

# **INTERNATIONAL CORPORATE GOVERNANCE NETWORK**

## ***STATEMENT ON GLOBAL CORPORATE GOVERNANCE PRINCIPLES***

**Adopted July 9, 1999 at the Annual Conference in Frankfurt**

The International Corporate Governance Network (ICGN), founded in 1995 at the instigation of major institutional investors, represents investors, companies, financial intermediaries, academics and other parties interested in the development of global corporate governance practices. Its objective is to facilitate international dialogue on the issues concerned. Through this process, the ICGN holds, companies can compete more effectively and economies can best prosper. The organization's charter empowers it to adopt guidelines when it feels they can contribute to achieving this objective.

### **Statement on the OECD Principles**

In May 1999 ministers representing the 29 governments which comprise the Organisation for Economic Co-operation and Development (OECD) voted unanimously to endorse the *OECD Principles of Corporate Governance*. These principles were negotiated over the course of a year in consultation with key players in the market, including the ICGN. They constitute the chief response by governments to the G-7 Summit Leaders' recognition of corporate governance as an important pillar in the architecture of the 21<sup>st</sup> century global economy. The Principles were welcomed by the G7 leaders at the Cologne summit in June 1999 and are likely to act as signposts for activity in this area by the International Monetary Fund, the World Bank, the United Nations and other international organizations.

The ICGN applauds the OECD Principles as a declaration of minimum acceptable standards for companies and investors around the world. Much of the document reflects perspectives promoted by ICGN representatives serving on the OECD's Ad Hoc Task Force on Corporate Governance, relying on the draft principles under discussion at the ICGN. The ICGN welcomes the OECD Principles as a remarkable convergence on corporate governance common ground among diverse interests, practices and cultures.

The ICGN affirms—with the OECD Principles—that along with traditional financial criteria, the governance profile of a corporation is now an essential factor that investors take into consideration when deciding how to allocate their investment capital. The Principles highlight elements that ICGN investing

members already take into account when making asset allocation and investment decisions.

While the ICGN considers the OECD Principles the necessary bedrock of good corporate governance, it holds that amplifications are required to give them sufficient force. In particular, the ICGN believes that companies around the world deserve clear, concrete guidance on how the OECD Principles can best be implemented. Practical guidance can help boards meet real-world expectations so that they may operate most efficiently and, in particular, compete for scarce investment capital effectively. The ICGN contends that if investors and managers succeed in establishing productive communication on issues, they will have enhanced prospects for economic prosperity, fuller employment, better wages, and greater shareholder wealth.

The ICGN therefore advocates that companies adopt the OECD Principles as amplified in the attached statements. First, to offer more concise guidance, the ICGN distills the most significant points in its statement on the OECD Principles into a short-form roster of corporate governance tenets—a “Working Kit”—that reflects the viewpoints of ICGN members. Then the ICGN statement amplifying the OECD Principles tracks that document’s format, underscoring or interpreting as appropriate.

It is the ICGN’s view that it is in companies’ best interests to adhere to these recommendations even in the absence of any domestic legal requirements for their implementation.

# THE INTERNATIONAL CORPORATE GOVERNANCE NETWORK

## ***ICGN APPROACH TO THE OECD PRINCIPLES: A 'Working Kit' Statement of Corporate Governance Criteria***

### **1. CORPORATE OBJECTIVE**

The overriding objective of the corporation should be to optimize over time the returns to its shareholders. Where other considerations affect this objective, they should be clearly stated and disclosed. To achieve this objective, the corporation should endeavor to ensure the long-term viability of its business, and to manage effectively its relationships with stakeholders.

### **2. COMMUNICATIONS AND REPORTING**

Corporations should disclose accurate, adequate and timely information, in particular meeting market guidelines where they exist, so as to allow investors to make informed decisions about the acquisition, ownership obligations and rights, and sale of shares.

### **3. VOTING RIGHTS**

Corporations' ordinary shares should feature one vote for each share. Corporations should act to ensure the owners' rights to vote. Fiduciary investors have a responsibility to vote. Regulators and law should facilitate voting rights and timely disclosure of the levels of voting.

### **4. CORPORATE BOARDS**

The board of directors, or supervisory board, as an entity, and each of its members, as an individual, is a fiduciary for all shareholders, and should be accountable to the shareholder body as a whole. Each member should stand for election on a regular basis.

Corporations should disclose upon appointment to the board and thereafter in each annual report or proxy statement information on the identities, core competencies, professional or other backgrounds, factors affecting independence, and overall qualifications of board members and nominees so as to enable investors to weigh the value they add to the company. Information on the appointment procedure should also be disclosed annually.

Boards should include a sufficient number of independent non-executive members with appropriate competencies. Responsibilities should include monitoring and contributing effectively to the strategy and performance of

management, staffing key committees of the board, and influencing the conduct of the board as a whole. Accordingly, independent non-executives should comprise no fewer than three members and as much as a substantial majority.

Audit, remuneration and nomination board committees should be composed wholly or predominantly of independent non-executives.

## **5. CORPORATE REMUNERATION POLICIES**

Remuneration of corporate directors or supervisory board members and key executives should be aligned with the interests of shareholders.

Corporations should disclose in each annual report or proxy statement the board's policies on remuneration—and, preferably, the remuneration break up of individual board members and top executives—so that investors can judge whether corporate pay policies and practices meet that standard.

Broad-based employee share ownership plans or other profit-sharing programs are effective market mechanisms that promote employee participation.

## **6. STRATEGIC FOCUS**

Major strategic modifications to the core business(es) of a corporation should not be made without prior shareholder approval of the proposed modification. Equally, major corporate changes which in substance or effect materially dilute the equity or erode the economic interests or share ownership rights of existing shareholders should not be made without prior shareholder approval of the proposed change.

Shareholders should be given sufficient information about any such proposal, sufficiently early, to allow them to make an informed judgment and exercise their voting rights.

## **7. OPERATING PERFORMANCE**

Corporate governance practices should focus board attention on optimizing over time the company's operating performance. In particular, the company should strive to excel in specific sector peer group comparisons.

## **8. SHAREHOLDER RETURNS**

Corporate governance practices should also focus board attention on optimizing over time the returns to shareholders. In particular, the company should strive to excel in comparison with the specific equity sector peer group benchmark.

## **9. CORPORATE CITIZENSHIP**

Corporations should adhere to all applicable laws of the jurisdictions in which they operate.

Boards that strive for active cooperation between corporations and stakeholders will be most likely to create wealth, employment and sustainable economies. They should disclose their policies on issues involving stakeholders, for example workplace and environmental matters.

#### **10. CORPORATE GOVERNANCE IMPLEMENTATION**

Where codes of best corporate governance practice exist, they should be applied pragmatically. Where they do not yet exist, investors and others should endeavor to develop them.

Corporate governance issues between shareholders, the board and management should be pursued by dialogue and, where appropriate, with government and regulatory representatives as well as other concerned bodies, so as to resolve disputes, if possible, through negotiation, mediation or arbitration. Where those means fail, more forceful actions should be possible. For instance, investors should have the right to sponsor resolutions or convene extraordinary meetings.

# THE INTERNATIONAL CORPORATE GOVERNANCE NETWORK

## *OECD PRINCIPLES AS AMPLIFIED*

### ***Preamble***

The ICGN affirms that, to be effective, corporate governance practices should focus board attention on optimizing over time the returns to shareholders with a view to excel in comparison with the company's equity sector peer group.

To achieve this objective, the board is expected to manage successfully its relationships with other stakeholders, i.e. those with a legitimate interest in the operation of the business, such as employees, customers, suppliers, creditors, and the communities in which the company operates.

### ***I The Rights of Shareholders***

**Overall Strategy.** Major strategic modifications to the core business(es) of a corporation should not be made without prior shareholder approval of the proposed modification. Equally, major corporate changes which in substance or effect materially dilute the equity or erode the economic interests or share ownership rights of existing shareholders should not be made without prior shareholder approval of the proposed change. Shareholders should be given sufficient information about any such proposal, sufficiently early, to allow them to make an informed judgment and exercise their voting rights.

**Access to the Vote.** The right and opportunity to vote at shareholder meetings hinges in part on the adequacy of the voting system. The ICGN believes that markets and companies can facilitate access to the ballot by following the ICGN's *Global Share Voting Principles*, adopted at the July 10, 1998 annual meeting in San Francisco. In particular, the ICGN supports initiatives to expand voting options to include the secure use of telecommunication and other electronic channels.

**Disclosing Results.** The ICGN underlines both the OECD assertion that "equal effect should be given to votes whether cast in person or in absentia" and the Annotation's statement that "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." To implement this recommendation, the ICGN believes that corporations should disclose voting levels for each resolution in a timely manner.

**Unequal Voting.** The ICGN affirms that divergence from a ‘one-share, one-vote’ standard which gives certain shareholders power disproportionate to their equity ownership is undesirable. Any such divergence should be both disclosed and justified.

**Duty to Vote.** The ICGN believes that institutional investors have a fiduciary obligation to vote their shares, subject to considerations of excessive cost and obstacles.

## ***II The Equitable Treatment of Shareholders***

**One-Share, One-Vote.** The ICGN affirms the OECD’s recognition that “many institutional investors and shareholder associations support...the concept of ‘one-share, one-vote.’” The ICGN holds that national capital markets can grow best over the long-term if they move toward the ‘one-share, one-vote’ principle. Conversely, capital markets that retain inequities are likely to be disadvantaged compared with markets that embrace fair voting procedures.

**Protections.** As the OECD declares, boards should treat all the corporation’s shareholders equitably and should ensure that the rights of all investors, “including minority and foreign shareholders,” are protected.

## ***III The Role of Stakeholders in Corporate Governance***

**Board Member Duties.** The ICGN is of the view that the board should be accountable to shareholders and responsible for managing successful and productive relationships with the corporation’s stakeholders. The ICGN concurs with the OECD Principle that “active cooperation between corporations and stakeholders” is essential in creating wealth, employment and financially-sound enterprises over time.

**Stakeholder Participation.** The ICGN affirms that performance-enhancing mechanisms promote employee participation and align shareholder and stakeholder interests. These include broad-based employee share ownership plans or other profit-sharing programs.

## ***IV Disclosure and Transparency***

**Objective.** The ICGN holds that corporations should disclose accurate, adequate and timely information, in particular meeting market guidelines where they exist, so as to allow investors to make informed decisions about the acquisition, ownership obligations and rights, and sale of shares.

**Ownership and Voting Rights.** In addition to financial and operating results, company objectives, risk factors, stakeholder issues and governance structures,

the information enumerated in the OECD Annotations is needed. These are “data on major shareholders and others that control or may control the company, including information on special voting rights, shareholder agreements, the beneficial ownership of controlling or large blocks of shares, significant cross-shareholding relationships and cross-guarantees” as well as information on differential voting rights and related party transactions.

**Board Member Information.** The ICGN further asserts that corporations should disclose upon appointment to the board and thereafter in each annual report or proxy statement sufficient information on the identities, core competencies, professional backgrounds, other board memberships, factors affecting independence, and overall qualifications of board members and nominees so as to enable the assessment of the value they add to the company. Information on the appointment procedure should also be disclosed annually.

**Remuneration.** Remuneration of corporate directors or supervisory board members and key executives should be aligned with the interests of shareholders. Corporations should disclose in each annual report or proxy statement the board’s policies on remuneration—and, preferably, the remuneration break up of individual directors and top executives—so that it can be judged whether corporate pay policies and practices meet that standard.

**Audit.** The ICGN advocates annual audits of corporations by independent, outside auditors, together with measures that enhance confidence in the quality and independence of the audit. The ICGN itself has voted support for the development of the highest-quality international accounting standards, and would encourage corporations to apply those or other standards of comparable quality. The ICGN also backs active, independent board audit committees and, to limit the risks of possible conflicts of interest, disclosure of the fees paid to auditors for non-audit services.

## ***V The Responsibilities of the Board***

The ICGN agrees with the OECD’s enumeration of board duties and responsibilities.

**Independent Board Members.** It endorses the assertion that “the board should be able to exercise objective judgment on corporate affairs independent, in particular, from management.” To meet this challenge, the ICGN holds that each company should take the following steps. First, it should acknowledge that the board of directors, or supervisory board, as an entity, and each of its members, as an individual, is a fiduciary for all shareholders, and should be accountable to the shareholder body as a whole. Each elected member should stand for election on a regular basis. Second, each board should include sufficient independent non-executive members with appropriate competencies. Responsibilities should include monitoring and contributing effectively to the

strategy and performance of management, staffing key committees of the board, and influencing the conduct of the board as a whole. Accordingly, independent non-executives should comprise no fewer than three members and as much as a substantial majority.

**Independent Committees.** To further strengthen the professionalism of boards, the ICGN endorses earlier language considered by the OECD. “Certain key responsibilities of the board such as audit, nomination and executive remuneration, require the attention of independent, non-executive members of the board. Boards should consider establishing committees containing a sufficient number of independent non-executive board members in these areas where there is a potential for conflict of interest or where independent business judgment is advisable.” The ICGN considers that to meet this challenge audit, remuneration and nomination board committees should be composed wholly or predominantly of independent non-executives.