CORPORATE GOVERNANCE CODE

BASED ON THE OECD PRINCIPLES

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FMA **INEKO**

PREPARED WITH THE ASSISTANCE OF
THE BRITISH-SLOVAK ACTION PLAN & DFID
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INTRODUCTION:

The Code has been designed to set out the best practice for companies in the Slovak Republic. Focus is placed on openness, integrity and accountability as these elements are essential to encourage investor confidence. Therefore, the emphasis is on encouraging companies to sign up to the Code, adopt some of the provisions now and to explain to shareholders in the annual report why they are not adopting other provisions together with a date when they anticipate being able to do so. It is hoped that companies will be able to progressively implement those provisions of the Code which they are not able to implement immediately leading to full compliance within the next few years.

All statements by the companies regarding the Code should be the subject of independent verification and thus companies are encouraged to instruct their auditors to undertake this verification exercise as part of the annual audit.

The Code is intended to exist alongside the proposed amendments to the Commercial Code, in some cases explaining the reasons for the amendments and the expected means of implementation; in others establishing best practice.

It has been suggested that the only way to improve practices in this area is by legislative changes. However, it is thought that at this stage it would be too onerous to incorporate all the provisions into legislation as then they could apply to all publicly traded companies, large and small, and this could prove costly at a difficult time for companies in the Slovak Republic. This does not preclude some of the provisions of the Code from incorporation in subsequent legislative amendments.

The Financial Market Authority (FMA) together with INEKO, the Association of Banks, the Association of Securities Dealers, the Association of Asset-Management Companies, the Association of Insurance Companies and the Bratislava Stock Exchange (BSSE) have reached agreement that the most suitable way how to introduce the Code into practice is to add to the Rules for Securities Admission to the BSSE Listed Market a requirement for companies to make a statement on their compliance with the Code in their annual reports.

It is hoped that all institutional investors and lenders can be encouraged to sign up to the Code themselves and to actively encourage those companies in which they invest, insure or to which they lend, to also sign up to the Code and to progressively implement its provisions.

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BACKGROUND:

The Code is based on the below-mentioned five principles of corporate governance, which the OECD adopted in April 1999:

- **accountability of administrative bodies**
- **basic rights of shareholders**
- **equal treatment of shareholders**
- **information disclosure and transparency**
- **role of stakeholders in the management of the company**

Reference has also been made to other materials including the Combined Code of the London Stock Exchange. The Code is intended as a set of standards of best practice to be adopted and implemented in the Slovak Republic without recourse to the introduction of legislation. This is the approach adopted in other countries, most notably in the United Kingdom which is seen by many as the standard bearer of good corporate governance practices in Europe. The principles on which the code is based are those of openness, integrity and accountability. Openness on the part of companies, within the limits set by their competitive position, is the basis for the confidence which is essential between business and those who have a stake in its success, such as shareholders, employees, creditors, suppliers and the community at large.

An open approach to disclosure of information contributes to the efficient working of the market economy, encourages boards to take effective action and allows shareholders and others, particularly potential investors and bankers, to scrutinise companies more thoroughly, which is of essential importance to the companies that seek to raise financing through the capital markets.

Integrity means straightforward dealing and requires that all financial reports should be honest and present a fair and balanced view of the company. The acceptance of these concepts will do much to remove some of the more unethical behaviour and practices currently prevalent in various parts of the Slovak business world and will do much to restore an environment conducive to both strategic and portfolio investment.

The concept of accountability is essential and requires the executive and supervisory boards to accept responsibility for their decisions and to explain them to the shareholders and stakeholders.

The OECD Principles were intended to assist governments in their efforts to evaluate and improve the legal, institutional and regulatory framework for corporate governance in their countries. They also were intended to provide guidance and suggestions for stock exchanges, investors, companies, and other parties that have a role in the process of developing good corporate governance. They primarily focus on publicly traded companies but might also be considered a useful tool to improve corporate governance in non-traded companies i.e. privately held and those enterprises still in state ownership.

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Good corporate governance is particularly important in the Slovak Republic and other transition countries where there was no long-term and continuous experience of non-state ownership of companies and the attendant corporate practices. It provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.

Additionally, it should provide proper incentives for the boards to pursue objectives that are in the interests of the company and shareholders and should facilitate effective monitoring, thereby encouraging firms to use resources more efficiently.

There are tangible benefits to those companies who observe good corporate governance practices. It is easier for them to borrow money and to attract, and maintain, suitable investors and the cost of such is reduced. If a strategic investor has confidence that it will be treated fairly, it will not demand control by way of shareholdings and key board appointments.

For those companies seeking to raise financing for restructuring and development, good corporate governance practices are increasingly important to large institutional investors, themselves bound by their own laws and regulations as to the types of companies in which they may invest. Thus one of the largest international investor is CALPERS, the major Californian institutional investor which has strict rules it must observe before investing, and assurance that the company in which it invests observes good corporate governance practices is a pre-requisite. If companies are to reap the full benefits of the global capital market, and if they are to attract long-term capital, corporate governance arrangements must be credible.

Currently, one of the major problems in the Slovak Republic has been the treatment of shareholders, particularly minority shareholders, including institutional investors and this has severely damaged the reputation of the market. Those foreign investors who have made investments, concerned by the experiences of so called "tunnelling", have sought to protect their investments through active involvement in the management of the company and in some cases this has further damaged good corporate governance arrangements. Furthermore, the Commercial Code by allowing alternative models for board structure and appointment has confused the situation further. The adoption of good corporate governance standards should do much to improve investor confidence and thus attract more investment, both of an FDI and portfolio nature.

As owners of equity, institutional investors are increasingly demanding (and should be encouraged to do so) a voice in corporate governance in some markets. Individual shareholders usually do not seek to exercise governance rights but may be highly concerned about obtaining fair treatment from controlling shareholders and management. It should be said that in many countries, it is through the voice, and indeed votes of the institutional investor, that the individual minority shareholder is best protected. Thus the active participation of the institutional investor is critical to the improvement of standards. Creditors, particularly banks, play an important role in some governance

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systems as they seek to reduce the credit risk of their customers and thus have the potential to serve as external monitors over corporate performance.

Following the approach adopted by the London Stock Exchange in supporting a similar initiative in the United Kingdom several years ago, the Bratislava Stock Exchange has agreed that it will recommend to all listed companies to adopt and implement the Corporate Governance Code. In their annual reports for the corresponding year, the companies will be required to make a statement to what extent they have been complying with the principles of the Code.

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PRINCIPLE I

The Company should be headed by an effective executive board and supervisory board which should lead it and account to the shareholders.

1.1 The executive board should meet ideally no less than once each month and the supervisory board should meet ideally no less than 10 times each year.

1.2 The executive board and supervisory board should have a formal schedule of matters specifically reserved to them for decision.

The executive board should undertake all key functions in the management of the company and the supervisory board should effectively supervise such functions.

1.3 All members of the executive board and supervisory board should bring an independent and professional judgement to bear on issues of strategy, performance, resources, including key appointments, and standards of conduct.

1.4 There should be an agreed procedure for members of the executive board and the supervisory board in the furtherance of their duties to take independent professional advice if necessary, at the company's expense.

1.5 All members of the executive board and supervisory board should have access to the advice and services of the company lawyer, who is responsible to the boards for ensuring that board procedures are followed and that applicable rules and regulations are complied with.

1.6 The supervisory board should include members of sufficient calibre and number for their views to carry significant weight. Members of the supervisory board must be independent of management and free from any business or other relationship, whether with the majority shareholders or the company, which could materially interfere with the exercise of their independent judgement.

1.7 An individual should receive appropriate training on the first occasion that he or she is appointed to the executive or supervisory board of a company listed on the stock exchange.

1.8 The post of executive board member is incompatible with the post of supervisory board member. The company general director must not be a member of the supervisory board.

1.9 The managers of the company have an obligation to provide the executive board with appropriate and timely information. However, information volunteered by management is unlikely to be enough in all circumstances and members of the executive board should make further enquiries where necessary. The chairman should ensure that all members of the executive board are properly briefed on issues arising at board meetings.

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1.10 The executive board has an obligation to provide the supervisory board with appropriate and timely information and to respond to all questions and requests for further information from the supervisory board.

1.11 Members of the supervisory board should be appointed by the general meeting for specified terms and reappointment should not be automatic. Members of the executive board should also be elected by the general meeting, however, the statutes of the company may provide otherwise so that the members may be elected by the supervisory board who should in this case be accountable for such appointment. The members should be subject to re-election thereafter at intervals of no more than five years. The names of members of the supervisory and executive board submitted for election or re-election should be accompanied by full biographical details.

1.12 Shareholders should be invited specifically at the general meeting to approve all new long-term incentive schemes (including share option schemes) whether payable in cash or shares, in which members of the executive or supervisory board and senior executives will participate, which potentially commit shareholders' funds over more than one year or dilute the equity.

1.13 Both the executive board and the supervisory board should be able to exercise objective judgement on corporate affairs independent, in particular, from management.

1.14 The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the executive board, and its accountability to the supervisory board, company and the shareholders.

1.15 Board members should devote sufficient time to their responsibilities and should attend not less than 75% of meetings in each year of their appointment.

PRINCIPLE 2

The Company should protect shareholders' rights.

2.1 The right for a secure method of ownership registration.

2.2 The right to have shares conveyed or transferred in a prompt manner and without unreasonable objection or obstacle by the Company;

2.3 The right to obtain all relevant information on the company (including its annual and semi-annual reports and all information which is likely to materially impact the price of the shares), its activities and its management on a timely and regular basis;

2.4 The right to receive sufficient and timely information concerning:

- (i) the date, location and agenda of general meetings;
- (ii) full and timely information regarding the issues to be decided at the general meetings to enable it to participate, whether in person or by proxy;

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(iii) the rules, including voting procedures that govern general shareholder meetings; and
(iv) the voting arrangements of all general shareholder meetings.

The general meetings should be held during normal working hours and on working days in the Slovak Republic and should be at a convenient and central location and at a time of day which does not involve any shareholders in any unreasonable expense or inconvenience in attending.

2.5 The right to ask questions of the executive board and to place items on the agenda at general meetings, subject to reasonable limitations.

2.6 The right to elect members of the boards.

2.7 The right to share in the profits of the company; the board members should not take any steps or put forward any proposals which may reduce, conceal or prevent the fair distribution of profits to all shareholders, including minority shareholders, on a fair and equitable basis.

2.8 The right to submit questions in advance and to obtain replies from board members. The members of the executive and supervisory boards should not arrange the agenda of the meeting in a manner to frustrate a valid discussion during the meeting and should answer questions validly and properly raised by any shareholder.

2.9 The right to require that, in order for shareholder-proposed resolutions to be placed on the agenda, they are supported by those holding a specified number of shares and to ensure that such shareholder-proposed resolutions are given a fair hearing at the general meeting.

2.10 The right to vote in person or by proxy; equal effect should be given to votes whether cast in person or by proxy.

2.11 The right to participate in and to be sufficiently informed on the following decisions:

- amendments to the statutes;
- the authorisation to issue additional shares; and
- any extraordinary transactions that in effect result in the sale of the company.

2.12 The 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 3

The shareholders are obligated to inform the company of all capital structures and any arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership. The company is obligated to ensure

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disclosure of all such capital structures and arrangements. Some capital structures allow a shareholder to exercise a degree of control over the company disproportionate to the shareholder's equity ownership in the company.

PRINCIPLE 4

The company should ensure that all shareholders, including minorities and foreign shareholders, are treated equitably.

4.1 All shareholders of the same class should be treated equally. Within any class, all shareholders should have the same voting rights. All investors should be able to obtain information about the voting rights attached to all classes of shares before they purchase. Any changes in voting rights should be subject to shareholder vote.

4.2 Votes should be cast by custodians or nominees in a manner agreed upon with the beneficial owner of the shares.

4.3 Insider trading and abusive self-dealing should be prohibited.

4.4 Members of the board and managers should be required to disclose any material interests in transactions or matters affecting the company and should abstain from participating in any vote on such transactions.

4.5 At all times, companies should act honourably towards and develop good relationships with shareholders which will include:

- Companies should count all proxy votes at the general meetings and announce the proxy count on each resolution after it has been dealt with on a show of hands and to make a record of such resolution, which should be open to inspection by shareholders.

- Companies should propose a separate resolution at the general meeting on each substantially separate issue and allow reasonable time for the discussion of each such resolution. Companies should propose a separate resolution at the general meeting relating to the report and accounts.

- The chairman of the supervisory board should arrange for the chairmen of the audit, remuneration and nomination committees to be available to answer questions at the general meeting where these are established.

- Companies should arrange for the notice of the general meeting and related papers to be sent to shareholders at least 30 working days before the meeting.

4.6 Companies should use the general meeting to communicate with private investors and encourage their participation.

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PRINCIPLE 5

The company should ensure that timely and accurate disclosure is made on all material matters regarding the company, including the financial situation, performance, ownership, and governance of the company which will enable shareholders to determine whether to invest or not.

5.1 The financial and operating results of the company.

5.2 Company objectives.

5.3 Major share ownership and voting rights.

5.4 Board members and key executives, and their remuneration.

5.5 Material foreseeable risk factors.

5.6 Material issues regarding employees and other stakeholders.

5.7 Channels for disseminating information should provide for fair, timely and cost-efficient access to relevant information by users.

5.8 Governance structures and policies.

5.9 The boards should be accountable to the shareholders and ensure proper internal controls and auditing procedures.

5.10 It should be regarded as best practice that the companies listed on the Bratislava Stock Exchange establish audit, nomination and remuneration committees, which over a 5-year period are comprised of a majority of independent members.

PRINCIPLE 6

Institutional investors/shareholders should act responsibly in their dealings with the Company.

6.1 Institutional investors/shareholders have a responsibility to make considered use of their votes.

6.2 Institutional investors/shareholders should be ready, where practicable, to enter into a dialogue with companies based on the mutual understanding of objectives.

6.3 When evaluating companies' governance arrangements, particularly those relating to board structure and composition, institutional investors/shareholders should give due weight to all relevant factors drawn to their attention.

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6.4 Shareholders, including institutional investors, should consider the costs and benefits of exercising their voting rights.

6.5 Institutional investors/shareholders should disclose their own policies with respect to the companies in which they invest.

6.6 Institutional investors/shareholders should endeavour to eliminate unnecessary variations in the criteria which apply to the corporate governance arrangements and performance of the companies in which they invest.

6.7 Institutional investors/shareholders should, on request, make available to their clients information on the proportion of resolutions on which votes were cast and non-discretionary proxies lodged.

6.8 Institutional investors/shareholders should take steps to ensure that their voting intentions are being translated into practice.

PRINCIPLE 7

Shareholders should have certain rights and exercise certain responsibilities in connection with the company.

7.1 All shareholders should have the opportunity to obtain effective redress for violation of their rights.

7.2 All shareholders should be encouraged to accept that the rights, which they have as shareholders, also bring responsibilities.

PRINCIPLE 8

The corporate governance framework should recognise the rights of stakeholders as established by law and encourage active co-operation between companies and stakeholders in creating wealth, jobs, and the sustainability of financially sound companies.

8.1 Companies should recognise that the contributions of stakeholders constitute a valuable resource for building competitive and profitable companies and the rights of stakeholders that are protected by law should be respected.

8.2 Corporate governance frameworks will provide for different roles for stakeholders.

8.3 Where stakeholders participate in the corporate governance process, they should have access to relevant information.

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ANNOTATIONS

PRINCIPLE 1

The Company should be headed by an effective executive board and supervisory board which should lead it and account to the shareholders.

It is important that shareholders understand that as a practical matter, however, the company cannot be managed by shareholder referendum. The shareholding body represented in the company's general meeting is made up of individuals and institutions whose interests, goals, investment horizons and capabilities vary. Moreover, the company's management must be able to take business decisions rapidly. In light of these realities and the complexity of managing the company's affairs in fast moving and ever changing markets, shareholders are not expected to assume responsibility for managing corporate activities.

The responsibility for corporate strategy and operations is typically placed in the hands of the executive board and a management team that is selected, motivated and, when necessary, replaced by the supervisory board. The shareholders have certain rights to influence the company on certain fundamental issues, such as the election of board members and amendments to the company's statutes. It is essential that all shareholders, particularly institutional investors, appreciate the significance of participation in the election of board members and continue to hold them to account for their actions and the performance of the company.

Since the members of the executive and supervisory boards have the responsibility for the effective direction and management of the company, they have a duty to act in the best interests of the company and are responsible to the shareholders for their actions. This responsibility and duty gives rise to the respect accorded in most countries to the members of the executive and supervisory boards. The understanding of this responsibility and duty is underdeveloped in the Slovak Republic. Currently, the ethos of many boards is to improve the position of the management, through advantageous management contracts, sales of company assets at below market prices and other preferential arrangements. This situation was prevalent in other countries until management understood and accepted that this approach was unsustainable in the long term and that it was in their interests to improve the company itself, give shareholder value to the shareholders and to benefit personally through acceptable incentive schemes. In many countries, including the United Kingdom and Italy, this coincided with the privatisation of former state-owned companies.

It is essential that where executive boards either fail to act in the best interests of the company or where their decisions prove to be seriously wrong that they be held to account and, if appropriate, to resign. This culture needs to be encouraged, as it exists in other European countries. Once again institutional investors play an important role and should be encouraged to call for the resignation of management and board members where performance is weak or are not perceived as having acted in the best interests of the company.

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The international trend is for the role of board members to become increasingly professional. Indeed, the Institute of Directors in the United Kingdom has recently introduced a professional course, exams and a qualification for directors. In the Slovak Republic, the proposed amendments to the Commercial Code provide for the personal liability of board members, both of the executive board and supervisory board, for their actions. This is a usual international provision and this liability encourages those who are elected to the board to act honestly and with due care and attention, and partly explains why the leaders of industry are so highly regarded in most European countries

The sub-principles below follow from General Principle 1 and involve the acceptance and development of practices which lead to improvements in shareholder value.

1.1 The executive board should meet ideally no less than once each month and the supervisory board should meet ideally no less than 10 times each year.

It is critical that the executive board and the supervisory board meet sufficiently regularly in order that they can properly discharge their duties. Once it is recognised that members of both boards have duty of care, they should also recognise that they can only defend themselves against charges of failing in this duty if they meet regularly and properly perform their functions. Thus in the case of the executive board it must meet sufficiently frequently to discuss and decide on the direction of the company and, in the case of the supervisory board, to supervise the direction and management of the company. The number of times each board meets needs not be exactly as recommended by the Code, provided that the meetings are sufficiently frequent to be appropriate for the particular company. So called “paper meetings” where the board members either meet only to sign the record that they have met, or minutes are circulated to members who never actually meet, are not acceptable practices for publicly tradable companies.

It is important that there are detailed minutes of the discussions and the decisions taken at each meeting of the executive and supervisory board. As board members accept their duties and the courts begin to enforce them, such minutes are essential for individual members to defend themselves. Thus, for example, if a member disagrees with a course of action which the board decides and which subsequently proves to have been a serious mistake, he/she should insist that this is noted in the minutes.

1.2 The executive board and supervisory board should have a formal schedule of matters specifically reserved to them for decision.

The executive board should undertake all key functions in the management of the company and the supervisory board should effectively supervise such functions.

It is essential that the direction and key management functions are performed by the executive board, and these include:

- Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans, setting performance objectives.

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- Monitoring implementation and corporate performance and overseeing major capital expenditures, acquisitions and divestitures.
- Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning.
- Reviewing key executive and board remuneration, and ensuring a formal and transparent board nomination process (subject to the role of the nomination and remuneration committees referred to below).
- Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions.
- 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 monitoring risk, financial control, and compliance with the law (subject to the role of the audit committee).
- Monitoring the effectiveness of the governance practices under which the company operates and making changes as needed.
- Overseeing the process of disclosure and communications.
- Presenting a balanced and understandable assessment of the company's position and prospects.
- Maintaining a sound system of internal control to safeguard shareholders' investment and the company's assets.
- Maintaining an appropriate relationship with the company's auditors and the financial markets regulator.
- Ensuring compliance with applicable law and corporate governance best practice.

The supervisory board role is to effectively supervise these activities and to ensure that the executive board has the appropriate policies and procedures in place. In particular, the supervisory board shall have the prime responsibility for the audit, nomination and remuneration committees (referred to at Principle 5.10 below) where these are established.

1.3 All members of the executive board and supervisory board should bring an independent and professional judgement to bear on issues of strategy, performance, resources, including key appointments, and standards of conduct.

In an ideal world, all board members should be appointed for their independence and for their professional skills. They should be appointed with a view to bringing a balance of skills to the boards so that discussion of the direction of the company is well-informed. The practice of rewarding long serving senior staff of a company with a seat on the board, all too familiar in the UK in the 1970s, is not good practice. Each board appointment should be decided on the skills the new member will bring to the company.

It is accepted that the concept of "independence" is difficult to define and reference should be made to Principle 1.6 below. The critical aspect is that the "independent" member should be capable of exercising independent judgement and thus not be hampered by any conflict of interest.

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There is a general rule that board members must not use their powers for an improper purpose, take personal advantage of the company's opportunities, allow their personal interests (which include those of a close relative) to conflict with those of the company, nor misapply the company's assets. Most courts internationally expect a very high standard of honesty from all fiduciaries (especially board members) and will apply very stringent tests as to what constitutes impropriety, personal advantage or misapplication.

The Commercial Code provides specifically for a prohibition on competitive conduct (unless otherwise permitted by the statutes or by a resolution of the general meeting) and, in the event of a breach, the company may seek the transfer of any benefit gained or rights acquired and may seek damages.

Even where the statutes vary the provision of the Commercial Code, internationally accepted best practice would require that the principle of declaration of interest is observed. Thus board members would be required to disclose to the board their interest (or those of a close relative) in any contract or proposed contract with the company and failure to do so becomes a disciplinary offence. Disclosure should be made at the first board meeting he/she attends at which the contract is discussed or at the first such board meeting after he/she has become interested in the contract. Generally, this would include any transaction or arrangement, including loan and guarantee transactions, whether or not constituting a formal contract

1.4 There should be an agreed procedure for members of the executive board and the supervisory board in the furtherance of their duties to take independent professional advice if necessary, at the company's expense.

It is clear that board members may need to take external professional advice in certain circumstances in order to properly discharge their functions. They must be able to do this at the company’s expense so that the cost does not deter the members from taking such advice. It would be unreasonable to expect boards to have all the necessary skills to discharge their function properly in all circumstances and thus it is essential that members are encouraged to seek outside independent advice in such specific cases as this would be in the long-term interest of the company.

1.5 All members of the executive board and supervisory board should have access to the advice and services of the company lawyer, who is responsible to the boards for ensuring that board procedures are followed and that applicable rules and regulations are complied with.

Inevitably as the Slovak Republic approximates its legislation to that of the EU, there will be an increasing number of laws and regulations to be observed. These can range from the filing of annual reports and accounts, to compliance with the rules of the Bratislava Stock Exchange or the Anti-Monopoly Office. Since the board members have a duty of care and will under the proposed changes to the Commercial Code be personally liable, it

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is essential that they have access to a lawyer to advise them and to ensure that the company is correctly following the law and applicable rules and regulations.

In some jurisdictions, board members have the benefit of a company secretary, whose role is to ensure that the company complies with all laws, rules and regulations, but this is not the case in the Slovak Republic at present. It would be regarded as best practice for larger companies to amend their statutes to provide for the employment of a company secretary, who should have an appropriate legal background, to ensure such compliance. For smaller companies they should retain the services of an external lawyer to perform such function.

1.6 The supervisory board should include members of sufficient calibre and number for their views to carry significant weight. Members of the supervisory board must be independent of management and free from any business or other relationship, whether with the majority shareholders or the company, which could materially interfere with the exercise of their independent judgement.

There may be instances where it is not legally possible to comply with this provision of the Code, such as in the case of banks. As long as the company explains this in the annual report then it will be treated as complying with this provision of the Code.

The OECD Principles emphasise the importance that the supervisory board should be able to exercise objective judgement on corporate affairs independently, in particular from management including executive board members, shareholders and individuals who work for the company or any subsidiary or holding company, or are connected persons**.**

Since the independent board members should represent the interests of the minority shareholders, it is critical that these independent board members are not connected in any way to the majority shareholders as this creates an impression of a lack of independence, even where the individual, as a professional, would be otherwise assumed to be capable of exercising an independence of judgement.

These independent board members should form the majority on the audit, nomination and remuneration committees to be established pursuant to this Code.

1.7 An individual should receive appropriate training on the first occasion that he or she is appointed to the executive or supervisory board of a company listed on the stock exchange.

It is essential to develop the credibility of the board members that they fully understand their duties and responsibilities This should be the rule for all board members, but as a first step it is suggested that since the role of board members of companies listed on the Bratislava Stock Exchange is more critical, as they are companies in which institutional investors can invest on behalf of their clients, the code addresses these companies first. In time the rule should apply to all companies

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1.8 The post of executive board member is incompatible with the post of supervisory board member. The company general director must not be a member of the supervisory board.

Incompatibility of the posts of executive board member and supervisory board member results from legislation. General director must not hold the post of supervisory board member as he or she is the highest executive body of the company, the activity of which is subject to the supervisory board supervision within the framework of supervision over the performance of the company's business activity.

It is essential that the power of the company should not be concentrated in one person and that the individuals holding these roles should be capable of being questioned and held accountable for their actions and inaction by shareholders. This is all part of the effective supervision and accountability to all shareholders.

1.9 The managers of the company have an obligation to provide the executive board with appropriate and timely information. However, information volunteered by management is unlikely to be enough in all circumstances and members of the executive board should make further enquiries where necessary. The chairman should ensure that all members of the executive board are properly briefed on issues arising at board meetings.

Board members have a responsibility to the shareholders and it is therefore essential that they are properly informed. Only if they receive and read all the critical information and are able to question management and evaluate their answers will they be able to properly discharge their duties and thus defend themselves against charges of failing to exercise due care and attention. For this reason, it is inappropriate for individuals to hold excessive numbers of board appointments and this applies equally to the executive and supervisory boards. What is excessive may vary from case to case but as a rule, members of the supervisory boards of a company listed on the Bratislava Stock Exchange should be able to devote 20 days each year to their duties. Naturally, members of the executive boards should be able to devote considerably greater time to the company, as they are responsible for the direction and operation.

1.10 The executive board has an obligation to provide the supervisory board with appropriate and timely information and to respond to all questions and requests for further information from the supervisory board.

If the supervisory board is to properly supervise, it must have access to the relevant information and to staff and advisors. This is particularly important where it is responsible for the audit committee. The above comments regarding the number of board appointments apply equally here.

1.11 Members of the supervisory board should be appointed by the general meeting for specified terms and reappointment should not be automatic. Members of the executive board should also be elected by the general meeting, however, the statutes of the

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company may provide otherwise so that the members may be elected by the supervisory board who should in this case be accountable for such appointment. The members should be subject to re-election thereafter at intervals of no more than five years. The names of members of the supervisory and executive board submitted for election or re-election should be accompanied by full biographical details.

Since the board members should be accountable to all the shareholders, it is essential that their appointment is more than a simple formality. Where members of the executive board are appointed by the supervisory board, the supervisory board has a greater responsibility, and is held accountable, for such appointment.

It is also important that the executive board is comprised of individuals whose skills are complementary and not just a reward for long service. Thus the shareholders should be able to be informed as to the qualities of all the proposed board members to ensure this balance is achieved. The use of a nomination committee is good practice (see Principle 5.10).

It is critical that the shareholders can replace any board member thought to be performing badly or who have abused their status. Contracts that secure the tenure of any board member generally act as barrier to their replacement and should not be regarded as best practice.

1.12 Shareholders should be invited specifically at the general meeting to approve all new long-term incentive schemes (including share option schemes) whether payable in cash or shares, in which members of the executive or supervisory board and senior executives will participate, which potentially commit shareholders' funds over more than one year or dilute the equity.

The company's annual report should contain a statement of remuneration policy and publish data on board member's remuneration and all other financial incentives provided. Comments are often made that this should be restricted to remuneration, however, other financial incentives, such as share options, bonuses, pension plans and "golden hellos and handcuffs" can all impact on the performance of the board member and thus the company and shareholders should therefore be informed. The use of a remuneration committee is discussed at Principle 5.10.

1.13 Both the executive board and the supervisory board should be able to exercise objective judgement on corporate affairs independent, in particular, from management.

The issue of independent decision-making has already been discussed above, however, it is important that the executive board and the supervisory board correctly understand their accountability to the shareholders as a whole, and not only to the majority shareholder or management per se.

Where the majority shareholder is instrumental in the appointment of the general manager, it is important that this individual is accountable to the shareholders and as such

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should be a member of the executive board. This should ensure improved transparency in the decision-making process.

1.14 The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the executive board, and its accountability to the supervisory board, company and the shareholders.

Together with guiding corporate strategy, the executive board is chiefly responsible for monitoring managerial performance and achieving an adequate return for shareholders, while preventing conflicts of interest and balancing competing demands on the company. The supervisory board is responsible for the effective supervision of the activities of the executive board and is accountable to all the shareholders for such supervision. This is especially important where there is a controlling shareholder. In order for both the executive and supervisory boards to effectively fulfil their responsibilities they must have some degree of independence from the controlling shareholder and the management.

Another important board responsibility is to implement systems designed to ensure that the company obeys applicable laws, including tax, competition, labour, environmental, equal opportunity, health and safety laws. In addition, both the executive and supervisory boards are expected to take due regard of, and deal fairly with, other stakeholder interests including those of employees, creditors, customers, suppliers and local communities. This is particularly important where the company is the key company in a region and has attracted smaller manufacturers and suppliers to establish nearby.

The introduction of an internal audit function should be regarded as best practice, as of course should a company’s compliance with this code and the verification of such compliance by the external auditors.

1.15 Board members should devote sufficient time to their responsibilities and should attend not less than 75% of meetings in each year of their appointment.

As has been mentioned above, service on too many boards can interfere with the performance of board members and this should be a feature considered by the company in proposing a potential future board member. Full disclosure of all board appointments should be made in the biographical details of the proposed member when they are put to the general meeting.

Whilst there has been a suggestion that the Code should recommend a maximum number of board appointments, this approach is considered too prescriptive and would encroach on what should be the decision of the shareholders. Clearly, if a member participates on too many boards this limits the amount of time he/she can devote to any of them and this in turn weakens any defence he/she may have against charges of failing to discharge his/her functions in accordance with the Commercial Code. Thus board members should perceive that it is in their own interests not to accept too many board appointments.

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PRINCIPLE 2

The Company should protect shareholders' rights.

Shareholders have property rights so that their shares can be bought, sold, or transferred. Additionally, they are entitled to participate in the profits of the company, with liability limited to the amount of the investment. These rights, particularly to participate in the profits and to sell their shares, provide the elements of shareholder value.

All shareholders wish to see their shares increase in value and generate good dividends, but shareholders must learn to accept that they have a role to play in ensuring the proper management of the company as outlined above and the increase of shareholder value. In order to do this, the shareholders must have a right for information about the company and a right to influence the company, primarily by participation in general shareholder meetings and by voting.

It is therefore essential that the company should ensure that each shareholder has the following rights:

2.3 The right for a secure method of ownership registration.

The Securities Act addresses this essential requirement that the registration of shares is properly and securely conducted by the central depositary.

2.2 The right to convey or transfer shares in a prompt manner and without unreasonable objection or obstacle by the Company.

It is essential that the company cannot refuse to register the transfer of the ownership of shares unreasonably, as any unreasonable refusal would detract from the shareholder's ownership rights. An example of where a company would be reasonable in withholding its consent would be if a shareholder wished to transfer the shares to someone known to be involved in drug smuggling or money laundering.

2.3 The right to obtain all relevant information on the company (including its annual and semi-annual reports and all information which is likely to materially impact on the price of the shares), its activities and its management on a timely and regular basis.

In order to be informed about his investment, the shareholder must be properly informed. The usual basis of the information are the annual and half-year reports which the company is required by law to file, but it is essential that the company informs shareholders of any changes in the company or its business which may materially affect the value of the shares, such as the development of a major new product or the commencement of insolvency proceedings.

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The information duty is generally satisfied by publication of the annual reports and disclosure to the regulator, however, companies should recognise that it is best practice to communicate regularly and directly with their institutional investors so that they are well informed on the company and their investments. If a company fails to keep its larger investors informed, then the investors have less confidence in the executive board and if a problem arises will not be willing to support it.

2.4 The right to receive sufficient and timely information concerning:

- ***(i)*** ***the date, location and agenda of general meetings;***
- ***(ii)*** ***full and timely information regarding the issues to be decided at the general meetings to enable it to participate, whether in person or by proxy;***
- ***(iii)*** ***the rules, including voting procedures that govern general shareholder meetings; and***
- ***(iv)*** ***the voting arrangements of all general shareholder meetings.***

The general meetings should be held during normal working hours and on working days in the Slovak Republic and should be at a convenient and central location and at a time of day which does not involve any shareholders in any unreasonable expense or inconvenience in attending.

It is essential that the shareholder has an opportunity to attend all shareholder meetings, as it is through these that he/she can participate in some of the key decisions of the company and can hold the boards to account for their actions. The provisions of the Commercial Code must be regarded as the minimum standards required of all companies.

2.5 The right to ask questions of the boards and to place items on the agenda at general meetings, subject to reasonable limitations.

Since the shareholders should be able to call the boards to account for the running of the company, it is essential that they have proper opportunity to question the boards and to place items on the agenda of the meeting. Companies should take separate votes on each resolution after allowing adequate time for questions and a debate. All the relevant board members should be present so as to be able to respond openly to questions raised by shareholders. It is not acceptable to avoid answering reasonable questions by claiming that the response would involve business secrets.

2.6 The right to elect members of the boards.

Subject to the use of nomination and remuneration committees and the provisions of the statutes, the boards should be elected by the general meeting that then can call the members to account. Thus all shareholders who chose to exercise their rights should be able to participate in such election. This is especially critical in the case of the independent members whose authority arises from their election by the minority shareholders. All resolutions for the appointment of members to the supervisory and executive board, each member should be voted upon separately.

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2.7 The right to share in the profits of the company; the board members should not take any steps or put forward any proposals which may reduce, conceal or prevent the fair distribution of profits to all shareholders, including minority shareholders, on a fair and equitable basis.

Since all shareholders with the same class of shares have equal rights, it is essential that the board members treat them in a transparent and fair manner and do not employ any devices to conceal the true financial status of the company and thus the ability to pay dividends. For this reason, the presence of the external independent auditors at the general meeting is important and where an audit committee is appointed, the members of that committee must also be present and respond to all questions raised by the shareholders.

2.8 The right to submit questions in advance and to obtain replies from management and board members. The members of the executive and supervisory boards should not arrange the agenda of the meeting in a manner to frustrate a valid discussion during the meeting and should answer questions validly and properly raised by any shareholder.

In order for shareholders to be able to hold the board members to account, it is essential that they are able to question their actions. It is understood that there have been some questionable practices used by some companies to reduce the risk of awkward questions and this must be regarded as unacceptable by reputable companies.

2.9 The right to require that, in order for shareholder-proposed resolutions to be placed on the agenda, they are supported by those holding a specified number of shares and to ensure that such shareholder-proposed resolutions are given a fair hearing at the general meeting.

The Commercial Code addresses this aspect and thus the law should be observed both in the letter and the spirit. Good corporate governance practices require that shareholders are allowed to table resolutions and to engage in a dialogue with the company. Whilst institutional investors have a greater opportunity for an ongoing dialogue with the boards, the small shareholders only have the opportunity for such dialogue at the general meeting and it is important that they are treated openly and fairly as this encourages confidence in the management and direction of the company and is ultimately reflected in the share price

2.10 The right to vote in person or by proxy; equal effect should be given to votes whether cast in person or by proxy.

In order to attract foreign portfolio investors companies should make every effort to enable shareholders to participate through means which make use of modern technology. Effective participation of shareholders in general meetings can be enhanced by developing secure electronic means of communication and allowing shareholders to communicate with each other without having to comply with the formalities of proxy

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solicitation. Pending the introduction of the new law on electronic signature and required amendments to the Commercial Code, where all the shareholders of the company agree to allow voting by electronic means such method of voting should be permitted. As a matter of transparency, meeting procedures should ensure that votes are properly counted and recorded, and that a timely announcement of the outcome be made.

2.11 The right to participate in and to be sufficiently informed on the following decisions:

- ***amendments to the statutes;***
- ***the authorisation to issue additional shares; and***
- ***any extraordinary transactions that in effect result in the sale of the company.***

Since all of the above decisions are capable of having a direct impact on the rights of the shareholders, it is essential that all shareholders are able to participate in such decisions. It is important that the company informs shareholders in good time of the proposals to be tabled at the general meeting so that they may chose whether or not they wish to participate.

2.12 The 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.

The general meeting is the most frequent venue for shareholders to hold the management of the company, as represented by the executive and supervisory boards, to account for their action. It is therefore essential that the management and controlling investors should not seek to discourage non-controlling or foreign investors from trying to influence the direction of the company and should listen to all concerns raised by, and respond to, all shareholders. Companies should not charge fees for voting. Nor should other impediments including prohibitions on proxy voting and the requirement of personal attendance at general shareholder meetings to vote be allowed.

Furthermore, other procedures which make it practically impossible to exercise ownership rights should not be adopted. Shareholders or their proxies should be allowed easy access to the meeting. Proxy materials should be sent a minimum of 30 days in advance of the meeting, except as permitted by the Commercial Code, and should allow sufficient time of the general shareholder meetings to allow investors adequate time for reflection and consultation.

PRINCIPLE 3

The shareholders are obligated to inform the company of all capital structures and any arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership. The company is obligated to ensure disclosure of all such capital structures and arrangements. Some capital structures allow a shareholder to exercise a degree of control over the company disproportionate to the shareholders' equity ownership in the company:

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In order to foster confidence between investors and the companies in which they invest, it is essential that investors know exactly what rights attach to their shares at the time of their purchase. If the structure of the company is such that one shareholder has control, although this is not immediately apparent, such arrangements must be transparent to all investors.
There will be many cases of foreign direct investment through privatisations or joint ventures where the shareholder agreements allow high levels of control to the foreign shareholder through a variety of devices such as management contracts. These may not in themselves be contrary to good corporate governance, but must be disclosed to all shareholders.

All of the following should be disclosed to shareholders:

- Pyramid structures and cross-shareholdings of two or more companies, which can be used to diminish the capability of non-controlling shareholders to influence corporate policy.
- Shareholder agreements for groups of shareholders, who individually may hold relatively small shares of total equity, to act in concert so as to constitute an effective majority, or at least the largest single block of shareholders. This is often the case of those companies which were either established or privatised with shares being sold to the previous management. Shareholder agreements usually give those participating in the agreements preferential rights to purchase shares if other parties to the agreement wish to sell. These agreements can also contain provisions that require those accepting the agreement not to sell their shares for a specified time. Shareholder agreements can cover issues such as how the supervisory or executive board or the chairman will be selected. The agreements can also oblige those in the agreement to vote as a block. Voting caps limit the number of votes that a shareholder may cast, regardless of the number of shares the shareholder may actually possess. Voting caps therefore redistribute control and may affect the incentives for shareholder participation in shareholder meetings.

PRINCIPLE 4

The company should ensure that all shareholders, including minorities and foreign shareholders, are treated equitably.

This principle is one of critical importance if companies seek to raise additional capital through the capital markets and to encourage institutional investors to invest. At present the Slovak Republic is perceived as abusing minority shareholders and it is a reason that there is so little international portfolio investment in the country. All the large institutional investors have their own rules and guidelines to observe and cannot thus invest in risky investments. Thus until the Slovak Republic improves investor perception, investors like CALPERS will not invest. Once such investors start to invest, the international perception will improve and the market will become more liquid. It is essential that those companies which seek such investors demonstrate an understanding of the underlying principles of good corporate governance practices and follow the spirit as well as the letter of the law and this Code.

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4.1 All shareholders of the same class should be treated equally. Within any class, all shareholders should have the same voting rights. All investors should be able to obtain information about the voting rights attached to all classes of shares before they purchase. Any changes in voting rights should be subject to shareholder vote.

The Commercial Code requires that identical rights must be attached to shares of the same class, however, any proposal to change the rights should be subject to a vote at the general meeting and thus Principle 2.11 is relevant. The optimal capital structure of the firm is best decided by the executive and supervisory boards, but this should be subject to the approval of the shareholders.

Companies are able to issue preference shares which have a preference in respect of receipt of the dividends of the company, but these normally have no voting rights, unless the preferred dividend is declared and paid. This mechanism could be open to abuse, as companies are unlikely to issue preference shares to anyone other than the existing majority shareholders for fear of losing control in the event that the company cannot declare and pay a preference dividend.

It is essential that investors can rely that they are fully informed regarding their voting rights before they invest. Once they have invested, their rights should not be changed, unless those holding voting shares have had the opportunity to participate in the decision. Proposals to change the voting rights of different classes of shares should be submitted for approval at the general meetings by not less than a 75-% majority of the total voting shares in the affected categories and such resolution should be recorded by a notarised record of the minutes of the meeting.

4.2 Votes should be cast by custodians or nominees in a manner agreed upon with the beneficial owner of the shares.

Custodians, such as banks and brokerage firms holding securities as nominees for customers, are sometimes required to vote in support of management unless specifically instructed by the shareholder to do otherwise. Shareholders may elect to delegate all voting rights to custodians. Alternatively, shareholders may choose to be informed of all forthcoming shareholder votes and may decide to cast some votes while delegating some voting rights to the custodian. It should be considered best practice that custodians can split their votes in order to reflect the wishes of their customers.

Custodians should disclose to the shareholders that, if no instruction to the contrary is received, the custodian will vote the shares in a particular manner which it deems consistent with shareholder interest.

4.3 Insider trading and abusive self-dealing should be prohibited.

Whilst insider trading and abusive self-dealing is generally prohibited, experience in many countries suggests that shareholders must be vigilant in this respect. They should question the executive board and hold it to account. Companies can do much to assist in

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reducing the likelihood of insider dealing by submitting a list of those members of the company who might be regarded as insiders to the Bratislava Stock Exchange. The existence of the list and the inclusion of an individual's name on it often act as a disincentive to insider dealing. It should be remembered that insiders include key executives who are involved in the development and patenting of new and significant products. Since insider trading entails manipulation of the capital markets, it is as such prohibited by the law. Perhaps equally common at the moment in the Slovak Republic is abusive self-dealing which occurs when persons having close relationships to the company exploit those relationships to the detriment of the company and investors. Contracts for the sale of companies' assets or products to management, key executives, board members or shareholders, or persons connected with them, should all be undertaken at arms length. Such contracts should be explained together with the connection be approved by a general meeting of the company prior to their completion.

4.4 Members of the board and managers should be required to disclose any material interests in transactions or matters affecting the company and should abstain from participating in any vote on such transactions.

This item refers to situations where board members and all managers have a business, family or other special relationship to the company that could affect their judgement with respect to a transaction. They must disclose such material interests and should not vote on any related decision. The comments on Principle 1 relate to this principle also.

4.5 At all times, companies should act honourably towards and develop good relationships with shareholders which will include:

- ***Companies should count all proxy votes and announce the proxy count on each resolution after it has been dealt with on a show of hands, and to make a record of such resolution which should be open to inspection by shareholders.***

- ***Companies should propose a separate resolution at the general meeting on each substantially separate issue and allow reasonable time for the discussion of each such resolution. Companies should propose a separate resolution at the general meeting relating to the report and accounts.***

- ***The chairman of the supervisory board should arrange for the chairmen of the audit, remuneration and nomination committees to be available to answer questions at the general meeting where these are established.***

- ***Companies should arrange for the notice of the general meeting and related papers to be sent to shareholders at least 30 working days before the meeting.***

The above list should be regarded as illustrative and not exclusive. The objective is to ensure that all shareholders are properly informed and have an opportunity to question those who are responsible for the management of the company in which they invest. Thus it is important that the shareholders can question the various committees on their

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decisions, for example to award substantial pay increases to individual board members or key executives.

4.6 Companies should use the general meeting to communicate with private investors and encourage their participation.

Companies should be encouraged to appreciate the skills required for developing good investor relations. The general meeting provides an annual opportunity for companies to inform individual investors of the activities, progress and plans of the company and to encourage them to continue their participation in and support of the company.

PRINCIPLE 5

The company should ensure that timely and accurate disclosure is made on all material matters regarding the company, including the financial situation, performance, ownership, and governance of the company which will enable shareholders to determine whether to invest or not.

Public disclosure is typically required, at a minimum, on a half-year basis and more frequently in the case of material developments affecting the company. This information should be in a format which enables shareholders and potential investors to determine whether to invest or not. Companies should be encouraged to make voluntary disclosure that goes beyond minimum disclosure requirements in response to market demand.

A strong disclosure regime is essential to market-based monitoring of companies and is central to shareholders' ability to exercise their voting rights. It can also significantly influence the behaviour of companies and protect investors. Furthermore, it can help to attract capital and maintain confidence in the capital markets. Shareholders and investors require access to regular, reliable and comparable information in sufficient detail for them to assess the stewardship of management, and make informed decisions about the valuation, ownership and voting of shares. By contrast, insufficient or unclear information may hamper the functioning of the markets and increase the cost of capital and result in a poor allocation of resources.

However, it is important that disclosure requirements do not place unreasonable administrative or cost burdens on enterprises. Companies should not be expected to disclose information that may endanger their competitive position unless disclosure is necessary to fully inform the investment decision and to avoid misleading the investor. It is essential that such non-disclosure is strictly limited and thus a test of materiality is often used. Material information can be defined as information whose omission or misstatement could influence the economic decisions taken by users of information. For example a pharmaceutical company would be required to disclose that it had patented and was testing a new drug, but would not be required to disclose details of the patent. Thus timely disclosure of all material developments that arise between regular reports is considered essential, as is simultaneous reporting of information to all shareholders in order to ensure their equitable treatment.

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Disclosure should include, but not be limited to, material information on:

5.1 The financial and operating results of the company.

The Securities Act requires disclosure of the audited financial statements showing the financial performance and the financial situation of the company. These most typically include the balance sheet, the profit and loss statement, the cash flow statement and notes to the financial statements. These financial statements should enable appropriate monitoring of the company and provide the basis to value securities. These should be accompanied by management's discussion and analysis of operations as this provides light on the future performance of the company. Transactions relating to an entire group should be disclosed to ensure disclosure of the complete situation.

5.2 Company objectives.

In addition to quantitative targets, their time horizons and cost, this should include policies relating to business ethics, the environment and other public policy commitments which enable investors to evaluate the relationship between companies and the communities in which they operate and the steps that companies have taken to implement their objectives.

5.3 Major share ownership and voting rights.

This should include ongoing disclosure of information on the ownership structure of the company and the shareholder's rights vis-à-vis the rights of other owners as indicated in the principles above. However, the company should disclose also all data on major shareholders and others that control or may control the company, including information on special voting rights, shareholder agreements, the ownership of controlling or large blocks of shares, significant cross-shareholding relationships and cross guarantees. Companies should also disclose information on related party transactions.

5.4 Board members, key executives and their remuneration.

Companies should disclose information on individual board members and key executives to enable shareholders to evaluate their experience and qualifications and assess any potential conflicts of interest. The disclosure of this information is critical to the achievement of transparency. Since the direction and management of the company is so important, shareholders need information on the qualifications of the board members in order that they can have confidence in their abilities and may ensure that there is a balance of experience available to the company. Only with this information can shareholders accurately call board members to account for their actions and decisions. This recommendation reinforces the requirements for nomination and remuneration committees and ensures transparency through disclosure of this information.

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5.5 Material foreseeable risk factors.

Companies should disclose information on reasonably foreseeable material risks including: risks that are specific to the industry or geographical areas; dependence on commodities; financial market risk including interest rate or currency risk; risk related to derivatives and off-balance sheet transactions; risks related to environmental liabilities; and whether or not companies have put systems for monitoring risk in place is also useful.

5.6 Material issues regarding employees and other stakeholders.

Companies should disclose information on key issues relevant to employees and other stakeholders that may materially affect the performance of the company. These may include management/employee relations, and relations with other stakeholders such as creditors, suppliers, and local communities.

5.7 Channels for disseminating information should provide for fair, timely and cost-efficient access to relevant information by users.

Channels for the dissemination of information can be as important as the content of the information itself.

5.8 Governance structures and policies.

Companies should be encouraged to report on how they apply relevant corporate governance principles in practice. This should include the division of authority between shareholders and members of the executive and supervisory boards and should be prepared, audited, and disclosed in accordance with high quality standards of accounting, financial and non-financial disclosure, and audit.

The quality of information depends on the standards under which it is compiled and disclosed.

An annual audit should be conducted by an independent auditor, appointed by an audit committee in order to provide an external and objective assurance on the way in which governance and financial statements have been prepared and presented. A statement on the governance of the companies should be specifically included in the annual report.

5.9 The board should be accountable to the shareholders and ensure proper internal controls and auditing procedures.

The annual audit of the company is fundamental to corporate governance. Board members are required to report by law on their stewardship of the company in the annual report to all shareholders and this is particularly important in companies where the management are, or are related to, the controlling shareholders. It is thus essential that the audit is objective and effective as such an audit gives reassurance to all those who have a

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financial interest in the company. The audit should be carried out to the highest international accounting standards. The following should be addressed.

- The members of the executive board should explain their responsibility for preparing the accounts, next to a statement by the auditors about their reporting responsibilities.
- The executive board should consider interim and other price-sensitive public reports and reports to regulators as well as information required to be presented by statutory requirements.
- The executive board should maintain a sound system of internal control to safeguard shareholders' investment and the company's assets.
- The members of the supervisory board should review the effectiveness of the company's system of internal control and should report to shareholders. This report should cover all controls, including financial, operational and compliance controls and risk management.
- The members of the executive board should report that the business is a going concern, with supporting assumptions or qualifications as necessary.
- Companies which do not have an internal audit function should from time to time review the need for one.
- The executive and supervisory boards should establish formal and transparent arrangements for considering how they should apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the company's auditors.

5.10 It should be regarded as best practice that the companies listed on the Bratislava Stock Exchange establish audit, nomination and remuneration committees which over a 5-year period are comprised of a majority of independent members.

These companies should establish audit, nomination and remuneration committees comprising initially at least three independent members of the supervisory board with written terms of reference which deal clearly with its authority and duties. The members of the committee should be named in the report and accounts and should report initially to the supervisory board and should be available to report to the shareholders at the general meeting.

- The duties of the audit committee should include keeping under review the scope and results of the audit and its cost-effectiveness and the independence and objectivity of the auditors. Where the auditors also supply a substantial volume of non-audit services to the company, the committee should keep the nature and extent of such services under review, seeking to balance the maintenance of objectivity and value for money.

- The remuneration committee should establish a formal and transparent procedure for developing policy on executive remuneration and for fixing the remuneration packages of individual board members, independent board members and key

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executives. No board member or key executive should be involved in fixing his or her own remuneration.

- The nomination committee should make proposals to the boards for the appointment of board members and senior staff, to consider issues of succession planning within the company. It should ensure that the make-up of the board meets with a broad range of skills, experience and expertise relevant to the business and that there is a high proportion of independent directors who have no potential conflicts of interest within the business.

PRINCIPLE 6

Institutional investors/shareholders should act responsibly in their dealings with the Company.

It is necessary to consider two types of institutional investor. Foreign investors who will actively support this Code and generally will be happy to undertake the role ascribed to them. However, the Slovak institutional investors will require encouragement as they have had some negative experiences, but no doubt will be tempted back once the investment environment improves.

In many advanced capital markets, institutional investors own the majority of shares in quoted companies. They hold these on behalf of individuals, as members of pension funds, insurance policies etc. Thus there is a high level of common interest.

In practice, in the UK, the greatest protection for individual minority shareholders is through the participation and surveillance of the institutional investors. Their role is critical to improving standards.

6.1 Institutional investors/shareholders have a responsibility to make considered use of their votes.

They should be encouraged not to act as passive investors but to take an active role in supervising their investments. To do this effectively they require easy access to all the information outlined above and access to any additional information they reasonably require. The company should regard a constructive dialogue with its institutional investors as an essential part of its business as these investors can prove strong allies to any management in which they have confidence. It is thus vital that institutional investors have access to management and should hold management to account for its mistakes, including, where necessary, requiring the resignation of responsible executives.

6.2 Institutional investors/shareholders should be ready, where practicable, to enter into a dialogue with companies based on the mutual understanding of objectives.

This requires the executive board to adopt an open approach to its institutional investors and to enter into dialogue with them.

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6.3 When evaluating companies' governance arrangements, particularly those relating to board structure and composition, institutional investors should give due weight to all relevant factors drawn to their attention.

Once a corporate governance regime is adopted, all institutional investors should be encouraged to ensure that the companies in which they invest accept and implement the code. Responsible individual shareholders may often draw to the attention of the institutional investor problems with such implementation and the institutional investor should be encouraged to consider such information and act in accordance with the provisions of the Code.

6.4 Shareholders, including institutional investors, should consider the costs and benefits of exercising their voting rights.

It should be accepted that there will be times when the investor simply cannot achieve improvements and in this case it must be allowed, and indeed encouraged, to "vote with its feet" by selling its holding in the company. Once companies realise that this is a course of action which investors will take, they should pay more heed to the requests and views of the institutional investors.

6.5 Institutional investors/shareholders should disclose their own policies with respect to the companies in which they invest.

Since the Code focuses on transparency and accountability, compliance with its provisions will greatly enhance the attractiveness of the company to institutional investors and it is for this reason that there is currently so much support for it. However, it is important that institutional investors themselves adopt the Code and that they require the companies in which they invest to do so, as this will widen the impact and indeed the implementation.

6.6 Institutional investors/shareholders should endeavour to eliminate unnecessary variations in the criteria which each applies to the corporate governance arrangements and performance of the companies in which they invest.

It is important that institutional investors send a clear signal to the companies in which they invest and thus it is essential that once a Code is accepted by institutional investors associations, that it is applied uniformly by the associations members.

6.7 Institutional shareholders should, on request, make available to their clients information on the proportion of resolutions on which votes were cast and non-discretionary proxies lodged.

Institutional investors must act in a transparent manner towards their clients and adopt good practice themselves. It is important that they lead by example and sign up to the Code and commence implementation.

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6.8 Institutional investors/shareholders should take steps to ensure that their voting intentions are being translated into practice.

It is essential that institutional shareholders hold the boards accountable for their action and thus must monitor that decisions made at the general meeting are implemented.

PRINCIPLE 7

Shareholders should have certain rights and exercise certain responsibilities in connection with the company.

7.1 All shareholders should have the opportunity to obtain effective redress for violation of their rights.

Investors' confidence that the capital they provide will be protected from misuse or misappropriation by corporate managers, board members or controlling shareholders is an important factor in the capital markets. Corporate boards, managers and controlling shareholders may have the opportunity to engage in activities that may advance their own interests at the expense of non-controlling shareholders.

One of the ways in which shareholders can enforce their rights is to be able to initiate legal and administrative proceedings against management and board members.

Experience has shown that an important determinant of the degree to which shareholder rights are protected is whether effective methods exist to obtain redress for grievances at a reasonable cost and without excessive delay. The confidence of minority investors is enhanced when the legal system provides mechanisms for minority shareholders to bring lawsuits when they have reasonable grounds to believe that their rights have been violated.

There is some risk that a legal system, which enables any investor to challenge corporate activity in the courts, can become prone to excessive litigation. A balance must be struck between allowing investors to seek remedies for infringement of ownership rights and avoiding excessive litigation.

Some countries have found that alternative adjudication procedures, such as administrative hearings or arbitration procedures organised by the securities regulators or other regulatory bodies, are an efficient method for dispute settlement, at least at the first instance level. This has an added advantage where there are delays in the courts.

7.2 All shareholders should be encouraged to accept that the rights, which they have as shareholders, also bring responsibilities.

Shareholders must be encouraged to accept that they have duties, for example to attend the general meetings, to vote, to scrutinise annual reports, to question the boards and to

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hold them to account for any failures. This is an essential correlation of the shareholders' rights.

PRINCIPLE 8

The corporate governance framework should recognise the rights of stakeholders as established by law and encourage active co-operation between companies and stakeholders in creating wealth, jobs, and the sustainability of financially sound companies.

The concept of stakeholders may require some explanation. It encompasses a number of parties who are interested in the success and the mode of operation of the company. It includes employees, members of the local community who are keen to ensure their environment is not polluted; local businesses who sell goods to the company employees, cafes, restaurants, schools, doctors, etc and the businesses which the company does business with, both suppliers and distributors and creditors.

A key aspect of corporate governance is concerned with ensuring the flow of external capital to firms. Corporate governance is also concerned with finding ways to encourage the various stakeholders in the firm to undertake socially efficient levels of investment in company specific human and physical capital. The competitiveness and ultimate success of a company is the result of teamwork that embodies contributions from a range of different resource providers including investors, employees, creditors, and suppliers. Thus it is best practice for the boards to consider the implication of their decisions on the various stakeholders as part of the decision making process.

Thus a company, which is a major manufacturer in an area, should consider the impact of its decisions on the local businesses, people and economy. If, for example, it reduces its manufacturing capacity, the impact will be felt by its suppliers, its employees, some of whom may lose their jobs and local shops and businesses which are likely to see a reduction in custom and spending.

8.1 Companies should recognise that the contributions of stakeholders constitute a valuable resource for building competitive and profitable companies and the rights of stakeholders that are protected by law should be respected.

It should be accepted that it is in the long-term interest of companies to foster wealth-creating co-operation among stakeholders and it should be recognised that the interests of the company are served by recognising the interests of stakeholders and their contribution to the long-term success of the company.

In most countries, including the Slovak Republic, stakeholder rights are established by law, i.e. labour law, commercial and civil codes and bankruptcy law. Even in areas where stakeholder interests are not legislated, many firms make additional commitments to stakeholders, as they are concerned to protect the corporate reputation and corporate performance. This is a new, but developing, concept to many companies in the Slovak

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Republic. However, where stakeholder interests are protected by law, stakeholders should have the opportunity to obtain effective redress for violation of their rights and the legal framework and process should be transparent and not impede the ability of stakeholders to communicate and to obtain redress for the violation of rights.

8.2 Corporate governance frameworks will provide for different roles for stakeholders.

The degree to which stakeholders participate in corporate governance depends on laws and practices, and may vary from company to company as well. Examples of mechanisms for stakeholder participation include employee representation on boards; employee stock ownership plans or other profit sharing mechanisms or governance processes that consider stakeholder viewpoints in certain key decisions. They may, in addition, include creditor involvement in governance in the context of insolvency proceedings.

8.3 Where stakeholders participate in the corporate governance process, they should have access to relevant information.

Where laws and practice of corporate governance systems provide for participation by stakeholders, it is important that stakeholders have access to information necessary to fulfil their responsibilities.

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