

Guide to Corporate Governance Principles in Egypt

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Preface

This guide presents a comprehensive set of corporate governance principles for Egypt. These principles define rules and procedures that achieve the optimum protection and balance between the interests of directors, shareholders and stakeholders.

These rules should be seen to complement companies' articles of incorporation, especially joint stock companies, limited and general partnerships with shares and limited liability companies incorporated under Law 159 /1984, Capital Market Law 95/1992 and relevant executive regulations and decrees.

These principles are unique and separate from legal stipulations. They extend beyond legal provisos. They form guidelines for the correctly and proper conduct of corporate management, according to international practice and standards that achieve an equitable arrangement of stakeholders' interests. These principles are straightforward. They are guidelines, explained thoroughly, without resorting to jargon, legalese or abstract rules.

Though they do not carry the weight of legal enforcement as such, their pertinence is much greater. Egyptian companies and shareholders who strive to implement and abide by these principles are doing so for the sake of their companies and the overall investment climate. They are embracing the spirit of the era: openness and transparency. Moreover, auditors and legal consultants are encouraged to take up the significant role of urging directors to abide by these principles and monitor their implementation. Banks, financial institutions and credit rating agencies should consider companies' compliance with these principles during evaluation.

We hope directors of companies, financial institutions, professional committees and shareholders will introduce and promote these principles, using them as a yardstick to measure their achievement.

1 Scope of Implementation

1.1 These rules are primarily applicable to joint stock companies listed on the stock market, especially those being actively traded. Also they apply to financial institutions with a joint stock company structure. Many partners own this type of company. The relationship between owners and directors should be clearly stated. They are also applicable to companies that directly impact the public. Included in this category are companies mainly financed by banks as compliance with corporate governance ensures creditors' rights.

Corporate governance principles are developed to accommodate companies formed under Law 159/1984 covering joint stock companies, partnerships formed through the allocation of shares and limited liabilities companies, companies operating under Capital Market Law 95/1992 and the CASE rules governing the listing and cancelling of securities. Therefore, whenever the words "company" or "companies" are mentioned in these principles, they refer to CASE listed companies as well as financial institutions adopting a joint stock company form, even if not listed on CASE. The latter group includes banks, insurance, mortgage finance and securitization companies as well as companies funded by banks.

1.2 Corporate governance principles are vital for all companies. Other companies may be considered in the initial stages before being listing or offered for public subscription. Corporate governance principles briefly include items applicable to closed joint stock companies, limited liability companies and individuals' companies. While this may contradict principles in other countries, Egypt is justified to do this as only 2.5% of Egyptian companies are listed on CASE.

1.3 Developments in the Egyptian economy and the stock market, especially in recent years, indicate that many closed joint stock companies will be listed on CASE in the future. Thus, it is important that companies' shareholders and directors pay attention to corporate governance principles, in preparation for listing on the stock market. Proper qualification for public offering or listing is a main goal of corporate governance. Therefore, shareholders, creditors and staff will benefit from encouraging and monitoring companies' compliance with these principles as much as possible even if they are not listed.

1.4 Applied properly, corporate governance do not merely mean respecting and literally interpreting a set of rules. It is a culture and practice governing the relationship between company owners, directors and stakeholders. The wider the scope of implementation, the greater the benefits for society as a whole.

2- General Assembly (or General Meeting)

2-1 The General Assembly (GA) comprises shareholders, each according to his share. While a company's bylaws may stipulate that GAs are attended only by partners holding shares, this provision should be considered an exception to the general rule entitling shareholders to attend GAs. It is effective only when the number of shareholders cannot be accommodated. However, it should not be a way to ignore or exclude small shareholders.

2-2 Shareholders should be encouraged to attend GAs. The date and place of meetings should be publicized.

2-3 Agenda items should be explained clearly to help shareholders make decisions. Information should be provided to help shareholders to make sound decisions and not as a formality.

2-4 General Assemblies should be managed in a manner that allows shareholders to express their opinions. The management should fully and clearly disclose all items on the agenda.

2-5 Voting on general assembly motions should be recorded accurately. Where motions are contested, all votes in favour of the motion and all those against should be counted and recorded. Then the decisions should be submitted to the appropriate administrative or legislative bodies. The rules for general assemblies should be observed at all times.

3- Board of Directors

3-1 The general assembly appoints the joint stock company's board of directors to manage the company. Board members are absolutely responsible regardless of whether they form committees or authorize other parties or individuals to undertake assignments.

3-2 The board comprises representatives selected from different groups of shareholders. Once appointed, a board member the director is considered a shareholders' representative and should commit to work in the best interests of the company, and not just for the group he/she represents or those who voted for him/her.

3-3 Egyptian laws stipulate that the board is elected to represent shareholders and that it should be proportionally representative according to capital distribution. Nevertheless, voting rules entitle the majority group in the general assembly to appoint all members by voting for each nominee individually. Therefore, proper corporate governance imposes a cumulative method of voting when electing the board. Capital distribution should be considered so that the final result is proportional. Each nominee should present his CV to shareholders.

3-4 The board should comprise a majority of non-executive directors with the technical or analytical skills to benefit the board and the company. All of the non-executive directors should dedicate the time and attention necessary to fulfil their obligations to the company and not to accept assignments that could be seen to be a conflict of interest.

3-5 New board members should have access to information, data and full explanations. This provides a full picture of the company's activities, administrative structure, budget, strengths and weaknesses – helping them to perform efficiently.

3-6 The board appoints the chairman and the chief executive officer. Preferably one person should not combine both positions. If deemed necessary, reasons should be stated in the annual report. In this case the deputy chairman should be non-executive.

3-7 The board should supervise the company closely. It should not delegate this task to others.

3-8 The board should set out rules, regulations and procedures ensuring the company's compliance with existing laws and regulations, rules and information disclosure to shareholders, creditors and stakeholders. Compliance with laws and information disclosure should be objective at all times.

3-9 The Board's authorization and that of others should be prompt and clear. The deadline for submitting results to the board should be specified. The board should not issue general or tardy authorizations as they diminish the board's authority.

3-10 Company's information and data should be available to members whenever and however required.

3-11 Board members may seek external advice and the company should expect to remunerate its advisors.. Majority approval in compliance with relevant regulations should precede commissioning advice.

3-12 The company should remunerate the executive directors to attract the best calibres in the market. A committee, with a majority of non-executives may be formed for this purpose. The committee is entitled to propose executives' remuneration and negotiate with them in consultation with the chief executive officer. The final decision should be left to non-executive members. The names of the committee members should be announced in the annual report. The GA chairman should attend the annual meeting to answer shareholders' questions in this regard.

3-13 Executive members' payments, including salaries, allowances, in-kind benefits, incentive shares and other financial items should be disclosed. Performance-related payments should form the largest portion to motivate members' improvement.

3-14 Incentive shares should be not given to motivate members to make sound decisions at the short-term only. They should be related to medium and long-term improvements.

3-15 The terms of executive members' contracts should not exceed three years, unless there are specific circumstances, which should be announced at the GA meeting.

3-16 The committee references in 3-12 should propose non-executives' payments. to the GA. Discrepancies in payments should be avoided if possible and if not, they should be based on defined tasks or activities.

17-3 The board should meet at least once every 3 months. The number of meetings and names of absentees should be announced in the annual report. Meetings should be scheduled for members' convenience. An agenda should be circulated before the meeting. An exception is special meetings for urgent business. In such cases, executives or directors who are capable of explaining the topic thoroughly and responding to questions should attend. Resolutions should not be passed except when an ordinary meeting is not possible. In this case voting should be confined to urgent resolutions. Resolutions should be passed unanimously.

18-3 Non executive members may meet directors for consultation. These meeting may or may not be attended by executive members who should be informed about the time and agenda.

19-3 The board should review internal regulations and procedures for their appropriateness and efficiency regularly. The board is entitled to access of all information, financial and non-financial reports.

20-3 The board may form committees to undertake certain tasks for specified periods. Such committees are considered complementary to the board and not a means to discharge the board from its responsibilities or transfer responsibility to another party.

21-3 Formation of the board-affiliated committees follows general procedures set by the board including its mandate, duration and authority. The supervision of these committees should be included in procedures. Committees should inform the board openly about their tasks, outcomes and decisions. The board supervises the committees' activities periodically to ensure adherence and functionality.

22-3 An internal audit committee formed from a number of non-executive members should be assigned to check internal controls and the company's working practices.

23-3 Non-executive members, preferably, are included in committees appointed by the board. Such committees are chaired by non-executive members. Committees may seek the assistance of external advisors at the company's expense. The annual report should include a brief summary covering the form of each committee, number of meetings, assignments and achievements. GA meetings should be attended by committee chairmen.

24-3 The board appoints a secretary to manage files, minutes and reports. Unless asked to leave the meeting, the secretary attends the GA meetings. Members may contact the secretary between meetings. The secretary's role extends beyond the traditional functions, proscribed in Egyptian law, such as attending meetings and preparing minutes. The secretary acts as a permanent link between members.

25-3 The board is responsible for risk management in accordance with the company's activities, size and market. It is responsible for setting a risk aversion strategy according to the level of risk. Shareholders should be notified about this.

26-3 The board should submit an annual report to shareholders including tasks assigned by law and

- A comprehensive overview of the company's operations and financial status;
- Prospective vision of the company's activities for the coming year;
- Affiliates' activities and any outcomes;
- A summary on capital changes;
- Compliance with Corporate Governance Principles.

4- The Internal Audit Department

4-1 The company should maintain a tight internal control system established by the board members and directors. If a company devoid of such a system, members should justify this to the annual GA.

4-2 This department should be headed by a full-time administrative staff member, reporting directly to the chief executive officer. The appointee has the capacity of direct contact and consultation with the board director and attends department meetings.

4-3 The audit department's head is appointed, reappointed, financial terms arranged and dismissed by the chief executive officer, subject the approval of the audit committee. .

4-4 The head of audit department should have the capabilities necessary to perform tasks efficiently.

4-5 The head of audit department should submit a quarterly report to the board and the supervisory committee, including the company's adherence to relevant laws and regulations and corporate governance principles.

4-6 Board members should decree the duties, responsibilities, objectives and authorities of the internal audit department, head and assistant's names.

4-7 The internal audit department should design systems to evaluate risk management approaches, plans and procedures and the company's proper implementation of corporate governance.

4-8 The internal audit system and procedures should be based on a concept and study of the risks. The views and reports of the board, auditors and directors should be taken into account. Evaluation procedures should be updated regularly.

5- External Auditor

5-1 The company should appoint an external independent auditor.

5-2 The board should nominate an external auditor with a good reputation and experience on the recommendation of the audit committee. The external auditor should be able to handle the tasks according to the company size, nature and customers.

5-3 The external auditor is independent from the company and the board. He should not be a shareholder or an expert board member. He is appointed and his annual remuneration is determined by the GA.

5-4 The external auditor attends the annual GA meeting.

5-5 The external auditor fully abides with Egyptian accounting principles and rules.

5-6 The external auditor may not be contracted for additional company work without the prior approval of the audit committee. Extra duties should not interfere with the original assignment. The remuneration for extra work should match the tasks performed and not be exaggerated to a level that threatens the auditor's independence. In all cases, these costs are approved at the GA meeting that follows.

5-7 The external auditor must be independent and hold neutral opinions. The auditor's work is immunized against interference from the board. Decisions to retain an auditor and/ or to fix the auditor's remuneration are not for the board to take.

Article 6: The Audit Committee

6-1 The audit committee comprises a not less than three non-executive members. One member should be a financial and accounting expert. In case of an insufficient number of non-executives, one or more members may be appointed from outside the company.

6-2 In addition to the tasks outlined in these rules, the audit committee shall perform the following functions:

- Assess the efficiency of the financial manager and other financial staff;
- Examine the internal supervisory system and prepare a report with opinions and recommendations;
- Review the financial statements before being presented to the board and give opinions and recommendations;
- Review the company's accounting policies and give opinions and recommendations;
- Review the external auditor's plan and make suggestions;
- Review the external auditor's comments on the financial statements;
- Assess the qualifications, performance and independence of the external auditor and give suggest recommendations in relation to the auditor's appointment and remuneration;
- Approve the engagement of the external auditor to provide non-audit services, and appropriate remuneration ;
- Review and discuss the internal audit department plan and its efficiency;
- Review the reports submitted by the internal auditor and any corrective measures taken.

6-3 The committee should meet periodically, at least once every three months, with a specified agenda.

6-4 The company should make facilities available to help the audit committee perform its function including the hiring of external experts whenever required.

7- Disclosure of social policies

7-1 At least once a year the company should disclose environmental, social, safety and health policies to shareholders, customers and employees.

7-2 The policies disclosed should be clear and unambiguous, including the company's strategies for employee recruitment and training and social welfare programs within or outside the company. Health and environmental policies should be consistent with existing laws and rules. They should be sustainable in the long run and in favour of staff and society in general.

7-3 Relationships with the community, suppliers and customers should be based on credibility, mutual interest, transparency and disclosure of policies, consistent with the obligations of the company's staff and directors to keep financial and commercial information confidential.

8- Rules to avoid conflict of interests

8-1 Each company should have clear and recognized regulations for the directors and staff regarding the prevention of conflict of interests.

8-2 Board members, directors and staff may not trade company stocks before the disclosure of the company's financial statements or the disclosure of any other information that might have a financial impact. They also may not trade company stocks after sudden events that affect the company's financial status until such information is disclosed to the public. Existing laws, listing, trading and disclosure rules should be considered.

8-3 In consultation with staff and customers, the company should draw up rules of professional code of conduct including:

- Dealing with the company by selling, buying or other techniques;
- Authorized authorities;
- Disclosure of new policies;
- Existing health and safety measures;
- Professional criteria for interaction between staff, directors and customers.

8-4 The company should impose an internal system for supervising the implementation of the code of conduct.

8-5 The company should strive for ethical and professional interactions with customers.

9- Corporate Governance for other corporations

These principles primarily target companies listed in the stock market and financial institutions and corporations financed by banks. Nevertheless, corporate governance may be implemented in all companies, achieving a balance of interests and a new management culture. Therefore, the greater the number of companies abiding by these principles, the higher is the probability of promoting the interests of society, shareholders and stakeholders.

Specifically, closed or family-held joint stock companies and limited liability companies should adhere to these rules as closely as is possible.

Individuals' companies should avoid conflict of interests and impose rules of internal control. The independence of legal and financial advisors and should be ensured. Social policies should be disclosed.

If corporate governance is not applicable to closed or family-held joint stock companies and limited liability companies, they should have other less-costly alternatives that suit their financial and administrative capacity, while achieving the same results.