linked incentives, along with the performance criteria. ▪ Service contracts, notice period, severance fees. ▪ Stock option details, if any – and whether issued at a discount as well as the period over which accrued and over which exercisable. (§ 10.8) <p>The Committee believes that the management should [provide] timely, accurate, substantive and material information, including financial matters and exceptions, to ... the shareholders. (§ 13.3)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
29. Disclosure Regarding Compensation				
<p>[T]he specific remuneration and facilities received by the incumbent members of the Dewan Komisaris and Direksi shall be disclosed to the shareholders.... (§ I, 1.2(e))</p> <p>[C]ompanies shall take the initiative to disclose not only matters required under the regulations having the force of law, but also those of material importance to the decision making of institutional investors, shareholders, creditors and other stakeholders with respect to such matters [including] remuneration [and] remuneration systems for ... members of the Dewan Komisaris, Direksi and key executives.... (§ VII, Principle 7.2(e), (g))</p>	<p>Directors' pay is a field ... which calls for adequate disclosure of information and transparency concerning fees and the manner of determining them. (Report, 5.4.2)</p> <p><i>Note:</i> <i>On May 2, 2003, Il Commissione Nazionale per le Società e la Borsa -- The National Commission for Companies on the Stock Exchange -- ("Consob"), a market regulator, issued new guidelines that revise Article 1.2 of the 2002 Corporate Code of Conduct to recommend that companies detail the compensation package of each director together with their board meeting attendance record. (Securities Regulation & Law Report, (BNA Inc., Vol. 35, No. 19), May 12, 2003, at 807)</i></p>	<p>In relation to the disclosure of executive [compensation], it is desirable that the company release the names of the five most highly compensated executives and the details of the compensation. This information ... should be disclosed either in the notice of convocation of annual shareholders' meeting, or in the operating report, and in the annual report of the company. (Explanation of CGFJ Principle 7)</p>	<p>Activities and evaluation results of outside directors shall be disclosed. (§ II.9.2)</p> <p>Activities of the Board shall be evaluated fairly, the results of which shall be disclosed. (§ II.9.3)</p> <p>[A]ctivities and the evaluation results of the Board shall, through disclosure, assist in the decisionmaking by shareholders and shall be reflected in the business manager human resources market. Such disclosures presented in the annual report are also advisable. (§ II.9.3)</p>	<p>The annual report presented by the Board of Directors should describe the policies used and the compensation packages of Board members, the chief executive officer and the company's senior management. (Principle at II.2)</p> <p>The existence of [the executive evaluation and compensation committee] should be openly known and operated in a clear and above-board fashion, to enhance investors' confidence in management. (Recommendation at II)</p> <p>The Committee believes that the market at large should be informed of the compensation policies applied by the Board of Directors. (Recommendation at II.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
29. Disclosure Regarding Compensation				
<p>The report of the supervisory board shall include the principal points of the remuneration report of the supervisory board concerning the remuneration policy of the company, as drawn up by the remuneration committee. The notes to the annual accounts shall, in any event, contain the information prescribed by law on the level and structure of the remuneration of the individual members of the management board. The remuneration policy proposed for the next financial year and subsequent years as specified in the remuneration report shall be submitted to the general meeting of shareholders for adoption. Every material change in the remuneration policy shall also be submitted to the general meeting of shareholders for adoption. Schemes whereby management board members are remunerated in the form of shares or rights to subscribe for shares, and major changes to such schemes, shall be submitted to the general meeting of shareholders for approval. (Principle II.2)</p> <p>The remuneration report of the supervisory board shall contain an account of the manner in which the remuneration policy has been implemented in the past financial year, as well as an overview of the remuneration policy planned [for] subsequent years. (Best Practice Provision II.2.9)</p> <p>The main elements of the contract of a management board member with the company shall be made public immediately after it is concluded. (Best Practice Provision II.2.11)</p> <p>The remuneration committee shall ... prepar[e] the remuneration report.... (Best Practice Provision III.5.10(c))</p> <p><i>See generally</i> II.2, Determination and Disclosure of Remuneration.</p>	<p>It is recommended that the annual report of the company reflect the results of the evaluation of the performance of the board of directors, and contain information on the total amount of remuneration and/or compensation of members of the board of directors. (Ch. 3, § 5.1.3)</p> <p>It is advisable that the company should disclose information about members of the board of directors, the director general (managing organization, manager) and members of the managerial board, as well as about other officers of the company listed in the Regulation on Information Policy of the company, including amount of remuneration payable to them and criteria for its determination, [and] ownership of company shares.... (Ch. 7, § 3.3.3)</p>	<p>Companies should provide full disclosure of director remuneration on an individual basis, giving details of earnings, share options, restraint payments and all other benefits. (§ 2.5.4)</p> <p>The overriding principle of full disclosure by directors, on an individual basis, should apply to all share schemes and any other incentive schemes proposed by management. (§ 2.5.8)</p> <p>It is not considered appropriate that an executive director's fixed-term service contract, if any, should exceed three years. If so, full disclosure of this fact, with reasons, should be given, and the consent of shareowners should be obtained. (§ 2.5.9)</p> <p>Companies should establish a formal and transparent procedure for developing a policy on executive and director remuneration which should be supported by a Statement of Remuneration Philosophy in the annual report. (§ 2.5.10)</p>	<p>A formal and transparent procedure must exist for the implementation of remuneration policies and in order to determine the specific remuneration, in particular, of Executive Directors... The Annual Corporate Governance Report must reflect the remuneration policy adopted and shall set out the individual remuneration paid to each Director. (§ I.10)</p>	<p>The shareholders' meeting is to decide on directors' fees and all other remuneration for board work, and the allocation to the chair and other members of the board, and remuneration for committee work, if any. (§ III, Rule 2.2.6)</p> <p>The board is to present a proposal for the company's policy on remuneration and other terms of employment for senior management to the annual general meeting for its approval. The proposal is to be posted on the company's website in connection with the notice of the shareholders' meeting. (§ III, Rule 4.2.2)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
29. Disclosure Regarding Compensation				
<p>The following information must be disclosed on the compensations for and shareholdings of the members of the issuer's management board and board of directors and on loans granted these members.</p> <p>5.1 Content and method of determining the compensations and of the shareholding programmes....</p> <p>5.2 Compensations for acting members of governing bodies....</p> <p>5.3 Compensations for former members of governing bodies....</p> <p>5.4 Share allotment in the year under review....</p> <p>5.5 Share ownership....</p> <p>5.6 Options....</p> <p>5.7 Additional honorariums and remunerations....</p> <p>5.8 Loans granted by governing bodies....</p> <p>5.9 Highest total compensation.... (Directive, Annex ¶ 5)</p>	<p>There should be full and clear disclosure of directors' total emoluments and those of the chairman and highest-paid UK director, including pension contributions and stock options. Separate figures should be given for salary and performance-related elements, and the basis on which performance is measured should be explained. (Code § 3.2)</p> <p>The overriding principle in respect of board remuneration is that of openness. Shareholders are entitled to a full and clear statement of directors' present and future benefits, and of how they have been determined. We recommend that, in disclosing directors' total emoluments and those of the chairman and highest-paid UK director, separate figures should be given for their salary and performance-related elements, and that the criteria on which performance is measured should be explained. Relevant information about stock options, stock appreciation rights, and pension contributions should also be given. (Report § 4.40)</p> <p><i>Following the issuance of the Greenbury Report in 1995, the London Stock Exchange adopted listing rules requiring that companies listed on the exchange disclose directors' remuneration packages (broken down by director) including salary, bonuses, pensions, and stock option plans. Also, companies must state whether or not they comply with the remuneration committees and policy sections of the Cadbury Report. See London Stock Exchange Listing Rule 12.43 (w) and (x).</i></p>	<p>There should be a formal and transparent procedure for developing policy on executive remuneration and for fixing the remuneration packages of individual directors. (Main Principle B.2)</p> <p>The chairman of the board should ensure that the company maintains contact as required with its principal shareholders about remuneration in the same way as for other matters. (Supporting Principle B.2)</p> <p>Where a company releases an executive director to serve as a nonexecutive director elsewhere, the remuneration report [as required under the Directors' Remuneration Report Regulations] should include a statement as to whether or not the director will retain such earnings and, if so, what the remuneration is. (Provision B.1.4)</p> <p><i>See Preamble ¶ 11 (The revised Code does not include material in the previous Code on the disclosure of directors' remuneration. This is because "The Directors' Remuneration Report Regulations 2002" [S.I. no. 1986] are now in force and supersede the earlier Code provisions. These require the directors of a company to prepare a remuneration report. It is important that this report is clear, transparent and understandable to shareholders.)</i></p> <p><i>See also Provision B.2.1 (Where remuneration consultants are appointed, a statement should be made available of whether they have any other connection with the company.)</i></p>	<p>Boards should disclose fully in the proxy statement the philosophy and process used to determine director compensation and the value of all elements of compensation. (p. 7)</p>	<p>The compensation committee should oversee the corporation's disclosures with respect to executive compensation. In particular, the committee should use the compensation committee report included in the corporation's annual proxy statement to provide shareholders with meaningful and understandable information about the corporation's executive compensation practices. (p. 24)</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
30. Internal Control Systems				
<p>The board should ... [e]nsur[e] the integrity of the corporation's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards [and] [o]versee[] the process of disclosure and communications. (Principles VI.D.7 – VI.D.8)</p> <p>Ensuring the integrity of the essential reporting and monitoring systems will require the board to set and enforce clear lines of responsibility and accountability throughout the organisation. The board will also need to ensure that there is appropriate oversight by senior management. One way of doing this is through an internal audit system directly reporting to the board. In some jurisdictions it is considered good practice for the internal auditors to report to an independent audit committee of the board or an equivalent body which is also responsible for managing the relationship with the external auditor.... Companies are also well advised to set up internal programmes and procedures to promote compliance with applicable laws, regulations and standards, including statutes to criminalise bribery of foreign officials.... (Annotation to Principle VI.D.7)</p>	<p>Have a structure to independently verify and safeguard the integrity of the company's financial reporting. (Principle 4)</p> <p>The audit committee should report to the board. The report should contain ... assessment of the performance and objectivity of the internal audit function [and] the results of its review of risk management and internal compliance and control systems. (Commentary on Recommendation 4.2)</p> <p>Establish a sound system of risk oversight and management and internal control. (Principle 7)</p> <p>This system should be designed to:</p> <ul style="list-style-type: none"> ▪ identify, assess, monitor and manage risk, [and] ▪ inform investors of material changes to the company's risk profile. (Commentary on Principle 7) <p>The board or appropriate board committee should establish policies on risk oversight and management. (Recommendation 7.1)</p>	<p>[T]he board should:</p> <ul style="list-style-type: none"> ▪ review the existence and functioning of a system of internal control, including adequate identification and management of risks (including those relating to compliance with existing legislation and regulations); ▪ take all necessary measures to ensure the integrity of the company's financial statements;... [and] ▪ supervise the performance of the external auditor and supervise the internal audit function. (Provision 1.3) <p>At least once a year, the audit committee should review the internal control and risk management systems set up by executive management, with a view to ensuring that the main risks (including those relating to compliance with existing legislation and regulations) are properly identified, managed and disclosed. (Appendix C, 5.2./7)</p> <p>The audit committee should review the statements included in the annual report on internal control and risk management. (Appendix C, 5.2./8)</p> <p>An independent internal audit function should be established [or, alternatively] the need for [it] should be reviewed at least annually. (Appendix C, Provision 5.2./10)</p> <p>The audit committee ... should receive internal audit reports or a periodic summary thereof. (Appendix C, Provision 5.2./11)</p>	<p>The Internal Audit should report to the Audit Committee or, in its absence, the Board of Directors. Its job is to monitor internal controls and check whether regulations, instructions, and policies are being complied with. (IBGC Code ¶ 2.34)</p> <p>The Board of Directors should ensure that Management identify well in advance – through an adequate information system – and list the main risks to which the company is exposed, the odds of their actually occurring, as well as the measures and plans adopted to prevent or minimize them. (IBGC Code ¶ 2.38)</p> <p>The CEO is in charge of creating internal control systems that organize and monitor the flow of correct, actual, and complete information on the organization, such as financial, operating and legal compliance information, among others, which may carry important risks to the organization. The effectiveness of such systems should be reviewed at least once a year. (IBGC Code ¶ 3.6)</p> <p>The fiscal board's supervisory capacity shall be the broadest possible, due to responsibilities imposed by law in the case of misconduct. (CVM Recommendation IV.5)</p>	<p>[The board] should oversee and monitor management's systems for managing business risk. (Saucier Report, Recommendation 7)</p> <p>[If an internal audit function does not exist], [t]he audit committee should periodically ... determine whether such a function should be instituted. (Saucier Report, Recommendation 13)</p> <p>Where a corporation has an internal audit function, the audit committee should approve its mandate, be satisfied that it has adequate resources to perform its responsibilities, and ensure that the director of internal audit has direct and open communication with the committee. (Saucier Report, p. 31)</p>

China	Denmark	France	Germany	India
30. Internal Control Systems				
<p>A listed company shall establish sound financial and accounting management systems in accordance with laws and regulations and shall conduct independent business accounting. (Ch. 2, (2) 25)</p> <p>The main duties of the audit committee are: (1) to recommend the engagement or replacement of the company's external auditing institutions; (2) to review the internal audit system and its execution; (3) to oversee the interaction between the company's internal and external auditing institutions; (4) to inspect the company's financial information and its disclosure; and (5) to monitor the company's internal control system. (Ch. 3, (6) 54)</p>	<p>The Committee recommends that, at least once a year, the supervisory board review and assess the internal control systems within the company as well as management's guidelines for, and supervision of, such systems, and that the supervisory board consider the extent to which this function is able to assist the supervisory board in this work. (Recommendation VIII.4)</p> <p>An audit committee should ... at least once a year, review and assess internal control and risk management systems ... and ... assess the need for an internal audit. (Appendix A)</p> <p>See Principle VII (Effective risk management is a prerequisite allowing the supervisory board to perform its tasks in the best possible way. Therefore, it is essential that the supervisory board arrange for appropriate risk management systems to be established and ... ensure that such systems meet the requirements of the company at any time. The purpose of risk management is to:</p> <ul style="list-style-type: none"> ▪ develop and maintain an understanding of the ... company's strategic and operational goals.... ▪ analyse the possibilities and challenges related to the implementation of the above goals.... ▪ analyse the most important activities launched by the company to identify the risks in this connection. ▪ determine the venture spirit of the company.) <p>See also Recommendation VII.2 (The Committee recommends that the executive board prepare a plan for the company's risk management ... and submit this plan to the supervisory board for approval....).</p> <p>See Appendix A (<i>audit committee responsibilities</i>).</p>	<p>Each listed corporation should have reliable internal procedures to identify and evaluate its commitments and risks, and provide shareholders and investors with relevant information in this respect. For such purposes:</p> <ul style="list-style-type: none"> ▪ the annual report should specify the internal procedures set up to identify and monitor off-balance-sheet commitments, and to evaluate the corporation's material risks; ▪ methods used for informing shareholders and investors regarding off-balance-sheet commitments and material risks should be developed and clarified.... ▪ As regards off-balance-sheet items, it will be up to the accounting-standardisation bodies, if appropriate, to develop rules allowing suitable presentation in the financial statements. (¶ 2.3) <p>The review of accounts by the audit committee should be accompanied by a note from the statutory auditors stressing the essential points not only of the results, but also of the accounting methods chosen, and a note from the chief financial officer describing the corporation's risk exposures and its material off-balance-sheet commitments. (¶ 14.2.1)</p> <p>As regards internal audit and risk review, the [audit] committee should review the material risks and off-balance-sheet commitments, interview the person in charge of internal audit, issue an opinion regarding that department's organisation, and be informed of its programme of work. It should receive internal audit reports, or a regular summary of those reports. (¶ 14.3.2)</p>	<p>The Management Board ensures appropriate risk management and risk controlling in the enterprise. (§ 4.1.4)</p> <p>The Supervisory Board shall arrange for the auditor to report without delay on all facts and events of importance for the tasks of the Supervisory Board which arise during the performance of the audit.</p> <p>The Supervisory Board shall arrange for the auditor to inform it and/or note in the Auditor's Report if, during the performance of the audit, the auditor comes across facts that show a misstatement by the Management Board and Supervisory Board on the Code. (§ 7.2.3)</p> <p>See generally § 6 (Transparency) and § 7 (Reporting and Audit of the Annual Financial Statements).</p>	<p>The responsibility of the management is ... to put in place adequate control systems and to ensure their operation.... (§ 2.8)</p> <p>[The audit committee's] role should include....</p> <ul style="list-style-type: none"> ▪ Oversight of the company's financial reporting process and the disclosure of its financial information.... ▪ Reviewing with management the annual financial statements before submission to the board.... ▪ Reviewing with the management, external and internal auditors, the adequacy of internal control systems. ▪ Reviewing the adequacy of internal audit function.... ▪ Discussion with internal auditors of any significant findings.... ▪ Reviewing the findings of any internal investigations by the internal auditors into matters where there is suspected fraud or irregularity or a failure of internal control systems ... and reporting the matter to the board. ▪ Discussion with external auditors before the audit commences, of the nature and scope of audit. Also post-audit discussion to ascertain any area of concern. ▪ Reviewing the company's financial and risk management policies. ▪ Looking into the reasons for substantial defaults.... (§ 9.10) <p>See § 2.9 (<i>regulations regarding insider information and insider trading</i>).</p> <p>See also § 9.9 ([Audit committee] powers should include powers ... [t]o seek information from any employee.).</p> <p>See also § 12.1, Accounting Standards and Financial Reporting, and § 13.3, Functions of Management.</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
30. Internal Control Systems				
<p>The Direksi should establish an effective system of internal controls in order to safeguard the investment and assets of the Company. (§ III, Principle 3.6)</p> <p>The Direksi should also establish an appropriate internal information control system, in order (a) to safeguard important information of the Company, and (b) that such information can be quickly transmitted to the corporate secretary (if any). The Direksi should advise the Audit Committee when it seeks a second opinion on a significant accounting issue. (§ III, Principle 3.7)</p> <p>The duties and responsibilities of the Audit Committee [include] promoting an adequate structure of internal control.... (§ IV, 4.2(a))</p> <p>The GMOS [AGM] shall approve/adopt mandatory internal regulations to govern all aspects of audits including the qualifications, rights, duties, responsibilities and operations of external and internal auditors. (§ IV, Principle 4.5)</p> <p>The Company ... must have an effective internal control mechanism to monitor and address [insider trading and self-dealing] practices. If discovered, such insider transactions shall be disclosed to the shareholders through fair means. (§ I, 1.3.3)</p> <p>See § III, 3.6 (Internal controls are the process aimed at achieving reasonable certainty about the realization of objectives in regard to (a) the reliability of the financial information, (b) the effectiveness and efficiency of the corporate processes, and (c) compliance with all relevant regulations having the force of law.).</p>	<p>The internal control system is the set of rules, procedures and organizational structures aimed at making possible a sound and correct management of the company consistent with the established goals, through adequate identification, measurement, management and monitoring of the main risks. (Code, 8.P.1)</p> <p>The Board of Directors, with the assistance of the internal control committee, shall ... define the guidelines...; identify an executive director for supervising...; evaluate the adequacy...; and describe the essential elements of the internal control system.... (Code, 8.C.1(a)-(d))</p> <p>The executive director responsible for supervising the ... internal control system, shall ... identify [and submit] the main business risks...; implement the guidelines defined by the Board of Directors...; [and] propose ...the appointment, revocation and remuneration of one or more persons in charge of internal control.... (Code, 8.C.5(a)-(c))</p> <p>The persons appointed to run the internal control system ... shall report ... to the managing directors and to the internal control committee ... and the ... board of auditors. (Code, 9.4)</p> <p>See Topic Heading 31, <i>below</i>.</p>	<p><u>Internal Control</u></p> <ol style="list-style-type: none"> 1. In addition to ensuring the effectiveness of the internal audit and control of the company through the board of directors, various committees, certified public accountants, and a management audit department and related bodies, the CEO should realize a proper governance system, which provides for adequate internal control. 2. The audit committee should evaluate the CEO's policies for strengthening internal audit and control. 3. The CEO should prepare an annual report on the state of internal audit and control, and include that report in the business report and the securities report, and it is desirable that the report be audited by a certified public accountant. (CGFJ Principle 11) 	<p>Audit committees and auditors shall, at a minimum, perform the following functions:</p> <ul style="list-style-type: none"> ▪ Review the soundness and reasonableness of financial activities and the accuracy of the corporation's financial reports; ▪ Review the adequacy of major accounting standards and changes in accounting estimates; ▪ Evaluate internal control systems; ▪ Approve the appointment or dismissal of persons heading internal auditing divisions (only for audit committees); ▪ Evaluate the auditing activities of external auditors; ▪ Recommend nominees for external auditors (only for audit committees); ▪ Check measures on those matters corrected as a result of auditing. (§ III.1.3) 	<p>The accounting policies used to prepare the financial information of the company should be presented to the Board of Directors for approval. (Principle at III.3)</p> <p>The Committee recommends that there be a mechanism to support the Board in ensuring that the auditing functions are performed, ensuring that internal and external audits are performed as objectively as possible and that the financial information is useful, timely and reliable. (Recommendation at III)</p> <p>The General Mercantile Companies Law stipulates that the stockholders of a company must appoint a statutory auditor, who is responsible, among other aspects, for examining both the financial statements themselves and the application of accounting principles. The company's management also commissions an external auditor to issue an opinion on its financial statements. (Recommendation at III.2)</p> <p>See Topic Heading 2a, <i>above</i>.</p>

The Netherlands	Russia	South Africa	Spain	Sweden
30. Internal Control Systems				
<p>The management board shall ... discuss the internal risk management and control systems with the supervisory board and its audit committee. (Principle II.1)</p> <p>The arrangements for whistleblowers shall ... be posted on the company's website. (Best Practice Provision II.1.6)</p> <p>The supervisory board shall discuss at least once a year the corporate strategy and the risks of the business, and the result of the assessment by the management board of the structure and operation of the internal risk management and control systems.... (Best Practice Provision III.1.8)</p> <p>The internal auditor ... shall operate under the responsibility of the management board. (Principle V.3)</p> <p>The management board shall declare in the annual report that the internal risk management and control systems are adequate and effective and shall provide clear substantiation of this. (Best Practice Provision II.1.4)</p> <p>[A]n internal risk management and control system [employs]: (a) risk analyses...; (b) a code of conduct...; (c) guides for the layout of the financial reports and the procedures to be followed in drawing up the reports; and (d) a system of monitoring and reporting. (Best Practice Provision II.1.3)</p> <p><i>See Topic Heading 31, below.</i></p>	<p>Corporate governance practice should provide for the efficient control over the financial and business operations of the company in order to protect the rights and legal interests of shareholders. (Ch. 1, § 7)</p> <p>[T]he company should distinguish between the roles of ... supervision of financial and business operations of the company and ... the internal control system [which should be] independent of the executive bodies of the company.... [A]pproval of internal control procedures should be assigned to the board of directors.... (Ch. 1, § 7.2)</p> <p>[P]rior to its submission for approval by the general shareholders meeting, the opinion rendered by the independent audit organization (auditor) of the company should be presented for evaluation by the audit committee. (Ch. 1, § 7.3)</p> <p>[T]he company's charter should assign approval of the procedures for internal supervision of financial and business operations ... to the authority of the board of directors. (Ch. 3, § 1.2.1)</p> <p><i>See Ch. 3, § 1.2 (internal controls) and Ch. 8 (supervision of financial and business operations).</i></p>	<p>The board should ensure that the company complies with all relevant laws, regulations and codes of business practice.... (§ 2.1.5)</p> <p>The board must identify key risk areas and key performance indicators [that] should be regularly monitored.... (§ 2.1.11)</p> <p>The board should identify and monitor the nonfinancial aspects relevant to the business of the company. (§ 2.1.12)</p> <p>The board should record the facts and assumptions on which it relies to conclude that the business will continue as a going concern [or] not, and in that case, what steps the board is taking to remedy the situation. (§ 2.1.13)</p> <p>The board should regularly review processes and procedures to ensure the effectiveness of the company's internal systems of control, so that its decision-making capability and the accuracy of its reporting are maintained at a high level at all times. (§ 2.6.4)</p> <p>The board is responsible for the total process of risk management, as well as for forming its own opinion on the effectiveness of the process. Management is accountable to the board for designing, implementing and monitoring the process of risk management and integrating it into the day-to-day activities of the company. (§ 3.1.1)</p> <p>[T]here should be separate disclosure of the amount paid for nonaudit services with a detailed description in the notes to the annual financial statements of the nature thereof together with the amounts paid for each of the services described. (§ 6.1.5)</p> <p><i>See generally § 3, Risk Management, and § 4, Internal Audit.</i></p>	<p>[T]he Audit Committee will ... supervise the carrying out of the internal audit, receive and evaluate their work plan and any reports deemed relevant or significant for the Company. It will formulate an opinion and report on their organisation, and ensure that they have the necessary resources....</p> <p>In the case of Companies which do not have a Risks Committee, the Audit Committee will be responsible for reviewing risk management schemes, establishing the risk evaluation and management policy, evaluating and making adequate allowances for significant risks, as well as determining action plans for their control and mitigation. Furthermore, it must revise any significant risks and liabilities not included in the Balance Sheet with the internal auditor (§ I.11)</p> <p>The Board must ensure that adequate risk management and internal control systems are in place which guarantee the financial soundness of corporate assets. [It] must maintain a direct communication channel with the internal and external Auditors, without the presence of Company executives. (§ I.12)</p> <p><i>See Topic Heading 31, below.</i></p>	<p>The board is to ensure that the company has a sound system of internal controls and keep itself informed of and assess how well it functions. (§ III, Rule 3.7.1)</p> <p>The board is to submit an annual report on how that part of internal control dealing with financial reporting is organised and how well it has functioned during the most recent financial year. The report is to be reviewed by the company's auditors. (§ III, Rule 3.7.2)</p> <p>The board in companies that do not have a special internal audit function is annually to evaluate the need of such a function and explain the position that it has taken in its report on internal control. (§ III, Rule 3.7.3)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
30. Internal Control Systems				
<p>The Board of Directors should provide for systems for internal control and risk management suitable for the company. The internal control system should be geared to the size, complexity and risk profile of the company.</p> <p>The internal control system should, depending on the specific nature of the company, also cover risk management. The latter should apply to both financial and operational risks.</p> <p>The company should set up an Internal Audit function which should report to the Audit Committee or, as the case may be, to the Chairman of the Board. (Code ¶ 19)</p> <p>The Audit Committee should form an independent judgment of the quality of the external auditors, the internal control system and the annual financial statements. [It] should form an impression of the effectiveness of the external audit ... and the internal audit as well as of their mutual cooperation. [It] should additionally assess the quality of the internal control system, including risk management, and should have an appreciation of the state of compliance with norms within the company. (Code ¶ 24)</p>	<p>Directors are responsible under § 221 of the Companies Act 1985 for maintaining adequate accounting records. To meet these responsibilities, directors need ... a system of internal control over the financial management of the company, including procedures designed to minimize the risk of fraud. There is, therefore, already an implicit requirement on directors to ensure that a proper system of internal control is in place. (Report § 4.31)</p> <p>[W]e recommend that the directors should make a statement in the report and accounts on the effectiveness of their system of internal control and that the auditors should report thereon. (Report § 4.32)</p> <p>Where an internal audit function exists, the audit committee should ensure that it is adequately resourced and has appropriate standing within the company. (Report § 4.35(f))</p> <p>[A]n effective internal control system is an essential part of the efficient management of a company.... A great deal of detailed work is now necessary to develop these proposals, and we recommend that the accounting profession ... take the lead. (Report § 5.16)</p>	<p>The board should maintain a sound system of internal control to safeguard shareholders' investment and the company's assets. (Main Principle C.2)</p> <p>The board should establish formal and transparent arrangements for considering how they should apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the company's auditors. (Main Principle C.3)</p> <p>The board should, at least annually, conduct a review of the effectiveness of the group's system of internal controls and should report to shareholders that they have done so. The review should cover all material controls, including financial, operational and compliance controls and risk management systems. (Provision C.2.1)</p> <p>The audit committee should monitor and review the effectiveness of the internal audit activities. Where there is no internal audit function, the audit committee should consider annually whether there is a need for an internal audit function and make a recommendation to the board, and the reasons for the absence of such a function should be explained in the relevant section of the annual report. (Provision C.3.5)</p> <p><i>See generally</i> Appendix – Guidance on Internal Control (The Turnbull Guidance), pp. 27-41.</p>	<p>Among the most important missions of the board is ensuring that shareholder value is both enhanced through corporate performance and protected through adequate internal financial controls. Boards should seek candidates with expertise in financial accounting and corporate finance. (p. 10)</p> <p><i>See</i> REPORT OF THE NACD BLUE RIBBON COMMISSION ON RISK OVERSIGHT (2002).</p>	<p>To achieve accuracy and clarity [in the corporation's financial statements and other disclosures prepared by management], the board, through its audit committee, should have an understanding of the corporation's financial statements, including why the accounting principles critical to the corporation's business were chosen, what key judgments and estimates were made by management, and how the choice of principles, and the making of these judgments and estimates affect the reported financial results of the corporation. (p. 9)</p> <p>Senior management is responsible for the integrity of the corporation's financial reporting system and the accurate and timely preparation of the corporation's financial statements and related disclosures in accordance with Generally Accepted Accounting Principles and in compliance with applicable laws and regulations. It is senior management's responsibility – under the direction of the CEO and the corporation's principal financial officer – to establish, maintain and periodically evaluate the corporation's internal controls over financial reporting and the corporation's disclosure controls and procedures.... The CEO and ... principal financial officer also are responsible for certifying the accuracy and completeness of the corporation's financial statements and the effectiveness of the corporation's internal and disclosure controls. (p. 11)</p> <p>Employees should have a means of seeking guidance and alerting management and the board about potential or actual misconduct without fear of retribution, and violations of the code [of conduct] should be addressed promptly and effectively. (p. 12)</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
31. Auditor Independence				
<p>An annual audit should be conducted by an independent, competent and qualified auditor in order to provide an external and objective assurance to the board and shareholders that the financial statements fairly represent the financial position and performance of the company in all material respects. (Principle V.C)</p> <p>The board should fulfill certain key functions, including ... [e]nsuring ... the independent audit.... (Principle VI.D.7)</p> <p>It is increasingly common for external auditors to be recommended by an independent audit committee of the board or an equivalent body and to be appointed either by that committee/body or by shareholders directly. Moreover, the IOSCO PRINCIPLES OF AUDITOR INDEPENDENCE AND THE ROLE OF CORPORATE GOVERNANCE IN MONITORING AN AUDITOR'S INDEPENDENCE states that "standards of auditor independence should establish a framework of principles, supported by a combination of prohibitions, restrictions, other policies and procedures and disclosures, that addresses at least the following threats to independence: self-interest, self-review, advocacy, familiarity and intimidation."</p> <p>The audit committee or an equivalent body ... should ... be charged with overseeing the overall relationship with the external auditor.... (Annotation to Principle V.C)</p> <p>See Annotation to Principle V.C (A number of countries are tightening audit oversight through an independent entity ... acting in the public interest [that] provides oversight over the quality and implementation, and ethical standards used in the jurisdiction....).</p>	<p>The audit committee should ... oversee the independence of the external auditors.... The independence and objectivity of the auditor is considered in Professional Statement F1 – Professional Independence, The Institute of Chartered Accountants in Australia and CPA Australia 2002, and in Pronouncement 1, "Code of Ethics" of the National Institute of Accountants. (Commentary on Recommendation 4.4)</p> <p>The audit committee should report to the board. The report should contain...:</p> <ul style="list-style-type: none"> ▪ procedures for the selection and appointment of the external auditor and for the rotation of external audit engagement partners; ▪ recommendations for the appointment or removal of an auditor; [and] ▪ assessment of the performance and independence of the external auditors and whether the audit committee is satisfied that independence of this function has been maintained, having regard to the provision of nonaudit services. (Commentary on Recommendation 4.4)) 	<p>The audit committee should monitor the external auditor's independence, in particular in view of the provisions of the Code on Companies and the Royal Decree of 4 April 2003. The committee should obtain a report from the external auditor describing all relationships between the independent auditor and the company and its group. (Appendix C, Provision 5.2./14)</p> <p>See Appendix C, Provision 5.2./13 (The audit committee should make recommendations to the board on the selection, appointment and reappointment of the external auditor and the terms of his or her engagement. In accordance with the Code on Companies, this proposal should be submitted to the shareholders for approval.)</p> <p>See also Appendix C, Provision 5.2./15 (The audit committee should also keep the nature and extent of nonaudit services under review. The committee should set and apply a formal policy specifying the types of nonaudit services a) excluded, b) permissible after review by the committee, and c) permissible without referral to the committee, taking into account the specific requirements under the Code of Companies.)</p> <p>See also Appendix C, Provision 5.2./22 ([T]he internal and external auditors should be guaranteed free access to the board. To this effect, the audit committee should act as the principal contact point for the internal and external auditors. The external auditor and the head of the internal audit should have direct and unrestricted access to the chairman of the audit committee and the chairman of the board.)</p>	<p>Every organization should have an independent auditor. (IBGC Code ¶ 4.1)</p> <p>The Audit Committee should submit to the Board its recommendations as to hiring independent auditors, their fees, continuance, or replacement. (IBGC Code ¶ 4.3)</p> <p>It is recommended that auditors, for the sake of their independence, be hired for a preestablished period, with the possibility of being rehired after a formal and documented evaluation by the Audit Committee and/or Board of Directors of their independence and performance, in compliance with professional standards, legislation and regulations in force. It is recommended that any potential contract renewal with the audit firm after a maximum period of five years be approved by the majority of the shareholders present at the General Meeting.... IBGC Code ¶ 4.5)</p> <p>The board of directors should prohibit or restrict hiring the company's auditor for other services that may present conflicts of interest. When the board of directors allows the hiring of the auditor for other services, they should, at least, establish for which other services the auditor may be hired, and what maximum annual proportion such services could represent in relation to the auditing costs. (CVM Recommendation IV.4)</p> <p>The Independent Auditors shall annually renew, in writing, to the Audit Committee, or, in its absence, to the Board of Directors, their independence vis-à-vis the company. (IBGC Code ¶ 4.7)</p> <p>See generally IBGC Code, ¶ 4, Independent Auditing.</p>	<p>The audit committee needs to assure itself that the auditors are independent. It must have access to all information about the audit firm's relationship with the corporation that is necessary in order to come to a reasonable conclusion. The audit committee needs to assure itself that the external auditors are satisfied that the accounting estimates and judgments made by management, and management's selection of accounting principles, reflect an appropriate application of GAAP. The audit committee must develop a relationship with the external auditors that allows for full, frank and timely discussion of all material issues, with or without management as appropriate in the circumstances. (Saucier Report, pp. 30-31)</p> <p>Audit committee mandates should explicitly affirm that the external auditor is accountable to the board of directors and the audit committee, as representatives of the shareholders, and that these shareholder representatives have the ultimate authority and responsibility to select, evaluate and, where appropriate, recommend replacement of the external auditor. Auditors must recognize that their ultimate client is not management, and work constructively and meet regularly with audit committees to build an effective relationship. (Saucier Report, Recommendation 12)</p> <p>See Saucier Report, Appendix C, Blue Ribbon Committee Recommendations, Recommendations 6-8, 10, pp. 48-50 (<i>audit committee oversight of outside auditor</i>).</p> <p><u>Dev Report</u> Not covered.</p>

China	Denmark	France	Germany	India
31. Auditor Independence				
<p>The main duties of the audit committee [include]: (1) to recommend the engagement or replacement of the company's external auditing institutions;... [and] (3) to oversee the interaction between the company's internal and external auditing institutions.... (Ch. 3, (6) 54)</p>	<p>Ensuring a competent and independent audit is an essential part of the supervisory board's work. The Committee recommends that the contractual basis, and thus the framework, of the auditor's work be determined between the supervisory board and the executive board. (Principle VIII)</p> <p>The Committee recommends that, having consulted the executive board, the supervisory board make a specific and critical assessment of the auditor's independence and competence, etc., to be used in connection with the nomination of a candidate at the general meeting. (Recommendation VIII.1)</p> <p>The Committee recommends that, every year, the supervisory board lay down the ... scope of the auditor's provision of nonaudit services, with a view to ensuring the auditor's independence, etc. (Recommendation VIII.3)</p> <p>[A]n audit committee should:</p> <ul style="list-style-type: none"> ▪ submit recommendations to the supervisory board for the board's nomination of a candidate as the company's external auditor at the general meeting. ▪ make a specific and critical assessment of the independence, objectivity and competence of the external auditor, e.g., by checking that current guidelines for partner rotation are met and by checking the size and composition of fees paid to the auditor, etc..... ▪ submit proposals to the supervisory board as regards the ... auditor's provision of nonaudit services. The committee should check the nature and extent of nonaudit services ... for the purpose of ensuring the auditor's independence and objectivity. <p>(Appendix A)</p>	<p>[The audit] committee should steer the procedure for selection of the statutory auditors, and submit the outcome of that selection to the Board of Directors....</p> <p>The committee should obtain disclosure of the fees paid by the corporation and its group to the auditors' firm and network and ensure that the related amount, or the share that they represent in the turnover of the firm and network, is not such as to affect detrimentally the statutory auditors' independence.</p> <p>Duality of statutory auditors, a specific feature of the French system, secures the auditors' independence. It should be genuine, naturally, in that major issues arising when drawing up the accounts should actually be subject to a double review</p> <p>The duration of the [auditors'] term of office, set by law at 6 years, and its renewable nature, also help ensure their independence. But a rotation in signatories of accounts for accounting firms in the major networks and a time lag between expiration of the two statutory auditors' terms of office are especially desirable.</p> <p>For listed corporations, the statutory auditing assignment should be exclusive of any other. The selected firm should give up, for itself and the network to which it belongs, any consulting activity (legal, tax, IT, etc...) performed directly or indirectly for the corporation having selected it, or for its group.</p> <p>However, subject to prior approval from the audit committee, services that are accessory or directly complementary to auditing may be performed, such as acquisition audits, but exclusive of valuation services. (§ 14.2.2)</p>	<p>The General Meeting ... elects the shareholders' representatives to the Supervisory Board and, as a general rule, the auditors. (§ 2.2.1)</p> <p>The Supervisory Board shall set up an Audit Committee that, in particular, handles issues of accounting and risk management, the necessary independence required of the auditor, the issuing of the audit mandate to the auditor, the determination of auditing focal points and the fee agreement. (§ 5.3.2)</p> <p>Prior to submitting a proposal for election, the Supervisory Board or, respectively, the Audit Committee shall obtain a statement from the proposed auditor stating whether, and where applicable, which business, financial, personal and other relationships exist between the auditor and its executive bodies and head auditors on the one hand, and the enterprise and the members of its executive bodies on the other hand, that could call its independence into question. This statement shall include the extent to which other services were performed for the enterprise in the past year, especially in the field of consultancy, or which are contracted for the following year.</p> <p>The Supervisory Board shall [arrange] with the auditor that the Chairman of the Supervisory Board will be informed immediately of any grounds for disqualification or impartiality occurring during the audit, unless such grounds are eliminated immediately. (§ 7.2.1)</p> <p>The Supervisory Board commissions the auditor to carry out the audit and concludes an agreement on the latter's fee. (§ 7.2.2)</p>	<p><i>Not covered directly, but see § 2.8 (The shareholders' role in corporate governance is to appoint ... the auditors....).</i></p> <p><i>See also § 9.10 ([The audit committee's] role should include ... [r]ecommending the appointment and removal of the external auditor, fixation of audit fee and also approval for payment for any other services.).</i></p> <p><i>See also § 15.7 (The Committee ... recommends that the company should arrange to obtain a certificate from the auditors of the company regarding compliance of mandatory recommendations and annex the certificate with the directors' report, which is sent annually to all the shareholders of the company. The same certificate should also be sent to the stock exchanges along with the annual returns filed by the company.).</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
31. Auditor Independence				
<p>The external auditors shall be appointed by the GMOS [AGM] from candidates nominated by the Audit Committee. The Audit Committee through the Dewan Komisaris will provide to the GMOS the reasons for such nominations and the proposed remuneration for such external auditors. (§ IV, Principle 4.1)</p> <p>Such external auditors shall be independent from the Company's Dewan Komisaris, Direksi and stakeholders of the Company. The Company must make available to the external auditors all accounting records and supporting data necessary to enable such auditors to render their opinion as to the fairness, consistency and conformity of the Company's financial statements with Indonesian accounting standards. The external auditors shall notify the Company through its Audit Committee (if any), of any event related to the Company that is contrary to prevailing regulations having the force of law (if any). (§ IV, 4.1)</p> <p>The duties and responsibilities of the Audit Committee [include] reviewing the scope, accuracy and cost-effectiveness of the external audit and the independence and objectivity of the external auditors. (§ IV, 4.2(c))</p> <p>The Dewan Komisaris and Direksi shall ensure that both external and internal auditors and the Audit Committee shall have full access to information necessary to perform their audits. (§ IV, Principle 4.3)</p>	<p>The lists of candidates to the position of auditor, accompanied by detailed information on the personal traits and professional qualifications of the candidates, shall be deposited at the company's registered office at least fifteen (15) days before the date fixed for the shareholders' meeting. (Code, 10.C.1)</p> <p>The auditors shall act with autonomy and independence also vis-à-vis the shareholders, which elected them. (Code, 10.P.2)</p> <p>[M]embers of the Board of Auditors shall keep confidential the documents and information acquired in the performance of their duties and shall comply with the procedure adopted by the issuer for the internal handling and disclosure to third parties of such documents and information. (Code, 4.P.1)</p> <p>[T]he members of the board of auditors proposed or elected by the majority or the minority are not their "representatives" on the board and even less are they authorised to communicate information to third parties, especially the shareholders who elected them. They shall also comply with the same transparency procedure provided for the directors in the event of transactions in which they are bearers of an interest on their behalf or on behalf of third parties. (Comment on Code Article 10)</p>	<p><i>Japanese listed corporations may choose either a Corporate Auditors System or a (Board of Directors) Committees System.</i></p> <p><i>Not covered directly, but see TSX Principles, Appendix, Flow Charts ([In a Corporate Auditors System, the functions of the general meeting of shareholders include] election and discharge of the external financial auditors.</i></p> <p>In a (Board of Directors) Committees System, the functions of the audit committee include] determination of the agenda concerning the election and discharge of external financial auditors.).</p> <p><i>See also CGFJ Principle 7 ([In a (Board of Directors) Committees System,] the audit committee should ... appoint and discharge the certified public accountants....).</i></p>	<p>External auditors shall perform fair audits independently from the corporation concerned, its management and controlling shareholders, so that shareholders and other users may maintain confidence in the corporation's accounting information. (§ III.2)</p> <p>External auditors shall maintain independence in reality and in appearance from the corporation subject to audit, its management, and controlling shareholders.</p> <p>Statutes related to external auditors state regulations on the independence of external auditors. But it is, above all, most important that external auditors themselves, backed by work ethics, do not enter into an accounting audit contract whereby it is judged that they hold interests, in reality or in appearance, with the management or controlling shareholders of the corporation. External auditors are considered not to be independent, in principle, if they perform bookkeeping for the corporation, or give management consulting or tax advice. However, exceptions are made for management consulting or tax advice if the accounting corporation concerned clearly separates its accounting audit divisions from the concerned divisions. Not considered independent are cases where success fee agreements have been made in relation to audits of financial statements for a specific purpose. (§ III.2.1)</p> <p><i>See § III.2.3 (External auditors are liable for damages incurred from negligent accounting....).</i></p> <p><i>See generally § III.2, External Auditors.</i></p>	<p>Two key criteria in the selection process [of the outside auditor] are the technical capacity and the independence of the auditors. Those making the selection should also be alert for any circumstances that might affect the auditor's objectivity, for example, when the auditing firm depends heavily on the company for its revenues.</p> <p>If the Auditors supply other services to the company in addition to auditing, the nature and extent of these services should be kept under review, in order to ensure that the auditors' objectivity is not affected.</p> <ul style="list-style-type: none"> ▪ No firm that receives more than 20% of its total revenues from all services supplied to the company should be proposed to the Board of Directors to perform external auditing of the company's financial statements, or any other external review.... ▪ A proposed mechanism of turnover for the partner that issues the opinion on the company should be presented for Board approval, in order to ensure objectivity in the reports. Ideally, the turnover should take place at least every six years.... ▪ The person signing the auditors' opinion on the annual financial statements should be different from the person who serves as statutory auditor, although both may be members of the same firm. ▪ Those selecting the statutory auditor should be sure that the professional profile of that individual allows him or her to comply with their legal obligations. The annual report ... should describe their professional profile. <p>(III.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
31. Auditor Independence				
<p>The external auditor is appointed by the general meeting of shareholders. The supervisory board shall nominate a candidate for this appointment, for which purpose both the audit committee and the management board advise the supervisory board. The remuneration of the external auditor, and instructions to the external auditor to provide nonaudit services, shall be approved by the supervisory board on the recommendation of the audit committee and after consultation with the management board. (Principle V.2)</p> <p>The management board and the audit committee shall report their dealings with the external auditor to the supervisory board on an annual basis, including his independence in particular (for example, the desirability of rotating the responsible partners of an external audit firm that provides audit services, and the desirability of the same audit firm providing nonaudit services to the company). The supervisory board shall take this into account when deciding its nomination for the appointment of an external auditor, which nomination shall be submitted to the general meeting of shareholders. (Best Practice Provision V.2.2)</p> <p>At least once every four years, the supervisory board and the audit committee shall conduct a thorough assessment of the functioning of the external auditor within the various entities and in the different capacities in which the external auditor acts. The main conclusions of this assessment shall be communicated to the general meeting of shareholders for the purposes of assessing the nomination for the appointment of the external auditor. (Best Practice Provision V.2.3)</p>	<p>The professional competence of auditors, and their honesty and responsibility in the performance of their duties, should be the guiding principles of independent audit organizations (auditors) in their work.</p> <p>Auditors should be impartial and therefore preserve independence in relations with executive bodies and officials of the company, its shareholders and members of the board of directors of the company. Statutory regulations, auditing standards and professional ethics should ensure application of this principle in practice....</p> <p>The company should take all reasonable measures to provide for approval by a general shareholders meeting of an auditor of the company to be selected from among independent audit organizations (auditors) having a good reputation, acting in accordance with the above principles. (Ch. 8, § 4.1.1)</p> <p>[T]he company's independent ... auditor ... shall report directly to the audit committee.... (Ch. 8, § 1.4)</p> <p>An audit should be carried out in such a manner as to present objective and complete information on a company's activity. (Ch. 8, § 4.1)</p> <p>[T]he company's independent ... auditor ... should take part in general shareholders meetings and answer any questions posed by shareholders with respect to audit reports presented to the general shareholders meeting. (Ch. 8, § 4.1.2)</p> <p>See Ch. 1, § 7.3 ([T]he audit committee should evaluate each nominee auditor of the company....).</p> <p>See generally Ch. 8, § 4 (Audit).</p>	<p>The audit committee should draw up a recommendation to the board for consideration and acceptance by the shareowners for the appointment of the external auditors. (§ 6.1.1)</p> <p>The auditors should observe the highest level of business and professional ethics and in particular, their independence must not be impaired in any way. (§ 6.1.2)</p> <p>See generally C.3, Audit Committee and Auditors.</p>	<p>[T]he Audit Committee will ... preserve the independence of the external auditor, approve its annual work plan, supervise its qualifications, independence and effectiveness, and develop and implement policies aimed at the noncontracting of services with the external auditors if these are different from the audit, as such, and may adversely affect their independence....</p> <p>The Committee must revise the nature and scope of the services other than audit services provided by the external auditor, or by companies or individuals linked to the latter, in order to avoid any conflict of interests. The Committee must also establish and apply a set of standards which specify services other than audit services (a) excluded, (b) allowed after having obtained an authorisation from the Committee, and (c) allowed without having to secure such authorisation. (§ I.11)</p> <p>See § I.12 (The Board must maintain a direct communication channel with the internal and external Auditors, without the presence of the Company executives.).</p>	<p>In connection with the issuance of the notice of the shareholders' meeting, information that may be of importance to shareholders in assessing the competence and independence of the proposed auditors is to be posted on the company's website. The information is to show what services other than auditing were provided by the proposed auditor to the company over the past three years and, in the event of reelection, the year that the auditor was first appointed and the length of the engagement. A report on how the nomination committee has conducted its work [of recommending the auditor] is to be posted on the company's website. (§ III, Rule 2.3.3)</p> <p>See § III, Rule 2.3.2 (The nomination committee is to make recommendations on the selection of auditors as well as on audit fees. These recommendations are to be included in the notice of the shareholders' meeting and posted on the company's website.).</p> <p>See also § III, Rule 2.3.4 (At the shareholders' meeting, the nomination committee is to present and give reasons for its recommendations and submit a report on how it has conducted its work.).</p> <p>See also § III, Rule 2.3.5 (The proposed auditor is to be present at the meeting to be introduced and answer questions from the shareholders.).</p> <p>See also § III, Rule 3.8.4 (At least once a year, the board is to meet the company's auditors without the managing director or any other company executive being present.).</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
31. Auditor Independence				
<p>The powers of the shareholders are defined by statute. They alone are entitled to make decisions with regard to personnel matters at the top company level [including] appointing the company's auditors.... (Code ¶ 1)</p> <p>The Audit Committee should assess the performance and the fees charged by the external auditors and ascertain their independence. It should examine compatibility of the auditing responsibilities with any consulting mandates. (Code ¶ 24)</p> <p>See Code ¶ 29 (The function of the external audit is performed by the statutory auditors elected by the shareholders and, should [it] be the case, the group auditors. The external auditors should discharge the functions assigned to them in accordance with the guidelines relevant to them. They should cooperate in an appropriate way with those in charge of internal auditing. Auditors and group auditors should comply with the guidelines on maintaining independence applicable to them.).</p> <p>See also Directive, Annex ¶ 8 (<i>disclosure of information on auditors must include duration of mandate and term of office of the head auditor, auditing honoraria, the board of directors' supervisory and control instruments, and the company's information policy</i>).</p>	<p>The board should ensure that an objective and professional relationship is maintained with the auditors. (Code § 4.2)</p> <p>The central issue is to ensure that an appropriate relationship exists between the auditors and the management whose financial statements they are auditing. Shareholders require auditors to work with and not against management, while always remaining professionally objective – that is to say, applying their professional skills impartially and retaining a critical detachment and a consciousness of their accountability to those who formally appoint them. Maintaining such a professional and objective relationship is the responsibility both of boards of directors and of auditors, as is that of taking appropriate action if the basis for that relationship no longer holds. (Report § 5.7)</p> <p>[T]he formation by every listed company of an audit committee which gives the auditors direct access to the nonexecutive members of the board [is an important practice]. Shareholders look to the audit committee to ensure that the relationship between the auditors and management remains objective and that the auditors are able to put their views in the event of any differences of opinion with management. (Report § 5.9)</p> <p>See Report § 5.11 ([The Committee] strongly support[s] full disclosure of fees paid to audit firms for nonaudit work.).</p> <p>See also APPENDIX 6: AUDITORS' LIABILITY: THE CAPARO CASE.</p>	<p>The main role and responsibilities of the audit committee ... should include:</p> <p>....</p> <ul style="list-style-type: none"> ▪ to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant UK professional and regulatory requirements; [and] ▪ to develop and implement policy on the engagement of the external auditor to supply nonaudit services, taking into account relevant ethical guidance regarding the provision of nonaudit services by the external audit firm; and to report to the board, identifying any matters in respect of which it considers that action or improvement is needed and making recommendations as to the steps to be taken. ▪ (Provision C.3.2) ▪ The annual report should explain to shareholders how, if the auditor provides nonaudit services, auditor objectivity and independence is safeguarded. (Provision C.3.7) <p>See Provision C.3.6 (The audit committee should have primary responsibility for making a recommendation on the appointment, reappointment and removal of the external auditors. If the board does not accept the audit committee's recommendation, it should include in the annual report, and in any papers recommending appointment or reappointment, a statement from the audit committee explaining the recommendation and should set out reasons why the board has taken a different position.).</p>	<p><i>Not covered directly, but see Topic Heading 26, above.</i></p>	<p>[I]t is the responsibility of the board, through its audit committee, to engage an independent accounting firm to audit the financial statements prepared by management.... (p. 2)</p> <p>[S]election of an outside auditor should involve an annual due diligence process in which the audit committee reviews the qualifications, work product, independence and reputation of the outside auditor and the performance of key members of the audit team. The committee should be mindful of the schedule, mandated by applicable law and regulations, for rotating the engagement and concurring partners and should begin the process of reviewing new partners sufficiently in advance of required rotations. The audit committee also should consider periodically whether it is appropriate for the corporation to change its outside auditor. (p. 18)</p> <p>The audit committee should maintain an ongoing, open dialogue with the outside auditor about independence issues. The committee should consider its overall approach to using the outside auditor as a service provider and identify those services, beyond the annual audit engagement, that the outside auditor can provide to the corporation consistent with applicable law and regulations and with maintaining independence. In pre-approving all non-audit services to be provided by the outside auditor, as required by applicable law and regulations, the audit committee should decide whether to adopt a pre-approval policy or approve services on an engagement-by-engagement basis. (pp. 18-19).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
32. Shareholder Voting Practices (Cumulative & Confidential Voting, Broker Non-Votes, One Share/One Vote)				
<p>Shareholders should be able to vote in person or in absentia, and equal effect should be given to [such] votes.... (Principle II.C.4)</p> <p>Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed. (Principle II.D)</p> <p>All shareholders of the same series of a class should be treated equally.</p> <ol style="list-style-type: none"> 1. Within any series of a class, all shares should carry the same rights. All investors should be able to obtain information about the rights attached to all series and classes of shares before they purchase. Any changes in voting rights should be subject to approval by those classes of shares ... negatively affected. 2. Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders ... and should have effective means of redress. 3. Votes should be cast by custodians or nominees [as] agreed upon with the beneficial owner.... 4. Impediments to cross border voting should be eliminated. 5. Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Company procedures should not make it unduly difficult or expensive to cast votes. <p>(Principle III.A)</p> <p>See Principle II.F.1 (Institutional investors acting in a fiduciary capacity should disclose their overall corporate governance and voting policies ... including ... use of their voting rights.).</p> <p>See also Topic Headings 33 & 34, below.</p>	<p><i>Not covered directly, but see Topic Heading 33, below.</i></p>	<p>Those shareholders who are not present [at shareholders' meetings] should be able to vote in absentia, such as by proxy voting. (Provision 8.6)</p> <p>The company could in this respect also take into account the specificities of the exercise of rights by nonresident shareholders. Within the given existing framework, the company should consider whether modern technology could offer solutions to some practical issues and whether an appropriate approach could be developed in this respect. (Guideline 8.6)</p> <p>See Provision 8.5 (The company should disclose in its CG Charter the identity of its major shareholders, with a description of their voting rights and special control rights, and, if they act in concert, a description of the key elements of existing shareholders' agreements.).</p>	<p>The majority of share capital, regardless of type or sort, should have the right to deliberate on decisions of high relevance, with each share representing one vote. (CVM Recommendation III.1)</p> <p>For certain decisions, ... no voting restrictions on preferred shares should apply. This is because such decisions have an impact on the rights of all shareholders. (Commentary on CVM Recommendation III.1)</p> <p>The controlling group [of shareholders] should renounce the right to elect the last member (third or fifth member) [of the fiscal board], who should be elected by the majority of share capital, in a shareholder's meeting at which each share represents one vote, regardless of its type or sort.... (CVM Recommendation IV.2)</p> <p>Companies planning to go public should contemplate common shares* only. Companies that have both common and preferred shares** should evolve to the <u>one share = one vote</u> concept. In case this is not possible, we suggest extending voting rights to preferred shares under certain circumstances ... in the bylaws of the company. (IBGC Code ¶ 1.2)</p> <p>* Common shares: Class of shares entitling their holders to vote at General Meetings, in addition to holding interest in the company's revenues. Each common share corresponds to a vote at General Meeting decisions. (IBGC Code 1.2, footnote 3)</p> <p>** Preferred shares: Class of shares entitling their holders to certain benefits of a financial or political nature in exchange for partial or total restrictions to their voting rights. (IBGC Code 1.2, footnote 4)</p>	<p>The TSE should review and revise the definition of significant shareholder so that the intent of the existing guideline is met when a <u>de facto</u> control block exists that represents less than a majority of the voting shares. (Saucier Report, Recommendation 8)</p> <p>[A] shareholder with the ability to exercise less than a majority of the votes, but with a big enough ownership position to exercise <u>de facto</u> control over the election of the board, is not [defined by current TSE guidelines or by the Dey Report as] a significant shareholder. (Saucier Report, p. 24)</p> <p>See Saucier Report, Appendix A, p. 36. (A significant shareholder is a shareholder with the ability to exercise a majority of the votes for the election of the board of directors.... The definition of a significant shareholder should be reviewed and revised in line with the discussion in the report and Recommendation 8.).</p> <p>See generally Saucier Report, p. 23 (Controlling shareholders and publicly-traded corporations).</p> <p>See Topic Heading 33, below.</p>

China	Denmark	France	Germany	India
32. Shareholder Voting Practices (Cumulative & Confidential Voting, Broker Non-Votes, One Share/One Vote)				
<p>The election of directors shall fully reflect the opinions of minority shareholders. A cumulative voting system shall be earnestly advanced in shareholders' meetings for the election of directors. Listed companies that are more than 30% owned by controlling shareholders shall adopt a cumulative voting system, and the companies that do adopt such a system shall stipulate the implementing rules for such cumulative voting system in their articles of association. (Ch. 3, (1) 31)</p> <p><i>See</i> Ch. 1, (1) 2 (All shareholders are to enjoy equal rights and to bear the corresponding duties based on the shares they hold.).</p>	<p><i>Not covered.</i></p>	<p><i>Not covered directly, but see ¶ 7.2.1</i> (When a corporation is controlled by a majority shareholder (or a group of shareholders acting in concert), the latter assumes a specific responsibility to the other shareholders, which is direct and separate from that of the Board of Directors.).</p> <p><i>See also</i> Topic Heading 34, <i>below</i>.</p>	<p>In principle, each share carries one vote. There are no shares with multiple voting rights, preferential voting rights (golden shares) or maximum voting rights. (§ 2.1.2)</p>	<p><i>Not covered directly, but see</i> Topic Heading 33, <i>below</i>.</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
32. Shareholder Voting Practices (Cumulative & Confidential Voting, Broker Non-Votes, One Share/One Vote)				
<p>The rights of shareholders [include] the right to attend and vote at any GMOS [AGM] on a one share/one vote basis.... (§ I, 1.1(a))</p>	<p><i>Not covered.</i></p>	<p>Corporate governance for listed companies should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. (TSX Principle 2)</p> <p>The equitable treatment of all shareholders of the same class in proportion to their equity interests is an important element of corporate governance. (Commentary on TSX Principle 2)</p> <p>Listed companies shall direct their attention to the following issues in order to secure equitable treatment of shareholders:</p> <ol style="list-style-type: none"> (1) Development and improvement of a system to prohibit transactions against the primary interests of the company or shareholders through the abuse of concerned parties positions such as officers, employees, and controlling shareholders; (2) Enhanced disclosure of information to shareholders in cases where concerned parties conduct actions that are likely to damage the primary interests of the company or shareholders; (3) Prohibition of special benefits provided to specified shareholders. <p>(TSX Principle 2 Issues Requiring Attention)</p>	<p>Shareholders shall hold fair voting rights according to the type and number of shares possessed, and all shareholders shall equally be in possession of corporate information. (§ I.2)</p> <p>Shareholders shall hold the right to one vote per share, and there shall be no infringement on basic shareholder rights. However, voting rights for certain shareholders may be somewhat restricted as indicated by law. (§ I.2.1)</p> <p>The opinions of shareholders other than the controlling shareholder shall also be reflected when appointing directors. For this purpose, it is recommended that a cumulative voting system be adopted ... not just to ensure the independence of directors or to reflect the shareholders' diverse opinions when appointing directors, but also in consideration of the significant influence that controlling shareholders yield on management. To encourage adoption of this system, disclosure of whether it has been adopted by the corporation shall be made mandatory. (§ II.3.2)</p>	<p>A form should be prepared containing detailed information and voting choices on the issues contained in the agenda, through which stockholders may issue proxy instructions on their voting rights corresponding to each point on the meeting agenda. (Principle at V.1)</p> <p>Election of members of the board of directors by cumulative voting is an important protection of the rights of minority shareholders. The company should develop and make shareholders aware of simple and easily understandable rules and procedures that they can use to exercise their right to elect the board of directors by cumulative voting. (Ch. 3, § 2.3.2)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
32. Shareholder Voting Practices (Cumulative & Confidential Voting, Broker Non-Votes, One Share/One Vote)				
<p><i>Not covered directly, but see Best Practice Provision IV.1.2 (The voting right on financing preference shares shall be based on the fair value of the capital contribution. This shall ... apply to the issue of financing preference shares.).</i></p> <p><i>See also Best Practice Provision IV.2.4 (The management of the trust office shall be present at the general meeting of shareholders and shall, if desired, make a statement about how it proposes to vote at the meeting.).</i></p> <p><i>See also Best Practice Provision IV.2.5 (In exercising its voting rights, the trust office shall be guided primarily by the interests of the depositary receipt holders, taking the interests of the company and its affiliated enterprise into account.).</i></p> <p><i>See also Best Practice Provision IV.2.8 (The trust office shall ... issue proxies to depositary receipt holders who so request. Each depositary receipt holder may also issue binding voting instructions to the trust office in respect of the shares which the trust office holds on his behalf.).</i></p> <p><i>See also Principle IV.4 (Institutional investors shall act primarily in the interests of the ultimate beneficiaries or investors and have a responsibility to the ultimate beneficiaries or investors and the companies in which they invest, to decide, in a careful and transparent way, whether they wish to exercise their rights as shareholders of listed companies.).</i></p> <p><i>See also Best Practice Provisions IV.2.6 – IV.2.7 (trust office’s disclosure of its voting practices).</i></p> <p><i>See also Best Practice Provisions IV.4.1–IV.4.3 (institutional investors’ disclosure of their voting practices).</i></p> <p><i>See also Topic Headings 33–34, below.</i></p>	<p>[E]lecting members of the board of directors by cumulative voting ... should be stipulated in the charter.... Election of members of the board of directors by cumulative voting is an important protection of the rights of minority shareholders. The company should develop and make shareholders aware of simple and easily understandable rules and procedures that they can use to exercise their right to elect the board of directors by cumulative voting. (Ch. 3, § 2.3.2)</p> <p><i>See Ch. 1, § 2 (Corporate governance practice should provide for equal treatment of shareholders owning an equal number of shares of the same type (category)).</i></p> <p><i>See also Ch. 2, § 1.7 (In some situations, it may be more convenient for shareholders to vote via proxy....).</i></p> <p><i>See also Ch. 2, § 2.4.2 (The procedure for counting votes should be transparent to shareholders and should preclude any possibility of figures being manipulated when vote results are counted. Companies, therefore, should arrange for independent monitoring of the vote counting process.).</i></p> <p><i>See also Ch. 2, § 2.4.3 (It is recommended that voting results be counted and announced before the end of the general shareholders meeting.).</i></p>	<p><i>Not covered.</i></p>	<p><i>Not covered.</i></p>	<p>As a rule, each shareholder in attendance at the shareholders’ meeting has the right to vote for all shares owned. The articles of association may provide that each shareholder may only vote for a certain number of shares, but in practice, such restrictions on voting rights are very uncommon. In addition the Swedish Companies Act permits shares with differentiated voting rights. However, the maximum ratio is 1:10. About half of the Swedish stock market companies currently have such differentiation in voting rights. Swedish limited liability companies do not have the right to issue nonvoting shares. (Introduction, 2)</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
32. Shareholder Voting Practices (Cumulative & Confidential Voting, Broker Non-Votes, One Share/One Vote)				
<p>The question of capital structure and particularly the principle of “one share-one vote” requested by investors are not part of the “Swiss Code”. The reasons for this decision are set forth in the analysis report “Corporate Governance in Switzerland” by Professor Karl Hofstetter and discussed in detail by the Panel of Experts. According to the guidelines of the SWX Swiss Exchange, however, each restriction on the proportional capital voting rights is subject to disclosure. (Code, Preamble ¶ 5)</p> <p><i>See Topic Heading 33, below.</i></p>	<p>Institutional investors should make positive use of their voting rights, unless they have good reason for doing otherwise. They should register their votes whenever possible on a regular basis. (Report § 6.11.2)</p> <p>The Institutional Shareholders’ Committee’s advice to its members to use their voting rights positively is important in the context of corporate governance. Voting rights can be regarded as an asset, and the use or otherwise of those rights by institutional shareholders is a subject of legitimate interest to those on whose behalf they invest. We recommend that institutional investors should disclose their policies on the use of voting rights. (Report § 6.12)</p>	<p><i>Not covered directly, but see Main Principle E.3 (Institutional shareholders have a responsibility to make considered use of their votes.).</i></p> <p><i>See also Supporting Principle E.3 (Institutional shareholders should take steps to ensure their voting intentions are being translated into practice. Institutional shareholders should, on request, make available to their clients information on the proportion of resolutions on which votes were cast and nondiscretionary proxies lodged. Major shareholders should attend AGMs where appropriate and practicable. Companies and registrars should facilitate this.).</i></p>	<p><i>Not covered.</i></p>	<p><i>Not covered.</i></p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
33. Shareholder Voting Powers				
<p>The corporate governance framework should protect and facilitate the exercise of shareholders' rights.</p> <p>A. Basic shareholder rights should include the right to:</p> <ol style="list-style-type: none"> 1) secure methods of ownership registration; 2) convey or transfer shares; 3) obtain relevant and material information on the corporation on a timely and regular basis; 4) participate and vote in general shareholder meetings; 5) elect and remove members of the board; 6) share in the profits of the corporation. <p>B. Shareholders should have the right to participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes....</p> <p>C. Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings and should be informed of the rules, including voting procedures, that govern general shareholder meetings....</p> <p>(Principle II)</p> <p>The corporate governance framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights. (Principle III)</p> <p>All shareholders of the same series of a class should be treated equally. (Principle III.A)</p> <p><i>See generally</i> II, The Rights of Shareholders and Key Ownership Functions, & III, The Equitable Treatment of Shareholders.</p> <p><i>See also</i> Topic Headings 32 & 34.</p>	<p>Respect the rights of shareholders and facilitate the effective exercise of those rights. (Principle 6)</p> <p>This means that a company should empower its shareholders by:</p> <ul style="list-style-type: none"> • communicating effectively with them; • giving them ready access to balanced and understandable information about the company and corporate proposals; [and] • making it easy for them to participate in general meetings. <p>(Commentary on Principle 6)</p> <p>Companies should consider how best to take advantage wherever practicable of new technologies that provide:</p> <ul style="list-style-type: none"> ▪ greater opportunities for more effective communications with shareholders; [and] ▪ improved access for shareholders unable to be physically present at meetings. <p>(Commentary on Recommendation 6.1)</p>	<p>The company shall respect the rights of all shareholders and encourage their participation. (Principle 8)</p> <p>The company shall treat all shareholders equally. It should ensure that all necessary facilities and information to enable shareholders to exercise their rights are available. (Provision 8.1)</p> <p>For companies with one or more controlling shareholder(s), the board should endeavour to have the controlling shareholders make a considered use of their position and respect the rights and interests of minority shareholders. (Provision 8.12)</p> <p>Controlling shareholders can appoint representatives to the board.... [They] should thus make considered use of their position and respect the rights and interests of minority shareholders. (Preamble ¶ 6)</p> <p>A controlling shareholder is a shareholder who solely or in concert, directly or indirectly, controls a company in the meaning of Article 5 of the Code on Companies. (Guideline 2.3)</p> <p><i>See</i> Topic Heading 34, <i>below</i>.</p>	<p>Company bylaws should clearly regulate requirements for shareholders' voting and representation at meetings, in order to facilitate participation and voting. (CVM Recommendation I.5)</p> <p>The company's bylaws should determine that, if the general meeting does not declare payment of dividends to shares with rights for fixed or guaranteed-minimum dividends, such shares immediately attain the right to vote. If the company does not pay dividends for three years, nonvoting shares will acquire the right to vote. (CVM Recommendation III.5)</p> <p>Public companies incorporated before Law 10,303/2001 went into effect should not raise the proportion of preferred shares above the limit of 50%, which was established by the referred law for new public companies. Companies with more than 50% of their capital represented by preferred shares should not issue new shares of this sort.... The goal is to encourage companies to have their capital composed of more shares with voting rights. (Commentary on CVM Recommendation III.7)</p> <p>Every shareholder is a company owner, commensurate with his/her respective share in the company's capital. This principle should be extended to all kinds of companies and organizations, as applicable. (IBGC Code ¶ 1.1)</p> <p>Voting rights should be extended to all owners in proportion to the number of shares they may hold and regardless of class of shares. This principle should prevail in all types of companies and organizations, to the extent applicable. The proportionate voting rights of individual holdings are essential to align the interests of all the owners. (IBGC Code ¶ 1.2)</p>	<p>Decisions made by shareholders relate to the election of directors, the election of auditors, and generally to fundamental changes to the corporation's constitution or business. Good governance also requires shareholder votes in circumstances where the board of directors may be interested in the transaction. Shareholder votes may be mandated by the governing corporate law, securities commission policy statements, etc. Periodically, a shareholder advisory vote will be conducted by a board in respect of a matter on which the board seeks shareholder views, although the results of the vote do not technically bind the board and are simply for the board's guidance. (Dey Report, § 7.1)</p> <p>Where a company is a public corporation, the fact that it may be controlled by a significant shareholder does not relieve the independent directors of their responsibilities to ensure that shareholders are protected. The significant shareholder, the controlled corporation, and the directors must be prepared to accept their responsibility to ensure that the proper functions of governance are carried out. (Saucier Report, Recommendation 9)</p> <p><i>See</i> Topic Heading 32, <i>above</i>.</p>

China	Denmark	France	Germany	India
33. Shareholder Voting Powers				
<p>As the owner of a company, the shareholders shall enjoy the legal rights stipulated by laws, administrative regulations and the company's articles of association. A listed company shall establish a corporate governance structure sufficient for ensuring the full exercise of shareholders' rights. (Ch. 1, (1) 1)</p> <p>The corporate governance structure of a company shall ensure fair treatment toward all shareholders, especially minority shareholders. All shareholders are to enjoy equal rights and to bear the corresponding duties based on the shares they hold. (Ch. 1, (1) 2)</p> <p><i>See Topic Heading 35, below.</i></p>	<p><i>Not covered directly, but see Principle I (As owners of the company, the shareholders can actively exercise their rights and use their influence, resulting in management protecting the interests of the shareholders as best as possible and ensuring efficient deployment of the company's funds, both in the short as well as the long term.).</i></p> <p><i>See also Recommendation I.2 (The Committee recommends that the supervisory board, at appropriate intervals, assess whether the company's capital and share structures continue to be in the interests of the shareholders and the company, and that the supervisory board account for this assessment in the company's annual report.).</i></p>	<p><i>Not covered directly, but see Topic Heading 34, below.</i></p>	<p>Shareholders exercise their rights at the General Meeting and vote there. (§ 2.1.1)</p> <p>When new shares are issued, shareholders, in principle, have pre-emptive rights corresponding to their share of the equity capital. (§ 2.2.2)</p> <p>The company shall facilitate the personal exercising of shareholders' voting rights. The company shall also assist the shareholders in the use of proxies. The Management Board shall arrange the appointment of a representative to exercise shareholders' voting rights in accordance with instructions; this representative should also be reachable during the General Meeting. (§ 2.3.3)</p> <p>Elections to the Supervisory Board shall be made on an individual basis. An application for the judicial appointment of a Supervisory Board member shall be limited in time to the next annual general meeting. Proposed candidates for the Supervisory Board chair shall be announced to the shareholders. (§ 5.4.3)</p> <p><i>See § 6.2 (As soon as the company becomes aware of the fact that an individual acquires, exceeds or falls short of 5%, 10%, 25%, 50% or 75% of the voting rights in the company by means of a purchase, sale or any other manner, the Management Board will disclose this fact without delay.).</i></p> <p><i>See Topic Heading 35, below.</i></p>	<p>The basic rights of the shareholders include right to transfer and registration of shares [and] participating and voting in shareholder meetings.... (§ 14.5)</p> <p>A company must have appropriate systems in place which will enable the shareholders to participate effectively and vote in the shareholders' meetings. The company should also keep the shareholders informed of the rules and voting procedures which govern the general shareholder meetings. (§ 14.9)</p> <p>The company must also ensure that it is not inconvenient or expensive for shareholders to cast their vote. (§ 14.10)</p> <p>[F]or shareholders who are unable to attend the meetings, there should be a requirement which will enable them to vote by postal ballot for key decisions. A detailed list of the matters which should require postal ballot is given in Annexure 3. (§ 14.11)</p> <p>The Committee recommends that a board committee under the chairmanship of a nonexecutive director should be formed to specifically look into the redressing of shareholder complaints like transfer of shares, nonreceipt of balance sheet, nonreceipt of declared dividends, etc. The Committee believes that the formation of such a committee will help focus the attention of the company on shareholders' grievances and sensitise the management to redressal of their grievances. (§ 14.12)</p> <p><i>See Topic Heading 35, below.</i></p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
33. Shareholder Voting Powers				
<p>The rights of the shareholders shall be protected and, accordingly, shareholders shall be able to exercise their rights through reliance upon appropriate procedures that have been adopted by the Company concerned, which procedures shall be required under applicable regulations having the force of law. (§ I, Principle 1.1)</p> <p>The rights of shareholders [include] the right to obtain relevant corporate information, in a timely and regular manner, to enable a shareholder to make informed decisions concerning his shares in the Company.... (§ I, 1.1(b))</p> <p>Shareholders of the same kind of shares shall be treated equitably based on the principle that shareholders of the same kind of shares have equitable position in the company. (§ I, Principle 1.3)</p> <p>Shareholders shall hold voting rights according to the type and number of shares they are holding. (§ I, 1.3.1)</p> <p>Shareholders owning a controlling interest in a Company shall be mindful of their responsibilities as shareholders when they exercise any influence over corporate management, whether by the exercise of their voting rights or otherwise. Any unlawful intervention in the management of the Company should be addressed through greater transparency, accountability of management and, ultimately, resolved by prevailing law. Minority shareholders also have corresponding responsibilities to the effect that they do not misuse their rights under the prevailing regulations having the force of law. (§ I, Principle 1.4)</p>	<p>In the event of a significant change in the market capitalization of the company, the composition and/ or the number of the shareholders, the Board of Directors shall assess whether proposals should be submitted to the shareholders' meeting to amend the by-laws as regards the minimum percentage required for exercising actions and rights provided for as a protection of minority interests. (Code, 11.C.6)</p> <p>The Committee believes that in a correct system of Corporate Governance the interests of the generality of shareholders must all be put on the same footing and equally protected and safeguarded.</p> <p>The Committee is convinced that the interests of the majority and those of the minority shall ... both be taken into consideration in the election of the governing bodies; subsequently, the governing bodies, and hence also the members of the board of auditors, must work exclusively in the interest of the company and to create value for the generality of shareholders. (Comment on Code Article 10)</p> <p><i>See Topic Heading 35, below.</i></p>	<p>Corporate governance for listed companies should protect the rights of shareholders. (TSX Principle I)</p> <p>Listed companies shall direct their attention to the following issues in order to protect the rights of shareholders:</p> <p>(1) Respect of shareholders' basic rights.</p> <ol style="list-style-type: none"> a. Respect of voting rights. <ol style="list-style-type: none"> i. Development and improvement of an environment in which shareholders exercise voting rights appropriately. ii. Development and improvement of an environment in which shareholders are inclined to participate in general meetings of shareholders. iii. Mutual communication with shareholders at the general meeting of shareholders. b. Return of profit to shareholders. <p>(2) Due consideration to the infringement of rights of existing shareholders.</p> <ol style="list-style-type: none"> a. Enhanced disclosure of information to shareholders in situations where specified shareholders have excessive control that is not in proportion to the ownership ratio, and the rights of other shareholders are substantially infringed. b. Securing fair treatment of, and enhanced information disclosure to, shareholders in cases where the ownership distribution of the company is, or will be, changed. <p>(TSX Principle 1 Issues Requiring Attention)</p>	<p>Shareholders shall receive all necessary information prior to exercising their rights, and shall be able to exercise their rights through proper procedure. (§ I.1)</p> <p>Shareholders, as owners of the corporation, possess basic rights including the following:</p> <ul style="list-style-type: none"> ▪ A right to participate in profit sharing; ▪ A right both to attend and to vote at general shareholder meetings; ▪ A right to obtain relevant corporate information in a timely and regular manner. <p>(§ I.1.1)</p> <p>Shareholders shall be able to exercise their voting rights, either directly or indirectly, in the simplest manner possible. (§ I.1.5)</p> <p><i>See Recommendation 5.1 (Institutional investors, by exercising shareholder rights, shall enact and officially announce internal principles for exercising such rights to protect trust assets; and the rights shall be exercised actively and prudently according to the principle of good faith.)</i></p> <p><i>See also Recommendation 5.3 (Restrictions on the exercise of the shareholder rights of institutional investors that have a special relationship to the corporation should be clearly stated by law.)</i></p> <p><i>See also Recommendation 5.4 (Institutional investors shall be equipped with internal control systems to ensure the fair exercise of their shareholder rights.)</i></p> <p><i>See §§ I.3.1 - I.3.2 (shareholders should exercise their vote in the best interests of the corporation).</i></p> <p><i>See also Topic Heading 35, below.</i></p>	<p><i>Not covered.</i></p>

The Netherlands	Russia	South Africa	Spain	Sweden
33. Shareholder Voting Powers				
<p>The company shall determine a registration date for the exercise of the voting rights and the rights relating to meetings. (Best Practice Provision IV.1.7)</p> <p>Depository receipts for shares are a means of preventing a (chance) minority of shareholders from controlling the decisionmaking process as a result of absenteeism at a general meeting of shareholders.... The management of the trust office shall issue proxies in all circumstances and without limitation to the holders of depository receipts who so request. The holders of depository receipts thus authorised can exercise the voting right at their discretion. The management of the trust office shall have the confidence of the holders of depository receipts. Depository receipt holders shall have the possibility of recommending candidates for the management of the trust office. (Principle IV.2)</p> <p><i>See Best Practice Provision IV.2.1 (The management of the trust office shall ... operate independently of the company which has issued the depository receipts.).</i></p> <p><i>See also Topic Headings 32, above, and 34, below.</i></p>	<p>Corporate conduct practice should provide shareholders with a real opportunity to exercise their rights in relation to the company. (Ch. 1, § 1)</p> <p>[E]ach shareholder [should have] an opportunity to realize ... voting rights in the most simple and convenient way. (Ch. 1, § 1.2(5))</p> <p>Corporate governance practice should provide for equal treatment of shareholders owning an equal number of shares of the same type (category). All shareholders should have access to effective protection in the event of a violation of their rights. (Ch. 1, § 2)</p> <p><i>See Topic Heading 35, below.</i></p>	<p><i>Not covered directly, but see Topic Heading 34, below.</i></p>	<p><i>Not covered directly, but see § II.3 (Institutional investors are responsible for making use of their votes in a responsible manner. In the event of voting against a resolution, they should give advanced notice and publicly state the grounds for such decision.).</i></p>	<p>The decisions of the shareholders' meeting are generally taken with a simple majority of the votes cast. However, to protect minority shareholders, especially shareholders with reduced voting rights, requirements have been drawn up for qualified majorities of both votes and capital for major decisions. In addition there is a general rule for the protection of minority shareholders prescribing that the shareholders' meeting may not make a decision that might give undue advantage to some shareholders at the expense of the company or other shareholders. (Introduction, 2)</p> <p><i>See Topic Headings 32, above, and 34, below.</i></p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
33. Shareholder Voting Powers				
<p>As investors, shareholders have the final decision within the company. The powers of the shareholders are defined by statute. They alone are entitled to make decisions with regard to personnel matters at the top company level ..., the final approval of accounts ... and policy on distributions and shareholders' equity.... (Code ¶ 1)</p> <p>The company should endeavour to facilitate the exercise of shareholders' statutory rights. (Code ¶ 2)</p> <p>See Directive, Annex ¶ 6, Shareholders Participation Rights (The following information on the participation rights of the issuer's shareholders must be disclosed:</p> <p>6.1 Voting-rights restrictions and representation...;</p> <p>6.2 Statutory quorums [for carrying resolutions of the of the general assembly of shareholders]...;</p> <p>6.3 Statutory rules on the convocation of the general meeting of shareholders if they differ from applicable legal provisions;</p> <p>6.4 Rules for adding items to the agenda of the general meeting of shareholders, especially rules on deadlines; [and]</p> <p>6.5 Rules on the deadline for registering holders of registered shares ... in connection with attending the general meeting of shareholders, as well as rules on making exceptions, if any.).</p> <p>See Code ¶ 1 (Institutional investors, nominees and other intermediaries exercising shareholders' rights ... should ensure, as far as possible, that beneficial owners may exercise their influence as to how such shareholders' rights are brought to bear.).</p> <p>See Topic Heading 35, below.</p>	<p><i>Not covered directly, but see</i> Report § 6.6 (Shareholders have delegated many of their responsibilities as owners to the directors, who act as their stewards. It is for the shareholders to call the directors to book if they appear to be failing in their stewardship, and they should use this power. While they cannot be involved in the direction and management of their company, they can insist on a high standard of corporate governance, and good governance is an essential test of the directors' stewardship. The accountability of boards to shareholders will, therefore, be strengthened if shareholders require their companies to comply with the Code.).</p> <p><i>See</i> Topic Heading 35, below.</p>	<p><i>Not covered directly, but see</i> Provision D.2.1. (The company should count all proxy votes and, except where a poll is called, should indicate the level of proxies lodged on each resolution, and the balance for and against the resolution and the number of abstentions, after it has been dealt with on a show of hands. The company should ensure that votes cast are properly received and recorded.).</p> <p><i>See also</i> Topic Headings 32, above, and 34, below.</p>	<p><i>Not covered.</i></p>	<p>Shareholders are not involved in the day-to-day management of corporate operations but have the right to elect representatives (directors) to look out for their interests and to receive the information they need to make investment and voting decisions. The board should be responsive to communications from shareholders and should address issues of concern to shareholders. (p. 5)</p> <p><i>See</i> p. 32 (The board should respond appropriately when a director nominee receives a significant "withhold" or "against" vote with respect to his or her election to the board. The corporate governance committee should assess the reasons for the vote and recommend to the board the action to be taken with respect to the vote, which should be communicated to the corporation's shareholders.).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
34. Shareholder Meetings & Proxy Proposals				
<p>Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings and should be informed of the rules, including voting procedures, that govern general shareholder meetings:</p> <ol style="list-style-type: none"> Shareholders should be furnished with sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be decided at the meeting. Shareholders should have the opportunity to ask questions...., to place items on the agenda ... and to propose resolutions.... Effective shareholder participation in key corporate governance decisions, such as the nomination and election of board members, should be facilitated. Shareholders should be able to make their views known on the remuneration policy.... The equity component of compensation schemes ... should be subject to shareholder approval. Shareholders should be able to vote in person or in absentia, and equal effect should be given to [such] votes.... <p>(Principle II.C)</p> <p>Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Company procedures should not make it unduly difficult or expensive to cast votes. (Principle III.A.5)</p> <p>See Principle II.G (Shareholders, including institutional shareholders, should be allowed to consult with each other..., subject to exceptions to prevent abuse.).</p> <p>See also Topic Headings 32 & 33, above, and 35, below.</p>	<p>Design and disclose a communications strategy to promote effective communication with shareholders and encourage effective participation at general meetings. (Recommendation 6.1)</p> <p>Consider how to use general meetings effectively to communicate with shareholders and allow reasonable opportunity for informed shareholder participation. (Commentary on Recommendation 6.1)</p> <p>Request the external auditor to attend the annual general meeting and be available to answer shareholder questions about the conduct of the audit and the preparation and content of the auditor's report. (Recommendation 6.2)</p> <p>See Attachment A, Guidelines for Notices of Meetings (pp. 63-69).</p>	<p>The company should dedicate a specific section of its website to describing the shareholders' rights to participate and vote at the general shareholders' meeting. This section should also contain a timetable on periodic information and shareholders' meetings. (Provision 8.2)</p> <p>The shareholders' meeting should be used to communicate with shareholders and to encourage their participation. (Provision 8.6)</p> <p>The company should make the relevant information accessible through electronic means in advance of general meetings. (Provision 8.7)</p> <p>When convening meetings, the company should provide appropriate explanations on agenda items and on resolutions put forward by the board. (Provision 8.8)</p> <p>The level of shareholding for the submission of proposals by a shareholder to the general shareholders' meeting should not exceed 5% of the share capital. (Provision 8.9)</p> <p>The chairman should take the necessary measures for relevant questions from shareholders to be answered. At the general meeting, the directors should answer questions put to them by the shareholders on their annual report or on the items on the agenda. (Provision 8.10)</p> <p>The company should post the results of votes and the minutes of the general meeting on its website as soon as possible after the meeting. (Provision 8.11)</p> <p>Schemes under which executive managers are remunerated in shares, share options or any other right to acquire shares should be subject to prior shareholder approval.... (Provision 7.13)</p>	<p>The top governing body of a company is its General Assembly (of Owners). (IBGC Code ¶ 1.5)</p> <p>The following powers are exclusive to the General Assembly:</p> <ul style="list-style-type: none"> increasing or decreasing capital stock and other amendments to the bylaws/articles of association; electing or removing Directors or members of the fiscal Council...; examining Management accounts on an annual basis and making decisions about the financial statements; and making decisions on company transformation, consolidation, merger, incorporation, split-up, termination or liquidation. <p>(IBGC Code ¶ 1.5.1)</p> <p>A minimum 30 days' notice of the Annual General Meeting should be given to all owners. (IBGC Code ¶ 1.5.2)</p> <p>The agenda of the General Meeting, as well as its respective documentation ... should be made available to all owners on the date of its first notice, so that all owners can take a stand as to the matters to be voted on. (IBGC Code ¶ 1.5.4)</p> <p>Mechanisms should be encouraged for the timely receipt of proposals from owners wishing to include them in the agenda of the upcoming General Meeting. (IBGC Code ¶ 1.5.5)</p> <p>Voting rules should be well-established and available to all owners as of the publication of the first notice of the General Meeting. These rules should be made to facilitate voting, including proxy voting.... (IBGC Code ¶ 1.5.7)</p> <p>[Directors'] reelection ... should only be possible after a formal performance evaluation. All Directors should be elected at the same General Meeting. (IBGC Code ¶ 2.18)</p> <p>See IBGC Code ¶ 1.5, The General Assembly.</p>	<p>The effectiveness of the proxy solicitation process and the shareholder meeting as a forum for shareholders to express their views is open to question but is an issue which the Committee does not propose to address in any detail. We note that shareholders and corporations recognize the limitations of the shareholders meeting and are becoming more creative in exchanging views. (Dey Report, § 7.2)</p> <p>See Dey Report, § 4.6(4) (The fourth principal responsibility of the board is to ensure the corporation has in place a policy to enable the corporation to communicate effectively with its shareholders, other stakeholders and the public generally. This policy must effectively interpret the operations of the corporation to shareholders and must accommodate feedback from shareholders, which should be factored into the corporation's business decisions.).</p>

China	Denmark	France	Germany	India
34. Shareholder Meetings & Proxy Proposals				
<p>A listed company shall set out convening and voting procedures for shareholders' meetings in its articles of association, including rules governing ... notification, registration, review of proposals, voting, counting of votes, announcement of voting results, formulation of resolutions, recording of minutes and signatories, public announcements, etc. (Ch. 1, (2) 5)</p> <p>The board of directors shall ... arrange the agenda for a shareholders' meeting. During a shareholders' meeting, each item on the agenda shall be given a reasonable amount of time for discussion. (Ch. 1, (2) 5)</p> <p>A listed company shall state in its articles of association the principles for the shareholders' meeting to grant authorization to the board of directors. The content of such authorization shall be explicit and concrete. (Ch. 1, (2) 7)</p> <p>Besides ensuring that shareholders' meetings proceed legally and effectively, a listed company shall make every effort, including fully utilizing modern information technology means, to increase the number of shareholders attending the shareholders' meetings. The time and location of the shareholders' meetings shall be set so as to allow the maximum number of shareholders to participate. (Ch. 1, (2) 8)</p> <p>The shareholders can either be present at the shareholders' meetings in person or they may appoint a proxy to vote on their behalf, and both means of voting possess the same legal effect. (Ch. 1, (2) 9)</p> <p>The board of directors, independent directors and qualified shareholders of a listed company may solicit for the shareholders' right to vote in a shareholders' meeting. (Ch. 1, (2) 10)</p>	<p>Good corporate governance depends on appropriate frameworks which encourage the shareholders to enter into a dialogue with the management of the company and each other. This can be encouraged through a strengthening of the general meeting's role as a forum for communication and decisions. (Principle I)</p> <p>The Committee recommends that the general meeting be called with sufficient notice to enable shareholders to prepare for the meeting and consider the business to be transacted.... [T]he notice of meeting, including the agenda, [should] be drawn up in such a way as to give shareholders a satisfactory picture of the business ... on the agenda, and ... proxies given to a company's supervisory board [should], as far as possible, include the position of the shareholders regarding each item on the agenda. (Recommendation I.3)</p> <p>The Committee recommends that the company's remuneration policy be mentioned in the statement given by the chairman at the company's general meeting and that the remuneration of the supervisory board for the current financial year be presented for adoption at the general meeting.... (Recommendation VI.2)</p> <p>The Committee recommends that ... it be the general meeting that passes resolutions regarding incentive schemes for the supervisory board. (Recommendation VI.4)</p> <p>The Committee recommends that the notice convening a general meeting to consider the introduction of subscription options or any other share-based incentive scheme include an easy-to-understand statement ... explaining [them].... (Recommendation VI.5)</p>	<p>The meeting of shareholders is a decisionmaking body. Its sessions must not only be the occasion when the managing bodies report on the corporation's business and on operation of the Board of Directors and the specialised committees (audit, compensation, etc.), but also an opportunity for a genuine and open discussion with the shareholders. The directors should attend the meeting of shareholders. (¶ 5)</p> <p>Even when no change in the object[ive]s of the company is involved, the Board of Directors should put the concern to the meeting of shareholders if the transaction relates to a part of the group's assets or business of overriding importance. (¶ 5.1)</p> <p>When the meeting of shareholders is called upon to appoint a director or extend his or her term, the annual report, and the notice for the corresponding meeting of shareholders, must contain a biographical notice outlining his or her <u>curriculum vitae</u>, in addition to the items required by statute. (¶ 12)</p> <p>[D]irectors should attend the meetings of shareholders. (¶ 17)</p>	<p>Shareholders exercise their rights at the General Meeting and vote there. (§ 2.1.1)</p> <p>The Management Board submits to the General Meeting the Annual Financial Statements and the Consolidated Financial Statements. The General Meeting resolves on the appropriation of net income and the discharge of the acts of the Management Board and of the Supervisory Board. It elects the shareholders' representatives to the Supervisory Board and, as a rule, the auditors. Furthermore, the General Meeting resolves on the Articles of Association, the purpose of the company, amendments to the Articles of Association and essential corporate measures.... (§ 2.2.1)</p> <p>Each shareholder is entitled to participate in the General Meeting, to take the floor on matters on the agenda and to submit materially relevant questions and proposals. (§ 2.2.3)</p> <p>At least once a year the shareholders' General Meeting is to be convened by the Management Board, giving details of the agenda. A quorum of shareholders is entitled to demand the convening of a General Meeting and the extension of the agenda. The Management Board shall not only provide the reports and documents, including the Annual Report, required by law for the General Meeting, and send them to shareholders upon request, but shall also publish them on the company's Internet site together with the agenda. (§ 2.3.1)</p> <p>The company should make it possible for shareholders to follow the General Meeting using modern communication media (e.g., the Internet). (§ 2.3.4)</p> <p><i>See generally</i> § 2 (Shareholders and the General Meeting).</p> <p><i>See also</i> Topic Heading 33, <i>above</i>.</p>	<p>The Committee believes that the General Body Meetings provide an opportunity to the shareholders to address their concerns to the board of directors and comment on and demand any explanation on the annual report or on the overall functioning of the company. It is important that the shareholders use the forum of general body meetings for ensuring that the company is being properly stewarded for maximising the interests of the shareholders. (§ 14.2)</p> <p>The annual general meetings of the company should not be deliberately held at venues or the timing should not be such which makes it difficult for most of the shareholders to attend. (§ 14.10)</p> <p>Currently, although the formality of holding the general meeting is gone through, in actual practice only a small fraction of the shareholders of that company do or can really participate therein. This virtually makes the concept of corporate democracy illusory. It is imperative that this situation which has lasted too long needs an early correction. (§ 14.11)</p> <p>The Committee ... recommends that ... the [audit committee] chairman should be present at Annual General Meeting to answer shareholder queries. (§ 9.6)</p> <p>The Committee ... recommends that the Chairman of the remuneration committee should be present at the Annual General Meeting, to answer the shareholder queries. However, it would be up to the Chairman to decide who should answer the queries. (§ 10.6)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
34. Shareholder Meetings & Proxy Proposals				
<p>All shareholders shall be entitled to obtain a full explanation and accurate information concerning the procedures to be followed prior to and at the GMOS [AGM] concerned in order to enable the shareholders to participate in the decisionmaking regarding matters which may affect the existence of the company and the rights of the shareholders. (§ I, Principle 1.2)</p> <p><u>This may include:</u></p> <p>(a) notices for a GMOS including information about each item of the agenda...;</p> <p>(b) explanations of other relevant matters which are provided, prior to and/or at the GMOS;</p> <p>(c) resolutions of a GMOS be adopted through transparent and fair proceedings. It is desirable that the shareholders are allowed to join in the making of decisions on issues which may affect the Company's existence and the rights of shareholders;</p> <p>(d) minutes of a GMOS provided to each shareholder upon request...;</p> <p>(e) the system for determining the remuneration and facilities of each member of the Dewan Komisaris and Direksi....</p> <p>(§ I, 1.2)</p> <p>At a GMOS, the shareholders shall adopt a system for:</p> <p>(a) the appointment of members of the Dewan Komisaris and the Direksi of the Company;</p> <p>(b) the determination of the remuneration of the members of the Dewan Komisaris and the Direksi...; and</p> <p>(c) the evaluation of their performance.</p> <p>(§ I, Principle 1.5)</p> <p><i>See Topic Headings 20 & 26, above.</i></p>	<p>The Board of Directors shall take initiatives aimed at promoting the broadest participation possible of the shareholders in the shareholders' meetings.... (Code, 11.P.1)</p> <p>All directors usually participate in the shareholders' meetings. (Code, 11.C.4)</p> <p>[S]hareholders' meetings are ... an opportunity for disclosing to the shareholders information concerning the issuer, in compliance with the rules governing price-sensitive information. (Code, 11.C.4)</p> <p>The Board of Directors shall propose [for the shareholders' approval] procedures to ... permit an orderly and effective conduct of the ordinary and extraordinary shareholders' meetings of the issuer, without prejudice, however, to the right of each shareholder to express his or her opinion on the matters under discussion. (Code, 11.C.5)</p> <p>In the event of a significant change in the market capitalization of the company, the composition and/or the number of shareholders, the Board of Directors shall assess whether proposals should be submitted to the shareholders' meeting to amend the bylaws as regards the minimum percentage required for exercising actions and rights provided for as a protection of minority interests. (Code, 11.C.6)</p> <p>The information to the shareholders ... about the most significant transactions should be sufficiently analytical, so as to enable the understanding of the benefits deriving to the issuer from the transactions, in particular with regard to transactions with related parties and those possibly influenced by the person who exercises management and coordination activity on the issuer. (Comment on Code Article 11)</p>	<p>[G]eneral meetings of shareholders ... are the supreme body and decision-making body on fundamental issues of the company. The board of directors is made up of directors elected at the general meetings of shareholders, it is also the decision making body responsible for deciding business execution, and the body responsible for supervising the performance of directors duties.... (TSX Principles, Appendix)</p> <p>General Meetings of Shareholders:</p> <ol style="list-style-type: none"> 1. The general meeting of shareholders is important ... to obtain information about the current state of the company by asking questions of the executives and receiving their explanations, and to evaluate the qualifications and capabilities of the executives through questions and answers. 2. The general meeting of shareholders also provides an opportunity for the directors and executives to report to the shareholders on the company's achievements.... The executive manager's explanations to the shareholders ... should be comprehensive and include all matters in general that are deemed relevant to the interests of shareholders. 3. If executives are unable to answer any question from an investor at the general meeting of shareholders, a full and accurate answer should be forthcoming on the company's web page within a fixed period of time. <p>(CGFJ Principle 13)</p>	<p>To protect to the utmost the rights of shareholders, the following matters which cause fundamental corporate changes and shareholder rights shall be decided at the general shareholder meetings:</p> <ul style="list-style-type: none"> ▪ Amendments to articles of incorporation; ▪ M&A and business transfer; ▪ Corporate disbanding and dissolution; ▪ Capital reduction and others. <p>(§ I.1.2)</p> <p>Resolutions from the general shareholder meeting shall be made through transparent and fair proceedings. Also, shareholders shall receive sufficient prior notice including the time, location and agenda of the meeting; such time and location shall be set so as to allow maximum shareholder participation. (§ I.1.3)</p> <p>Shareholders may submit items for the meeting agenda to the board of directors; they may raise questions and demand explanations on the agendas at the meetings. The corporation shall ensure that shareholders' opinions are sufficiently reflected at the general shareholder meetings. (§ I.1.4)</p> <p>The corporation shall, by disclosing the nominated directors prior to the general shareholder meeting, ensure that shareholders exercise their voting rights with information on the nominees. (§ II.3.4)</p> <p>External auditors shall attend the general shareholder meeting and answer any shareholders' question on audit reports. (§ III.2.2)</p>	<p>Companies should avoid ... grouping together various matters under a single point on the agenda. (Principle at V.1)</p> <p>All information relative to each point on the stockholders' meeting agenda should be available at least 15 days before the meeting. (Principle at V.1)</p> <p>A form should be prepared containing detailed information and voting choices on the issues contained in the agenda, through which stockholders may issue proxy instructions on their voting rights corresponding to each point on the meeting agenda. (Principle at V.1)</p> <p>The information delivered to stockholders should include the proposed members of the Board of Directors as well as a professional profile on each candidate. (Principle at V.1)</p> <p>The Board of Directors should include information on the work of each [committee] in its annual report to stockholders. The reports on each [committee] which are presented to the Board should be made available to stockholders along with the other material for the meeting, with the exception of confidential information whose disclosure might hurt the company's competitiveness. The annual report should also include the names of the members of each [committee]. (Principle at V.2)</p> <p>It is important ... that stockholders receive all pertinent information on nominees to the Board of Directors, which can be contained in a brief résumé, so that they can assess the candidate's profile and issue an informed vote. (Recommendation at V.1)</p>

The Netherlands	Russia	South Africa	Spain	Sweden
34. Shareholder Meetings & Proxy Proposals				
<p>The management board and the supervisory board ... are accountable ... to the general meeting of shareholders. (Principle I)</p> <p>Good corporate governance requires the full-fledged participation of shareholders in the decisionmaking in the general meeting of shareholders. It is in the interest of the company that as many shareholders as possible take part in the decisionmaking in the general meeting of shareholders. The company shall ... give shareholders the opportunity to vote by proxy and to communicate with all other shareholders. The general meeting of shareholders should be able to exert such influence on the policy of the management board and the supervisory board of the company that it plays a full-fledged role in the system of checks and balances in the company.</p> <p>Any decisions of the management board on a major change in the identity or character of the company or the enterprise shall be subject to the approval of the general meeting of shareholders. (Principle IV.1)</p> <p>The management board and the supervisory board shall provide the general meeting of shareholders with all information that it requires for the exercise of its powers. (Principle IV.3)</p> <p>The chairman of the supervisory board ... ensures ... the orderly and efficient conduct of the general meeting of shareholders. (Principle III.4)</p> <p>The general meeting ... shall determine the remuneration of supervisory board members. (Principle III.7)</p> <p><i>See generally</i> Principle IV.3 and Best Practice Provisions IV.3.1-IV.3.9 (information for, and logistics of, the general meeting of shareholders).</p>	<p>Shareholders may participate in the management of a joint stock company by making decisions at a general shareholders meeting on the most important issues of a company's business. It is advisable that the following be provided to guarantee this right:</p> <p>(1) the procedure for giving notice of a general shareholders meeting gives shareholders a genuine opportunity to prepare for such meeting;</p> <p>(2) shareholders are provided with a genuine opportunity to study the list of persons entitled to take part in a general shareholders meeting;</p> <p>(3) the place, date and time of a general shareholders meeting is fixed in such a manner that the shareholders have a genuine and unrestricted opportunity to take part in it;</p> <p>(4) procedures whereby shareholders can show that they have a right to call a general shareholders meeting and introduce changes to the agenda are not unduly complicated; and</p> <p>(5) each shareholder has an opportunity to realize [their] voting rights in the most simple and convenient way. (Ch. 1, § 1.2)</p> <p>[Shareholders should have] a reasonably equal opportunity to express their opinion and ask questions.... (Ch. 1, § 2(1))</p> <p>[I]t is recommended that a company give a 30-day notice of each meeting.... (Ch. 2, § 1.1.1)</p> <p>General shareholders meeting-related information should be communicated to the shareholders in a manner allowing for thorough review of the agenda items before the general shareholders meeting. (Ch. 2, § 1.3.5)</p> <p><i>See generally</i> Ch. 2 (General Shareholders Meeting) and Ch. 5 (role of corporate secretary vis-à-vis meetings).</p>	<p>The board should ensure that each item of special business included in the notice of the annual general meeting, or any other shareowners' meeting, is accompanied by a full explanation of the effects of any proposed resolutions. (§ 2.1.14)</p> <p>The board should encourage shareowners to attend annual general meetings and other company meetings, at which the directors should be present. More particularly, the chairpersons of each of the board's committees, especially the audit and remuneration committees, should be present.... (§ 2.1.15)</p> <p>A brief CV of each director standing for election or re-election at the annual general meeting should accompany the notice contained in the annual report. (§ 2.1.16)</p> <p>Share options ... must be the subject of prior approval of shareowners (usually at the annual general meeting).... (§ 2.5.6)</p> <p>Where it is proposed to re-price share options, this should be the subject of prior shareowner approval. Details of the share options of each executive and nonexecutive director who stands to benefit ... should be subject to shareowner approval....</p> <p>If share options are to be issued at a discount to the ruling price, shareowners should vote separately on this clause in the trust deed at its inception. Any subsequent amendments ... must be subject to the specific approval of shareowners (§ 2.5.7)</p> <p>[C]hairpersons of the board committees ... should attend the company's annual general meeting. (§ 2.7.9)</p> <p>In the course of ... shareowner meetings, the chairperson should provide a reasonable time for discussion. (§ 7.3)</p>	<p>The General Meeting must be a key forum for information and decision-making fostering active participation by the majority of shareholders. (§ II)</p> <p>[T]he following minimum standards are recommended:</p> <ul style="list-style-type: none"> ▪ Secure approval of the General Meeting Charter by said body.... ▪ Convene the General Meeting with sufficient notice.... ▪ Ensure that the complete text of resolutions to be voted is made public [with sufficient notice].... ▪ Serve each shareholder individually with notice of the Meeting.... ▪ Provide shareholders with reports that justify each proposal to be voted on.... ▪ Vote, as a separate item on the agenda, on amendments to the Articles of Incorporation.... ▪ Vote, on an individual basis, on the nomination and removal of Directors.... ▪ Approve remuneration and remuneration policies of the Board, as an individual item.... ▪ Acknowledge that a qualified number of shareholders may be entitled to submit items for the agenda.... ▪ Ensure that the agenda provides that the Chairman's report is mandatory [and that] chairmen of Board Committees must be present to reply to any questions.... ▪ Ensure that, among the documents provided to shareholders, the Audit Committee's Annual Report is included. ▪ Protect the right of shareholders present at the Meeting to request that their use of the floor, and their votes, be recorded in the minutes. ... make e-voting possible.... <p>(§ II.2)</p>	<p>Shareholders' influence ... is exercised at the shareholders' meeting, which is the company's highest decisionmaking body. (§ III, 1)</p> <p>[T]he company is to provide timely information on its website on the shareholders' right to have a matter considered at the meeting and the time when such a request must reach the company in order to guarantee its inclusion in the notice of meeting. (§ III, Rule 1.1.2)</p> <p>Shareholders are to be given the opportunity to register to attend the shareholders' meeting in several ways [including] by e-mail or on the company's website. (§ III, Rule 1.1.3)</p> <p>At each shareholders' meeting, the company is to provide shareholders with the option of following or participating in the meeting from another location in the country or abroad with the help of modern communications technology if it is warranted by the ownership structure and financially feasible. (§ III, Rule 1.2.1)</p> <p>At shareholders' meetings, a quorum of the board is to be present. If possible, the entire board is to be present.... The chair of the board of directors, the managing director and, if necessary, other company managers are to be present.... At least one of the company's auditors is to be present.... (§ III, Rule 1.3.1)</p> <p>The company's nomination committee is to recommend a candidate to chair the annual general meeting. (§ III, Rule 1.4.1)</p> <p>The board is to present a proposal for the company's policy on remuneration and other terms of employment for senior management to the annual general meeting for its approval. (§ III, 4.2.2)</p> <p><i>See generally</i> § III, 1, The Shareholders' Meeting.</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
34. Shareholder Meetings & Proxy Proposals				
<p>Shareholders exercise their rights in the General Shareholders' Meeting and have the right to make motions on items prescribed by the agenda. They may also request information on company matters not included in the agenda and, if appropriate, a special audit. (Code ¶ 1)</p> <p>The company should endeavour to facilitate the exercise of shareholders' statutory rights. To this end the Articles of Association may lower to an appropriate degree the statutory threshold for shareholders to place items on the agenda or to convene an Extraordinary General Shareholders' Meeting. (Code ¶ 2)</p> <p>The company should ensure that the General Shareholders' Meeting is used as a forum for communication so that it is well-informed in discharging its function as the highest corporate authority. (Code ¶ 3)</p> <p>The company should facilitate the participation of shareholders at General Shareholders' Meetings by clearly setting dates and time limits well in advance. (Code ¶ 4)</p> <p>The organization of the meeting should enable shareholders to make relevant and concise comments on the agenda items. (Code ¶ 5)</p> <p>Arrangements should be made to ensure that shareholders' rights to information and inspection are met. (Code ¶ 6)</p> <p>In the General Shareholders' Meeting the will of the majority should be clearly and fairly expressed. (Code, ¶ 7)</p> <p>See Code ¶ 8 (The Board of Directors should also take steps to contact shareholders in between the General Shareholders' Meetings.).</p>	<p>[T]he chairman of the [remuneration] committee should be available to respond to any concerns of shareholders at the Annual General Meeting. (Report § 4.44)</p> <p>The Annual General Meeting provides the opportunity for shareholders to make their views on such matters as directors' benefits known to their boards.... [S]hareholders can play a more practical governance role by aiming to influence board policies in this way than by seeking to make the details of board decisions subject to their vote. (Report § 4.45)</p> <p>[S]hareholders can make their views known to the boards of the companies in which they have invested by communicating with them directly and through their attendance at general meetings. (Report § 6.5)</p> <p>Reports and accounts are presented to shareholders at the Annual General Meeting.... In particular, the Annual General Meeting gives all shareholders ... direct and public access to their boards. (Report § 6.7)</p> <p>[T]he chairman of the [audit] committee should be available ... at the AGM. (APPENDIX 4, 6(f))</p>	<p>The board should use the AGM to communicate with investors and to encourage their participation. (Main Principle D.2)</p> <p>The company should count all proxy votes and, except where a poll is called, should indicate the level of proxies lodged on each resolution, and the balance for and against the resolution and the number of abstentions, after it has been dealt with on a show of hands. The company should ensure that votes cast are properly received and recorded. (Provision D.2.1)</p> <p>Shareholders should be invited specifically to approve all new long-term incentive schemes (as defined in the Listing Rules) and significant changes to existing schemes, save in the circumstances permitted by the Listing Rules. (Provision B.2.4)</p> <p>The company should propose a separate resolution at the AGM on each substantially separate issue and should in particular propose a resolution at the AGM relating to the report and accounts. (Provision D.2.2)</p> <p>The chairman should arrange for the chairmen of the audit, remuneration and nomination committees to be available to answer questions at the AGM and for all directors to attend. (Provision D.2.3)</p> <p>The company should arrange for the Notice of the AGM and related papers to be sent to shareholders at least 20 working days before the meeting. (Provision D.2.4)</p>	<p><i>Not covered.</i></p>	<p>Directors should attend the corporation's annual meeting of shareholders, and the corporation should have a policy of requiring attendance absent unusual circumstances. Time at the annual meeting should be set aside for shareholders to submit questions and for management or directors to respond to those questions.</p> <p>The board should seriously consider issues raised by shareholder proposals that receive substantial support and should communicate its response to proposals to the shareholder-proponents and to all shareholders. (p. 32)</p> <p>See p. 3 ([I]t is the responsibility of the board to respond appropriately to shareholders' concerns.).</p> <p>See also p. 32 (The board should be notified of shareholder proposals, and the board and its corporate governance committee should oversee the corporation's response to these proposals.).</p>

OECD Principles/Millstein Report	Australia	Belgium	Brazil	Canada
35. Anti-Takeover Devices				
<p>Markets for corporate control should be allowed to function in an efficient and transparent manner.</p> <p>1. The rules and procedures governing the acquisition of corporate control in the capital markets, and extraordinary transactions such as mergers, and sales of substantial portions of corporate assets, should be clearly articulated and disclosed so that investors understand their rights and recourse. Transactions should occur at transparent prices and under fair conditions that protect the rights of all shareholders according to their class.</p> <p>2. Anti-takeover devices should not be used to shield management and the board from accountability. (Principle II.E)</p> <p>In some countries, companies employ anti-takeover devices. However, both investors and stock exchanges have expressed concern over the possibility that widespread use of anti-takeover devices may be a serious impediment to the functioning of the market for corporate control. (Annotation to Principle II.E.2)</p> <p><i>See</i> Principle II.B (Shareholders should have the right to participate in, and to be sufficiently informed on ... the transfer of all or substantially all assets, that in effect result in the sale of the company.).</p> <p><i>See also</i> Annotation to Principle II.G (It must be recognized ... that co-operation among investors could also be used ... to obtain control over a company.... For this reason, in some countries, the ability of institutional investors to cooperate on their voting strategy is either limited or prohibited.).</p>	<i>Not covered.</i>	<i>Not covered.</i>	<p>The majority of share capital, regardless of type or sort, should have the right to deliberate on decisions of high relevance [including] mergers, spin offs or incorporations.... (CVM Recommendation III.1)</p> <p>[E]xclusive to the General Assembly [are] decisions on company transformation, consolidation, merger, incorporation, split-up, termination or liquidation. (IBGC Code ¶ 1.5.1)</p> <p>[F]or Companies Incorporated before Law 10,303/2001 went into effect: The sale or transfer of shares representing a company's control must be contracted under the condition that the buyer makes a tender offer for all remaining shares of the company for an equal price, regardless of type or sort. (CVM Recommendation III.2)</p> <p>According to the Corporate Law, the buyer is obliged to make a tender offer for all common shares not in the controlling group for at least 80 percent of the price paid for each control share. According to good corporate governance practices, the buyer shall give the same treatment to all types and sorts of shares. Therefore, the price offered to minority voting shareholders should be extended to all remaining shares of the company. (Commentary on CVM Recommendation III.2)</p> <p>[F]or Companies Incorporated after Law 10,303/2001 went into effect: the buyer shall offer the same price paid for the controlling group shares to all other shares. (CVM Recommendation III.3)</p> <p>The goal is that newly incorporated companies go beyond recommendation III.2 and, in case of a change in control, assure equal treatment to all shareholders, minority and controlling, regardless of their share type or sort. (Commentary on CVM Recommendation III.3)</p> <p><i>See</i> IBGC Code ¶ 2.18 (All Directors should be elected at the same General Meeting.).</p>	<i>Not covered.</i>

China	Denmark	France	Germany	India
35. Anti-Takeover Devices				
<p>The controlling shareholders of a listed company shall strictly comply with laws and regulations while exercising their rights as investors, and shall be prevented from damaging the listed company's or other shareholders' legal rights and interests, through means such as assets restructuring.... (Ch. 2, (1) 19)</p> <p>When controlling shareholders increase or decrease their shareholding or pledge the company's shares, or when the actual control of the company transfers, the company and its controlling shareholders shall timely and accurately disclose relevant information to all shareholders. (Ch. 7, (3) 94)</p> <p><i>See</i> Ch. 7, (3) 93 (A listed company shall learn about and disclose in a timely manner, changes in the shareholding of the company and other important matters that may cause changes in the shareholding of the company.).</p> <p><i>See also</i> Ch. 1, (1) 3 (Shareholders shall have the right to know about and the right to participate in major matters of the company set forth in the laws, administrative regulations and articles of association.).</p>	<p>In connection with a public takeover bid, the Committee recommends that, in such situations, the supervisory board does not, without the acceptance of the general meeting or on its own, attempt to counter a takeover bid by making decisions which in reality prevent the shareholders from deciding on the takeover bid. (Recommendation I.4)</p> <p>It is important that the shareholders be given the opportunity to decide whether or not they wish to dispose of their shares in the company under the terms offered. Decisions not recommended include implementing capital increases or allowing the company to buy its own shares on the basis of any previously given authority. (Commentary on Recommendation I.4)</p>	<p>It is recommended that, in the future, corporations should no longer submit to the extraordinary meeting of their shareholders a resolution to permit the use of delegations of authority to increase the capital during a takeover bid period. (¶ 5.2)</p> <p>Terms [of directors] should be staggered so as to avoid replacement as a body and to favour a smooth replacement of directors. (¶ 12)</p> <p><i>See</i> ¶ 5.1 (Even when no change in the object[ive]s of the company is involved, the Board of Directors should put the concern to the meeting of shareholders if the transaction relates to a part of the group's assets or business of overriding importance.).</p> <p><i>See also</i> ¶ 14.3.2 (The [audit] committee should review criteria for the consolidation of companies and, if applicable, the reasons for excluding certain companies.).</p>	<p>In the event of a takeover offer, the Management Board and Supervisory Board of the target company must submit a statement of their reasoned position so that the shareholders can make an informed decision on the offer. After the announcement of a takeover offer, the Management Board may not take any actions outside of the ordinary course of business that could prevent the success of the offer unless the Management Board has been authorized by the General Meeting or the Supervisory Board has given its approval. In making their decisions, the Management Board and Supervisory Board are obliged to act in the best interests of the shareholders and of the enterprise. In appropriate cases the Management Board should convene an extraordinary General Meeting at which shareholders discuss the takeover offer and may decide on corporate actions. (§ 3.7)</p> <p><i>See</i> § 2.2.1 ([T]he General Meeting resolves on the Articles of Association, the purpose of the company, amendments to the Articles of Association and essential corporate measures such as, in particular, intercompany agreements and transformations, the issuing of new shares and, in particular, of convertible bonds and bonds with warrants, and the authorization to purchase own shares.).</p> <p><i>See also</i> § 5.4.6 (The election or re-election of members of the Supervisory Board at different dates and for different periods of office enables changing requirements to be taken into account.).</p>	<p>The Committee ... recommends that as shareholders have a right to participate in, and be sufficiently informed on decisions concerning fundamental corporate changes, they should not only be provided information as under the Companies Act, but also in respect of other decisions relating to material changes such as takeovers, sale of assets or divisions of the company and changes in capital structure which will lead to change in control or may result in certain shareholders obtaining control disproportionate to the equity ownership. (§ 14.7)</p>

Indonesia	Italy	Japan	Republic of Korea	Mexico
35. Anti-Takeover Devices				
<i>Not covered.</i>	<i>Not covered.</i>	<p>The supervision of risk management activities, such as coping with ... takeover bids by other companies, is an important responsibility of the board of directors. For these risks, it is preferable to establish a special committee (either permanent or temporary) targeting the specific purpose and in accordance with the circumstances of the company. (CGFJ Principles, Explanation of Principle 6)</p>	<p>Takeover shall be achieved without infringing on the corporate value. (§ V.1)</p> <p>Acts that may lead to change in corporate control, such as takeovers, mergers, acquisitions, splits and transfers of business, shall occur through a transparent and fair procedure. (§ V.1.1)</p> <p>Acts of defending corporate control shall not involve sacrificing the profit of corporations and shareholders to maintain corporate control for only some shareholders or management. (§ V.1.2)</p> <p>The corporation shall, as determined by law, accept stock purchase requests from shareholders opposing material structural changes, such as mergers and business transfers, through fair prices that reflect the actual share value. (§ V.1.3)</p> <p>To protect to the utmost the rights of shareholders, ... matters which cause fundamental corporate changes and shareholder rights shall be decided at the general shareholder meeting [including] M&A and business transfer. (§ I.1.2)</p> <p>The Board, holding comprehensive power over corporate management, shall [m]onitor ... corporate takeover. (§ II.1.1)</p> <p><i>See generally</i> § V, Management Monitoring by the Market.</p>	<i>Not covered.</i>

The Netherlands	Russia	South Africa	Spain	Sweden
35. Anti-Takeover Devices				
<p>Depository receipts for shares are a means of preventing a (chance) minority of shareholders from controlling the decisionmaking process as a result of absenteeism at a general meeting of shareholders. Depository receipts for shares shall not be used as an anti-takeover measure. (Principle IV.2)</p> <p>If a serious private bid is made for a business unit or a participating interest and the value of the bid exceeds the threshold referred to in draft article 2:107a paragraph 1(c), Civil Code, and such bid is made public, the management board of the company shall, at its earliest convenience, make public its position on the bid and the reasons for this position. (Best Practice Provision IV.1.3)</p>	<p>It is not recommended to take anti-takeover actions that are contrary to the interests of shareholders or may have an adverse material effect on the interests of the company and its shareholders.... [T]he company should refrain from actions that are aimed at protecting the interests of executive bodies ... and members of the board of directors, and which may result in weakening the position of shareholders. (Ch. 6, § 2.2)</p> <p>It is not recommended to relieve the entity taking over the company of the responsibility to offer to buy out shareholders' common stock (issuer's shares convertible into common stock).... [T]his action may significantly impair the interests of minority shareholders. (Ch. 6, § 2.3)</p> <p><i>See</i> Ch. 6, § 2.1.2 (The opinion of the board of directors with respect to the possible takeover should be communicated to shareholders in accordance with the procedure customarily used for giving notice of the general shareholders meeting.).</p> <p><i>See generally</i> Ch. 6, § 2 (<i>takeovers</i>).</p>	<p><i>Not covered.</i></p>	<p>The Nominations Committee must be informed of all circumstances or situations that may lead to a change of control in the Company, in particular in the case of a merger or takeover. The Nominations Committee shall analyse the organisational changes which affect the members of the Board or the Company's Senior Management and shall submit its proposals to the Board prior to approving the relevant transaction. (§ I.8)</p> <p>The Remunerations Committee must be informed of all circumstances or situations that may lead to a change of control in the Company, in particular in the case of a merger or takeover, insofar as certain covenants or agreements may modify the remuneration or contractual terms of any member of the Board or the Company's Senior Management. The Remuneration Committee shall examine those covenants and agreements and inform the Board on these prior to the approval of the relevant transaction so that it may reach the most appropriate decision. (§ I.9)</p> <p>The Audit Committee must be informed of all circumstances or situations that may lead to a change of control in the Company, in particular in the case of a merger or takeover, in order to examine these and, prior to the approval of the relevant transaction, inform the Board on the financial terms of the transaction, in particular the share exchange ratio, in order to ensure that the Board adopts an informed decision after having heard the opinion of the Committee. (§ I.11)</p>	<p><i>Not covered directly, but see</i> § I, 2 Commentary (The extensive decision-making authority ... assigned the board is limited primarily by the exclusive decisionmaking powers of the shareholders' meeting in certain matters and the meeting's right to issue instructions to the board.).</p> <p><i>See also</i> § III, 3.1 Commentary (The principal task of the board of directors is to manage the company's affairs in such a way as to satisfy the owners that their interests in a good long-term return on capital are being met in the best possible way.).</p>

Switzerland	UK (Cadbury Report)	UK (Combined Code)	USA (NACD Report)	USA (BRT Principles)
35. Anti-Takeover Devices				
<p>[Shareholders'] approval is required for decisions on mergers, demergers, changes in the Articles of Association and liquidation. (Code ¶ 1)</p> <p>[S]taggered terms of office [of the Board of Directors] are desirable. (Code ¶ 13)</p> <p>The Board of Directors should consider in particular whether appropriate action (e.g., "close periods") should be taken with regard to purchasing and selling securities of the company or other sensitive assets during critical periods, e.g., in connection with takeover projects.... (Code ¶ 17)</p> <p>See Code, Preamble ¶ 6 (The separate report "Corporate Governance in Switzerland" written by Professor [Karl] Hofstetter in collaboration with the Working Group ... deals especially with the current state of the Swiss Stock Exchange and Takeovers Law.... Most of these aspects have a connection with corporate governance as well but cannot, or can only to some extent, be the object of recommendations of a "Code of Best Practice". The "Swiss Code" presented here should be understood in the light of this analysis.)</p> <p>See also Directive, Annex ¶ 7, Changes of control and defense measures (The following information on changes of control and defense measures must be disclosed:</p> <p>7.1 Duty to make an offer....</p> <p>7.2 Content of clauses on changes of control in agreements and plans benefiting members of the board of directors and/or the management board and/or other members of the issuer's cadre (e.g., golden parachutes).).</p>	<p><i>Not covered directly, but see Report § 4.6 (An important aspect of effective corporate governance is the recognition that the specific interests of the executive management and the wider interests of the company may at times diverge, for example, over takeovers.... Independent nondirectors, whose interests are less directly affected, are well-placed to help to resolve such situations.).</i></p>	<p><i>Not covered directly, but see Main Principle D.1 (There should be a dialogue with shareholders based on the mutual understanding of objectives. The board as a whole has responsibility for ensuring that a satisfactory dialogue with shareholders takes place.).</i></p> <p><i>See also Provision D.1.1 (The chairman should ensure that the views of shareholders are communicated to the board as a whole. The chairman should discuss governance and strategy with major shareholders. Non-executive directors should be offered the opportunity to attend meetings with major shareholders and should expect to attend them if requested by major shareholders. The senior independent director should attend sufficient meetings with a range of major shareholders to listen to their views in order to help develop a balanced understanding of the issues and concerns of major shareholders.).</i></p>	<p><i>Not covered.</i></p>	<p><i>Not covered.</i></p>

APPENDIX I

CORPORATE GOVERNANCE

Improving Competitiveness
and Access to Capital
in Global Markets

A Report to the OECD
by the Business Sector Advisory Group
on Corporate Governance

Ira M. Millstein (Chairman)
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April 1998

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APPENDIX I

CORPORATE GOVERNANCE: IMPROVING COMPETITIVENESS AND ACCESS TO CAPITAL IN GLOBAL MARKETS

LETTER FROM THE CHAIRMAN

2 April 1998

Dear Mr. Secretary-General,

I am pleased to submit to the OECD the Report of the Business Sector Advisory Group on Corporate Governance, entitled "Corporate Governance: Improving Competitiveness and Access to Capital in Global Markets".

OECD economies increasingly rely on the vitality and strength of their respective private sectors, in what has become a world market. The corporation is the primary engine of each respective private sector – it raises capital, creates jobs, earns profits, and divides its value added among those contributing to its success.

The governance of the corporation, the internal means by which it accomplishes its performance, is therefore of current great international interest and concern. There is little debate that good corporate governance can positively impact the corporation's overall economic performance. Moreover, there is little debate that transparent corporate governance is key to accessing global capital markets; visible governance provides investors with a definitive description of their rights *vis à vis* the corporation.

While governance is comprised of the internal relationships amongst shareholders, boards of directors, and managers, those relationships are the result of government regulations, public perception and voluntary private initiatives. To understand those relationships requires an understanding of the respective roles of the government and private sector in shaping corporate governance.

Recognizing the significance of corporate governance to the economies of its Member countries, and the necessary interplay of governmental and private sector initiatives involved, the OECD determined to ascertain whether it could be of significant assistance to its Members in developing an understanding of the respective roles of government and private sector. Such an understanding would be of invaluable assistance to policy makers, public and private, throughout the OECD Member countries.

At the 1996 meeting of the Council at Ministerial level, OECD Ministers requested that there be commenced such a study of corporate governance. The Business Sector Advisory Group on Corporate Governance was established that same year to review and analyze international corporate governance issues and to suggest an agenda and priorities for further OECD initiatives.

Since that time, the Advisory Group has met in Paris on a number of occasions and, between meetings, has communicated in writing and through telephone conferences. As an integral part of its work, the Advisory Group has consulted with a wide circle of business sector practitioners from OECD Member countries and has held a Business Sector Colloquium on Corporate Governance in June 1997 to achieve even greater input. A summary of the Colloquium discussions, and a list of participants and other commentators is appended to this Report. The quotations in the text of this Report derive from this Colloquium.

In addition, the Advisory Group has invited and received comments on the Colloquium topics including comments through BIAC (the Business and Industry Advisory Committee to the OECD) and comments submitted by Australian business leaders who participated in a series of related colloquia sponsored by the Australian Institute of Company Directors, Blake Dawson Waldron lawyers and the Australian Stock Exchange Limited.

All of this input has provided a rich resource base for the Advisory Group to draw on in formulating its Report, and has assisted the Group to identify some key areas of common understanding:

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- ◇ Corporate governance practices constantly evolve to meet changing conditions. As a work-in-progress, there is no single universal model of corporate governance. Nor is there a static, final structure in corporate governance that every country or corporation should emulate. Experimentation and variety should be expected and encouraged.
- ◇ Corporate governance practices vary and will continue to vary across nations and cultures. We can learn a great deal from observing experiences in other countries.
- ◇ Corporate governance practices will also vary as a function of ownership structures, business circumstances, competitive conditions, corporate life cycle and numerous other factors.

There are, however, a few fundamental parameters:

- ◇ Increasingly, it is accepted that the corporate objective is maximizing shareholder value, which not only requires superior competitive performance but also generally requires responsiveness to the demands and expectations of other stakeholders.
- ◇ Increased transparency and independent oversight of management by boards of directors are the central elements of improved corporate governance.
- ◇ Board practice should be subject to voluntary adaptation and evolution, in an environment of globally understood minimum standards.
- ◇ There are certain areas in which the adoption of universal rules is preferable (such as in accounting).

The Advisory Group has endeavored in this Report to explain why it has emphasized the foregoing parameters as a basis for both public and private sector initiatives to improve corporate governance throughout the OECD countries, to suggest certain public and private initiatives and to suggest an agenda and priorities for further OECD efforts in corporate governance.

We hope therefore that this Report will contribute positively to the economic performance of corporations throughout the OECD countries, and thereby contribute to the welfare and prosperity of their respective economies and citizens.

It has been a great honor, as well as an intellectual and personal pleasure, to chair the Advisory Group and work with its highly talented and experienced members – Michel Albert, Sir Adrian Cadbury, Robert E. Denham, Dieter Feddersen and Nobuo Tateisi. Each Advisory Group member has contributed generously of his time and insights – all in his individual capacity, and not as representatives of any organization, government or country. I think the Report reflects this remarkable collaboration, which enabled a consensus to emerge from individuals grounded in diverse national and cultural experiences.

The Advisory Group wishes to emphasize that this Report reflects the consensus of the Advisory Group members as regards the principal perspectives and recommendations set forth. Individual members may not necessarily agree with every aspect of the Report.

On behalf of the Advisory Group, I wish to thank Joanna R. Shelton, Deputy Secretary-General of the OECD, for her considerable intellectual support and assistance. We especially wish to acknowledge the substantive research, drafting and organizational assistance of Mats Isaksson and Rauf Gönenç of the OECD staff. They were instrumental in organizing the June 1997 Colloquium, and in providing each of the members of the Advisory Group, and certainly its Chairman, with knowledgeable and steady assistance throughout. Thanks also to Holly J. Gregory of Weil, Gotshal & Manges LLP, for her invaluable editing of this Report, and her assistance in coordinating much of the communications on which this Report is based.

Finally, on behalf of the Advisory Group, I thank you and the OECD for the opportunity to explore and comment on the important issues of corporate governance in the context of evolving international markets.

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Sincerely yours,

Ira M. Millstein
Chairman

MEMBERS OF THE OECD BUSINESS SECTOR ADVISORY GROUP ON CORPORATE GOVERNANCE

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Sir Adrian Cadbury, Former Chairman, Cadbury-Schweppes; Chairman, Committee on the Financial Aspects of Corporate Governance 1991-95; contributor to several works in the area of corporate governance and author of *The Company Chairman*. United Kingdom.

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Prof. Dr. Dieter Feddersen, Partner, Feddersen Laule Scherzberg & Ohle Hansen Ewerwahn; Honorary Professor, University of Heidelberg; Chairman and member of several Supervisory Boards in German Aktiengesellschaften and GmbHs; Member, German American Lawyers Association, International Fiscal Association and several other learned and nonprofit organisations. Germany.

Mr. Nobuo Tateisi, Chairman and Representative Director, OMRON Corporation; Vice Chairman, Policy Board Member, Chairman of ILO Committee and Chairman of the International Committee of the Japan Federation of Employers' Association (*Nikkeiren*); Co-Chairman of the Committee on Asia and Oceania of the Japan Federation of Economic Organization (Keidanren); Vice Chairman of the Japan Institute for Social and Economic Affairs (*Keizai Koho Center*). Japan.

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APPENDIX I

CORPORATE GOVERNANCE: IMPROVING COMPETITIVENESS AND ACCESS TO CAPITAL IN GLOBAL MARKETS

CHAPTER 1

OVERVIEW, PUBLIC POLICY PERSPECTIVES AND RECOMMENDATIONS TO THE OECD

1.1 Corporate Governance in a New Economic Environment

1. Individual OECD nations are at an economic (and perhaps social) watershed as their market-oriented economies increasingly rely on the vitality and strength of the private sector in what rapidly is becoming a world market. OECD economies rely on the corporation – as the engine, worldwide, for private sector participation in the global market – to raise capital, create jobs, earn profits and divide the value added among those contributing to its success.
2. To succeed in their primary objective of generating long-term economic profit, corporations must seek to achieve a sustained competitive advantage. This requires significant flexibility to take necessary risks in responding quickly to opportunities and challenges in a constantly changing environment. Corporations must be able to develop and implement their respective competitive advantages, to raise capital, to assemble and re-deploy resources to that end and, at the same time, to meet the expectations of their shareholders, employees, suppliers, creditors, customers, communities and society at large.
3. Corporate governance comprehends that structure of relationships and corresponding responsibilities among a core group consisting of shareholders, board members and managers designed to best foster the competitive performance required to achieve the corporation's primary objective.
4. Corporate governance tends to gain public attention when performance problems are apparent, both at national and company levels. For example, the current crisis in East Asian economies is generating considerable discussion about failed corporate governance practices relating to lending and borrowing. Similarly, performance problems at the company level frequently draw attention to governance problems. While developing appropriate remedies for cases of visible failure is important, the more long-term policy objective is to prevent such failures. All OECD nations share this challenge in their efforts to improve the functioning of their market economies.
5. While there may be some debate in the academic literature about the impact of corporate governance on corporate performance, the Advisory Group is convinced – based on its collective experience, the views of respected business groups, and recent research and academic commentary – that improved corporate governance can positively impact overall corporate performance.
6. The quality of corporate governance is of particular importance at a time when interactions between corporations and their capital suppliers are undergoing fundamental changes, with significant implications for other corporate stakeholders, such as employees. Given the globalisation of competition in markets for goods, services, key human resources and capital, corporations in all OECD countries face common competitive challenges and opportunities. Due to global deregulation and technological change, capital suppliers are encountering new opportunities to improve their returns; entrepreneurs and companies are exposed to a wider and more complete range of capital-raising vehicles; and employees are experiencing greater exposure to the risks and rewards of increased competition.
7. With international deregulation, investment capital is more mobile and investors are demanding broader investment opportunities with internationally competitive levels of profitability (risk-adjusted returns). For corporations, this development has brought about access to a wider pool of financing and a greater range of risk- and reward-sharing equity placements; broader financing options in turn can support a variety of research and development activities, spin-offs, capacity expansion and new firm creation. However, greater competition for capital results in greater pressure for corporate economic performance and significant pressures on long-standing relationships with employees.

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“Due to domestic and international deregulation, financial institutions have access to a much broader group of investment opportunities, which has resulted in very aggressive return expectations. Enhanced opportunities to find higher returns on investments have raised a challenge for all companies competing to attract capital.”

Ms. Heidi Kunz, Chief Financial Officer, ITT Industries (United States)

8. Good corporate governance should allow corporations and economies to capture fully the inherent benefits from these developments while maintaining a sensitivity to the social concerns raised. Failure to adapt to efficient governance practices may well lead to restricted access to capital markets. Again, the current crisis in East Asian economies provides a stark example. Capital providers increasingly rely on the corporate governance of the corporations they invest in, or lend to, to provide actual accountability and responsibility to investors and lenders.

9. Because worldwide the corporation is the essential engine driving the private sector economically, and because corporate governance can be critical to competitive performance in all of a corporation’s markets (goods, services, capital and human resources), the quality of corporate governance can affect the dynamism of the private sector and ultimately the credibility of market economies in providing economic growth and promoting citizen welfare. Accordingly, corporate governance has become an important international topic for discussion.

10. The task of adapting, refining and adjusting corporate governance is a necessary and ongoing process. To be competitive, both corporations and investors must be allowed to innovate relentlessly and to adapt their governance practices to new economic circumstances; corporate governance should be viewed as “work in progress”. For this reason, the Advisory Group rejects a “one-size-fits-all” approach to corporate governance practice and focuses this Report on a set of general public policy perspectives and guiding norms in a context of pluralism and adaptability.

11. To enable flexibility, experimentation and continuous improvement, the design of corporate governance relationships and practices should be left to market forces: corporate governance should remain, basically, decisions by individual actors in the private sector. While the need to protect investor rights is undisputed, the Advisory Group believes that market-driven solutions emerging from competition among alternative practices are generally superior to those mandated by regulating authorities.

12. This market-based perspective does not exclude a role for government. Policy makers and regulatory bodies have a distinct and important responsibility for shaping a regulatory framework, compatible with their respective societal values, that allows market forces to work and permits investors and companies to design their governance arrangements in accordance with their respective needs.

13. The collective efforts of the business community to evaluate and disseminate experiences in the form of “best practices” and governance guidelines are important as well. It is the Advisory Group’s view that such efforts increase the collective knowledge about workable solutions and thereby help to invigorate a broad understanding of the principles underlying good corporate governance practices, and the continued evolution of better practices.

14. Although this Report focuses on publicly traded corporations (*i.e.*, corporations whose stock is listed on a stock exchange or other market), the Advisory Group believes that many of the issues discussed are also of importance to wholly privately held, family-owned and state-owned companies – which account for a significant portion of economic activity in many OECD countries. Increasingly, banks and other lenders are relying on principles of improved corporate governance to protect their investments. Moreover, privately held, family-owned and state-owned companies are affected by corporate governance standards as soon as they seek capital from equity markets to finance their activities (and convert into the legal structure of a publicly traded corporation). Therefore, privately held, family-owned and state-owned companies – many of which will be the publicly traded companies of tomorrow – are well-advised to consider the corporate governance principles applicable to publicly traded corporations.

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1.2 An Agenda for Modernization

15. The Advisory Group believes that enabling the corporation to improve its competitiveness and access to capital markets through improved corporate governance will require both public policy and private sector initiatives. The Advisory Group offers this Report to promote supportive international public policy perspectives, to encourage voluntary private sector initiatives and, particularly, to offer the OECD suggestions about the direction of its further efforts.

“There will be increased pressure on all our economies and societies to adjust to the requirements of global financial markets. This process of convergence must of course be guided by building up a consensus on what should be the rules of the game. Institutions like the OECD can play an important role in shaping that process.”

Dr. Henning Schulze-Noelle, Chairman of the Board of Management, Allianz AG (Germany)

16. The Advisory Group suggests that such further public and private sector initiatives – and OECD efforts – focus on the following Agenda (which is described in the remaining chapters of this Report):

- ◇ **Defining the mission of the corporation in the modern economy:** Generating long-term economic gain to enhance shareholder (or investor) value is necessary to attract equity investment capital and is, therefore, the corporation’s central mission. At the same time, however, corporations must function in the larger society. To varying degrees, different national systems and individual corporations may temper the economic objective of the corporation to address noneconomic objectives. Full transparency of economic and noneconomic objectives – both as to the national system and the individual corporation – will be necessary in the global competition for capital. (Chapter 2)
- ◇ **Ensuring adaptability of corporate governance arrangements:** The primary role for regulation is to shape a corporate governance environment, compatible with societal values, that allows competition and market forces to work so that corporations can succeed in generating long-term economic gain. Specific governance structures or practices will not necessarily fit all companies at all times. Nor should it be taken for granted that a given design may suit the same company during different stages of its development. For dynamic enterprises operating in a rapidly changing world, corporate governance adaptability and flexibility – supported by an enabling regulatory framework – is a prerequisite for better corporate performance. (Chapter 3)
- ◇ **Protecting shareholder rights:** For companies to attract equity investment, regulatory safeguards must emphasize fairness, transparency and accountability. These safeguards should take into account the new and growing category of noncontrolling shareholders who have emerged in the form of institutional investors. The focus of current efforts to improve shareholder protection should center on investor access to performance-related information, shareholder exercise of voting rights, and promotion of active and independent (nonexecutive) members of boards of directors to strengthen the quality of corporate governance. (Chapter 4)
- ◇ **Aligning the interests of shareholders and other stakeholders:** Corporate success is linked to the ability to align the interests of directors, managers and employees with the interests of shareholders. Performance-based compensation is a useful tool for this purpose. Independent (nonexecutive) members of the board of directors – or in certain nations, board of auditors – have a special responsibility in designing and approving appropriate remuneration schemes. (Chapter 6)
- ◇ **Recognizing societal interests:** Companies do not act independently from the societies in which they operate. Accordingly, corporate actions must be compatible with societal objectives concerning social cohesion, individual welfare and equal opportunities for all. Attending to legitimate social concerns should, in the long run, benefit all parties, including investors. At times, however, there may be a trade-off between short-term social costs and the long-term benefits to society of having a healthy, competitive private sector. Societal needs that transcend the responsive ability of the private sector should be met by specific public policy measures, rather than by impending improvements in corporate governance and capital allocation. (Chapter 7)

17. The specific topics on this Agenda are interrelated and complementary. Therefore, the consequences of any particular public policy reform measure need to be carefully considered to ensure a coherent approach to corporate governance.

18. Based on its discussion of this Agenda in the ensuing Chapters, the Advisory Group has formulated Perspectives that it believes should guide:

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- ◇ public policy makers and regulators to encourage the development of improved governance practices, with strong emphasis on government enabling voluntary private sector development rather than attempting to regulate it; and
 - ◇ corporations and investors voluntarily to improve governance practices.
19. Based on these Perspectives, and the Advisory Group's discussion of specific substantive issues in this Report, the Advisory Group has also formulated Recommendations for further efforts by the OECD.

1.3 Perspectives for Public Policy Improvement

20. For the private sector and specifically the publicly traded corporation to flourish, policy makers and regulators need to shape a corporate governance environment, compatible with the respective society's values, that allows market forces to work and corporations to succeed in generating long-term economic profit. Largely this entails protecting the integrity and efficiency of capital markets (thus promoting confidence), by protecting shareholder rights and providing for the disclosure of information.

21. Since regulation is a powerful and potentially rigid tool, it should be used with care in the context of corporate governance. If corporations are to fulfill their potential in exploiting opportunities to create long-term economic profit, market forces must be allowed to determine the most efficient deployment of investment and other corporate resources.

22. Protecting shareholders and promoting investor confidence are key elements in providing the access to capital needed to create and maintain a dynamic, competitive corporate sector. By focusing primarily on shareholder protection, disclosure of information and voluntary corporate governance improvements, policy makers and regulators can avoid developing overly rigid and intrusive regulatory systems.

Perspective 1 (Flexibility). *Policy makers and regulators should be sensitive to corporations' need for flexibility in responding to the changing competitive environment and the related need for flexible, adaptive governance structures. Regulation should support a range of ownership and governance forms so that a market for governance arrangements develops.*

Perspective 2 (Regulatory Impact). *Policy makers and regulators should consider the impact of any proposed regulatory initiative on the ability of the corporate sector to respond to competitive market environments. They should avoid those regulations that threaten to unduly interfere with market mechanisms.*

◇ *The Advisory Group endorses and encourages efforts by the OECD to promote greater reliance on competition and market forces through its multi-sector study of regulatory reform. The Advisory Group invites the international business community to support the OECD's efforts.*

Perspective 3 (Regulatory Focus). *Regulatory intervention in the area of corporate governance is likely to be most effective if limited to:*

- ◇ *Ensuring the protection of shareholder rights and the enforceability of contracts with resource providers (Fairness);*
- ◇ *Requiring timely disclosure of adequate information concerning corporate financial performance (Transparency);*
- ◇ *Clarifying governance roles and responsibilities, and supporting voluntary efforts to ensure the alignment of managerial and shareholder interests, as monitored by boards of directors – or in certain nations, boards of auditors – having some independent members (Accountability); and*
- ◇ *Ensuring corporate compliance with the other laws and regulations that reflect the respective society's values (Responsibility).*

1.3.1 Fairness

23. To encourage both the domestic and foreign capital investment necessary for the development of globally competitive enterprises, shareholders require reasonable assurances that their assets will be protected against fraud, managerial or controlling shareholder self-dealing, and other "insider" wrongdoing.

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24. Market confidence also depends on a clear understanding of – and faith in – contractual relationships among other corporate resource providers and consumers, and an expectation that contractual relationships are enforceable.

Perspective 4 (Clarity, Consistency, Enforceability). Policy makers and regulators should provide clear, consistent and enforceable securities and capital market regulations designed to protect shareholder rights and create legal systems capable of enforcing such regulations. Such regulations should seek to treat all equity investors – including minority shareholders – fairly, and should include protections against fraud, dilution, self-dealing and insider trading.

Perspective 5 (Litigation Abuse). Regulations aimed at protecting shareholder rights should be designed to protect against litigation abuse. This can be accomplished through the use of tests for the sufficiency of shareholder complaints and the provision of safe harbors for management and director actions.

Perspective 6 (Basic Contract, Commercial and Consumer Law). Policy makers and regulators should ensure that an adequate system of contract, commercial and basic consumer protection law is in place, so that contractual relationships are enforceable. (This is particularly relevant to those developing and emerging market nations with less established legal systems).

Perspective 7 (Regulatory Impact on Active Investors). Policy makers and regulators should review whether their securities, tax and other regulations unduly hinder active investors, and whether their regulations concerning institutional investors inappropriately inhibit them from participating as active investors.

Perspective 8 (Corruption and Bribery). Policy makers and regulators should ensure that corporations function in an environment that is free from corruption and bribery.

◇ The Advisory Group welcomes the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and encourages efforts by the OECD to establish common international rules outlawing bribery by corporations. The Advisory Group invites the international business community to support the OECD's efforts.

1.3.2 Transparency

25. Investor confidence and market efficiency depend on the disclosure of accurate, timely information about corporate performance. To be of value in the global capital markets, disclosed information should be clear, consistent and comparable. This enables investors worldwide to make educated decisions concerning the allocation of their assets, and provides high-performing corporations with lower-cost capital.

Perspective 9 (Accurate, Timely Disclosure). Regulators should require that corporations disclose accurate, timely information concerning corporate financial performance. Adequate enforcement mechanisms should be provided.

Perspective 10 (Consistent, Comparable Disclosure). Regulators should cooperate internationally in developing clear, consistent and comparable standards for disclosure of corporate financial performance, including accounting standards.

Perspective 11 (Ownership Disclosure). Regulators should extend such disclosure requirements to the corporate ownership structure, including disclosure of any special voting rights and of the beneficial ownership of controlling of major blocks of shares.

Perspective 12 (Disclosure Improvement). Regulators should encourage ongoing improvements in both disclosure techniques and formats. This may encompass both the use of new information technologies, and the disclosure of nonfinancial but relevant information concerning intangible assets.

1.3.3 Accountability

26. The potential for management and shareholder interests to diverge is a defining characteristic of the modern, publicly traded corporation. Addressing this “agency” problem is a central concern of corporate governance, and the system of rights and responsibilities it encompasses. For corporate governance to be most effective, the major participants – shareholders, directors and managers – need a clear understanding of their respective roles, rights and responsibilities.

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27. The board of directors – or in certain nations, the board of auditors – is uniquely positioned as the internal corporate mechanism for holding management accountable to shareholders. Board oversight can be viewed as a means of reducing the potential for significant divergences between management and investor interests. The board is best positioned to perform this role when – at least to an effective degree – its members are distinct from, and independent of, management. Although the structure of corporate boards for publicly traded corporations differs among OECD nations – for example, by including both single- and two-tier boards – board independence can be promoted in any type of board system.

28. Accountability generally is based on a system of internal checks and balances. In the corporate context, these include sound audit practices.

29. Within the broad limits set in a given national economy, each corporation needs flexibility to determine for itself the governance practices that best fit.

Perspective 13 (Corporate Governance Legal Standards). *Policy makers and regulators should articulate clearly the legal standards that govern shareholder, director and management authority and accountability, including their fiduciary roles and legal liabilities. However, because corporate governance and expectations concerning roles and liabilities continue to evolve, legal standards should be flexible and permissive of evolution.*

Perspective 14 (Shareholder Protection). *Policy makers and regulators should protect and enforce shareholders' rights to vote and participate in annual shareholders' meetings.*

Perspective 15 (Independent Corporate Boards). *Policy makers and regulators should encourage some degree of independence in the composition of corporate boards. Stock exchange listing requirements that address a minimal threshold for board independence – and frequently board audit committee independence – have proved useful, while not unduly restrictive or burdensome. However, policy makers and regulators should recognize that corporate governance – including board structure and practice – is not a “one-size-fits-all” proposition, and should be left, largely, to individual participants.*

Perspective 16 (Sound Audit Practices). *Policy makers and regulators should encourage sound audit practices, which include board selection of, and reliance on, an independent auditor.*

Perspective 17 (Investor Competition). *Governments should avoid regulations that unduly inhibit the ability of institutional investors to compete with one another. However, sound, prudent management of these funds should remain the overriding objective of public policy in this area.*

1.3.4 Responsibility

30. While pursuing their objectives, corporations should observe the standards of the societies in which they operate.

31. In economic systems that rely heavily on market forces to organize the economic foundations of society, a fundamental role of government is to provide a framework that can support and protect individuals in adjusting to the impacts of market forces.

Perspective 18 (Law-abiding Corporations). *Policy makers and regulators should ensure that corporations abide by laws that uphold the respective society's values, such as criminal, tax, antitrust, labor, environmental protection, equal opportunity, and health and safety laws.*

Perspective 19 (Individual Welfare). *Policy makers and regulators should support and encourage education and training efforts, the provision of unemployment benefits, and other similar efforts aimed at promoting the welfare of individuals.*

Perspective 20 (Income and Opportunity Divergence). *Policy makers and regulators may wish to consider the implications of significant divergence in income and opportunity paths. In particular, government action may be necessary to promote skill acquisition in certain sections of society that do not benefit from present market trends.*

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1.4 Perspectives for Voluntary Self-Improvement

32. Good corporate governance is a key element in corporate competitiveness and access to capital.
33. The focal point of corporate governance is the board of directors as a mechanism to represent shareholder interests, prevent conflicts of interest (*i.e.*, address the agency problem), monitor managerial performance and balance competing demands on the corporation.
34. For the board to play this role in a meaningful way, it needs to be capable of acting independently of management. This requires board members (or in some nations, board of auditor members) capable of exercising business judgement independently of management – whether in a single-tier or two-tier board.
35. Suggested governance “best practices” and individual board guidelines have proliferated in the 1990s and serve as useful tools for board self-improvement.
36. The right to vote and participate in annual meetings that is generally associated with share ownership is an important investor asset.

Perspective 21 (Corporate Objective). *Individual corporations should disclose the extent to which they pursue projects and policies that diverge from the primary corporate objective of generating long-term economic profit so as to enhance shareholder value in the long term.*

Perspective 22 (Governance and Competition). *Individual corporations and shareholders should recognize the important role that corporate governance plays in positioning the corporation to compete effectively while meeting the expectations of its primary resource providers.*

Perspective 23 (Board “Best Practices”). *Individual corporations, shareholders and other interested parties should continue their efforts to articulate and adopt – voluntarily – corporate governance “best practices” designed to improve board independence and activism, and accountability to shareholders.*

Perspective 24 (Independent Oversight). *Whether in a single-tier or two-tier board system, individual corporations should ensure that an effective number of board of director members – or in certain nations, board of auditor members – are persons who are capable of exercising judgement, independent of management views. Generally, this will require that such board members are persons who are not employed by the company.*

Perspective 25 (Voting as an Asset). *Investors should consider the right to vote and participate in annual meetings as an asset that provides an opportunity to influence the direction and management of the company.*

1.5 Recommendations for Further OECD Efforts

37. The Advisory Group believes that future OECD efforts on corporate governance will be most valuable if they extend beyond collection and synthesis of information about the issues discussed in this Report. OECD efforts should extend to the articulation of a set of common public policy principles to guide national policy reviews and reforms in OECD Member nations, as well as private sector initiatives. The Advisory Group believes that the OECD is ideally situated to formulate a set of common public policy principles, grounded in a review and understanding of Member country governance policies. We expect that such an OECD effort will lead to improved corporate governance, competitiveness and access to capital markets for corporations throughout the world, with resulting benefits to economic growth, employment and society at large.

Recommendation 1. *The Advisory Group recommends that, in its ongoing efforts to encourage Member nations to create an enabling regulatory framework, the OECD pay special attention to the needs of both investors and enterprises in adapting corporate governance arrangements to changing competitive and market forces, so as to support the generation of long-term economic gain and thereby benefit society.*

Recommendation 2. *The Advisory Group recommends that OECD efforts to assist policy reviews in the area of corporate governance be based on the consideration of the Perspectives set forth in this Report, as well as a comparison of OECD nations’ corporate governance and disclosure policies and practices, and that such efforts focus on:*

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- ◇ Formulating and issuing a public policy document or instrument recommending minimum international standards of corporate governance designed to promote fairness, transparency, accountability and responsibility.
- ◇ Formulating and issuing a suggested code of voluntary corporate governance “best practices” designed to improve the board’s ability to be responsible and accountable to shareholders, which would encompass processes to ensure board independence.
- ◇ Encouraging common principles for addressing the comparability, reliability and enforcement of corporate disclosure concerning corporate financial performance, corporate ownership structure and corporate governance, culminating in the formulation and issuance of a public policy document or instrument.

Recommendation 3. *The Advisory Group recommends that, as part of its overall work on corporate governance, the OECD emphasize the importance of societal concerns and the need to clarify responsibilities between the public and private sectors.*

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INTERNATIONAL LISTING OF CORPORATE GOVERNANCE GUIDELINES, CODES OF BEST PRACTICE AND SIMILAR DOCUMENTS

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* Investor viewpoint.

** Hybrid viewpoint (investors, academics and private business sector representatives).

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ARGENTINA

- Instituto Argentino para el Gobierno de las Organizaciones (“IAGO”), Código de Mejores Prácticas de Gobierno de las Organizaciones para la República Argentina (2004). Available upon request from javier_negri@negri.com.ar
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* Investor viewpoint.

** Hybrid viewpoint (investors, academics and private business sector representatives).

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BRAZIL

- Instituto Brasileiro de Governança Corporativa (“IBGC”), Code of Best Practice of Corporate Governance (May 8, 1999, 3rd revised edition March 30, 2004). <http://www.ibgc.org.br/imagens/StConteudoArquivos/IBGC%20Code%203rd%20edition.pdf>
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- National Association of Securities Dealers, Inc. (“NASD”), NASDAQ Marketplace Rules (November 26, 2003, revised April 15, 2004). <http://www.nasdaq.com/about/RecentRuleChanges.stm>
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* Investor viewpoint.

** Hybrid viewpoint (investors, academics and private business sector representatives).

APPENDIX II

INTERNATIONAL LISTING OF CORPORATE GOVERNANCE GUIDELINES, CODES OF BEST PRACTICE AND SIMILAR DOCUMENTS

- Teachers Insurance and Annuity Association – College Retirement Equities Fund (“TIAA-CREF”), TIAA-CREF Policy Statement on Corporate Governance (October 1997, revised January 2004). http://www.tiaa-cref.org/pubs/pdf/governance_policy.pdf *
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- The Conference Board Commission on Public Trust and Private Enterprise, Findings and Recommendations, Part 1: Executive Compensation; Part 2: Corporate Governance & Part 3: Audit and Accounting (2003). http://www.conference-board.org/pdf_free/758.pdf
- American Federation of Labor and Congress of Industrial Organizations (“AFL-CIO”), Exercising Authority, Restoring Accountability – AFL-CIO Proxy Voting Guidelines (1997, revised 2003). http://www.aflcio.org/corporateamerica/capital/upload/proxy_voting_guidelines.pdf *
- Corporate Governance Center, Kennesaw State University, 21st Century Governance and Financial Reporting Principles (March 26, 2002). <http://ksuemail.kennesaw.edu/~dhermans/principi.htm>
- BRT, Statement on Corporate Governance (September 1997).
- American Society of Corporate Secretaries, Suggested Guidelines for Public Disclosure and Dealing with the Investment Community (1997).
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- American Law Institute (“ALI”), Principles of Corporate Governance: Analysis & Recommendations (1994, revised 2002). Available upon request at <http://www.ali.org/index.htm>
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* Investor viewpoint.

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