

International Comparison of Selected Corporate Governance Guidelines and Codes of Best Practice:

United States, United Kingdom, France, Germany, OECD, Netherlands, Norway, Switzerland, Australia, Brazil, China, Hong Kong, India, Russia, United Arab Emirates

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International Comparison of Selected Corporate Governance Guidelines and Codes of Best Practice

The attached analysis compares corporate governance guidelines and codes of best practice in place in selected countries, and is organized in accordance with the Key Agreed Principles to Strengthen Corporate Governance for U.S. Publicly Traded Companies (“Key Agreed Principles”) published by the National Association of Corporate Directors (“NACD”) in 2008 with input from the U.S. business and investor communities. It does not purport to include a complete summary of all statutes, regulations and listing rules that relate to board structure and practice.

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153-0119
Tel: +1 212 310 8000
Fax: +1 212 310 8007

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The Firm’s corporate governance specialists within the Public Company Advisory Group are 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.

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Weil attorneys have advised the United Nations, 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: NACD, REPORT OF THE NACD BLUE RIBBON COMMISSION ON DIRECTOR PROFESSIONALISM (1996, reissued 2001, 2005 and 2011); OECD PRINCIPLES OF CORPORATE GOVERNANCE (1999, revised 2004); European Association of Securities Dealers, CORPORATE GOVERNANCE PRINCIPLES AND RECOMMENDATIONS (2000); International Corporate Governance Network, STATEMENT ON GLOBAL CORPORATE GOVERNANCE PRINCIPLES (1999, revised 2009); REPORT OF THE BLUE RIBBON COMMITTEE ON IMPROVING THE EFFECTIVENESS OF CORPORATE AUDIT COMMITTEES (for the New York Stock Exchange and National Association of Securities Dealers) (1999); REPORT OF THE OECD BUSINESS SECTOR ADVISORY GROUP ON CORPORATE GOVERNANCE (1998), and NACD, KEY AGREED PRINCIPLES TO STRENGTHEN CORPORATE GOVERNANCE FOR U.S. PUBLICLY TRADED COMPANIES (2008). 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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“‘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.”

Ira M. Millstein
Senior Partner, Weil, Gotshal & Manges LLP
and noted authority on corporate governance

International Comparison of Selected Corporate Governance Guidelines and Codes of Best Practice

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* In the tables that follow, *italic typeface* is used to indicate the author’s comments. All other typeface represents the quoted text of the Guidelines and Codes cited.

OVERVIEW

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|--|--|---|---|
| <p><u>New York Stock Exchange (“NYSE”):</u> <u>Code:</u> NYSE Listed Company Manual predominantly § 303A <u>Issuing Body:</u> NYSE <u>Legal Basis and Compliance:</u> Mandatory, with some exceptions <u>Objective:</u> Protect investor expectations; Encourage high standards of corporate democracy <u>Scope:</u> NYSE-listed companies with certain exceptions <u>Predominant Board Structure (listed companies):</u> Unitary <u>NACD:</u> <u>Code:</u> Report of the NACD Blue Ribbon Commission on Director Professionalism (November 1996, reissued 2001, 2005, 2011) <u>Issuing Body:</u> National Association of Corporate Directors (“NACD”) <u>Legal Basis and Compliance:</u> Voluntary <u>Objective:</u> Improve quality of board (supervisory) governance; improve governance-related information available to equity markets <u>Scope:</u> Listed companies; encouraged to all companies <u>Predominant Board Structure (listed companies):</u> Unitary Note that the Nasdaq Stock Market (“<u>Nasdaq</u>”) imposes mandatory corporate governance requirements upon Nasdaq-listed companies, with some exceptions.</p> | <p><u>Code:</u> The UK Corporate Governance Code (December 1992, most recently revised September 2012) (formerly known as the Report of the Committee on the Committee on the Financial Aspects of Corporate Governance (Cadbury Report) and the Combined Code). <u>Issuing Body:</u> The Financial Reporting Council (“FRC”), a UK association that includes representatives of business, accountancy, law, government and the public sector <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 <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 <u>Scope:</u> Listed companies (with a Premium Listing of equity shares) <u>Predominant Board Structure (listed companies):</u> Unitary</p> | <p><u>Code:</u> The Corporate Governance Code of Listed Corporations (October 2003, most recently revised June 2013) <u>Issuing Bodies:</u> Mouvement des Entreprises de France (“MEDEF”) and Association Française des Entreprises Privées (“AFEP”) <u>Legal Basis and Compliance:</u> Disclosure (comply or explain) <u>Objectives:</u> Improve quality of board (supervisory) governance; improve quality of governance-related information available to equity markets <u>Scope:</u> Listed companies <u>Predominant Board Structure (listed companies):</u> Unitary Note that listed companies in France are permitted to choose which corpus of corporate governance recommendations to comply with (e.g., small and medium-sized enterprises may prefer to follow the Midlenext corporate governance recommendations issued December 2009).</p> | <p><u>Code:</u> German Corporate Governance Code (February 2002, most recently revised May 2013) <u>Issuing Body:</u> Government Commission on Corporate Governance (“Cromme Commission”) <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 the term “should”; and passages which do not use these terms contain descriptions of legal regulations and explanations (Cf. Foreword) <u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital; improve quality of governance-related information available to equity markets <u>Scope:</u> Listed companies and corporations with capital market access pursuant to Section 161 (1) sentence 2 of the Stock Corporation Act. It is recommended that companies not focused on the capital market also respect the Code. <u>Predominant Board Structure (listed companies):</u> Two-tier</p> | <p><u>Code:</u> OECD Principles of Corporate Governance (April 1999, revised April 2004) <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) <u>Issuing Body:</u> Organisation for Economic Co-operation & Development (“OECD”), an intergovernmental organisation <u>Legal Basis and Compliance:</u> Voluntary <u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital <u>Scope:</u> Listed companies; encouraged to all companies</p> |

OVERVIEW

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|---|---|---|--|
| <p><u>Code:</u> Dutch Corporate Governance Code – Principles of Good Corporate Governance and Best Practice Provisions (December 2003, most recently revised to be effective January 2009)</p> <p><u>Issuing Body:</u> Corporate Governance Code Monitoring Committee</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Regulate relations between the management board, the supervisory board and the shareholders</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Two-tier*</p> <p>* The Code is based on the system in which a separate supervisory board exists alongside the management board. The Code also contains a number of specific provisions for companies that have a one-tier structure. See Preamble ¶ 15.</p> | <p><u>Code:</u> The Norwegian Code of Practice for Corporate Governance (October 2010, most recently revised October 2012)</p> <p><u>Issuing Body:</u> Norwegian Corporate Governance Board</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Companies listed on regulated markets in Norway will practice corporate governance that regulates the division of roles between shareholders, the board of directors and executive management more comprehensively than is required by legislation.</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p> | <p><u>Code:</u> Swiss Code of Best Practice for Corporate Governance (July 2002, most recently revised September 2007)</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> Disclosure (comply or explain)</p> <p><u>Objective:</u> Improve self-regulation and provide recommendations on structuring the remuneration system</p> <p><u>Scope:</u> Public limited companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p> | <p><u>Code:</u> Corporate Governance Principles and Recommendations (March 2003, most recently revised and renamed March 2014).</p> <p><u>Issuing Body:</u> Australian Stock Exchange (“ASX”) Corporate Governance Council</p> <p><u>Legal Basis and Compliance:</u> Disclosure (comply or explain)</p> <p><u>Objective:</u> Achieve good governance outcomes and meet the reasonable expectations of most investors in most situations</p> <p><u>Scope:</u> Listed companies</p> <p><u>Predominant Board Structure (listed companies):</u> Unitary</p> | <p><u>Codes:</u></p> <ul style="list-style-type: none"> • CVM Recommendations on Corporate Governance (June 2002) (“CVM Recommendations”) • Code of Best Practice of Corporate Governance (4th Edition, 2010) (“IBGC Code”) <p><u>Issuing Body:</u></p> <ul style="list-style-type: none"> • Comissão de Valores Mobiliários (“CVM”) (Securities & Exchange Commission of Brazil) • Instituto Brasileiro de Governança Corporativa (“IBGC”) <p><u>Legal Basis and Compliance:</u></p> <ul style="list-style-type: none"> • Disclosure (comply or explain) • Voluntary (disclosure encouraged) <p><u>Objective:</u> Improve companies’ performance, competitiveness and/or access to capital</p> <p><u>Scope:</u></p> <ul style="list-style-type: none"> • Listed companies • All companies <p><u>Predominant Board Structure (listed companies):</u> Unitary*</p> <p>* In addition to the Board of Directors, the CVM Recommendations and the IBGC Code refer to a “Fiscal Board,” and the IBGC Code to an “Advisory Board.” The Fiscal or Advisory Board has limited powers relating to financial matters; the Board of Directors hires the CEO and has traditional supervisory body powers. We therefore characterize the Brazilian board structure as unitary. This chart refers to structures and practices of the Board of Directors, except where otherwise noted.</p> |

OVERVIEW

China

Code: Code of Corporate Governance for Listed Companies in China (January 2002)

Issuing Bodies: China Securities Regulatory Commission (“CSRC”) and State Economic and Trade Commission

Legal Basis and Compliance:
Disclosure (comply or explain)

Objective: Promote the establishment and improvement of modern enterprise system by listed companies, to standardize the operation of listed companies and to bring forward the healthy development of the securities market of China; 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

Scope: Listed companies

Predominant Board Structure (listed companies):
Unitary*

* 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.

Hong Kong

Code: Corporate Governance Code and Corporate Governance Report (2005, most recently revised April 2012) (Appendix 14 to Hong Kong Stock Exchange Listing Rules).

Issuing Body: Hong Kong Stock Exchange

Legal Basis and Compliance:
Issuers are expected to comply with, but may choose to deviate from, the code provisions (“CP”) (comply or explain); the recommended best practices (“RBP”) are for guidance only

Objective: Set out principles of good corporate governance

Scope: Listed companies

Predominant Board Structure (listed companies):
Unitary

India

Code: Securities and Exchange Board Circular Sub: Corporate Governance in listed entities – Amendments to Clauses 35B and 49 of the Equity Listing Agreement (2004, most recently revised April 2014; Clause 49 to be effective October 1, 2014)

Issuing Body: Securities and Exchange Board of India (“SEBI”)

Legal Basis and Compliance: Mandatory with certain exceptions as to certain recommendations

Objectives: Make corporate governance framework more effective

Scope: Listed companies with certain exceptions

Predominant Board Structure (listed companies):
Unitary

Russia

Code: Corporate Governance Code (unofficial translation) (April 2002, most recently revised and re-named April 2014)

Issuing Body: Federal Commission for the Securities Market

Legal Basis and Compliance:
Voluntary, but companies encouraged to comply or explain

Objectives: Set forth best standards of observing shareholder rights and facilitating their implementation in practice, and make a company’s management more efficient and ensure its long-term sustainable growth

Scope: Joint stock companies whose securities are listed on organized markets

Predominant Board Structure (listed companies):
Two-tier*

* 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.

UAE

Code: United Arab Emirates Ministry of Economy, Ministerial Resolution No. (518) of 2009 Concerning Governance Rules and Corporate Discipline Standards

Issuing Body: Securities and Commodities Authority (“SCA”)

Legal Basis and Compliance: Mandatory

Objective: Achieving corporate discipline in the management of companies in accordance with international standards and approaches through determination of responsibilities and duties of members of boards of directors and the executive management of the company, taking into consideration protection of shareholders’ and stakeholders’ equity

Scope: All joint stock companies whose securities are listed on a Securities and Commodities Market that is licensed and authorized by the SCA to operate in the UAE (e.g., the Abu Dhabi Securities Exchange).

Predominant Board Structure (listed companies):
Unitary

KEY AGREED PRINCIPLES¹

I. BOARD RESPONSIBILITY FOR GOVERNANCE

Governance structures and practices should be designed by the board to position the board to fulfill its duties effectively and efficiently.

The board of directors, as the central mechanism for oversight and accountability in our corporate governance system, is charged with the direction of the corporation, including responsibility for deciding how the board itself should be organized, how it should function, and how it should order its priorities. The board's fiduciary objective is long-term value creation for the corporation; governance form and process should follow.

Shareholders and management have important viewpoints about governance structures and processes, and shareholders elect directors and have authority for certain critical decisions. However, it is the board that is charged with selecting and evaluating senior executives; planning for succession; monitoring performance; overseeing strategy and risk; compensating executives; approving corporate policies and plans; approving material capital expenditures and transactions not in the ordinary course of business; ensuring the transparency and integrity of financial disclosures and controls; providing oversight of compliance with applicable laws and regulations; and setting the "tone at the top." Ultimately, therefore, the board must decide how best to position itself to fulfill its fiduciary obligations.

The corporation today faces pressures and scrutiny from a variety of stakeholders (for example, employees, customers, suppliers, special interest groups, communities, politicians, and regulators) having diverse interests in its operation and success. Moreover, shareholders are increasingly diverse and the capital markets and the business and social environment are increasingly complex and challenging. In addition to individuals who hold shares directly, investors now include a growing variety of entities that invest monies on behalf of their beneficiaries and have diverse time horizons, strategies, and interests in the corporation. These include hedge funds, private equity and venture capital funds, public and private pension funds, mutual funds, sovereign wealth funds, insurance companies, banks and other types of lenders, and derivative product holders. In responding to the pressures facing the corporation, the board must understand the diverse interests of stakeholders and investors, and consider competing demands and pressures as necessary and appropriate while ensuring that the corporation is positioned to create the long-term value that all shareholders have an interest in as a unified body.

This is the context in which the board must order its governance structures and processes, providing both oversight and guidance to management regarding strategic planning, risk assessment and management, and corporate performance. Serving as a director is demanding and—in addition to significant substantive knowledge and experience relevant to the business and governance needs of the company—requires integrity, objectivity, judgment, diplomacy, and courage.

¹ NACD, Key Agreed Principles to Strengthen Corporate Governance for U.S. Publicly Traded Companies (2009) (hereinafter "Key Agreed Principles"), available at <http://www.nacdonline.org/Resources/Article.cfm?ItemNumber=2686>.

I.A. The Corporate Objective & Mission of the Board of Directors

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|---|---|--|---|
| <p><u>NYSE</u></p> <p>Investors expect that if a company’s shares are listed on the New York Stock Exchange, the company has complied with specified financial standards and disclosure policies developed and administered by the Exchange. In addition, consistent with the Exchange’s long-standing commitment to encourage high standards of corporate democracy, every listed company is expected to follow certain practices aimed at maintaining appropriate standards of corporate responsibility, integrity and accountability to shareholders. (§ 301.00)</p> <p><u>NACD</u></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. 1)</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. 8)</p> <p>See Topic Heading I.B, below.</p> | <p>Boards of directors are responsible for the governance of their companies. ...The responsibilities of the board include setting the company’s strategic aims, providing the leadership to put them into effect, supervising the management of the business and reporting to shareholders on their stewardship. The board’s actions are subject to laws, regulations and the shareholders in general meeting. (p. 1)</p> <p>Every company should be headed by an effective board, which is collectively responsible for the long-term 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>See Topic Heading I.B, below.</p> | <p>Regardless of its membership or how it is organised, the Board of Directors is and must remain a collegial body mandated by all shareholders. It carries out the missions that have been assigned to it by the law in order to act at all times in the corporate interest. (¶ 1.1)</p> <p>In exercising its statutory prerogatives, the Board of Directors carries out the main missions below: it defines the corporation’s strategy, appoints the executive directors in charge of managing the corporation in line with that strategy, selects the form of organisation (separation of the offices of chairman and Chief Executive Officer or combination of such offices), monitors the management and secures the quality of information provided to shareholders and to the markets, through the accounts or in connection with major transactions. (¶ 1.2)</p> <p>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 modes of organisation and operation enabling it to carry out its mission in the best possible manner... (¶ 1.3)</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. (¶ 3.1)</p> <p>The Board of Directors is mandated by all the shareholders. It exercises the powers that have been assigned to it by law in order to act in the interests of the company. It is collectively accountable for performance of its assignments to the meeting of shareholders . . . (¶ 5.1)</p> <p>See ¶ 5.2 (The Board of Directors must take care not to infringe upon the specific powers of the shareholders’ meeting if the transaction that it proposes is such as to modify, in fact or in law, the corporate purpose of the company, which is the very basis of the contract founding the corporation.)</p> <p>See also Topic Heading I.B, below.</p> | <p>[T]he obligation of the Management Board and the Supervisory Board [is] to ensure the continued existence of the enterprise and its sustainable creation of value in conformity with the principles of the social market economy (interest of the enterprise). (Foreword)</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 in regular intervals. (§ 3.2)</p> <p>The Management Board is responsible for independently managing the enterprise in the interest of the enterprise, thus taking into account the interests of the shareholders, its employees and other stakeholders, with the objective of sustainable creation of value. (§ 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>See Topic Heading I.B, below.</p> | <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> <ol style="list-style-type: none"> 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. Where board decisions may affect different shareholder groups differently, the board should treat all shareholders fairly. The board should apply high ethical standards. It should take into account the interests of stakeholders. (Principle VI) <p>See 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>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 I.B, below.</p> |

I.A. The Corporate Objective & Mission of the Board of Directors

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|---|---|--|
| <p><u><i>In a Two-Tier Board Structure:</i></u></p> <p>The management board and the supervisory board are responsible for the corporate governance structure of the company and for compliance with this code. They are accountable for this to the general meeting and should provide sound reasons for any non-application of the provisions. (Principle I)</p> <p><u><i>Management Board</i></u></p> <p>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, the strategy and associated risk profile, the development of results and corporate social responsibility issues that are relevant to the enterprise. The management board is accountable for this to the supervisory board and to the general meeting. 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><i>Supervisory Board</i></u></p> <p>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. The supervisory board shall also have due regard for corporate social responsibility issues that are relevant to the enterprise. The supervisory board is responsible for the quality of its own performance. (Principle III.1)</p> <p><u><i>In a One-Tier Board Structure:</i></u></p> <p>The composition and functioning of a management board comprising both members having responsibility for the day-to-day running of the company (executive directors) and members not having such responsibility (non-executive directors) shall be such that proper and independent supervision by the latter category of members is assured. (Principle III.8)</p> <p><i>See Topic Heading I.B, below.</i></p> | <p>The company's business should be clearly defined in its articles of association. The company should have clear objectives and strategies for its business within the scope of the definition of its business in its articles of association. (§ 2)</p> <p>Attention should be paid to ensuring that the board can function effectively as a collegiate body. (§ 8)</p> <p>The board of directors should produce an annual plan for its work, with particular emphasis on objectives, strategy and implementation.</p> <p>The board of directors should issue instructions for its own work as well as for the executive management with particular emphasis on clear internal allocation of responsibilities and duties.</p> <p>(§ 9)</p> <p>The Public Companies Act stipulates that the board of directors has the ultimate responsibility for the management at the company and for supervising its day-to-day management and activities in general. (Commentary to § 9)</p> <p><i>See Topic Heading I.B, below.</i></p> | <p>The Board of Directors, which elected by the shareholders, is responsible for the strategic direction of the company or the group.</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.</p> <p>In its planning it should ensure the fundamental harmonization of strategy and finances.</p> <p>(Article II.a.9)</p> <p><i>See Topic Heading I.B, below.</i></p> | <p>Which governance practices a listed entity chooses to adopt is fundamentally a matter for its board of directors, the body charged with the legal responsibility for managing its business with due care and diligence and therefore for ensuring that it has appropriate governance arrangements in place. (p. 3)</p> <p>A listed entity should establish and disclose the respective roles and responsibilities of its board and management and how their performance is monitored and evaluated. (Principle 1)</p> <p>A listed entity should disclose:</p> <p>(a) the respective roles and responsibilities of its board and management; and</p> <p>(b) those matters expressly reserved to the board and those delegated to management.</p> <p>(Recommendation 1.1)</p> <p>Clearly articulating the division of responsibilities between the board and management will help manage expectations and avoid misunderstandings about their respective roles and accountabilities. (Commentary to Recommendation 1.1)</p> <p>Investors expect, and the law requires, the board of a listed entity to act in the best interests of the entity and its security holders generally. (Commentary to Recommendation 2.4)</p> <p>A listed entity should act ethically and responsibly. (Principle 3)</p> <p><i>See Topic Heading I.B, below.</i></p> | <p><u><i>Board of Directors</i></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 value the organization, optimize the return on investment in the long term and seek a balance between the desires of stakeholders..., so that each receives an appropriate and proportional benefit to their holdings in the organization and the risk to which they are exposed. (IBGC Code ¶ 2.2)</p> <p>The Board of Directors is the custodian of the organization's object and governance system. The Board decides the direction of business, according to the organization's best interests.... The Board of Directors should always decide in favor of the best interests of the organization as a whole, regardless of the parties who have appointed or elected its members. (IBGC Code ¶ 2.1)</p> <p>The Board of Directors should preserve the values and purposes of the organization. (IBGC ¶ 2.3)</p> <p><u><i>Fiscal/Advisory Board</i></u></p> <p>[The Fiscal Council] should be seen as an independent control tool for owners, which aim[s] to add value to the organization. (IBGC Code ¶ 5.1)</p> <p><i>See</i> 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><i>Family Council</i></u></p> <p>Family organizations should consider establishing a Family Council, a group formed to discuss family issues and the alignment of its members' expectations with regard to the organization. (IBGC Code ¶ 1.9)</p> <p><i>See also</i> Topic Heading I.B, below.</p> |

I.A. The Corporate Objective & Mission of the Board of Directors

| China | Hong Kong | India | Russia | UAE |
|---|---|--|---|---|
| <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 also</i> Topic Heading I.B, <i>below</i>.</p> | <p>An issuer should be headed by an effective board which should assume responsibility for its leadership and control and be collectively responsible for promoting its success by directing and supervising its affairs. Directors should take decisions objectively in the best interests of the issuer. (Principle A.1)</p> <p>Independent non-executive directors and other non-executive directors should make a positive contribution to the development of the issuer's strategy and policies through independent, constructive and informed comments. (CP A.6.8)</p> <p><i>See</i> Topic Heading I.B, <i>below</i>.</p> | <p>The Board and top management should conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture for good decision-making. (§ 49.I.D 1b)</p> <p>The Board should provide the strategic guidance to the company, ensure effective monitoring of the management and should be accountable to the company and the shareholders. The Board should set a corporate culture and the values by which executives throughout a group will behave. 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. (§ 49.I.D.3)</p> <p><i>See also</i> Topic Heading I.B, <i>below</i>.</p> | <p>The board of directors shall be in charge of strategic management of the company, determine major principles of and approaches to creation of a risk management and internal control system within the company, monitor the activity of the company's executive bodies, and carry out other key functions. (Principle 2.1)</p> <p>The board of directors should be an efficient and professional governing body of the company which is able to make objective and independent judgements and pass resolutions in the best interests of the company and its shareholders. (Principle 2.3)</p> <p>Board members must act reasonably and in good faith in the best interests of the company and its shareholders, being sufficiently informed, with due care and diligence. (Principle 2.6)</p> <p>Acting reasonably and in good faith means that board members should make decisions considering all available information, in the absence of a conflict of interest, treating shareholders of the company equally, and assuming normal business risks. (Principle 2.6.1)</p> <p>Board members should carry out their duties reasonably and in good faith, with due care and diligence and in the best interests of the company and of its shareholders in order to achieve sustainable and successful development of the company. (Recommendation 126)</p> <p><i>See also</i> Topic Heading I.B, <i>below</i>.</p> | <p>The board of directors shall develop procedural rules for corporate governance, supervise and control the application of the same, in line with the provisions of this Resolution and shall be liable for the application thereof in accordance herewith. (Article 3.12)</p> <p>Corporate governance [is] a set of rules, standards and procedures that aim at achieving corporate discipline in the management of the company in accordance with international standards and approaches through determination of responsibilities and duties of members of boards of directors and the executive management of the company, taking into consideration protection of shareholders' and stakeholders' equity. (Article 1)</p> <p><i>See also</i> Topic Heading I.B, <i>below</i>.</p> |

I.B. Board Job Description / Director Responsibilities

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|---|---|--|--|
| <p><u>NYSE</u></p> <p><i>Not covered.</i></p> <p><u>NACD</u></p> <p>[E]ach board has the freedom – and, the Commission believes, the obligation – to define its role and duties in detail. (p. 1)</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. . . , and ensuring management succession. • 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 and regulations, auditing and accounting principles, and the corporation’s own governing documents. • Assessing its own effectiveness • Performing such other functions as are prescribed by law or are assigned to the board in the corporation’s governing documents. (pp. 1-2) <p>Boards should periodically review board and CEO role descriptions to accommodate changes in corporate governance and company operations. (p. 4)</p> <p><i>See generally</i> Chapter 2, Processes: How Boards Should Fulfill Their Responsibilities, pp. 3-6.</p> <p><i>See also</i> Topic Heading I.A, <i>above</i>.</p> | <p>All directors must act in what they consider to be the best interests of the company, consistent with their statutory duties. (Supporting Principle A.1)</p> <p>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. (Code Provision A.1.1)</p> <p>As part of their role as members of a unitary board, non-executive directors should constructively challenge and help develop proposals on strategy. (Main Principle A.4)</p> <p>Non-executive 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.4)</p> <p><i>See</i> Topic Heading I.A, <i>above</i>.</p> | <p>The Board of Directors . . . calls the meeting [of shareholders] and sets its agenda, appoints and dismisses the Chairman, the Chief Executive Officer, and deputy 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. (¶ 5.1)</p> <p>[E]ach director should act in the corporate interest; failure to do so may give rise to personal liability. (¶ 6.2)</p> <p>The director should give his or her duties the necessary time and attention. (¶ 19)</p> <p>Any director of a listed corporation should consider himself or herself as being bound by the following obligations:</p> <ul style="list-style-type: none"> • Before accepting office, the director should ensure that he or she is familiar with the general or specific obligations connected with that office. . . . • [T]he director should be a shareholder • The director is mandated by all the shareholders . . . • The director is bound to report to the Board any conflict of interest • 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 • The director should . . . abstain from [insider trading and] disclose transactions entered into in respect of the corporation’s securities • [T]he director should attend the meeting of shareholders. <p>(¶ 20)</p> <p><i>See also</i> Topic Headings I.A, <i>above</i>, and II.C, <i>below</i>.</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 and the enterprise’s internal policies are abided by and works to achieve their compliance by group companies (compliance). (§ 4.1.3)</p> <p>The Management Board ensures appropriate risk management and risk controlling in the enterprise. (§ 4.1.4)</p> <p>By-Laws shall govern the work of the Management Board.... (§ 4.2.1)</p> <p><i>See</i> Topic Headings I.A, <i>above</i>, and II.C, <i>below</i>.</p> | <p>The board should fulfill certain key functions, including:</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 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 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 8. Overseeing the process of disclosure and communications. <p>(Principle VI.D)</p> <p>The board should be able to exercise objective independent judgment on corporate affairs. (Principle VI.E)</p> <p><i>See</i> Topic Heading I.A, <i>above</i>.</p> |

I.B. Board Job Description / Director Responsibilities

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|--|--|--|---|
| <p><u><i>In a Two-Tier Board Structure:</i></u></p> <p><u><i>Management Board</i></u></p> <p>The management board is responsible for complying with all relevant primary and secondary legislation, 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 the audit committee. (Principle II.1)</p> <p>The management board shall submit to the supervisory board for approval:</p> <ol style="list-style-type: none"> the operational and financial objectives of the company; the strategy designed to achieve the objectives; the parameters to be applied in relation to the strategy, for example in respect of the financial ratios; and corporate social responsibility issues that are relevant to the enterprise. <p>The main elements shall be mentioned in the annual report.</p> <p>(Best Practice Provision II.1.2)</p> <p><u><i>Supervisory Board</i></u></p> <p>The supervision of the management board by the supervisory board shall include:</p> <ol style="list-style-type: none"> achievement of the company's objectives; corporate strategy and the risks inherent in the business activities; the design and effectiveness of the internal risk management and control systems; the financial reporting process; compliance with primary and secondary legislation; the company-shareholder relationship; and corporate social responsibility issues that are relevant to the enterprise. (Best Practice Provision III.1.6) <p><i>See Topic Heading I.A, above.</i></p> | <p>The board of directors must ensure that the company implements sound corporate governance.... The board of directors should define the company's basic corporate values and formulate ethical guidelines and guidelines for corporate social responsibility in accordance with these values. (§ 1)</p> <p>The board of directors should produce an annual plan for its work, with particular emphasis on objectives, strategy and implementation.</p> <p>The board of directors should issue instructions for its own work as well as for the executive management with particular emphasis on clear internal allocation of responsibilities and duties.</p> <p>(§ 9)</p> <p>The Public Companies Act stipulates that the board of directors has the ultimate responsibility for the management at the company and for supervising its day-to-day management and activities in general.</p> <p>The board's responsibility for the management of the company includes responsibility for ensuring that the activities are soundly organised, drawing up plans and budgets for the activities of the company, keeping itself informed of the company's financial position and ensuring that its activities, accounts and asset management are subject to adequate control.</p> <p>The board of directors should lead the company's strategic planning, and make decisions that form the basis for the executive management to prepare for and implement investments and structural measures. The company's strategy should be reviewed on a regular basis.</p> <p>(Commentary to § 9)</p> <p><i>See Topic Heading I.A, above.</i></p> | <p>Swiss company law lays down the inalienable and non-transferable primary functions of the Board of Directors.</p> <p>The primary functions are:</p> <ol style="list-style-type: none"> the ultimate direction of the company and the giving of the necessary directives; the establishment of the organization; the structuring of the accounting system and of the financial controls as well as financial planning, insofar as necessary to manage the company; the appointment and removal of the persons entrusted with the management and representation of the company; 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; the preparation of the annual report as well as the preparation of the general shareholders' meeting and the implementation of its resolutions; the notification of the court in case of an excess of indebtedness over assets. (Art. 716a [1] Swiss Code of Obligations). <p>(Article II.a.10)</p> <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.</p> <p>The Board of Directors should ensure that management and control functions are allocated appropriately.</p> <p>If the Board of Directors delegates management responsibilities to a Managing Director or to a separate Executive Board, it should issue organizational regulations with a clear definition of the scope of the powers conferred. As a rule it should reserve to itself the power to approve certain significant business transactions.</p> <p>(Article II.a.11)</p> <p><i>See Topic Heading I.A, above.</i></p> | <p>Clearly articulating the division of responsibilities between the board and management will help manage expectations and avoid misunderstandings about their respective roles and accountabilities. Usually the board of a listed entity will be responsible for:</p> <ul style="list-style-type: none"> providing leadership and setting the strategic objectives of the entity; appointing the chair and, if the entity has one, the deputy chair and/or the "senior independent director"; appointing, and when necessary replacing, the CEO; approving the appointment, and when necessary replacement, of other senior executives; overseeing management's implementation of the entity's strategic objectives and its performance generally; approving operating budgets and major capital expenditure; overseeing the integrity of the entity's accounting and corporate reporting systems, including the external audit; overseeing the entity's process for making timely and balanced disclosure of all material information concerning the entity that a reasonable person would expect to have a material effect on the price or value of the entity's securities; ensuring that the entity has in place an appropriate risk management framework and setting the risk appetite within which the board expects management to operate; approving the entity's remuneration framework; and monitoring the effectiveness of the entity's governance practices. . . <p>Some of these matters may be delegated to a committee of the board, with the board retaining the ultimate oversight and decision-making power in respect of the matters so delegated.</p> <p>(Commentary to Recommendation 1.1)</p> <p><i>See Topic Heading I.A, above.</i></p> | <p><u><i>Board of Directors</i></u></p> <p>The main responsibilities of a Board of Directors include discussion, approval, and monitoring of decisions involving: strategy: capital structure; risk appetite and tolerance (risk profile); mergers and acquisitions; hiring, dismissal, assessment and compensation of the CEO, and the other officers, starting with the proposal submitted by the CEO; choice and evaluation of independent auditors; the succession process of Board members and officers; corporate governance practices; relationship with stakeholders; the internal controls system (including policies and limits of authority); policy on people management; the code of conduct. (IBGC Code ¶ 2.3)</p> <p>The Board member should also have no conflict of interest of a serious nature...and be always aware of the organization's affairs. A Board member should moreover understand their duties and responsibilities are comprehensive (and not restricted to the Board's meetings). (IBGC Code ¶ 2.5)</p> <p><i>See Commentary on CVM Recommendation IV.2</i> (The board of directors should provide appropriate means for the good functioning of the fiscal board....).</p> <p><i>See also IBGC Code ¶ 2.25</i> (The activities of the Board of Directors should be laid down in the Internal Regulations, which clarifies responsibilities, powers and measures to be adopted in situations of conflict, especially when involving the CEO and the shareholders.).</p> <p><u><i>Fiscal/Advisory Board</i></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 Topic Heading I.A, above.</i></p> |

I.B. Board Job Description / Director Responsibilities

| China | Hong Kong | India | Russia | UAE |
|---|---|--|---|---|
| <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>Directors shall attend the board of directors meetings in a diligent and responsible manner, and shall express their clear opinion on the topics discussed. (Ch. 3, (2) 35)</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>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>The board of directors shall earnestly perform its duties as stipulated by laws, regulations and the company's articles of association, shall ensure that the company complies with laws, regulations and its articles of association, shall treat all the shareholders equally and shall be concerned with the interests of stakeholders. (Ch. 3, (3) 43)</p> <p>All matters related to material interests of the company shall be submitted to the board of directors for collective decision. (Ch. 3, (4) 48)</p> <p>The independent directors shall bear the duties of good faith and due diligence toward the listed company and all the shareholders. They shall earnestly perform their duties in accordance with laws, regulations and the company's articles of association, shall protect the overall interests of the company, and shall be especially concerned with protecting the interests of minority shareholders from being infringed. (Ch. 3, (5) 50)</p> <p><i>See Topic Heading I.A, above.</i></p> | <p>Every director must always know his responsibilities as a director of an issuer and its conduct, business activities and development. Given the essential unitary nature of the board, non-executive directors have the same duties of care and skill and fiduciary duties as executive directors. (Principle A.6)</p> <p>The functions of non-executive directors should include:</p> <p>(a) participating in board meetings to bring an independent judgement to bear on issues of strategy, policy, performance, accountability, resources, key appointments and standards of conduct;</p> <p>(b) taking the lead where potential conflicts of interests arise;</p> <p>(c) serving on the audit, remuneration, nomination and other governance committees, if invited; and</p> <p>(d) scrutinising the issuer's performance in achieving agreed corporate goals and objectives, and monitoring performance reporting.</p> <p>(CP A.6.2)</p> <p><i>See Topic Heading I.A, above.</i></p> | <p>The board should fulfill certain key functions, including:</p> <p>a. 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 divestments.</p> <p>b. Monitoring the effectiveness of the company's governance practices and making changes as needed.</p> <p>c. Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning.</p> <p>d. Aligning key executive and board remuneration with the longer term interests of the company and its shareholders.</p> <p>e. Ensuring a transparent board nomination process with the diversity of thought, experience, knowledge, perspective and gender in the Board.</p> <p>f. Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions.</p> <p>g. Ensuring the integrity of the company'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.</p> <p>h. Overseeing the process of disclosure and communications.</p> <p>i. Monitoring and reviewing Board Evaluation framework.</p> <p>(§ 49.I.D.2)</p> <p><i>See also § 49.I.D.3 for other director responsibilities.</i></p> <p><i>See Topic Heading I.A, above.</i></p> | <p>The board of directors should be responsible for decisions to appoint and remove [members] of executive bodies, including in connection with their failure to properly perform their duties. The board of directors should also procure that the company's executive bodies act in accordance with an approved development strategy and main business goals of the company. (Principle 2.1.1)</p> <p>The board of directors should establish basic long-term targets of the company's activity, evaluate and approve its key performance indicators and principal business goals, as well as evaluate and approve its strategy and business plans in respect of its principal areas of operations. (Principle 2.1.2)</p> <p>The board of directors should determine principles of and approaches to creation of the risk management and internal control system in the company. (Principle 2.1.3)</p> <p>The board of directors should determine the company's policy on remuneration due to and/or reimbursement of costs incurred by its board members, members of its executive bodies and other key managers. (Principle 2.1.4)</p> <p>The board of directors should play a key role in prevention, detection and resolution of internal conflicts between the company's bodies, shareholders and employees. (Principle 2.1.5)</p> <p>The board of directors should play a key role in procuring that the company is transparent, discloses information in full and in due time, and provides its shareholders with unhindered access to its documents. (Principle 2.1.6)</p> <p>The board of directors should monitor the company's corporate governance practices and play a key role in its material corporate events. (Principle 2.1.7)</p> <p><i>See generally Recommendations 55 – 85.</i></p> <p><i>See Topic Heading I.A, above.</i></p> | <p>A Company shall be managed by a board of directors. (Article 3.1)</p> <p>The board of directors shall develop procedural rules for corporate governance, supervise and control the application of the same, in line with the provisions of this Resolution and shall be liable for the application thereof in accordance herewith. (Article 3.12)</p> <p>The member shall, when exercising his/her powers and duties, act honestly and loyally, taking into consideration the interests of the Company and its shareholders, make the utmost effort and adhere to applicable laws, regulations and resolutions as well as the articles of association and internal regulations of the Company. (Article 5.3)</p> <p>The duties of non-executive board members shall, in particular, include:</p> <ul style="list-style-type: none"> • participation in board meetings to give an independent opinion in respect of strategic issues, policy, performance, accounting, resources, basic appointments and standards of operation; • giving priority to the interests of the Company and its shareholders upon conflict of interest; • participation in the audit committees of the Company; • follow-up of the Company's performance in order to achieve agreed objectives and purposes and oversee performance reports; and • empowering the board of directors and different committees through utilization of their skills and experience and the diversity of their competences and qualifications through regular attendance, effective participation, attendance of general assembly meetings and developing a balanced understanding of shareholders' views. (Article 5.4) <p><i>See Topic Heading I.A, above.</i></p> |

KEY AGREED PRINCIPLES

II. CORPORATE GOVERNANCE TRANSPARENCY

Governance structures and practices should be transparent— and transparency is more important than strictly following any particular set of best practice recommendations.

A variety of structures and practices may support and further effective governance. Boards should tailor governance structures and practices to the needs of the company in a pragmatic search for what is most effective and efficient. Governance best practices should be adopted thoughtfully, and not by rote reliance on the recommendations posited by any entity or group. However, every board should strive to understand generally the parameters of and variations in standards of best practice recommended by NACD, Business Round Table, and other thoughtful proponents of effective governance practices....

Every board should explain, in proxy materials and other communications with shareholders, why the governance structures and practices it has developed are best suited to the company. Some boards may choose to disclose their own practices in relation to a set of recognized best practice recommendations, identifying those areas where their practices differ and explaining the board's rationale for such differences. Whether or not a board discloses its practices against a defined set of recommendations, it is the disclosure of governance structures and practices generally and the rationale for divergences from widely accepted best practices that is important. Disclosure of the practices adopted and adapted by the board, along with the rationale for unusual aspects, is far preferable to the adoption of any prescribed set of best practices. Valuing disclosure over rigid adoption of any set of recommended best practices encourages boards to experiment and develop approaches that address their own particular needs, and avoids rigidity. Boards that explain their practices should be rewarded and not penalized for decisions to adapt best practice to their own needs.

II.A. Corporate Governance Guidelines & Related Disclosure

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|---|--|--|--|
| <p><u>NYSE</u></p> <p>[The nominating/corporate governance committee must] develop and recommend to the board a set of corporate governance guidelines applicable to the corporation... (§ 303A.04(b))</p> <p>Listed companies must adopt and disclose corporate governance guidelines (§ 303A.09).</p> <p>The following subjects must be addressed in the corporate governance guidelines:</p> <ul style="list-style-type: none"> • Director qualification standards . . . • Director responsibilities . . . • Director access to management and, as necessary and appropriate, independent advisors • Director compensation . . . • Director orientation and continuing education • Management succession • Annual performance evaluation of the board (Commentary to § 303A.09) <p>A listed company must make its corporate governance guidelines available on or through its website. (Website Posting Requirement, § 303A.09)</p> <p>A listed company must disclose in its annual proxy statement or, if it does not file an annual proxy statement, in its annual report on Form 10-K filed with the SEC that its corporate governance guidelines are available on or through its website and provide the website address. (Disclosure Requirements, § 303A.09)</p> <p><u>NACD</u></p> <p>In general, boards are permitted, but not required, to appoint committees to assist in the management of their responsibilities. However, publicly traded companies listed on the major U.S. exchanges are required to have an audit committee composed of independent directors. Moreover, certain proxy rules and regulations mandate disclosure of certain committee structures and functions, which may encourage the appointment of board nominating and compensation committees.</p> <p>Many companies have elected to elaborate on these requirements and responsibilities and on methods for the board to fulfill them by developing board guidelines</p> <p>These corporate elaborations on board responsibilities serve two purposes: first, they show that boards understand their role and the importance of independence; second, they demonstrate that directors have taken steps to exercise their authority in this role. Both of these purposes contribute to a culture of board professionalism, and prospective board members should ask if such guidelines exist when considering joining any board. (p. 2)</p> | <p>Chairmen are encouraged to report personally in their annual statements how the principles relating to the role and effectiveness of the board (in Sections A and B of the Code) have been applied. Not only will this give investors a clearer picture of the steps taken by boards to operate effectively but also, by providing fuller context, it may make investors more willing to accept explanations when a company chooses to explain rather than to comply with one or more provisions. Above all, the personal reporting on governance by chairmen as the leaders of boards might be a turning point in attacking the fungus of “boiler-plate” which is so often the preferred and easy option in sensitive areas but which is dead communication. (pp. 2-3)</p> <p>The nomination committee should make available its terms of reference, explaining its role and . . . authority (Code Provision A.4.1)</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 Where an external search consultancy has been used, it should be identified in the report and a statement should be made as to whether it has any other connection with the company. (Code Provision B.2.4)</p> <p>[T]erms and conditions of appointment of non-executive directors should be made available.... (Code Provision B.3.2)</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. (Code Provision B.6.1)</p> <p>The remuneration committee should make available its terms of reference, explaining its role and the authority delegated to it by the board. Where remuneration consultants are appointed, they should be identified in the annual report and a statement made as to whether they have any other connection with the company. (Code Provision D.2.1)</p> <p>The terms of reference of the audit committee, including its role and the authority delegated to it by the board, should be made available. (Code Provision C.3.3)</p> <p><i>See</i> Schedule B: Disclosure of corporate governance arrangement. (pp. 27-32)</p> | <p>[I]t is essential for the shareholders and third parties to be fully informed of the choice made between separation of the offices of Chairman and Chief Executive Officer and maintenance of these positions as a single office. (¶ 3.2)</p> <p>[S]hareholders should be informed each year in the annual report of the evaluations [of the board] carried out and, if applicable, of any steps taken as a result. (¶ 10.3)</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 (¶ 11)</p> <p>The audit committee’s operating reports to the Board of Directors should provide the Board with full information The annual report should include a statement on the audit committee’s activity during the past financial year. (¶ 16.3)</p> <p>The [compensation] committee’s operating reports to the Board of Directors should provide the Board with full information The annual report should include a statement on the compensation committee’s activity during the past financial year. (¶ 18.2)</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, provide an explanation of the reasons why they have deviated from any of them. . . . (¶ 25.1)</p> | <p>The Management Board and Supervisory Board shall report each year on Corporate Governance (Corporate Governance Report) and publish this report in connection with the statement on Corporate Governance. Comments should also be provided on the Code’s suggestions. The company shall keep previous declarations of conformity with the Code available for viewing on its website for five years. (§ 3.10)</p> <p>The concrete objectives of the Supervisory Board [with respect to Supervisory Board composition] and the status of the implementation shall be published in the Corporate Governance Report. (§ 5.4.1)</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. (§ 5.4.7)</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>Beyond the statutory obligation to report and disclose dealings in shares of the company 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 1% of the shares issued by the company. If the entire holdings of all members of the Management Board and Supervisory Board exceed 1% of the shares issued by the company, these shall be reported separately for the Management Board and Supervisory Board in the Corporate Governance Report. (§ 6.3)</p> | <p>Disclosure should include, but not be limited to, material information on: . . .</p> <ol style="list-style-type: none"> 2. Company objectives. 3. Major share ownership and voting rights. 4. [I]nformation about board members [including] whether they are regarded as independent 8. Governance structures and policies, in particular, the content of any corporate governance code or policy and the process by which it is implemented. (Principle V.A.8) <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 long term. (Millstein Report, Perspective 21)</p> |

II.A. Corporate Governance Guidelines & Related Disclosure

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p>The company should state each year in its annual report how it applied the principles and best practice provisions of the Code in the past year and should, where applicable, carefully explain why a provision was not applied. It is up to the shareholders to call the management board and the supervisory board to account for compliance with the Code. (Preamble ¶ 4)</p> <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. In this chapter the company shall indicate expressly to what extent it applies the best practice provisions in this 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 the procedure of the supervisory board shall be laid down in terms of reference. The supervisory board's terms of reference shall include a paragraph dealing with its relations with the management board, the general meeting and the central works council or works council. The terms of reference shall be 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>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 board of directors must provide a report on the company's corporate governance in the directors' report or in a document that is referred to in the directors' report. The report on the company's corporate governance must cover every section of the Code of Practice. If the company does not fully comply with this Code of Practice, the company must provide an explanation of the reason for the deviation and what solution it has selected. (§ 1)</p> <p>The requirements of the Code of Practice are more comprehensive than the statutory requirements: Firstly, the report must cover every section of the Code of Practice. This means that companies must provide information on the sections with which they comply as well as on the sections from which they deviate. Secondly, a company that does not comply with the Code of Practice must ... explain what alternative solution it has selected. (Commentary to § 1)</p> <p>The annual report should include the business activities clause from the articles of association and describe the company's objectives and principal strategies. (§ 2)</p> <p>The [company's] dividend policy should be disclosed. (§ 3)</p> <p>The annual report should provide information to illustrate the expertise of the members of the board of directors, and information on their record of attendance at board meetings. In addition, the annual report should identify which members are considered to be independent. (§ 8)</p> | <p>The company should disclose information on Corporate Governance in its annual report.</p> <p>The SWX Swiss Exchange Directive on information relating to Corporate Governance is applicable with regard to detailed disclosures.</p> <p>(Article IV.30)</p> | <p>The role and responsibility of the board could be set out in a board charter or in some other document published on the entity's website or in its annual report. That document could usefully set out the role and responsibility of the chair of the board and, if the listed entity has one, the role and responsibility of the deputy chair and/or the "senior independent director". It could also usefully set out the entity's policy on when and how directors may seek independent professional advice at the expense of the entity (which generally should be whenever directors, especially non-executive directors, judge such advice necessary for them to discharge their responsibilities as directors). (Commentary to Recommendation 1.1)</p> <p>A listed entity should ... disclose ... [its diversity] policy or a summary of it ... (Recommendation 1.5)</p> <p>A listed entity should: (a) have and disclose a process for periodically evaluating the performance of the board, its committees and individual directors ... (, Recommendation 1.6)</p> <p>A listed entity should: (a) have and disclose a process for periodically evaluating the performance of its senior executives ... (Recommendation 1.7)</p> <p>A listed entity should make timely and balanced disclosure of all matters concerning it that a reasonable person would expect to have a material effect on the price or value of its securities. (Principle 5)</p> <p>Listing Rule 3.1 requires a listed entity, subject to certain exceptions, to disclose to ASX immediately any information concerning it that a reasonable person would expect to have a material effect on the price or value of its securities.</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>Shareholder agreements on the purchase and sale of their holdings, purchasing preference, the exercise of voting rights or controlling power must be available and accessible to all other shareholders. In listed companies, such agreements should be open and published on the websites of the organization and Comissão de Valores Mobiliários. (IBGC Code ¶ 1.3)</p> <p>The activities of the Board of Directors should be laid down in the Internal Regulations, which clarifies responsibilities, powers and measures to be adopted in situations of conflict, especially when involving the CEO and the shareholders. The limits of action and responsibilities of the Board of Directors and its members should be clear. Organizations that access the capital market should publish their internal regulations on their websites. (IBGC Code ¶ 2.25)</p> |

I.A. Corporate Governance Guidelines & Related Disclosure

| China | Hong Kong | India | Russia | UAE |
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| <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>Issuers must include a Corporate Governance Report prepared by the board of directors in their summary financial reports (if any) . . . The Corporate Governance Report must contain all the information set out in Paragraphs G to P of this [Code]. Any failure to do so will be regarded as a breach of the Exchange Listing Rules. To a reasonable and appropriate extent, the Corporate Governance Report included in an issuer's summary financial report may be a summary of the Corporate Governance Report contained in the annual report and may also incorporate information by reference to its annual report. The references must be clear and unambiguous and the summary must not contain only a cross-reference without any discussion of the matter. The summary must contain, as a minimum, a narrative statement indicating overall compliance with and highlighting any deviation from the code provisions. (p. 2)</p> <p>The terms of reference of the board (or a committee or committees performing this function) should include at least: to develop and review an issuer's policies and practices on corporate governance and make recommendations to the board...(CP D.3.1)</p> <p>To provide transparency, the issuers must include the following information for the accounting period covered by the annual report and significant subsequent events for the period up to the date of publication of the annual report, to the extent possible:...</p> <p>(a) A narrative statement explaining how the issuer has applied the principles in the Code, enabling its shareholders to evaluate how the principles have been applied; (b) a statement as to whether the issuer meets the code provisions. If an issuer has adopted its own code that exceeds the code provisions, it may draw attention to this fact in its annual report; and (c) for any deviation from the code provisions, details of the deviation during the financial year (including considered reasons). (Para. G)</p> | <p>There shall be a separate section on Corporate Governance in the Annual Reports of company, with a detailed compliance report on Corporate Governance. Non-compliance of any mandatory requirement of this clause with reasons thereof and the extent to which the non-mandatory requirements have been adopted should be specifically highlighted. The suggested list of items to be included in this report is given in Annexure - XII to the Listing Agreement and list of non-mandatory requirements is given in Annexure - XIII to the Listing Agreement. (§ 49.X.A)</p> | <p>Rights and duties of board members should be clearly stated and documented in the company's internal documents. (Principle 2.6.2)</p> <p>The company should disclose information on its corporate governance system and practices, including detailed information on compliance with the principles and recommendations of this Code. (Principle 6.1.2)</p> <p><i>See generally</i> Recommendations 277 – 280.</p> | <p>A Company's articles of association and internal regulations shall include necessary procedures and rules to ensure the exercise by all shareholders of all their regulatory rights including...provision of all information that enables shareholders to exercise their rights duly and indiscriminately, including their awareness of the rules that govern general assembly meetings and voting procedures. Such information shall be complete and accurate and shall be provided and updated regularly on a timely basis, including any information with regard to the Company's plans before voting in meetings or any other information.... (Article 12.2)</p> |

II.B. Content, Character & Accuracy of Disclosure

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p><i>Not covered.</i></p> <p><u>NACD</u></p> <p><i>Not covered directly, but see Topic Headings II.A, above, and II.C & VII.G, below.</i></p> | <p>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. (Code Provision A.1.1)</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 board committees. It should also set out the number of meetings of the board and those committees and individual attendance by directors. (Code Provision A.1.2)</p> <p>The board should present a fair, balanced and understandable assessment of the company's position and prospects. (Main Principle C.1)</p> <p>The board's responsibility to present a fair, 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. The board should establish arrangements that will enable it to ensure that the information presented is fair, balanced and understandable. (Supporting Principle C.1)</p> <p>The directors should explain in the annual report their responsibility for preparing the annual report and accounts, and state that they consider the annual report and accounts, taken as a whole, is fair, balanced and understandable and provides the information necessary for shareholders to assess the company's performance, business model and strategy. There should be a statement by the auditor about their reporting responsibilities. (Code Provision C.1.1)</p> <p>The directors should include in the annual report an explanation of the basis on which the company generates or preserves value over the longer term (the business model) and the strategy for delivering the objectives of the company. (Code Provision C.1.2)</p> <p>The directors should report in annual and half-yearly financial statements that the business is a going concern, with supporting assumptions or qualifications as necessary. (Code Provision C.1.3)</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 non-executive directors, develop an understanding of the views of major shareholders about the company, for example through direct face-to-face contact, analysts' or brokers' briefings and surveys of shareholder opinion. (Code Provision E.1.2)</p> | <p>Each listed company must be equipped with reliable procedures for the identification, monitoring and assessment of its commitments and risks, and provide shareholders and investors with relevant information in this area. (¶ 2.2)</p> <p>In addition to the forms of disclosure required by regulations, the reference document or the annual report may serve as 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 expiry of each director's term of office, to make the existing staggering clear. It should also mention, for each director, in addition to the list of offices and positions held in other corporations, his or her nationality, age and principal position, and a list by name of members of each Board committee. (¶ 14)</p> <p><i>See ¶¶ 16.3, 17.2.2 and 18.2 (the annual report should include statements on the activities of the audit, compensation and nominations committees during the elapsed financial year).</i></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. (§ 6.1)</p> <p>Any information which the company discloses abroad, in line with corresponding capital market law provisions, shall also be disclosed domestically without delay. (§ 6.2)</p> <p>The Consolidated Financial Statements and the Condensed Consolidated Financial Statements in the half-year financial report and the quarterly financial report shall be prepared under observance of internationally recognised accounting principles. (§ 7.1.1)</p> <p>The Consolidated Financial Statements must be prepared by the Management Board and examined by the auditor and Supervisory Board. Half-year and any quarterly financial reports shall be discussed with the Management Board by the Supervisory Board or its Audit Committee prior to publication. In addition, the Financial Reporting Enforcement Panel and the Federal Financial Supervisory Authority are authorized to check that the Consolidated Financial Statements comply with the 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><i>See generally § 6, Transparency, and § 7, Reporting and Audit of the Annual Financial Statements.</i></p> | <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 non-financial 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><i>See Millstein Report, Perspectives 9-10 (Regulators should require that corporations disclose accurate, timely information [and] cooperate internationally in developing clear, consistent and comparable standards for disclosure.).</i></p> |

II.B. Content, Character & Accuracy of Disclosure

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <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. . . . 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>The board of directors must provide a report on the company's corporate governance in the directors' report or in a document that is referred to in the directors' report. The report on the company's corporate governance must cover every section of the Code of Practice. If the company does not fully comply with this Code of Practice, the company must provide an explanation of the reason for the deviation and what solution it has selected. (§ 1)</p> <p>The requirements of the Code of Practice are more comprehensive than the statutory requirements: Firstly, the report must cover every section of the Code of Practice. This means that companies must provide information on the sections with which they comply as well as on the sections from which they deviate. Secondly, a company that does not comply with the Code of Practice must . . . explain what alternative solution it has selected. (Commentary to § 1)</p> <p>The board of directors must by law provide an account of the main features of the company's internal control and risk management systems as they relate to the company's financial reporting. This account should include sufficient and properly structured information to make it possible for shareholders to understand how the company's internal control system is organised. The account should address the main areas of internal control related to financial reporting. This includes the control environment, risk evaluation, control activities, information and communication and follow-up. If the company uses an established framework for internal control this should be disclosed. (Commentary to § 10)</p> <p>The board of directors should establish guidelines for the company's reporting of financial and other information based on openness and taking into account the requirement for equal treatment of all participants in the securities market. The company should publish an overview each year of the dates for major events such as its annual general meeting, publication of interim reports, public presentations, dividend payment date if appropriate etc. All information distributed to the company's shareholders should be published on the company's web site at the same time as it is sent to shareholders. (§ 13)</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.</p> <p>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.</p> <p>(Article II.g.24)</p> <p>The SWX Swiss Exchange Directive on information relating to Corporate Governance is applicable with regard to detailed disclosures. (Article IV.30)</p> | <p>A listed entity should have formal and rigorous processes that independently verify and safeguard the integrity of its corporate reporting. (Principle 4)</p> <p>The board of a listed entity should, before it approves the entity's financial statements for a financial period, receive from its CEO and CFO a declaration that, in their opinion, the financial records of the entity have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of the entity and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively. (Recommendation 4.2)</p> <p>A listed entity should make timely and balanced disclosure of all matters concerning it that a reasonable person would expect to have a material effect on the price or value of its securities. (Principle 5)</p> <p>A listed entity should: (a) have a written policy for complying with its continuous disclosure obligations under the Listing Rules; and (b) disclose that policy or a summary of it. (Recommendation 5.1)</p> <p>Listing Rule 3.1 requires a listed entity, subject to certain exceptions, to disclose to ASX immediately any information concerning it that a reasonable person would expect to have a material effect on the price or value of its securities.</p> <p>A listed entity should have a written policy directed to ensuring that it complies with this obligation so that all investors have equal and timely access to material information concerning the entity – including its financial position, performance, ownership and governance...</p> <p>The disclosure policy should include vetting and authorisation processes designed to ensure that announcements by the entity are factual, complete, balanced and expressed in a clear and objective manner that allows investors to assess the impact of the information when making investment decisions.</p> <p>In this context, "balanced" means disclosing both positive and negative information. (Commentary to Recommendation 5.1)</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>In order to abide by the principle of transparency, the organization should have a formal information disclosure policy in place. This policy should include the disclosure of information in addition to that required by law or regulation. The idea is that the disclosure be complete, objective, timely and equitable. It is recommended that the organization make available its annual report, including financial statements and socio-environmental reports, preferably audited, to the market. (IBGC Code ¶ 6.5)</p> <p>The CEO must ensure that stakeholders are provided with information of their interest, as soon as they become available, besides mandatory information required by law or regulations. The CEO must ensure that this communication is clear with substance prevailing over form.... The information provided must be balanced and good quality. Communications must address both positive and negative issues, to enable stakeholders to have a correct understanding of the organization. Any piece of information that could influence investment decisions should be released immediately and simultaneously to all stakeholders. (IBGC ¶ Code 3.4)</p> <p>As a result of a clear policy of communication and relationship with stakeholders, the organization should disclose, at least on its website, full, objective, timely and equitable reports from time to time on all aspects of its business activities, including its social and environmental agenda, related party transactions, costs of political and philanthropic activities, administrators' compensation, and risk factors, among others, in addition to economic and financial and other information required by law. These reports should also contain information on the activities of the Board and its committees, as well as a detailed management and governance model. (IBGC Code ¶ 3.5)</p> <p>[T]he Fiscal Council's opinion . . . [t]he votes, whether dissident or not, and the Fiscal Council members' justifications on the financial statements and other documents, should also be disclosed. (IBGC ¶ Code 5.9)</p> |

II.B. Content, Character & Accuracy of Disclosure

| China | Hong Kong | India | Russia | UAE |
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| <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.7, (3) Disclosure of Controlling Shareholder's Interests.</p> | <p>The board should present a balanced, clear and comprehensible assessment of the company's performance, position and prospects. (Principle C.1)</p> <p>Issuers should ensure that their disclosures provide meaningful information and do not give a misleading impression. (CP C.2.5)</p> <p>See Section C, Accountability and Audit <u>Mandatory Disclosure Requirements</u></p> <p>To provide transparency, the issuers must include the following information [on the following topics] for the accounting period covered by the annual report and significant subsequent events for the period up to the date of publication of the annual report, to the extent possible: . . .</p> <ul style="list-style-type: none"> • Corporate governance practices . . . • Directors' securities transactions . . . • Composition of the board . . . • [N]umber of board meetings held during the financial year . . . • The identity of the chairman and chief executive . . . • whether the roles of the chairman and chief executive are separate and exercised by different individuals. . . . • The term of appointment of non-executive directors . . . • [I]nformation for each of the remuneration committee, nomination committee and audit committee, and corporate governance functions . . . • Auditor's remuneration . . . • Where an issuer engages an external service provider as its company secretary, its primary corporate contact person at the issuer . . . • Shareholders' rights . . . • Any significant changes in the issuer's constitutional documents during the year. <p>See Para. G-P, Mandatory Disclosure Requirements</p> <p><u>Recommended Disclosures</u></p> <p>The disclosures set out in the following paragraphs on corporate governance matters are provided for issuers' reference. They are not intended to be exhaustive or mandatory. . . .</p> <ul style="list-style-type: none"> • Share interests of senior management . . . • Investor relations . . . • Internal controls . . . • Management functions . . . <p>See Para. Q-T, Recommended Disclosures.</p> | <p>The company should ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the company.</p> <p>a. Information should be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.</p> <p>b. Channels for disseminating information should provide for equal, timely and cost efficient access to relevant information by users.</p> <p>c. The company should maintain minutes of the meeting explicitly recording dissenting opinions, if any.</p> <p>d. The company should implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and should also ensure that the annual audit is conducted by an independent, competent and qualified auditor.</p> <p>(§ 49.I.C)</p> <p>The CEO . . . shall certify to the Board that:</p> <p>A. They have reviewed financial statements and the cash flow statement for the year and that to the best of their knowledge and belief :</p> <p>1. these statements do not contain any materially untrue statement or omit any material fact or contain statements that might be misleading;</p> <p>2. these statements together present a true and fair view of the company's affairs and are in compliance with existing accounting standards, applicable laws and regulations.</p> <p>(§ 49.IX)</p> | <p>The board of directors should play a key role in procuring that the company is transparent, discloses information in full and in due time, and provides its shareholders with unhindered access to its documents. (Principle 2.1.6)</p> <p>The company should develop and implement an information policy enabling the company to efficiently exchange information with its shareholders, investors, and other stakeholders. (Principle 6.1.1)</p> <p>The company should disclose, on a timely basis, full, updated and reliable information about itself so as to enable its shareholders and investors to make informed decisions. (Principle 6.2)</p> <p>The company should disclose information in accordance with the principles of regularity, consistency and timeliness, as well as accessibility, reliability, completeness and comparability of disclosed data. (Principle 6.2.1)</p> <p>The company is advised against using a formalistic approach to information disclosure; it should disclose material information on its activities, even if disclosure of such information is not required by law. (Principle 6.2.2)</p> <p>The company's annual report, as one of the most important tools of its information exchange with its shareholders and other stakeholders, should contain information enabling one to evaluate the company's performance results for the year. (Principle 6.2.3)</p> <p>See generally Recommendations 81 – 82, 86 – 89, 277 – 293</p> | <p>The board of directors shall make sure that the Company's disclosures provide sufficient, accurate and true information for investors and reflect complete compliance with disclosure rules. (Article 8.6)</p> <p>The corporate governance report is a report signed by the chairman of the board of directors of a Company and is forwarded to the [SCA] on an annual basis or at request during the accounting period covered in the report or for a subsequent period up to the publication date of the annual report, which shall cover all information and details in the form issued by the [SCA], in particular:</p> <ul style="list-style-type: none"> • requirements and principles of completion of corporate governance system and approach of their application; • violations committed during the financial year, reflecting their causes as well as the method of remedy and avoidance of future occurrence; and • method of formation of the board of directors in terms of member classes, term of membership, means of remuneration fixation as well as the remuneration of the general manager, executive director or chief executive officer of the Company as appointed by the board of directors. <p>The board of directors shall make this report available to all the Company's shareholders a sufficient time prior to the general assembly meeting. (Article 14)</p> <p>The board of directors shall disclose in the corporate governance report the scope of a Company's compliance with the internal control system during the report covered duration.... (Article 8.5)</p> <p>[T]he board of directors shall disclose material events, significant resolutions and shall clarify information with regard to the positions and activities of the Company and the board shall develop a clear policy on dividend distribution for the best interests of shareholders and the Company. Shareholders shall be made aware of this policy in the general assembly meeting and the same shall be reflected in the board's report.... (Article 12.3)</p> |

II.C. Disclosure Regarding Compensation

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|---|--|---|--|
| <p><u>NYSE</u></p> <p>[The compensation committee’s] responsibilities. . . at minimum, must be to have direct responsibility to . . . prepare the disclosure required by Item 407(e)(5) of Regulation S-K; . . . (§ 303A.05(b)(i)(C))</p> <p><u>NACD</u></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. 5)</p> | <p>Where a company releases an executive director to serve as a non-executive director elsewhere, the remuneration report should include a statement as to whether or not the director will retain such earnings and, if so, what the remuneration is. (Code Provision D.1.2)</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 D.2)</p> <p>Where remuneration consultants are appointed, they should be identified in the annual report and a statement made as to whether they have any other connection with the company. (Code Provision D.2.1)</p> | <p>The law imposes on companies the obligation to disclose in their management report the aggregate compensation and benefits of all types paid during the financial year to each executive director as well as the amount of the compensation and benefits of any type that each of these directors has received during the financial year from companies of the group. (¶ 24)</p> <p>The annual report must include a chapter, drawn up with the support of the compensation committee, informing shareholders of the compensation received by executive directors. This chapter must contain the following:</p> <ul style="list-style-type: none"> • A detailed presentation of the policy on determination of the compensation paid to executive directors • Information concerning the pension systems or commitments provided by the company. • A detailed presentation of each executive director’s individual compensation, compared with that of the preceding financial year, and broken down between fixed components and variable components . . . • The aggregate and individual amount of directors’ fees paid to directors • A description of the policy for the award of stock options to all beneficiaries • A description of the share award policy applicable to employees • The valuation of stock options and performance shares awarded to executive directors. . . . <p>(¶ 24.2)</p> <p>[R]ules for allocation of the directors’ fees and individual amounts of payments thereof made to the directors should be set out in the annual report. (¶ 21.3)</p> <p>See Annex: Standardised Presentation of the Compensation of Executive Directors of Companies Whose Securities are Admitted to Trading on a Regulated Market</p> | <p><u>Supervisory Board Compensation</u></p> <p>The compensation of the members of the Supervisory Board shall be reported individually in the Notes or the Management 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 on an individual basis. (§ 5.4.6)</p> <p><u>Management Board Compensation</u></p> <p>The total compensation of each one of the members of the Management Board is to be disclosed by name, divided into fixed and variable compensation components. The same applies to promises of benefits that are granted to a Management Board member in case of premature or statutory termination of the function of a Management Board member or that have been changed during the financial year. Disclosure is dispensed with if the General Meeting has passed a resolution to this effect by three-quarters majority. (§ 4.2.4)</p> <p>Disclosure shall be made in the Notes or the Management Report. A compensation report as part of the Management Report outlines the compensation system for the Management Board members. The outline shall be presented in a generally understandable way. The compensation report shall also include information on the nature of the fringe benefits provided by the company. In addition, for financial years starting after 31 December 2013, and for each Management Board member, the compensation report shall present:</p> <ul style="list-style-type: none"> • the benefits granted for the year under review including the fringe benefits, and including the maximum and minimum achievable compensation for variable compensation components; • the allocation of fixed compensation, short-term variable compensation and long-term variable compensation in/for the year under review, broken down into the relevant reference years; • for pension provisions and other benefits, the service cost in/for the year under review. (§ 4.2.5) <p>The Corporate Governance Report shall contain information on stock option programmes and similar securities-based incentive systems of the company, unless this information is already provided in the Annual Financial Statements . . . (§ 7.1.3)</p> | <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> |

II.C. Disclosure Regarding Compensation

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|---|---|--|--|
| <p>The report of the supervisory board shall include the principal points of the remuneration policy of the company. This shall describe transparently and in clear and understandable terms the remuneration policy that has been pursued and give an overview of the remuneration policy to be pursued. The full remuneration of the individual management board members, broken down into its various components, shall be presented in the remuneration report in clear and understandable terms. (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 by the supervisory board for the next financial year and subsequent years. The report shall explain how the chosen remuneration policy contributes to the achievement of the long-term objectives of the company and its affiliated enterprise in keeping with the risk profile. The report shall be posted on the company's website. (Best Practice Provision II.2.12)</p> <p>The main elements of the contract of a management board member with the company shall be made public after it has been concluded . . . (Best Practice Provision II.2.14)</p> <p>If a management board member or former management board member is paid severance pay or other special remuneration during a given financial year, an account and an explanation of this remuneration shall be included in the remuneration report. (Best Practice Provision II.2.15)</p> <p><i>See</i> Best Practice Provision II.2.13.</p> | <p>Any remuneration in addition to normal directors' fees should be specifically identified in the annual report. (§ 11)</p> <p>The annual report must provide details of all elements of the remuneration and benefits of each member of the board of directors . . . (Commentary to § 11)</p> <p>The Public Companies Act includes rules on a statement in respect of the remuneration of executive personnel that is to be prepared by the board of directors and considered by the general meeting. The statement of policy on the remuneration of executive personnel should be clear, easily understandable and specific. The statement of policy on the remuneration of executive personnel can, for example, include an explanation of how the choice of performance criteria for performance-related remuneration contributes to the long-term interests of the company, and of the methods applied in order to determine whether performance criteria have been fulfilled. In addition, the statement can include the guidelines applied in respect of vesting periods, allotment dates, exercise dates and lock-up periods and compensation for loss of office, as well as explaining the comparables or benchmark evidence that the company uses in determining its remuneration policy.</p> <p>The company's report on corporate governance . . . should provide an account of all aspects of the individual remuneration of the chief executive and other executive personnel. . . . Alternatively, the corporate governance report may make a clear reference to the sections of the accounts where the statement on executive remuneration and information on such remuneration is provided. (Commentary to § 12)</p> | <p>The Board of Directors produces a compensation report for the Shareholders' Meeting annually.</p> <p>The compensation report describes the compensation system and its application in the business year under review. It illustrates also in tabular form, how the system has impacted the value terms over the period under report for individual Board members, the overall Board of Directors, the Executive Board as a whole, and the latter's most highly-remunerated member.</p> <p>The report shows the key criteria that have been used in measuring the variable elements of remuneration, and the mechanism that has been applied for valuing shares and share options according to the relevant rule system.</p> <p>The compensation report specifies the external consultants that have been used in connection with compensation issues and describes the comparisons that have been made.</p> <p>(Appendix 1.c.8)</p> <p>The Board of Directors ensures transparency with respect to the compensation of the members of the Board of Directors and the Executive Board.</p> <p>The Board of Directors ensures that the compensation report sets out the company's compensation system in a manner that is readily comprehensible.</p> <p>The compensation report is structured so as to make clear in particular which compensation payments have been awarded to the members of the Board of Directors, the Executive Board overall, and the latter's highest-paid member for the business year and why these compensation payments have either fallen or risen in the business year.</p> <p>The Board of Directors may issue the compensation report separately, as part of the annual report, or as part of the corporate governance report. . . .</p> <p>(Appendix 1.d.10)</p> | <p>A listed entity should have a formal and transparent process for developing its remuneration policy and for fixing the remuneration packages of directors and senior executives. . . .</p> <p>The relationship between remuneration and performance and how it is aligned to the creation of value for security holders should be clearly articulated to investors.</p> <p>(Commentary to Principle 8)</p> <p>A listed entity should separately disclose its policies and practices regarding the remuneration of non-executive directors and the remuneration of executive directors and other senior executives. (Recommendation 8.2)</p> <p>To facilitate an open dialogue with its security holders on this topic, listed entities should clearly articulate and separately disclose their respective remuneration policies and practices regarding the remuneration of non-executive directors on the one hand and the remuneration of executive directors and other senior executives on the other. . . .</p> <p>The disclosures regarding the remuneration of executive directors and other senior executives should include a summary of the entity's policies and practices regarding the deferral of performance-based remuneration and the reduction, cancellation or clawback of performance-based remuneration in the event of serious misconduct or a material misstatement in the entity's financial statements.</p> <p>Listed companies established in Australia are required under the Corporations Act to make detailed disclosure in their remuneration reports of their remuneration policies for key management personnel.</p> <p>(Commentary to Recommendation 8.2)</p> <p>A listed entity which has an equity-based remuneration scheme should: (a) have a policy on whether participants are permitted to enter into transactions (whether through the use of derivatives or otherwise) which limit the economic risk of participating in the scheme; and (b) disclose that policy or a summary of it. (Recommendation 8.3)</p> | <p>Director compensation should be disclosed individually or, at least, in a separate group from Management compensation. If there is no disclosure of individual pay to Directors, the organization must justify its choice in a broad, comprehensive and transparent manner. The organization should also highlight at least the average of the compensation amounts paid, as well as lower and higher payments with reasons for the difference, if any. Disclosure should include all kinds of compensation paid to Directors, such as: a) salaries b) bonuses; c) all security-based, particularly the share-based, benefits; d) incentive gratuities; e) payments calculated as post-employment benefits of retirement programs and leaves; and f) other direct and indirect short, medium, and long-term benefits. (IBGC Code ¶ 2.24)</p> <p>The officers' compensation should be disclosed individually or, at least in a separate group from the total amount relative to the Board of Directors. If there is no disclosure of individual payments to officers, the organization must justify its decision in an extensive, complete, and transparent manner. The organization should also highlight at least the average of compensation amounts paid, as well as the lowest and highest payments made, with reasons for the difference, if any. Disclosure should include all kinds of compensation payments made to officers, such as: a) monthly salaries; b) bonuses; c) security-based benefits, particularly share-based benefits; d) incentive bonuses; e) payments calculated as post-employment benefits, in retirement and leave programs; and f) other direct and indirect short, medium and long-term benefits. (IBGC Code ¶ 3.9)</p> |

II.C. Disclosure Regarding Compensation

| China | Hong Kong | India | Russia | UAE |
|---|--|--|---|---|
| <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>An issuer should disclose its directors' remuneration policy and other remuneration related matters. The procedure for setting policy on executive directors' remuneration and all directors' remuneration packages should be formal and transparent. (Principle B.1)</p> <p>Issuers should disclose details of any remuneration payable to members of senior management by band in their annual reports. (CP B.1.5)</p> <p>[Wh]ere the board resolves to approve any remuneration or compensation arrangements with which the remuneration committee disagrees, the board should disclose the reasons for its resolution in its next Corporate Governance Report. (RBP B.1.6)</p> <p>Issuers should disclose details of any remuneration payable to members of senior management, on an individual and named basis, in their annual reports. (RBP B.1.8)</p> | <p>1. All pecuniary relationship or transactions of the non-executive directors vis-à-vis the company shall be disclosed in the Annual Report.</p> <p>2. In addition to the disclosures required under the Companies Act, 2013, the following disclosures on the remuneration of directors shall be made in the section on the corporate governance of the Annual Report:</p> <ol style="list-style-type: none"> a. All elements of remuneration package of individual directors summarized under major groups, such as salary, benefits, bonuses, stock options, pension etc. b. Details of fixed component and performance linked incentives, along with the performance criteria. c. Service contracts, notice period, severance fees. d. Stock option details, if any - and whether issued at a discount as well as the period over which accrued and over which exercisable. <p>3. The company shall publish its criteria of making payments to non-executive directors in its annual report....</p> <p>(§ 49.VIII.C)</p> <p>The company shall disclose the remuneration policy and the evaluation criteria in its Annual Report. (§ 49.VIII.H.3)</p> | <p>The remuneration committee of the board of directors exercises control over disclosure of information on remuneration policies and practices and on the company's shares owned by board members and members of the collective executive bodies and other key managers, in the company's annual report and on its corporate website. (Recommendation 181)</p> | <p>The corporate governance report...shall cover all information and details in the form issued by the [SCA], in particular...method of formation of the board of directors in terms of member classes, term of membership, means of remuneration fixation as well as the remuneration of the general manager, executive director or chief executive officer of the Company as appointed by the board of directors.... (Article 14)</p> |

II.D. Disclosure Regarding Charitable and Political Contributions

US (NYSE & NACD Report)

UK

France

Germany

OECD Principles/Millstein Report

NYSE

Not covered.

Not covered.

Not covered.

Not covered.

Contributions to tax exempt organizations shall not be considered payments for purposes of [the director independence test set forth in] Section 303A.02(b)(v), provided however that a listed company shall disclose either on or through its website or in its annual proxy statement, or if the listed company does not file an annual proxy statement, in the listed company's annual report on Form 10-K filed with the SEC, any such contributions made by the listed company to any tax exempt organization in which any independent director serves as an executive officer if, within the preceding three years, contributions in any single fiscal year from the listed company to the organization exceeded the greater of \$1 million, or 2% of such tax exempt organization's consolidated gross revenues. If this disclosure is made on or through the listed company's website, the listed company must disclose that fact in its annual proxy statement or annual report, as applicable, and provide the website address. (Disclosure Requirement, § 303A.02(b))

NACD

Not covered.

II.D. Disclosure Regarding Charitable and Political Contributions

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---------------------|---------------------|---------------------|--|---|
| <i>Not covered.</i> | <i>Not covered.</i> | <i>Not covered.</i> | <p><i>Not covered.</i></p> <p><i>See footnote 23, p. 19 (An entity can also enhance its brand and reputation through measures such as employing people with disability or from other disadvantaged groups in society and supporting charitable and philanthropic causes and local community initiatives.).</i></p> | <p>[T]he organization should disclose, at least on its website, full, objective, timely and equitable reports from time to time on all aspects of its business activities, including ...costs of political and philanthropic activities. (IBGC Code ¶ 3.5)</p> <p>In order to ensure greater transparency on the use of its shareholders' resources, organizations must develop a policy of voluntary contributions, including political. The Board of Directors shall be responsible for approving all disbursements related to political activities. Every year, the organization must disclose, in a transparent manner, all costs arising from their volunteer activities. The policy should make clear that the promotion and financing of philanthropic, cultural, social and environmental projects must have a clear bearing with the organization's business or contribute in an easily identifiable way to its value. (IBGC Code ¶ 6.6)</p> |

II.D. Disclosure Regarding Charitable and Political Contributions

China

Hong Kong

India

Russia

UAE

Not covered.

Not covered.

Not covered.

Not covered.

Not covered.

KEY AGREED PRINCIPLES

III. DIRECTOR COMPETENCY & COMMITMENT

Governance structures and practices should be designed to ensure the competency and commitment of directors.

A board's effectiveness depends on the competency and commitment of its individual members, their understanding of the role of a fiduciary and their ability to work together as a group. Obviously, the foundation is an understanding of the fiduciary role and the basic principles that position directors to fulfill their responsibilities of care, loyalty, and good faith.

However, an effective board is far more than the sum of its parts: it should bring together a variety of skill sets, experiences, and viewpoints in an environment conducive to reaching consensus decisions after a full and vigorous discussion from diverse perspectives. While the board should reflect a mix of diverse experiences and skill sets relevant to the business and governance of the company, each board must determine for itself, and review periodically, what those experiences and skill sets are and what the appropriate mix should be as the company faces different challenges over time.

Typically, a board will want some persons with specialized knowledge of relevant businesses and industries and the business environment in which the company functions who can provide insight regarding strategy and risk. Director qualifications and criteria should be designed to position the board to provide oversight of the business.

Directors need to exhibit a commitment of both time and active attention to fulfill their fiduciary obligations. Generally, that means that directors should ensure that they have the time to attend board and committee meetings and the annual meeting of shareholders, prepare for meetings, stay informed about issues that are relevant to the company, consult with management as needed, and address crises should crises arise.

The board may wish to articulate guidelines that encourage directors to limit their other commitments. Such guidelines assist in communicating expectations about the commitment that is expected. Given the considerable variation in individual capacity, boards should apply their judgment and assess directors' commitment through their actions, rather than rely on rigid standards.

III.A. Board Membership Criteria / Director Qualification Standards

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|--|---|---|---|
| <p><u>NYSE</u></p> <p>Listed companies must have a majority of independent directors. (§ 303A.01)</p> <p>[The corporate governance guidelines must address] [d]irector qualification standards [which] should, at minimum, reflect the independence requirements set forth in Sections 303A.01 and 303A.02. Companies may also address other substantive qualification requirements, including policies limiting the number of boards on which a director may sit, and director tenure, retirement and succession. (Commentary to § 303A.09)</p> <p><u>NACD</u></p> <p>To be considered for board membership, individual directors should possess all of the following personal characteristics:</p> <ul style="list-style-type: none"> • Integrity and Accountability • Informed Judgment • Financial Literacy • Mature Confidence. . . . [and] • High Performance Standards. (pp. 7-8) <p>The Commission recommends that the board as a whole should possess all of the following core competencies, 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. (pp. 8-9) <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. 13)</p> <p><i>See also</i> Topic Heading VIII.B, <i>below</i>.</p> | <p>The board and its committees should have the appropriate balance of skills, experience, independence and knowledge of the company to enable them to discharge their respective duties and responsibilities effectively. (Main Principle B.1)</p> <p>The search for board candidates should be conducted, and appointments made, on merit, against objective criteria and with due regard for the benefits of diversity on the board, including gender. (Supporting Principle B.2)</p> <p>A separate section of the annual report should describe the work of the nomination committee . . . This section should include a description of the board’s policy on diversity, including gender, any measurable objectives that it has set for implementing the policy, and progress on achieving the objectives. (Code Provision B.2.4)</p> <p><i>See</i> Supporting Principle B.2 (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 . . .).</p> <p><i>See also</i> Provision B.7.2 (The board should set out to shareholders in the papers accompanying a resolution to elect a non-executive director why they believe an individual should be elected.).</p> | <p>The first quality of a Board of Directors is the balance of its membership, together with the skills and ethics of its members All directors should have the following essential qualities:</p> <ul style="list-style-type: none"> • He or she should care about the corporate interest; • He or she should have the ability to judge, in particular, situations, strategies and people, notably based on its experience; • He or she should have the capacity to anticipate, enabling the identification of risks and the strategic issues; • He or she should be honest, attend regularly, be active and involved. (¶ 6.1) <p>Each Board should consider what would be the desirable balance within its membership and within that of the committees of Board members which it has established, in particular as regards the representation of men and women, nationalities and the diversity of skills, and take appropriate action to assure the shareholders and market that its duties will be performed with the necessary independence and objectivity. It should publish in the reference document the objectives, methods and results of its policy in these matters. (¶ 6.3)</p> <p>With regard to the representation of men and women, the objective is that each Board shall reach and maintain a percentage of at least 20% of women within a period of three years and at least 40% of women within a period of six years, from the shareholders’ meeting of 2010 or from the date the listing of the company’s shares on a regulated market, whichever is later. Directors who are permanent representatives of legal entities and directors representing employee shareholders are taken into account in order to determine these percentages, but this is not the case with directors representing employees. When the board comprises fewer than nine members, the difference at the end of six years between the number of directors of each gender may not be in excess of two. (¶ 6.4)</p> | <p><u>Supervisory Board</u></p> <p>The Supervisory Board has to be composed in such a way that its members as a group possess the knowledge, ability and expert experience required to properly complete its tasks. The Supervisory Board shall specify concrete objectives regarding its composition which, whilst considering the specifics of the enterprise, take into account the international activities of the enterprise, potential conflicts of interest, the number of independent Supervisory Board members within the meaning of number 5.4.2, an age limit to be specified for the members of the Supervisory Board and diversity. These concrete objectives shall, in particular, stipulate an appropriate degree of female representation. Recommendations by the Supervisory Board to the competent election bodies shall take these objectives into account. (§ 5.4.1)</p> <p>The Supervisory Board shall include what it considers an adequate number of independent members. Within the meaning of this recommendation, a Supervisory Board member is not to be considered independent in particular if he/she has personal or business relations with the company, its executive bodies, a controlling shareholder or an enterprise associated with the latter which may cause a substantial and not merely temporary conflict of interest[.]. (§ 5.4.2)</p> <p><u>Management Board</u></p> <p><i>Not covered directly, but see</i> § 5.1.2 (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, as well as for the handling of the conditions of the employment contracts including compensation, to committees.).</p> | <p>[B]oards in many companies have established nomination committees . . . to facilitate and coordinate the search for a balanced and qualified board. . . . To further improve the selection process, the Principles also call for disclosure of the experience and background of candidates for the board and the nomination process, which will allow an informed assessment of the abilities and suitability of each candidate. (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><i>See</i> Annotation to Principle II (Shareholders’ rights to influence the corporation center on certain fundamental issues, such as . . . the composition of the board.).</p> <p><i>See also</i> Topic Heading VIII.B, <i>below</i>.</p> |

III.A. Board Membership Criteria / Director Qualification Standards

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <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. The supervisory board shall aim for a diverse composition in terms of such factors as gender and age. A supervisory board member shall be reappointed only after careful consideration. (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 deal with the aspects of diversity in the composition of the supervisory board that are relevant to the company and shall state what specific objective is pursued by the board in relation to diversity. . . . The profile shall be made generally available and shall be posted on the company’s website. (Best Practice Provision III.3.1)</p> <p>At least one member of the supervisory board shall be a financial expert with relevant knowledge and experience of financial administration and accounting for listed companies or other large legal entities. (Best Practice Provision III.3.2)</p> <p>The selection and appointment committee shall . . . focus on: a) drawing up selection criteria and appointment procedures for supervisory board members . . . (Best Practice Provision III.5.14)</p> <p><u>Management Board</u></p> <p>The selection and appointment committee shall . . . focus on: a) drawing up selection criteria and appointment procedures for . . . management board members. (Best Practice Provision III.5.14)</p> | <p>[As required by Norwegian corporate law, in] any company with more than 30 employees, the employees have the right to be represented on the board of directors. If a company has more than 200 employees but has not elected a corporate assembly, employees must be represented on the board. The composition of the board of directors in terms of the gender of its members must satisfy the requirements of the Norwegian Public Limited Liability Companies Act. (p. 8)</p> <p>Where a company has a corporate assembly, the composition of the corporate assembly should be determined with a view to ensuring that it represents a broad cross-section of the company’s shareholders.</p> <p>The composition of the board of directors should ensure that the board can attend to the common interests of all shareholders and meets the company’s need for expertise, capacity and diversity. Attention should be paid to ensuring that the board can function effectively as a collegiate body.</p> <p>The composition of the board of directors should ensure that it can operate independently of any special interests. . . .</p> <p>The board of directors should not include executive personnel. If the board does include executive personnel, the company should provide an explanation for this and implement consequential adjustments to the organisation of the work of the board, including the use of board committees to help ensure more independent preparation of matters for discussion by the board.</p> <p>(§ 8)</p> <p>The composition of the board of directors as a whole should represent sufficient diversity of background and expertise to help ensure that the board carries out its work in a satisfactory manner. In this respect due attention should be paid to the balance between male and female members of the board. The board is responsible as a collegiate body for balancing the interests of various stakeholders in order to promote value creation by the company. The board should be made up of individuals who are willing and able to work as a team. . . . The Public Companies Act stipulates that the chief executive cannot be a member of the board of directors. This Code of Practice recommends that neither the chief executive nor any other executive personnel should be a member of the board.</p> <p>(Commentary to § 8)</p> | <p>A well-balanced membership of the Board of Directors should be sought for.</p> <p>The Board of Directors should be small enough in numbers for efficient decision-making 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.</p> <p>Members of the Board of Directors should be persons with the abilities necessary to ensure an independent decision-making process in a critical exchange of ideas with the Executive Management.</p> <p>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).</p> <p>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.</p> <p>(Article II.b.12)</p> <p>The Board of Directors should plan the succession of its members and lay down the criteria for selecting candidates. (Article II.b.13)</p> | <p>A listed entity should have a board of an appropriate size, composition, skills and commitment to enable it to discharge its duties effectively. (Principle 2)</p> <p>A high performing, effective board is essential for the proper governance of a listed entity. The board needs to have an appropriate number of independent non-executive directors who can challenge management and hold them to account, and also represent the best interests of the listed entity and its security holders as a whole rather than those of individual security holders or interest groups. (Commentary to Principle 2)</p> <p>A listed entity should have and disclose a board skills matrix setting out the mix of skills and diversity that the board currently has or is looking to achieve in its membership. (Recommendation 2.2)</p> <p>See Recommendation 1.5 (A listed entity should (a) have a diversity policy which includes requirements for the board or a relevant committee of the board to set measurable objectives for achieving gender diversity and to assess annually both the objectives and the entity’s progress in achieving them...).</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>[D]iversity of backgrounds should be pursued, as well as skills and styles of behavior, so that the Board may embody the necessary skills to perform its duties. As a collective body, the Board should seek:</p> <ul style="list-style-type: none"> • Experience of participating in other Boards of Directors; • Experience as a senior officer; • Experience in change management and crisis management; • Experience in identifying and controlling risks; • Experience in people management; • Financial literacy; • Accounting knowledge; • Legal knowledge; • Knowledge of the organization’s business; • Knowledge of national and international markets; • Contacts of interest to the organization. (IBGC Code ¶ 2.4) <p>A Board member should, at least:</p> <ul style="list-style-type: none"> • Be aligned with the organization’s values and Code of Conduct; • Be able to defend his/her point of view based on his/her own judgment; • Have time available; • Be motivated. <p>It is also recommended that a Board member possess:</p> <ul style="list-style-type: none"> • Strategic vision; • Knowledge of good Corporate Governance practices; • Ability to work in teams; • Ability to read and understand management, accounting and financial reports; • Knowledge of corporate law; • Perception of the organization’s risk profile. (IBGC Code ¶ 2.5) |

III.A. Board Membership Criteria / Director Qualification Standards

| China | Hong Kong | India | Russia | UAE |
|--|--|--|---|--|
| <p>([C]andidates [nominated by controlling shareholders] shall possess certain relevant professional knowledge and the capability to make decisions or supervise.). (Ch. 2, (1) 20)</p> <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><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>The board should have a balance of skills, experience and diversity of perspectives appropriate to the requirements of the issuer's business. It should ensure that changes to its composition can be managed without undue disruption. It should include a balanced composition of executive and non-executive directors (including independent non-executive directors) so that there is a strong independent element on the board, which can effectively exercise independent judgement. Non-executive directors should be of sufficient calibre and number for their views to carry weight. (Principle A.3)</p> <p>The nomination committee (or the board) should have a policy concerning diversity of board members. (CP A.5.6)</p> | <p>The Board of Directors of the company shall have an optimum combination of executive and non-executive directors with at least one woman director and not less than fifty percent of the Board of Directors comprising non-executive directors. (§ 49.II.A.1)</p> <p>The role of the [nomination and remuneration] committee shall... include... 1. Formulation of the criteria for determining qualifications, positive attributes and independence of a director ...; 3. Devising a policy on Board diversity... (§ 49.IV.B)</p> <p>At least one independent director on the Board of Directors of the holding company shall be a director on the Board of Directors of a material non-listed Indian subsidiary company. (§ 49.V.A)</p> | <p>Only persons with impeccable business and personal reputation should be elected to the board of directors; such persons should also have knowledge, skills, and experience necessary to make decisions that fall within the jurisdiction of the board of directors and to perform its functions efficiently. (Principle 2.3.1)</p> <p>The composition of board of directors should be balanced, in particular, in terms of qualifications, expertise, and business skills of its members. The board of directors should enjoy the confidence of the shareholders. (Principle 2.3.3)</p> <p>To be able to efficiently perform its functions, the board of directors' should have a balanced composition, in particular, in terms of qualifications and expertise of its members, and should include a sufficient number of independent directors. (Recommendation 99)</p> | <p>The members of the first board of directors of a Company shall be elected by the founders, while the members of subsequent boards shall be elected for a fixed term by the Company's shareholders and the formation of the board of directors shall take into consideration an appropriate balance between executive, non-executive and independent board members; provided that at least one-third of members shall be independent members and a majority of members shall be non-executive members who shall have technical skills and experience for the good of the Company. In all cases, when selecting non-executive members of the Company, it shall be taken into consideration that a member shall be able to pay adequate time and effort to his/her membership and that such membership is not in conflict with his/her other interests. (Article 3.2)</p> <p>A Company's articles of association and internal regulations shall include necessary procedures and rules to ensure the exercise by all shareholders of all their regulatory rights including...provision of a biography of nominees to the membership of the board of directors before voting, including giving shareholders a clear idea of the practical experience and academic qualifications of nominees.... (Article 12.2)</p> |

III.B. Commitment & Limits on Other Board Service

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u> Because of the audit committee’s demanding role and responsibilities, and the time commitment attendant to committee membership, each prospective audit committee member should evaluate carefully the existing demands on his or her time before accepting this important assignment. (Commentary to § 303A.07(a))</p> <p>If an audit committee member simultaneously serves on the audit committees of more than three public companies, the board must determine that such simultaneous service would not impair the ability of such member to effectively serve on the listed company’s audit committee and must disclose such determination.</p> <p>(Disclosure Requirement, § 303A.07(a))</p> <p>The following subjects must be addressed in the corporate governance guidelines . . . Policies limiting the number of boards on which a director may sit . . . (Commentary to § 303A.09)</p> <p><u>NACD</u> The commitment to director professionalism carries with it a responsibility for near-perfect attendance at board and committee meetings, including specially called sessions. It also carries the responsibilities to: (1) rigorously prepare prior to a meeting (especially by critically reading all materials provided); (2) give undivided attention at each meeting; and (3) actively participate in meetings through relevant and thought-provoking questions and comments. (p. 10)</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. 20)</p> | <p>All directors should be able to allocate sufficient time to the company to discharge their responsibilities effectively. (Main Principle B.3)</p> <p>For the appointment of a chairman, the nomination committee should prepare a job specification, including an assessment of the time commitment expected, recognising 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 their impact explained in the next annual report. (Code Provision B.3.1)</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. (Code Provision B.3.2)</p> <p>The board should not agree to a full time executive director taking on more than one non-executive directorship in a FTSE 100 company nor the chairmanship of such a company. (Code Provision B.3.3)</p> | <p>The director should give his or her duties the necessary time and attention.</p> <p>An executive director should not hold more than two other directorships in listed corporations, including foreign corporations, not affiliated with his or her group. (The limit above does not apply to directorships held by an executive director in subsidiaries and holdings, held alone or together with others, of companies whose main activity is to acquire and manage such holdings.) He or she must also seek the opinion of the Board before accepting a new directorship in a listed corporation.</p> <p>In the case of a separate Chairman, the Board may draw up specific recommendations on this issue, taking into account its particular situation and the missions conferred to him/her.</p> <p>A non-executive director should not hold more than four other directorships in listed corporations, including foreign corporations, not affiliated with his or her group. This recommendation will apply at the time of appointment or the next renewal of the term of office. The director should keep the Board informed of directorships held in other companies, including his or her participation on committees of the Boards of these companies, both in France and abroad. (¶ 19)</p> <p>The director should be regular in his or her attendance and take part in all meetings of the Board, and any committees of which he or she is a member. (¶ 20)</p> | <p><u>Supervisory Board</u> 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>Management Board members may not become members of the Supervisory Board of the company within two years after the end of their appointment unless they are appointed upon a motion presented by shareholders holding more than 25% of the voting rights in the company. In the latter case appointment to the chairmanship of the Supervisory Board shall be an exception to be justified to the 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> 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 three Supervisory Board mandates in non-group listed companies or in supervisory bodies of non-group companies which make similar requirements. (§ 5.4.5)</p> | <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> |

III.B. Commitment & Limits on Other Board Service

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|---|----------------------------|--|---|
| <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.1.8)</p> <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>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>In addition to having the appropriate expertise, it is important that the board of directors has sufficient capacity to carry out its duties. In practice, this means that each member of the board must have sufficient time available to devote to his or her appointment as a director. Holding a large number of other board appointments, for example, may mean that a director does not have the capacity necessary to carry out his or her duties in the particular company. The commitment involved in being a member of a board can vary from company to company, and it is therefore not appropriate to set an absolute limit for the number of board appointments an individual should hold. However, directors who hold a number of board appointments should at all times bear in mind the risk of conflicts of interest between such appointments. (Commentary to § 8)</p> | <p><i>Not covered.</i></p> | <p>A candidate for appointment or election as a non-executive director should . . . provide details of his or her other commitments and an indication of time involved, and should specifically acknowledge to the listed entity that he or she will have sufficient time to fulfil his or her responsibilities as a director. (Commentary to Recommendation 1.2)</p> <p>A listed entity should have a written agreement with each director and senior executive setting out the terms of their appointment. (Recommendation 1.3)</p> <p>A listed entity should have a board of an appropriate size, composition, skills and commitment to enable it to discharge its duties effectively. (Principle 2)</p> <p>The board or the nomination committee should regularly review the time required from a non-executive director and whether directors are meeting that requirement.</p> <p>A non-executive director should inform the chair of the board and the chair of the nomination committee before accepting any new appointment as a director of another listed entity, any other material directorship or any other position with a significant time commitment attached. (Commentary to Recommendation 2.1)</p> <p>The role of [board] chair is demanding, requiring a significant time commitment. The chair's other positions should not be such that they are likely to hinder effective performance in the role. (Commentary to Recommendation 2.5)</p> | <p>[A] Director should closely observe their personal and professional commitments, and evaluate whether they can devote the necessary time to the new Board. A Director's participation goes beyond their presence at Board meetings and reading the documentation in advance. (IBGC Code ¶ 2.8)</p> <p>Administration must submit to the General Assembly's approval the maximum number of councils and committees to be served by Directors, taking into account the Director's main activity. Within this limit, the following guidelines are recommended: (i) The Chairman may serve as Board member of two other boards, at most; (ii) External and/or independent Directors with no other activity may serve at five councils, at most; (iii) Senior executives may serve as Directors of one organization only, unless it is an associated company, or a company in the same group; (iv) Internal Directors and/or the CEO may serve at no more than one other Board, unless it is an associated company, or a company in the same group; (v) A CEO and a Chairman should not chair the Board of another organization (except at third sector entities), unless it is an associated company, or a company in the same group. (IBGC Code ¶ 2.8.1)</p> <p>The Director should inform the other members of the Board of any other councils or boards (Administrative, Fiscal Council and Supervisory Board) in which he serves, including nonprofit organizations. The goal is not only observe the existence of possible conflicts of interest, but also determine whether the Director has enough time to properly engage in this activity. In the event of a conflict or unavailable time, the other Directors should consider whether it is convenient to keep such member on the Board or remove him. This information, as well as information on the Director's main activity, should be disclosed and made available in periodical reports and other means of communication of the organization. (IBGC Code ¶ 2.22)</p> |

III.B. Commitment & Limits on Other Board Service

| China | Hong Kong | India | Russia | UAE |
|---|--|--|---|--|
| <p>(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. (Ch. 2, (2) 23))</p> <p>Directors shall ensure adequate time and energy for the performance of their duties. (Ch. 3, (2) 34)</p> | <p>Every director should ensure that he can give sufficient time and attention to the issuer's affairs and should not accept the appointment if he cannot do so. (CP A.6.3)</p> <p>Each director should disclose to the issuer at the time of his appointment, and in a timely manner for any change, the number and nature of offices held in public companies or organisations and other significant commitments. The identity of the public companies or organisations and an indication of the time involved should also be disclosed. The board should determine for itself how frequently this disclosure should be made. (CP A.6.6)</p> | <p>Board members should be able to commit themselves effectively to their responsibilities. (§ 49.I.D.3.1). A person shall not serve as an independent director in more than seven listed companies.</p> <p>Further, any person who is serving as a whole time director in any listed company shall serve as an independent director in not more than three listed companies. (§ 49.II.B.2)</p> <p>A director shall not be a member in more than ten committees or act as Chairman of more than five committees across all companies in which he is a director. Furthermore, every director shall inform the company about the committee positions he occupies in other companies and notify changes as and when they take place. (§ 49.II.D.2)</p> <p>... For the purpose of considering the limit of the committees on which a director can serve, all public limited companies, whether listed or not, shall be included and all other companies including private limited companies, foreign companies and companies under Section 8 of the Companies Act, 2013 shall be excluded.</p> | <p>Board members should have sufficient time to perform their duties. (Principle 2.6.3)</p> <p>To be able to perform their duties efficiently and thoroughly, among other things, the board members should be able to spend sufficient time working at the board of directors, including in its committees. (Recommendation 141)</p> <p>Board members should notify the company's board of directors of their intention to take a position in management bodies of other entities and, immediately after their election (appointment) to the management bodies of such other entities, of such election (appointment). (Recommendation 142)</p> | <p>In all cases, when selecting non-executive members of the Company, it shall be taken into consideration that a member shall be able to pay adequate time and effort to his/her membership and that such membership is not in conflict with his/her other interests. (Article 3.2)</p> |

III.C. Director Orientation & Continuing Education

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>The following subjects must be addressed in the corporate governance guidelines . . . Director orientation and continuing education. (Commentary to § 303A.09)</p> <p><u>NACD</u></p> <p>When first selected, many directors will not have extensive knowledge of the major businesses in which the company is engaged. 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> <p>Being an outstanding director also requires developing broad, current knowledge of all of the company’s responsibilities, including the general legal principles applicable to directors’ activities in fulfilling those responsibilities. Boards should select candidates who possess or are willing to develop broad, current knowledge of both critical issues affecting the company (including industry-, technology-, and market-specific information), and directorship roles and responsibilities (including the general legal principles that guide board members). (pp. 10-11)</p> <p><i>See p. 10 (A director should maintain leadership in the field of endeavor that attracted the board to select that director. For example, a person chosen for expertise in biotechnology should keep up-to-date in that field. A director who has retired from a CEO position but is invited to remain on the board should stay current with the world of business and the latest management thought and practice. Similarly, other persons who retire from the position they had when selected should remain up-to-date in their fields of expertise.).</i></p> | <p>All directors should receive induction on joining the board and should regularly update and refresh their skills and knowledge. (Main Principle B.4)</p> <p>The chairman should ensure that the directors continually update their skills and the knowledge and familiarity with the company required to fulfil their role both on the board and on board committees. The company should provide the necessary resources for developing and updating its directors’ knowledge and capabilities.</p> <p>To function effectively, all directors need appropriate knowledge of the company and access to its operations and staff. (Supporting Principle B.4)</p> <p>The chairman should ensure that new directors receive a full, formal and tailored induction on joining the board. As part of this, directors should avail themselves of opportunities to meet major shareholders. (Code Provision B.4.1)</p> <p>The chairman should regularly review and agree with each director their training and development needs. (Code Provision B.4.2)</p> | <p>One of the major conditions for appointing a director is his or her abilities, but it cannot be expected <i>a priori</i> that every director has 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.</p> <p>The audit 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>Directors representing employees or directors representing employee shareholders shall be provided with training adapted to the performance of their duties. (¶ 13)</p> | <p>The members of the Supervisory Board shall on their own take on the necessary training and further education measures required for their tasks. They shall be supported by the company appropriately. (§ 5.4.5)</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> |

III.C. Director Orientation & Continuing Education

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|--|--|---|---|
| <p>After their appointment, all supervisory board members shall follow an induction programme, which, in any event, covers general financial, social 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. 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 during their period of appointment. The company shall play a facilitating role in this respect. (Best Practice Provision III.3.3)</p> <p>The chairman of the supervisory board shall ensure that: a) the supervisory board members follow their induction and education or training programme . . . (Best Practice Provision III.4.1)</p> | <p>The [board] chairman should pay particular attention to the need for members of the board to have appropriate up-to-date professional understanding in order to facilitate high quality work by the board, and he or she should take whatever initiatives are necessary in this respect. This may include holding training programs for new members of the board and arranging for the board as a whole to be regularly updated on specialist matters relevant to the company’s activities. (Commentary to § 9)</p> | <p>The Board of Directors should . . . ensure that members receive continuing education.</p> <p>The Board of Directors should ensure that newly elected members receive appropriate introduction and that Board Members, where required, receive further training with respect to their responsibilities.</p> <p>(Article II.b.13)</p> | <p>The role of the nomination committee is usually to review and make recommendations to the board in relation to . . . induction and continuing professional development for directors. . . (Commentary to Recommendation 2.1)</p> <p>A listed entity should have a program for inducting new directors and provide appropriate professional development opportunities for directors to develop and maintain the skills and knowledge needed to perform their role as directors effectively. (Recommendation 2.6)</p> <p>The board or the nomination committee of a listed entity should regularly review whether the directors as a group have the skills, knowledge and familiarity with the entity and its operating environment required to fulfil their role on the board and on board committees effectively and, where any gaps are identified, consider what training or development could be undertaken to fill those gaps. Where necessary, the entity should provide resources to help develop and maintain its directors’ skills and knowledge. This includes, in the case of a director who does not have specialist accounting skills or knowledge, ensuring that he or she has a sufficient understanding of accounting matters to fulfil his or her responsibilities in relation to the entity’s financial statements. It also includes, for all directors, ensuring that they receive ongoing briefings on developments in accounting standards. (Commentary to Recommendation 2.6)</p> | <p>Each new Director must go through an induction program, with the description of their function and responsibilities. They should also receive the latest annual reports, minutes of regular and special meetings, of Board meetings, strategic planning, management and risk control system, among other relevant information on the organization and its industry. The new Director must be introduced to his colleagues, and to officers and key personnel of the organization, as well as led to visits to main locations where the company conducts its activities. (IBGC Code ¶ 2.21)</p> <p>Given the need to improve their performance and focus on the long term, it is essential that Directors seek to constantly improve their skills. (IBGC Code ¶ 2.17)</p> |

III.C. Director Orientation & Continuing Education

| China | Hong Kong | India | Russia | UAE |
|--|--|---|---|---|
| <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>Every newly appointed director of an issuer should receive a comprehensive, formal and tailored induction on appointment. Subsequently he should receive any briefing and professional development necessary to ensure that he has a proper understanding of the issuer's operations and business and is fully aware of his responsibilities under statute and common law, the Exchange Listing Rules, legal and other regulatory requirements and the issuer's business and governance policies. (CP A.6.1)</p> <p>All directors should participate in continuous professional development to develop and refresh their knowledge and skills. This is to ensure that their contribution to the board remains informed and relevant. The issuer should be responsible for arranging and funding suitable training, placing an appropriate emphasis on the roles, functions and duties of a listed company director. (CP A.6.5)</p> <p>The terms of reference of the board (or a committee or committees performing this function) should include at least: ... to review and monitor the training and continuous professional development of directors and senior management...(CP D.3.1)</p> | <p>The Board should encourage continuing directors training to ensure that the Board members are kept up to date. (§ 49.I.D.3.d)</p> <p>The company shall provide suitable training to independent directors to familiarize them with the company, their roles, rights, responsibilities in the company, nature of the industry in which the company operates, business model of the company, etc.</p> <p>The details of such training imparted shall be disclosed in the Annual Report.</p> <p>(§ 49.II.B.7)</p> | <p>The board members, especially those elected for the first time, should be able to get in a short time a sufficient understanding of the company's strategy, its existing corporate governance system, its risk management and internal control system, and the division of responsibilities among the executive bodies of the company, as well as to obtain other essential information about the company's business. In this regard, the company should develop a procedure enabling newly elected board members to review such information. (Recommendation 150)</p> <p>The objectives of the nominating committee should include . . . 6) preparing an introductory programme for newly elected board members designed to help them get familiarized with the company's key assets and strategy, its business practices, organisational structure, and key managers of the company, as well as proceedings of the board of directors; exercising control over practical implementation of the introductory programme; 7) preparing an educational and training programme for board members which takes account of their individual needs, as well as exercising control over practical implementation of the programme . . . (Recommendation 186)</p> <p>Based on the results of evaluation of individual members of the board of directors, recommendations may be given regarding training/education of such members. Should this be necessary, individual educational (training) programmes should be developed and implemented. The chairman of the board of directors and the nominating committee shall exercise control over implementation of such programmes. (Recommendation 209)</p> | <p>The management shall make a newly-appointed board member aware of all departments and divisions of the Company and provide him/her with all necessary information to ensure that he/she soundly understands the activities and operations of the Company and completely comprehends his/her responsibilities as well as all duties he/she can duly assume under applicable laws and legislations, other regulatory requirements and the Company's policies in its field of operations. (Article 5.1)</p> <p>The board of directors shall seek to lay down suitable development programs for all members of the board of directors to improve their knowledge and skills and ensure effective participation in the board of directors. (Article 3.13)</p> |

III.D. Board Size

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|---|---|---|---|
| <p><u>NYSE</u></p> <p><i>Not covered.</i></p> <p><u>NACD</u></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. 4)</p> | <p>The board should be of sufficient size that the requirements of the business can be met and that changes to the board’s composition and that of its committees can be managed without undue disruption, and should not be so large as to be unwieldy. (Supporting Principle B.1)</p> | <p><i>Not covered directly, but see ¶ 1.3</i> (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 modes of organisation and operation enabling it to carry out its mission in the best possible manner.)</p> | <p><u>Supervisory Board</u></p> <p><i>Not covered.</i></p> <p><u>Management Board</u></p> <p>The Management Board shall be comprised of several persons and have a Chairman or Spokesman. By-Laws shall govern the work of the Management Board, in particular the allocation of duties among individual Management Board members, matters reserved for the Management Board as a whole, and the required majority for Management Board resolutions (unanimity or resolution by majority vote). (§ 4.2.1)</p> | <p><i>Not covered directly, but see</i> Annotation to Principle VI (Board structures and procedures vary both within and among OECD countries. Some countries have two-tier boards that separate the supervisory function and the management function into different bodies.... Other countries have “unitary” boards, which bring together executive and nonexecutive board members. In some countries there is also an additional statutory body for audit purposes. The Principles are intended to be sufficiently general to apply to whatever board structure is charged with the functions of governing the enterprise and monitoring management.).</p> <p><i>See also</i> Millstein Report, Perspective 15 ([B]oard structure . . . is not a “one-size-fits-all” proposition, and should be left, largely, to individual participants.).</p> |

III.D. Board Size

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|--|---|--|
| <p><u>Management Board</u></p> <p>The selection and appointment committee shall ...focus on: . . .b) periodically assessing the size and composition of . . . the management board . . . (Best Practice Provision III.5.14)</p> <p><u>Supervisory Board</u></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. . . (Best Practice Provision III.3.1)</p> <p>The selection and appointment committee shall ...focus on: . . .b) periodically assessing the size and composition of the supervisory board . . . (Best Practice Provision III.5.14)</p> | <p><i>Not covered directly, but see § 8</i> (The composition of the board of directors should ensure that the board can attend to the common interests of all shareholders and meets the company’s need for expertise, capacity and diversity.).</p> | <p>The Board of Directors should be small enough in numbers for efficient decision-making 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. (Article II.b.12)</p> | <p>A listed entity should have a board of an appropriate size, composition, skills and commitment to enable it to discharge its duties effectively. (Principle 2)</p> <p>The board should be of sufficient size so that the requirements of the business can be met and changes to the composition of the board and its committees can be managed without undue disruption. However, it should not be so large as to be unwieldy. (Commentary to Principle 2)</p> | <p><u>Board of Directors</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 directors may vary according to the organization’s industry, size, complexity of activities, stage of its life cycle, and its need to form committees. The recommended number is between a minimum of five (5) and a maximum of eleven (11) members. (IBGC Code ¶ 2.14)</p> <p><u>Fiscal/Advisory Board</u></p> <p>The fiscal board should have a minimum of three and a maximum of five members. (CVM Recommendation IV.2)</p> |

III.D. Board Size

| China | Hong Kong | India | Russia | UAE |
|---|---------------------|---------------------|---------------------|--|
| 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 decision-making process of the board of directors. (Ch. 3, (3) 40) | <i>Not covered.</i> | <i>Not covered.</i> | <i>Not covered.</i> | The articles of association shall determine the method of formation of the board of directors, number of board members and term of membership. (Article 3.1) |

KEY AGREED PRINCIPLES

IV. BOARD ACCOUNTABILITY & OBJECTIVITY

Governance structures and practices should be designed to ensure the accountability of the board to shareholders and the objectivity of board decisions.

Boards are accountable to shareholders for the governance and performance of the corporation, and must provide active oversight of the management of the corporation. Accountability in the oversight of the corporation is premised on the ability of the board to be objective and distinct from management. While actual board objectivity is key, reassuring shareholders that the board is structured to lessen the likelihood of undue management influence is also important.

Listing standards require that a majority of directors qualify as “independent,” and reserve key functions relating to audit, compensation, and nominating/governance matters to independent directors. (Heightened standards of independence apply to audit committee members.) Listing standards also define certain relationships that are inconsistent with a finding of director independence while otherwise leaving to board discretion the determination whether a director has family, business, consulting, charitable, or other relationships with the company and its management that might undermine objectivity.

Boards are encouraged by listing standards to disclose the standards they apply in determining director independence and must disclose, by category or type, the relationships that they consider in their assessment. Disclosure serves as a significant disciplining force for board independence decisions. Given...the impossibility of defining all the relationships with a company that may arise for directors and director candidates, and the likelihood that many relationships outside the per se prohibited relationships provided by listing rules and SEC regulations will be significantly attenuated, it is advisable that boards retain discretion to decide independence on a case by case basis. Application of board judgment to the independence determination (within the framework provided by listing standard and applicable SEC regulations) is preferable to application of the more rigid standards prescribed in some best practice recommendations.

Executive sessions—usually including both independent directors and those outside directors who do not qualify as independent— without members of management present should be held regularly; more often than once or twice a year. Such sessions provide the opportunity for open discussion of management’s performance and management proposals regarding strategies and actions. Executive sessions are critical in establishing an appropriate environment of objectivity and candor. Most boards also spend time in the board meeting alone with the CEO to provide the CEO with the opportunity for candid exchange outside the presence of executives and staff. In addition, the independent and other outside directors should have the opportunity, from time to time, to meet alone with the chief financial officer, general counsel, and/or other key senior officers outside the presence of the CEO.

Careful respect should be given to maintaining the distinction between the role of the board and the role of management. Undue board involvement in matters of management may interfere with the board’s ability to provide objective oversight of management performance.

IV.A. Independent Board Majority

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>Listed companies must have a majority of independent directors. (§ 303A.01)</p> <p>Effective boards of directors exercise independent judgment in carrying out their responsibilities. Requiring a majority of independent directors will increase the quality of board oversight and lessen the possibility of damaging conflicts of interest. (Commentary to § 303A.01)</p> <p><u>NACD</u></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. 9)</p> | <p>The board should include an appropriate combination of executive and non-executive directors (and, in particular, independent non-executive directors) such that no individual or small group of individuals can dominate the board's decision taking. (Supporting Principle B.1)</p> <p>Except for smaller companies [i.e., below the FTSE 350 throughout the year immediately prior to the reporting year], at least half the board, excluding the chairman, should comprise non-executive directors determined by the board to be independent. A smaller company should have at least two independent non-executive directors. (Code Provision B.1.2)</p> | <p>Although 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. The independent directors should account for half the members of the Board in widely-held corporations and without controlling shareholders. In controlled companies, independent directors should account for at least a third. Directors representing the employee shareholders and directors representing employees are not taken into account in order to determine these percentages.(¶ 9.2)</p> <p>See ¶ 7 (The Commercial Code provides that one or more directors should be appointed at the shareholders' meeting from the employee shareholders as soon as the shareholdings held by the employees of this group exceed 3% of the corporate capital.)</p> <p>See also ¶ 8 (It is not desirable to have within the Board representatives of various specific groups or interests because the Board could become a battleground for vested interests instead of representing the shareholders as a whole.</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>See Foreword ([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.).</p> <p><u>Management Board</u></p> <p><i>Members of the Management Board are, by definition, executives.</i></p> | <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. (Principle VI)</p> <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>See 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.).</p> <p>See 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> |

IV.A. Independent Board Majority

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|--|--|---|
| <p><u><i>In a Two-Tier Board Structure</i></u></p> <p><u><i>Management Board</i></u></p> <p><i>The management board, by definition, consists of company executives.</i></p> <p><u><i>Supervisory Board</i></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, 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><i>In a One-Tier Board Structure</i></u></p> <p>The majority of the members of the management board shall be non-executive directors and are independent. . . . (Best Practice Provision III.8.4)</p> | <p>The majority of the shareholder-elected members of the board should be independent of the company's executive personnel and material business contacts. At least two of the members of the board elected by shareholders should be independent of the company's main shareholder(s). (§ 8)</p> <p>Members of the board must not operate as individual representatives for specific shareholders, shareholder groups or other stakeholders. In order to support the stock market's confidence in the independence of the board, at least two of its members should be independent of the company's main shareholder. This principle is particularly important for companies where one or more controlling shareholders could, in practice, decide the outcome of elections to the board.</p> <p>The majority of the members elected to the board of directors by shareholders should be independent of the company's executive personnel and its main business connections. It is important that the composition of the board ensures that it is able to evaluate the performance of the executive personnel and consider material agreements entered into by the company in an independent manner. Particular attention should be paid to ensuring that the board is capable of independently evaluating the company's performance and specific matters put forward by the executive management. . . . The rationale for placing such emphasis on the independence of the board of directors is to ensure that the interests of shareholders in general are properly represented. Where a company's ownership is widely held, the independence of the board is principally intended to ensure that the executive personnel do not play too dominant a role relative to the interests of shareholders. Where a company has controlling shareholders, the independence of the board is principally intended to protect minority shareholders. (Commentary to § 8)</p> | <p>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). (Article II.b.12)</p> | <p>A majority of the board of a listed entity should be independent directors. (Recommendation 2.4)</p> <p>Having a majority of independent directors makes it harder for any individual or small group of individuals to dominate the board's decision-making and maximises the likelihood that the decisions of the board will reflect the best interests of the entity and its security holders generally and not be biased towards the interests of management or any other person or group with whom a non-independent director may be associated. (Commentary to Recommendation 2.4)</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 classes of Directors:</p> <ul style="list-style-type: none"> • Independent; • External: Directors who have no current link to the organization, but are not independent. For example: former officers and former employees, lawyers and consultants who provide services to the company, partners or employees of the controlling group and their close relatives, etc.; • Internal: Directors who are organization officers or employees. . . <p>It is recommended that the Board be formed exclusively by external and independent Directors. (IBGC Code ¶ 2.15)</p> <p>The number of independent members at the Board shall depend on the level of maturity of the organization, its life cycle, and its characteristics. It is recommended that the majority of members be independent, hired through formal processes, and with a well-defined scope of work and qualifications. (IBGC Code ¶ 2.16)</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> |

IV.A. Independent Board Majority

China

A listed company shall introduce independent directors to its board of directors in accordance with relevant regulations. (Ch. 3, (5) 49)

Hong Kong

Not covered directly, but see Principle A.3 ([The board] should include a balanced composition of executive and non-executive directors (including independent non-executive directors) so that there is a strong independent element on the board, which can effectively exercise independent judgement. Non-executive directors should be of sufficient calibre and number for their views to carry weight.).

See also Para. I.(f) ([Disclose in the annual report] details of non-compliance (if any) with rules 3.10(1) and (2), and 3.10A and an explanation of the remedial steps taken to address non-compliance. This should cover non-compliance with appointment of a sufficient number of independent non-executive directors [(at least three and representing at least one-third of the board, per rules 3.10(1) and 3.10(A)] and appointment of an independent non-executive director with appropriate professional qualifications, or accounting or related financial management expertise;).

India

The Board of Directors of the company shall have an optimum combination of executive and non-executive directors . . . and not less than fifty percent of the Board of Directors comprising non-executive directors.

Where the Chairman of the Board is a non-executive director, at least one-third of the Board should comprise independent directors and in case the company does not have a regular non-executive Chairman, at least half of the Board should comprise independent directors.

Provided that where the regular non-executive Chairman is a promoter of the company or is related to any promoter or person occupying management positions at the Board level or at one level below the Board, at least one-half of the Board of the company shall consist of independent directors.

For the purpose of the expression “related to any promoter” . . . : i. If the promoter is a listed entity, its directors other than the independent directors, its employees or its nominees shall be deemed to be related to it . . .

(§ 49.II.A)

Russia

The board of directors should include a sufficient number of independent directors. (Principle 2.4)

Independent directors should account for at least one-third of all directors elected to the board of directors. (Principle 2.4.3)

Based on Russian companies’ practices, their boards of directors, as a rule, consist of three categories of directors, namely, executive, non-executive, and independent directors. (Recommendation 100)

UAE

[A]t least one-third of members shall be independent members and a majority of members shall be non-executive members who shall have technical skills and experience for the good of the Company. (Article 3.2)

IV.B. Definition of “Independence”

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|---|---|---|---|
| <p><i>NYSE</i> - (a)(i) No director qualifies as “independent” unless the board of directors affirmatively determines that the director has no material relationship with the listed company . . . (ii) [I]n affirmatively determining the independence of any director who will serve on the compensation committee . . . the board of directors must consider all factors specifically relevant. . . (b) [A] director is not independent if: (i) The director is, or has been within the last three years, an employee of the listed company, or an immediate family member is, or has been within the last three years, an executive officer, of the listed company. (ii) The director has received, or has an immediate family member who has received, during any [12]-month period within the last three years, more than \$120,000 in direct compensation from the listed company. . . (iii)(A) The director is a current partner or employee of . . . the listed company’s internal or external auditor; (B) the director has an immediate family member who is a current partner of such a firm; (C) the director has an immediate family member who is a current employee of such a firm and personally works on the . . . company’s audit; or (D) the director or an immediate family member was within the last three years a partner or employee of such a firm and personally worked on the . . . company’s audit within that time. (iv) The director or an immediate family member [has a compensation committee interlock]. (v) The director is a current employee, or an immediate family member is a current executive officer, of a company that has made payments to, or received payments from, the listed company for property or services in an amount which, in any of the last three fiscal years, exceeds the greater of \$1 million, or 2% of such other company’s consolidated gross revenues. (§ 303A.02)</p> <p><i>NACD</i> - 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. 9)</p> | <p>The board should determine whether the director is independent in character and judgement and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the director’s judgement. The board should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director:</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>(Code Provision B.1.1)</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 may colour his or her judgment. Accordingly, an independent director is to be understood not only as a non-executive director, i.e. one not performing management duties in the corporation or the group, but also one devoid of any particular bonds of interest (significant shareholder, employee, other) with them. (¶ 9.1)</p> <p>[C]riteria . . . for a director to qualify as independent. . . :</p> <ul style="list-style-type: none"> • not to be an employee or executive director of the corporation, or an employee or director of its parent or a company that the latter consolidates, and not having been in such a position for the previous five years; • not to be an executive director of a company in which the corporation holds a directorship, directly or indirectly, or in which an employee appointed as such or an executive director of the corporation (currently in office or having held such office for less than five years) is a director; • not to be a customer, supplier, investment banker or commercial banker: that is material to the corporation or its group, or for a significant part of whose business the corporation or its group accounts . . . ; • not to be related by close family ties to an executive director; • not to have been an auditor of the corporation within the previous five years; [and] • not to have been a director of the corporation for more than twelve years. <p>Although he or she may be an executive director, a Chairman of the Board may be considered as independent if the company can justify this based on the criteria set out above. (¶ 9.4)</p> <p>Directors representing major shareholders . . . may be considered as being independent provided that these shareholders do not take part in control of the corporation. Nevertheless, beyond a 10% holding of stock or votes, the Board, upon a report from the appointments or nominations committee, should systematically review the qualification of a director as an independent director, with regard to the makeup of the corporation’s capital and the existence of a potential conflict of interest. (¶ 9.5)</p> | <p><i>Supervisory Board</i></p> <p>[A] Supervisory Board member is not to be considered independent in particular if he/she has personal or business relations with the company, its executive bodies, a controlling shareholder or an enterprise associated with the latter which may cause a substantial and not merely temporary conflict of interest[.]. (§ 5.4.2)</p> <p><i>Management Board</i></p> <p><i>Not applicable.</i></p> | <p><i>Not covered directly, but see</i> Principle VI.E (The board should be able to exercise objective independent judgment on corporate affairs.).</p> <p><i>See also</i> Annotation to Principle VI.E (In order to exercise its duties of monitoring managerial performance, preventing conflicts of interest and balancing competing demands on the corporation, it 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. . . . This has led to both codes and the law in some jurisdictions to call for some board members to be independent of dominant shareholders 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> |

IV.B. Definition of “Independence”

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|---|---|--|
| <p>A supervisory board member shall be deemed to be independent if the following criteria of dependence do not apply to him. These criteria are that the supervisory board member concerned or his wife, registered partner or other life companion, foster child or relative by blood or marriage up to the second degree as defined under Dutch law:</p> <p>a) has been an employee or member of the management board of the company (including associated companies as referred to in Section 5:48 of the Financial Supervision Act (Wet op het financieel toezicht / Wft) 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 the compensation received for the work performed as a supervisory board member and in so far as this is not in keeping with the normal course of business;</p> <p>c) has had an important business relationship with the company, or a company associated with it, in the year prior to the appointment. This includes the case where the supervisory board member, or the firm of which he is a shareholder, partner, associate or adviser, has acted as adviser to the company (consultant, external auditor, civil notary and lawyer) and the case where the supervisory board member is a management board member or an employee of any bank with which the company has a lasting and significant relationship;</p> <p>d) is a member of the management board of a company in which a member of the management board of the company which 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>In general terms, a member of the board of directors may be defined as independent when the individual in question has no business, family or other relationships that might be assumed to affect his or her views and decisions. It is difficult to provide an exhaustive summary of all the matters that might affect the independence of a member of the board. When evaluating whether a member of the board is independent of the company’s executive management or its main business connections, attention should be paid to ensuring, inter alia, that the individual:</p> <ul style="list-style-type: none"> • has not been employed by the company (or group where appropriate) in a senior position at any time in the last five years • does not receive any remuneration from the company other than the regular fee as a board member (does not apply to payments from a company pension) • does not have, or represent, business relationships with the company • is not entitled to any fees as a board member that are dependent on the company’s performance or to any share options • does not have any cross-relationships with executive personnel, other members of the board of directors or other shareholder elected representatives • has not at any time in the last three years been a partner or employee of the accounting firm that currently audits the company. <p>The criteria listed above may also be relevant to determining whether a member of the board of directors is independent of the company’s main shareholder(s). Such evaluation should then be carried out on the basis of the board member’s relationship with the main shareholder(s) not the company.</p> <p>(Commentary to § 8)</p> <p><i>See also</i> Commentary to § 8 (The stipulation that members of the board of directors should not undertake additional assignments for the company is based on the need for members of the board to be independent of the company’s executive personnel.)</p> | <p>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.</p> <p>...The Board of Directors may lay down further criteria of independence. (Article II.g.22)</p> | <p>To describe a director as “independent” carries with it a particular connotation that the director is not allied with the interests of management, a substantial security holder or other relevant stakeholder and can and will bring an independent judgement to bear on issues before the board...</p> <p>A director of a listed entity should only be characterised and described as an independent director if he or she is free of any interest, position, association or relationship that might influence, or reasonably be perceived to influence, in a material respect his or her capacity to bring an independent judgement to bear on issues before the board and to act in the best interests of the entity and its security holders generally.</p> <p><u>Factors relevant to assessing the independence of a director</u></p> <p>Examples of interests, positions, associations and relationships that might cause doubts about the independence of a director include if the director:</p> <ul style="list-style-type: none"> • is, or has been, employed in an executive capacity by the entity or any of its child entities and there has not been a period of at least three years between ceasing such employment and serving on the board; • is, or has within the last three years been, a partner, director or senior employee of a provider of material professional services to the entity or any of its child entities; • is, or has been within the last three years, in a material business relationship (eg as a supplier or customer) with the entity or any of its child entities, or an officer of, or otherwise associated with, someone with such a relationship; • is a substantial security holder of the entity or an officer of, or otherwise associated with, a substantial security holder of the entity; • has a material contractual relationship with the entity or its child entities other than as a director; • has close family ties with any person who falls within any of the categories described above; or • has been a director of the entity for such a period that his or her independence may have been compromised. <p>(Commentary to Recommendation 2.3)</p> | <p>The independent Director is characterized by:</p> <ul style="list-style-type: none"> • Not being bound to the organization, except for non-relevant holdings in it; • Not being a controlling shareholder, member of the controlling group, or another group with relevant holdings in the organization, spouse or relative up to the second degree of any of the aforementioned parties, or connected to organizations related to the controlling shareholder; • Not being bound by a shareholders’ agreement; • Not having been an employee or officer of the organization (or its subsidiaries) for at least three (3) years; • Not being or having been, for less than three (3) years, a Director of a controlled organization; • Not being supplying, purchasing, or bidding, directly or indirectly, to provide services and/or products to the organization in a relevant scale to a Director or the organization; • Not be a spouse or second degree relative of any Director or manager of the organization; • Not getting compensation from the organization, except for Director fees. (Dividends from non-relevant holdings in the organization are excluded from this limitation); • Not having been a partner, in the last three (3) years, of an audit firm which is auditing or has audited the organization in the same period; • Not being a member of a non-profit organization that receives significant funds from the organization or its related parties; • Staying independent with regard to the CEO ; • Not financially depending upon the organization’s compensation. <p>It is recommended that the organization define and disclose the maximum period a Director can serve as an independent member. A former Director can recover their independence after a period set by the organization, of not less than three (3) years. (IBGC Code ¶ 2.16)</p> |

IV.B. Definition of “Independence”

| China | Hong Kong | India | Russia | UAE |
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| <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><u>Supervisory Board</u></p> <p><i>Not covered directly, but see Ch. 4, (2) 64</i> (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>(Serving more than 9 years could be relevant to the determination of a non-executive director’s independence. If an independent non-executive director serves more than 9 years, his further appointment should be subject to a separate resolution to be approved by shareholders. (CP A.4.3)).</p> <p><i>The definition of “independence” is set forth in rule 3.13, pursuant to which independence “is more likely to be questioned if the director:</i></p> <ol style="list-style-type: none"> 1. <i>holds more than 1% of the total issued share capital of the listed issuer;</i> 2. <i>has received an interest in any securities of the listed issuer as a gift, or by means of other financial assistance, from a connected person or the listed issuer itself;</i> 3. <i>is a director, partner or principal of a professional adviser which currently provides or has within one year immediately prior to the date of his proposed appointment provided services, or is an employee of such professional adviser who is or has been involved in providing such services during the same period, to: (a) the listed issuer, its holding company or any of their respective subsidiaries or connected persons; or (b) any person who was a controlling shareholder or, where there was no controlling shareholder, any person who was the chief executive or a director (other than an independent non-executive director), of the listed issuer within one year immediately prior to the date of the proposed appointment, or any of their associates;</i> 4. <i>has a material interest in any principal business activity of or is involved in any material business dealings with the listed issuer, its holding company or their respective subsidiaries or with any connected persons of the listed issuer;</i> 5. <i>is on the board specifically to protect the interests of an entity whose interests are not the same as those of the shareholders as a whole;</i> 6. <i>is or was connected with a director, the chief executive or a substantial shareholder of the listed issuer within two years immediately prior to the date of his proposed appointment;</i> 7. <i>is, or has at any time during the two years immediately prior to the date of his proposed appointment been, an executive or director (other than an independent non-executive director) of the listed issuer, of its holding company or of any of their respective subsidiaries or of any connected persons of the listed issuer; and</i> 8. <i>is financially dependent on the listed issuer, its holding company or any of their respective subsidiaries or connected persons of the listed issuer.</i> | <p>[T]he expression ‘independent director’ shall mean a non-executive director, other than a nominee director of the company:</p> <ol style="list-style-type: none"> a. who, in the opinion of the Board, is a person of integrity and possesses relevant expertise and experience; b. (i) who is or was not a promoter of the company or its holding, subsidiary or associate company; (ii) who is not related to promoters or directors in the company, its holding, subsidiary or associate company; c. apart from receiving director’s remuneration, has or had no pecuniary relationship with the company ... during the two immediately preceding financial years or during the current financial year; d. none of whose relatives has or had pecuniary relationship or transaction with the company ... amounting to two per cent or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year; e. who, neither himself nor any of his relatives — <ol style="list-style-type: none"> (i) holds or has held the position of a key managerial personnel or is or has been employee of the company ... in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed; (ii) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of — <ol style="list-style-type: none"> (A) a firm of auditors or company secretaries in practice or cost auditors of the company or its holding, subsidiary or associate company; or (B) any legal or a consulting firm that has or had any transaction with the company ... amounting to ten per cent or more of the gross turnover of such firm; (iii) holds together with his relatives two per cent or more of the total voting power of the company; or (iv) is a Chief Executive or director ... of any non-profit organisation that receives twenty-five per cent or more of its receipts from the company ... or that holds two per cent or more of the total voting power of the company; (v) is a material supplier, service provider or customer or a lessor or lessee of the company; f. who is not less than 21 years of age. (§ 49.II.B.1) | <p>An independent director should mean any person who has required professional skills and expertise and is sufficiently able to have his/her own position and make objective and bona fide judgments, free from the influence of the company’s executive bodies, any individual group of its shareholders or other stakeholders. It should be noted that, under normal circumstances, a candidate (or an elected director) may not be deemed to be independent, if he/she is associated with the company, any of its substantial shareholders, material trading partners or competitors, or the government. (Principle 2.4.1)</p> <p>[A director will not be independent if, among other circumstances, he or she and/or any associated persons]:</p> <ul style="list-style-type: none"> • are or were during the last three years members of the executive bodies or employees of the company, any entity controlled by the company and/or its management company; • are members of the board of directors of a legal entity that controls the company or is controlled thereby or of such legal entity’s management company; or • during any of the last three years received remuneration and/or other material benefits from the company and/or entities controlled thereby in excess of 50% of the annual fixed fee due to a board member of the company [except director fees].....; or • are owners or beneficiaries of any shares issued by the company which account for more than one percent of the share capital or the total number of the voting shares of the company or whose market value exceeds 20 times the annual fixed fee due to a [director]; or • are employees and/or members of executive bodies of a legal entity ... and that any employee and/or member of the executive bodies of the company is a member of such remuneration committee (or board of directors) of such entity; or • [directly or indirectly] provide advisory services to the company [or related entities]; or • [directly or indirectly] during the last three years provided the company or [related] entities with appraisal, tax advisory, auditing, or accounting services ... or were employees of such entities or rating agency directly involved in the provision of such services to the company; or • has been a member of the board for more than 7 years in aggregate]. (Recommendations 103, 104) <p><i>See generally Recommendation 101– 111.</i></p> | <p>[A] member who neither himself/herself, his/her spouse nor first-degree relative is a member of the executive management of a Company during the last two years or has a relationship that creates financial deals with a Company, parent company, sister company or allied company during the last two years if the total amount of these transactions exceeds 5% of the paid-up capital of the Company, an amount of five million dirhams (AED 5,000,000.00) or an equivalent amount in a foreign currency, whichever is less;</p> <p>In particular, a board member does not meet the independence condition in the following cases:</p> <ul style="list-style-type: none"> • he/she is an employee of any party related to the Company during the last two years; • he/she is directly related to a Company that performs consultation business or provides consultations to the Company or any parties related thereto; • he/she enters into personal service contracts with the Company, any party related to the Company or the employees of the executive management of the Company; • he/she is directly related to a non-profit organization that receives a considerable financing from the company or a party related thereto; • he/she is during the last two years related to or an employee of any external or former auditor of the Company or any party related to the Company; • if his/her or his/her minor children’s share or the share of both in the capital of the company amounts ten percent (10%) or more. <p>[First-degree relative is defined to mean] father, mother, children, spouse, spouse’s father, spouse’s mother and stepchildren. (Article 1)</p> |

IV.C. Executive Sessions of Outside Directors

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>To empower non-management directors to serve as a more effective check on management, the non-management directors of each listed company must meet at regularly scheduled executive sessions without management. (§ 303A.03)</p> <p>To promote open discussion among the non-management directors, companies must schedule regular executive sessions in which those directors meet without management participation. ... Regular scheduling of such meetings is important not only to foster better communication among non-management directors, but also to prevent any negative inference from attaching to the calling of executive sessions....</p> <p>[L]isted companies may instead choose to hold regular executive sessions of independent directors only. An independent director must preside over each executive session of the independent directors, although the same director is not required to preside at all executive sessions of the independent directors. If a listed company chooses to hold regular meetings of all non-management directors, such listed company should hold an executive session including only independent directors at least once a year. (Commentary to § 303A.03)</p> | <p>The chairman should hold meetings with the non-executive directors without the executives present. Led by the senior independent director, the non-executive 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. (Code Provision A.4.2)</p> | <p>It is recommended that the non-executive directors meet periodically without the executive or “in-house” directors. The internal rules of operation of the Board of Directors must provide for such a meeting once a year, at which time the evaluation of the Chairman’s, Chief Executive Officer’s and Deputy Chief Executive’s respective performance shall be carried out, and the participants shall reflect on the future of the company’s executive management. (¶ 10.4)</p> <p>See ¶ 16.3 (The audit committee should interview the statutory auditors, and 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>See also ¶ 18.2 (When the report on the proceedings of the compensation committee is presented, the Board should deliberate on issues relating to the compensation of the executive directors without the presence of the latter.)</p> | <p>In Supervisory Boards with co-determination, representatives of the shareholders and of the employees can prepare the Supervisory Board meetings separately, possibly with members of the Management Board. If necessary, the Supervisory Board shall 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</i> Annotation to Principle VI.E (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 non-executive director to convene or chair sessions of the outside directors.)</p> |
| <p><u>NACD</u></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. 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. Boards should adopt a policy of holding periodic executive sessions at both the full board and committee levels on a pre-set schedule. (p. 6)</p> | | | | |

IV.C. Executive Sessions of Outside Directors

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|----------------------------|---|--|
| <p>The supervisory board shall discuss at least once a year on its own, i.e. without the management board being present, its own functioning, the functioning of its committees and its individual members, and the conclusions that must be drawn on the basis thereof. The desired profile, composition and competence of the supervisory board shall also be discussed. Moreover, the 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. (Best Practice Provision III.1.7)</p> <p><i>See</i> Best Practice Provision III.5.9 (The audit committee shall meet with the external auditor as often as it considers necessary, but at least once a year, without management board members being present.)</p> | <p><i>Not covered directly, but see</i> § 8 (The board of directors should not include executive personnel. If the board does include executive personnel, the company should provide an explanation for this and implement consequential adjustments to the organisation of the work of the board, including the use of board committees to help ensure more independent preparation of matters for discussion by the board.)</p> <p><i>See</i> also § 15 (The board of directors should hold a meeting with the auditor at least once a year at which neither the chief executive nor any other member of the executive management is present.).</p> | <p><i>Not covered.</i></p> | <p>Non-executive directors should consider the benefits of conferring periodically without executive directors or other senior executives present. (Commentary to Recommendation 2.4)</p> | <p><u><i>Board of Directors</i></u></p> <p>The Board shall hold regular sessions without the presence of executives – the so-called executive sessions. Thus, the Board has an opportunity for discussion exclusively among Board members, without causing embarrassment to any parties. (IBGC Code ¶ 2.11)</p> <p>To enable the Board to assess, without embarrassment, the work of managers, it is important that external and independent directors meet regularly and in the absence of officers and/or internal Directors. (IBGC Code ¶ 2.16.2)</p> <p><u><i>Fiscal/Advisory Board</i></u></p> <p><i>Not covered directly, but see</i> CVM Recommendation IV.3 (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> |

IV.C. Executive Sessions of Outside Directors

China

Hong Kong

India

Russia

UAE

Not covered.

The chairman should at least annually hold meetings with the non-executive directors (including independent non-executive directors) without the executive directors present. (CP A.2.7)

The independent directors of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and members of management. All the independent directors of the company shall strive to be present at such meeting.

Not covered.

Not covered.

The independent directors in the meeting shall, inter alia:

i. review the performance of non-independent directors and the Board as a whole;

ii. review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;

iii. assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

(§ 49.II.B.6)

IV.D. Board Access to Senior Management

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>The following subjects must be addressed in the corporate governance guidelines . . . Director access to management. . . . (Commentary to § 303A.09)</p> <p><u>NACD</u></p> <p><i>Not covered directly, but see</i> p. 2 ([The board should act] as a resource for management in matters of planning and policy. To ensure effective decision-making . . . board members must not only act as advisors, question-askers, and problem-solvers, but also as active participants and decision-makers in fostering the overall success of the company.).</p> | <p>To function effectively, all directors need appropriate knowledge of the company and access to its operations and staff. (Supporting Principle B.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 complied with. (Code Provision B.5.2)</p> | <p>Directors should have the opportunity to meet with the corporation’s principal executive managers, even outside the presence of executive directors. In the latter case, these should be given prior notice. (¶ 12)</p> <p>The committees of the Board may contact, when exercising their duties, the principal managers of the corporation after informing the Chairman of the Board of Directors and subject to reporting back to the Board on such contacts. (¶ 15)</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 in 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>Between meetings, 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 it on issues of strategy, planning, business development, risk situation, risk management and compliance 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>The contributions of non-executive 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> |

IV.D. Board Access to Senior Management

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p>The supervisory board and its individual members each have their own responsibility for obtaining all information from the management board . . . in order to be able to carry out its duties properly as a supervisory organ. 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 . . . attend its meetings. (Best Practice Provision III.1.9)</p> <p>The chairman of the supervisory board shall ensure that . . . g) the supervisory board has proper contact with the management board . . . (Best Practice Provision III.4.1)</p> | <p>The nomination committee should ensure that it has access to the expertise required in relation to the duties for which the committee is responsible. The nomination committee should have the ability to make use of resources available in the company.... (Commentary to § 7)</p> <p>The chief executive has a particular responsibility to ensure that the board of directors receives accurate, relevant and timely information that is sufficient to allow it to carry out its duties. . . . Board committees should have the ability to make use of resources available in the company... (Commentary to § 9)</p> | <p>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. . . .</p> <p>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.</p> <p>(Article II.c.15)</p> <p>If the Committee orders comparisons to be undertaken by the staff of its own company, these staff must be subject to the instructions of the Committee Chairman. (Appendix 1.b.7)</p> | <p><i>Not covered directly, but see</i> Commentary to Recommendation 1.1 (Management . . . is also responsible for providing the board with accurate, timely and clear information to enable the board to perform its responsibilities.).</p> <p>Each director should be able to communicate directly with the company secretary and vice versa. (Commentary to Recommendation 1.4)</p> <p><i>See also</i> Commentary to Recommendation 4.1 (The audit committee should have a charter that clearly sets out its role and confers on it all necessary powers to perform that role. This will usually include the right to obtain information, interview management . . .).</p> <p><i>See also</i> Commentary to Recommendation 7.1 (A risk committee should have a charter that clearly sets out its role and confers on it all necessary powers to perform that role. This will usually include the right to obtain information, interview management . . .).</p> <p><i>See also</i> Commentary to Recommendation 8.1 (The remuneration committee should have a charter that clearly sets out its role and confers on it all necessary powers to perform that role. This will usually include the right to obtain information, interview management . . .).</p> | <p>Other organization officers, technical assistants, or consultants may occasionally be invited to Board meetings to provide information, explain their activities, or provide opinions on matters in which they specialize. They should not, however, be present when the decision is made. (IBGC Code ¶ 2.12)</p> <p>To preserve the hierarchy and ensure a fair sharing of information, the CEO and/ or the Chairman should be advised/consulted when Directors wish to contact the officers for any clarification. (IBGC Code ¶ 2.34.2)</p> <p><i>See</i> Commentary on CVM Recommendation IV.3 (Any member of the audit committee may request an individual meeting with management . . . when necessary.).</p> |

IV.D. Board Access to Senior Management

| China | Hong Kong | India | Russia | UAE |
|--|---|--|---|--|
| <p><u>Board of Directors</u> Not covered.</p> <p><u>Supervisory Board</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>Management has an obligation to supply the board and its committees with adequate information, in a timely manner, to enable it to make informed decisions. The information supplied must be complete and reliable. To fulfil his duties properly, a director may not, in all circumstances, be able to rely purely on information provided voluntarily by management and he may need to make further enquiries. Where any director requires more information than is volunteered by management, he should make further enquiries where necessary. So, the board and individual directors should have separate and independent access to the issuer's senior management. (CP A.7.2)</p> <p>All directors should have access to the advice and services of the company secretary to ensure that board procedures, and all applicable law, rules and regulations, are followed. (CP F.1.4)</p> | <p>The Board and senior management should facilitate the Independent Directors to perform their role effectively as a Board member and also a member of a committee. (§ 49.I.D.3.n)</p> <p>The Audit Committee shall have powers . . . To seek information from any employee. (§ 49.III.C)</p> | <p><i>Not covered directly, but see</i> Recommendation 143 (The efficiency of work carried out by board members (especially non-executive directors and independent directors) largely depends on the form, timing and quality of information they receive. The information that is periodically presented to board members by the executive bodies is not always sufficient to enable the board members to properly perform their duties. In this regard, board members are encouraged to request additional information when such information is necessary to make an informed decision. The duty of the company's officials to provide the board members with such information should be set forth by the company's internal documents.).</p> <p><i>See also</i> Recommendation 145 (It is important to procure that the board members are able to obtain all required information as well as to request information from the company and promptly receive answers to their queries.).</p> | <p>The management shall provide the board of directors and its sub-committees with sufficient complete documented information on a timely basis to empower the board to adopt decisions on sound grounds and duly perform its duties and responsibilities and the board of directors shall adopt all means to acquire information that enables it to make decisions on reasonable sound grounds. (Article 5.2)</p> |

IV.E. Number/Structure of Committees

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|--|--|---|--|
| <p><u>NYSE</u></p> <p>Listed companies must have a nominating/corporate governance committee composed entirely of independent directors. (§ 303A.04(a))</p> <p>Listed companies must have a compensation committee composed entirely of independent directors. (§ 303A.05(a))</p> <p>Listed companies must have an audit committee that satisfies the requirements of Rule 10A-3 under the Exchange Act [relating to independence and responsibilities]. (§ 303A.06)</p> <p>The audit committee must have a minimum of three members. (§ 303A.07(a))</p> <p><u>NACD</u></p> <p>[K]ey committees—compensation, audit, and nominating or governance (p. 5)</p> <p>See p. 5 (Boards should establish guidelines for, and discuss with some pre-defined frequency, the number of committees [and] the size and structure of committees, and the selection and rotation of committee members).</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 non-executive directors. The chairman or an independent non-executive 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. (Code 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, independent non-executive directors. In smaller companies the company chairman may be a member of, but not chair, the committee in addition to the independent non-executive directors, provided he or she was considered independent on appointment as chairman. The board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience. (Code Provision C.3.1)</p> <p>The board should establish a remuneration committee of at least three, or in the case of smaller companies two, independent non-executive directors. In addition the company chairman may also be a member of, but not chair, the committee if he or she was considered independent on appointment as chairman. (Code Provision D.2.1)</p> | <p>The number and structure of the committees are determined by each Board. However, in addition to the tasks assigned to the audit committee by law, it is recommended that the compensation and the appointments of directors and executive directors should be subject to preparatory work by a specialised committee of the Board of Directors. (¶ 15)</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. 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 be independent and not be a former member of the Management Board of the company whose appointment ended less than two years ago. (§ 5.3.2)</p> <p>The Supervisory Board shall form a nomination committee composed exclusively of shareholder representatives which proposes suitable candidates to the Supervisory Board for recommendation to the General Meeting. (§ 5.3.3)</p> <p>The Supervisory Board can delegate preparations for the appointment of members of the Management Board, as well as for the handling of the conditions of the employment contracts including compensation, to committees. (§ 5.1.2)</p> <p><u>Management Board Committees</u></p> <p><i>Not covered.</i></p> | <p>Boards should consider assigning a sufficient number of non-executive 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. (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> |

IV.E. Number/Structure of Committees

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|---|---|---|
| <p><u><i>In a Two-Tier Board Structure</i></u></p> <p><u><i>Supervisory Board Committees</i></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 decision-making 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.5.14, V.1.2, V.2.3, V.3.1, V.3.2 and V.3.3 shall apply to the entire supervisory board. 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 terms of reference for each committee. The terms of reference shall indicate the role and responsibility of the committee concerned, its composition and the manner in which it discharges its duties. . . . The terms of reference and the composition of the committees shall be posted on the company’s website. (Best Practice Provision III.5.1)</p> <p><u><i>Management Board Committees</i></u></p> <p><i>Not covered.</i></p> <p><u><i>In a One-Tier Board Structure</i></u></p> <p>The [audit, remuneration and selection and appointment] committees . . . shall consist only of nonexecutive management board member[s]. (Best Practice Provision III.8.3)</p> | <p>The company should have a nomination committee, and the general meeting should elect the chairperson and members of the nomination committee and should determine the committee’s remuneration. (§ 7)</p> <p>The nomination committee should be laid down in the company’s articles of association. The general meeting should stipulate guidelines for the duties of the nomination committee.</p> <p>The Public Companies Act stipulates that large companies must have an audit committee. The entire board of directors should not act as the company’s audit committee. Smaller companies should give consideration to establishing an audit committee. . . . The board of directors should also consider appointing a remuneration committee in order to help ensure thorough and independent preparation of matters relating to compensation paid to the executive personnel. (§ 9)</p> <p>There is a clear international trend for more extensive use of board committees and for the board of directors to provide information on its use of committees, their mandates, membership and working processes.... If any member of the executive personnel is a member of the board, an audit committee and a remuneration committee should be established in order to ensure the greatest possible independence for the board’s deliberations, cf. Section 8. (Commentary to § 9)</p> | <p>The Board of Directors should form committees to perform defined tasks. (Article II.g.21)</p> <p>The Board of Directors should set up an Audit Committee. (Article II.g.23)</p> <p>The Board of Directors should set up a Compensation Committee. (Article II.g.25)</p> <p>The Boards of Directors should set up a Nomination Committee. (Article II.g.27)</p> | <p>The board of a listed entity should: (a) have a nomination committee which: (1) has at least three members, a majority of whom are independent directors; and (2) is chaired by an independent director . . . or (b) if it does not have a nomination committee, disclose that fact and the processes it employs to address board succession issues and to ensure that the board has the appropriate balance of skills, knowledge, experience, independence and diversity to enable it to discharge its duties and responsibilities effectively. (Recommendation 2.1)</p> <p>The board of a listed entity should: (a) have an audit committee which: (1) has at least three members, all of whom are non-executive directors and a majority of whom are independent directors; and (2) is chaired by an independent director, who is not the chair of the board . . . or (b) if it does not have an audit committee, disclose that fact and the processes it employs that independently verify and safeguard the integrity of its corporate reporting, including the processes for the appointment and removal of the external auditor and the rotation of the audit engagement partner. (Recommendation 4.1)</p> <p>[A] listed entity which is included in the S&P All Ordinaries Index . . . is required under the Listing Rules to have an audit committee...(Commentary to Recommendation 4.1)</p> <p>The board of a listed entity should: (a) have a committee or committees to oversee risk, each of which: (1) has at least three members, a majority of whom are independent directors; and (2) is chaired by an independent director . . . or (b) if it does not have a risk committee or committees . . . disclose that fact and the processes it employs for overseeing the entity’s risk management framework. (Recommendation 7.1)</p> <p>The board of a listed entity should: (a) have a remuneration committee which: (1) has at least three members, a majority of whom are independent directors; and (2) is chaired by an independent director . . . or (b) if it does not have a remuneration committee, disclose that fact and the processes it employs for setting the level and composition of remuneration for directors and senior executives and ensuring that such remuneration is appropriate and not excessive. (Recommendation 8.1)</p> <p>[A] listed entity which is included in the S&P/ASX 300 Index . . . is required under the Listing Rules to have a remuneration committee comprised solely of non-executive directors.... (Commentary to Recommendation 8.1)</p> | <p>The board should . . . set up specialized committees to analyze certain questions in depth. . . . (CVM Recommendation II.2)</p> <p>Committees are accessory bodies to the Board of Directors. Their existence does not imply a delegation of responsibilities that belong to the Board of Directors as a whole. Several Board of Directors activities that require a long time – not always available during the meetings - can be carried out more fully by specific committees. Board committees may include: Audit, Human Resources/Compensation, Governance, Finance, and Sustainability, among others. The number of committees will depend on the size of the organization. An excessive number of such groups can unduly mimic the company’s internal structure at the Board and create inappropriate interference in Management. The committees study their respective matters and prepare proposals to submit to the Board. The necessary material for Board examination should be submitted with a vote recommendation. Only the Board can make decisions. The Board’s Internal Regulations should guide the creation and composition of the committees and their coordination by independent Directors having the most adequate expertise and skills. (IBGC Code ¶ 2.28)</p> <p>See IBGC Code ¶ 5.5 (The Fiscal Council does not replace the Audit Committee. The Audit Committee is a controlling body whose functions are delegated by the Board of Directors, while the Fiscal Council is an inspection body, whose functions are directly defined by the shareholders and, by law, does not report to the Board of Directors.).</p> |

IV.E. Number/Structure of Committees

| China | Hong Kong | India | Russia | UAE |
|---|--|--|--|---|
| <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. (Ch. 3, (6) 52)</p> | <p>Issuers should establish a nomination committee which is chaired by the chairman of the board or an independent non-executive director and comprises a majority of independent non-executive directors. (CP A.5.1)</p> <p>The board should establish formal and transparent arrangements to consider how it will apply financial reporting and internal control principles and maintain an appropriate relationship with the issuer's auditors. The audit committee established under the Listing Rules should have clear terms of reference. (Principle C.3)</p> <p>Board committees should be formed with specific written terms of reference which deal clearly with their authority and duties. (Principle D.2)</p> | <p>A qualified and independent audit committee shall be set up ... The audit committee shall have minimum three directors as members. (§ 49.III.A)</p> <p>The company shall set up a nomination and remuneration committee which shall comprise at least three directors . . . (§ 49.IV.A)</p> <p>A [stakeholders relationship] committee under the Chairmanship of a non-executive director and such other members as may be decided by the Board of the company shall be formed to specifically look into the redressal of grievances of shareholders, debenture holders and other security holders. (§ 49.VIII.E.4)</p> | <p>The board of directors should form committees for preliminary consideration of most important issues of the company's business. (Principle 2.8)</p> <p>For the purpose of preliminary consideration of any matters of control over the company's financial and business activities, it is recommended to form an audit committee comprised of independent directors. (Principle 2.8.1)</p> <p>For the purpose of preliminary consideration of any matters of development of efficient and transparent remuneration practices, it is recommended to form a remuneration committee comprised of independent directors and chaired by an independent director who should not concurrently be the board chairman. (Principle 2.8.2)</p> <p>For the purpose of preliminary consideration of any matters relating to human resources planning (making plans regarding successor directors), professional composition and efficiency of the board of directors, it is recommended to form a nominating committee (a committee on nominations, appointments and human resources) with a majority of its members being independent directors. (Principle 2.8.3)</p> <p>Taking account of its scope of activities and levels of related risks, the company should form other committees of its board of directors, in particular, a strategy committee, a corporate governance committee, an ethics committee, a risk management committee, a budget committee or a committee on health, security and environment, etc. (Principle 2.8.4)</p> <p>The creation of committees of the board of directors is an essential condition of its effective functioning. The committees of the board of directors are meant to consider, on a preliminary basis, most important issues and make recommendations to the board of directors enabling the latter to make decisions on matters within its jurisdiction. (Recommendation 188)</p> <p>The decision to establish a committee of the board of directors shall be made by the board. (Recommendation 189)</p> | <p>The board of directors shall form standing committees to be directly affiliate to the board as follows: [t]he audit committee... [and] [t]he nomination and remuneration committee.... (Article 6.1)</p> <p>The committees shall be formed pursuant to procedures that are laid down by the board of directors and shall determine the duties, term and powers of the committee as well as the approach of the board's control thereover. The committee shall transparently make a report in writing to the board of directors setting forth the procedures, results and recommendations that the committee reaches. The board of directors shall follow up the operations of these committees to verify their adherence to the commissioned operations. (Article 6.3)</p> |

IV.F. Independence/Qualifications of Committee Members

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|--|---|---|--|
| <p><u>NYSE</u></p> <p>Listed companies must have a nominating/corporate governance committee composed entirely of independent directors. (§ 303A.04(a))</p> <p>Listed companies must have a compensation committee composed entirely of independent directors. Compensation committee members must satisfy the additional independence requirements specific to compensation committee membership set forth in Section 303A.02(a)(ii) [relating to compensation and affiliation]. (§ 303A.05(a))</p> <p>The audit committee must have a minimum of three members. All audit committee members must satisfy the requirements for independence set out in Section 303A.02 and, in the absence of an applicable exemption, Rule 10A-3(b)(1). (§ 303A.07(a))</p> <p>Each member of the audit committee must be financially literate, as such qualification is interpreted by the listed company's board in its business judgment, or must become financially literate within a reasonable period of time after his or her appointment to the audit committee. In addition, at least one member of the audit committee must have accounting or related financial management expertise, as the listed company's board interprets such qualification in its business judgment. While the Exchange does not require that a listed company's audit committee include a person who satisfies the definition of audit committee financial expert set out in Item 407(d)(5)(ii) of Regulation S-K, a board may presume that such a person has accounting or related financial management expertise. (Commentary to § 303A.07(a))</p> <p><u>NACD</u></p> <p>Boards should require that key committees—compensation, audit, and nominating or governance—include only independent directors (p. 5)</p> | <p>The . . . committees should have the appropriate balance of skills, experience, independence and knowledge of the company to enable them to discharge their respective duties and responsibilities effectively. (Main Principle B.1)</p> <p>A majority of members of the nomination committee should be independent non-executive directors. (Code 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, independent non-executive directors. In smaller companies the company chairman may be a member of, but not chair, the committee in addition to the independent non-executive directors, provided he or she was considered independent on appointment as chairman. The board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience. (Code Provision C.3.1)</p> <p><i>See</i> Supporting Principle B.1 (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>The existence of cross-directorships in the committees should be avoided. (¶ 15)</p> <p>The audit committee members should be competent in finance or accounting. The proportion of independent directors on the audit committee (excluding the directors representing employee shareholders and directors representing employees, who are not taken into account) should be at least equal to two-thirds, and the committee should not include any executive director. (¶ 16.1)</p> <p>However, unlike the provisions governing the compensation committee, the Chief Executive Officer shall be associated with the appointments or nominations committee's proceedings. In the event that the offices of Chairman of the Board of Directors and Chief Executive Officer are separate, the Chairman may be a member of this committee. (¶ 17.1)</p> <p>The [committee] should design a plan for replacement of executive directors It is natural for the Chairman to be a member of the committee for carrying out this task, but while his or her views should be considered, it is not desirable that he or she should chair this committee, since he or she is not independent. (¶ 17.2.2)</p> <p>[The compensation committee and any separate appointments or nominations committee] should not include any executive directors, and should have a majority of independent directors. It should be chaired by an independent director. It is advised that an employee director be a member of this committee. (¶ 17.1, 18.1)</p> | <p>The chairman of the Audit Committee . . . should be independent and not be a former member of the Management Board of the company whose appointment ended less than two years ago. (§ 5.3.2)</p> | <p>[Board] 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 specialised functions. (Annotation to Principle VI.E.1)</p> <p>It is increasingly regarded as good practice in many countries for independent board members to have a key role on [the nominating/corporate governance] committee. (Annotation to Principle II.C.3)</p> <p>Stock exchange listing requirements that address a minimal threshold for . . . audit committee independence have proved useful, while not unduly restrictive or burdensome. (Millstein Report, Perspective 15)</p> |

IV.F. Independence/Qualifications of Committee Members

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|---|--|---|--|
| <p>The supervisory board shall draw up terms of reference for each committee. . . . The terms of reference may provide that a maximum of one member of each committee may not be independent. . . . (Best Practice Provision III.5.1)</p> <p>The audit committee may 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 may 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 may be a member of the management board of another Dutch listed company. (Best Practice Provision III.5.12)</p> | <p>The members of the nomination committee should be selected to take into account the interests of shareholders in general. The majority of the committee should be independent of the board of directors and the executive personnel. At least one member of the nomination committee should not be a member of the corporate assembly, committee of representatives or the board. No more than one member of the nomination committee should be a member of the board of directors, and any such member should not offer himself for re-election to the board. The nomination committee should not include the company's chief executive or any other executive personnel. (§ 7)</p> <p>The provisions of the Code of Practice on the composition of the nomination committee seek to balance differing aspects. On the one hand, the Code of Practice reflects the principles of independence and the avoidance of any conflict of interest between the nomination committee and the candidates it puts forward for election. On the other hand, the Code of Practice takes into account that elected officers of the company with experience from the corporate assembly and board of directors contribute an understanding of the company's situation. The composition of the nomination committee should also be such that it reflects the interests of shareholders in general....The nomination committee should be independent of the company's board of directors. This means that the candidates for election to the nomination committee should not be proposed by the board of directors. (Commentary to § 7)</p> <p>In addition to the legal requirements on the composition of the audit committee etc., the majority of the members of the committee should be independent. . . . Membership of such a [remuneration] committee should be restricted to members of the board who are independent of the company's executive personnel. (§ 9)</p> <p>The evaluation of the independence of members of the audit committee can be based on the criteria for independence set out in the section "Independence of the board of directors" at Section 8. In addition to satisfying the requirements of legislation and regulations, the majority of the members of the audit committee should be independent of the company. When making recommendations for nominations to the board of directors, the election committee should identify which members of the board of directors satisfy the requirements of independence and expertise in order to be members of the audit committee. Certain companies in the financial sector are subject to separate legal requirements in respect of the audit committee. (Commentary to § 9)</p> | <p>As regards committee members, particular rules on independence should be applied.</p> <p>It is recommended that a majority of the members of certain committees be independent. 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.</p> <p>Where there is a cross membership in Boards of Directors, the independence of the respective member should be carefully examined case by case.</p> <p>The Board of Directors may lay down further criteria of independence. (Article II.g.22)</p> <p>The Board of Directors should set up an Audit Committee.</p> <p>The [Audit] Committee should consist of non-executive, preferably independent members of the Board of Directors.</p> <p>A majority of members, including the Chairman, should be financially literate.</p> <p>(Article II.g.23)</p> <p>Only independent members of the Board of Directors sit on the Compensation Committee. The Compensation Committee appointed by the Board of Directors must not include any members with interlinked company mandates. Such a situation is deemed to exist if a committee member responsible for co-determining the compensation of a member of the Board of Directors or member of the Executive Board is himself/herself subject to the supervisory or directive powers of a member in another company. Independent members of the Board of Directors who are themselves, or represent, significant shareholders may be members of the Compensation Committee. (Appendix 1.a.2; <i>super-sedes</i> Article II.g.25)</p> | <p>The board of a listed entity should: (a) have a nomination committee which: (1) has at least three members, a majority of whom are independent directors; and (2) is chaired by an independent director . . . (Recommendation 2.1)</p> <p>The nomination committee should be of sufficient size and independence to discharge its mandate effectively. Consideration should also be given to ensuring that it has an appropriate diversity of membership to avoid entrenching unconscious bias. (Commentary to Recommendation 2.1).</p> <p>The board of a listed entity should: (a) have an audit committee which: (1) has at least three members, all of whom are non-executive directors and a majority of whom are independent directors; and (2) is chaired by an independent director, who is not the chair of the board . . . (Recommendation 4.1)</p> <p>The audit committee should be of sufficient size and independence, and its members between them should have the accounting and financial expertise and a sufficient understanding of the industry in which the entity operates, to be able to discharge the committee's mandate effectively. (Commentary to Recommendation 4.1)</p> <p>The board of a listed entity should: (a) have a committee or committees to oversee risk, each of which: (1) has at least three members, a majority of whom are independent directors; and (2) is chaired by an independent director . . . (Recommendation 7.1)</p> <p>A risk committee should be of sufficient size and independence, and its members between them should have the necessary technical knowledge and a sufficient understanding of the industry in which the entity operates, to be able to discharge the committee's mandate effectively (Commentary to Recommendation 7.1)</p> <p>The board of a listed entity should: (a) have a remuneration committee which: (1) has at least three members, a majority of whom are independent directors; and (2) is chaired by an independent director . . . (Recommendation 8.1)</p> <p>The remuneration committee should be of sufficient size and independence to discharge its mandate effectively. (Commentary to Recommendation 8.1)</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 be] composed of members of the board of directors with experience in finance.... (CVM Recommendation IV.3)</p> <p>The Board of Directors' committees should preferably be formed by Directors only. When this is not feasible, most of their members should be Directors, preferably coordinated by an independent Director. The Audit Committee and Human Resources Committee should preferably be formed exclusively by independent members of the Board, given the high potential for conflicts of interest, without the presence of internal Directors (with executive roles at the organization). (IBGC Code ¶ 2.29)</p> <p>The Board of Directors shall provide a formal description of the qualifications, engagement, and the time commitment it expects from the committees. Each committee shall adopt their own Internal Regulations, and be made up of at least three members, all knowledgeable in the subject at issue. The other committees should likewise have at least one expert in their respective subjects. (IBGC Code ¶ 2.29.1)</p> <p>In the Audit Committee's case, at least one member should have proven experience in the accounting and auditing fields. (IBGC Code ¶ 2.30)</p> <p>As in the other committees, the best practice is a composition, preferably with independent members of the Board, with Human Resources/Compensation expertise. The conflict of interest inherent to the responsibilities of this committee reinforces the need to select independent Directors to form the HR committee. (IBGC Code ¶ 2.31)</p> |

IV.F. Independence/Qualifications of Committee Members

| China | Hong Kong | India | Russia | UAE |
|---|--|--|---|--|
| <p>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 majorit[y] of the committees. At least one independent director from the audit committee shall be an accounting professional. (Ch. 3, (6) 52)</p> | <p>Issuers should establish a nomination committee which is chaired by the chairman of the board or an independent non-executive director and comprises a majority of independent non-executive directors. (CP A.5.1)</p> <p>A former partner of the issuer’s existing auditing firm should be prohibited from acting as a member of its audit committee for a period of 1 year from the date of his ceasing:</p> <p>(a) to be a partner of the firm; or</p> <p>(b) to have any financial interest in the firm, whichever is later. (CP C.3.2)</p> | <p>Two-thirds of the members of audit committee shall be independent directors. All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.</p> <p>The Chairman of the Audit Committee shall be an independent director...</p> <p>(§ 49.III.A)</p> <p>The company shall set up a nomination and remuneration committee which shall comprise at least three directors, all of whom shall be non-executive directors and at least half shall be independent. Chairman of the committee shall be an independent director. (§ 49.IV.A)</p> | <p>[The] audit committee [should be] comprised of independent directors. (Principle 2.8.1)</p> <p>[The] remuneration committee [should be] comprised of independent directors and chaired by an independent director who should not concurrently be the board chairman. (Principle 2.8.2)</p> <p>[The] nominating committee [should be] comprised of] . . . a majority of . . . independent directors. (Principle 2.8.3)</p> <p>The composition of the committees should be determined in such a way that it would allow a comprehensive discussion of issues being considered on a preliminary basis with due account of differing opinions. (Principle 2.8.5)</p> <p>It is recommended that at least one audit committee member who is an independent director should have expertise in preparing, analysing, evaluating, and auditing accounting (financial) statements. (Recommendation 174)</p> <p>If the chairman of the nominating committee is also the chairman of the board of directors, he/she may not carry out the functions of the chairperson at a meeting of the committee which considers plans regarding successor chairmen of the board of the directors or recommendations on his/her election. (Recommendation 184)</p> | <p>Committees shall consist of at least three (3) non-executive board members, of whom at least two (2) members shall be independent members and shall be chaired by either independent members. The chairman of the board of directors may not be a member of any such committees. The board of directors shall select non-executive board members for the committees charged with the duties that may result in conflict of interests, such as verification of the integrity of financial and non-financial reports, review of deals concluded with interested parties, selection of non-executive board members and fixation of remuneration. (Article 6.2)</p> <p>The board of directors shall form an audit committee consisting of non-executive board members, provided that majority of the Committee’s members shall be independent members. The Committee shall consist of at least three (3) members, of whom a member shall be an expert in financial and accounting affairs. One or more members from outside the Company may be appointed in case the number of non-executive board members is not sufficient. (Article 9.1)</p> <p>A former partner of the external audit office charged with the audit of the Company’s accounts may not be a member of the Audit Committee for a term of one (1) year from the expiry date of his/her partnership capacity or any financial interest in the audit office, whichever is later. (Article 9.2)</p> |

IV.G. Assignment & Rotation of Committee Members

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>New director and board committee nominations are among a board's most important functions. Placing this responsibility in the hands of an independent nominating/corporate governance committee can enhance the independence and quality of nominees. (Commentary to § 303A.04)</p> <p><u>NACD</u></p> <p>Boards should establish guidelines for, and discuss with some pre-defined frequency . . . the selection and rotation of committee members. (p. 5)</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 B.1)</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. (Code Provision B.2.1)</p> <p>In smaller companies the company chairman may be a member of, but not chair, the committee in addition to the independent non-executive directors, provided he or she was considered independent on appointment as chairman. The board should satisfy itself that at least one member of the audit committee has recent and relevant financial experience (Code Provision C.3.1)</p> | <p>The appointment or extension of the term of office of the audit committee's Chairman is proposed by the appointments/nominations committee, and should be specially reviewed by the Board. (¶ 16.1)</p> | <p><u>Supervisory Board Committees</u></p> <p>The Chairman of the Supervisory Board shall 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 be independent and not be a former member of the Management Board of the company whose appointment ended less than two years ago. (§ 5.3.2)</p> <p>The Supervisory Board shall form a nomination committee composed exclusively of shareholder representatives which proposes suitable candidates to the Supervisory Board for recommendation to the General Meeting. (§ 5.3.3)</p> <p><i>See § 5.4.4 (Management Board members may not become members of the Supervisory Board of the company within two years after the end of their appointment unless they are appointed upon a motion presented by shareholders holding more than 25% of the voting rights in the company. In the latter case appointment to the chairmanship of the Supervisory Board shall be an exception to be justified to the General Meeting.).</i></p> | <p><i>Not covered directly, but see Topic Headings IV.E & F, above.</i></p> |
| | | | <p><u>Management Board Committees</u></p> <p><i>Not covered.</i></p> | |

IV.G. Assignment & Rotation of Committee Members

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|---|----------------------------|---|
| <p><u>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. (Principle III.5)</p> <p><u>Management Board Committees</u></p> <p><i>Not covered.</i></p> | <p>The nomination committee should be independent of the company's board of directors. This means that the candidates for election to the nomination committee should not be proposed by the board of directors. The independence of the nomination committee from the company's board of directors and executive management dictates that candidates for election to the nomination committee should be put forward by the nomination committee itself.</p> <p>The company's guidelines for the nomination committee should establish rules for rotation of the members of the nomination committee, for example by requiring that at a stipulated regular interval the member of the committee with the longest service at that time shall retire and be replaced. (Commentary to § 7)</p> | <p>The Board of Directors should form committees to perform defined tasks.</p> <p>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.</p> <p>The Board of Directors should appoint the members as well as the Chairman of each committee and determine its procedures. Otherwise, the rules applying to the Board of Directors should apply accordingly to the committees.</p> <p>The Board may combine the functions of several committees provided that all their members fulfil the respective qualifications.</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.</p> <p>(Article II.g.21)</p> | <p><i>Not covered.</i></p> | <p>The term of office at the committees may be constrained by the limit in the number of committees which a member can serve in that organization, or other organizations. (IBGC Code ¶ 2.29.1)</p> |

IV.G. Assignment & Rotation of Committee Members

China

Not covered.

Hong Kong

Not covered.

India

When committees of the board are established, their mandate, composition and working procedures should be well defined and disclosed by the board. (§ 49.I.D.3.k)

Russia

Not covered.

UAE

The committees shall be formed pursuant to procedures that are laid down by the board of directors and shall determine the duties, term and powers of the committee as well as the approach of the board's control thereover. (Article 6.3)

IV.H. Audit Committee Meeting Frequency, Length & Agenda

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|---|--|--|--|
| <p><u>NYSE</u></p> <p>[The audit committee’s] purpose. . . at minimum, must be to: (A) assist board oversight of (1) the integrity of the listed company’s financial statements, (2) the listed company’s compliance with legal and regulatory requirements, (3) the independent auditor’s qualifications and independence, and (4) the performance of the listed company’s internal audit function and independent auditors. . . and (B) prepare the disclosure required by Item 407(d)(3)(i) of Regulation S-K . . . [and to comply with] Rule 10A-3(b)(2), (3), (4) and (5) of the Exchange Act , as well as to: (A) at least annually obtain and review a report by the independent auditor. . . (B) meet to review and discuss the listed company’s annual audited financial statements and quarterly financial statements with management and the independent auditor . . . (C) discuss the listed company’s earnings press releases, as well as financial information and earnings guidance provided to analysts and rating agencies; (D) discuss policies with respect to risk assessment and risk management; (E) meet separately, periodically, with management, with internal auditors . . . and with independent auditors; (F) review with the independent auditor any audit problems or difficulties and management’s response; (G) set clear hiring policies for employees or former employees of the independent auditors; and (H) report regularly to the board of directors. (§ 303A.07(b))</p> <p><i>See</i> Commentary to § 303A.07.</p> <p><u>NACD</u></p> <p><i>Not covered directly, but see</i> p. 4 (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> <p><i>See also</i> p. 5 (Boards should establish guidelines for . . . committees . . .).</p> <p><i>See also</i> Topic Heading VII.G, <i>below</i>.</p> | <p>The main role and responsibilities of the audit committee should be set out in written terms of reference and should include:</p> <ul style="list-style-type: none"> • to monitor the integrity of the financial statements of the company and any formal announcements relating to the company’s financial performance, reviewing significant financial reporting judgements contained in them; • to review the company’s internal financial controls and, unless expressly addressed by a separate board risk committee composed of independent directors, or by the board itself, to review the company’s internal control and risk management systems; • to monitor and review the effectiveness of the company’s internal audit function; • to make recommendations to the board, for it to put to the shareholders for their approval in general meeting, in relation to the appointment, re-appointment and removal of the external auditor and to approve the remuneration and terms of engagement of the external auditor; • to review and monitor the external auditor’s independence and objectivity and the effectiveness of the audit process . . . • to develop and implement policy on the engagement of the external auditor to supply non-audit services . . . ; • to report to the board on how it has discharged its responsibilities. <p>(Code Provision C.3.2) <i>See Code Provision</i> C.3.6 (FTSE 350 companies should put the external audit contract out to tender at least every ten years.)</p> <p><i>See generally</i> C.3, Audit Committee and Auditors</p> | <p>The main tasks of the audit committee are:</p> <ul style="list-style-type: none"> • to review the accounts and ensure the relevance and consistency of accounting methods used in drawing up the corporation’s consolidated and corporate accounts; • to monitor the process for the preparation of financial information; • to monitor the effectiveness of the internal control and risk management systems. The central concern is to assess the follow-up of the systems whereby the accounts are drawn up and the validity of methods selected to account for material transactions, rather than to go into details of the accounts. It is also desirable, at the time of review of the accounts, for the committee to consider the major transactions in connection with which conflicts of interest could have arisen. (¶ 16.2.1) <p>[T]he committee should steer the procedure for selection of the statutory auditors . . . (¶ 16.2.3)</p> <p><i>See generally</i> ¶ 16, The Audit Committee.</p> | <p><u>Supervisory Board Committees</u></p> <p>The Supervisory Board shall set up an Audit Committee which, in particular, handles the monitoring of the accounting process, the effectiveness of the internal control system, risk management system and internal audit system, the audit of the Annual Financial Statements, here in particular the independence of the auditor, the services rendered additionally by the auditor, the issuing of the audit mandate to the auditor, the determination of auditing focal points and the fee agreement, and – unless another committee is entrusted therewith – compliance. (§ 5.3.2)</p> <p><u>Management Board Committees</u></p> <p><i>Not covered.</i></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. (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>In fulfilling its control oversight responsibilities it is important for the board to encourage the reporting of unethical/unlawful behaviour without fear of retribution. . . . In a number of companies either the audit committee or an ethics committee is specified as the contact point for employees who wish to report concerns about unethical or illegal behaviour that might also compromise the integrity of financial statements. (Annotation to Principle VI.D.6)</p> <p><i>See</i> Topic Headings IV.L & VII.G, <i>below</i>.</p> |

IV.H. Audit Committee Meeting Frequency, Length & Agenda

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|--|---|--|
| <p>The audit committee shall in any event focus on supervising the activities of the management board with respect to:</p> <p>a) the operation of the internal risk management and control systems, including supervision of the enforcement of relevant primary and secondary legislation, and supervising the operation of codes of conduct;</p> <p>b) the provision of financial information by the company (choice of accounting policies, application and assessment of the effects of new rules, information about the handling of estimated items in the financial statements, forecasts, work of internal and external auditors, etc.);</p> <p>c) compliance with recommendations and observations of internal and external auditors;</p> <p>d) the role and functioning of the internal audit function;</p> <p>e) the policy of the company on tax planning;</p> <p>f) relations with the external auditor, including, in particular, his independence, remuneration and any non-audit services for the company;</p> <p>g) the financing of the company; and</p> <p>h) the applications of information and communication technology.</p> <p>(Best Practice Provision III.5.4)</p> <p>The audit committee shall act as the principal contact for the external auditor if he discovers irregularities in the content of financial reporting. (Best Practice Provision III.5.5)</p> <p>The audit committee shall meet with the external auditor as often as it considers necessary, but at least once a year, without management board members being present. (Best Practice Provision III.5.9)</p> | <p>The auditor should submit the main features of the plan for the audit of the company to the audit committee annually. . . .</p> <p>The auditor should at least once a year present to the audit committee a review of the company’s internal control procedures, including identified weaknesses and proposals for improvement.</p> <p>(§ 15)</p> <p>In order to strengthen the board's work on financial reporting and internal control, the auditor is required by the Auditing and Auditors Act to provide a report to the audit committee on the main features of the audit carried out in respect of the previous accounting year, including particular mention of any material weaknesses identified in internal control relating to the financial reporting process. The Auditing and Auditors Act imposes further requirements on the auditor to provide information to the audit committee that is appropriate to the duty of the audit committee to monitor the independence of the auditor. This information must be presented to the board if the whole board carries out the duties of the audit committee. (Commentary to § 15)</p> | <p>The Audit Committee should form an independent judgement of the quality of the external auditors, the internal control system and the annual financial statements.</p> <p>The Audit Committee should form an impression of the effectiveness of the external audit (the statutory auditors or, if applicable, the group auditors), and the internal audit as well as of their mutual cooperation.</p> <p>The Audit Committee 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.</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.</p> <p>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.</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.</p> <p>(Article II.g.24)</p> | <p>The board of a listed entity should . . . disclose in relation to each reporting period, the number of times the [audit] committee met throughout the period and the individual attendances of the members at those meetings . . . (Recommendation 4.1)</p> <p>The role of the audit committee is usually to review and make recommendations to the board in relation to:</p> <ul style="list-style-type: none"> • the adequacy of the entity’s corporate reporting processes; • whether the entity’s financial statements reflect the understanding of the committee members of, and otherwise provide a true and fair view of, the financial position and performance of the entity; • the appropriateness of the accounting judgements or choices exercised by management in preparing the entity’s financial statements; • the appointment or removal of the external auditor; • the rotation of the audit engagement partner; • the scope and adequacy of the external audit; • the independence and performance of the external auditor; • any proposal for the external auditor to provide non-audit services and whether it might compromise the independence of the external auditor; • if the entity has an internal audit function: <ul style="list-style-type: none"> • the appointment or removal of the head of internal audit; • the scope and adequacy of the internal audit work plan; and • the objectivity and performance of the internal audit function. <p>(Commentary to Recommendation 4.1)</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>The establishment of an Audit Committee is recommended, in order to review the financial statements, supervise and promote Financial area accountability, ensure that Management develop reliable internal controls (which the committee should fully understand and adequately monitor), Internal Audit performs its role satisfactorily, and independent auditors review and assess Management and Internal Audit practices. The committee should also ensure compliance with the organization’s Code of Conduct, in the absence of a Conduct Committee (or Ethics Committee) appointed by the Board of Directors for this purpose. . . .The Board of Directors and the Audit Committee must continuously monitor the assessments and recommendations of the independent auditors and internal auditors on the controls and risks environment. (IBGC Code ¶ 2.30)</p> <p>The Audit Committee should meet regularly with the Board of Directors, the Fiscal Council (when established), the CEO and the other officers. (IBGC Code ¶ 2.30.1)</p> <p>The Audit Committee should discuss with the independent auditors: (i) changes or maintenance of accounting principles and standards; (ii) the use of reserves and provisions; (iii) relevant estimates and judgments used in preparing the financial statements; (iv) risk evaluation methods and the results of these evaluations; (v) main risks; (vi) changes in the scope of the independent audit; (vii) material weaknesses and significant flaws in internal controls; (viii) knowledge of illegal acts; and (ix) effects of external economic, regulatory, industry, social, and environmental factors on the financial statements and the auditing process. (IBGC Code ¶ 2.30.2)</p> <p>The Audit Committee shall recommend to the Board the hiring, pay, retention, and replacement of independent auditors. (IBGC Code ¶ 4.3)</p> |

IV.H. Audit Committee Meeting Frequency, Length & Agenda

| China | Hong Kong | India | Russia | UAE |
|---|---|--|--|---|
| <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 audit committee's terms of reference should include at least:</p> <p><i>Relationship with the issuer's auditors</i></p> <p>(a) to be primarily responsible for making recommendations to the board on the appointment, reappointment and removal of the external auditor, and to approve the remuneration and terms of engagement of the external auditor, and any questions of its resignation or dismissal;</p> <p>(b) to review and monitor the external auditor's independence . . .</p> <p>(c) to develop and implement policy on engaging an external auditor to supply non-audit services. . . .</p> <p><i>Review of the issuer's financial information</i></p> <p>(d) to monitor integrity of the issuer's financial statements and annual report and accounts</p> <p><i>Oversight of the issuer's financial reporting system and internal control procedures</i></p> <p>(f) to review the issuer's financial controls, internal control and risk management systems;</p> <p>(g) to discuss the internal control system with management to ensure that management has performed its duty to have an effective internal control system . . .</p> <p>(h) to consider major investigation findings on internal control matters . . .</p> <p>(i) where an internal audit function exists, to ensure coordination between the internal and external auditors...;</p> <p>(j) to review the group's financial and accounting policies and practices;</p> <p>(k) to review the external auditor's management letter . . .</p> <p>(l) to ensure that the board will provide a timely response to the issues raised in the external auditor's management letter;</p> <p>(m) to report to the board on the matters in this code provision; and</p> <p>(n) to consider other topics, as defined by the board. (CP C.3.3)</p> <p>The audit committee should establish a whistleblowing policy and system for employees and those who deal with the issuer (e.g. customers and suppliers) to raise concerns, in confidence, with the audit committee about possible improprieties in any matter related to the issuer. (RBP C.3.8)</p> | <p>The Audit Committee should meet at least four times in a year and not more than four months shall elapse between two meetings. (§ 49.III.B)</p> <p>The role of the Audit Committee shall include the following:</p> <ol style="list-style-type: none"> 1. Oversight of the company's financial reporting process and the disclosure of its financial information . . . ; 2. Recommendation for appointment, remuneration and terms of appointment of auditors of the company; 3. Approval of payment to statutory auditors for any other services rendered by the statutory auditors; 4. Reviewing, with the management, the annual financial statements and auditor's report . . . ; 5. Reviewing, with the management, the quarterly financial statements before submission to the board for approval; 6. Reviewing, with the management, the statement of uses / application of funds raised through an issue . . . ; 7. Review and monitor the auditor's independence and performance, and effectiveness of audit process; 8. Approval or any subsequent modification of transactions of the company with related parties; 9. Scrutiny of inter-corporate loans and investments; 10. Valuation of undertakings or assets of the company, wherever it is necessary; 11. Evaluation of internal financial controls and risk management systems; 12. Reviewing, with the management, performance of statutory and internal auditors, adequacy of the internal control systems; 13. Reviewing the adequacy of internal audit function . . . 14. Discussion with internal auditors of any significant findings and follow up there on; 15. Reviewing the findings of any internal investigations by the internal auditors . . . ; 16. Discussion with statutory auditors before the audit commences . . . ; 17. To look into the reasons for substantial defaults in the payment to the depositors . . . ; 18. To review the functioning of the Whistle Blower mechanism; 19. Approval of appointment of CFO . . . <p>(§ 49.III.D)</p> <p>See § 49.III.E. Review of information by Audit Committee.</p> | <p>For the purpose of preliminary consideration of any matters of control over the company's financial and business activities, it is recommended to form an audit (Principle 2.8.1)</p> <p>The audit committee shall be established with a view to facilitating the efficient performance of the functions of the board of directors relating to its control over financial and economic activities of the company. (Recommendation 171)</p> <p>Meetings of the audit committee should be held, or its chairman should meet with the head of the internal audit department of the company, at least once a quarter to discuss any matters falling within the jurisdiction of the internal audit department. (Recommendation 176)</p> <p>The main objectives of the audit committee are as follows:</p> <ol style="list-style-type: none"> 1) in relation to accounting (financial) statements: <ol style="list-style-type: none"> a) control over completeness, accuracy, and reliability of the company's accounting (financial) statements; b) analysis of material aspects of accounting policies of the company; c) participation in consideration of material issues and opinions in relation to the company's accounting (financial) statements; 2) in relation to risk management, internal control, and, should there be no corporate governance committee, in relation to corporate governance...; 3) in relation to internal and external audits [including evaluation of auditor independence]...; 4) in relation to prevention of bad faith action on the part of the company's employees and third parties... (Recommendation 172) | <p>The Committee shall meet at least once on a quarterly basis or whenever necessary. (Article 9.3)</p> <p>The Audit Committee shall assume the following duties:</p> <ul style="list-style-type: none"> • it shall develop and apply the policy for contracting with external auditors...; • it shall follow up and oversee the independence and objectivity of the external auditor and hold discussions with the external auditor on the nature, scope and efficiency of auditing pursuant to approved audit standards; • it shall oversee the integrity of and review the Company's financial statements and annual, semi-annual and quarterly reports...; • it shall coordinate with the board of directors, the executive management and the financial manager or the manager assuming the same duties in the company in order to duly fulfill its duties. The Committee shall hold a meeting with the company's external auditor at least once per annum;... • it shall review the Company's financial control, internal control and risk management systems; • it shall discuss the internal control system with management and make sure that it fulfills its duty to develop an effective internal control system; • it shall consider findings of main investigations into internal control issues to be assigned thereto by the board of directors...; • it shall ensure coordination between internal and external auditors, ensure availability of necessary resources for internal audit body, review and control the efficiency of this body; • it shall review the Company's financial and accounting policies and procedures; • it shall review...any material inquiries raised by the auditor to the management in respect of accounting records, financial accounts or control systems...; • it shall develop rules that enable the employees of the Company to secretly report any potential violations in financial reports, internal control or other issues and adequate steps to conduct independent, fair investigations into these violations; • it shall oversee the scope of the Company's compliance with its code of conduct.... (Article 9.5) |

IV.I. Nominating/Corporate Governance Committee Meeting Frequency, Length & Agenda

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|---|--|---|---|
| <p><u>NYSE</u></p> <p>[The nominating/corporate governance committee] responsibilities. . . at minimum, must be to: identify individuals qualified to become board members, consistent with criteria approved by the board, and to select, or to recommend that the board select, the director nominees for the next annual meeting of shareholders; develop and recommend to the board a set of corporate governance guidelines applicable to the corporation; and oversee the evaluation of the board and management. (§ 303A.04(b)(i))</p> <p><u>NACD</u></p> <p><i>Not covered directly, but see</i> p. 4 (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> <p><i>See also</i> p. 5 (Boards should establish guidelines for . . . committees . . .).</p> <p><i>See also</i> Topic Headings II.A & III.A above, and IX.A, below.</p> | <p>[The] nomination committee . . . should lead the process for board appointments and make recommendations to the board. (Code Provision B.2.1)</p> <p>The nomination committee should evaluate the balance of skills, experience, independence and knowledge on the board and, in the light of this evaluation, prepare a description of the role and capabilities required for a particular appointment. (Code Provision B.2.2)</p> <p>The nomination committee should make available its terms of reference, explaining its role and the authority delegated to it by the board. (Code Provision B.2.1)</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 executive directors. . . . (¶ 17.2.1 – 17.2.2)</p> <p><i>See generally</i> ¶ 17 The Committee in Charge of Appointments or Nominations).</p> | <p><u>Supervisory Board Committees</u></p> <p>The Supervisory Board shall form a nomination committee composed exclusively of shareholder representatives which proposes suitable candidates to the Supervisory Board for recommendation to the General Meeting. (§ 5.3.3)</p> <p><u>Management Board Committees</u></p> <p><i>Not covered.</i></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>These Principles promote an active role for shareholders in the nomination and election of board members. The board has an essential role to play in ensuring that this and other aspects of the nominations and election process are respected. First, while actual procedures for nomination may differ among countries, the board or a nomination committee has a special responsibility to make sure that established procedures are transparent and respected. Second, the 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. In several countries there are calls for an open search process extending to a broad range of people. (Annotation to Principle VI.D.5)</p> <p><i>See also</i> Topic Headings II.A & III.A above, and IX.A, below.</p> |

IV.I. Nominating/Corporate Governance Committee Meeting Frequency, Length & Agenda

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|--|---|--|
| <p>The selection and appointment committee shall in any event focus on:</p> <p>a) drawing up selection criteria and appointment procedures for supervisory board members and management board members;</p> <p>b) periodically assessing the size and composition of the supervisory board and the management board, and making a proposal for a composition profile of the supervisory board;</p> <p>c) periodically assessing the functioning of individual supervisory board members and management board members, and reporting on this to the supervisory board;</p> <p>d) making proposals for appointments and reappointments; and</p> <p>e) supervising the policy of the management board on the selection criteria and appointment procedures for senior management.</p> <p>(Best Practice Provision III.5.14)</p> | <p>The nomination committee's duties are to propose candidates for election to the corporate assembly and the board of directors and to propose the fees to be paid to members of these bodies. The nomination committee should justify its recommendations. (§ 7)</p> <p>When reporting its recommendations to the general meeting, the nomination committee should also provide an account of how it has carried out its work.</p> <p>The nomination committee is expected to monitor the need for any changes in the composition of the board of directors and to maintain contacts with shareholder groups, members of the corporate assembly and board and with the company's executive personnel. The nomination committee should pay particular attention to the board's report on its own performance . . .</p> <p>In carrying out its work, the nomination committee should actively seek to represent the views of shareholders in general, and should ensure that its recommendations are endorsed by the largest shareholders.</p> <p>The committee's recommendation should provide a justification of how its recommendations take into account the interests of shareholders in general and the company's requirements . . . on the composition of the corporate assembly and board of directors.</p> <p>(Commentary to § 7)</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.</p> <p>The Nomination Committee may also be assigned responsibilities in connection with the selection and assessment of candidates for top management.</p> <p>(Article II.g.27)</p> | <p>The board of a listed entity should . . . disclose as at the end of each reporting period, the number of times the [nomination] committee met throughout the period and the individual attendances of the members at those meetings . . . (Recommendation 2.1)</p> <p>Having a separate nomination committee can be an efficient and effective mechanism to bring the transparency, focus and independent judgment needed on decisions regarding the composition of the board.</p> <p>The role of the nomination committee is usually to review and make recommendations to the board in relation to:</p> <ul style="list-style-type: none"> • board succession planning generally; • induction and continuing professional development programs for directors; • the development and implementation of a process for evaluating the performance of the board, its committees and directors; • the process for recruiting a new director, including evaluating the balance of skills, knowledge, experience, independence and diversity on the board and, in the light of this evaluation, preparing a description of the role and capabilities required for a particular appointment; • the appointment and re-election of directors; and • ensuring there are plans in place to manage the succession of the CEO and other senior executives. <p>(Commentary to Recommendation 2.1)</p> | <p><i>Not covered directly, but see IBGC Code ¶ 2.28 (The Board's Internal Regulations should guide the creation and composition of the committees and their coordination by independent Directors having the most adequate expertise and skills.)</i></p> |

IV.I. Nominating/Corporate Governance Committee Meeting Frequency, Length & Agenda

| China | Hong Kong | India | Russia | UAE |
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| <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 nomination committee should be established with specific written terms of reference which deal clearly with its authority and duties. It should perform the following duties:</p> <p>(a) review the structure, size and composition (including the skills, knowledge and experience) of the board at least annually and make recommendations on any proposed changes to the board to complement the issuer's corporate strategy;</p> <p>(b) identify individuals suitably qualified to become board members and select or make recommendations to the board on the selection of individuals nominated for directorships;</p> <p>(c) assess the independence of independent non-executive directors; and</p> <p>(d) make recommendations to the board on the appointment or re-appointment of directors and succession planning for directors, in particular the chairman and the chief executive. (CP A.5.2)</p> <p>The nomination committee (or the board) should have a policy concerning diversity of board members, and should disclose the policy or a summary of the policy in the corporate governance report. (CP A.5.6)</p> | <p>The role of the [nomination and remuneration] committee shall, inter-alia, include the following:</p> <ol style="list-style-type: none"> 1. Formulation of the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board a policy, relating to the remuneration of the directors, key managerial personnel and other employees; 2. Formulation of criteria for evaluation of Independent Directors and the Board; 3. Devising a policy on Board diversity; 4. Identifying persons who are qualified to become directors and who may be appointed in senior management in accordance with the criteria laid down, and recommend to the Board their appointment and removal. The company shall disclose the remuneration policy and the evaluation criteria in its Annual Report. (§ 49.IV.B) | <p>For the purpose of preliminary consideration of any matters relating to human resources planning (making plans regarding successor directors), professional composition and efficiency of the board of directors, it is recommended to form a nominating committee (Principle 2.8.3)</p> <p>The nominating committee helps the board of the director achieve a higher professional level and work more efficiently, by making recommendations in the course of nominating candidates to the board of directors. (Recommendation 182)</p> <p>The objectives of the nominating committee should include:</p> <ol style="list-style-type: none"> 1) evaluation of the composition of the board of directors in terms of professional expertise, experience, independence, and involvement of its members in the work of the board, as well as determining priority areas for improving the composition of the board; 2) interaction with the shareholders (which should not be limited to the largest shareholders only) in the context of finding candidates who can be nominated to the board of directors. ...; 3) analysis of professional qualifications and independence of all candidates ...; 4) description of individual duties of directors and the chairman of the board of directors...; 5) carrying out an annual detailed formalised procedure of self-evaluation or external evaluation of the board of directors and its committees ... and individual contributions of ...; 6) preparing an introductory programme for newly elected board members ...; 7) preparing an educational and training programme for board members ...; 8) analysis of current and anticipated needs of the company in terms of professional qualifications of the members of its executive bodies and other key managers as may be required to ensure its competitiveness and development as well as making plans regarding their successors; ... 11) preparing a report on the results of the nominating committee's (Recommendation 186) | <p>The nomination and remuneration committee to be mainly charged with:</p> <ul style="list-style-type: none"> • verification of ongoing independence of independent board members[;] • formulation and annual review of the policy on granting remunerations, benefits, incentives and salaries to board members and employees of the Company and the committee shall verify that remunerations and benefits granted to the senior executive management of the Company are reasonable and in line with the Company's performance; • determination of the Company's needs for qualified staff at the level of the senior executive management and employees and the basis of their selection; • formulation, supervision of application and annual review of the Company's human resources and training policy; and • organization and follow-up of procedures of nomination to the membership of the board of directors in line with applicable laws and regulations as well as this Resolution. (Article 6.1) |

IV.J. Compensation Committee Meeting Frequency, Length & Agenda

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>[The compensation committee] responsibilities. . . at minimum, must be to have direct responsibility to:</p> <p>(A) review and approve corporate goals and objectives relevant to CEO compensation, evaluate the CEO’s performance in light of those goals and objectives, and, either as a committee or together with the other independent directors (as directed by the board), determine and approve the CEO’s compensation level based on this evaluation;</p> <p>(B) make recommendations to the board with respect to non-CEO executive officer compensation, and incentive-compensation and equity-based plans that are subject to board approval; and</p> <p>(C) prepare the disclosure required by Item 407(e)(5) of Regulation S-K.</p> <p>(§ 303A.05(b)(i))</p> <p><u>NACD</u></p> <p><i>Not covered directly, but see p. 4 (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.).</i></p> <p><i>See also p. 5 (Boards should establish guidelines for . . . committees . . .).</i></p> <p><i>See also Topic Headings II.C, above and VII.E, below.</i></p> | <p>The remuneration committee should judge where to position their company relative to other companies. But they should use such comparisons with caution in view of the risk of an upward ratchet of remuneration levels with no corresponding improvement in performance. They should also be sensitive to pay and employment conditions elsewhere in the group, especially when determining annual salary increases. (Supporting Principle D.1)</p> <p>In designing schemes of performance-related remuneration for executive directors, the remuneration committee should follow the provisions in Schedule A to this Code. (Code Provision D.1.1)</p> <p>The remuneration committee should carefully consider what compensation commitments (including pension contributions and all other elements) their directors’ terms of appointment would entail in the event of early termination. The aim should be to avoid rewarding poor performance. They should take a robust line on reducing compensation to reflect departing directors’ obligations to mitigate loss. (Code Provision D.1.4)</p> <p>The remuneration committee should consult the chairman and/or chief executive about their proposals relating to the remuneration of other executive directors. The remuneration committee should also be responsible for appointing any consultants in respect of executive director remuneration. Where executive directors or senior management are involved in advising or supporting the remuneration committee, care should be taken to recognise and avoid conflicts of interest. (Supporting Principle D.2)</p> <p>The remuneration committee should have delegated responsibility for setting remuneration for all executive directors and the chairman, including pension rights and any compensation payments. The committee should also recommend and monitor the level and structure of remuneration for senior management. The definition of ‘senior management’ for this purpose should be determined by the board but should normally include the first layer of management below board level. (Code Provision D.2.2) <i>See generally</i> Schedule A: The design of performance-related remuneration for executive directors (p. 26).</p> | <p>The compensation committee must ensure that the Board of Directors is given the best conditions in which to determine all the compensation and benefits accruing to executive directors. All decisions are to be made by the Board of Directors. Furthermore, the committee must be informed of the compensation policy applicable to the principal executive managers who are not executive directors of the company. For that purpose, the executive directors attend meetings of the compensation committee. (¶ 18.3)</p> <p><i>See generally</i> ¶ 18 The Committee in Charge of Compensation.</p> | <p><u>Supervisory Board Committees</u></p> <p>The Supervisory Board can delegate preparations for the appointment of members of the Management Board, as well as for the handling of the conditions of the employment contracts including compensation, to committees. (§ 5.1.2)</p> <p><u>Management Board Committees</u></p> <p><i>Not covered.</i></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.D4)</p> <p><i>See</i> Topic Headings II.C, <i>above</i> and VII. D & E, <i>below</i>.</p> |

IV.J. Compensation Committee Meeting Frequency, Length & Agenda

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p>The remuneration committee shall in any event have the following duties:</p> <p>a) making a proposal to the supervisory board for the remuneration policy to be pursued;</p> <p>b) making a proposal for the remuneration of the individual members of the management board, for adoption by the supervisory board; such proposal shall, in any event, deal with: (i) the remuneration structure and (ii) the amount of the fixed remuneration, the shares and/or options to be granted and/or other variable remuneration components, pension rights, redundancy pay and other forms of compensation to be awarded, as well as the performance criteria and their application; and</p> <p>c) preparing the remuneration report . . .</p> <p>(Best Practice Provision III.5.10)</p> | <p>The duties of a remuneration committee will typically include:</p> <ul style="list-style-type: none"> • preparing guidelines for the remuneration of the executive personnel and preparing for the board’s discussion of specific remuneration matters • preparing matters relating to other material employment issues in respect of the executive personnel. <p>(Commentary to § 9)</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. (Article II.g.25)</p> <p>The Committee should see to the defining of a remuneration policy, primarily at top company level. (Article II.g.26)</p> <p>The Board of Directors passes a resolution on the compensation system and determines the responsibilities of the Compensation Committee. (Appendix 1.a.1)</p> <p>The Compensation Committee is entrusted with the task of developing a proposal for the structuring of a compensation system for the top executives and board members of the company according to the directives of the Board of Directors. (Appendix 1.b.3)</p> | <p>The board of a listed entity should . . . as at the end of each reporting period, the number of times the [remuneration] committee met throughout the period and the individual attendances of the members at those meetings. (Recommendation 8.1)</p> <p>Having a separate remuneration committee can be an efficient and effective mechanism to bring the transparency, focus and independent judgement needed on remuneration decisions. (Commentary to Recommendation 8.1)</p> <p>The role of the remuneration committee is usually to review and make recommendations to the board in relation to:</p> <ul style="list-style-type: none"> • the entity’s remuneration framework for directors, including the process by which any pool of directors’ fees approved by security holders is allocated to directors; • the remuneration packages to be awarded to senior executives; • equity-based remuneration plans for senior executives and other employees; • superannuation arrangements for directors, senior executives and other employees; and • whether there is any gender or other inappropriate bias in remuneration for directors, senior executives or other employees. <p>(Commentary to Recommendation 8.1)</p> | <p>[The Human Resources Committee] is in charge of matters relating to succession, compensation, and people development. It should also examine in depth the criteria for hiring and dismissing officers, and review the existing policies and compensation packages. The Human Resources Committee should additionally verify whether the compensation model provides mechanisms to align the administrators’ interests with those of the organization. To perform this analysis, the committee can use experts to compare the organization’s compensation practices with those on the marketplace and create indicators to be pursued, aligning the administrators’ actions with the organization’s strategic plan. . . . This committee should examine the compensation mechanisms for Directors, submitting to the Board of Directors the amounts proposed for the year. After analyzing them, the Board shall submit the Management compensation proposal, as well as its own compensation proposal, to the General Meeting for approval. The Human Resources Committee must also assess and monitor the succession practices and processes at all hierarchical levels of the organization. The succession of the CEO should be followed up in greater detail. This committee should support the Chairman in preparing and reviewing the annual assessment of the executives, Directors, and the Board, as well as propose a descriptive profile of desired Directors. (IBGC Code ¶ 2.31)</p> |

IV.J. Compensation Committee Meeting Frequency, Length & Agenda

| China | Hong Kong | India | Russia | UAE |
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| <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>The remuneration committee should consult the chairman and/or chief executive about their remuneration proposals for other executive directors. (CP B.1.1)</p> <p>The remuneration committee's terms of reference should include, as a minimum:</p> <p>(a) to make recommendations to the board on the issuer's policy and structure for all directors' and senior management remuneration and on the establishment of a formal and transparent procedure for developing remuneration policy;</p> <p>(b) to review and approve the management's remuneration proposals with reference to the board's corporate goals and objectives;</p> <p>(c) either:</p> <p>(i) to determine, with delegated responsibility, the remuneration packages of individual executive directors and senior management; or</p> <p>(ii) to make recommendations to the board on the remuneration packages of individual executive directors and senior management.</p> <p>This should include benefits in kind, pension rights and compensation payments, including any compensation payable for loss or termination of their office or appointment;</p> <p>(d) to make recommendations to the board on the remuneration of non-executive directors;</p> <p>(e) to consider salaries paid by comparable companies, time commitment and responsibilities and employment conditions elsewhere in the group;</p> <p>(f) to review and approve compensation payable to executive directors and senior management for any loss or termination of office or appointment to ensure that it is consistent with contractual terms and is otherwise fair and not excessive;</p> <p>(g) to review and approve compensation arrangements relating to dismissal or removal of directors for misconduct to ensure that they are consistent with contractual terms and are otherwise reasonable and appropriate; and</p> <p>(h) to ensure that no director or any of his associates is involved in deciding his own remuneration.</p> <p>(CP B.1.2)</p> | <p>The role of the [nomination and remuneration] committee shall, inter-alia, include the following:</p> <p>1. [R]ecommend[ing] to the Board a policy, relating to the remuneration of the directors, key managerial personnel and other employees;</p> <p>2. Formulation of criteria for evaluation of Independent Directors and the Board . . .</p> <p>4. The company shall disclose the remuneration policy and the evaluation criteria in its Annual Report.</p> <p>(§ 49.IV.B)</p> | <p>For the purpose of preliminary consideration of any matters of development of efficient and transparent remuneration practices, it is recommended to form a remuneration committee (Principle 2.8.2)</p> <p>The remuneration committee helps establish in the company efficient and transparent practices in relation to remuneration paid to members of the board of directors, the company's executive bodies, and other key managers. (Recommendation 178)</p> <p>The objectives of the remuneration committee should include:</p> <p>1) development and periodic review of the company's policy on remuneration due to the members of the board of directors and the company's executive bodies and other key managers, including development of parameters of short and long-term incentive programmes ...;</p> <p>2) control over implementation of the company's remuneration policy and various incentive programmes;</p> <p>3) preliminary assessment of work of the company's executive bodies and other key managers upon the results of a year in the context of the criteria set forth in the remuneration policy, as well as preliminary assessment of whether or not the above persons achieved their goals under the long-term incentive programme;</p> <p>4) development of terms and conditions of early termination of employment contracts;</p> <p>5) selection of an independent consultant to advise on remuneration ...;</p> <p>6) drafting recommendations to the board of directors in relation to [corporate secretary remuneration]; and</p> <p>7) preparing a report on practical implementation of the policies on remuneration (Recommendation 180)</p> | <p>The nomination and remuneration committee to be mainly charged with:</p> <ul style="list-style-type: none"> • verification of ongoing independence of independent board members[;] • formulation and annual review of the policy on granting remunerations, benefits, incentives and salaries to board members and employees of the Company and the committee shall verify that remunerations and benefits granted to the senior executive management of the Company are reasonable and in line with the Company's performance; • determination of the Company's needs for qualified staff at the level of the senior executive management and employees and the basis of their selection; • formulation, supervision of application and annual review of the Company's human resources and training policy; and • organization and follow-up of procedures of nomination to the membership of the board of directors in line with applicable laws and regulations as well as this Resolution. (Article 6.1) |

IV.K. Board Access to Independent Advisors

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>The charter should give the nominating/corporate governance committee sole authority to retain and terminate any search firm to be used to identify director candidates, including sole authority to approve the search firm's fees and other retention terms. (Commentary to § 303A.04)</p> <p>The compensation committee may, in its sole discretion, retain or obtain the advice of a compensation consultant, independent legal counsel or other adviser. . . . The listed company must provide for appropriate funding, as determined by the compensation committee, for payment of reasonable compensation to a compensation consultant, independent legal counsel or any other adviser retained by the compensation committee. The compensation committee may select a compensation consultant, legal counsel or other adviser to the compensation committee only after taking into consideration, all factors relevant to that person's independence from management . . . (§ 303A.05(e))</p> <p>The following . . . must be addressed in the corporate governance guidelines . . . Director access to . . . independent advisors. (Commentary to § 303A.09)</p> <p><u>NACD</u></p> <p>Boards should require that key committees— compensation, audit, and nominating or governance . . . are free to hire independent advisors as necessary. (p. 5)</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> <p>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.</p> <p>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. 6)</p> | <p>The board should ensure that directors, especially non-executive 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. (Code Provision B.5.1)</p> <p>The remuneration committee should . . . be responsible for appointing any consultants in respect of executive director remuneration. (Supporting Principle D.2)</p> | <p>There should be a formal [board] evaluation at least once every three years. This could be implemented under the leadership of the appointments or nominations committee or an independent director, with help from an external consultant. (¶ 10.3)</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. In the event of committees having recourse to services offered by external consultants (e.g. a compensation consultant in order to obtain information on compensation systems and levels applicable in the main markets), the committees must ensure that the consultant concerned is objective. (¶ 15)</p> <p>The [audit] committee should be able to call upon outside experts as needed making sure they have the requisite skills and independence. (¶ 16.3)</p> | <p>If the Supervisory Board calls upon an external compensation expert to evaluate the appropriateness of the compensation, care must be exercised to ensure that said expert is independent of respectively the Management Board and the enterprise. (§ 4.2.2)</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>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</i> Topic Heading IV.L, <i>below</i>.</p> |

IV.K. Board Access to Independent Advisors

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p>If the supervisory board considers it necessary, it may obtain information from . . . external advisers of the company. The company shall provide the necessary means for this purpose. (Best Practice Provision III.1.9)</p> <p>If the remuneration committee makes use of the services of a remuneration consultant in carrying out its duties, it shall verify that the consultant concerned does not provide advice to the company's management board members. (Best Practice Provision III.5.13)</p> | <p>The nomination committee should ensure that it has access to the expertise required in relation to the duties for which the committee is responsible.</p> <p>The nomination committee should have the ability to make use of resources available in the company or be able to seek advice and recommendations from sources outside of the company. (Commentary to § 7)</p> <p>Board committees should have the ability to make use of resources available in the company or be able to seek advice and recommendations from sources outside of the company. (Commentary to § 9)</p> | <p>The Board of Directors may obtain at the company's expense independent advice from external experts on important business matters. (Article II.c.14)</p> <p>The Compensation Committee . . . the work of external and internal consultants. . . . If the Committee brings in external consultants to make comparisons and recommendations in the area of senior executive compensation, the Committee itself decides on the consultant to use, issues the mandate, and determines the fee. It evaluates the results critically. (Appendix 1.b.7)</p> <p>The compensation report specifies the external consultants that have been used in connection with compensation issues and describes the comparisons that have been made. (Appendix 1.c.8)</p> | <p>[The board charter] It could also usefully set out the entity's policy on when and how directors may seek independent professional advice at the expense of the entity (which generally should be whenever directors, especially non-executive directors, judge such advice necessary for them to discharge their responsibilities as directors). (Commentary to Recommendation 1.1)</p> <p>In the case of a non-executive director, the [letter of appointment] should generally set out . . . the entity's policy on when directors may seek independent professional advice at the expense of the entity (which generally should be whenever directors, especially non-executive directors, judge such advice necessary for them to discharge their responsibilities as directors) . . . (Recommendation 1.3)</p> <p>[Each of the nomination, audit, risk and remuneration committees] should have a charter that clearly sets out its role and confers on it all necessary powers to perform that role. This will usually include the right to . . . seek advice from external consultants or specialists where the committee considers that necessary or appropriate. (Commentary to Recommendations 2.1, 4.1, 7.1, 8.1)</p> | <p><u>Board of Directors</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>The Board shall have the right to consult with outside professionals (lawyers, accountants, tax specialists, human resources, etc.) paid by the company, to gather adequate input on matters of relevance. (IBGC Code ¶ 2.26)</p> <p>See Commentary on CVM Recommendation IV.3 (Any member of the audit committee may request an individual meeting with . . . auditors when necessary.).</p> <p><u>Fiscal/Advisory Board</u></p> <p>The Fiscal Council shall have the right to consult with outside professionals (lawyers, accountants, tax or human resources specialists, etc.) paid by the organization, to gather adequate information on matters of relevance. (IBGC Code ¶ 5.1)</p> |

IV.K. Board Access to Independent Advisors

| China | Hong Kong | India | Russia | UAE |
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| <p>Each specialized committee may engage intermediary institutions to provide professional opinions, the relevant expenses to be borne by the company. (Ch. 3, (6 57)).</p> <p><u>Supervisory Board</u></p> <p>The supervisory board may independently hire intermediary institutions to provide professional opinions. (Ch. 4, (1) 60)</p> | <p>There should be a procedure agreed by the board to enable directors, upon reasonable request, to seek independent professional advice in appropriate circumstances, at the issuer's expense. The board should resolve to provide separate independent professional advice to directors to assist them perform their duties to the issuer. (CP A.1.6)</p> <p>Issuers should provide the nomination committee sufficient resources to perform its duties. Where necessary, the nomination committee should seek independent professional advice, at the issuer's expense, to perform its responsibilities. (CP A.5.4)</p> <p>The remuneration committee should have access to independent professional advice if necessary. (CP B.1.1)</p> | <p>The Audit Committee shall have powers, which should include the following . . .</p> <p>3. To obtain outside legal or other professional advice.</p> <p>4. To secure attendance of outsiders with relevant expertise, if it considers necessary.</p> <p>(§ 49.III.C)</p> | <p>The company should provide for a procedure (and a related budget) enabling board members to receive, at the expense of the company, professional advice on issues relating to the jurisdiction of the board of directors. (Recommendation 131)</p> <p>The audit committee may . . . retain, on a permanent or temporary basis, independent consultants (experts) who shall take part in the work of the audit committee for the purpose of preparing materials and recommendations in relation to any matters included in the agenda. (Recommendation 175)</p> <p>If necessary, experts and consultants may be retained on a temporary or permanent basis to work for a committee . . . (Recommendation 199)</p> | <p>The board of directors may, at its own expense by a resolution adopted by majority of attending members, request an external consultation opinion in any issues related to the Company, provided that conflict of interests shall be avoided. (Article 3.11)</p> <p>A Company shall provide the Audit Committee with adequate resources to perform their duties, including authorization to seek the help of experts, whenever necessary. (Article 9.4)</p> |

IV.L. Auditor Independence

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>[T]he [audit] committee’s purpose ... must be to ... assist board oversight of ... the independent auditor’s qualifications and independence ... (§ 303A.07(b)(i)(A))</p> <p>[The audit committee must] at least annually, obtain and review a report by the independent auditor describing: ... (to assess the auditor’s independence) all relationships between the independent auditor and the listed company. (§ 303A.07(b)(iii)(A))</p> <p>After reviewing the foregoing report and the independent auditor’s work throughout the year, the audit committee will be in a position to evaluate the auditor’s qualifications, performance and independence.... In addition to assuring the regular rotation of the lead audit partner as required by law, the audit committee should further consider whether, in order to assure continuing auditor independence, there should be regular rotation of the audit firm itself. The audit committee should present its conclusions with respect to the independent auditor to the full board.</p> <p>(Commentary to § 303A.07(b)(iii)(A))</p> <p><u>NACD</u></p> <p><i>Not covered directly, but see Topic Heading IV.K, above.</i></p> | <p>The main role and responsibilities of the audit committee ... should include: ... 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 non-audit services, taking into account relevant ethical guidance regarding the provision of non-audit 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; and to report to the board on how it has discharged its responsibilities (Code Provision C.3.2)</p> <p>The [annual] report should include ... if the auditor provides non-audit services, an explanation of how auditor objectivity and independence is safeguarded. (C.3.8)</p> | <p>[The audit] committee should steer the procedure for selection of the statutory auditors and submit a recommendation to the Board of Directors....</p> <p>The committee should in particular receive each year the following information from the statutory auditors:</p> <ul style="list-style-type: none"> • their statement of independence; • the amount of the fees paid to the network of statutory auditors by the companies controlled by the company or the entity controlling the company, in respect of services not directly related to the statutory auditors’ assignment; • information concerning the services supplied in respect of the tasks directly related to the statutory auditors’ engagement. <p>The committee will review with the statutory auditors the risks weighing on their independence and the protection measures taken in order to reduce these risks. The committee must in particular ensure that the amount of the fees paid by the company and its group, or the share of such fees in the turnover of the firms and networks is not likely to impair the statutory auditors’ independence.</p> <p>The statutory auditor must ensure that its tasks are exclusive of any other assignment not related to these tasks, by referring to the professional code of conduct for auditors and professional auditing standards. The selected firm should, for itself and the network to which it belongs, refrain from any consulting activity (legal, tax, IT, etc.) performed directly or indirectly for the corporation that has selected it. With regard to controlled companies or the controlling company, the statutory auditor must refer more specifically to the professional code of conduct for auditors.</p> <p>However, subject to prior review from the audit committee, services that are accessory or directly complementary to auditing may be performed, such as acquisition audits, but exclusive of valuation or advisory services. (¶ 16.2.3)</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 which, in particular, handles the monitoring of the accounting process, the effectiveness of the internal control system, risk management system and internal audit system, the audit of the Annual Financial Statements, here in particular the independence of the auditor, the services rendered additionally by the auditor, the issuing of the audit mandate to the auditor, the determination of auditing focal points and the fee agreement, and – unless another committee is entrusted therewith – compliance. (§ 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 agree with the auditor that the Chairman of the Supervisory Board or, respectively, the Audit Committee will be informed immediately of any grounds for disqualification or partiality 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>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 integrity of the corporation’s accounting and financial reporting systems, including 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><i>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 ...).</i></p> |

IV.L. Auditor Independence

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|--|---|--|--|
| <p>The audit committee shall in any event focus on supervising the activities of the management board with respect to:...(f) relations with the external auditor, including, in particular, his independence, remuneration and any non-audit services for the company... (Best Practice Provision III.5.14)</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 non-audit 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. (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 for the purposes of assessing the nomination for the appointment of the external auditor. (Best Practice Provision V.2.3)</p> | <p>The board of directors should establish guidelines in respect of the use of the auditor by the company's executive management for services other than the audit. (§ 15)</p> <p>The Auditing and Auditors Act imposes further requirements on the auditor to provide information to the audit committee that is appropriate to the duty of the audit committee to monitor the independence of the auditor. . . . The requirement for the board of directors to issue guidelines in respect of the company's ability to use the auditor for other services is intended to contribute to greater awareness of the auditor's independence of the company's executive management. The Auditing and Auditors Act includes more detailed provisions on the independence of the auditor. (Commentary to § 15)</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. (Article II.g.24)</p> <p>The function of the external audit is performed by the statutory auditors elected by the shareholders and, should that be the case, the group auditors. Auditors and group auditors should comply with the guidelines on maintaining independence applicable to them. (Article III.29)</p> | <p>The role of the audit committee is usually to review and make recommendations to the board in relation to: . . .</p> <ul style="list-style-type: none"> • the rotation of the audit engagement partner;... • the independence and performance of the external auditor; • any proposal for the external auditor to provide non-audit services and whether it might compromise the independence of the external auditor; . . . <p>(Commentary to Recommendation 4.1)</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>Every organization should have its financial statements audited by independent external auditors. Their main task is to determine whether the financial statements adequately reflect the company's reality. (IBGC Code ¶ 4.1)</p> <p>The auditors, for the benefit of their independence, should be hired for a predefined period of time, and, if necessary, rehired after a formal and documented assessment of their independence and performance, made by the Audit Committee and/or Board of Directors, observing professional standards, legislation, and the regulations in force. It is recommended that any new agreement with the auditing firm, after a maximum of five (5) years, be subject to the approval of the majority of shareholders present at the General Meeting. If the independent auditors are rehired after 5 years, the Board of Directors/Audit Committee should confirm that the auditing firm rotates its key professionals in the team, as established by professional standards. (IBGC Code ¶ 4.5)</p> <p>The independent auditors should annually assure their independence from the organization. This assurance must be made in writing to the Audit Committee or, in its absence, to the Board of Directors. (IBGC Code ¶ 4.7)</p> <p><i>See generally</i> IBGC Code, ¶ 4, Independent Auditing.</p> |

IV.L. Auditor Independence

| China | Hong Kong | India | Russia | UAE |
|---|--|--|--|--|
| <p><i>Not covered directly, but see</i> Ch. 3, (6) 54 (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. . .).</p> | <p>The audit committee's terms of reference should include at least . . .</p> <p>(b) to review and monitor the external auditor's independence and objectivity and the effectiveness of the audit process in accordance with applicable standards. . . .</p> <p>The audit committee may wish to consider establishing the following procedure to review and monitor the independence of external auditors:</p> <p>(i) consider all relationships between the issuer and the audit firm (including non-audit services);</p> <p>(ii) obtain from the audit firm annually, information about policies and processes for maintaining independence and monitoring compliance with relevant requirements, including those for rotation of audit partners and staff; and</p> <p>(iii) meet with the auditor, at least annually, in the absence of management, to discuss matters relating to its audit fees, any issues arising from the audit and any other matters the auditor may wish to raise.</p> <p>(CP C.3.3)</p> | <p>The company should . . . ensure that the annual audit is conducted by an independent, competent and qualified auditor. (§ 49.I.C)</p> <p>The role of the Audit Committee shall include . . . Review and monitor the auditor's independence . . . (§ 49.III.D.7)</p> | <p>It is recommended that internal audits be carried out by a separate structural division (internal audit department) to be created by the company or through retaining an independent third-party entity. To ensure the independence of the internal audit department, it should have separate lines of functional and administrative reporting. Functionally, the internal audit department should report to the board of directors, while from the administrative standpoint, it should report directly to the company's one-person executive body. (Principle 5.2.1)</p> <p>The main objectives of the audit committee are . . . evaluation of independence, objectivity of and lack of conflict of interest in relation to the external auditors of the company . . . (Recommendation 172)</p> | <p>The external auditor shall be independent from the Company and its board of directors and may not be a partner, agent or a relative, even of the fourth degree, of any founder or board member of the Company. (Article 10.3)</p> <p>A Company shall adopt reasonable steps to ensure independence of external auditor and that all operations performed by the external auditor are free from any conflict of interests. (Article 10.4)</p> <p>The external auditor may not, while assuming the auditing of the Company's accounts, perform any technical, administrative or consultation services or works in connection with its assumed duties that may affect its decisions and independence or any services or works that, in the discretion of the Authority, may not be rendered. . . (Article 10.6)</p> <p>The Audit Committee shall . . . follow up and oversee the independence and objectivity of the external auditor and hold discussions with the external auditor on the nature, scope and efficiency of auditing pursuant to approved audit standards. . . . (Article 9.5)</p> |

KEY AGREED PRINCIPLES

V. INDEPENDENT BOARD LEADERSHIP

Governance structures and practices should be designed to provide some form of leadership for the board distinct from management.

The board provides oversight of management and holds it accountable for performance. This requires that the board function as a body distinct from management, capable of objective judgment regarding management's performance. Therefore, some form of independent leadership is required, either in the form of an independent chairman or a designated lead or presiding director. (Rotation of the leadership position among directors or committee chairs on a per-meeting or quarterly basis is not favored because it does not promote accountability for the independent leadership role.) Boards should evaluate the independent leadership of the board annually.

The decision as to the form of independent leadership should be made by the independent directors. If the independent directors determine that it is in the best interests of the company to have independent board leadership in the form of an independent lead director, with the CEO or other non-independent director serving as the board chair, the independent directors should explain why that form of leadership is preferable and also provide the independent lead director with authority for setting the board agenda, determining the board's information needs, and convening and leading regular executive sessions without the CEO or other members of management present.

V.A. Separation of Chairman & CEO

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|--|---|--|--|
| <p><u>NYSE</u></p> <p><i>Not covered.</i></p> <p><u>NACD</u></p> <p>The roles of a non-executive chairman or board leader have been under consideration for some years. The independent board leader concept continues to grow in acceptance, according to current surveys. 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 (pp. 3-4)</p> <p><i>See Topic Heading V.B, 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. (Code Provision A.2.1)</p> <p>The chairman is responsible for leadership of the board and ensuring its effectiveness on all aspects of its role. (Main Principle A.3)</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. (Code Provision A.3.1)</p> <p><i>See Topic Heading V.B, 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.</p> <p>In addition, corporations with Boards of Directors have an option between separation of the offices of Chairman and Chief Executive Officer and maintenance of the aggregation of such duties. The law 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. When a corporation opts for separation of the offices of Chairman and Chief Executive Officer, if appropriate, the tasks entrusted to the Chairman of the Board of Directors in addition to those conferred upon him or her by law must be described. (¶ 3.1)</p> <p>With regard to the choice of form of organisation of management and supervisory powers, the main principle applicable which needs to be stressed is transparency: transparency between executive management and the Board of Directors, transparent corporate management in relation to the market, and transparency in relations with shareholders, in particular at the time of the General Meeting. In this respect, it is essential for the shareholders and third parties to be fully informed of the choice made between separation of the offices of Chairman and Chief Executive Officer and maintenance of these positions as a single office. In addition to the forms of disclosure required by regulations, the reference document or the annual report may serve as the medium for the disclosure to which shareholders are entitled, and the Board should report to them the grounds and justifications for its decisions. (¶ 3.2)</p> <p><i>See also Topic Heading V.B, 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 (Management Board members may not become members of the Supervisory Board of the company within two years after the end of their appointment unless they are appointed upon a motion presented by shareholders holding more than 25% of the voting rights in the company. In the latter case appointment to the chairmanship of the Supervisory Board shall be an exception to be justified to the General Meeting.)</i></p> <p><i>See also Topic Heading V.B, below.</i></p> | <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. (Annotation to Principle VI.E)</p> <p><i>See Topic Heading V.B, below.</i></p> |

V.A. Separation of Chairman & CEO

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|--|--|---|--|
| <p><u><i>In a Two-Tier Board Structure</i></u> The chairman of the supervisory board may 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 management board may not also be or have been an executive director. (Best Practice Provision III.8.1)</p> | <p>The board of directors should not include executive personnel. (§ 8)</p> <p>The Public Companies Act stipulates that the chief executive cannot be a member of the board of directors. This Code of Practice recommends that neither the chief executive nor any other executive personnel should be a member of the board. (Commentary to § 8)</p> | <p>The principle of maintaining a balance between direction and control should also apply to the top of the company.</p> <p>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).</p> <p>(Article II.e.18)</p> <p><i>See also</i> Topic Heading V.B, <i>below</i>.</p> | <p>The chair of the board of a listed entity should be an independent director and, in particular, should not be the same person as the CEO of the entity. (Recommendation 2.5)</p> <p>The chair of the board is responsible for leading the board, facilitating the effective contribution of all directors and promoting constructive and respectful relations between directors and between the board and management. The chair is also responsible for setting the board’s agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues.</p> <p>Having an independent chair can contribute to a culture of openness and constructive challenge that allows for a diversity of views to be considered by the board.</p> <p>Good governance demands an appropriate separation between those charged with managing a listed entity and those responsible for overseeing its managers. Having the role of chair and CEO exercised by the same individual is unlikely to be conducive to the board effectively performing its role of challenging management and holding them to account.</p> <p>If the chair is not an independent director, a listed entity should consider the appointment of an independent director as the deputy chair or as the “senior independent director”, who can fulfil the role whenever the chair is conflicted. Even where the chair is an independent director, having a deputy chair or senior independent director can also assist the board in reviewing the performance of the chair and in providing a separate channel of communication for security holders (especially where those communications concern the chair).</p> <p>(Commentary to Recommendation 2.5)</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 duties of the Chairman are different and complementary to those of the CEO. To avoid concentration of power at the expense of adequate supervision of Management, the positions of Chairman and Chief Executive Officer should not be held by the same person. While it is recommended that the CEO should not be a member of the Board, the CEO should attend the Board meetings as a guest. (IBGC Code ¶ 2.10)</p> <p>A clear separation of roles between the [CEO and Chairman] positions and clear power and action limits are of fundamental importance. (IBGC Code ¶ 2.34.2)</p> <p>The Chairman is responsible for ensuring the effectiveness and good performance of the Board and each of its members. The Chairman should establish the Board’s goals and programs, chair its meetings, organize and coordinate its agenda, coordinate and supervise the activities of the other Directors, assign responsibilities and deadlines, and monitor the evaluation process of the Board, according to good principles of corporate governance. He should also ensure that Directors receive complete and timely information for the exercise of their functions. (IBGC Code ¶ 2.9)</p> <p><i>See also</i> Topic Heading V.B, <i>below</i>.</p> |

V.A. Separation of Chairman & CEO

China

Hong Kong

India

Russia

UAE

Not covered.

There are two key aspects of the management of every issuer – the management of the board and the day-to-day management of business. There should be a clear division of these responsibilities to ensure a balance of power and authority, so that power is not concentrated in any one individual. (Principle A.2)

The roles of chairman and chief executive should be separate and should not be performed by the same individual. The division of responsibilities between the chairman and chief executive should be clearly established and set out in writing. (CP A.2.1)

See § 49.II.A.2 (Where the Chairman of the Board is a non-executive director, at least one-third of the Board should comprise independent directors and in case the company does not have a regular non-executive Chairman, at least half of the Board should comprise independent directors.).

The company may appoint separate persons to the post of Chairman and Managing Director/CEO. (Annexure – XIII to the Listing Agreement; Non-Mandatory Requirements)

It is recommended to either elect an independent director to the position of the chairman of the board of directors or identify the senior independent director among the company's independent directors who would coordinate work of the independent directors and liaise with the chairman of the board of directors. (Principle 2.5.1)

No person may simultaneously assume the offices of the chairman of the board of directors, the Company manager and/or the managing director. (Article 3.3)

[Company manager is defined to mean] the general manager, executive director or chief executive officer of a Company who are appointed by the board of directors. (Article 1)

See also Topic Heading V.B, *below*.

V.B. “Presiding” or Lead Director

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|---|--|--|--|
| <p><u>NYSE</u></p> <p>An independent director must preside over each executive session of the independent directors, although the same director is not required to preside at all executive sessions of the independent directors. (§ 303A.03)</p> <p>If one director is chosen to preside at all of these executive sessions, his or her name must be disclosed. . . . Alternatively, if the same individual is not the presiding director at every meeting, a listed company must disclose the procedure by which a presiding director is selected for each executive session. For example, a listed company may wish to rotate the presiding position among the chairs of board committees. (Disclosure Requirement, § 303A.03)</p> <p><u>NACD</u></p> <p>The roles of a non-executive chairman or board leader have been under consideration for some years. The independent board leader concept continues to grow in acceptance, according to current surveys. 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, including: agenda setting with the CEO; CEO and board evaluation; executive sessions; and anticipating or responding to crises . . . 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. (pp. 3-4)</p> <p><i>See</i> Topic Heading V.A, <i>above</i>.</p> | <p>The board should appoint one of the independent non-executive directors to be the senior independent director to provide a sounding board for the chairman and to serve as an intermediary for the other directors when necessary. The senior independent director should be available to shareholders if they have concerns which contact through the normal channels of chairman, chief executive or other executive directors have failed to resolve or for which such contact is inappropriate. (Code Provision A.4.1)</p> <p>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. (Code Provision E.1.1)</p> <p>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. (Code Provision B.6.3)</p> <p><i>See</i> Topic Heading V.A, <i>above</i>.</p> | <p><i>Not covered directly, but see</i> ¶ 6.5 (When the Board has decided to confer special tasks upon a director that relate to governance or shareholder relations, in particular by appointing them as Lead Director or Vice President, these tasks and the resources and prerogatives to which he or she has access must be described in the internal rules.</p> <p><i>See also</i> Topic Heading V.A, <i>above</i>.</p> | <p><i>Not covered directly, but see</i> § 5.4.6 (Compensation of the members of the Supervisory Board is specified by resolution of the General Meeting or in the Articles of Association. 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><i>See also</i> Topic Heading V.A, <i>above</i>.</p> | <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 also</i> Topic Heading V.A, <i>above</i>.</p> |

V.B. “Presiding” or Lead Director

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|--|--|---|--|
| <p><i>Not covered directly, but see Topic Heading V.A., above.</i></p> | <p>In order to ensure a more independent consideration of matters of a material character in which the chairman of the board is, or has been, personally involved, the board’s consideration of such matters should be chaired by some other member of the board. (§ 9)</p> <p>In order to ensure an independent approach by the board of directors, some other member should take the chair when the board considers matters of a material nature in which the chairman has, or has had, an active involvement. Such matters might, for example, include negotiations on mergers, acquisitions etc. (Commentary to § 9)</p> <p><i>See also Topic Heading V.A., above.</i></p> | <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 non-executive 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. (Article II.e.18)</p> <p><i>See also Topic Heading V.A., above.</i></p> | <p>If the chair is not an independent director, a listed entity should consider the appointment of an independent director as the deputy chair or as the “senior independent director”, who can fulfil the role whenever the chair is conflicted. Even where the chair is an independent director, having a deputy chair or senior independent director can also assist the board in reviewing the performance of the chair and in providing a separate channel of communication for security holders (especially where those communications concern the chair). (Commentary to Recommendation 2.5)</p> <p><i>See also Topic Heading V.A., above.</i></p> | <p>If the positions of Chairman and CEO are exercised by the same person and a separation of roles is momentarily impossible, it is recommended that independent directors undertake the responsibility of leading discussions involving conflicts between the CEO and the Chairman roles. (IBGC Code ¶ 2.16.1)</p> <p><i>See Topic Heading V.A., above.</i></p> |

V.B. “Presiding” or Lead Director

China

Not covered.

Hong Kong

Not covered.

India

Not covered directly, but see Topic Heading V.A., above.

Russia

It is recommended to either elect an independent director to the position of the chairman of the board of directors or identify the senior independent director among the company’s independent directors who would coordinate work of the independent directors and liaise with the chairman of the board of directors. (Principle 2.5.1)

It would be advisable for the senior independent director to play a key role when evaluating the efficiency of performance of the board chairman and when dealing with proposed successors to the position of the board chairman. (Recommendation 118)

In a conflict situation (for example, if there are significant disagreements between board members or if the board chairman fails to pay attention to any matters which are requested to be considered by individual board members or the company’s shareholders entitled to apply to the board of directors for that purpose), the senior independent director should use his/her efforts to resolve the conflict by liaising with the board chairman, other board members and the company’s shareholders with a view to ensuring efficient and stable work of the board of directors. (Recommendation 120)

The rights and duties of the senior independent director, including his/her role in resolving conflicts in the board of directors, should conform to the recommendations of this Code and should be clearly set out in the company’s internal documents and explained to its board members. (Recommendation 121)

Russia

UAE

Not covered directly, but see Article 4 ([T]he chairman of the board of directors shall assume the following duties and responsibilities:

- he shall ensure that the board of directors acts efficiently, fulfills its responsibilities and discusses all its suitable main issues on a timely basis;
- he shall develop and approve the agenda of each board meeting, taking into consideration any issues that members propose to be included in the meeting agenda. The chairman of the board of directors may assign this responsibility to a certain member or board reporter under his own supervision;
- he shall encourage all members to completely and efficiently participate in the board in order to ensure that the board of directors acts for the best interest of the company;
- he shall adopt suitable procedures to secure efficient communication with shareholders and communicate their views to the board of directors; and
- he shall facilitate effective participation of non-executive board members and develop constructive relations between executive and non-executive members.)

See Topic Heading V.A., above.

KEY AGREED PRINCIPLES

VI. ETHICS, INTEGRITY & RESPONSIBILITY

Governance structures and practices should be designed to promote an appropriate corporate culture of integrity, ethics, and corporate social responsibility.

The tone of the corporate culture is a key determinant of corporate success. Integrity, ethics, and a sense of the corporation's role and responsibility in society are foundations upon which long-term relationships are built with customers, suppliers, employees, regulators, and investors. The board plays a key role in assuring that an appropriate corporate culture is developed, by communicating to senior management the seriousness with which the board views the matter, defining the parameters of the desired culture, reviewing efforts of management to inculcate the agreed culture (including but not limited to review of compliance and ethics programs) and continually assessing the integrity and ethics of senior management.

Assessment of management performance and integrity are at the heart of effective governance, and should factor into all board decisions—not only in hiring and compensation matters. In particular, boards should assess management integrity and ethics when considering management proposals; assessing internal controls and procedures; reviewing financial reporting and accounting decisions; and more generally, when discussing management development and succession planning. The board should pay special attention to how members of senior management approach their own conflicts of interest, for example, in addition to any proposed related-person transactions involving management, the conflicts inherent in compensation decisions and the use of corporate assets in the form of perquisites.

VI.A. Conflicts of Interest, Ethics & Confidentiality

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u> Listed companies must adopt and disclose a code of business conduct and ethics for directors, officers and employees, and promptly disclose any waivers of the code for directors or executive officers. (§ 303A.10)</p> <p>Each listed company may determine its own policies, but all listed companies should address the most important topics, including the following:</p> <ul style="list-style-type: none"> • Conflicts of interest . . . • Corporate opportunities . . . • Confidentiality . . . • Fair dealing . . . • Protection and proper use of listed company assets . . . • Compliance with laws, rules and regulations (including insider trading laws) . . . • Encouraging the reporting of any illegal or unethical behavior . . . (Commentary to § 303A.10) <p>Related party transactions normally include transactions between officers, directors, and principal shareholders and the company. Each related party transaction is to be reviewed and evaluated by an appropriate group within the listed company involved. While the Exchange does not specify who should review related party transactions, the Exchange believes that the Audit Committee or another comparable body might be considered as an appropriate forum for this task. Following the review, the company should determine whether or not a particular relationship serves the best interest of the company and its shareholders and whether the relationship should be continued or eliminated. (§ 314.00)</p> <p><u>NACD</u> Boards should seek only candidates who have demonstrated high ethical standards and integrity in their personal and professional dealings, and who are willing to act on—and remain accountable for—their boardroom decisions. (p. 7)</p> <p>If, through the evaluation process or otherwise, it becomes apparent that a director is not meeting the standards established by the board (including ethical standards), where appropriate the governance committee should provide the director with feedback, additional education, or other reasonable means of guidance. If such attempts are either inappropriate or unsuccessful, the director’s resignation should be accepted. (p. 18)</p> <p>Board disclosure of procedures is distinct from sharing the substance of such deliberations, which should be confidential. (p. 16)</p> | <p>The board should set the company’s values and standards . . . (Supporting Principle A.1)</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. (Code Provision C.3.5)</p> <p>Where executive directors or senior management are involved in advising or supporting the remuneration committee, care should be taken to recognise and avoid conflicts of interest. (Supporting Principle D.2)</p> | <p>Without prejudice to the legal provisions specific to them, directors representing employee shareholders and directors representing employees have the same rights, are subject to the same obligations, in particular in relation to confidentiality, and take on the same responsibilities as the other members of the Board. (¶ 7.4)</p> <p>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. The majority shareholder must take particular care to avoid possible conflicts of interest, to secure transparency of the information provided to the market, and to fairly take all interests into account. (¶ 8)</p> <p>It is also desirable, at the time of review of the accounts, for the [audit] committee to consider the major transactions in connection with which conflicts of interest could have arisen. (¶ 16.2.1)</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. . . .</p> <p>As regards any non-public information obtained pursuant to his or her duties, the director should consider that he or she is bound by a strict confidentiality duty, going beyond the mere duty of discretion provided for by law. . . .</p> <p>The director should, as required by law and regulation:</p> <ul style="list-style-type: none"> • abstain from engaging in transactions in securities (including derivative financial instruments) of the corporations for which (and insofar as) he or she, as a result of his or her duties, has inside information; • disclose transactions entered into in respect of the corporation’s securities. <p>(¶ 20)</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. All Board members ensure that the staff members they appoint to support them observe the confidentiality obligation accordingly. (§ 3.5)</p> <p><u>Supervisory Board</u></p> <p>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, in particular those which may result from a consultant or directorship function with clients, suppliers, lenders or other third parties. (§ 5.5.2)</p> <p>See § 5.5.4 ([S]ervice agreements and contracts . . . between a member of the Supervisory Board and the company require Supervisory Board approval.).</p> <p>See generally § 5.5, Conflicts of Interest.</p> <p><u>Management Board</u></p> <p>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>See generally § 4.3, Conflicts of Interest.</p> | <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 judgment to tasks where there is a potential for conflict of interest. (Principle VI.E.1)</p> <p>See Annotation to Principle III.B (<i>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>See also Principle II.F.2 (<i>Institutional investors acting in a fiduciary capacity should disclose how they manage material conflicts of interest . . .</i>).</p> |

VI.A. Conflicts of Interest, Ethics & Confidentiality

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p><u><i>Supervisory Board</i></u></p> <p>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.6.7 (<i>supervisory board conflicts of interest</i>).</p> | <p>The board of directors should define the company’s basic corporate values and formulate ethical guidelines and guidelines for corporate social responsibility in accordance with these values. (§ 1)</p> <p>Corporate values represent an important foundation for corporate governance. A company’s corporate values, together with its ethical guidelines and guidelines for corporate social responsibility, may play a significant role in the way the company is perceived. (Commentary to §1)</p> <p>In the event of any not immaterial transactions between the company and shareholders, a shareholder’s parent company, members of the board of directors, executive personnel or close associates of any such parties, the board should arrange for a valuation to be obtained from an independent third party...</p> <p>The company should operate guidelines to ensure that members of the board of directors and executive personnel notify the board if they have any material direct or indirect interest in any transaction entered into by the company.(§ 4)</p> <p>The Code of Practice stipulates that guidelines should be established to ensure that the board of directors is notified of a situation where a member of the board or a member of the executive personnel has a material interest in a transaction or other matter entered into by the company or binding on the company. This is more comprehensive than the requirements of the Public Companies Act on conflict of interests for members of the board and the requirements of securities legislation on the disclosure of share purchases etc. (Commentary to § 4)</p> <p>The board of directors must ensure that the company has sound internal control and systems for risk management that are appropriate in relation to the extent and nature of the company’s activities [and that] encompass the company’s corporate values, ethical guidelines and guidelines for corporate social responsibility. (§ 10)</p> <p>In order to ensure an independent approach by the board of directors, some other member should take the chair when the board considers matters of a material nature in which the chairman has, or has had, an active involvement. Such matters might, for example, include negotiations on mergers, acquisitions etc. (Commentary to § 9)</p> <p>Ethical guidelines should provide guidance on how employees can communicate with the board to report matters related to illegal or unethical conduct by the company. Having clear guidelines for internal communication will reduce the risk that the company may find itself in situations that can damage its reputation or financial standing. (Commentary to § 10)</p> | <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.</p> <p>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 decision-making. 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.</p> <p>(Article II.d.16)</p> <p>The Board of Directors should regulate the principles governing ad hoc publicity in more detail and take measures to prevent insider-dealing offences. (Article II.d.17)</p> | <p>In the case of a non-executive director, the [letter of appointment] should generally set out...ongoing confidentiality obligations. (Recommendation 1.3)</p> <p>A listed entity should act ethically and responsibly. (Principle 3)</p> <p>Investors and other stakeholders expect listed entities to act ethically and responsibly. Anything less is likely to destroy value over the longer term. Acting ethically and responsibly goes well beyond mere compliance with legal obligations and involves acting with honesty, integrity and in a manner that is consistent with the reasonable expectations of investors and the broader community....Acting ethically and responsibly will enhance a listed entity’s brand and reputation and assist in building long-term value for its investors.</p> <p>The board of a listed entity should lead by example when it comes to acting ethically and responsibly and should specifically charge management with the responsibility for creating a culture within the entity that promotes ethical and responsible behaviour. (Commentary to Principle 3)</p> <p>A listed entity should:</p> <p>(a) have a code of conduct for its directors, senior executives and employees; and</p> <p>(b) disclose that code or a summary of it.</p> <p>(Recommendation 3.1)</p> <p>[Code of conduct should] [c]learly state the organisation’s expectation that all directors, senior executives and employees will...not enter into any arrangement or participate in any activity that would conflict with the entity’s best interests or that would be likely to negatively affect the entity’s reputation; ...[d]escribe the organisation’s processes for handling actual or potential conflicts of interest. (Box 3.1)</p> <p><i>See also</i> Commentary to Recommendation 3.1, Box 3.1 (Suggestions for the content of a code of conduct.).</p> | <p>It is the Directors’ duty to monitor and manage potential conflicts of interests of the executives, Directors, and shareholders, in order to avoid misuse of the organization’s assets and, in particular, the abuse of related party transactions. The Director should ensure that these transactions are conducted according to market practices, in terms of deadlines, rates, and guarantees, and are clearly reflected in the organization’s reports. (IBGC Code ¶ 6.2.1)</p> <p>The [Audit Committee] should also ensure compliance with the organization’s Code of Conduct, in the absence of a Conduct Committee (or Ethics Committee) appointed by the Board of Directors for this purpose. (IBGC Code ¶ 2.30)</p> <p>[E]very organization should have a Code of Conduct binding administrators and employees. The Code of Conduct must be prepared by Management, in accordance with the principles and policies defined and approved by the Board of Directors. (IBGC Code ¶ 6.1)</p> <p>The Code of Conduct should cover the relationship between Directors, officers, shareholders, employees, suppliers and other stakeholders. Directors and officers should not exercise their authority in their own benefit or to benefit third parties. (IBGC Code ¶ 6.1.1)</p> <p>Board decisions should be minuted and forwarded to the competent body. Some decisions must be treated as confidential, especially when addressing issues of strategic interest not yet matured or which may expose the organization to the competition. (IBGC Code ¶ 2.40)</p> <p><i>See</i> IBGC Code ¶ 6.2 (A conflict of interest occurs when someone is not independent with regard to the subject being discussed, and may influence or make decisions motivated by interests other than those of the organization.).</p> <p><i>See also</i> CVM Recommendations III.1, III.4 (transactions among related parties.).</p> <p><i>See also</i> IBGC Code ¶ 6.3, Use of Insider Information.</p> |

VI.A. Conflicts of Interest, Ethics & Confidentiality

| China | Hong Kong | India | Russia | UAE |
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| <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>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><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>If a substantial shareholder or a director has a conflict of interest in a matter to be considered by the board which the board has determined to be material, the matter should be dealt with by a physical board meeting rather than a written resolution. Independent non-executive directors who, and whose associates, have no material interest in the transaction should be present at that board meeting. (CP A.1.7)</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 company. The board should fulfill certain key functions, including...Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions. (§ 49.I.D.2.f)</p> <p>The Board and top management should conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture for good decision-making. (§ 49.I.D.1)</p> <p>The Board should and set a corporate culture and the values by which executives throughout a group will behave...The Board should apply high ethical standards...Boards should consider assigning a sufficient number of non-executive Board members capable of exercising independent judgement to tasks where there is a potential for conflict of interest. (§ 49.I.D.3)</p> <p>The Board shall lay down a code of conduct for all Board members and senior management of the company. The code of conduct shall be posted on the website of the company. . . .</p> <p>The company shall establish a vigil mechanism for directors and employees to report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy.</p> <p>The company shall formulate a policy . . . on dealing with Related Party Transactions. . . (§ 49.VII.C)</p> <p>All Related Party Transactions shall require prior approval of the Audit Committee. (§ 49.VII.D)</p> <p>E. All material Related Party Transactions shall require approval of the shareholders through special resolution and the related parties shall abstain from voting on such resolutions. (§ 49.VII.D)</p> <p>Details of all material transactions with related parties shall be disclosed quarterly along with the compliance report on corporate governance. (§ 49.VIII.A.1)</p> | <p>The board of directors should play a key role in prevention, detection and resolution of internal conflicts between the company's bodies, shareholders and employees. (Principle 2.1.5)</p> <p>Independent directors should play a key role in prevention of internal conflicts in the company and performance by the latter of material corporate actions. (Principle 2.4.4)</p> <p>The company shall be obliged to take any and all necessary and possible measures for prevention and resolution of a conflict . . . (Recommendation 76)</p> <p>The board of directors should play a key role in identifying and settling such conflicts and, thus, enable all the shareholders to get efficient protection in case of violation of their rights. (Recommendation 77)</p> <p>If, at any stage, a conflict affects or might affect the company's executive bodies, it should be referred to the board of directors or its corporate governance committee. Board members whose interests are or might be affected by the conflict should not participate in its resolution. (Recommendation 78)</p> <p>To prevent corporate conflicts from occurring, the company should create a system designed to identify its transactions which involve a conflict of interest . . . Such system requires procedures that ensure:</p> <ol style="list-style-type: none"> 1) timely receipt by the company of updated information on persons associated or affiliated with members of the board of directors, the company's one-person executive body, members of its [collective] executive body, other key managers and any conflict of interest involving any of the above persons . . . ; and 2) that decisions to enter into any transactions involving a conflict of interest are made . . . by persons who have no conflict of interest and are not influenced by any persons who have a respective conflict of interest. <p>(Recommendation 79)</p> <p>The company should ensure that the above procedures are complied with by the company's employees through the use of disciplinary measures . . . (Recommendation 80)</p> <p>If a board member has a potential conflict of interest, in particular, if he/she is interested in a particular transaction of the company, the board member must notify the board of directors accordingly and, in any case, postpone his/her own interests to those of the company. (Recommendation 128)</p> <p><i>See generally</i> Recommendations 132 – 138.</p> | <p>In case a board member is a subject to conflict of interest in an issue to be considered by the board of directors and the board resolves that it is a material issue, the board resolution shall be issued at the attendance of majority of members and such interested member may not vote over the resolution. In exceptional cases, these issues may be handled through board subcommittees formed for this purpose by a board resolution and the committee's opinion shall be referred to the board of directors to make a decision in this regard. (Article 3.10)</p> <p>The board of directors may, at its own expense by a resolution adopted by majority of attending members, request an external consultation opinion in any issues related to the Company, provided that conflict of interests shall be avoided. (Article 3.11)</p> <p>The board of directors shall lay down written rules in respect of the dealings of the members of the board of directors and employees of the Company in securities issued by the Company, parent company, subsidiary or sister companies. (Article 3.14)</p> <p>The member shall, when exercising his/her powers and duties, act honestly and loyally, taking into consideration the interests of the Company and its shareholders, make the utmost effort and adhere to applicable laws, regulations and resolutions as well as the articles of association and internal regulations of the Company. (Article 5.3)</p> |

VI.B. The Role of Stakeholders

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u> <i>Not covered.</i></p> <p><u>NACD</u> 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. 19)</p> | <p>While in law the company is primarily accountable to its shareholders, and the relationship between the company and its shareholders is also the main focus of the Code, companies are encouraged to recognise the contribution made by other providers of capital and to confirm the board's interest in listening to the views of such providers insofar as these are relevant to the company's overall approach to governance. (p. 3)</p> | <p>The Commercial Code provides that one or more directors should be appointed at the shareholders' meeting from the employee shareholders as soon as the shareholdings held by the employees of this group exceed 3% of the corporate capital. (§ 7.1)</p> <p>The Commercial Code also provides for the election or appointment of at least one or two directors to represent employees in certain companies depending on the terms set out in the by-laws. (§ 7.2)</p> <p><i>See also</i> § 8 (It is not desirable to have within the Board representatives of various specific groups or interests because the Board could become a battleground for vested interests instead of representing the shareholders as a whole.).</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 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><i>See</i> Millstein Report, 1.2.16 (Attending to legitimate social concerns should, in the long run, benefit all parties, including investors.).</p> |

VLB. The Role of Stakeholders

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p>[T]he interests of the employees should be taken into account when the interests of all stakeholders are weighed in connection with compliance with the Code. (Preamble ¶ 3)</p> <p>The stakeholders are the groups and individuals who, directly or indirectly, influence – or are influenced by – the attainment of the company’s objects, i.e. employees, shareholders and other lenders, suppliers, customers, the public sector and civil society. The management board and the supervisory board have overall responsibility for weighing up these interests, generally with a view to ensuring the continuity of the enterprise, while the company endeavours to create long-term shareholder value. (Preamble ¶ 7)</p> <p>The management board and the supervisory board should take account of the interests of the various stakeholders, including corporate social responsibility issues that are relevant to the enterprise. . . . (Preamble ¶ 8)</p> <p>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>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. The supervisory board shall also have due regard for corporate social responsibility issues that are relevant to the enterprise. (Principle III.1)</p> | <p>At the core of the concept of corporate social responsibility is the company’s responsibility for the manner in which its activities affect people, society and the environment, and it typically addresses human rights, prevention of corruption, employee rights, health and safety and the working environment, and discrimination, as well as environmental issues. (Commentary to § 1)</p> | <p><i>Not covered.</i></p> | <p>Investors and other stakeholders expect listed entities to act ethically and responsibly. Anything less is likely to destroy value over the longer term. (Commentary to Principle 3)</p> <p>A listed entity’s investor relations program may also run in tandem with a wider stakeholder engagement program involving interactions with politicians, bureaucrats, regulators, unions, consumer groups, environmental groups, local community groups and other stakeholders. (Commentary to Recommendation 6.2)</p> <p>How a listed entity conducts its business activities impacts directly on a range of stakeholders, including security holders, employees, customers, suppliers, creditors, consumers, governments and the local communities in which it operates. Whether it does so sustainably can impact in the longer term on society and the environment. (Commentary to Recommendation 7.4)</p> | <p>A fair treatment of all shareholders and other stakeholders. Discriminatory attitudes or policies, under any pretext, are entirely unacceptable. (IBGC Code, Introduction)</p> <p>The agents of governance should watch over the sustainability of their organizations, to ensure their company’s longevity, by observing social and environmental principles when identifying business deals and operations. (IBGC Code, Introduction)</p> <p>Stakeholders are individuals or entities that assume some kind of direct or indirect risk related to the organization’s activities. In addition to the shareholders, the stakeholders include employees, customers, suppliers, creditors, the government, communities around the operating units, and other parties. The CEO and the other officers should ensure a transparent and long-term relationship with stakeholders and set a strategy to communicate with these parties. (IBGC Code ¶ 3.3)</p> <p>[The Board of Directors’] role is to be the link between shareholders and Management, to guide and oversee Management and [its] relationship with other stakeholders. . . . Every organization should have a Board of Directors elected by the shareholders, without losing sight of the other stakeholders, the organization’s purpose, and its sustainability in the long term. (IBGC Code ¶ 2.1)</p> <p>The concept of representing any of the stakeholders is not suitable for the composition of the Board, since Board members have their duties to the organization, and therefore to all shareholders. The Board is, therefore, bound to none. (IBGC Code ¶ 2.4)</p> <p>The organization should have its own means – such as a formal complaints or reporting channel, or ombudsman – to gather opinions, criticism, complaints and reports from stakeholders, always ensuring the privacy and secrecy of its users, and conduct investigations to determine the truth and the appropriate action to be pursued. (IBGC Code ¶ 2.32)</p> <p>As a result of a clear policy of communication and relationship with stakeholders, the organization should disclose, at least on its website, full, objective, timely and equitable reports from time to time on all aspects of its business activities, including its social and environmental agenda. (IBGC Code ¶ 3.5)</p> |

VLB. The Role of Stakeholders

| China | Hong Kong | India | Russia | UAE |
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| <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>A company shall provide the necessary means to ensure the legal rights of stakeholders. 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 in which it resides, and shall pay attention to the company's social responsibilities. (Ch. 6, 86)</p> | <p><i>Not covered.</i></p> | <p>The company should recognise the rights of stakeholders and encourage co-operation between company and the stakeholders.</p> <p>The rights of stakeholders that are established by law or through mutual agreements are to be respected.</p> <p>Stakeholders should have the opportunity to obtain effective redress for violation of their rights.</p> <p>Company should encourage mechanisms for employee participation.</p> <p>Stakeholders should have access to relevant, sufficient and reliable information on a timely and regular basis to enable them to participate in [the] Corporate Governance process.</p> <p>e. The company should devise an effective whistle blower mechanism enabling stakeholders, including individual employees and their representative bodies, to freely communicate their concerns about illegal or unethical practices.</p> <p>(§ 49.I.B)</p> <p>The company should implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders.... (§ 49.I.C.1)</p> <p>The Board and top management should conduct themselves so as to meet the expectations of operational transparency to stakeholders . . . (§ 49.I.D.1.b)</p> <p>The Board should . . . take into account the interests of stakeholders.</p> <p>(§ 49.I.D.3.f)</p> | <p>Any actions which will or may materially affect the company's share capital structure and its financial position and, accordingly, the position of its shareholders... should be taken on fair terms and conditions ensuring that the rights and interests of the shareholders as well as other stakeholders are observed. (Principle 7.1)</p> <p>The board of directors should consider the interests of other stakeholders, including employees, creditors, and trading partners of the company. The company must be socially responsible, so the board of directors is recommended to take decisions in compliance with accepted environmental and social standards. (Recommendation 127)</p> | <p>Companies shall apply an environmental and social policy towards the local society. (Article 13)</p> |

KEY AGREED PRINCIPLES

VII. ATTENTION TO INFORMATION, AGENDA & STRATEGY

Governance structures and practices should be designed to support the board in determining its own priorities, resultant agenda, and information needs and to assist the board in focusing on strategy (and associated risks).

In today's dynamic and volatile business and financial environment, a key challenge for boards comprised primarily of outside and independent directors is to develop their own sense of corporate priorities and their own view of the matters that are most important to the success of the company. Boards must develop their own viewpoints to provide management with meaningful strategic guidance and support and to focus their own attention appropriately. Therefore, the board must be actively engaged in determining its own priorities, agenda and information needs.

Directors need significant information about the company's business and its prospects based on an understanding of opportunities, capabilities, strategies, and risks in the competitive environment. While directors must—and should—rely on management for information about the company, they need to recognize that their ability to serve as fiduciaries depends on the degree to which they can bring objective judgment to bear. Therefore, directors cannot be unduly reliant on management for determining the board's priorities and related agenda, and information needs.

For most companies, the priority focus of board attention and time will be understanding and providing guidance on strategy and associated risk—based on the underlying understanding of the company's strengths and weaknesses, and the opportunities and threats posed by the competitive environment—and monitoring senior management's performance in both carrying out the strategy and managing risk. Management performance, corporate strategy, and risk management are the prime underpinnings of the corporation's ability to create long-term value. Directors should strive for a constructive tension in discussions with management about strategy, performance, and the underlying assumptions upon which management proposals are based. Directors should actively participate in defining the benchmarks by which to assess success, and then monitor performance against those benchmarks. They should also establish (and disclose to the extent practical in light of competitive realities) a very real and apparent link between the strategy, benchmarks for success, and compensation.

As emphasized by the Sarbanes-Oxley Act and related SEC regulations and listing standards, the board plays a critical role in oversight of compliance, financial reporting, and internal controls, as well as in organizing the board's own processes. However, these functions should follow naturally from an understanding of the importance of the board's objective judgment in its role as a fiduciary and a primary focus on corporate strategy and performance (within an appropriate framework of integrity and ethics as discussed above). In normal circumstances, compliance, oversight of financial reporting and controls, and governance issues should not demand the majority of board time and therefore should not overwhelm the board's agenda.

Information flow to the board should be sufficient to support understanding of the company's business and the critical issues the company faces, and enable participation in active, informed discussions at board meetings. It should not be so voluminous as to overwhelm. While the board must have access to any information that it wants, generally the board should assert discipline and not overwhelm management with requests for information outside the scope of what management uses to manage. The board and management should work together to define the type and quantity of information that is of most use, and to identify the timeframe in which information should be provided. (It is in the area of agenda and information flow that independent board leadership is particularly necessary.) Crisp reports distributed in advance of meetings should obviate the need for lengthy management presentations in most board and committee meetings, so that maximum time is preserved for discussion.

[T]he board should also strive to communicate with shareholders about corporate priorities.

VII.A. Board Meetings & Agenda

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|---|---|---|--|
| <p><u>NYSE</u></p> <p>The following subjects must be addressed in the corporate governance guidelines...Director responsibilities. These responsibilities should clearly articulate what is expected from a director, including basic duties and responsibilities with respect to attendance at board meetings and advance review of meeting materials. (Commentary to § 303A.09)</p> <p><u>NACD</u></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> <p>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)</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) (p. 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. (Code Provision A.1.1)</p> <p>[The annual report] should . . . set out the number of meetings of the board and those committees and individual attendance by directors. (Code Provision A.1.2)</p> <p>The chairman should also promote a culture of openness and debate by facilitating the effective contribution of non-executive directors in particular and ensuring constructive relations between executive and non-executive directors. (Supporting Principle A.3)</p> <p>The chairman is responsible for setting the board's agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues. (Supporting Principle A.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 at such meetings.</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. . . . 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. (¶ 11)</p> | <p><u>Supervisory Board Meetings</u></p> <p>In Supervisory Boards with co-determination, representatives of the shareholders and of the employees can 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 and chairs its meetings and attends to the affairs of the Supervisory Board externally. (§ 5.2)</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><i>Not covered directly, but see Topic Headings I.B, above, and VII.B, below.</i></p> |

VII.A. Board Meetings & Agenda

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p><u>Supervisory Board</u></p> <p>The chairman of the supervisory board shall ensure that... there is sufficient time for consultation and decision-making by the supervisory board... (Best Practice Provision III.4.1)</p> <p>The supervisory board shall be assisted by the company secretary. The company secretary shall ensure 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. He shall assist the chairman of the supervisory board in the actual organisation of the affairs of the supervisory board (information, agenda, evaluation, training programme, etc.). (Best Practice Provision III.4.3)</p> <p><u>Management Board</u></p> <p><i>Not covered.</i></p> | <p>The board of directors should produce an annual plan for its work, with particular emphasis on objectives, strategy and implementation.</p> <p>The board of directors should issue instructions for its own work as well as for the executive management with particular emphasis on clear internal allocation of responsibilities and duties.</p> <p>(§ 9)</p> <p>The Public Companies Act stipulates that the board of directors has the ultimate responsibility for the management at the company and for supervising its day-to-day management and activities in general.</p> <p>The board's responsibility for the management of the company includes responsibility for ensuring that the activities are soundly organised, drawing up plans and budgets for the activities of the company, keeping itself informed of the company's financial position and ensuring that its activities, accounts and asset management are subject to adequate control.</p> <p>The board of directors should lead the company's strategic planning, and make decisions that form the basis for the executive management to prepare for and implement investments and structural measures. The company's strategy should be reviewed on a regular basis.</p> <p>Where a company's board of directors includes members elected by and from among the employees, it is required by law to produce written instructions for the board with specific rules on the work of the board and its administrative procedures which determine what matters must be considered by the board. This Code of Practice states that companies should have such instructions whether or not employees are represented on the board.... Matters to be considered by the board are prepared by the chief executive in collaboration with the chairman, who chairs the meetings of the board. In practice, the chairman carries a particular responsibility for ensuring that the work of the board is well organised and that it functions effectively. The chairman should encourage the board to engage in open and constructive debate.</p> <p>(Commentary to § 9)</p> | <p>The Board of Directors should determine the procedures appropriate to perform its function.</p> <p>The Board of Directors 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.</p> <p>The Board of Directors should review regulations it has issued at regular intervals and amend them as required. (Article II.c.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.</p> <p>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.</p> <p>(Article II.c.15)</p> | <p>The chair is also responsible for setting the board's agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues. (Commentary to Recommendation 2.5)</p> | <p>The board should adopt its own bylaws about its duties and how often, at a minimum, it should meet. (CVM Recommendation II.2)</p> <p>It is the Chairman's responsibility to propose an annual calendar of regular and special meetings. The frequency of meetings will be determined by the company's circumstances, to ensure the effectiveness of the Board's work. Board meetings should not be more frequent than once a month, at the risk of interfering in Management work. The Board meeting agendas shall be prepared by the Chairman, after consultation with the other Directors, the CEO and, if appropriate, the other officers. In addition to the calendar with the meeting dates, the Chairman should organize a schedule for the Board on major issues to be discussed throughout the year and the dates they should be addressed. This method allows the Board to examine in depth strategic issues and have a more proactive role. Another advantage is to allow Management to get organized and know when the issues under their responsibility will be closely examined by the Board. This schedule does not prevent subjects from being discussed according to their need and urgency at Board meetings. (IBGC Code ¶ 2.36)</p> <p>The Chairman shall ensure the proper proceedings of the meetings. The Chair should also see that the agenda is followed, the time allotted for each item, and encourage participation by all, coordinating the debate in order to avoid simultaneous conversations. (IBGC Code ¶ 2.38)</p> |

VII.A. Board Meetings & Agenda

China

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... and the director who makes such authorization shall be responsible for the vote. (Ch. 3, (2) 35)

A listed company shall formulate rules of procedure for its board of directors in its articles of association to ensure the board of directors' efficient function and rational decisions. (Ch. 3 (4) 44)

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 pre-decided agenda. (Ch. 3, (4) 45)

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, (2) 46)

The minutes of the board of directors' meetings shall be complete and accurate. (Ch. 3, (4) 47)

Supervisory Board Meetings

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)

The supervisory board shall meet periodically and shall convene interim meetings in a timely manner when necessary. If for any reason a supervisory board meeting cannot be convened as scheduled, an explanation shall be publicly announced. (Ch. 4, (2) 66)

Minutes shall be drafted [and] signed by the supervisors that attended the meetings and the person who drafted the minutes. (Ch. 4, (2) 68)

Hong Kong

The board should meet regularly and board meetings should be held at least four times a year at approximately quarterly intervals. It is expected regular board meetings will normally involve the active participation, either in person or through electronic means of communication, of a majority of directors entitled to be present. So, a regular meeting does not include obtaining board consent through circulating written resolutions. (CP A.1.1)

Arrangements should be in place to ensure that all directors are given an opportunity to include matters in the agenda for regular board meetings. (CP A.1.2)

Notice of at least 14 days should be given of a regular board meeting to give all directors an opportunity to attend. For all other board meetings, reasonable notice should be given. (CP A.1.3)

One of the important roles of the chairman is to provide leadership for the board. The chairman should ensure that the board works effectively and performs its responsibilities, and that all key and appropriate issues are discussed by it in a timely manner. The chairman should be primarily responsible for drawing up and approving the agenda for each board meeting. He should take into account, where appropriate, any matters proposed by the other directors for inclusion in the agenda. The chairman may delegate this responsibility to a designated director or the company secretary. (CP A.2.4)

The chairman should encourage all directors to make a full and active contribution to the board's affairs and take the lead to ensure that it acts in the best interests of the issuer. The chairman should encourage directors with different views to voice their concerns, allow sufficient time for discussion of issues and ensure that board decisions fairly reflect board consensus. (CP A.2.6)

The chairman should promote a culture of openness and debate by facilitating the effective contribution of non-executive directors in particular and ensuring constructive relations between executive and non-executive directors. (CP A.2.9)

Independent non-executive directors and other non-executive directors, as equal board members, should give the board and any committees on which they serve the benefit of their skills, expertise and varied backgrounds and qualifications through regular attendance and active participation. (CP A.6.7)

Independent non-executive directors and other non-executive directors should make a positive contribution to the development of the issuer's strategy and policies through independent, constructive and informed comments. (CP A.6.8)

India

The Board shall meet at least four times a year, with a maximum time gap of one hundred and twenty days between any two meetings. (§ 49.II.D.1)

The chairman of the board of directors should help it carry out the functions imposed thereon in a most efficient manner. (Principle 2.5)

The board chairman should ensure that board meetings are held in a constructive atmosphere and that any items on the meeting agenda are discussed freely. . . (Principle 2.5.2)

Meetings of the board of directors, preparation for them, and participation of board members therein should ensure efficient work of the board. (Principle 2.7)

It is recommended to hold meetings of the board of directors as needed, with due account of the company's scope of activities and its then current goals. (Principle 2.7.1)

It is recommended to develop a procedure for preparing for and holding meetings of the board of directors and set it out in the company's internal documents. The above procedure should enable the shareholders to get prepared properly for such meetings. (Principle 2.7.2)

The form of a meeting of the board of directors should be determined with due account of importance of issues on the agenda of the meeting. Most important issues should be decided at the meetings held in person. (Principle 2.7.3)

Decisions on most important issues relating to the company's business should be made at a meeting of the board of directors by a qualified majority vote or by a majority vote of all elected board members. (Principle 2.7.4)

The chairman of the board of directors shall arrange for developing a plan of work for the board of directors, exercising control over implementation of its resolutions, drawing up agendas of board meetings, developing most efficient decisions on various matters on the agenda and, if necessary, shall organize free discussion of such matters. The chairman shall also ensure that such meetings are held in a constructive atmosphere. (Recommendation 122)

Board members should actively participate in the meetings of the board of directors, including in discussing and voting on matters on their agenda, as well as in work of its committees. (Recommendation 151)

It is recommended to hold meetings of the board of directors as needed, as a rule, at least once every two months...(Recommendation 156)

See generally Recommendations 152 – 170.

Russia

The board of directors shall meet at least once every two months at the written notice of the chairman of the board of directors or at a request in writing made by at least two members of the board, which convention shall, together with the meeting agenda, be served at least one week prior to the fixed date of the meeting. Each member shall have the right to include any issue it deems necessary to be discussed by the meeting. (Article 3.6)

A meeting of the board of directors shall only be valid at the attendance of a majority of members. The resolutions of the board of directors shall be issued at the majority of votes of attending and represented members. On equal voting, the chairman shall have the casting vote. (Article 3.7)

See Article 3.8 (limitations on board action by written consent).

See also Article 3.9 (minutes of board meetings).

VII.B. Board Information Flow, Materials & Presentations

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|---|--|--|--|
| <p><u>NYSE</u></p> <p>The nominating/corporate governance committee charter should also address ... committee reporting to the board.(Commentary to § 303A.04)</p> <p>The compensation committee charter should also address ... committee reporting to the board. (Commentary to § 303A.05)</p> <p>[The audit committee] must . . . report regularly to the board of directors. (§ 303A.07(b)(iii)(H))</p> <p><u>NACD</u></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> <p>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> <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. 4)</p> | <p>The chairman is responsible for ensuring that the directors receive accurate, timely and clear information. (Supporting Principle A.3)</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. (Main Principle B.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. 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 non-executive 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 B.5)</p> | <p>[T]he 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, the Board being responsible, where necessary, for determining the relevance of the documents requested. Corporations must also provide their directors with the appropriate information throughout the life of the corporation between meetings of the Board, if the importance or urgency of the information so requires... including criticism, relating to the corporation, such as articles in the press and financial analysts’ reports. Conversely, the directors are bound to request the appropriate information that they consider as necessary to perform their duties.... Directors should have the opportunity to meet with the corporation’s principal executive managers, even outside the presence of executive directors. In the latter case, these should be given prior notice. (¶ 12)</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. (¶ 16.3)</p> <p>The [compensation] committee’s operating reports to the Board of Directors should provide the Board with full information, thereby facilitating its proceedings. (¶ 18.2)</p> <p>The director is under a duty to obtain information. To that end, he or she should request from the Chairman in due time all useful information required to effectively participate in meetings with respect to the matters on the Board’s agenda. (¶ 20)</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 strategy, planning, business development, risk situation, risk management and compliance. 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 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 appoint to support them observe the confidentiality obligation accordingly. (§ 3.5)</p> | <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 decision-making. 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> |

VII.B. Board Information Flow, Materials & Presentations

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|---|--|---|---|
| <p><u>Supervisory Board</u></p> <p>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. (Principle II.1)</p> <p>The chairman of the supervisory board shall ensure that . . . the supervisory board members receive in good time all information which is necessary for the proper performance of their duties. (Best Practice Provision III.4.1)</p> <p><u>Management Board</u></p> <p>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. For this purpose, the management board ensures that the financial information from business divisions and/or subsidiaries is reported directly to it and that the integrity of the information is not compromised. The supervisory board shall ensure that the internal procedures are established and maintained. (Best Practice Provision V.1.3)</p> | <p>The chief executive has a particular responsibility to ensure that the board of directors receives accurate, relevant and timely information that is sufficient to allow it to carry out its duties. . . .</p> <p>The Public Companies Act stipulates that the principal duty of the chairman of the board of directors is to ensure that the board of directors operates well and carries out its duties. . . . Matters to be considered by the board are prepared by the chief executive in collaboration with the chairman, who chairs the meetings of the board. In practice, the chairman carries a particular responsibility for ensuring that the work of the board is well organised and that it functions effectively. The chairman should encourage the board to engage in open and constructive debate.</p> <p>[W]here board committees are appointed, their role must be seen as preparing matters for final decision by the board as a whole. Material information that comes to the attention of board committees should also be communicated to the other members of the full board.</p> <p>(Commentary to § 9)</p> | <p>The Chairman is responsible for the preparation and conduct of meetings; the providing of appropriate information is one of his core responsibilities...[and] should ensure that procedures relating to preparatory work, deliberation, passing resolutions and implementation of decisions are carried out properly.</p> <p>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.</p> <p>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.</p> <p>(Article II.c.15)</p> | <p>Management . . . is also responsible for providing the board with accurate, timely and clear information to enable the board to perform its responsibilities. (Commentary to Recommendation 1.1)</p> <p>The [board] chair is also responsible for setting the board’s agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues. (Commentary to Recommendation 2.5)</p> | <p>Board members should receive materials for their meetings in advance.... (CVM Recommendation II.2)</p> <p>The effectiveness of meetings of the Board of Directors depends on the quality of the documentation sent out in advance (minimum of 7 days) to Directors. Proposals must be well-grounded. Directors should have read all the documentation and be prepared for the meeting. The documentation must be clear and in adequate amount. A summary of the proposed topic should be sent prior to the material for each subject, as well as Management’s voting recommendation for its respective proposition. The agenda of the meetings will include a description of items in progress, indicating when the decisions were made, progress report, deadlines for completion, and other relevant aspects. In every meeting of the Board and committees the relevant corporate documents should be available. (IBGC Code ¶ 2.37)</p> <p>See IBGC Code ¶ 2.30.1 (information to be supplied to the Audit Committee by Management).</p> |

VII.B. Board Information Flow, Materials & Presentations

| China | Hong Kong | India | Russia | UAE |
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| <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 chairman should ensure that all directors are properly briefed on issues arising at board meetings. (CP A.2.2)</p> <p>The chairman should be responsible for ensuring that directors receive, in a timely manner, adequate information which must be accurate, clear, complete and reliable. (CP A.2.3)</p> <p>Directors should be provided in a timely manner with appropriate information in the form and quality to enable them to make an informed decision and perform their duties and responsibilities. (Principle A.7)</p> <p>For regular board meetings, and as far as practicable in all other cases, an agenda and accompanying board papers should be sent, in full, to all directors. These should be sent in a timely manner and at least 3 days before the intended date of a board or board committee meeting (or other agreed period). (CP A.7.1)</p> <p>Management has an obligation to supply the board and its committees with adequate information, in a timely manner, to enable it to make informed decisions. The information supplied must be complete and reliable. To fulfil his duties properly, a director may not, in all circumstances, be able to rely purely on information provided voluntarily by management and he may need to make further enquiries. Where any director requires more information than is volunteered by management, he should make further enquiries where necessary. (CP A.7.2)</p> <p>All directors are entitled to have access to board papers and related materials. These papers and related materials should be in a form and quality sufficient to enable the board to make informed decisions on matters placed before it. Queries raised by directors should receive a prompt and full response, if possible. (CP A.7.3)</p> <p>Management should provide sufficient explanation and information to the board to enable it to make an informed assessment of financial and other information put before it for approval. (CP C.1.1)</p> <p>Management should provide all members of the board with monthly updates giving a balanced and understandable assessment of the issuer's performance, position and prospects in sufficient detail to enable the board as a whole and each director to discharge their duties.... (CP C.1.2)</p> | <p>Board members should act on a fully informed basis ...In order to fulfil their responsibilities, board members should have access to accurate, relevant and timely information. (§ 49.I.D.3)</p> <p>The independent directors in [executive session] shall... assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties. (§ 49.II.B.6.b.iii)</p> <p>See Annexure X, Information to be placed before Board of Directors.</p> | <p>The chairman of the board of directors should take any and all measures as may be required to provide the board members in a timely fashion with information required to make decisions on issues on the agenda. (Principle 2.5.3)</p> <p>All board members should have equal opportunity to access the company's documents and information. Newly elected board members should be provided with sufficient information about the company and work of its board of directors as soon as practicable. (Principle 2.6.4)</p> <p>Internal documents of the company should provide for the duty of the board chairman to take any and all measures as may be required to provide the board members in a timely fashion with information required to resolve issues on the agenda as well as to take the lead in drafting resolutions on issues under consideration. (Recommendation 124)</p> <p>The chairman of the board of directors should maintain constant contacts with other bodies and officers of the company with a view to obtaining most comprehensive and reliable information required for decision-making by the board. (Recommendation 125)</p> <p>The company should have in place a system that ensures regular dissemination of information to the board members about most important developments relating to financial and business activities of the company and legal entities controlled thereby, as well as about other events that affect the interests of its shareholders. (Recommendation 147)</p> <p>[T]he internal documents of the company should provide for a duty of the executive bodies and heads of main structural units of the company to provide, in a timely manner, complete and accurate information on any matters included in the agenda of meetings of the board of directors and upon the request of any board member. (Recommendation 148)</p> <p>See generally Recommendations 143 – 150.</p> | <p>The management shall make a newly-appointed board member aware of all departments and divisions of the Company and provide him/her with all necessary information to ensure that he/she soundly understands the activities and operations of the Company and completely comprehends his/her responsibilities as well as all duties he/she can duly assume under applicable laws and legislations, other regulatory requirements and the Company's policies in its field of operations. (Article 5.1)</p> <p>The management shall provide the board of directors and its sub-committees with sufficient complete documented information on a timely basis to empower the board to adopt decisions on sound grounds and duly perform its duties and responsibilities and the board of directors shall adopt all means to acquire information that enables it to make decisions on reasonable sound grounds. (Article 5.2)</p> |

VII.C. Management Succession & Development

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>The following subjects must be addressed in the corporate governance guidelines . . . Management succession. Succession planning should include policies and principles for CEO selection and performance review, as well as policies regarding succession in the event of an emergency or the retirement of the CEO. (Commentary to § 303A.09)</p> <p><u>NACD</u></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. 5)</p> <p>See REPORT OF THE NACD BLUE RIBBON COMMISSION ON CEO SUCCESSION (2000).</p> | <p>[Non-executive directors] have a prime role in . . . succession planning. (Supporting Principle A.4)</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 B.2)</p> | <p>The appointments or nominations committee (or an <i>ad-hoc</i> committee) should design a plan for replacement of executive directors in order to be able to submit to the Board solutions for replacement in particular in the event of an unforeseeable vacancy. This is one of the committee’s main tasks, even though such a task may, if necessary, be entrusted by the Board to an <i>ad-hoc</i> committee. (¶ 17.2.2)</p> <p>See ¶ 10.4 (It is recommended that the non-executive directors meet periodically without the executive or “in-house” directors. The internal rules of operation of the Board of Directors must provide for such a meeting once a year, at which time the . . . participants shall reflect on the future of the company’s executive management.).</p> | <p>The Supervisory Board appoints and dismisses the members of the Management Board. When appointing the Management Board, the Supervisory Board shall also respect diversity and, in particular, aim for an appropriate consideration of women. Together with the Management Board, it shall ensure that there is long-term succession planning. (§ 5.1.2)</p> | <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> |

VII.C. Management Succession & Development

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p>The selection and appointment committee shall in any event focus on: . . .</p> <p>c) periodically assessing the functioning of individual supervisory board members and management board members, and reporting on this to the supervisory board;</p> <p>d) making proposals for appointments and reappointments; and</p> <p>e) supervising the policy of the management board on the selection criteria and appointment procedures for senior management.</p> <p>(Best Practice Provision III.5.14)</p> | <p><i>Not covered.</i></p> | <p>The [board's] primary functions are . . . the appointment and removal of the persons entrusted with the management and representation of the company . . . (Article II.a.10)</p> <p>The Nomination Committee may also be assigned responsibilities in connection with the selection and assessment of candidates for top management. (Article II.g.27)</p> | <p>The role of the nomination committee is usually to review and make recommendations to the board in relation to . . . ensuring there are plans in place to manage the succession of the CEO and other senior executives. (Commentary to Recommendation 2.1)</p> | <p>The Board of Directors must keep an updated succession plan for the CEO, and ensure that the CEO does the same for all key personnel at the organization. It is good practice for the CEO to bring his officers closer to the Board of Directors, so that potential candidates to succession can be evaluated. (IBGC Code ¶ 2.20)</p> |

VII.C. Management Succession & Development

China

Not covered directly, but see Ch. 5 (2) 73, 74 (The recruiting of management personnel of a listed company shall be conducted in strict observation with relevant laws and regulations and the company's articles of association. No institution or individual shall interfere with a listed company's normal recruiting procedure for management personnel. The recruiting of management personnel of a listed company shall, to the extent possible, be carried out in a fair and transparent manner, through domestic and international markets for professional management, making full use of intermediary agencies.)

Hong Kong

The nomination committee should . . . perform the following duties . . . make recommendations to the board on the appointment or re-appointment of directors and succession planning for directors, in particular the chairman and the chief executive. (CP A.5.2)

India

The board should fulfill certain key functions, including . . . Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning. (§ 49.I.D.2.C)

The Board of the company shall satisfy itself that plans are in place for orderly succession for appointments to the Board and to senior management. (§ 49.II.D.6)

Russia

The objectives of the nominating committee should include . . . analysis of current and anticipated needs of the company in terms of professional qualifications of the members of its executive bodies and other key managers as may be required to ensure its competitiveness and development as well as making plans regarding their successors . . . (Recommendation 186)

UAE

The nomination and remuneration committee to be mainly charged with . . . determination of the Company's needs for qualified staff at the level of the senior executive management and employees and the basis of their selection . . . (Article 6.1)

VII.D. Formal Evaluation of the Chief Executive Officer

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>[The nominating/corporate governance committee] responsibilities. . . at minimum, must be to . . . oversee the evaluation of . . . management. (§ 303A.04(b)(i))</p> <p>[The compensation committee must] have direct responsibility to: review and approve corporate goals and objectives relevant to CEO compensation, evaluate the CEO's performance in light of those goals and objectives, and, either as a committee or together with the other independent directors (as directed by the board), determine and approve the CEO's compensation level based on this evaluation. . . . (§ 303A.05(b)(i)(A))</p> <p><u>NACD</u></p> <p>The board should ensure that someone is charged with organizing the board's evaluation of the CEO and providing continuous ongoing feedback. (p. 4)</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 types of evaluation 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 suggested areas for improvement.</p> <p>Boards should regularly and formally evaluate the CEO, the board as a whole, and individual directors.</p> <p>Boards should ensure that independent directors create and control the methods and criteria for evaluating the CEO, the board, and individual directors.</p> <p>Such an evaluation practice will enable boards to identify and address problems before they reach crisis proportions. (p. 5)</p> <p><i>See</i> REPORT OF THE NACD BLUE RIBBON COMMISSION ON PERFORMANCE EVALUATION OF CHIEF EXECUTIVE OFFICERS, BOARDS, AND DIRECTORS (1994).</p> | <p>The board should . . . review management performance. (Supporting Principle A.1)</p> <p>Non-executive directors should scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance. . . . 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.4).</p> | <p>It is recommended that the non-executive directors meet periodically without the executive or "in-house" directors. The internal rules of operation of the Board of Directors must provide for such a meeting once a year, at which time the evaluation of the Chairman's, Chief Executive Officer's and Deputy Chief Executive's respective performance shall be carried out, and the participants shall reflect on the future of the company's executive management. (¶ 10.4)</p> | <p><i>Not covered directly, but see</i> § 4.2.2 (The total compensation of the individual members of the Management Board is determined by the full Supervisory Board at an appropriate amount based on a performance assessment, taking into consideration any payments by group companies. Criteria for determining the appropriateness of compensation are both the tasks of the individual member of the Management Board, his/her personal performance, the economic situation, the performance and outlook of the enterprise as well as the common level of the compensation taking into account the peer companies and the compensation structure in place in other areas of the company. The Supervisory Board shall consider the relationship between the compensation of the Management Board and that of senior management and the staff overall . . . The Supervisory Board shall determine how senior managers and the relevant staff are to be differentiated.).</p> <p><i>See also</i> 4.2.3 (The total compensation of Management Board members comprises the monetary compensation elements, pension awards, other awards, especially in the event of termination of activity, fringe benefits of all kinds and benefits by third parties which were promised or granted in the financial year with regard to Management Board work. The compensation structure must be oriented toward sustainable growth of the enterprise. The monetary compensation elements shall comprise fixed and variable elements. The Supervisory Board must make sure that the variable compensation elements are in general based on a multiyear assessment. Both positive and negative developments shall be taken into account when determining variable compensation components. All compensation components must be appropriate, both individually and in total, and in particular must not encourage to take unreasonable risks. The amount of compensation shall be capped, both overall and for individual compensation components . . .).</p> | <p><i>Not covered directly, but see</i> Principle VI (The corporate governance framework should ensure . . . the effective monitoring of management by the board . . .).</p> <p><i>See also</i> Principle VI.D.3 (The board should fulfill certain key functions, including . . . [s]electing, compensating, monitoring and, when necessary, replacing key executives . . .).</p> <p><i>See also</i> 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.).</p> <p><i>See also</i> Annotation to Principle VI.E (Independent board members . . . can bring an objective view to the evaluation of the performance of the board and management.).</p> |

VII.D. Formal Evaluation of the Chief Executive Officer

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <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 on the basis thereof. (Best Practice Provision III.1.7)</p> <p><i>See also</i> Best Practice Provision II.2.13 ([The remuneration report of the supervisory board shall] contain the following information: . . .</p> <p>g) a summary and account of the methods that will be applied in order to determine whether the performance criteria [relating to variable remuneration] have been fulfilled;</p> <p>h) an ex-ante and ex-post account of the relationship between the chosen performance criteria and the strategic objectives applied, and of the relationship between remuneration and performance).</p> | <p><i>Not covered, but see</i> § 12 (The statement of policy on the remuneration of executive personnel can, for example, include an explanation of how the choice of performance criteria for performance-related remuneration contributes to the long-term interests of the company, and of the methods applied in order to determine whether performance criteria have been fulfilled.)</p> | <p><i>Not covered directly, but see</i> Article II.a.10 (The primary functions [of the Board of Directors] are . . . the appointment and removal of the persons entrusted with the management and representation of the company . . .).</p> | <p>A listed entity should: (a) have and disclose a process for periodically evaluating the performance of its senior executives . . . (Recommendation 1.7)</p> <p>The performance of a listed entity’s senior management team will usually drive the performance of the entity. It is essential that a listed entity has in place a formal and rigorous process for regularly reviewing the performance of its senior executives and addressing any issues that may emerge from that review. (Commentary to Recommendation 1.7)</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 shall establish the performance goals of the CEO at the beginning of the year and annually perform a formal assessment of this executive. It is the CEO’s responsibility to assess the performance of his team (see 3.8) and establish a development program. The assessment result on the executives should be submitted to the Board with the CEO’s proposal for maintaining or not each executive in their respective positions. The Board should review and approve the CEO’s recommendations, both with regard to targets at the beginning of the year and evaluation. (IBGC Code ¶ 2.19)</p> <p>The CEO must be annually evaluated by the Board of Directors. The CEO is responsible for the evaluation of Management, which should be shared with the Board of Directors — in this case, through the Compensation or Human Resources Committee, if available. (IBGC Code ¶ 3.8)</p> |

VII.D. Formal Evaluation of the Chief Executive Officer

| China | Hong Kong | India | Russia | UAE |
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| <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 ... senior management personnel. (Ch. 4, (1) 62)</p> <p>A listed company shall establish fair and transparent standards and procedures for the assessment of the performance of ... management personnel. (Ch. 5, (1) 69)</p> <p>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. (Ch. 5, (1) 70)</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><i>Not covered.</i></p> | <p><i>Not covered directly, but see 49. I.D.2.c (The board should fulfill certain key functions, including ... monitoring ... key executives.).</i></p> | <p>The objectives of the remuneration committee should include...preliminary assessment of work of the company’s executive bodies and other key managers upon the results of a year in the context of the criteria set forth in the remuneration policy, as well as preliminary assessment of whether or not the above persons achieved their goals under the long-term incentive programme... (Recommendation 180)</p> | <p>The nomination and remuneration committee to be mainly charged with...formulation and annual review of the policy on granting remunerations, benefits, incentives and salaries to board members and employees of the Company and the committee shall verify that remunerations and benefits granted to the senior executive management of the Company are reasonable and in line with the Company’s performance.... (Article 6.1)</p> |

VII.E. Executive Compensation & Stock Ownership

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>In determining the long-term incentive component of CEO compensation, the committee should consider the listed company’s performance and relative shareholder return, the value of similar incentive awards to CEOs at comparable companies, and the awards given to the listed company’s CEO in past years. To avoid confusion, note that the compensation committee is not precluded from approving awards (with or without ratification of the board) as may be required to comply with applicable tax laws (i.e., Rule 162(m)). (Commentary to § 303A.05)</p> <p><u>NACD</u></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. 4)</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. 5)</p> <p><i>See</i> Topic Heading II.C, <i>above</i>.</p> | <p>A significant proportion of executive directors’ remuneration should be structured so as to link rewards to corporate and individual performance. (Main Principle D.1)</p> <p>The performance-related elements of executive directors’ remuneration should be stretching and designed to promote the long-term success of the company. The remuneration committee should judge where to position their company relative to other companies. But they should use such comparisons with caution in view of the risk of an upward ratchet of remuneration levels with no corresponding improvement in performance. They should also be sensitive to pay and employment conditions elsewhere in the group, especially when determining annual salary increases. (Supporting Principle D.1)</p> <p>In designing schemes of performance-related remuneration for executive directors, the remuneration committee should follow the provisions in Schedule A to this Code. (Code Provision D.1.1)</p> <p>The remuneration committee should carefully consider what compensation commitments (including pension contributions and all other elements) their directors’ terms of appointment would entail in the event of early termination. The aim should be to avoid rewarding poor performance. They should take a robust line on reducing compensation to reflect departing directors’ obligations to mitigate loss. (Code Provision D.1.4)</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 D.2)</p> <p>Shareholders should be invited specifically to approve all new long-term incentive schemes... and significant changes to existing schemes... (Code Provision D.2.4)</p> <p><i>See</i> Schedule A: The design of performance-related remuneration for executive directors (p. 26).</p> | <p>Boards of Directors and Supervisory Boards are responsible for determining the compensation of executive directors, based on proposals made by the compensation committee. In order to determine the said compensation, the relevant Boards and committees must take into account the following principles:</p> <ul style="list-style-type: none"> • Comprehensiveness: the compensation determined through this process must be comprehensive. Fixed components, annual or multi-annual variable components, stock options, performance shares, directors’ fees, pension terms, specific benefits and generally any other component of compensation must be taken into account when determining the overall compensation level. • Balance between the compensation components: each one must be clearly substantiated and correspond to the general interest of the company. • Benchmark: the compensation must be assessed within the context of a business sector and the benchmark European or global market. • Consistency: the executive director’s compensation must be determined in a manner consistent with that of the other officers and employees of the company. • Understandability of the rules: the rules should be simple, stable and transparent; the performance criteria used in order to determine the annual variable part of the compensation, multi-annual compensation or where applicable the award of options or performance shares, must correspond to the company’s objectives, and be demanding, explainable, and, to the greatest extent possible, long-lasting. • Proportionality: the determination of the fixed, annual variable and where applicable multi-annual compensation and the award of stock options and performance shares must be balanced and take into account at the same time the company’s general interest, market practices and officer performance. (¶ 23.1) <p>The Chairman of the Board, the Chief Executive Officer, the deputy Chief Executive Officers, the members of the Management Board or the statutory manager of a limited stock partnership are required to hold as registered shares until the end of their term of office a significant number of shares periodically determined by the Board of Directors or the Supervisory Board. The number of shares, which may be made up of exercised stock options or performance shares, must be significant and increasing, where necessary, to a level determined by the Board. (¶ 23.2.1)</p> <p><i>See generally</i> ¶ 23.2 (Compensation policy applicable to executive directors and award of share options and performance shares).</p> | <p>The full Supervisory Board determines the respective total compensation of the individual Management Board members. If there is a body which deals with Management Board contracts, it shall submit its proposals to the full Supervisory Board. The full Supervisory Board resolves the Management Board compensation system and reviews it regularly.</p> <p>The total compensation of the individual members of the Management Board is determined by the full Supervisory Board at an appropriate amount based on a performance assessment, taking into consideration any payments by group companies. Criteria for determining the appropriateness of compensation are both the tasks of the individual member of the Management Board, his/her personal performance, the economic situation, the performance and outlook of the enterprise as well as the common level of the compensation taking into account the peer companies and the compensation structure in place in other areas of the company. The Supervisory Board shall consider the relationship between the compensation of the Management Board and that of senior management and the staff overall, particularly in terms of its development over time. The Supervisory Board shall determine how senior managers and the relevant staff are to be differentiated. (§ 4.2.2)</p> <p>The compensation structure must be oriented towards sustainable growth of the enterprise. The monetary compensation elements shall comprise fixed and variable elements. The Supervisory Board must make sure that the variable compensation elements are in general based on a multiyear assessment. Both positive and negative developments shall be taken into account when determining variable compensation components. All compensation components must be appropriate, both individually and in total, and in particular must not encourage to take unreasonable risks. The amount of compensation shall be capped, both overall and for individual compensation components. The variable compensation components shall be related to demanding, relevant comparison parameters. Changing such performance targets or the comparison parameters retroactively shall be excluded. For pension schemes, the Supervisory Board shall establish the level of provision aimed for... considering the length of time for which the individual has been a Management Board member - and... the resulting annual and long-term expense for the company. (§ 4.2.3)</p> | <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... 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 repricing 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><i>See</i> Topic Heading II.C, <i>above</i>.</p> |

VII.E. Executive Compensation & Stock Ownership

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p>The level 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. When the overall remuneration is fixed, its impact on pay differentials within the enterprise shall be taken into account. If the remuneration consists of a fixed component and a variable component, the variable component shall be linked to predetermined, assessable and influenceable targets, which are predominantly of a long-term nature. The variable component of the remuneration must be appropriate in relation to the fixed component.</p> <p>The remuneration structure, including severance pay, shall be simple and transparent. It shall promote the interests of the company in the medium and long term, may not encourage management board members to act in their own interests or take risks that are not in keeping with the adopted strategy, and may not 'reward' failing board members upon termination of their employment. The supervisory board is responsible for this. The level and structure of remuneration shall be determined by reference to, among other things, the results, the share price performance and non-financial indicators that are relevant to the company's long-term value creation.</p> <p>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, unless this would be manifestly unreasonable in the circumstances.</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.</p> <p>(Principle II.2)</p> <p>See Best Practice Provisions II.2.1 – II.2.9.</p> | <p>The board of directors is required by law to prepare guidelines for the remuneration of the executive personnel. These guidelines are communicated to the annual general meeting.</p> <p>The guidelines for the remuneration of the executive personnel should set out the main principles applied in determining the salary and other remuneration of the executive personnel. The guidelines should help to ensure convergence of the financial interests of the executive personnel and the shareholders.</p> <p>Performance-related remuneration of the executive personnel in the form of share options, bonus programmes or the like should be linked to value creation for shareholders or the company's earnings performance over time. Such arrangements, including share option arrangements, should incentivise performance and be based on quantifiable factors over which the employee in question can have influence. Performance-related remuneration should be subject to an absolute limit.</p> <p>(§ 12)</p> <p>Performance-related remuneration should not be such as might encourage a short-term approach that could be damaging to the company's long-term interests. Where a company's earnings or share price are heavily influenced by external forces, the board of directors should consider using other forms of incentive arrangement where the incentive can be linked to quantifiable targets over which the executive personnel has a greater degree of influence. Great care should be taken when awarding options or similar benefits to executive personnel. The board of directors should ensure that simulations are carried out of the effects of the structure of performance-related remuneration as part of the evaluation of the possible outcome of the structure that is selected. Any share option schemes should be combined with direct ownership of the underlying shares in order to make the interests of members of management more symmetrical with those of the company's other shareholders. In order to reduce the risk of an unrepresentative financial result, the dates of vesting, issue and exercise of options and other performance-based remuneration should be spaced out over time, and any shares acquired through the exercise of options should be subject to a minimum period of ownership. Executive personnel should be encouraged to continue to hold a significant proportion of shares they receive beyond the expiry of the relevant lock-up periods. The company should seek to ensure the right to demand the repayment of any performance-related remuneration that has been paid on the basis of facts that were self-evidently incorrect, or as the result of misleading information supplied by the individual in question. (Commentary to § 12)</p> | <p>The company offers overall compensation commensurate with market conditions and aligned to performance in order to acquire and retain individuals with the necessary skills and character. The compensation system is designed in such a way that the interests of senior managers are aligned with the interests of the company. (Appendix 1.b.3; <i>supersedes</i> Article II.g.26)</p> <p>As a rule, the compensation system contains both fixed and variable components; it rewards conduct aimed at medium- and long-term corporate success with compensation elements available at a later date....The assessment of the variable compensation component is based on reproducible criteria; leadership qualities less easy to measure should also be taken into account. The variable compensation elements are cancelled or reduced if the relevant targets are not met. The Board of Directors determines whether or not share-based compensation is awarded as well. In this case the Board considers the different effects of allocating shares on the one hand and options or similar instruments on the other....(Appendix 1.b.4; <i>supersedes</i> Article II.g.26)</p> <p>The compensation system is structured in such a way as to avoid the allocation of advantages not objectively justifiable or false incentives....When drawing up employment contracts with members of the Executive Board, any unusually long notice periods or contract durations are to be avoided except in specific situations. Options on shares of the company are granted with a strike set at the same level or preferably higher than the average market value in question over a determined number of trading days prior to the day of granting. (Appendix 1.b.5; <i>supersedes</i> Article II.g.26)</p> <p>As a principle, the company does not grant "golden parachutes" or severance compensation...[unless] they are in the company's interests, and if they represent remuneration for exceptional services to the company for which the individual in question has not already been compensated in some other form. (Appendix 1.b.6; <i>supersedes</i> Article II.g.26)</p> | <p>A listed entity should ...design its executive remuneration to attract, retain and motivate high quality senior executives and to align their interests with the creation of value for security holders. (Principle 8)</p> <p>When setting the level and composition of remuneration, a listed entity needs to balance:</p> <ul style="list-style-type: none"> • its desire to ... attract, retain and motivate senior executives; • the need to ensure that the incentives for executive directors and other senior executives encourage them to pursue the growth and success of the entity (both in the short term and over the longer term) without taking undue risks; ...and • its commercial interest in not paying excessive remuneration. <p>A listed entity should have a formal and transparent process for developing its remuneration policy and for fixing the remuneration packages of directors and senior executives. No individual director or senior executive should be involved in deciding his or her own remuneration. The relationship between remuneration and performance and how it is aligned to the creation of value for security holders should be clearly articulated to investors. (Commentary to Principle 8)</p> <p>A listed entity which has an equity-based remuneration scheme should: (a) have a policy on whether participants are permitted to enter into transactions (whether through the use of derivatives or otherwise) which limit the economic risk of participating in the scheme; and (b) disclose that policy or a summary of it. (Recommendation 8.3)</p> <p>See Commentary to Recommendation 8.2 (Guidelines for Executive Remuneration)</p> | <p>The total Management compensation should be linked to results, with short and long-term goals, clearly and objectively associated to the creation of economic value for the organization. The goal is for compensation to be an effective tool to align the interests of the officers with those of the organization. Organizations should have a formal and transparent procedure to approve their compensation and benefit policies for officers, including any long-term share-based incentives or paid in shares. Consideration should be given to the costs and risks involved in these programs and a potential dilution of the shareholders' holdings in the company. Executive compensation payments and policy, proposed by the Board, should be submitted to the General Meeting for approval. The incentive structure should include a checks and balances system indicating the action limits of those involved, to prevent a same person to control the decision-making process and its respective oversight. No one should be involved in any discussion involving their own compensation. ... The targets and assumptions of any variable compensation payments should be measurable, as well as audited and published. (IBGC Code ¶ 3.9)</p> <p>See IBGC Code ¶ 6.4, Stock Trading Policy.</p> |

VII.E. Executive Compensation & Stock Ownership

| China | Hong Kong | India | Russia | UAE |
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| <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>A significant proportion of executive directors' remuneration should link rewards to corporate and individual performance. (RBP B.1.7)</p> | <p>The board should fulfill certain key functions, including ...</p> <p>c. [C]ompensating ... key executives ...</p> <p>d. Aligning key executive remuneration with the longer term interests of the company and its shareholders.</p> <p>(§ 49.I.D)</p> <p>The role of the [nomination and remuneration] committee shall, inter-alia, include the following ... recommend to the Board a policy, relating to the remuneration of ... key managerial personnel and other employees;</p> <p>(§ 49.IV.B.1)</p> | <p>The board of directors should determine the company's policy on remuneration due to ... its executive bodies and other key managers. (Principle 2.1.4)</p> <p>The level of remuneration paid by the company should be sufficient to enable it to attract, motivate, and retain persons having required skills and qualifications. Remuneration due to ... the executive bodies ... should be paid in accordance with a remuneration policy approved by the company. (Principle 4.1)</p> <p>It is recommended that the level of remuneration paid by the company to its ... executive bodies ... should be sufficient to motivate them to work efficiently and enable the company to attract and retain knowledgeable, skilled, and duly qualified persons. ... (Principle 4.1.1)</p> <p>The company's remuneration policy should be developed by its remuneration committee and approved by the board of directors. ... (Principle 4.1.2)</p> <p>The company's remuneration policy should provide for transparent mechanisms to ... determine ... remuneration due to ... the executive bodies ... (Principle 4.1.3)</p> <p>The system of remuneration due to the executive bodies ... should provide that their remuneration is dependent on the company's performance results and their personal contributions to the achievement thereof. (Principle 4.3)</p> <p>Remuneration due to the executive bodies ... should be set in such a way as to procure a reasonable and justified ratio between its fixed portion and its variable portion that is dependent on the company's performance results and employees' personal (individual) contributions ... (Principle 4.3.1)</p> <p>Companies ... are recommended to put in place a long-term incentive programme for the company's executive bodies ... involving the company's shares ... (Principle 4.3.2)</p> <p>The amount of severance pay ... payable by the company in the event of early dismissal of an executive body ... should not exceed two times the fixed portion of his/her annual remuneration. (Principle 4.3.3)</p> <p>See generally Recommendations 222 – 232, 241 – 250.</p> | <p>The nomination and remuneration committee shall ... verify that remunerations and benefits granted to the senior executive management of the Company are reasonable and in line with the Company's performance.... (Article 6.1)</p> |

VII.F. Director Compensation & Stock Ownership

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u> - The following subjects must be addressed in the corporate governance guidelines...Director compensation. Director compensation guidelines should include general principles for determining the form and amount of director compensation... The board should be aware that questions as to directors' independence may be raised when directors' fees and emoluments exceed what is customary... The board should critically evaluate each of these matters when determining the form and amount of director compensation, and the independence of a director.(Commentary to § 303A.09)</p> <p>The Exchange has encouraged the broadening of share ownership through stock option and employee stock purchase plans... (§ 309.00)</p> <p><u>NACD</u> - 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 recommends 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. 5) <p>See Topic Heading II.C, above.</p> | <p>The board should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director: ... 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... (Code Provision B.1.1)</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 D.1)</p> <p>Levels of remuneration for non-executive directors should reflect the time commitment and responsibilities of the role. Remuneration for non-executive directors should not include share options or other performance-related elements. 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 non-executive director leaves the board. Holding of share options could be relevant to the determination of a non-executive director's independence . . . (Code Provision D.1.3)</p> <p>No director should be involved in deciding his or her own remuneration. (Main Principle D.2)</p> <p>The board itself or, where required by the Articles of Association, the shareholders should determine the remuneration of the non-executive directors Where permitted ... the board may ... delegate this responsibility to a committee, which might include the chief executive. (Code Provision D.2.3)</p> | <p>Even though it is not required by law, it is imperative that the by-laws or the internal rules set a minimum number of shares in the corporation concerned that each director must personally hold (¶ 14)</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' actual attendance at meetings of the Board and committees, and therefore include a significant variable portion. It is natural that the directors' attendance at meetings of specialized committees should give rise to an additional amount of directors' fees. Similarly, undertaking individual tasks such as those of Vice President or Lead Director may give rise to additional fees or payment of extraordinary compensation subject to the application of the procedure for related parties agreements. (¶ 21.1)</p> <p>The amount of directors' fees should reflect the level of responsibility assumed by the directors and the time that they need to apply to their duties. Each Board must review the adequacy of the level of directors' fees with regard to the duties and responsibilities placed on directors. (¶ 21.2)</p> <p>The rules for allocation of the directors' fees and the individual amounts of payments thereof made to the directors should be set out in the annual report. (¶ 21.3)</p> <p>In the absence of legal provisions to the contrary, the director should be a shareholder personally and hold a fairly significant number of shares in relation to the directors' fees; if he or she does not hold these shares when assuming office, he or she should use his or her directors' fees to acquiring them. (¶ 20).</p> | <p><u>Supervisory Board</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. 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 receive compensation which is in an appropriate relation to their tasks and the situation of the company. If members of the Supervisory Board are promised performance-related compensation, it shall be oriented toward sustainable growth of the enterprise. (§ 5.4.6)</p> <p><u>Management Board</u></p> <p>The total compensation of the individual members of the Management Board is determined by the full Supervisory Board at an appropriate amount based on a performance assessment, taking into consideration any payments by group companies. Criteria for determining the appropriateness of compensation are both the tasks of the individual member of the Management Board, his/her personal performance, the economic situation, the performance and outlook of the enterprise as well as the common level of the compensation taking into account the peer companies and the compensation structure in place in other areas of the company. The Supervisory Board shall consider the relationship between the compensation of the Management Board and that of senior management and the staff overall, particularly in terms of its development over time. The Supervisory Board shall determine how senior managers and the relevant staff are to be differentiated. (§ 4.2.2)</p> <p>See Topic Heading VII.E, above.</p> | <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 repricing of options. In some countries, policy also covers the payments to be made when terminating the contract of an executive. (Annotation to Principle VI.D.4)</p> <p>See also Topic Heading II.C, above.</p> |

VII.F. Director Compensation & Stock Ownership

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p><u><i>Supervisory Board</i></u></p> <p>The general meeting shall determine the remuneration of supervisory board members. The remuneration of a supervisory board member is not dependent on the results of the company. (Principle III.7)</p> <p>A supervisory board member may 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>The company may not grant its supervisory board members any personal loans, guarantees or the like unless in the normal course of business and after approval of the supervisory board. No remission of loans may be granted. (Best Practice Provision III.7.3)</p> | <p>Members of the board of directors should be encouraged to own shares in the company. (§ 8)</p> <p>Ownership of shares in the company by members of the board of directors can contribute to creating an increased common financial interest between shareholders and the members of the board. At the same time, members of the board who do hold shares should take care not to let this encourage a short-term approach which is not in the best interests of the company and its shareholders over the longer term. (Commentary to § 8)</p> <p>The remuneration of the board of directors should reflect the board’s responsibility, expertise, time commitment and the complexity of the company’s activities.</p> <p>The remuneration of the board of directors should not be linked to the company’s performance. The company should not grant share options to members of its board.</p> <p>Members of the board of directors and/or companies with which they are associated should not take on specific assignments for the company in addition to their appointment as a member of the board. If they do nonetheless take on such assignments this should be disclosed to the full board. The remuneration for such additional duties should be approved by the board.</p> <p>(§ 11)</p> <p>Consideration should be given in this respect to arranging for members to invest part of their remuneration in shares in the company at market price. Members of the board of directors should not participate in any incentive or share option programs that might be made available for executive personnel and other employees since this may have the effect of weakening the board’s independence.... The remuneration paid to the chairman of the board of directors should be determined separately from that of the other members. Consideration should be given to paying additional remuneration to members of the board who are appointed to board committees. (Commentary to § 11)</p> | <p>The company offers overall compensation commensurate with market conditions and aligned to performance in order to acquire and retain individuals with the necessary skills and character... (Appendix 1.b.3; <i>supersedes</i> Article II.g.26)</p> <p>The compensation system is structured in such a way as to avoid the allocation of advantages not objectively justifiable or false incentives.... (Appendix 1.b.5; <i>supersedes</i> Article II.g.26)</p> <p>As a principle, the company does not grant “golden parachutes” or severance compensation...[unless] they are in the company’s interests, and if they represent remuneration for exceptional services to the company for which the individual in question has not already been compensated in some other form. The company discloses any special benefit that is agreed or awarded to cover the case of a change in company control or the premature departure of a member of the Board of Directors.... (Appendix 1.b.6; <i>supersedes</i> Article II.g.26)</p> | <p>A listed entity should pay director remuneration sufficient to attract and retain high quality ... and to align their interests with the creation of value for security holders. (Principle 8)</p> <p>A listed entity should have a formal and transparent process for developing its remuneration policy and for fixing the remuneration packages of directors and senior executives. No individual director or senior executive should be involved in deciding his or her own remuneration. (Commentary to Principle 8)</p> <p>A listed entity which has an equity-based remuneration scheme should: (a) have a policy on whether participants are permitted to enter into transactions (whether through the use of derivatives or otherwise) which limit the economic risk of participating in the scheme; and (b) disclose that policy or a summary of it. (Recommendation 8.3)</p> <p><i>See</i> Commentary Recommendation 8.2 (Guidelines for Non-Executive Director Remuneration.).</p> | <p>Directors should be adequately compensated, considering market rates, skills, value to the organization and activity risks. However, the Board’s incentive pay structures should be different from those people hired for Management, given the distinctive nature of these two bodies of the organization. Short-term result-based compensation should be avoided at the Board. Organizations should have a formal and transparent procedure to approve their Directors’ compensation and benefit policies, including any long-term incentives paid in shares or share-based. Consideration should be given to the costs and risks involved in these programs and the possible dilution of the shareholder’s holdings in the company. Director access to any compensation in shares or share-based should be allowed only subsequently to the term set for managers. Compensation amounts and policy for Directors should be proposed by the Board and submitted to General Meeting approval. The incentive structure should include a system of checks and balances to indicate the action limits of those involved, to prevent the same person to control the decision-making process and its respective supervision. No one should be involved in any decision involving their own pay. ... The targets and metrics of any variable compensation should be measurable, and can be audited and published. (IBGC Code ¶ 2.24)</p> <p><i>See</i> IBGC Code ¶ 6.4, Stock Trading Policy.</p> <p><i>See also</i> IBGC Code ¶ 5.8, Fiscal Council Compensation.</p> |

VII.F. Director Compensation & Stock Ownership

| China | Hong Kong | India | Russia | UAE |
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| <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>Remuneration levels should be sufficient to attract and retain directors to run the company successfully without paying more than necessary. No director should be involved in deciding his own remuneration. (Principle B.1)</p> | <p>The board should fulfill certain key functions, including ... Aligning ... board remuneration with the longer term interests of the company and its shareholders. (§ 49.I.D.2.d)</p> <p>All fees / compensation, if any paid to non-executive directors, including independent directors, shall be fixed by the Board of Directors and shall require previous approval of shareholders in general meeting. The shareholders' resolution shall specify the limits for the maximum number of stock options that can be granted to non-executive directors, in any financial year and in aggregate.</p> <p>Provided that the requirement of obtaining prior approval of shareholders in general meeting shall not apply to payment of sitting fees to non-executive directors, if made within the limits prescribed under the Companies Act, 2013 for payment of sitting fees without approval of the Central Government.</p> <p>Provided further that independent directors shall not be entitled to any stock option. (§ 49.II.BC)</p> | <p>The board of directors should determine the company's policy on remuneration due to ... its board members ... (Principle 2.1.4)</p> <p>The level of remuneration paid by the company should be sufficient to enable it to attract, motivate, and retain persons having required skills and qualifications. Remuneration due to board members ... should be paid in accordance with a remuneration policy approved by the company. (Principle 4.1)</p> <p>It is recommended that the level of remuneration paid by the company to its board members ... should be sufficient to motivate them to work efficiently and enable the company to attract and retain knowledgeable, skilled, and duly qualified persons. ... (Principle 4.1.1)</p> <p>The company's remuneration policy should be developed by its remuneration committee and approved by the board of directors. ... (Principle 4.1.2)</p> <p>The company's remuneration policy should provide for transparent mechanisms to be used to determine the amount of remuneration due to members of the board of directors ... (Principle 4.1.3)</p> <p>The system of remuneration of board members should ensure harmonisation of financial interests of the directors with long-term financial interests of the shareholders. (Principle 4.2)</p> <p>A fixed annual fee shall be a preferred form of monetary remuneration of the board members. ... (Principle 4.2.1)</p> <p>Long-term ownership of shares in the company contributes most to aligning financial interests of board members with long-term interests of the company's shareholders. However, it is not recommended to make the right to dispose of shares dependent on the achievement by the company of certain performance results; nor should board members take part in the company's option plans. (Principle 4.2.2)</p> <p>It is not recommended to provide for any additional allowance or compensation in the event of early dismissal of board members in connection with a change of control over the company or other circumstances. (Principle 4.2.3)</p> <p><i>See generally</i> Recommendations 222 – 240.</p> | <p>Pursuant to Article (118) of the Law of Commercial Companies No. (8) of 1984, the remunerations of board members shall be a percentage of net profit. Moreover, the Company may pay ancillary expenses or fees or a monthly salary in the amount fixed by the board of directors to any member if such a member works in any committee, exerts special efforts or undertakes additional duties for the Company beyond his/her normal duties as a member of the board of directors of the company. In all cases, the remunerations of board members may not exceed ten percent (10%) of net profits, having deducted Depreciation, reserve and distribution of a dividend of at least five percent (5%) of capital to shareholders. (Article 7)</p> <p>The nomination and remuneration committee to be mainly charged with...formulation and annual review of the policy on granting remunerations, benefits, incentives and salaries to board members.... (Article 6.1)</p> |

VII.G. Internal Control System

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>[I]tems the audit committee may want to review with the auditor are . . . any . . . “internal control” letter issued, or proposed to be issued, by the audit firm to the listed company. . . . (Commentary to § 303A.07(b)(iii)(F)).</p> <p>[T]he audit committee must review . . . major issues as to the adequacy of the listed company’s internal controls and any special audit steps adopted in light of material control deficiencies . . . (General commentary to § 303A.07(b)).</p> <p>Listed companies must maintain an internal audit function to provide management and the audit committee with ongoing assessments of the listed company’s risk management processes and system of internal control. (Commentary to § 5303A.07(c))</p> <p><u>NACD</u></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, especially with respect to trends in debt and equity markets. (p. 8)</p> <p>See REPORT OF THE NACD BLUE RIBBON COMMISSION ON RISK GOVERNANCE (2009) and REPORT OF THE NACD BLUE RIBBON COMMISSION ON RISK OVERSIGHT (2002).</p> | <p>[Non-executive directors] should satisfy themselves on the integrity of financial information and that financial controls and systems of risk management are robust and defensible. (Supporting Principle A.4)</p> <p>The board is responsible for determining the nature and extent of the significant risks it is willing to take in achieving its strategic objectives. The board should maintain sound risk management and internal control systems. (Main Principle C.2)</p> <p>The board should, at least annually, conduct a review of the effectiveness of the company’s risk management and internal control systems and should report to shareholders that they have done so. The review should cover all material controls, including financial, operational and compliance controls. (Code Provision C.2.1)</p> <p>The board should establish formal and transparent arrangements for considering how they should apply the corporate reporting and risk management and internal control principles and for maintaining an appropriate relationship with the company’s auditor. (Main Principle C.3)</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. (Code Provision C.3.5)</p> | <p>Each listed company must be equipped with reliable procedures for the identification, monitoring and assessment of its commitments and risks, and provide shareholders and investors with relevant information in this area. 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; . . . <p>The main tasks of the audit committee are... to monitor the effectiveness of the internal control and risk management systems... The review of accounts by the audit committee should be accompanied by a presentation from the statutory auditors stressing the essential points [including] significant weaknesses in internal control identified during the auditor’s works.... (¶ 16.2.1)</p> <p>The statutory auditors must also inform the audit committee of any significant weaknesses in internal control identified in the course of their work, in relation to the procedures for preparing and processing the accounting and financial information. (¶ 16.2.2) (¶ 2.2)</p> <p>As regards the effectiveness of internal control and risk management systems, the [audit] committee should ensure that these systems exist, that they are implemented and that corrective action is taken in the event of significant weaknesses or flaws. . . The committee shall examine the risks and the material off-balance-sheet commitments, assess the importance of any failures or weaknesses which are communicated to it and, if necessary, inform the Board. (¶ 16.3)</p> | <p>The Management Board ensures that all provisions of law and the enterprise’s internal policies are abided by and works to achieve their compliance by group companies (compliance). (§ 4.1.3)</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 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 (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. . . . 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> |

VII.G. Internal Control System

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p>The management board shall report related developments to and shall discuss the internal risk management and control systems with the supervisory board and the audit committee. (Principle II.1)</p> <p>The company shall have an internal risk management and control system that is suitable for the company. It shall, in any event, employ as instruments of the internal risk management and control system:</p> <ul style="list-style-type: none"> a) risk analyses of the operational and financial objectives of the company; b) a code of conduct which should be published on the company's website; 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. <p>(Best Practice Provision II.1.3)</p> <p>In the annual report the management board shall provide:</p> <ul style="list-style-type: none"> a) a description of main risks related to the strategy of the company; b) a description of the design and effectiveness of the internal risk management and control systems for the main risks during the financial year; and c) a description of any major failings in the internal risk management and control systems which have been discovered in the financial year, any significant changes made to these systems and any major improvements planned, and a confirmation that these issues have been discussed with the audit committee and the supervisory board. <p>(Best Practice Provision II.1.4)</p> <p>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 ensure that the internal procedures are established and maintained. (Best Practice Provision V.1.3)</p> | <p>The board of directors must ensure that the company has sound internal control and systems for risk management that are appropriate in relation to the extent and nature of the company's activities. Internal control and the systems should also encompass the company's corporate values, ethical guidelines and guidelines for corporate social responsibility. The board of directors should carry out an annual review of the company's most important areas of exposure to risk and its internal control arrangements.</p> <p>(§ 10)</p> <p>The objective for risk management and internal control is to manage, rather than eliminate, exposure to risks related to the successful conduct of the company's business and to support the quality of its financial reporting. Effective risk management and good internal control contribute to securing shareholders' investment in the company and the company's assets....The board of directors must form its own opinion on the company's internal controls, based on the information presented to the board. Reporting by executive management to the board of directors should give a balanced presentation of all risks of material significance, and of how the internal control system handles these risks. The company's internal control system must, at a minimum, address the organisation and execution of the company's financial reporting. Where a company has an internal audit function, it must establish a system whereby the board receives routine reports and ad hoc reports as required. If a company does not have such a separate internal audit function, the board must pay particular attention to evaluating how it will receive such information. (Commentary to § 10)</p> <p><i>See</i> Commentary to § 10, "Annual review by the board of directors" and "Reporting by the board of directors".</p> <p>The auditor should at least once a year present to the audit committee a review of the company's internal control procedures, including identified weaknesses and proposals for improvement.</p> <p>(§ 15)</p> <p>In order to strengthen the board's work on financial reporting and internal control, the auditor is required by the Auditing and Auditors Act to provide a report to the audit committee on the main features of the audit carried out in respect of the previous accounting year, including particular mention of any material weaknesses identified in internal control relating to the financial reporting process. (Commentary to § 15)</p> | <p>The Board of Directors should provide for systems for internal control and risk management suitable for the company.</p> <p>The internal control system should be geared to the size, the 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.</p> <p>(Article II.f.19)</p> <p>The Board of Directors should take measures to ensure compliance with applicable rules.</p> <p>The Board of Directors should arrange the function of compliance according to the specific nature of the company. It may also allocate compliance to the internal control system.</p> <p>The Board of Directors 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.</p> <p>(Article II.f.20)</p> <p>The Audit Committee should form an independent judgement of the quality of the external auditors, the internal control system and the annual financial statements... The Audit Committee should ... 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. (Article II.g.24)</p> | <p>A listed entity should have formal and rigorous processes that independently verify and safeguard the integrity of its corporate reporting. (Principle 4)</p> <p>The board of a listed entity should, before it approves the entity's financial statements for a financial period, receive from its CEO and CFO a declaration that, in their opinion, the financial records of the entity have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of the entity and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively. (Recommendation 4.2)</p> <p>A listed entity should disclose: (a) if it has an internal audit function, how the function is structured and what role it performs; or (b) if it does not have an internal audit function, that fact and the processes it employs for evaluating and continually improving the effectiveness of its risk management and internal control processes. (Recommendation 7.3)</p> <p>An internal audit function can assist a listed entity to accomplish its objectives by bringing a systematic, disciplined approach to evaluating and continually improving the effectiveness of its risk management and internal control processes. (Commentary to Recommendation 7.3)</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 Internal Audit is responsible for monitoring and assessing the adequacy of internal controls and the standards and procedures established by Management. The internal auditors should proactively act on the recommendation of improved controls, standards and procedures, in line with the best market practices. ... This body should not only point out irregularities, but pursue the improvement of processes and practices based on an enhanced control environment. Its work should be perfectly aligned with the organization's strategy. (IBGC Code ¶ 2.33)</p> <p>The CEO, jointly with Management and assisted by other oversight bodies linked to the Board of Directors, is responsible for developing and submitting internal control systems for the Board's approval. These systems are geared to monitoring compliance with operating and financial processes, as well as non-compliance risks. These controls should be reviewed at least once a year for effectiveness. Internal control systems should encourage Administration bodies in charge of monitoring and enforcing to take on preventive and proactive measures to forestall or minimize risks. (IBGC Code ¶ 3.6)</p> |

VII.G. Internal Control System

| China | Hong Kong | India | Russia | UAE |
|---|--|--|--|--|
| <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: . . . (2) to review the internal audit system and its execution . . . ; and (5) to monitor the company's internal control system. (Ch. 3, (6) 54)</p> | <p>The board should ensure that the issuer maintains sound and effective internal controls to safeguard shareholders' investment and the issuer's assets. (Principle C.2)</p> <p>The directors should at least annually conduct a review of the effectiveness of the issuers' and its subsidiaries' internal control systems and report to shareholders that they have done so in their Corporate Governance Report. The review should cover all material controls, including financial, operational and compliance controls and risk management functions. (CP C.2.1)</p> <p>The board's annual review should, in particular, consider the adequacy of resources, staff qualifications and experience, training programmes and budget of the issuer's accounting and financial reporting function. (CP C.2.2)</p> <p>The board's annual review should, in particular, consider:</p> <p>(a) the changes, since the last annual review, in the nature and extent of significant risks, and the issuer's ability to respond to changes in its business and the external environment;</p> <p>(b) the scope and quality of management's ongoing monitoring of risks and of the internal control system, and where applicable, the work of its internal audit function and other assurance providers;</p> <p>(c) the extent and frequency of communication of monitoring results to the board (or board committee(s)) which enables it to assess control of the issuer and the effectiveness of risk management;</p> <p>(d) significant control failings or weaknesses that have been identified during the period. Also, the extent to which they have resulted in unforeseen outcomes or contingencies that have had, could have had, or may in the future have, a material impact on the issuer's financial performance or condition; and</p> <p>(e) the effectiveness of the issuer's processes for financial reporting and Listing Rule compliance. (RBP C.2.3)</p> <p>Issuers should disclose, in the Corporate Governance Report, a narrative statement on how they have complied with internal control code provisions during the reporting period. . . . (RBP C.2.4)</p> <p><i>See</i> CP C.3.3, oversight of the issuer's financial reporting system and internal control procedures.</p> | <p>The board should fulfill certain key functions, including . . . Ensuring the integrity of the company's accounting and financial reporting systems, . . . and that appropriate systems of control are in place, in particular, systems . . . financial and operational control.... (§ 49.I.D.2.g)</p> <p>The role of the Audit Committee shall include . . .</p> <p>11. Evaluation of internal financial controls;</p> <p>12. Reviewing, with the management . . . , adequacy of the internal control systems; . . .</p> <p>15. 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 of a material nature and reporting the matter to the board . . .</p> <p>(§ 49.III.D)</p> <p>The Audit Committee shall mandatorily review . . .</p> <p>3. Management letters / letters of internal control weaknesses issued by the statutory auditors;</p> <p>4. Internal audit reports relating to internal control weaknesses . . .</p> <p>(§ 49.III.E)</p> <p>The CEO . . . and the CFO . . . shall certify to the Board that . . . They accept responsibility for establishing and maintaining internal controls for financial reporting and that they have evaluated the effectiveness of internal control systems of the company pertaining to financial reporting and they have disclosed to the auditors and the Audit Committee, deficiencies in the design or operation of such internal controls, if any, of which they are aware and the steps they have taken or propose to take to rectify these deficiencies. . . . [and t]hey have indicated to the auditors and the Audit committee...significant changes in internal control over financial reporting during the year... (§ 49.IX.C, D)</p> | <p>The company should have in place an efficient risk management and internal control system designed to provide reasonable confidence that the company's goals will be achieved. (Principle 5.1)</p> <p>The board of directors should determine the principles of and approaches to creation of the risk management and internal control system in the company. (Principle 5.1.1)</p> <p>The company's executive bodies should ensure the establishment and continuing operation of the efficient risk management and internal control system in the company. (Principle 5.1.2)</p> <p>The company's risk management and internal control system should enable one to obtain an objective, fair and clear view of the current condition and prospects of the company, integrity and transparency of its accounts and reports, and reasonableness and acceptability of risks being assumed by the company. (Principle 5.1.3)</p> <p>The board of directors is recommended to take required and sufficient measures to procure that the existing risk management and internal control system of the company is consistent with the principles of and approaches to its creation as set forth by the board of directors and that it operates efficiently. (Principle 5.1.4)</p> <p>To independently evaluate, on a regular basis, reliability and efficiency of the risk management and internal control system and corporate governance practices, the company should arrange for internal audits. (Principle 5.2)</p> <p>It is recommended that internal audits be carried out by a separate structural division (internal audit department) to be created by the company or through retaining an independent third-party entity. To ensure the independence of the internal audit department, it should have separate lines of functional and administrative reporting. . . . (Principle 5.2.1)</p> <p>When carrying out an internal audit, it is recommended to evaluate efficiency of the internal control system and the risk management system . . . (Principle 5.2.2)</p> <p>The board of director[s] should arrange for carrying out a review and evaluation of the risk management and internal control system at least once a year. (Recommendation 72)</p> <p><i>See generally</i> Recommendations 251 – 273.</p> | <p>A Company shall apply a precise internal control system that aims at developing an assessment of the Company's risk management means and measures, sound application of governance rules, verification of compliance by the Company and its employees with applicable laws, regulations and resolutions that govern its operations, as well as internal procedures and policies and review of financial information that is forwarded to the Company's senior management and used for drafting financial statements. (Article 8.1)</p> <p>The board of directors shall issue the internal control system following consultation with the management and shall be put into implemented by an internal control competent department. (Article 8.2)</p> <p>The board of directors shall determine the objectives, duties and powers of the internal control department that shall enjoy adequate independence to perform its duties and shall directly report to the board of directors. (Article 8.3)</p> <p>The board of directors shall conduct an annual review to ensure efficiency of the internal control system in the Company and its subsidiaries and disclose reached results to shareholders through the corporate governance annual report. (Article 8.4)</p> <p>The Company shall appoint a Compliance Officer who shall be charged with duties of verification of the scope of compliance by the Company and its employees with issued laws, regulations and resolutions. One person may assume the positions of compliance officer and director of internal control department at the same time. (Article 8.7)</p> <p><i>See</i> Topic Heading VII.H., <i>below</i>.</p> |

VII.H. Risk Management and Oversight

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|---|---|--|---|
| <p><u>NYSE</u></p> <p>[The audit committee must] discuss policies with respect to risk assessment and risk management. (§ 303A.07(b)(iii)(D))</p> <p>While it is the job of the CEO and senior management to assess and manage the listed company's exposure to risk, the audit committee must discuss guidelines and policies to govern the process by which this is handled. The audit committee should discuss the listed company's major financial risk exposures and the steps management has taken to monitor and control such exposures. The audit committee is not required to be the sole body responsible for risk assessment and management, but, as stated above, the committee must discuss guidelines and policies to govern the process by which risk assessment and management is undertaken. Many companies, particularly financial companies, manage and assess their risk through mechanisms other than the audit committee. The processes these companies have in place should be reviewed in a general manner by the audit committee, but they need not be replaced by the audit committee. (Commentary to § 303A.07(b)(iii)(D))</p> <p>Listed companies must maintain an internal audit function to provide management and the audit committee with ongoing assessments of the listed company's risk management processes . . . (Commentary to § 303A.07(b)(iii)(C))</p> <p><u>NACD</u></p> <p><i>Not covered.</i></p> | <p>[Non-executive directors] should satisfy themselves on the integrity of financial information and that financial controls and systems of risk management are robust and defensible. (Supporting Principle A.4)</p> <p>The board is responsible for determining the nature and extent of the significant risks it is willing to take in achieving its strategic objectives. The board should maintain sound risk management and internal control systems. (Main Principle C.2)</p> <p>The board should, at least annually, conduct a review of the effectiveness of the company's risk management and internal control systems and should report to shareholders that they have done so. The review should cover all material controls, including financial, operational and compliance controls. (Code Provision C.2.1)</p> <p>The board should establish formal and transparent arrangements for considering how they should apply the corporate reporting and risk management and internal control principles and for maintaining an appropriate relationship with the company's auditor. (Main Principle C.3)</p> | <p>Each listed company must be equipped with reliable procedures for the identification, monitoring and assessment of its commitments and risks, and provide shareholders and investors with relevant information in this area. 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; each company must develop and clarify the information provided to shareholders and investors regarding off-balance-sheet-commitments and material risks, and disclose the company's ratings by financial rating agencies as well as any changes occurred during the financial year. <p>(¶ 2.2)</p> <p>The main tasks of the audit committee are . . . to monitor the effectiveness of the internal control and risk management systems. The review of accounts by the audit committee should be accompanied by a . . . presentation from the Chief financial officer describing the corporation's risk exposures and its material off-balance-sheet commitments. (¶ 16.2.1)</p> <p>As regards the effectiveness of internal control and risk management systems, the [audit] committee should ensure that these systems exist, that they are implemented and that corrective action is taken in the event of significant weaknesses or flaws. . . It must interview those responsible for the internal audit and for risk control and give its opinion on the organisation of their services... The committee shall examine the risks and the material off-balance-sheet commitments, assess the importance of any failures or weaknesses which are communicated to it and, if necessary, inform the Board. (¶ 16.3)</p> | <p>The Management Board informs the Supervisory Board regularly, without delay and comprehensively, of all issues important to the enterprise with regard to strategy, planning, business development, risk situation, risk management and compliance. The Management Board points out deviations of the actual business development from previously formulated plans and targets, indicating the reasons therefor. (§ 3.4)</p> <p>The Management Board ensures appropriate risk management and risk controlling in the enterprise. (§ 4.1.4)</p> <p>Between meetings, 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 it on issues of strategy, planning, business development, risk situation, risk management and compliance of the enterprise. (§ 5.2)</p> <p>The Supervisory Board shall set up an Audit Committee which, in particular, handles . . . the effectiveness of the internal control system [and] risk management system. . . . (§ 5.3.2)</p> | <p>The board should fulfill certain key functions, including [r]eviewing 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. (Principle VI.D.1)</p> <p>An area of increasing importance for boards and which is closely related to corporate strategy is risk policy. Such policy will involve specifying the types and degree of risk that a company is willing to accept in pursuit of its goals. It is thus a crucial guideline for management that must manage risks to meet the company's desired risk profile. (Annotation to Principle VI.D.1)</p> <p>The board should fulfill certain key functions, including [e]nsuring 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. (Principle VI.D.7)</p> <p><i>See</i> Annotation to Principle V.A.6. (The Principles do not envision the disclosure of information in greater detail than is necessary to fully inform investors of the material and foreseeable risks of the enterprise. Disclosure of risk is most effective when it is tailored to the particular industry in question. Disclosure about the system for monitoring and managing risk is increasingly regarded as good practice.)</p> |

VII.H. Risk Management and Oversight

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|---|---|---|---|
| <p>The management board is responsible for complying with all relevant primary and secondary legislation, 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 the audit committee. (Principle II.1)</p> <p>The company shall have an internal risk management and control system that is suitable for the company. It shall, in any event, employ as instruments of the internal risk management and control system...risk analyses of the operational and financial objectives of the company... (Best Practice Provision II.1.3)</p> <p>In the annual report the management board shall provide:</p> <ol style="list-style-type: none"> a description of main risks related to the strategy of the company; a description of the design and effectiveness of the internal risk management and control systems for the main risks during the financial year; and a description of any major failings in the internal risk management and control systems which have been discovered in the financial year, any significant changes made to these systems and any major improvements planned, and a confirmation that these issues have been discussed with the audit committee and the supervisory board. (Best Practice Provision II.1.4) <p>As regards financial reporting risks the management board states in the annual report that the internal risk management and control systems provide a reasonable assurance that the financial reporting does not contain any errors of material importance and that the risk management and control systems worked properly in the year under review. The management board shall provide clear substantiation of this. (Best Practice Provision II.1.5)</p> <p>The management board shall ensure that employees have the possibility of reporting alleged irregularities of a general, operational and financial nature within the company to the chairman of the management board or to an official designated by him, without jeopardising their legal position. (Best Practice Provision II.1.7)</p> <p>The supervisory board shall discuss at least once a year the corporate strategy and the main risks of the business, the result of the assessment by the management board of the design and effectiveness of the internal risk management and control systems, as well as any significant changes thereto. (Best Practice Provision III.1.8)</p> | <p>The board of directors must ensure that the company has sound internal control and systems for risk management that are appropriate in relation to the extent and nature of the company's activities. Internal control and the systems should also encompass the company's corporate values, ethical guidelines and guidelines for corporate social responsibility.</p> <p>The board of directors should carry out an annual review of the company's most important areas of exposure to risk and its internal control arrangements.</p> <p>(§ 10)</p> <p>The objective for risk management and internal control is to manage, rather than eliminate, exposure to risks related to the successful conduct of the company's business and to support the quality of its financial reporting. Effective risk management and good internal control contribute to securing shareholders' investment in the company and the company's assets....Reporting by executive management to the board of directors should give a balanced presentation of all risks of material significance, and of how the internal control system handles these risks.... (Commentary to § 10)</p> <p><i>See</i> Commentary to § 10, "Annual review by the board of directors" <i>and</i> "Reporting by the board of directors".</p> | <p>The Board of Directors should provide for systems for internal control and risk management suitable for the company.</p> <p>The internal control system should be geared to the size, the 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 . . . (Article II.f.19)</p> <p>The Audit Committee should . . . 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. (Article II.g.24)</p> | <p>A listed entity should establish a sound risk management framework and periodically review the effectiveness of that framework. (Principle 7)</p> <p>Recognising and managing risk is a crucial part of the role of the board and management.... The board of a listed entity is ultimately responsible for deciding the nature and extent of the risks it is prepared to take to meet its objectives. To enable the board to do this, the entity must have an appropriate framework to identify and manage risk on an ongoing basis. It is the role of management to design and implement that framework and to ensure that the entity operates within the risk appetite set by the board. It is the role of the board to set the risk appetite for the entity, to oversee its risk management framework and to satisfy itself that the framework is sound. (Commentary to Principle 7)</p> <p>The board of a listed entity should: (a) have a committee or committees to oversee risk . . . (Recommendation 7.1)</p> <p>The role of a risk committee is usually to review and make recommendations to the board in relation to:</p> <ul style="list-style-type: none"> the adequacy of the entity's processes for managing risk; any incident involving fraud or other break down of the entity's internal controls; and the entity's insurance program, having regard to the entity's business and the insurable risks associated with its business. <p>(Commentary to Recommendation 7.1)</p> <p>The board or a committee of the board should: (a) review the entity's risk management framework at least annually to satisfy itself that it continues to be sound; and (b) disclose, in relation to each reporting period, whether such a review has taken place. (Recommendation 7.2)</p> <p>A listed entity should disclose whether it has any material exposure to economic, environmental and social sustainability risks and, if it does, how it manages or intends to manage those risks. (Recommendation 7.4)</p> | <p>The Board of Directors must ensure that Management preemptively identifies and lists the main risks to which the organization is exposed, through an adequate information system. Management should also calculate the odds of such risks actually occurring, in addition to the organization's consolidated financial exposure to such risks (according to probability, potential financial impact, and intangible aspects) and the measures and procedures adopted for their prevention or mitigation. (IBGC Code ¶ 2.3.1)</p> |

VII.H. Risk Management and Oversight

China

Hong Kong

India

Russia

UAE

Not covered.

The directors should at least annually conduct a review of the effectiveness of the issuers' and its subsidiaries' internal control systems and report to shareholders that they have done so in their Corporate Governance Report. The review should cover all material controls, including financial, operational and compliance controls and risk management functions. (CP.2.1)

The board's annual review should, in particular, consider:

(a) the changes, since the last annual review, in the nature and extent of significant risks, and the issuer's ability to respond to changes in its business and the external environment (b) the scope and quality of management's ongoing monitoring of risks and of the internal control system, and where applicable, the work of its internal audit function and other assurance providers;... (RBP C.2.3)

Issuers should disclose, in the Corporate Governance Report, a narrative statement on how they have complied with internal control code provisions during the reporting period [including]

(a) the process used to identify, evaluate and manage significant risks;

(b) additional information to explain its risk management processes and internal control system... (RBP C.2.4)

The audit committee [should] review the issuer's financial controls, internal control and risk management systems... (CP C.3.3)

The board should fulfill certain key functions, including...Ensuring the integrity of the company's accounting and financial reporting systems, including ...systems for risk management.... (§ 49.I.D.2.g)

The role of the Audit Committee shall include . . . Evaluation of . . . risk management systems... (§ 49.III.D.11)

The company shall lay down procedures to inform Board members about the risk assessment and minimization procedures.

The Board shall be responsible for framing, implementing and monitoring the risk management plan for the company.

The company shall also constitute a Risk Management Committee. The Board shall define the roles and responsibilities of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit.

(§ 49.VI)

The company should have in place an efficient risk management and internal control system designed to provide reasonable confidence that the company's goals will be achieved. (Principle 5.1)

The board of directors should determine the principles of and approaches to creation of the risk management and internal control system in the company. (Principle 5.1.1)

The company's executive bodies should ensure the establishment and continuing operation of the efficient risk management and internal control system in the company. (Principle 5.1.2)

The company's risk management system should enable one to obtain an objective, fair and clear view of the reasonableness and acceptability of risks being assumed by the company. (Principle 5.1.3)

The board of directors is recommended to take required and sufficient measures to procure that the existing risk management and internal control system of the company is consistent with the principles of and approaches to its creation as set forth by the board of directors and that it operates efficiently. (Principle 5.1.4)

To independently evaluate, on a regular basis, reliability and efficiency of the risk management and internal control system and corporate governance practices, the company should arrange for internal audits. (Principle 5.2)

When carrying out an internal audit, it is recommended to evaluate efficiency of the . . . risk management system . . . (Principle 5.2.2)

The board of directors is recommended to assess both financial and non-financial risks faced by the company, including operational, social, ethical, environmental, and other non-financial risks and determine a level of risk acceptable to the company. (Recommendation 69)

When approving the risk management policies, the board of directors should seek to achieve an optimal balance between risks and return to the company as a whole....(Recommendation 70)

The board of director[s] should arrange for carrying out a review and evaluation of the risk management . . . system at least once a year. (Recommendation 72)

See generally Recommendations 71 – 73, 251 – 273.

The [board of directors'] annual review [of the Company's internal control system] shall specifically cover the following elements:

- basic control elements, including control over financial affairs, operations and risk management;
- changes that take place since the last annual review has been conducted to the nature and extent of major risks and the Company's ability to respond to changes of operations and external environment;
- scope and nature of ongoing control by the board of directors over risks, internal control system and external auditors' operations;
- frequency of reporting to the board or the board committees on the results of control to enable the board to assess the position of internal control in the Company and efficiency of risk management;
- detected weaknesses and shortcomings of the control system or unexpected emergencies that have materially affected or may materially affect the performance or financial position of the Company; and
- efficiency of the Company's operations in respect of financial reporting and adherence to listing and disclosure rules.

See Topic Heading VII.G, *above*.

KEY AGREED PRINCIPLES

VIII. PROTECTION AGAINST BOARD ENTRENCHMENT

Governance structures and practices should encourage the board to refresh itself.

The board needs to ensure that it is positioned to change and evolve with the needs of the company. This requires that directorship never be viewed as a sinecure. Some boards rely on age limits and/or term limits to assist in moving directors off the board. Some boards also require directors to offer their resignation upon a significant change in job responsibility. These mechanisms do not substitute for evaluating the contributions of individual directors in the context of re-nomination determinations and, in appropriate circumstances, determining not to renominate based on the evolving needs of the company or underperformance by the director.

In addition, the board and its committees should conduct self-evaluations periodically in the interest of continual self-improvement. Such self-evaluations do not need to be unduly complicated, but should provide an opportunity for the board and its committees to reflect and should culminate in a significant discussion about areas for further effort and improvement. Board policies regarding the conduct of evaluations should be disclosed.

As fiduciaries, boards need the ability to negotiate regarding takeover approaches, and anti-takeover defenses are important in providing negotiating leverage. At the same time boards should understand that many shareholders view anti-takeover devices as unduly protective of the status quo. Boards should give careful consideration to whether anti-takeover devices are in the best long-term interests of the company. If the board adopts an anti-takeover measure, it should take special care to communicate to shareholders the reasons why, in its considered view-point, the measure is in the best interests of the company, and it may wish to consider providing shareholders with the opportunity to ratify within a reasonable time frame.

VIII.A. Term Limits, Mandatory Retirement & Changes in Job Responsibility

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|--|---|---|----------------------------------|
| <p><u>NYSE</u></p> <p>The following subjects must be addressed in the corporate governance guidelines . . . director tenure, retirement and succession (Commentary to § 303A.09)</p> <p><u>NACD</u></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: 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. 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. 12)</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.</p> <p>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 re-nomination. (p. 12)</p> | <p>Non-executive directors should be appointed for specified terms subject to re-election and to statutory provisions relating to the removal of a director. Any term beyond six years 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. (Code Provision B.2.3) All directors should be submitted for re-election at regular intervals, subject to continued satisfactory performance. (Main Principle B.7)</p> <p>All directors of FTSE 350 companies should be subject to annual election by shareholders. All other 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. Non-executive directors who have served longer than nine years should be subject to annual re-election. 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. (Code Provision B.7.1)</p> <p>The board should set out to shareholders in the papers accompanying a resolution to elect a non-executive director why they believe an individual should be elected. 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. (Code Provision B.7.2) See Code Provision B.1.1 (The board should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director: . . .has served on the board for more than nine years from the date of their first election.)</p> <p>See also Provision D.1.5 (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>Without affecting the duration of current terms, the duration of directors’ terms of office, set by the by-laws (“statuts”), 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 of the entire body and to favour a smooth replacement of directors. . . . Under French law, the duration of directors’ terms of office is set by the by-laws, and may not exceed six years. (¶ 14)</p> <p>See ¶ 9.4 (The criteria to be reviewed by the committee and the Board in order to have a director to qualify as independent and to prevent risks of conflicts of interest between the director and the management, the corporation, or its group, are the following: . . . not to have been a director of the corporation for more than twelve years.)</p> | <p><u>Supervisory Board</u></p> <p>The Supervisory Board shall . . . take into account . . . an age limit to be specified for the members of the Supervisory Board. . . . (§ 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><u>Management Board</u></p> <p>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><i>Not covered.</i></p> |

VIII.A. Term Limits, Mandatory Retirement & Changes in Job Responsibility

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|--|--|---|--|
| <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><u>Supervisory Board</u></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>A person may be appointed to the supervisory board for a maximum of three 4-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 posted on the company’s website. (Best Practice Provision III.3.6)</p> | <p>The term of office for members of the board of directors should not be longer than two years at a time. (§ 8)</p> <p>While the legislation permits a term of office for members of the board of directors of up to four years, this Code of Practice recommends that the term of office should not exceed two years. The situation in respect of both the company’s requirements and the demands of independence can change over the course of a two-year period. Shareholders (and the corporate assembly where appropriate) should therefore be given the opportunity to re-evaluate each shareholder-elected member of the board at least every second year. When considering whether to re-elect members of the board, the value of continuity should be balanced against the need for renewal and independence. Where a member of the board has served for a prolonged continuous period, consideration should be given to whether the individual in question is still considered to be independent of the company’s executive personnel. Recruitment of members of the board should be phased so that the entire board is not replaced at the same time. (Commentary to § 8).</p> | <p>The Board of Directors should plan the succession of its members. . . . (Article I.b.13)</p> <p>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. (Article II.b.13)</p> | <p>Examples of interests, positions, associations and relationships that might cause doubts about the independence of a director include if the director: . . . has been a director of the entity for such a period that his or her independence may have been compromised. (Box 2.3)</p> <p>If there is a change in a non-executive director’s interests, positions, associations or relationships that could bear upon his or her independence, the non-executive director should inform the board or the nomination committee at the earliest opportunity. . . . In relation to the last example in Box 2.3 (length of service as a director), the Council recognises that the interests of a listed entity and its security holders are likely to be well served by having a mix of directors, some with a longer tenure with a deep understanding of the entity and its business and some with a shorter tenure with fresh ideas and perspective. It also recognises that the chair of the board will frequently fall into the former category rather than the latter.</p> <p>The mere fact that a director has served on a board for a substantial period does not mean that he or she has become too close to management to be considered independent. However, the board should regularly assess whether that might be the case for any director who has served in that position for more than 10 years. (Commentary to Recommendation 2.3)</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>The term of office of a Board member should not exceed two (2) years. Re-election is desirable to build an experienced and productive Board, but it should not be automatic. All Directors must be elected at the same General Meeting. The renewal of a Board member’s term of office should take into account the results of the annual assessment. The standards for renewal must be expressed in the organization’s Articles of Incorporation/Organization or the Board’s Internal Regulations. The Board’s internal regulations should be precise as to the number of absences tolerated at meetings, before removing a Director. To avoid tenure, the internal regulations may establish a maximum number of years of continuous Board service. (IBGC Code ¶ 2.7)</p> <p>When the requirements described under items 2.4 and 2.5 are fulfilled [relating to director qualifications], age becomes a factor of relative importance. The effective contribution of a Board member to the Board, the organization, and its shareholders is ultimately what should prevail. (IBGC Code ¶ 2.6)</p> <p>Main occupation is one of the most important factors in choosing a director. Therefore, when there is a significant change in a Director’s occupation, they should inform the Chairman, and the collective body shall assess whether it is desirable for the director to remain or leave the Board. (IBGC Code ¶ 2.23)</p> |

VIII.A. Term Limits, Mandatory Retirement & Changes in Job Responsibility

| China | Hong Kong | India | Russia | UAE |
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| <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>Non-executive directors should be appointed for a specific term, subject to re-election. (CP A.4.1)</p> <p>Every director, including those appointed for a specific term, should be subject to retirement by rotation at least once every three years. (CP A.4.2)</p> <p>Serving more than 9 years could be relevant to the determination of a non-executive director's independence. If an independent non-executive director serves more than 9 years, his further appointment should be subject to a separate resolution to be approved by shareholders. (CP A.4.3)</p> | <p>An independent director shall hold office for a term up to five consecutive years on the Board of a company and shall be eligible for reappointment for another term of up to five consecutive years on passing of a special resolution by the company.</p> <p>Provided that a person who has already served as an independent director for five years or more in a company as on October 1, 2014 shall be eligible for appointment, on completion of his present term, for one more term of up to five years only.</p> <p>Provided further that an independent director, who completes his above mentioned term shall be eligible for appointment as independent director in the company only after the expiration of three years of ceasing to be an independent director in the company.</p> <p>(§ 49.II.B.3)</p> | <p>[A] person shall be deemed to be associated with the company [and therefore is not independent] if he/she has been a member of its board of directors for more than seven years in aggregate. (Recommendation 104)</p> <p>Board members should notify the company's board of directors of their intention to take a position in management bodies of other entities and, immediately after their election (appointment) to the management bodies of such other entities, of such election (appointment). (Recommendation 142)</p> | <p>Each board member shall, when assuming his/her office duties, disclose to the Company the nature of positions he/she assumes in companies and public institutions as well as other obligations, their set term and any changes thereto, once the same take place. (Article 5.5)</p> |

VIII.B. Evaluating Board Performance

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>[The nominating/corporate governance committee] responsibilities. . . at minimum, must be to. . . oversee the evaluation of the board . . . and [to conduct] an annual performance evaluation of the committee. (§ 303A.04(b))</p> <p>[The compensation committee charter must address] an annual performance evaluation of the compensation committee. (§ 303A.05(b)(ii))</p> <p>[The audit committee charter must address] an annual performance evaluation of the audit committee. (§ 303A.07(b)(ii))</p> <p>The following subjects must be addressed in the corporate governance guidelines . . . Annual performance evaluation of the board. The board should conduct a self-evaluation at least annually to determine whether it and its committees are functioning effectively. (Commentary to § 303A.09)</p> <p><u>NACD</u></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 types of evaluation 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 suggested areas for improvement. 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. Such an evaluation practice will enable boards to identify and address problems before they reach crisis proportions. (p. 5)</p> <p>See Ch. 4, Evaluation: How Boards and Directors Should Be Judged, pp. 14-18; and Summary and Conclusion, pp. 20-21.</p> <p>See also Appendix E, Board Evaluation Practicalities: Creating a Board Self-Assessment Methodology.</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 B.6)</p> <p>Evaluation of the board should consider the balance of skills, experience, independence and knowledge of the company on the board, its diversity, including gender, how the board works together as a unit, and other factors relevant to its effectiveness. The chairman should act on the results of the performance evaluation by recognising 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. Individual evaluation should aim to show whether each director continues to contribute effectively and to demonstrate commitment to the role (including commitment of time for board and committee meetings and any other duties). (Supporting Principles B.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. (Code Provision B.6.1)</p> <p>Evaluation of the board of FTSE 350 companies should be externally facilitated at least every three years. The external facilitator should be identified in the annual report and a statement made as to whether they have any other connection with the company. (Code Provision B.6.2)</p> <p>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. (Code Provision B.6.3)</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. (Code Provision B.7.2)</p> | <p>[T]he Board of Directors should evaluate its ability to meet the expectations of the shareholders that have entrusted authority to it to direct the corporation, by reviewing from time to time its membership, organisation and operation (which implies a corresponding review of the Board's committees). . . . 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. (¶ 10.1)</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. (¶ 10.2) <p>The evaluation 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. This could be implemented under the leadership of the appointments or nominations committee or an independent director, with help from an external consultant • The shareholders should be informed each year in the annual report of the evaluations carried out and, if applicable, of any steps taken as a result. (¶ 10.3) | <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>The total compensation of the individual members of the Management Board is determined by the full Supervisory Board . . . based on a performance assessment . . . [of] tasks of the individual member of the Management Board. . . . (§ 4.2.2)</p> <p>See § 5.1.3 (The Supervisory Board shall issue Terms of Reference [indicating Management Board responsibilities]).</p> <p>See also Topic Heading VII.E, <i>above</i>.</p> | <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> |

VIII.B. Evaluating Board Performance

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p><u><i>In a Two-Tier Board Structure</i></u></p> <p>The supervisory board shall discuss at least once a year on its own, i.e. without the management board being present, its own functioning, the functioning of its committees and its individual members, and the conclusions that must be drawn on the basis thereof. . . . Moreover, the 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. The report of the supervisory board shall state how the evaluation of the functioning of the supervisory board, the separate committees and the individual supervisory board members has been carried out. (Best Practice Provision III.1.7)</p> <p>The chairman of the supervisory board shall ensure that . . . (d) the committees of the supervisory board function properly; (e) the performance of the management board members and supervisory board members is assessed at least once a year . . . (Best Practice Provision III.4.1)</p> <p><u><i>In a One-Tier Board Structure</i></u></p> <p>The chairman of the management board shall check the proper . . . functioning of the entire board. (Best Practice Provision III.8.2)</p> | <p>The board of directors should evaluate its performance and expertise annually. (§ 9)</p> <p>The board of directors' evaluation of its own performance and expertise should include an evaluation of the composition of the board and the manner in which its members function, both individually and as a group, in relation to the objectives set out for its work. Such a report will be more comprehensive if it is not intended for publication. However such reports should be made available to the nomination committee. The board of directors should consider whether to use an external person to facilitate the evaluation of its own work. (Commentary to § 9)</p> | <p>The Board of Directors should discuss annually its own and its members' performance. (Article II.c.14)</p> | <p>A listed entity should: (a) have and disclose a process for periodically evaluating the performance of the board, its committees and individual directors; and (b) disclose, in relation to each reporting period, whether a performance evaluation was undertaken in the reporting period in accordance with that process. (Recommendation 1.6)</p> <p>The board performs a pivotal role in the governance framework of a listed entity. It is essential that the board has in place a formal and rigorous process for regularly reviewing the performance of the board, its committees and individual directors and addressing any issues that may emerge from that review.</p> <p>The board should consider periodically using external facilitators to conduct its performance reviews.</p> <p>A suitable non-executive director (such as the deputy chair or the senior independent director, if the entity has one), should be responsible for the performance evaluation of the chair, after having canvassed the views of the other directors.</p> <p>When disclosing whether a performance evaluation has been undertaken the entity should, where appropriate, also disclose any insights it has gained from the evaluation and any governance changes it has made as a result.(Commentary to Recommendation 1.6)</p> <p>Board renewal is critical to performance. To promote investor confidence, there should be a formal, rigorous and transparent process for the appointment and reappointment of directors to the board. . . .The role of the nomination committee is usually to review and make recommendations to the board in relation to: . . . the development and implementation of a process for evaluating the performance of the board, its committees and directors . . . (Commentary to Recommendation 2.1)</p> | <p>A formal assessment of the performance of the Board and each of the Directors must be made on a yearly basis. The assessment system should be adapted to each organization's circumstances. It is important that the assessment be supported by formal processes, with a well-defined activity scope and qualifications. The Chairman is responsible for performing this assessment, and participation of external specialists may contribute to an objective process. Individual assessment – particularly as regards presence, attendance, and involvement/partaking in meetings (including their level of distraction during the meeting to perform unrelated activities) - is critical for the nomination of Directors in future re-elections. It is recommended that the assessment process and results be communicated to the owners under a specific item in the Board's report. (IBGC Code ¶ 2.18)</p> |

VIII.B. Evaluating Board Performance

| China | Hong Kong | India | Russia | UAE |
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| <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) 62)</p> <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 board of directors... shall report to the shareholder meetings the performance of the directors..., the results of the assessment of their work and their compensation, and shall disclose such information. (Ch. 5, (1) 72)</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>The...supervisory board shall report to the shareholder meetings the performance of the...supervisors, the results of the assessment of their work and their compensation, and shall disclose such information. (Ch. 5, (1) 72)</p> | <p>The board should conduct a regular evaluation of its performance. (RBP B 1.9)</p> | <p>The board should fulfill certain key functions, including... Monitoring and reviewing Board Evaluation framework. (§ 49.I.D.2.i)</p> <p>The Nomination Committee shall lay down the evaluation criteria for performance evaluation of independent directors.</p> <p>The company shall disclose the criteria for performance evaluation, as laid down by the Nomination Committee, in its Annual Report.</p> <p>The performance evaluation of independent directors shall be done by the entire Board of Directors (excluding the director being evaluated).</p> <p>On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director. (§ 49.II.B.5)</p> <p>The independent directors in [executive session] shall...i. review the performance of non-independent directors and the Board as a whole; [and] ii. review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors...(§ 49.II.B.6.b)</p> | <p>The board of directors should procure evaluation of quality of its work and that of its committees and board members. (Principle 2.9)</p> <p>Evaluation of quality of the board of directors’ work should be aimed at determining how efficiently the board of directors, its committees and board members work and whether their work meets the company’s needs, as well as at making their work more intensive and identifying areas of improvement. (Principle 2.9.1)</p> <p>Quality of work of the board of directors, its committees and board members should be evaluated on a regular basis, at least once a year. To carry out an independent evaluation of the quality of the board of directors’ work, it is recommended to retain a third party entity (consultant) on a regular basis, at least once every three years. (Principle 2.9.2)</p> <p>The objectives of the nominating committee should include... carrying out an annual detailed formalised procedure of self-evaluation or external evaluation of the board of directors and its committees from the standpoint of their performance as a whole and individual contributions of directors to the work of the board of directors and its committees, drafting recommendations to the board of directors on improving proceedings of the board and its committees, preparing a report on the results of such self-evaluation or external evaluation which shall be included in the company’s annual report.... (Recommendation 186)</p> <p>The nominating committee shall determine a self-evaluation methodology and provide recommendations on selection of an independent consultant who will evaluate the board of directors’ performance. Such methodology and a proposed independent consultant should be approved by the board of directors. (Recommendation 187)</p> <p><i>See generally</i> Recommendations 204 – 210.</p> | <p><i>Not covered.</i></p> |

VIII.C. Classified Boards, Cumulative Voting, Right to Call Special Meeting & Right to Act by Written Consent

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>The Exchange expects that Boards of Directors will be elected by all of the shareholders entitled to vote as a class except where special representation is required by the default provisions of a class or classes of preferred stock. The Exchange will refuse to authorize listing where the Board of Directors is divided into more than three classes. Where classes are provided, they should be of approximately equal size and tenure and directors' terms of office should not exceed three years.</p> <p>(§ 304.00)</p> <p>Listed companies may use consents in lieu of special meetings of shareholders as permitted by applicable law. . . . (§ 306.00)</p> <p><u>NACD</u></p> <p><i>Not covered.</i></p> | <p>All directors should be submitted for re-election at regular intervals, subject to continued satisfactory performance. (Main Principle B.7)</p> <p>All directors of FTSE 350 companies should be subject to annual election by shareholders. All other 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. Non-executive directors who have served longer than nine years should be subject to annual re-election. 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. (Code Provision B.7.1)</p> | <p>Without affecting the duration of current terms, the duration of directors' terms of office, set by the by-laws . . . , 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 of the entire body and to favour a smooth replacement of directors. The annual report should detail the dates of the beginning and expiry of each director's term of office, to make the existing staggering clear. . . . Under French law, the duration of directors' terms of office is set by the by-laws, and may not exceed six years. (¶ 14)</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>Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and should have effective means of redress. . . . [C]ommon provisions to protect minority shareholders, which have proven effective, include . . . the possibility to use cumulative voting in electing members of the board. (pp. 41-42)</p> |

VIII.C. Classified Boards, Cumulative Voting, Right to Call Special Meeting & Right to Act by Written Consent

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|---|---|----------------------------|---|
| <p><u>Management Board</u></p> <p>A management board member is appointed for a maximum period of four years. (Best Practice Provision II.1.1)</p> <p><u>Supervisory Board</u></p> <p>A person may be appointed to the supervisory board for a maximum of three 4-year terms. (Best Practice Provision III.3.5)</p> | <p>The term of office for members of the board of directors should not be longer than two years at a time. (§ 8)</p> <p>While the legislation permits a term of office for members of the board of directors of up to four years, this Code of Practice recommends that the term of office should not exceed two years. The situation in respect of both the company's requirements and the demands of independence can change over the course of a two-year period. Shareholders (and the corporate assembly where appropriate) should therefore be given the opportunity to re-evaluate each shareholder-elected member of the board at least every second year. (Commentary to § 8).</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. (Article I.2)</p> <p>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. (Article II.b.13)</p> | <p><i>Not covered.</i></p> | <p>The term of office of a Board member should not exceed two (2) years. ... All Directors must be elected at the same General Meeting.</p> |

VIII.C. Classified Boards, Cumulative Voting, Right to Call Special Meeting & Right to Act by Written Consent

China

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)

Hong Kong

Every director, including those appointed for a specific term, should be subject to retirement by rotation at least once every three years. (CP A.4.2)

See Para. O ([Companies must disclose] [h]ow shareholders can convene an extraordinary general meeting).

India

An independent director shall hold office for a term up to five consecutive years on the Board of a company and shall be eligible for reappointment for another term of up to five consecutive years on passing of a special resolution by the company. (§ 49.II.B.3)

Russia

There should be no unjustified difficulties preventing shareholders from exercising their right to demand that a general meeting be convened.... (Principle 1.1.4)

The membership of the board of directors of the company must enable the board to organize its activities in a most efficient way, in particular, ...to enable substantial minority shareholders of the company to elect a candidate to the board of directors for whom they would vote. (Principle 2.3.4)

Provided that it has required technical means, the company should seek to put in place a shareholder-friendly procedure for sending to it any requests to convene its general meeting (Recommendation 15)

UAE

[T]he selection of members shall be made by cumulative voting.... (Article 12.2)

[Cumulative voting is defined to mean] each shareholder shall have a number of votes that is equal to the number of shares he/she holds, to be applied towards voting for only one nominee to the membership of the board of directors or distributed to selected nominees; provided, however, that the number of votes given to selected nominees should not exceed the number of held votes. (Article 1)

VIII.D. Poison Pills & Other Takeover Defenses

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
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| <p><u>NYSE</u></p> <p>The Exchange believes it is important that all shareholders of a company be given an opportunity to participate on equal terms in any tender offer made which may affect the rights or benefits of such shareholders. (§ 311.03)</p> <p><u>NACD</u></p> <p><i>Not covered.</i></p> | <p><i>Not covered.</i></p> | <p><i>Not covered.</i></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.</p> <p>After the announcement of a takeover offer, the Management Board may not take any actions, until publication of the result, that could prevent the success of the offer, unless such actions are permitted under legal regulations. In making their decisions, the Management and Supervisory Boards are bound to the best interests of the shareholders and of the enterprise.</p> <p>In the case of a takeover offer, 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 § 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, inter-company agreements and transformations, the issuing of new shares and of convertible bonds and bonds with warrants, and the authorization to purchase own shares.).</i></p> | <p>Markets for corporate control should be allowed to function in an efficient and transparent manner.</p> <ol style="list-style-type: none"> 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. 2. Anti-takeover devices should not be used to shield management and the board from accountability. (Principle II.E) <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 Annotation to Principle II.G ([C]o-operation among investors could also be used . . . to obtain control over a company without being subject to any takeover regulations. . . . For this reason, in some countries, the ability of institutional investors to cooperate on their voting strategy is either limited or prohibited.).</i></p> <p><i>See also Principle II.B (Shareholders should have the right to participate in, and to be sufficiently informed on . . . extraordinary transactions, including the transfer of all or substantially all assets, that in effect result in the sale of the company.).</i></p> |

VIII.D. Poison Pills & Other Takeover Defenses

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|--|----------------------------|----------------------------|---|
| <p>Depository receipts for shares are a means of preventing a (chance) majority of shareholders from controlling the decision-making process as a result of absenteeism at a general meeting. Depository receipts for shares may not be used as an anti-takeover measure. (Principle IV.2)</p> <p>The management board shall provide a survey of all existing or potential anti-takeover measures in the annual report and shall also indicate in what circumstances it is expected that these measures may be used. (Best Practice Provision IV.3.11)</p> | <p>The board of directors should establish guiding principles for how it will act in the event of a take-over bid.</p> <p>In a bid situation, the company's board of directors and management have an independent responsibility to help ensure that shareholders are treated equally, and that the company's business activities are not disrupted unnecessarily. The board has a particular responsibility to ensure that shareholders are given sufficient information and time to form a view of the offer.</p> <p>The board of directors should not hinder or obstruct take-over bids for the company's activities or shares.</p> <p>Any agreement with the bidder that acts to limit the company's ability to arrange other bids for the company's shares should only be entered into where it is self-evident that such an agreement is in the common interest of the company and its shareholders. This provision shall also apply to any agreement on the payment of financial compensation to the bidder if the bid does not proceed. Any financial compensation should be limited to the costs the bidder has incurred in making the bid.</p> <p>Agreements entered into between the company and the bidder that are material to the market's evaluation of the bid should be publicly disclosed no later than at the same time as the announcement that the bid will be made is published.</p> <p>In the event of a take-over bid for the company's shares, the company's board of directors should not exercise mandates or pass any resolutions with the intention of obstructing the take-over bid unless this is approved by the general meeting following announcement of the bid.</p> <p>The requirement that the board of directors should not hinder or obstruct any take-over bid also supplements the provisions of the legislation in that it applies to bids not regulated by the [Securities Trading] Act and also applies to the situation before a bid is made.... It is a fundamental principle of the Code of Practice that all shareholders in the target company should be treated equally. Openness in respect of take-over situations will help to ensure equal treatment of all shareholders. The board of directors and the executive management are expected to refrain from implementing any measures intended to protect their personal interests at the expense of the interests of shareholders. The Code of Practice supplements the provisions in the Securities Trading Act on the limitation of the company's freedom of action once it is aware that an offer is to be made. (Commentary to § 14)</p> | <p><i>Not covered.</i></p> | <p><i>Not covered.</i></p> | <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>Mechanisms that require the purchaser of a minority position to make a tender bid to acquire shares from all other shareholders of a listed company, especially when its Articles of Incorporation impose definite price criteria for this offer, should be seen with reservation. ... These mechanisms may make sense in diffuse ownership companies, provided they do not deprive the shareholders from the final decision on the need for a tender bid. They may be acceptable, provided they are clearly intended to optimize and preserve value for all shareholders. Still, they should be used sparingly and with discretion, and must be reviewed from time to time. When defining such mechanisms, it is important to reflect on their consequences. Moreover, these devices must have a corporate provision on a quorum to ensure the owners' representativeness, and avoid obstructing the change. Provisions that are difficult to remove, or are ways of perpetuating the administrators, such as inflexible or unrealistic price parameters driven by the acquisition of holdings that are neither relevant nor conducive to a takeover, are not recommended. These mechanisms should meet the principles of good corporate governance and explicitly provide that the Board of Directors engage in discussions and take a position in that regard. (IBGC Code ¶ 1.6)</p> |

VIII.D. Poison Pills & Other Takeover Defenses

| China | Hong Kong | India | Russia | UAE |
|---------------------|---------------------|---------------------|--|---------------------|
| <i>Not covered.</i> | <i>Not covered.</i> | <i>Not covered.</i> | <p>The company should not perform any acts which will or might result in artificial reallocation of corporate control therein. (Principle 1.3.2)</p> <p>Any actions which will or may materially affect the company's share capital structure and its financial position and, accordingly, the position of its shareholders ("material corporate actions") should be taken on fair terms and conditions ensuring that the rights and interests of the shareholders as well as other stakeholders are observed. (Principle 7.1)</p> <p>Material corporate actions shall be deemed to include . . . acquisition of 30 or more percent of its voting shares (takeover) . . . (Principle 7.1.1)</p> <p>When taking any material corporate actions which would affect rights or legitimate interests of the company's shareholders, equal terms and conditions should be ensured for all of the shareholders; if statutory mechanisms designed to protect the shareholder rights prove to be insufficient for that purpose, additional measures should be taken with a view to protecting the rights and legitimate interests of the company's shareholders. In such instances, the company should not only seek to comply with the formal requirements of law but should also be guided by the principles of corporate governance set out in this Code. (Principle 7.1.3)</p> <p><i>See generally</i> Recommendations 335 – 345.</p> | <i>Not covered.</i> |

KEY AGREED PRINCIPLES

IX. SHAREHOLDER INPUT IN DIRECTOR SELECTION

Governance structures and practices should encourage meaningful shareholder involvement in the selection of directors.

Voting procedures for director elections should be designed to promote accountability to shareholders by providing shareholders a meaningful ability to elect or decline to elect directors in uncontested elections. Companies should adopt majority voting through appropriate provisions in articles of incorporation or bylaws (to the extent consistent with state law). In an uncontested election, a candidate who fails to win a majority of the votes cast should be required to tender his or her resignation, and the nominating/governance committee should recommend to the board whether to accept or reject the resignation, depending on the circumstances. (Any board decision not to accept the resignation of a director who has failed to receive a majority of the votes cast should be carefully thought out, and the explanation for such decision should be fully disclosed to shareholders.) In contested elections, directors should be elected by plurality voting.

Shareholders should have meaningful opportunities to recommend candidates for nomination to the board. The nominating/governance committee should disclose a process for considering shareholders' recommendations. Particular attention should be paid to a process for obtaining the views of long-term shareholders who hold a significant number of shares.

IX.A. Selecting & Inviting New Directors

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|---|---|--|---|
| <p><u>NYSE</u> - [The nominating/corporate governance committee] responsibilities. . .at minimum, must be to: identify individuals qualified to become board members, consistent with criteria approved by the board, and to select, or to recommend that the board select, the director nominees for the next annual meeting of shareholders... (§ 303A.04)</p> <p>If a listed company is legally required by contract or otherwise to provide third parties with the ability to nominate directors (for example, preferred stock rights to elect directors upon a dividend default, shareholder agreements, and management agreements), the selection and nomination of such directors need not be subject to the nominating committee process. (Commentary to § 303A.04)</p> <p><u>NACD</u> - Boards should establish a wholly independent committee that is responsible for . . . nominating directors for board membership. . . . (p. 3)</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. 4)</p> <p>Boards should involve all directors in all stages of the CEO and board member selection and compensation processes. (p. 4)</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. 5)</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] • Devote the necessary time and effort. (p. 20) <p><i>See generally</i> Chapter 3, Selection: Who Directors Should Be, pp. 7-13.</p> | <p>There should be a formal, rigorous and transparent procedure for the appointment of new directors to the board. (Main Principle B.2)</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 and to ensure progressive refreshing of the board. (Supporting Principle B.2)</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. This section should include a description of the board’s policy on diversity, including gender, any measurable objectives that it has set for implementing the policy, and progress on achieving the objectives. An explanation should be given if neither an external search consultancy nor open advertising has been used in the appointment of a chairman or a non-executive director. Where an external search consultancy has been used, it should be identified in the annual report and a statement made as to whether it has any other connection with the company. (Code Provision B.2.4)</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 with regard to the make-up of and changes in ownership of the corporation’s stock, balance between men and women on 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 and perform its own review of potential candidates before the latter are approached in any way. (¶ 17.2.1)</p> | <p><u>Supervisory Board</u></p> <p>The Supervisory Board shall form a nomination committee composed exclusively of shareholder representatives which proposes suitable candidates to the Supervisory Board for recommendation to the General Meeting. (§ 5.3.3)</p> <p><i>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><i>See also</i> Topic Heading III.A, <i>above</i>.</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, as well as for the handling of the conditions of the employment contracts including compensation, to committees. (§ 5.1.2)</p> | <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 which are sent to shareholders, although sometimes subject to conditions to prevent abuse. 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> |

IX.A. Selecting & Inviting New Directors

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|---|---|--|
| <p>The selection and appointment committee shall in any event focus on: . . .</p> <p>d) making proposals for appointments and reappointments [of directors] . . .</p> <p>(Best Practice Provision III.5.14)</p> | <p>The nomination committee's duties are to propose candidates for election to the corporate assembly and the board of directors and to propose the fees to be paid to members of these bodies. The nomination committee should justify its recommendations. (§ 7)</p> <p>The nomination committee is expected to monitor the need for any changes in the composition of the board of directors and to maintain contacts with shareholder groups, members of the corporate assembly and board and with the company's executive personnel. The nomination committee should pay particular attention to the board's report on its own performance</p> <p>In carrying out its work, the nomination committee should actively seek to represent the views of shareholders in general, and should ensure that its recommendations are endorsed by the largest shareholders. The committee's recommendation should provide a justification of how its recommendations take into account the interests of shareholders in general and the company's requirements . . . on the composition of the corporate assembly and board of directors.</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. (Article II.g.27)</p> | <p>A listed entity should: (a) undertake appropriate checks before appointing a person, or putting forward to security holders a candidate for election, as a director . . . Recommendation 1.2)</p> <p>A listed entity should ensure that appropriate checks are undertaken before it appoints a person, or puts forward to security holders a new candidate for election, as a director. These should include checks as to the person's character, experience, education, criminal record and bankruptcy history. (Commentary to Recommendation 1.2)</p> <p>The role of the nomination committee is usually to review and make recommendations to the board in relation to: . . .</p> <ul style="list-style-type: none"> • Board succession planning generally... • the process for recruiting a new director, including evaluating the balance of skills, knowledge, experience, independence and diversity on the board and, in the light of this evaluation, preparing a description of the role and capabilities required for a particular appointment; • the appointment and re-election of directors . . . <p>(Commentary to Recommendation 2.1)</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>The renewal of a Board member's term of office should take into account the results of the annual assessment. (IBGC Code ¶ 2.7)</p> <p>The main practices of the Family Council shall include . . . defining rules for the appointment of members who will make up the Board of Directors. (IBGC Code ¶ 1.9)</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 law defines the way to elect Fiscal Council members. When there is no defined controlling shareholder, or there is just one class of shares, the establishment of a Fiscal Council, requested by any group of shareholders, should be facilitated by the organization. All shareholders should be represented at the Fiscal Council, even in organizations without a defined controlling shareholder. In organizations where there is a defined control, the controlling shareholders should waive the privilege to elect the majority of the members of the Fiscal Council. . . . (IBGC Code ¶ 5.2)</p> |

IX.A. Selecting & Inviting New Directors

China

Institutional investors shall play a role in the appointment of company directors.... (Ch. 1, (2) 11)

The controlling 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)

Supervisory Board

The controlling 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)

Hong Kong

There should be a formal, considered and transparent procedure for the appointment of new directors. There should be plans in place for orderly succession for appointments. All directors should be subject to re-election at regular intervals. (Principle A.4)

The nomination committee should ... perform the following duties: ... make recommendations to the board on the appointment or re-appointment of directors and succession planning for directors, in particular the chairman and the chief executive. (CP A.5.2)

India

Effective shareholder participation in key Corporate Governance decisions, such as the nomination and election of board members, should be facilitated. (§ 49.I.A.3.b)

The board should fulfill certain key functions, including... Ensuring a transparent board nomination process with the diversity of thought, experience, knowledge, perspective and gender in the Board. (§ 49.I.D.2.e)

The role of the [nomination and remuneration] committee shall, inter-alia, include the following ... Identifying persons who are qualified to become directors ... and recommend to the Board their appointment and removal. (§ 49.IV.B.4)

Russia

In accordance with good corporate governance practices, candidates nominated to the board of directors should be discussed by shareholders on a preliminary basis. Such discussion should be organised by the nominating committee of the board of directors. (Recommendation 94)

The objectives of the nominating committee should include...interaction with the shareholders (which should not be limited to the largest shareholders only) in the context of finding candidates who can be nominated to the board of directors. Such interaction should be aimed at forming the board of directors in such a way that it would be most suitable for the purpose and objectives of the company...(Recommendation 186)

See generally Recommendations 90 – 98.

UAE

The nomination and remuneration committee to be mainly charged with...organization and follow-up of procedures of nomination to the membership of the board of directors in line with applicable laws and regulations as well as this Resolution. (Article 6.1)

A Company shall open nomination to membership of the board of directors by announcement in two daily newspapers, of which at least one newspaper is issued in Arabic and nomination shall be opened for at least one month from the date of announcement. Each shareholder that meets nomination conditions pursuant to the Law and the Company's articles of association may stand for election to the membership of the board of directors by virtue of a request made together with his/her biography and the capacity in which he/she is willing to stand for election. The Company shall, at least two weeks prior to the general assembly meeting, publish in the same two newspapers set under the first clause of such article the names and particulars of nominees to the membership of the board of directors. (Article 12.5)

In case a member's office becomes vacant, the board of directors may appoint a member to fill such vacancy and the matter shall be referred to the first meeting of general assembly for ratification of this appointment or the appointment of a replacement member, unless the articles of association of the Company otherwise provide. In case 25% of membership becomes vacant, the general assembly shall be convened for a meeting within a period not exceeding three months from the date of last vacancy to elect persons to fill such vacancies. (Article 3.5)

IX.B. Majority Voting in Director Elections / Proxy Access / Advance Notice Bylaws

US (NYSE & NACD Report)

UK

France

Germany

OECD Principles/Millstein Report

NYSE

Not covered.

Not covered.

Not covered.

Not covered.

Not covered.

NACD

Not covered.

IX.B. Majority Voting in Director Elections / Proxy Access / Advance Notice Bylaws

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|---|--|----------------------------|--|
| <p>If the management board invokes a response time within the meaning of best practice provision IV.4.4, such period may not exceed 180 days from the moment the management board is informed by one or more shareholders of their intention to put an item on the agenda to the day of the general meeting at which the item is to be dealt with. The management board shall use the response time for further deliberation and constructive consultation. This shall be monitored by the supervisory board. The response time may be invoked only once for any given general meeting and may not apply to an item in respect of which the response time has been previously invoked or meetings where a shareholder holds at least three quarters of the issued capital as a consequence of a successful public bid. (Best Practice Provision II.1.9)</p> <p>A shareholder shall exercise the right of putting an item on the agenda only after he consulted the management board about this. If one or more shareholders intend to request that an item be put on the agenda that may result in a change in the company's strategy, for example through the dismissal of one or more management or supervisory board members, the management board shall be given the opportunity to stipulate a reasonable period in which to respond (the response time). This shall also apply to an intention as referred to above for judicial leave to call a general meeting pursuant to Article 2:110 of the Netherlands Civil Code. The shareholder shall respect the response time stipulated by the management board within the meaning of best practice provision II.1.9. (Best Practice Provision IV.4.4)</p> | <p>The company should provide information on ... any deadlines for submitting proposals to the [nomination] committee. (§ 7)</p> <p>The company should give notice on its web site, in good time, of any deadlines for submitting proposals for candidates for election to the board of directors, nomination committee or, if appropriate, the corporate assembly. (Commentary to § 7)</p> | <p>Requests by shareholders to place items on the agenda and motions made by them should, if received in time, be officially communicated. (Article I.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....The company should give notice of the deadline for shareholders to propose items for the agenda as well as corresponding motions. This date should not be set any further in advance of the meeting's date than necessary.</p> <p>If the Board of Directors sets a deadline prior to the General Meeting in order to identify the persons entitled to exercise shareholders' rights, this deadline, both for holders of registered and of bearer shares, should ordinarily be no more than a few days before the date of the meeting.</p> <p>(Article I.4)</p> | <p><i>Not covered.</i></p> | <p>The Articles of Incorporation/Organization must provide that matters not expressly mentioned in the notice of the meeting may only be voted on in the presence of all the shareholders, including any preferred shareholders with a right to vote on the subject in question. (IBGC Code ¶ 1.4.3)</p> |

IX.B. Majority Voting in Director Elections / Proxy Access / Advance Notice Bylaws

| China | Hong Kong | India | Russia | UAE |
|---------------------|---------------------|---------------------|---|---|
| <i>Not covered.</i> | <i>Not covered.</i> | <i>Not covered.</i> | <p>There should be no unjustified difficulties preventing shareholders from exercising their right to demand that a general meeting be convened, nominate candidates to the company's governing bodies, and to place proposals on its agenda. (Principle 1.1.4)</p> <p>The company is recommended to provide, in its articles of association, for a period during which its shareholders are allowed to propose items to be included in the agenda of its annual general meeting equalling 60 days from the end of a respective calendar year, rather than 30 days as provided for by law. (Recommendation 13)</p> <p>Provided that it has required technical means, the company should seek to put in place a shareholder-friendly procedure for sending to it any requests to convene its general meeting, proposals nominating candidates to its bodies and regarding items proposed to be included in the agenda of the general meeting.... (Recommendation 15)</p> | <p>A Company shall open nomination to membership of the board of directors by announcement in two daily newspapers, of which at least one newspaper is issued in Arabic and nomination shall be opened for at least one month from the date of announcement. Each shareholder that meets nomination conditions pursuant to the Law and the Company's articles of association may stand for election to the membership of the board of directors by virtue of a request made together with his/her biography and the capacity in which he/she is willing to stand for election. The Company shall, at least two weeks prior to the general assembly meeting, publish in the same two newspapers set under the first clause of such article the names and particulars of nominees to the membership of the board of directors. (Article 12.5)</p> |

KEY AGREED PRINCIPLES

X. SHAREHOLDER COMMUNICATIONS

Governance structures and practices should be designed to encourage communication with shareholders.

Shareholders have a legitimate interest in the governance of their companies. The fundamental role of shareholders in corporate governance is to elect directors capable of directing management in the best interests of the company and its shareholders. Receptivity to shareholder communications on topics relevant to board quality and accountability may prove beneficial in helping to improve mutual understanding while avoiding needless confrontation.

The board should carefully consider critical non-binding proxy proposals that attract significant support from shareholders. The board should take special care to ensure that it fully understands the issue and should communicate both with the proponent and the shareholders at large regarding the board's thinking on the matter. Such communication can be had through the proxy statement, annual report, annual meeting, and other meetings and correspondence with the proponent and other shareholders (subject to compliance with Reg FD).

Boards should also consider reaching out and developing stronger relationships with investors through candid and open dialogue. In particular, boards should consider ways to engage large long-term shareholders in dialogue about corporate governance issues and long-term strategy issues, recognizing that the board's fiduciary duties with respect to these issues mandate that the board exercise its own judgment.

Board communications with shareholders on these issues should involve one or more independent members of the board—usually the board chair, the lead director, or the appropriate committee chairs. In most instances, the CEO or other members of management should also participate. The board should establish processes for communications to ensure that any communications with shareholders are authorized by the board.

Executive compensation is an issue of particular concern for many shareholders. The board and the compensation committee should consider ways for shareholders to communicate their views and concerns regarding executive compensation, and should take these views and concerns into account, again recognizing that ultimately the board as fiduciary must make compensation decisions. Some boards may wish to consider seeking advisory shareholder votes on executive compensation, while some boards may explore other means of obtaining shareholder viewpoints.

The board should also consider ways to enhance the communication opportunity provided by the annual meeting, taking into account shareholders' expense and convenience when selecting the time, location, and mode of meetings (i.e. in-person meetings, meetings via electronic communication, or both). All directors should attend the annual meeting, and shareholders should have the opportunity to ask questions, subject to appropriate procedural rules (for example, those designed to ensure that a variety of shareholders can be heard from in the limited time available).

X.A. Board Interaction/Communication with Shareholders, Press, Customers, etc.

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|---|--|---|---|
| <p><u>NYSE</u></p> <p>In order that all interested parties (not just shareholders) may be able to make their concerns known to the non-management or independent directors, a listed company must also disclose a method for such parties to communicate directly with the presiding director or with those directors as a group.... Companies may, if they wish, utilize for this purpose the same [whistleblower] procedures they have established to comply with the requirement of Rule 10A-3 (b)(3) under the Exchange Act regarding complaints to the audit committee, as applied to listed companies through Section 303A.06. (Disclosure Requirement, § 303A.03)</p> <p><u>NACD</u></p> <p><i>Not covered.</i></p> | <p>The chairman should ensure effective communication with shareholders. (Supporting Principle A.3)</p> <p>[On] joining the board . . . directors should avail themselves of opportunities to meet major shareholders. (Code Provision B.4.1)</p> <p>The chairman of the board should ensure that the company maintains contact as required with its principal shareholders about remuneration. (Supporting Principle D.2)</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 E.1)</p> <p>Whilst recognising that most shareholder contact is with the chief executive and finance director, the chairman should ensure that all directors are made aware of their major shareholders' issues and concerns. The board should keep in touch with shareholder opinion in whatever ways are most practical and efficient. (Supporting Principles E.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. Non-executive directors should be offered the opportunity to attend scheduled meetings with major shareholders and should expect to attend meetings 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. (Code Provision E.1.1)</p> <p><i>See also</i> Topic Heading II.B, <i>above</i>.</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 prohibited. (¶ 2.1.2)</p> <p>Any form of communication must allow everyone to access the same information at the same time. (¶ 2.1.3)</p> <p>The Board should ensure that the investors receive relevant information, which is balanced and enlightens them about the strategy, development model and long-term strategies of the corporation. (¶ 2.1.4)</p> <p><i>See</i> Topic Heading II.B, <i>above</i>.</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. (§ 6.1)</p> <p>Any information which the company discloses abroad, in line with corresponding capital market law provisions, shall also be disclosed domestically without delay. (§ 6.2)</p> <p><i>See</i> Topic Heading II.B, <i>above</i>.</p> | <p>The exercise of ownership rights by all shareholders, including institutional investors, should be facilitated. (Principle II.F)</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>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> |

X.A. Board Interaction/Communication with Shareholders, Press, Customers, etc.

| Netherlands | Norway | Switzerland | Australia | Brazil |
|--|---|--|---|---|
| <p>Both shareholders and the management and supervisory boards should be prepared to enter into a dialogue on the reasons for any departures [from the provisions of the Code]. (Preamble ¶ 4)</p> <p>The chairman of the supervisory board shall ... act on behalf of the supervisory board as the main contact for the management board and for shareholders regarding the functioning of the management and supervisory board members. (Principle III.4)</p> <p>The contacts between the management board on the one hand and press and analysts on the other shall be carefully handled and structured, and the company may not engage in any acts that compromise the independence of analysts in relation to the company and vice versa. (Principle IV.3)</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>Analysts meetings, presentations to institutional or other investors and direct discussions with the investors may not take place shortly before the publication of the regular financial information (quarterly, half-yearly or annual reports). (Best Practice Provision IV.3.4)</p> <p>The company shall formulate an outline policy on bilateral contacts with the shareholders and publish this policy on its website. (Best Practice Provision IV.3.13)</p> | <p>The board of directors should establish guidelines for the company's contact with shareholders other than through general meetings. (§ 13)</p> <p>The board of directors should have a policy on who is entitled to speak on behalf of the company on various subjects. The company should have a contingency plan for information management in response to events of a particular character or of interest to the media....</p> <p>In addition to the dialogue with the company's owners in the form of general meetings, the board of directors should make suitable arrangements for shareholders to communicate with the company at other times. This will increase the board's understanding of which matters affecting the company from time to time are of particular concern to shareholders. The guidelines should make clear to what extent the board has delegated this task to the chairman of the board, the chief executive or any other of the executive personnel. (Commentary to § 13)</p> | <p>The Board of Directors should . . . take steps to contact shareholders in between the General Shareholders' Meetings.</p> <p>The Board of Directors should inform shareholders on the progress of the company also during the course of the financial year.</p> <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.</p> <p>(Article I.8)</p> | <p>A listed entity should respect the rights of its security holders by providing them with appropriate information and facilities to allow them to exercise those rights effectively. (Principle 6)</p> <p>[S]ecurity holders should be able to hold the board and, through the board, management to account for the entity's performance. For this to occur, a listed entity needs to engage with its security holders and provide them with appropriate information and facilities to allow them to exercise their rights as security holders effectively. This includes... communicating openly and honestly with them...(Commentary to Principle 6)</p> <p>A listed entity should design and implement an investor relations program to facilitate effective two-way communication with investors. (Recommendation 6.2)</p> <p>A listed entity's investor relations program should be tailored to the individual circumstances of the entity. For smaller entities, it may involve little more than actively engaging with security holders at the AGM, meeting with them upon request and responding to any enquiries they may make from time to time. For larger entities, it is likely to involve a detailed program of scheduled and ad hoc interactions with institutional investors, private investors, sell-side and buy-side analysts and the financial media. (Commentary to Recommendation 6.2)</p> <p>A listed entity should give security holders the option to receive communications from, and send communications to, the entity and its security registry electronically. (Recommendation 6.4)</p> | <p>The Board of Directors shall adopt a spokesperson policy, to eliminate the risk of contradictions between the statements made by the various areas and the organization's executives. The investor relations officer has vested powers of a spokesperson for the company. (IBGC Code ¶ 2.3.3)</p> <p>Owners should always be able to request information from Management and receive it in time. Questions should be asked in writing and addressed to the chief executive officer or the investor relations officer. The organization must provide answers to the most frequently asked questions received from its shareholders, investors and the market in general, making them public, in the case of publicly-traded organizations, or sending them to all partners, when privately-held. (IBGC Code ¶ 1.4.5)</p> <p>The Board is the link between the shareholders and the rest of the organization, and must oversee the organization's relationship with its other stakeholders. In this context, the Chairman should establish a dedicated channel of contact with the shareholders, not restricted to General Meeting or Partner Meeting situations. The Board must account for its activities to the shareholders, to allow them a full understanding and assessment of the Board's actions. The main vehicles in this communication are the Annual Report, the organization's website, the Proxy Statement, and the General Meeting. A direct contact between Directors and shareholders is also allowed, and even desirable, provided secrecy and fairness rules in treating information are observed. (IBGC Code ¶ 2.34.1)</p> <p><i>See Topic Heading II.B, above.</i></p> |

X.A. Board Interaction/Communication with Shareholders, Press, Customers, etc.

| China | Hong Kong | India | Russia | UAE |
|--|--|---|---|--|
| <p><i>Not covered directly, but see</i> (Ch. 1, (1) 3) (A listed company shall establish efficient channels of communication with its shareholders.)</p> | <p>The chairman should ensure that appropriate steps are taken to provide effective communication with shareholders and that their views are communicated to the board as a whole. (CP A.2.8)</p> <p>The board should be responsible for maintaining an on-going dialogue with shareholders and in particular, use annual general meetings or other general meetings to communicate with them and encourage their participation. (Principle E.1)</p> <p>The board should establish a shareholders' communication policy and review it on a regular basis to ensure its effectiveness. (CP E.1.4)</p> <p><i>See</i> Para. O ([Companies must disclose] the procedures by which enquiries may be put to the board and sufficient contact details to enable these enquiries to be properly directed).</p> | <p>The company should provide adequate and timely information to shareholders. (§ 49.I.A)</p> <p>The board should fulfill certain key functions, including... Overseeing the process of disclosure and communications. (§ 49.I.D.2.h)</p> <p><i>See</i> § 49.VIII.E.4 (A committee under the Chairmanship of a non-executive director and such other members as may be decided by the Board of the company shall be formed to specifically look into the redressal of grievances of shareholders, debenture holders and other security holders. This Committee shall be designated as 'Stakeholders Relationship Committee' and shall consider and resolve the grievances of the security holders of the company including complaints related to transfer of shares, non-receipt of balance sheet, non-receipt of declared dividends.).</p> | <p>The chairman of the board of directors must be available to communicate with the company's shareholders. (Principle 2.2.2)</p> <p>The company should develop and implement an information policy enabling the company to efficiently exchange information with its shareholders, investors, and other stakeholders. (Principle 6.1.1)</p> <p>Shareholders must be given the opportunity to pose questions to the chairman of the board of directors relating to any matters falling within the jurisdiction of the board, as well as to communicate their opinion (position) on such matters via . . . the company's website, the corporate secretary, the office of the board chairman or using any other available and user-friendly means. (Recommendation 90)</p> <p>The company's shareholders should be able to communicate with the senior independent director (along with the chairman of the board of directors) via . . . the company's website, the corporate secretary, the office of the board chairman or using any other available and user-friendly means. (Recommendation 119)</p> | <p>A Company's articles of association and internal regulations shall include necessary procedures and rules to ensure the exercise by all shareholders of all their regulatory rights including: provision of all information that enables shareholders to exercise their rights duly and indiscriminately, including their awareness of the rules that govern general assembly meetings and voting procedures. Such information shall be complete and accurate and shall be provided and updated regularly on a timely basis, including any information with regard to the Company's plans before voting in meetings or any other information.... (Article 12.2)</p> <p><i>See</i> Topic Heading II.B, <i>above</i>.</p> |

X.B. Shareholder Meetings

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|--|--|---|---|--|
| <p><u>NYSE</u> Listed companies are required to hold an annual shareholders' meeting during each fiscal year. (§ 302.00)</p> <p><i>See generally</i> Section 4 (Shareholder's Meetings and Proxies)</p> <p><u>NACD</u> <i>Not covered.</i></p> | <p>Shareholders should be invited . . . to approve all new long-term incentive schemes . . . and significant changes to existing schemes (Code Provision D.2.4)</p> <p>The board should use the AGM to communicate with investors and to encourage their participation. (Main Principle E.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. (Code Provision E.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. (Code Provision E.2.4)</p> <p><i>See also</i> Topic X.C, <i>below</i>.</p> | <p>[The Board] it calls the meeting and sets its agenda. . . (¶ 5.1)</p> <p>The shareholders' meeting is a decision-making body for the areas stipulated by law; it is also a privileged moment for the company to engage a dialogue with its shareholders. Its sessions must be not only the occasion when the managing bodies report on the corporation's business and on the operation of the Board of Directors and the specialised committees (audit, compensation, etc.), but also an opportunity for a genuine and open dialogue with the shareholders. The Board of Directors must take care not to infringe upon the specific powers of the shareholders' meeting if the transaction that it proposes is such as to modify, in fact or in law, the corporate purpose of the company, which is the very basis of the contract founding the corporation. Even when no change in the corporate purpose of the company is involved, the Board of Directors must refer the matter to the meeting of shareholders if the transaction relates to a material part of the group's assets or businesses. (¶ 5.2)</p> <p>[D]irectors should attend the meetings of shareholders. (¶ 20)</p> | <p>To the extent provided for in the Articles of Association the shareholders exercise their rights before or during at the General Meeting and, in this respect, vote. (§ 2.1.1)</p> <p>The Management Board submits to the General Meeting the Annual Financial Statements, the Management Report, the Consolidated Financial Statements and the Group Management Report. 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 and, as a rule, elects the shareholders' representatives to the Supervisory Board and 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 convening of the meeting, as well as the reports and documents, including the Annual Report and the Postal Vote Forms, required by law for the General Meeting are to be published 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., Internet). (§ 2.3.3)</p> <p><i>See generally</i> § 2 (Shareholders and the General Meeting).</p> <p><i>See also</i> Topic Heading X.D, <i>below</i>.</p> | <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 Shareholders should be able to vote in person or in absentia <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> |

X.B. Shareholder Meetings

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|--|--|---|--|
| <p>The management board and the supervisory board are responsible for the corporate governance structure of the company and for compliance with this code. They are accountable for this to the general meeting . . . (Principle I)</p> <p>Each substantial change in the corporate governance structure of the company and in the compliance of the company with this code shall be submitted to the general meeting for discussion under a separate agenda item. (Best Practice Provision I.2)</p> <p>The chairman of the supervisory board shall ensure . . . the orderly and efficient conduct of the general meeting. (Principle III.4)</p> <p>Good corporate governance requires the fully-fledged participation of shareholders in the decision-making in the general meeting. It is in the interest of the company that as many shareholders as possible take part in the decision-making in the general meeting. The company shall, in so far as possible, give shareholders the opportunity to vote by proxy and to communicate with all other shareholders.</p> <p>The general meeting 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 fully-fledged role in the system of checks and balances in the company.</p> <p>Management board resolutions 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.</p> <p>(Principle IV.1)</p> <p>The management board and the supervisory board shall provide the general meeting in good time with all information that it requires for the exercise of its powers. (Principle IV.3)</p> <p><i>See generally</i> Principle IV.3 and Best Practice Provisions IV.3.1-IV.3.13 (Provision of information to and logistics of the general meeting).</p> | <p>The board of directors should take steps to ensure that as many shareholders as possible may exercise their rights by participating in general meetings of the company, and that general meetings are an effective forum for the views of shareholders and the board.</p> <p>Such steps should include:</p> <ul style="list-style-type: none"> • making the notice calling the meeting and the support information on the resolutions to be considered at the general meeting, including the recommendations of the nomination committee, available on the company’s website no later than 21 days prior to the date of the general meeting • ensuring that the resolutions and supporting information distributed are sufficiently detailed and comprehensive to allow shareholders to form a view on all matters to be considered at the meeting • setting any deadline for shareholders to give notice of their intention to attend the meeting as close to the date of the meeting as possible • the board of directors and the person chairing the meeting making appropriate arrangements for the general meeting to vote separately on each candidate nominated for election to the company’s corporate bodies • ensuring that the members of the board of directors and the nomination committee and the auditor are present at the general meeting • making arrangements to ensure an independent chairman for the general meeting <p>(§ 6)</p> <p>The general meeting is the main meeting place for shareholders and the officers they elect, and it is therefore appropriate that all members of the board should attend general meetings. Similarly, the auditor should be present. General meetings should be organised in such a way as to facilitate dialogue between shareholders and the officers of the company. (Commentary to § 6)</p> <p><i>See</i> Commentary to § 6.</p> | <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. (Article I.1)</p> <p>The company should endeavour to facilitate the exercise of shareholders’ statutory rights.</p> <p>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. . . . (Article I.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. . . . The company should, when convening meetings, provide concise explanations on agenda items and on motions put forward by the Board of Directors. (Article I.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. (Article I.4)</p> <p>The organization of the meeting should enable shareholders to make relevant and concise comments on the agenda items. (Article I.5)</p> <p>Arrangements should be made to ensure that shareholders’ rights to information and inspection are met. (Article I.6)</p> <p>In the General Shareholders’ Meeting the will of the majority should be clearly and fairly expressed. (Article I.7)</p> | <p>A listed entity should disclose the policies and processes it has in place to facilitate and encourage participation at meetings of security holders. (Recommendation 6.3)</p> <p>Meetings of security holders are an important forum for two-way communication between a listed entity and its security holders. They provide an opportunity for a listed entity to impart to security holders a greater understanding of its business, governance, financial performance and prospects, as well as to discuss areas of concern or interest to the board and management. They also provide an opportunity for security holders to express their views to the entity’s board and management about any areas of concern or interest for them.</p> <p>Listed entities with larger numbers of security holders on their register or which have meetings at remote locations should consider how technology can be used to facilitate the participation of security holders in meetings . . .</p> <p>This may include for example:</p> <ul style="list-style-type: none"> • live webcasting of meetings so that security holders can view and/or hear proceedings online; • holding meetings across multiple venues linked by live telecommunications; and • providing a direct voting facility to allow security holders to vote ahead of the meeting without having to attend or appoint a proxy. <p>All listed entities that have an [annual general meeting] should afford security holders who are not able to attend the meeting and exercise their right to ask questions about, or make comments on, the management of the entity, the opportunity to provide questions or comments ahead of the meeting. Where appropriate, these questions should be answered at the meeting, either by being read out and then responded to at the meeting or by providing a transcript of the question and a written answer at the meeting.</p> <p>(Commentary to Recommendation 6.3)</p> | <p>The General Meeting / Shareholders’ Meeting is the sovereign body of the organization. (IBGC Code ¶ 1.4)</p> <p>The General Assembly’s main powers include:</p> <ul style="list-style-type: none"> • Increasing or reducing stock capital and amending the Articles of Incorporation/ Articles of Organization (bylaws); • Electing and removing members of the Board of Directors or Fiscal Council, at any time; • Reviewing the administrators’ accounts and discussing the financial statements, on an annual basis; • Deciding on the change, consolidation, merger, split-off, dissolution, or liquidation of the company; • Decide on the evaluation of assets that become part of the paid-up capital; and • Approve the administrators’ compensation. <p>(IBGC Code ¶ 1.4.1)</p> <p>The call notice should be sent at least 30 days in advance. . . . It is good practice to use instruments facilitating the access of shareholders to the General Meeting, such as webcasting, online broadcasting, electronic voting, and proxy voting, among other methods. (IBGC Code ¶ 1.4.2)</p> <p>The General Meeting’s agenda and relevant documentation should be available with the greatest detail possible, at the time of first call, so that shareholders can position themselves as to the matters on which they will vote. (IBGC Code ¶ 1.4.3)</p> <p>Voting rules must be clear, objective and well-defined to simplify the voting process, even in the case of proxy voting, or voting by other channels, in addition to being available since the call for the meeting is published. (IBGC Code ¶ 1.4.6)</p> <p><i>See</i> IBGC Code ¶ 1.4, General Meeting / Shareholders’ Meeting</p> |

X.B. Shareholder Meetings

China

A listed company shall set out convening and voting procedures for shareholders' meetings in its articles of association, including rules governing such matters as notification, registration, review of proposals, voting, counting of votes, announcement of voting results, formulation of resolutions, recording of minutes and signatories, public announcement, etc. (Ch. 1, (2) 5)

The board of directors shall earnestly study and 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) 65)

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)

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)

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)

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)

Hong Kong

The chairman of the board should attend the annual general meeting. He should also invite the chairmen of the audit, remuneration, nomination and any other committees (as appropriate) to attend. In their absence, he should invite another member of the committee or failing this his duly appointed delegate, to attend. These persons should be available to answer questions at the annual general meeting. The chairman of the independent board committee (if any) should also be available to answer questions at any general meeting to approve a connected transaction or any other transaction that requires independent shareholders' approval. An issuer's management should ensure the external auditor attend the annual general meeting to answer questions about the conduct of the audit, the preparation and content of the auditors' report, the accounting policies and auditor independence. (CP E.1.2)

The issuer should arrange for the notice to shareholders to be sent for annual general meetings at least 20 clear business days before the meeting and to be sent at least 10 clear business days for all other general meetings. (CP E.1.3)

India

Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings. Shareholders should be informed of the rules, including voting procedures that govern general shareholder meetings. Shareholders should have the opportunity to ask questions to the board, to place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations. (§ 49.I.A.1)

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 discussed at the meeting.

(§ 49.I.A.2.a)

Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. (§ 49.I.A.3.e)

Russia

The company should create most favourable conditions for its shareholders enabling them to participate in the general meeting and develop informed positions on issues on its agenda, as well as provide them with the opportunity to coordinate their actions and express their opinions on issues being discussed. (Principle 1.1.1)

Procedures for notification of the general meeting and provision of materials for it should enable the shareholders to get properly prepared for participation therein. (Principle 1.1.2)

During the preparation for and holding of the general meeting, the shareholders should be able to freely and timely receive information about the meeting and its materials, to pose questions to members of the company's executive bodies and board of directors, and to communicate with each other. (Principle 1.1.3)

Each shareholder should be able to freely exercise his right to vote in a straightforward and most convenient way. (Principle 1.1.5)

Procedures for holding a general meeting set by the company should provide equal opportunity to all persons present at the general meeting to express their opinions and ask questions that might be of interest to them. (Principle 1.1.6)

As a general rule, notice of the general meeting shall be made, and its materials shall be provided, no later than 20 days before the scheduled date of the meeting. ...[T]he company should inform about such meeting and make related materials available no less than 30 days before the date of the meeting, unless the law provides for a longer period of time. (Recommendation 2)

See generally Recommendations 1 – 29.

UAE

A Company's articles of association and internal regulations shall include necessary procedures and rules to ensure the exercise by all shareholders of all their regulatory rights including...providing an opportunity to all shareholders to take an effective part in the deliberations of the general assembly meetings and voting of resolutions. Shareholders shall have the right to discuss and raise questions over agenda issues to the board members and the external auditor and the board of directors and external auditor shall answer such questions to the extent that the interests of the Company are not compromised.... (Article 12.2)

X.C. Proxy Proposals

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|---|---------------------|---------------------|--|
| <p><u>NYSE</u> See generally Section 4 (Shareholder's Meetings and Proxies)</p> <p><u>NACD</u> Not covered.</p> | <p>At any general meeting, the company should propose a separate resolution on each substantially separate issue, and should, in particular, propose a resolution at the AGM relating to the report and accounts. For each resolution, proxy appointment forms should provide shareholders with the option to direct their proxy to vote either for or against the resolution or to withhold their vote. The proxy form and any announcement of the results of a vote should make it clear that a 'vote withheld' is not a vote in law and will not be counted in the calculation of the proportion of the votes for and against the resolution. (Code Provision E.2.1)</p> | <p>Not covered.</p> | <p>Not covered.</p> | <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"> 2. Shareholders should have the opportunity to ask questions . . . to place items on the agenda . . . and to propose resolutions 3. 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. (Principle II.C) |

X.C. Proxy Proposals

| Netherlands | Norway | Switzerland | Australia | Brazil |
|---|----------------------------|--|----------------------------|--|
| <p>A shareholder shall exercise the right of putting an item on the agenda only after he consulted the management board about this. If one or more shareholders intend to request that an item be put on the agenda that may result in a change in the company's strategy, for example through the dismissal of one or more management or supervisory board members, the management board shall be given the opportunity to stipulate a reasonable period in which to respond (the response time). This shall also apply to an intention as referred to above for judicial leave to call a general meeting pursuant to Article 2:110 of the Netherlands Civil Code. The shareholder shall respect the response time stipulated by the management board within the meaning of best practice provision II.1.9. (Best Practice Provision IV.4.4)</p> <p>If a shareholder has arranged for an item to be put on the agenda, he shall explain this at the meeting and, if necessary, answer questions about it. (Best Practice Provision IV.4.6)</p> | <p><i>Not covered.</i></p> | <p>Requests by shareholders to place items on the agenda and motions made by them should, if received in time, be officially communicated. (Article I.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....The company should give notice of the deadline for shareholders to propose items for the agenda as well as corresponding motions. This date should not be set any further in advance of the meeting's date than necessary....(Article I.4)</p> | <p><i>Not covered.</i></p> | <p>Mechanisms should be established to allow the organization to receive, prior to the call notice of the General Meeting, proposals that the shareholders are interested in including the agenda, so that there is sufficient time for their discussion and possible inclusion. (IBGC Code ¶ 1.4.4)</p> |

X.C. Proxy Proposals

| China | Hong Kong | India | Russia | UAE |
|----------------------------|--|---|--|----------------------------|
| <p><i>Not covered.</i></p> | <p><i>Not covered directly, but see</i> Para. O ([Companies must disclose] the procedures and sufficient contact details for putting forward proposals at shareholders' meetings.)</p> | <p>Shareholders should have the opportunity to ... place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations. (§ 49.I.A.1.d)</p> | <p>There should be no unjustified difficulties preventing shareholders from exercising their right to demand that a general meeting be convened, nominate candidates to the company's governing bodies, and to place proposals on its agenda. (Principle 1.1.4)</p> <p>If there are typos and other insignificant flaws in shareholder proposals, it is not recommended that the company refuse to include these proposals on the agenda or refuse the proposed candidate to the list of nominees for election as long as the contents of the proposal as a whole are sufficient to determine the will of the shareholder and to confirm his right to submit the proposal. If there are significant flaws, the company is recommended to report them in a timely manner to the shareholder so that it is possible to correct them before the board approves the agenda and the list of candidates to respective bodies of the company. (Recommendation 14)</p> <p>Provided that it has required technical means, the company should seek to put in place a shareholder-friendly procedure for sending to it any ... proposals nominating candidates to its bodies and regarding items proposed to be included in the agenda of the general meeting.... (Recommendation 15)</p> | <p><i>Not covered.</i></p> |

X.D. Shareholder Voting Powers & Practices (Confidential Voting, Broker Non-Votes, One Share/One Vote)

| US (NYSE & NACD Report) | UK | France | Germany | OECD Principles/Millstein Report |
|---|--|----------------------------|--|--|
| <p><u>NYSE</u></p> <p>Voting rights of existing shareholders of publicly traded common stock registered under Section 12 of the Exchange Act cannot be disparately reduced or restricted through any corporate action or issuance. . . The Exchange's voting rights policy permits the listing of the voting common stock of a company which also has outstanding a non-voting common stock as well as the listing of non-voting common stock. However, certain safeguards must be provided to holders of a listed non-voting common stock... (§ 313.00)</p> <p>Actively operating companies are required to solicit proxies for all meetings of shareholders. The purpose and intent is to afford shareholders a convenient method of voting, with adequate disclosure, on matters which may be presented at shareholders' meetings. Exception may be made where applicable law precludes or makes virtually impossible the solicitation of proxies in the United States. Proxy materials shall be in such format and shall be distributed by such means as are permitted or required by applicable law and regulation (including any interpretations thereof by the SEC). (§ 402.04)</p> <p>Rules 450 through 455 are designed to facilitate solicitation of proxies in respect to shares held in names of brokers or their nominees, while safeguarding the rights of beneficial owners. The rules' purpose is to aid companies in meeting quorum requirements and in obtaining a representative vote of shareholders, thereby enabling them to maintain quorum requirements sufficiently high to insure such representative vote. (§ 402.06)</p> <p>[A broker] may not give or authorize a proxy to vote without instructions from beneficial owners when the matter to be voted upon [is contested, relates to certain significant corporate transactions, amends certain shareholder rights, relates to equity compensation, is the election of directors or relates to certain corporate governance-related issues]. (§ 402.08)</p> <p><i>See generally</i> Section 4 (Shareholder's Meetings and Proxies)</p> <p><u>NACD</u></p> <p><i>Not covered.</i></p> | <p>For each resolution, proxy appointment forms should provide shareholders with the option to direct their proxy to vote either for or against the resolution or to withhold their vote. The proxy form and any announcement of the results of a vote should make it clear that a 'vote withheld' is not a vote in law and will not be counted in the calculation of the proportion of the votes for and against the resolution. (Code Provision E.2.1).</p> <p>The company should ensure that all valid proxy appointments received for general meetings are properly recorded and counted. For each resolution, where a vote has been taken on a show of hands, the company should ensure that the following information is given at the meeting and made available as soon as reasonably practicable on a website which is maintained by or on behalf of the company:</p> <ul style="list-style-type: none"> • the number of shares in respect of which proxy appointments have been validly made; • the number of votes for the resolution; • the number of votes against the resolution; and • the number of shares in respect of which the vote was directed to be withheld. (Code Provision E.2.2) <p><i>See also</i> Topic Headings X.B and X.C, above.</p> | <p><i>Not covered.</i></p> | <p>To the extent provided for in the Articles of Association the shareholders exercise their rights before or during at the General Meeting and, in this respect, vote. (§ 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 and the use of proxies. The Management Board shall arrange for the appointment of a representative to exercise shareholders' voting rights in accordance with instructions; this representative should also be reachable during the General Meeting. (§ 2.3.2)</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 General Meeting. Proposed candidates for the Supervisory Board chair shall be announced to the shareholders. (§ 5.4.3)</p> <p><i>See</i> Topic Heading VIII.D, above.</p> | <p>The corporate governance framework should protect and facilitate the exercise of shareholders' rights.</p> <p>A. Basic shareholder rights . . . include . . . :</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 board members; 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 . . . (Principle II)</p> <p>The corporate governance framework should ensure the equitable treatment of all shareholders.... All shareholders should have the opportunity to obtain effective redress for violation of their rights. (Principle III)</p> <ol style="list-style-type: none"> 1. All shareholders of the same series of a class should be treated equally. 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 in a manner agreed upon with the beneficial owner of the shares. 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. (Principle III.A) <p><i>See generally</i> II (The Rights of Shareholders and Key Ownership Functions), III (The Equitable Treatment of Shareholders), and Annotations on II, III.</p> |

X.D. Shareholder Voting Powers & Practices (Confidential Voting, Broker Non-Votes, One Share/One Vote)

| Netherlands | Norway | Switzerland | Australia | Brazil |
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| <p>The company shall, in so far as possible, give shareholders the opportunity to vote by proxy. . . . (Principle IV.1)</p> <p>Depository receipts for shares are a means of preventing a (chance) majority of shareholders from controlling the decision-making process as a result of absenteeism at a general meeting. . . . 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. (Principle IV.2)</p> <p>The voting right attaching to financing preference shares shall be based on the fair value of the capital contribution. This shall in any event apply to the issue of financing preference shares. (Best Practice Provision IV.1.2)</p> <p>The company shall give shareholders and other persons entitled to vote the possibility of issuing voting proxies or voting instructions, respectively, to an independent third party prior to the general meeting. (Best Practice Provision IV.3.12)</p> <p><i>See also</i> Best Practice Provision IV.2.8 (The trust office shall . . . issue proxies to depository receipt holders who so request. Each depository 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.).</p> <p><i>See also</i> Best Practice Provisions IV.2.6 – IV.2.7 (<i>trust office’s disclosure of its voting practices</i>).</p> <p><i>See also</i> Best Practice Provisions IV.4.1–IV.4.3 (<i>institutional investors’ disclosure of their voting practices</i>).</p> | <p>The company should only have one class of shares. (§ 4)</p> <p>Shareholders who cannot attend the meeting in person should be given the opportunity to vote. The company should:</p> <ul style="list-style-type: none"> • provide information on the procedure for representation at the meeting through a proxy, • nominate a person who will be available to vote on behalf of shareholders as their proxy[.] • to the extent possible prepare a form for the appointment of a proxy, which allows separate voting instructions to be given for each matter to be considered by the meeting and for each of the candidates nominated for election. <p>(§ 6)</p> | <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 SWX Swiss Exchange, however, each restriction on the proportional capital voting rights is subject to disclosure. (Preamble 2.1.5)</p> <p>Institutional investors, nominees and other intermediaries exercising shareholders’ rights in their own name 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>Where registered shares are acquired through custodian banks, the latter should invite the party acquiring the shares to apply for registration in the company’s Register of Shareholders. (Article I.1)</p> <p>In the General Shareholders’ Meeting the will of the majority should be clearly and fairly expressed.</p> <p>The Chairman should implement the voting procedures in such a way that the majority will can be determined in as an unambiguous and efficient a way as possible.</p> <p>In the absence of a clear majority, the Chairman should arrange for voting to take place by written or electronic ballot. If voting takes place by a show of hands, shareholders may request votes against the motion and any abstentions to be recorded. The number of such votes cast should be communicated to the meeting.</p> <p>The Chairman may arrange for a combined poll to be taken when electing members of corporate bodies or granting release to them, provided no opposition from the shareholders is apparent and there is not a request for a separate vote on one or more individuals. (Article I.7)</p> | <p>Listed entities with larger numbers of security holders on their register or which have meetings at remote locations should consider how technology can be used to facilitate the participation of security holders in meetings.</p> <p>This may include for example . . . providing a direct voting facility to allow security holders to vote ahead of the meeting without having to attend or appoint a proxy. (Commentary to Recommendation 6.3)</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 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 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>Each shareholder is an owner of the organization, and their ownership is commensurate with their holdings in the capital stock. (IBGC Code ¶ 1.1)</p> <p>[E]ach share or unit must ensure the right to one vote. This principle must apply to all kinds of organization. . . . Exceptions to the rule “one share = one vote” should be avoided. (IBGC Code ¶ 1.2)</p> <p>If, for whatever reason, a shareholder has a personal or conflicting interest with the organization’s interest with regard to a specific decision, they must immediately communicate the fact and refrain from taking part in the discussion or voting on the item, even if on behalf of a third party. (IBGC Code ¶ 1.4.7)</p> |

X.D. Shareholder Voting Powers & Practices (Confidential Voting, Broker Non-Votes, One Share/One Vote)

| China | Hong Kong | India | Russia | UAE |
|--|---|---|--|---|
| <p>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>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 issuer should ensure that shareholders are familiar with the detailed procedures for conducting a poll. (Principle E.2)</p> <p>The chairman of a meeting should ensure that an explanation is provided of the detailed procedures for conducting a poll and answer any questions from shareholders on voting by poll. (CP E.2.1)</p> | <p>Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings.</p> <p>Shareholders should be informed of the rules, including voting procedures that govern general shareholder meetings.</p> <p>(§ 49.I.A.1)</p> <p>The company should ensure equitable treatment of all shareholders, including minority and foreign shareholders. (§ 49.I.A.3)</p> <p>Exercise of voting rights by foreign shareholders should be facilitated. (§ 49.I.A.3.c)</p> <p>Company procedures should not make it unduly difficult or expensive to cast votes. (§ 49.I.A.3.f)</p> | <p>The system and practices of corporate governance should ensure equal terms and conditions for all shareholders owning shares of the same class (category) in a company, including minority and foreign shareholders as well as their equal treatment by the company. (Principle 1.3)</p> <p>[Shareholders should be given] [t]he opportunity to discuss and negotiate possible voting options and to appoint a representative to attend the general meeting. (Recommendation 12)</p> <p>A company which has fewer than 1,000 shareholders owning voting shares therein is recommended, with a view to creating most favourable conditions for participation of its shareholders in its general meetings, to include in its article of association a provision whereby voting ballots must be sent to the shareholders and the shareholders shall have the right to participate in a general meeting by filling out and sending such voting ballots to the company. (Recommendation 16)</p> <p><i>See Recommendation 353 (When considering a placement of a new type of preferred shares, the board of directors should carefully review the advisability of the creation of the new type of shares based on the assumption that a simple equity structure, in particular, consisting solely of ordinary shares, is better for investors in the long term as it is most conducive to the implementation of the principle of "one share - one vote", as well as to the protection of the property rights of the shareholders.).</i></p> | <p>Members of the board of directors may not get proxies from shareholders to attend on their behalf in the general assembly meetings. (Article 12.4)</p> |

Weil's Public Company Advisory Group advises public companies and their stakeholders on the complex disclosure, compliance and governance issues they face in the post-Dodd-Frank/SOX environment.

If you have any questions on the matters in this publication, please do not hesitate to speak to your regular contact at Weil, Gotshal & Manges LLP or to any member of the Public Company Advisory Group:

| | | |
|--------------------|-----------------|--|
| Howard B. Dicker | +1 212 310 8858 | howard.dicker@weil.com |
| Catherine T. Dixon | +1 202 682 7147 | cathy.dixon@weil.com |
| P.J. Himelfarb | +1 214 746 7811 | pj.himelfarb@weil.com |
| Ellen J. Odoner | +1 212 310 8428 | ellen.odoner@weil.com |
| Lyuba Goltser | +1 212 310 8048 | lyuba.goltser@weil.com |
| Rebecca C. Grapsas | +1 212 310 8668 | rebecca.grapsas@weil.com |
| Adé K. Heyliger | +1 202 682 7095 | ade.heylinger@weil.com |
| Joanna Jia | +1 212 310 8089 | joanna.jia@weil.com |
| Reid Powell | +1 212 310 8831 | reid.powell@weil.com |

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