

NATIONAL COMMISSION ON CORPORATE GOVERNANCE

MOROCCAN CODE OF GOOD CORPORATE GOVERNANCE PRACTICES

**This is a non official translation of the original French language document.
The original is the definitive version.
This translation is a courtesy of the Global Corporate Governance Forum.**

Summary

	Page
Foreword -----	3
Preamble -----	5
General principles of good corporate governance practices -----	8
Glossary -----	27
Charter for governing body members -----	31
Abbreviations -----	33
Composition of the National Commission -----	34
Table of contents -----	37

Foreword

Now that, under the enlightened supervision of His Majesty The King Mohammed VI, our country begins the massive task of modernizing its political, economic and administrative structures, it becomes crucial for us to buttress the competitiveness of our economy and of its enterprises.

More than ever, the present environment of globalization and heightened competition requires a convergence between the concept of governance in the private sector and that of the public sector for the emergence of governance practices that protect the interests of those who invest their talents and their capital for the profit of all.

This crucial awareness led to the setting up, in February 2007, of a National Commission on Corporate Governance in charge of drafting, following the example of numerous developed and emerging countries, a Moroccan Code of Good Corporate Governance Practices. The National Commission, fruit of a broad consensus between the public and the private Moroccan sectors, brings together all key actors in corporate governance in Morocco who, through their significant commitment and involvement in this matter, are best suited to support this project and to contribute to its success.

The Moroccan Code of Good Corporate Governance Practices is, without doubt, a strong signal to the various actors of the business world and helps promote good governance practices within enterprises, both from the private and public sectors, thereby strengthening the necessary trust between all partners and playing a large part in creating more wealth and value for the enterprise and all its stakeholders.

Good corporate governance buttresses national and foreign investment, promotes market stability and secures economic growth, an essential lever for national development. These crucial issues require both governmental authorities, through economic and political reforms, and private sector actors, to combine their efforts through continuous improvement of their governance methods and practices so as to build an efficient and united economy.

In line with international benchmarks, and widely inspired by the OECD corporate governance principles, the Moroccan Code of Good Corporate Governance Practices has been the subject of broad public consultation, both at the national and international level, so as to adapt it to the local environment and to the specificities of the Moroccan economic fabric. This Code shall be supplemented by provisions and specific regulations to take into account the specificities of small and medium-sized enterprises and family-owned businesses, financial institutions and public enterprises.

Corporate governance is an ever-changing process which must be elevated to a culture. Therefore, we shall see to the permanence of the National Commission in order to continuously assess and enhance the provisions of our code and to optimize its impact on the improvement of the business climate and on the performance of our economy and its enterprises. At the same time, consciousness raising and training regarding the new responsibilities and standards set forth in terms of corporate governance shall take place.

We seize this opportunity to sincerely thank again all the members of the National Commission for their considerable effort in drafting this code, and in particular the members of the Anticorruption Commission of the CGEM and the Economic Promotion Unit of the Ministry of Economic and General Affairs who worked on this project with dynamism and conviction and who contributed to create a remarkable synergy between private and public actors. Our warmest thanks also go to the international experts group (GCGF Code Peer Review Group) which accepted to review the initial drafting of this code and to benevolently offer its comments, as well as to all private and public Moroccan institutions and individuals who participated in the consultation process at the national level, for their efficient contribution to enhance the provisions of this code.

Finally, we wish to express our special thanks to the Global Corporate Governance Forum (GCGF) for the technical assistance they provided us along this project as well as to the IFC and the OECD for their great support.

Moulay Hafid ELALAMY
Chair of CGEM

Nizar BARAKA
Deputy Minister to the Prime Minister in
charge of Economic and General Affairs

Preamble

The globalization of markets and competition, the acceleration of information and communications technologies, the advent of individual, institutional, and partner shareholding, and the emergence of new economic, social, societal, and environmental responsibilities are among the factors characterizing the new competitive environment for our companies.

Our country's system of institutional and economic reforms has been particularly steadfast in recent years in adapting its legislative and regulatory framework to this new competitive environment, and thereby buttressing the efforts of our firms to achieve greater efficiency and competitiveness. Speaking of corporate governance in particular, an inventory has been conducted through the ROSC study (or *RRNC*) of the World Bank (2001 – Updated in 2003) and the survey on corporate governance in Morocco (2005) carried out by the CGEM.

At the same time, it is important to follow the lead of many developed and emerging countries and promote a Moroccan Code of Good Corporate Governance Practices, based on particular principles of sound management and transparency and on ethical standards likely to enhance the performance, competitiveness, and growth of our firms and to improve their image in the eyes of investors and other stakeholders (employees, customers, creditors, the Administration, etc.).

Indeed, it is more and more widely acknowledged that good governance practices solidify the trust that is essential among all of a company's partners and contribute to creating greater value for the firm and its stakeholders.

The Moroccan Code of Good Corporate Governance Practices is the outgrowth of an extremely broad consensus reached between the private and public sectors. It was drafted by a National Commission chaired by the CGEM, with secretariat services and coordination provided by the Ministry of Economic and General Affairs. The Commission brought together all the key stakeholders in corporate governance in Morocco (BAM, CDVM, the Casablanca Exchange, GPBM, CJD, the Association of Auditors, ANPME, FCMCIS, the Ministry of Justice, the Ministry of Economy and Finance, the Ministry of Public Sector Modernization), and benefited from the assistance of the Global Corporate Governance Forum (IFC - OECD). The aim of the Commission was to draw up a code consistent with international benchmarks and the OECD Principles of Corporate Governance, while adapting to local conditions and to the special characteristics of the Moroccan economic fabric.

What is Corporate Governance?

Corporate governance involves all the relationships between a company's management and governing bodies and the shareholders, on the one hand, and the other stakeholders, on the other hand, and does so with a view to creating value for the corporation.

Corporate governance is thus concerned with the manner in which firms are directed and controlled, and examines the capacities of management bodies to:

– Pursue objectives consistent with the interests of shareholders and other stakeholders, and

- Implement effective control systems for managing potential conflicts of interest and possible risks, and for preventing abuses of power which might cause private interests to hold sway over the “corporate interest.”

What is the aim of this Code?

Stimulating growth and promoting employment in an ever-more competitive environment is a major concern for all countries. Numerous empirical studies have now demonstrated the interconnections between good corporate governance practices on the one hand and corporate performance and growth on the other. Indeed, it is more and more widely acknowledged that an effective corporate governance mechanism makes it possible to:

- Improve the performance and competitiveness of companies and thereby increase their value over the long term thanks to the quality of their governing bodies (Board of Directors, Supervisory Board, Management Board, Family Council, Managing Board, etc.);
- Optimize access to financing and the cost of capital;
- Build confidence on the part of national and international investors and donors thanks to the improved transparency and quality of financial information on the one hand, and, on the other, the respect for the rights of resident or nonresident majority and/or minority shareholders; and
- Solidify relations with the stakeholders (employees, customers, creditors, the Administration, etc.) thanks to compliance with the prevailing legislative and regulatory provisions (securities law, labor law, company law, commercial law, etc.) and/or the contractual provisions in force.

For the general economy, good practices of corporate governance make it possible in particular to:

- Enhance the competitiveness of Moroccan enterprises on the domestic and international markets;
- Contribute to improved growth and employment;
- Contribute to the development of an efficient capital market necessary for the sound and competitive financing of our corporations; and
- Better protect the interests of investors and creditors.

To whom is this Code addressed?

This Code is addressed to all firms seeking to increase their performance and value in a sustainable manner thanks to the adoption of best practices for corporate governance.

Targeted corporate governance codes will supplement this general code in order to address in particular the special characteristics of the following categories of enterprises:

- SMEs and family-owned businesses
- Credit institutions
- Publicly owned subsidiaries and mixed-capital companies.

How should this Code be used?

The principles of good governance are based first and foremost on all the legal and regulatory provisions that must be strictly observed in spirit and to the letter. The Moroccan Code of Good Corporate Governance Practices constitutes a collection of lines of conduct and recommendations that supplement the law and regulations, and any provisions of this Code that are contrary thereto are to be disregarded. This Code may later be supplemented and enriched by means of circulars and other regulatory texts issued primarily by the Office of the Prime Minister and/or other departments and agencies concerned.

At the level of the governing bodies, the Moroccan Code of Good Corporate Governance Practices is built upon the unitary structure (Board of Directors for corporations and management for other forms of companies). This said, the Code's recommendations may also apply, *mutatis mutandis*, to enterprises that have adopted the dual structure (Supervisory Board and Management Board for corporations). In this case, the provisions of the chapter on "responsibilities of the governing body" apply to the Supervisory Board or to the Management Board depending on the responsibilities of each of these two bodies.

The recommendations and lines of conduct with respect to corporate governance are not to be regarded as hampering corporate dynamism, and enterprises thus have room for maneuver in implementing them flexibly in keeping with their legal structure, size, shareholder composition, activities, risk exposure, and management method.

For this reason, each firm will have to take its own position with respect to the Moroccan Code of Good Corporate Governance Practices and explain the extent to which it is applying its recommendations.

This system, known as "comply or explain," is recommended by the OECD. It is thus a matter of applying the recommendation (comply) or of explaining (explain) the reasons for any departure from it in the Corporate Governance chapter of the management report and, if need be, in its annual report,.

This Code includes four chapters inspired by the OECD Principles of Corporate Governance (2004), and which constitute the pillars of a sound corporate governance mechanism:

- Responsibilities of the governing body
- Rights of shareholders and partners, and their equitable treatment
- Transparency and the dissemination of financial information
- The role of stakeholders and their equitable treatment.

What is the process for revising this Code?

Corporate governance is, by definition, a process that undergoes constant change. For this reason, this Code is intended to evolve and will be revised periodically by the National Corporate Governance Commission in light both of national or international changes in the business environment and of the practices followed by firms.

General principles of good corporate governance practices

I. Responsibilities of the governing body

The governing body is in charge of the strategic orientation and effective surveillance of the management of the enterprise. It is accountable to majority and minority shareholders and partners, and must be motivated by a genuine "affectio societatis" in its respect for the other enterprise stakeholders (its employees, its customers, its creditors, the Administration, etc.).

1) Functions of the governing body

The key functions of the governing body consist in particular in:

- Reviewing and guiding the strategy of the company, its action plans, its risk policy, and its annual budgets and activity programs; defining its performance objectives, ensuring monitoring of the implementation of the objectives and enterprise performance, and controlling its principal investments and disinvestments;
- Recruiting the principal executives, determining their compensation and ensuring that it is appropriate and transparent, monitoring their activities and performance, and, as necessary, replacing them and preparing succession plans;
- Overseeing and managing the conflicts of interest that may arise between management, the members of the governing body, and the shareholders or partners, including abuses of social goods or abuses committed in the context of regulated agreements;
- Ensuring the integrity of the accounting and financial and non financial reporting systems of the enterprise, in particular ensuring compliance with accounting principles and the existence of adequate internal control and risk management systems, and organizing independent audits and relations with the external auditors;
- Overseeing the information dissemination and communication process of the enterprise, in particular as regards:
 - The legal and regulatory obligations concerning information
 - Strategic directions
 - Social policy
 - The policy on borrowing and dividends
 - Regulated agreements, in particular with the principal executives and holding companies
 - Compensation of executives.
- Ensuring the proper conduct of General Meetings, the implementation of the decisions taken by shareholders, and monitoring corporate governance in all its forms;

- Ensuring the scrupulous observance of laws and regulations (securities law, labor law, company law, commercial law, provisions relating to environmental protection, health and safety legislation, etc.) and professional good practices (high ethical standards and rules, etc.).
- Continuously improving corporate governance.

2) Responsibilities and duties of the members of the governing body

The members of the governing body must fully exercise their role and contribute genuine added value to the enterprise and its executive management. To this end, it is their duty to act in an informed manner, in good faith, and with diligence in the interest of the firm, its shareholders, and its partners.

Their fiduciary responsibility vis-à-vis all shareholders and partners is built upon the duties of diligence and loyalty.

The duty of diligence is applicable in particular to their personal involvement and their conviction that the principal management mechanisms facilitate the governing body's exercise of its monitoring and control mission.

The duty of loyalty colors the observance of the other principles, relating in particular to independence of judgment, conflicts of interest, ethics, good faith, and professionalism.

In general, there are four dimensions to responsibility:

◻ Having the capacity to take decisions in the interest of all shareholders or partners.

To this end, the composition of the governing body must ensure that decisions are taken efficiently and strictly in the company interest. In particular, the diversity of the profiles of the members, with complementary experiences and skills, the assistance provided to members in terms of information and training, and the periodic assessment of members, constitute a guarantee of proper functioning of the governing body.

◻ Having independence of judgment, decision-making, and action.

Decisions must be reached with full independence of judgment on the part of the members of the governing body, whether they are executive or outside members.

Similarly, such conflicts as may exist between the moral and material interests of the governing body and those of the firm must be avoided. The governing body must be informed of any possible conflict of interest with the enterprise. All members finding themselves in a direct or indirect conflict of interest situation must abstain from participating in discussions and decision-making on the subjects concerned.

Finally, the separation of powers in the corporation by separating the functions of Chairman and Chief Executive (companies with Boards of Directors) or by the adoption of a dual structure (Supervisory Board and Management Board) promotes the independence of decision-making and actions.

◻ Fulfilling the duty of control.

The accounts are one of the main sources of information on corporate performance. The first priority of the governing body is to guarantee the quality of financial information, which must be reliable, comparable, intelligible, and relevant.

Similarly, monitoring the implementation of the agreed strategy, examining the internal control procedures applied by the enterprise, risk management, assessing the performance of executives, and monitoring the work of specialized committees are all areas under the responsibility of the governing body.

Finally, the adoption of internal by-laws and a charter for the members of the governing body is likely to improve the formalization and control of corporate governance practices.

◻ Fulfilling the reporting obligation.

The obligation to be accountable or render the accounts (“Accountability”) constitutes the exercise and justification of responsibilities. This is, in particular, the legal or moral obligation to report to all shareholders, partners, and stakeholders on the manner in which responsibilities have been assumed, corrective measures taken, and, depending on circumstances, agreement to assume the consequences of one’s own decisions and acts.

The reporting obligation is carried out on the occasion of the General Meeting, the ideal location for shareholders to exercise their rights, but also in connection with the financial and non financial communication process of the enterprise.

3) Structures for the efficient functioning of the governing body

3.1) Independence of the governing body and its members

Assessment of the performance of executives and the prevention of conflicts of interest are among the important missions of the governing body. This requires that the governing body be independent both of enterprise management and of its shareholders and partners, and in particular of the shareholders or partners of reference.

The independence of the governing body is determined principally by its composition and structure, that is:

◻ The role of non executive or outside senior directors;

◻ The existence of specialized committees, their composition, and the role played in them by the non executive or outside members of the governing body;

◻ The separation of powers between the key executives (Chairman, Chief Executive, manager, co-manager, etc.).

Independence of judgment is a requirement for all members of the governing body, whether executives or not, who must in all circumstances act in the interest of the firm. In particular, the non executive or outside members are full members who must take an objective view of the enterprise and contribute to enriching reflection and decision-making, in particular thanks to their assiduousness, professionalism, and independence. To this end, the enterprise must provide them with the training, information, and resources needed for them to carry out their mission efficiently.

Moreover, for limited liability companies with Boards of Directors, the choice between maintaining combined functions for the Chairman and Chief Executive or separating them should be made by each enterprise, reaching a decision in light of its considerations on good governance.

In the interest of ensuring transparency between the key executives and the governing body and transparency vis-à-vis the market and the shareholders and partners, it is necessary that the latter and third parties be properly informed about the option taken, and that the reasons and justifications for the choices made be set forth in the management report.

It is recommended that firms opt for the dual structure, or separate the functions of Chairman and Chief Executive. This recommendation is aimed basically at:

- ▮ Increasing the capacity of the governing body to take decisions completely independently of the key executives;
- ▮ Avoiding excessive concentration of powers in the hands of a single person;
- ▮ Strengthening the collegial nature of decision-making.

Such formulas also make it possible to better distribute responsibilities for long-term enterprise strategy and its operational management.

3.2) Ethics of governing body members

The following obligations are incumbent on each member of the governing body:

- ▮ Defend the interests of the enterprise and carry out its responsibilities while dealing impartially with all shareholders or partners.
- ▮ Take cognizance of the relevant legislative and regulatory texts, the company charter, and the internal operating rules and ethical rules of the governing body. They must also stay informed of changes in the regulatory and competitive environment of the enterprise.
- ▮ Inform the governing body of any real and/or potential situation of conflict of interest and/or of any regulated agreement, and abstain from voting on the corresponding deliberation.
- ▮ Be present, involved, and generate added value in the reflections and decisions of the governing body, in order to attain legitimacy and gain the trust of shareholders or partners.
- ▮ Be properly and correctly informed, and ask the Chairman, managing director, and other key executives for additional information whenever necessary.
- ▮ Maintain the confidentiality of any privileged information that may come to its attention in the exercise of its duties.
- ▮ Participate actively in General Meetings.
- ▮ It is highly recommended that reciprocal mandates be avoided, except when cross-participations are the result of a de facto strategic alliance that has been brought to the attention of shareholders and partners or when the enterprises have significant ties in terms of capital.
- ▮ It is also recommended to avoid holding several mandates concurrently likely to impair the carrying out of the duties of the member of the governing body in the best conditions.

Each governing body may supplement the above list by special provisions imposed by its own circumstances.

3.3) Specialized committees of the governing body

The existence of specialized committees within the governing body is a key component of corporate governance and the efficient functioning thereof. The competence, objectivity, and independence required of members make it essential to entrust certain tasks to committees. This is particularly recommended for enterprises making public offerings.

It is up to each governing body to determine the number, structure, and organization of its committees. This said, it is recommended that the:

- Review of the accounts
- Monitoring of internal control
- Selection of the external auditors
- Compensation and nominations policy
- Investment and borrowing policy, and
- Selection of the members of the governing body and corporate agents

be prepared by specialized committees.

The establishment of committees does nothing to call into question the responsibility and prerogatives of the governing body, which has the sole legal decision-making power.

This is why the committees must report on their work at meetings of the governing body and provide a progress report on their activities, a summary of which must be included in the management report.

When and as necessary, the committees may request internal audits of their work or call upon the services of outside consultants paid out of a budget allocated annually for that purpose by the governing body.

It is recommended that at least two different committees be created, namely an Audit Committee and a Compensation and Nominations Committee. The governing body should determine the advisability of adding other committees (risks, investments, etc.).

3.3.1). The Audit Committee

The Audit Committee is the governing body's subunit tasked with examining the draft final financial statements and evaluating risks. It therefore plays a central role in respect of the transparency of corporate accounts and the capacity of those accounts to inform shareholders, partners, and stakeholders on all the economic, financial and operational risks to which they are exposed.

– Composition of the Audit Committee

The Audit Committee must be made up of governing body members with solid knowledge of the accounting and financial details of the enterprise's activity, and who are capable of assessing the risks to which the enterprise is exposed in view of its line of business and environment.

The senior financial and accounting managers of the enterprise, whether corporate agents or otherwise, may be invited to participate in the work of the Audit Committee but may not be members thereof.

– **Independence** :

It is recommended that the Audit Committee be made up of a majority of non executive or outside members who have the objectivity and freedom of judgment necessary for performing their mission soundly and serenely.

– **Resources** :

The Audit Committee has the power to meet with the senior financial officers of the firm, the external auditors, and the internal audit managers outside the presence of enterprise management. The Audit Committee may, should it so desire, request external experts to assist in its work. In addition, the committee must receive all reports relating to its area of intervention.

– **Duty of care as regards the final accounts** :

The Audit Committee ensures the integrity of financial information, and the relevance and consistency of the accounting methods used in closing the accounts. The Committee must request all necessary justifications and documentation for any potential modifications.

It must evaluate the consequences thereof and, in particular, those of off-balance-sheet liabilities.

It is also responsible for analyzing the scope for accounts consolidation and submitting comments and observations before consolidated accounts are closed by the governing body.

The Audit Committee shall meet as necessary and at least twice a year to review its internal by-laws, assess the effectiveness of its operation, assess the accounting choices made by key executives, and make all necessary recommendations to the governing body.

– **Control of the independence and objectivity of external auditors** :

The Audit Committee makes recommendations to the governing body on the selection, appointment, renewal, and compensation of the external auditors. In accordance with company law, its proposals are submitted to the General Assembly.

The Audit Committee regularly interviews candidates for external auditor, whether or not in the presence of key executives and financial, accounting, and treasury officers. It steers the procedure for selecting external auditors and submits the procedure to the governing body.

The Committee must examine the fees paid to external auditors by the enterprise or its group in order to verify that the amount is not such as to affect their independence and the quality of their work.

For enterprises making public offerings, the double statutory audit enhances the independence and effective control of the external auditors, and the Audit Committee must ensure that the arrangement is effectively implemented, in particular as regards important issues arising when the accounts are closed.

It is recommended that the governing body propose the rotation of the external auditor after two successive terms of three years each.

The Audit Committee shall ensure that the external auditor performs no other function that is likely to impair their independence.

– Role of the Audit Committee vis-à-vis internal audit :

The Audit Committee must monitor the efficient functioning and internal control systems of the enterprise. It makes sure that the individual in charge of internal audit is independent and it must be able to meet with him, in the absence of their supervisors, whenever it wishes to have a presentation on the annual program for internal audit, the results of investigations, recommendations, etc.

The Audit Committee examines and gives its opinion on the annual program for internal audit prior to its validation and implementation.

The Audit Committee must receive internal audit reports, which must touch upon financial and non financial aspects and also include the identification and monitoring of risks. It is informed of the implementation of the recommendations of the internal audit by the company's executives.

The composition of Audit Committee members, and the Committee's activities over the previous year, are addressed in the "Corporate Governance" chapter of the management report.

3.3.2. The Compensation and Nominations Committee

This Committee helps the governing body to:

- ▮ Put in place a clear compensation policy that is both equitable and provides incentives for the members of the governing body and other key executives;
- ▮ Clarify the compensation of the members of the governing body;
- ▮ Ensure that the quality of the management teams and the governing body matches the strategy of the enterprise.

The compensation policy for corporate agents in particular serves as an example, and the Committee will ensure that the following principles are observed:

- ▮ Balance between compensation and performance, and between the interests of key executives and those of shareholders, partners, and the enterprise;
- ▮ Exhaustiveness, consistency, and simplicity;
- ▮ Coherence with the enterprise compensation policy and with market practices;
- ▮ Justification and equity with regard to shareholders, partners, and the enterprise.

With regard to the nominations policy, the responsibilities of the Committee will be to:

- Adopt procedures for the selection and replacement of the members of the governing body;
- Periodically evaluate the size and composition of the governing body and make all necessary recommendations for improvement;
- Identify potential candidates with the necessary knowledge, skills, and qualifications, and propose them for approval by the governing body;

- Express a view on appointment proposals made by shareholders;
- Devise a succession plan for the members of the governing body and other key executives.

Because independence and transparency must be the principal pillars of the Committee, it is recommended that it include at least one external, unsalaried member of the governing body.

The Compensation and Nominations Committee shall meet at least twice a year and whenever it deems it necessary in order to fulfill its obligations, whether or not in the presence of senior management.

The “Corporate Governance” chapter of the management report should include a presentation on the members of the Compensation and Nominations Committee and their activities over the preceding year.

3.4 Organization of the governing body

3.4.1. Composition of the governing body

The composition of the governing body is critical in enabling it to fulfill its role in the best possible way. It must be made up of members with integrity and competence who are well informed and involved, and who impart a diversity (in terms of training, professional experience, male-female balance, age, nationality, etc.) that will help lead to genuine debate and steer clear of a systematic search for consensus.

Each governing body should critically examine its composition, membership, the real balance between the powers of the Chairman as compared to the governing body, and the composition of its committees. In particular, it must seek to reassure the shareholders, partners, and third parties that its missions will be accomplished with the necessary independence and objectivity.

3.4.2. Special characteristics and complementarities of the roles of executive members and non executive or outside members in the governing body

The executive members have the duty of passing on all meaningful financial and extra financial information about the life of the enterprise in order to inform all the non executive or outside members.

The non executive members critically and constructively debate the suggested strategies and policies with the executive members, and enrich them if necessary.

The non executive members also rigorously evaluate the performance of the executive members and other key executives in terms of the agreed strategies and objectives.

3.4.3. Training

The Committee on Compensation and Nominations ensures that the new members of the governing body have received adequate training to facilitate their integration and participation in its work.

This training must cover the general characteristics of the enterprise, its markets, its business lines, its strategy, and its policies, as well as the major challenges and risks to which it is exposed.

The members involved in the specialized committees (Audit, Compensation and Nominations) shall receive specialized training so as to enable them to carry out their mission in the best possible manner.

For example, new members of the Audit Committee will be informed of the specific operating modalities of that Committee, the accounting, financial, and organizational characteristics of the enterprise, and its internal control and risk management systems.

Contact with the external auditor and with those responsible for finance and internal control within the company constitute part and parcel of this training process.

Finally, the members of the governing body must always update their knowledge in terms of regulations. They must also regularly update their skills in terms of best practices in corporate governance and their knowledge of the firm, in order to efficiently carry out their mission within the governing body or its committees, and will dispose of the resources necessary to this end.

3.4.4. Evaluation and transparency

It is recommended that the governing body evaluate its size, composition, organization, tasks, and performance, as well as the contribution made by each of its members, the Chairman, and the manager and their interaction with enterprise management

This same approach should be applied to the Committees.

The aim of this evaluation is to:

- ▮ Assess the effectiveness of the governing body and ensure, in particular, that important issues are prepared for and debated properly;
- ▮ Identify the effective contribution of each member in terms of attendance at meetings of the governing body and the Committees, and their involvement in the discussions and decision-making;
- ▮ Ensure that the size and composition of the governing body are adequate;
- ▮ Verify the adequacy of the resources allocated to the operation of the governing body and to its missions.

The evaluation should be conducted in accordance with the following modalities:

- ▮ At least once a year, the governing body should devote an agenda item to exchanges of views on its operation. By way of example, the governing body verifies its independence and the balance of powers exercised within it, ensures that the succession plans for its members are adequate, and ascertains that the selection or reappointment of executive and non executive members guarantee a balance of skills and experience. In effect, each governing body will rank the aspects to be evaluated in terms of the body's strengths and weaknesses with regard to corporate governance.

It is recommended that a formalized evaluation be conducted at least once every three years, perhaps under the direction of a non executive or outside member of the governing body, with assistance from an outside expert.

It is recommended that the non executive members of the governing body evaluate their interaction with the management of the firm, and, to this end, meet at least once a year without the presence of the corporate agents and executive members.

It is further recommended that the governing body report on its work and its evaluation in the “Corporate Governance” chapter of the management report.

3.5 Operating tools of the governing body: The internal by-laws and the charter for governing body members :

To assist the governing body in fulfilling its transparency mission, it is recommended that firms adopt internal by-laws and a charter for governing body members, which are two key factors in formalizing and implementing corporate governance.

3.5.1. Internal by-laws :

The internal by-laws set forth in particular:

- The organization of the governing body’s meetings;
- Its missions;
- The distribution of powers among key executives (the Chairman, the Chairman of the Management Board, the Chief Executive, managers, etc.);
- The powers delegated to the Chairman and Chief Executive or to the Chief Executive (in the event of a split structure) with respect to investment, disinvestment, and financing;
- Definition of the specialized committees, and, for each of them, its composition, minimum number of meetings annually, mission, resources, and reporting requirements;
- The mode and frequency of evaluation of the governing body.

3.5.2. Charter for governing body members (*) :

This may optionally be a part of the internal by-laws, but need not be. It sets forth the rights and duties of the members of the governing body and covers the following aspects:

- The knowledge and skills, training, and information of the said member;
- The defense of corporate interest and loyalty;
- Ethics: confidentiality, conflicts of interest, and transparency of transactions with the securities held;
- The duty to speak up, and independence of spirit;
- Availability for and regular attendance at meetings of the governing body;
- Presence at the General Meeting;
- The criteria for the award of attendance fees.

(*) : See example of Charter in Exhibit p.31

II- Rights of shareholders and partners and their equitable treatment

The enterprise must protect the rights of shareholders and partners, and facilitate the exercise thereof. It must also ensure the equitable treatment of all shareholders and partners, including minority and nonresident shareholders and partners.

1) Participation at the General Meeting

The General Meeting is the optimal venue for shareholders and partners to exercise their rights in the enterprise, and constitutes a central component of corporate governance.

1.1) The enterprise encourages the effective participation and voting of shareholders or partners at General Meetings.

1.2) The enterprise shall determine the location, date, and timing for holding the General Meeting with the foregoing in mind, and shall make available to shareholders and partners on its website, among other things, all relevant and practical information concerning their participation at the General Meeting, and, in particular, the applicable regulations and voting procedures.

1.3) All the documentation and information relating to the General Meeting must be made available to shareholders and partners as rapidly as possible so as to give them the opportunity to become familiar with same before the Meeting is held.

1.4) The notice calling the General Meeting must clearly include reference to the opportunity offered to shareholders and partners to have items placed on the agenda for the day of the General Meeting and to propose related resolutions.

1.5) The resolutions put forward for voting at the General Meeting must be accompanied by information specifying, among other things, the stakes involved, so as to inform the voting decisions of shareholders and partners.

1.6) Inasmuch as the quality and depth of debate is tied to the presence of the maximum possible number of shareholders and partners, the firm shall encourage the participation of shareholders and partners at the General Meetings and shall seek to identify, with the financial intermediaries or services responsible for holding securities, all means aiming to increase their participation.

1.7) The firm shall encourage methods for distance voting and recommend the use of systems which are simultaneously reliable and rapid, but also secure for the shareholder in terms of confidentiality. Similarly, the enterprise shall authorize the exercise of proxy voting without restriction.

1.8) It is recommended to provide for the right to postal vote in the charter.

1.9) For nonresidents, the enterprise takes into consideration the specifics of exercising voting rights, notably by reducing the period during which shares or partnership shares are blocked.

1.10) It is recommended that the enterprise provide in its charter for the right to participate in General Meetings without regard to any minimum number of shares.

2) Equitable treatment of shareholders and partners

The rights of shareholders and partners and the equitable treatment thereof must be respected in accordance with the legislation and regulations in force, and at no cost to the shareholder. The equality of majority and minority shareholders and partners, whether resident or nonresident, as regards treatment and the exercise of voting rights, constitutes an essential principle of corporate governance.

- a) The enterprise must ensure the equitable treatment of all shareholders and partners, including minority and nonresident shareholders and partners.
- b) The enterprise must respect the rights of minority and nonresident shareholders and partners and facilitate the exercise of those rights, in particular in the following areas:
 - Reliability of the methods for registering their securities;
 - Freedom to sell or transfer their shares;
 - Timely and regular access to relevant and material information on the company;
 - Participation in and voting at General Meetings;
 - Participation in important corporate decisions, such as those on:
 - New issues;
 - Changes in the charter;
 - Operations of an exceptional nature;
 - The election and removal of directors;
 - The compensation policy for directors and key executives;
 - The approval of external auditors.
 - Dividend policy.
- c) It is recommended that the “one share, one vote” principle be applied.
- d) The enterprise must make public any capital structures and mechanisms which grant some shareholders higher proportions of control than their effective participation in the capital.

3) Information on management

- a) The enterprise shall rapidly and systematically make available to shareholders and partners, in particular on its website, information with regard to:
 - Description of the rights of shareholders and partners to participate in and vote at General Meetings;
 - The shareholding and control structure;
 - The identity of the major shareholders and partners, with a description of their voting rights and special control rights and, if they act in concert with others, a description of the key aspects of existing shareholder agreements;
 - The schedule for periodic information, meetings, and press conferences;
 - Other individual events of importance;

- Legal and financial documentation of a non confidential nature (charter, certain non confidential extracts or minutes of corporate bodies, ethical code, annual report, general and special report of the external auditors, letters to shareholders and/or bond holders, charter describing the aspects of corporate governance, etc.);
 - The results of votes and minutes of shareholder meetings.
- b) The enterprise undertakes to inform shareholders and partners on the legal receivership process or placement in liquidation in the event of composition proceedings.
 - c) The enterprise will ensure in particular that resources and information enabling shareholders and partners to exercise their rights are available.
 - d) The enterprise will ensure compliance with the principle of equivalent information and equivalent access to information on the part of Moroccan shareholders and partners and foreign (nonresident) shareholders and partners in the event of multiple or dual listing on exchanges.

4) Management oversight

- a) The enterprise communicates information on the organization of the governing body's work and on internal control procedures.
- b) Given that the General Meeting is where the governing body reports to shareholders and partners on the exercise of its responsibilities, the enterprise strongly recommends that the members of the governing body attend the General Meetings to answer questions from shareholders and partners, to the extent that responses do not prejudice shareholders or partners or the personnel of the enterprise.
- c) The key executives and the members of the governing body must keep the governing body informed of any material interest or special relations of a commercial, family, or other nature which might influence an operation or a matter directly affecting the enterprise.
- d) The enterprise shall, with complete transparency, announce the general policy on awarding stock options and on the employee incentive system, as well as the consequences thereof for the enterprise, shareholders, and partners.

5) Dividend policy

- a) The enterprise reports the precise date of payment of dividends upon approval by the General Assembly, and on the allocation of free shares in the event of an increase in capital through the incorporation of reserves.
- b) The dividend paid by the enterprise is at the same time an important component of remuneration for the risk taken by the shareholder and a key factor in the valuation of the shareholders' shares. Nevertheless, the share of profits allocated to distribution must be compatible with the policy of building reserves (or retaining earnings) required for the sustainable and sound development of the enterprise.

6) Vigilance on special operations

The enterprise shall, with complete transparency, announce the impact of operations which might call into question the equitable treatment of shareholders. In particular, this refers to the dilution effect which might reduce certain shareholders' percentage of corporate capital (following a capital increase, merger, partial incorporation of assets, etc.) as well as the potential cost to shareholders of option grants, or share purchases, and debt/equity conversions.

7) Management of securities and securities operations

The enterprise shall encourage depositories to take practical steps to inform shareholders and partners of the exercise of their subscription and allocation rights.

III- Transparency and the dissemination of financial information

Shareholders or partners must have timely and free-of-charge access to exact, precise, reliable, and complete information on all material matters concerning the enterprise. Such information must be accessible and easy to interpret so as to assist shareholders and investors in their decision-making process.

The enterprise and its governing body have an obligation of transparency vis-à-vis shareholders and partners so as to enable them to take the best possible decisions and act with knowledge of their rights. Alongside the legal or regulatory obligations with respect to information, good practices for corporate governance recommend the dissemination of information relating, for example, to material or foreseeable risks or to the governance policy of the enterprise. The information must address important or material data on the enterprise and be disseminated simultaneously to all shareholders so as to guarantee their equitable treatment. In particular, the financial and accounting information must be reliable, comparable, sufficiently detailed, and in strict compliance with national or international accounting standards.

1) Dissemination of material information on the life of the enterprise

1.1) Strategies and objectives

Alongside the information on the enterprise's strategic vision and operational objectives, it should communicate whatever it can about its social, societal, and environmental policies and its ethical rules.

1.2) Corporate performance and financial situation

In its management report, the enterprise will provide a comprehensive view of its financial situation and its main activity and performance indicators. Groups should disseminate, in particular, complete information on intra-group transactions in accordance with the standards in force.

1.3) Information on the main equity participations and voting rights

Shareholders and partners have the right to have information on the shareholder structure and on their effective rights as compared to other categories of shareholders or partners who may directly or indirectly control the enterprise, notably by means of special voting rights, shareholder agreements, the holding of blocks of shares, or significant cross-shareholdings.

Information on the ultimate shareholders is important for purposes of identifying potential conflicts of interest and/or insider offenses, and better analyzing the justification for regulated agreements.

1.4) Compensation policy for key executives and members of the governing body:

The shareholders and partners must be informed of the overall policy on the compensation of the key executives in order to have a clear idea of the global cost, and of the criteria for its determination with reference to enterprise objectives and performance.

Compensation includes all direct or indirect remuneration of any kind, including stock option plans, or subscriptions or purchases paid for by the enterprise or group of enterprises, Moroccan and foreign, in the scope of consolidation.

Shareholders and partners must also be informed of the policy on the meeting fees authorized by the General Assembly and paid to the executive and non executive members of the governing body, as well as the distribution rules adopted (Chairman, members, fixed portion, variable portion, supplementary fees for participation on specialized committees).

Shareholders or partners must also receive information on the key executives and members of the governing body in order to assess their professionalism and evaluate possible sources of conflicts of interest. For the members of the governing body, the information will indicate their qualifications, selection process, membership on the governing bodies of other corporations, and impartiality.

1.5) Regulated agreements

Shareholders or partners must have a guarantee that the enterprise is managed in the interest of all shareholders and partners. For the sake of readability, the most important regulated agreements will be the subject of separate resolutions.

The enterprise is required to report transparently on the company's transactions with shareholders and the key executives.

1.6) Off-balance-sheet liabilities and material foreseeable risks

Shareholders and investors must be informed of the mechanisms established by the enterprise to identify and control off-balance-sheet liabilities and to evaluate material foreseeable risks. To this end, the enterprise shall maintain an "internal control" function with the authority and resources needed to properly carry out its mission.

In its management report, the firm shall indicate the internal procedures implemented and convey to shareholders or partners the following specific information on material off-balance-sheet items, grouped separately:

- Information on the off-balance-sheet items included in the ETIC;
- Information on market risks (interest rate, exchange rate, securities, credit, raw materials).

Where appropriate, the firm shall publish the scores of internationally recognized financial rating agencies and any changes which may have occurred during the course of the financial year.

1.7) Information on internal control and risk management

In its management report, the enterprise shall inform shareholders or partners of its internal control and risk management policy.

A report on internal control must be submitted to the governing body.

1.8) Information with respect to stakeholders

The enterprise must provide shareholders or partners with all information on stakeholders that is likely to affect its performance. The information shall pertain to the relationship between the management of the enterprise and employees and, in particular, the human resource policy (recruitment, training, rotation, incentive mechanisms) and any other significant relationship with other stakeholders (employees, customers, creditors, Administration, etc.).

Where appropriate, the firm will report the scores of social, societal, and environmental rating agencies, and any changes which may have occurred during the financial year.

2) Financial information must meet recognized accounting standards

Compliance with international standards enhances the quality and comparability of data and builds confidence on the part of shareholders, partners, and investors.

The enterprise will ensure compliance with the accounting standards and practices in force and will adopt international best practices.

The enterprise will draw up and publish consolidated accounts whenever it controls other entities. It is recommended that these consolidated accounts be prepared in keeping with IFRS standards.

The enterprise shall explain to stakeholders any departures from and changes in its accounting methods.

3) Dissemination of information on the structures and governance policy of the firm

It is recommended that the enterprise inform shareholders, partners, and stakeholders of its governance practices and report on the manner in which it applies them, in keeping with the "comply or explain" principle.

In particular, the enterprise will convey information on:

- The balance of powers within the enterprise;
- The composition and organization of the governing body;
- The work of the specialized committees;
- The compensation policy applicable to the members of the governing body and the key executives;
- Regulated agreements;
- Shareholder agreements;
- Cross-shareholdings.

To this end, the enterprise will include a "Corporate Governance" chapter in its management report and, if applicable, in its annual report.

4) Mechanisms for guaranteeing the reliability of information

4.1) Audit Committee

It is strongly recommended that an Audit Committee be established to examine the draft final accounts and evaluate accounting risks.

The Audit Committee will report to the governing body so as to enable it to carry out its missions of monitoring management and verifying the reliability and clarity of the information intended for shareholders or partners and investors.

The management report must include a section on the activity of the Audit Committee during the preceding financial year.

The Audit Committee supervises the procedure for selecting the external auditors, provides advice on the level of the fees requested by the latter for performing legal inspection missions, and submits the results of its selection to the governing body.

It devotes particular attention to the respect of rules on the independence of the external auditors.

4.2) External Audit

The accounts must be examined annually by an independent and competent external auditor who expresses an external and objective opinion on the true and fair characterization of the assets, financial situation, and results of the enterprise.

Having two outside auditors is a key means of strengthening the effective control and independence of the external auditors, and the enterprise must ensure its effectiveness.

The external auditors are accountable to the shareholders and partners, and are obligated to perform their mission in accordance with professional standards and due diligence in keeping with national and international ISA standards.

For enterprises making public offerings, the audit of the financial statements must be exclusive of any other mission which might undermine its independence.

The length of the appointment is set by law at three years, and its renewable nature constitutes a fundamental guarantee of the independence of the external auditors. The rotation of auditors every two mandates, as well as the phasing over time of the terms of the two external auditors, must be implemented by the enterprise.

5) Information dissemination method and user access to information

5.1) Information dissemination method

The enterprise shall designate an individual in charge of financial communications, who is tasked with defining a structured communications policy, centralizing information, and serving as interlocutor vis-à-vis third parties.

The enterprise shall use the Internet as a complementary information dissemination mechanism.

5.2) Enterprises making public offerings

Enterprises making public offerings shall organize meetings to provide explanations to the financial press and financial analysts.

Enterprises making public offerings shall publicly report their principal indicators and results on a quarterly basis.

They shall also provide information on the securities transactions of their principal key executives and directors who directly or indirectly hold more than 5% of the capital.

IV- The role of stakeholders and their equitable treatment

The enterprise must respect the rights of stakeholders and take every possible step to treat them equitably and establish mutually profitable relationships with them.

Stakeholders are understood to mean shareholders or partners, employees, customers, creditors, the Administration, and generally any party enjoying relations with the enterprise. Relations with the shareholders and partners are addressed in a separate chapter, “The rights of shareholders and partners, and their equitable treatment.” Those with the other stakeholders are governed by contractual provisions (as in the case of a loan granted to the enterprise by a bank, for example) and/or by the laws and regulations in force (labor law in the case of employees, for example).

As a supplement to the laws, regulations, and/or contracts, specific recommendations in terms of corporate governance are necessary in order to improve the quality of relations with stakeholders and thereby contribute to the overall process of job and wealth creation and the process of developing competitive and profitable enterprises, the idea being that the interest and long-term success of the enterprise arises from respecting the interests of stakeholders, thanks in particular to professional relationships based on mutually profitable and lasting practices.

1) Observance of laws, regulations, and contractual commitments

The rights of the various stakeholders that are governed by laws, regulations, and contracts must be respected.

The enterprise undertakes to scrupulously observe the laws and regulations (Labor Code, Commercial Code, Company Law, Law on Competition, etc.) and its own contractual commitments and, to this end, will introduce suitable internal mechanisms for guaranteeing the scrupulous compliance with laws, regulations, and contracts.

2) Adoption of principles of corporate responsibility

It is recommended that the enterprise adopt standards exceeding those of the law, regulations, and best practices in terms of corporate, societal, and environmental responsibility, to build its reputation and image and thereby improve the quality of its relations with stakeholders. To this end, it is recommended that the enterprise adopt the Corporate Responsibility Charter espoused by the CGEM in order to benefit notably from the advantages associated with the CGEM label.

3) Implementation of employee participation and incentive practices

The implementation of employee participation and incentive practices is strongly recommended in order to improve enterprise performance. The involvement and commitment of the enterprise's human capital are critical factors in its performance and competitiveness. This is why the practices of empowerment, delegation, and participation associated with personnel incentive systems are strongly recommended as a means of boosting staff contribution to enterprise performance and increased involvement in the life of the enterprise.

These mechanisms may be mandated by law (the election of employee representatives, for example) or voluntary (incentives, special retirement systems, various social benefits, etc.).

4) Stakeholder access to information

Stakeholders concerned by corporate governance must, just as shareholders, have timely and regular access to reliable, relevant, and adequate information. In particular, stakeholders must have access to the report of the business trustee in the event of receivership or court-ordered liquidation. Complete and continuous information must be provided to the stakeholders at the time that cessation of payments has been declared through the final phase of the process. Bond holders must also be informed under the same conditions so as to be able to be registered on the list of creditors and thereby safeguard their creditor rights.

5) Procedures for managing employee grievances

Violation of the law and engaging in unethical practices may have an impact on the rights of stakeholders and be harmful to the interests of the enterprise and of its shareholders or partners.

In the interest of the enterprise and its shareholders or partners, the enterprise must therefore establish procedures and protective measures to manage the grievances lodged by employees or their representatives. The grievances will be addressed by the governing body or by a mediator it designates. The enterprise forswears any discriminatory or disciplinary measure against grievants when the grievances are founded.

6) Review of relations with stakeholders

The governing body will include the review of relations with the major stakeholders of the enterprise on the agenda of its meetings. In the event of conflicts of interest, the enterprise takes care to adopt a fair stance that guarantees equitable treatment of all stakeholders.

7) Adoption of an ethics charter

The enterprise must adopt an ethics charter prepared by the governing body, endorsed by the General Assembly, and disseminated to the public. The governing body will ensure that all its operations are consistent with the provisions of this charter.

Glossary

Abuse of majority power: The abuse of majority power assumes that a decision of the majority of shareholders was taken contrary to the general interest of the company, and solely to favor the members of the majority, and to the detriment of minority shareholders.

Affectio societatis: Establishing a company, contributing to its capital, and intending to share the profits from it assume that future partners will have the desire to work together, strive toward a common goal, and do so on an equal footing. This combination of conditions constitutes “affectio societatis.”

Conflicts of interest: Conflicts of interest are divergences of an ethical nature or which are sanctioned by the regulations between the stakeholders in the enterprise (shareholders and managers, shareholders and lenders, majority shareholders and minority shareholders, employees of the enterprise in their relations with customers, etc.).

Control block: A control block is a packet of securities the acquisition of which gives the buyer majority control of the capital or voting rights of a company.

Corporate agents: The persons who, by virtue of their position, have the authority to represent the company and act in its name, to represent the interests of a legal entity, serve as its representative, have the power to administer it and to commit it vis-à-vis third parties. The corporate agent is appointed by the charter of the legal entity or, depending on the procedure called for in the charter, by the General Assembly of shareholders or partners to which they report. The status of corporate agent is revocable ad nutum.

According to French doctrine, the corporate agents of a limited company are:

The Chairman of the Board of Directors

The Chief Executive

The members of the Supervisory Board, and

The members of the Management Board.

Corporate governance: In its broad sense, “corporate governance” represents the organization of company control and management. In a more narrow sense, the term is used to designate the interconnection between the shareholder or partner, and the management of the company, hence principally the functioning of the Board of Directors or of the Management Board and the Supervisory Board.

Cost of capital: The weighted average cost of capital is the lowest rate of return required by those providing funds to the enterprise (shareholders and creditors) to finance its investment projects. It represents the overall cost of financing the enterprise.

Creation of shareholder value: This concept is close to that of the creation of value, distinguished only by the appropriation of the value created solely for the advantage of shareholders and not the benefit of all suppliers of funds to the enterprise (shareholders as well as creditors). Some operations may, indeed, be reflected by a transfer of value between creditors and shareholders: destruction of value to the detriment of creditors and the advantage of shareholders. For example, a radical change in financial structure in favor of debt which grossly devalues the existing debt of the enterprise and results in a transfer of value from the creditors to the benefit of shareholders.

Creation of value: The result of the enterprise’s capacity to make one or more investments on which the rate of return exceeds the minimum required rate of return (the weighted average cost of capital) with the

investment risk taken into account. The creation of value is the rational objective of any company senior management. However, in a competitive world, it is often extremely difficult to sustainably find investments that return more than the capital cost with their risks taken into account because such opportunities naturally attract many candidates, which has the effect of lowering the rate of return. The work of creating value is thus endless, and perpetually restarting.

Dilution: The term “dilution” has two quite distinct meanings. First, dilution is mentioned whenever a change in the financial structure of the enterprise (recourse to borrowing, reduction in capital, etc.) or a merger or acquisition operation brings about a decline in earnings per share. It is then said that it has a dilutive impact on EPS (and a relative impact when EPS increase). Second, dilution may also characterize the reduction of a shareholder’s percentage of the capital in a company following an increase in capital, merger, etc.

Dividend policy: The dividend policy or distribution policy constitutes the first source of compensation for shareholders before capital gains at the time of transferring shares. In general, a dividend policy should be assessed in relation to the marginal profitability of the economic asset. If it exceeds the weighted average cost of the capital, the dividend may be low or zero because the enterprise will create value by reinvesting its earnings. In the opposite case, it is better for it to distribute all its gains to shareholders.

Family shareholding: The term family shareholding is used to designate a shareholding group made up of the members of one and the same family for several generations and who, often grouped together in a common holding company, exert influence on management. This model is dominant in emerging economies.

Financial information: Financial information is quite often the only source available for an outside analyst, hence the importance of having access to detailed information reflecting the economic reality of the enterprise. In Morocco, as in most countries, there is a legal obligation to draw up regular and accurate annual accounts providing a true and fair view of the enterprise’s net worth, financial situation, and performance. The key components of financial information are the revenue and expense accounts, the balance sheet, the ETIC, the ESG, and the cash flow statement.

Financial intermediaries: Financial intermediation occurs when the financial world serves as a screen between those seeking and those providing capital, that is, when financial intermediaries purchase the securities issued by enterprises and, in order to finance themselves, issue their own securities placed with savers or gather funds in the form of deposits or passbook savings (indirect financing). Financial intermediation is thus very different from the simple role of financial intermediary referred to for direct financing.

Governing body: In a joint stock company the governing body is the Board of Directors (in a monist structure), or the Supervisory Board or Management Board depending on the case (in a dual structure). For the other forms of companies, the governing body is the management.

Insider offense: The use of privileged information by any person who has access to it in the exercise of their profession or duties, in order to carry out, or knowingly permit to be carried out on the market, either directly or through another person, one or more operations.

It is also the use of privileged information, by any person knowingly in a position of privileged information on the outlook for or situation of a company whose securities are listed on the stock exchange, or on the prospect of changes in a security, to directly or indirectly carry out an operation or permit an operation to be carried out or convey information to a third party, before the public has knowledge of such information.

Internal control System: Process implemented by the Board of directors, the executives and the employees of an organization aimed at providing reasonable assurance with regards to the implementation of objectives within the following categories:

- Implementation and optimization of operations ;
- Reliability of financial information;
- Compliance with laws and regulations into force.

Key executives: Any persons who, in any capacity, participate in the direction or management of the company. These include, in particular, the chief executive officers, general managers, members of the Management Board, the general secretary, directors, and any persons permanently carrying out duties analogous to those of the above.

Non executive member: Non-management member, but not necessarily independent of the company.

Off-balance sheet liability: The main off-balance sheet liabilities may involve lease-purchase operations, interest rate and exchange rate risk management instruments, and guarantees of assets and liabilities at the time an enterprise is conveyed.

Outside member: An independent member who has no direct tie of interest with the company (apart from his post as director or member of the Board of Directors).

Privileged information: Any information relating to the technical, commercial, or financial performance of an issuer or prospective issuer of a security, that is still unknown to the public and which might affect investor decisions.

Public offering: Making a public offering consists in:

- The admission of a security on the securities exchange or any regulated market in Morocco;
- The issuance or sale of securities to the public by directly or indirectly having recourse to solicitation or advertising, or through brokerage firms, banks, or other establishments whose purpose is to place, manage, or provide advice on financial matters, the list of which is set by order of the minister responsible for finance, on the proposal of the CDVM.

Rating agency: This term refers primarily to the financial rating agencies that evaluate the solvency of a borrower in accordance with standardized methods that result in the assignment of a grade. Solvency is of direct concern to the lenders subscribing to bonds or other negotiable debt instruments. It also, however, has an impact on the assessed value of the enterprise and on the price of its capital instruments.

In recent years, social, societal, environmental, or corporate governance rating agencies have emerged, with an aim quite distinct from that of the financial rating agencies.

Three universal financial rating agencies dominate the market: Moody's, Standard & Poor's, and Fitch, but there are others that are more or less specialized by geographic area, type of claim, etc. Each agency has its own analytical methods and rating scales for long-term or short-term debt. The grades are accompanied by indicators of a stable, positive, or negative movement, or placement on watch status, etc., which adds more nuance.

Shareholder or partner of reference: The shareholders or partners of reference have an equity interest in the capital and voting rights of the enterprise such that, even if they do not have absolute control, they are in a position to exert strong influence on the enterprise.

Regulated agreements: The risk of conflicts of interest which might oppose individual preferences to the interest of the company prompted the lawgiver to lay down rules of procedure relating to the adoption of agreements concluded directly or indirectly between the company and its directors (or members of the Supervisory Board in a dual structure or managing partners in a limited company) or for agreements entered into between a company and its key executives (members of the Management Board in a dual structure or managers in a limited company) or one of the shareholders directly or indirectly holding over five percent of the capital or voting rights.

Such agreements require special authorizations and a special report from the statutory auditors.

Risk management: Corporate risk management includes risk identification, the determination of the existing controls, residual risk, its valuation, and finally the choice of a cover strategy. Currently, increased attention is being focused on such management by enterprises. This has been reflected both in a strengthened regulatory framework and in increasing market pressure for greater transparency and awareness on the part of managerial teams.

Securities: The following are considered to be securities:

- Shares and other instruments or rights which give or can give access, directly or indirectly, to capital and voting rights, and are transmissible by registration to an account or in the traditional manner;
- Debt instruments representing the right to a general claim on the net worth of the legal entity issuing same, transmissible by registration to an account or in the traditional manner, and excluding commercial paper and cash certificates;

The following are treated as if they were securities:

- Shares in mutual funds;
- Shares in securitized mutual funds;
- Shares in venture capital investment organizations.

Shareholder agreement: Legal document that organizes the relationships between various groups of shareholders in a company through the establishment of mechanisms aimed principally at and providing for the implementation of a strategy and regulating changes in the allocation of capital when shares are transferred or sold.

Shareholder structure: Study of the shareholder structure, that is, the distribution of financial interests and voting rights in an enterprise, is particularly important. Indeed, as the shareholders define company strategy, it is worthwhile to determine where the power is vested within the company and to identify the objectives of the various shareholders.

Stakeholders: In addition to shareholders and partners, all those interacting with the enterprise and known as stakeholders, in particular its employees, customers, creditors, and the Administration.

Stock options: Stock options are options to purchase or subscribe to a share at a fixed price, which are generally distributed to the managers of an enterprise in order to give them a direct interest in increasing the value of the enterprise. Granting such instruments may thus be analyzed as a means of aligning the interests of the shareholders and the managers.

True and fair view: The British concept of “true and fair view” has been universally acknowledged and adopted by a great many countries.

Summary statements must provide a “true and fair view” of the enterprise’s net worth, financial situation, and performance. The true and fair view is not an additional fundamental accounting principle. Rather, it is an objective assigned to standardized accounting. The originality of this concept pertains in particular to the fact that it is not defined.

Charter for governing body members

Art.1- Administration and corporate interest

Each member of the governing body shall in all circumstances act in the corporate interest of the enterprise.

Art.2- Observance of laws, regulations, and by-laws

Each member of the governing body shall fully observe all their duties and obligations.

Art.3- Exercise of functions: guiding principles

Members of the governing body shall exercise their functions with independence, loyalty, and professionalism.

Art.4- Independence and obligation to come forward

Members of the governing body shall endeavor to preserve, in all circumstances, their independence of judgment, decision-making, and action. They are forbidden to be influenced by any matter apart from the corporate interest it is their mission to defend.

They shall alert the governing body of any matter coming to their attention which might affect the interests of the enterprise.

They have the duty of clearly expressing their questions and opinions. They shall endeavor to convince the governing body of the relevance of their positions. In the event of disagreement, they shall ensure that such disagreement is explicitly recorded in the minutes of the deliberations.

Art.5- Independence and conflicts of interest

A member of the governing body shall strive to avoid any conflict which might exist between their moral and material interests and those of the enterprise. They shall inform the governing body of any conflict of interest in which they may be involved. In situations in which a conflict of interest cannot be avoided, they shall refrain from participating in debates or any decisions on the subjects concerned.

Art.6- Loyalty and good faith

A member of the governing body shall take no initiative which might be harmful to the interests of the enterprise and shall act in good faith in all circumstances.

A member shall personally undertake to respect the complete confidentiality of all information they receive, debates in which they participate, and the decisions taken.

A member is forbidden to use for personal profit or for the profit of anyone any of the privileged information to which they have access.

Art.7- Professionalism and involvement

Members of the governing body undertake to devote the time and attention necessary to their duties.

Members shall be informed about the lines of business and special characteristics of the enterprise, its issues, and its values, including by making inquiries of its principal key executives.

Members shall participate in the meetings of the governing body with assiduousness and diligence. They shall endeavor to participate in at least one of the specialized committees of the board should any exist.

Members shall attend the general meetings of shareholders.

Members shall endeavor to obtain, in a timely manner, all items deemed essential for their information for purposes of deliberating within the governing body in a fully informed manner.

Members shall endeavor to update areas of knowledge that are of value, and have the right to request from the enterprise such training as they may need for the proper exercise of their mission.

Art.8- Professionalism and efficiency

Each member of the governing body shall contribute to the spirit of collegiality and the efficiency of the work of the board and of any specialized committees which may be established in its midst. They shall make any recommendations considered likely to improve the operating modalities of the governing body, in particular on the occasion of the periodic assessment thereof. They shall agree to the evaluation of their own action within the governing body.

With the other members of the governing body, they shall endeavor to ensure that control missions are carried out efficiently and without impediments. In particular, they will ensure that procedures are in place within the enterprise to see to compliance with the spirit and letter of the laws and regulations in force.

They shall ensure that the positions adopted by the members of the governing body are without exception recorded in formal decisions that are properly documented and recorded in the minutes of its meetings.

Art.9 – Application of the Charter

In that it sets forth principles that are essential to the proper functioning of a governing body, each member shall endeavor to ensure that this Charter is properly applied within the governing bodies in which they participate.

Abbreviations

- **ANPME:** National Agency for the Promotion of Small and Medium-Sized Enterprises [*Agence Nationale pour la Promotion de la Petite et Moyenne Entreprise*]
- **BAM:** Bank Al-Maghrib
- **CDG:** *Caisse de Dépôt et de Gestion*
- **CDVM:** Securities Ethics Council [*Conseil Déontologique des Valeurs Mobilières*]
- **CGEM:** General Confederation of Moroccan Enterprises [*Confédération Générale des Entreprises du Maroc*]
- **CJD:** Center for Young Managers [*Centre des Jeunes Dirigeants*]
- **GCGF:** Global Corporate Governance Forum
- **DEPP:** Directorate of Public Enterprises and Privatization [*Direction des Entreprises Publiques et de la Privatisation*]
- **EPS:** Earnings Per Share
- **ESG:** Statement of Management Balances [*Etat des Soldes de Gestion*]
- **ETIC:** Statement of Supplementary Information [*Etat des Informations Complémentaires*]
- **FCMCIS :** Moroccan Federation of Commerce, Industry and Services Chambers [*Fédération des Chambres Marocaines de Commerce, d'Industrie et de Services*]
- **GPBM:** Professional Bankers' Group of Morocco [*Groupement Professionnel des Banques du Maroc*]
- **IAS:** International Accounting Standards
- **IFC:** International Finance Corporation- [*SFI : Société Financière Internationale*]
- **IFRS:** International Financial Reporting Standards
- **ISA:** International Standard on Auditing
- **MAEG:** Ministry of Economic and General Affairs [*Ministère des Affaires Economiques et Générales*]
- **OECD:** Organization for Economic Cooperation and Development
- **ROSC :** Report on the Observance of Standards and Codes [*RRNC : Rapport sur le Respect des Normes et Codes*]
- **SA:** Corporation [*Société Anonyme*]
- **SMEs:** Small and Medium-Sized Enterprises

Composition of the National Commission on Corporate Governance

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- Chairman of the Anticorruption Commission - CGEM

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Table of contents

Summary	2
Foreword	3
Preamble	5
What is Corporate Governance?	5
What is the aim of this Code?	6
To whom is this Code addressed?	6
How should this Code be used?	7
What is the process for revising this Code?	7
General principles of good practice for corporate governance	8
I- Responsibilities of the governing body	8
1) Functions of the governing body	8
2) Responsibilities and duties of the members of the governing body	9
3) Structures for the efficient functioning of the governing body	10
3.1) Independence of the governing body and its members	10
3.2) Ethics of governing body members	11
3.3) Specialized committees of the governing body	12
3.3.1. The Audit Committee or Accounts Committee	12
3.3.2. The Compensation and Nominations Committee	14
3.4) Organization of the governing body	15
3.4.1. Composition of the governing body	15
3.4.2. Special characteristics and complementarities of the roles of executive members and non executive or outside members in the governing body	15
3.4.3 Training	15
3.4.4. Evaluation and transparency	16
3.5) Operating tools of the governing body	17
3.5.1. Internal by-laws	17
3.5.2. Charter for governing body members	17
II- Rights of shareholders and partners, and their equitable treatment	18
1) Participation at the General Meeting	18
2) Equitable treatment of shareholders	19
3) Information on management	19
4) Management oversight	20
5) Dividend policy	20
6) Vigilance on special operations	20
7) Management of securities and securities operations	21

III- Transparency and the dissemination of financial information	21
1) Dissemination of material information on the life of the company	21
1.1) Strategies and objectives	21
1.2) Corporate performance and financial situation	21
1.3) Information on the main equity participations and voting rights	22
1.4) Compensation policy for key executives and members of the governing body	22
1.5) Regulated agreements	22
1.6) Off-balance-sheet liabilities and material foreseeable risks	22
1.7) Information on internal control and risk management	23
1.8) Information with respect to stakeholders	23
2) Financial information must meet recognized accounting standards	23
3) Dissemination of information on the structures and governance policy of the firm	23
4) Mechanisms for guaranteeing the reliability of information	24
4.1) Audit Committee	24
4.2) External audit	24
5) Information dissemination method and users access to information	24
5.1) Information dissemination method	24
5.2) Enterprises making public offerings	24
IV- The role of stakeholders and their equitable treatment	25
1) Observance of laws, regulations, and contractual commitments	25
2) Adoption of principles of corporate responsibility	25
3) Implementation of employee participation and incentive practices	26
4) Stakeholder access to information	26
5) Procedures for managing employee grievances	26
6) Review of relations with stakeholders	26
7) Adoption of an ethics charter	26
Glossary	27
Charter for governing body members	31
Abbreviations	33
Composition of the National Commission on Corporate Governance	34
Table of contents	37

Royaume du Maroc

