Türkiye Kurumsal Yönetim Derneği
Corporate Governance Association of Turkey
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2015 – ……
Date: 05.01.2015

Subject: Overarching Comments on OECD Corporate Governance Principles Revision Draft

As the Corporate Governance Association of Turkey (TKYD), we are pleased to submit our overarching comments below and our more detailed views attached on the OECD Corporate Governance Principles Revision Draft.

- The statement of "large" or "small", in other words the size of the companies can be problematic if we want all companies to embrace Corporate Governance principles. It may create a mental preconception that these principles are only for large companies. Based on our experiences, Corporate Governance principles is often considered a prerequisite of public offerings and also a key to sustainability by the SMEs and family businesses in Turkey and we recommend redressing this misunderstanding by encouraging a range of compliance levels from simpler to more sophisticated mechanisms of practice depending on the scale of the company. A distinction of size distracts the practitioners, supervisors and regulators from more conceptual and company-specific elements during the implementation of the Corporate Governance Principles such as the competition, risks, needs and/or market value of the company.

- We welcome the "comply or explain" approach throughout. The main objective should be to state the desired outcomes to take into account different jurisdictions and different needs. However, for this approach to take hold, a tremendous amount of responsibility fall on the shoulders of supervisory and regulatory bodies to ensure a proper environment for good Corporate Governance practices.

- We recommend underlining e-General Assemblies, as they are in effect in Turkey for the equal treatment of shareholders and ensuring their voting rights, as a best practice example.

- For the effective functioning of the Board of Directors and its Committees, we recommend including the Company Secretary as an example of best practice. This is especially important in our view where the Board has Independent Board Members who are not majorly informed about the everyday working of the company or may hold other membership positions in other companies.

- Related to our above comment, we also recommend that the Independent Board Members disclose to the company how many memberships he/she holds currently in other companies as a good practice example. It is a good way of ensuring that the company and its shareholders make an informed decision and the Member has the adequate time for the particular risks and needs of the company.

- One of the pillars of the Corporate Governance principles is the *ex-post* rights that allow the shareholders seek redress whenever their rights are violated. In addition to the specialized court procedures (*Article 18*), we recommend including effective dispute resolution and directors and officers (D&O) liability insurance as good practice examples. Effective dispute resolution allows for the disputes to be resolved in a specialized manner allowing the company to keep its confidential documents confidential, also saving both parties time, money and energy. D&O liability insurance, on the other hand, ensuring necessary environment for the Board members to make well-founded decisions. Although they are very effective and practical tools, it is also worth noting that they are most effective when related supervisory and regulatory bodies ensure necessary transparent, fair and effective structures and regulations.

- Sustainability of the company is the underlying premise of corporate governance, so it is only fair to state the importance of sustainability, social responsibility and respecting human rights. Corporate governance can no longer only implicate minority rights, voting and shareholder rights. What is expected of OECD is to be the pioneer in this growing trend and indicate the Board's responsibility to oversee and guide the company's policies on the society affected by its actions, the environment, human rights and governance in its Preamble Chapter. When we think about the signatories to PRI who manage millions of dollar worth of investment, the liability of the Board become more apparent.

- Gender diversity in the board room and top management is another issue that should be brought out and underlined. The glass ceiling that women face every day at their workplace is a universally accepted phenomenon. Considering that board and top management should have the right mix to face and overcome the challenges that a company faces, we recommend OECD emphasize the enhancement of diversity on high levels more while championing some best practices around the world.

- We appreciate the detailed expression of Board responsibility. However, in practice companies and/or supervisory bodies face several difficulties in determining the actual person or persons inside the company with legal responsibility and authority. To address this, we recommend highlighting the importance of disclosing a legally-binding document that indicates the level of authority and responsibility every position holds.

Best Regards,

(asıl nüsha imzalıdır)

Güray Karacar
Corporate Governance Association of Turkey
Secretary General

OECD PRINCIPLES OF CORPORATE GOVERNANCE

CORPORATE GOVERNANCE ASSOCIATION OF TURKEY (TKYD) COMMENTS ON THE DRAFT DOCUMENT

CURRENT TEXT	REVISED TEXT
I. ENSURING THE BASIS FOR AN EFFECTIVE CORPORATE GOVERNANCE FRAMEWORK	
A.3.	**A.3.**
The corporate form of organisation of economic activity is a powerful force for growth. The regulatory and legal environment within which corporations operate is therefore of key importance to overall economic outcomes. Policy makers also have a responsibility to put in place a framework that is flexible enough to meet the needs of corporations operating in widely different circumstances, facilitating their development of new opportunities to create value and to determine the most efficient deployment of resources. Publicly listed companies are not a homogenous group, but vary greatly. Corporate governance frameworks should in particular take into account the size of listed companies and ensure proportionality. Other factors that may call for flexibility include the company's ownership structure, geographical presence, and where it finds itself in the corporate lifecycle. ~~To achieve this goal, p~~Policy makers should remain focused on ultimate economic outcomes and when considering policy options, they will need to undertake an analysis of the overall impact on key	-The corporate form of organisation of economic activity is a powerful force for growth. The regulatory and legal environment within which corporations operate is therefore of key importance to overall economic outcomes. Policy makers also have a responsibility to put in place a framework that is flexible enough to meet the needs of corporations operating in widely different circumstances, facilitating their development of new opportunities to create value and to determine the most efficient deployment of resources. Publicly listed companies are not a homogenous group, but vary greatly. Corporate governance frameworks should in particular take into account the size and market value of listed companies and ensure proportionality. Other factors that may call for flexibility include the company's ownership structure, geographical presence, and where it finds itself in the corporate lifecycle. However, policy makers should also be aware of their mission to make even small size companies see the necessity of corporate governance. ~~To achieve this goal, p~~Policy makers should remain focused on ultimate

<table>
<tr><td>variables that affect the functioning of markets, for example in terms of ~~such as~~ incentive structures, the efficiency of self-regulatory systems and dealing with systemic conflicts of interest. Transparent and efficient markets serve to discipline market participants and to promote accountability.</td><td>economic outcomes and when considering policy options, they will need to undertake an analysis of the overall impact on key variables that affect the functioning of markets, for example in terms of ~~such as~~ incentive structures, the efficiency of self-regulatory systems and dealing with systemic conflicts of interest. Transparent, fair and efficient markets serve to discipline market participants and to promote accountability.</td></tr>
<tr><td colspan="2">COMMENTS: In addition to the size of the listed companies, the Principles can also refer to the “market value of companies.</td></tr>
<tr><th>D.10.</th><th>D.10.</th></tr>
<tr><td>Regardless of the particular structure of the stock market, policy makers and regulators should assess the proper role of stock exchanges and trading venues in terms of standard setting, supervision and enforcement of corporate governance rules. Effective regulation of corporate governance requires an assessment of how different business models of stock exchanges affect their incentives and ability to carry out these functions that are sometimes costly and in many respects serve a public function.</td><td>Regardless of the particular structure of the stock market, policy makers and regulators should assess the proper role of stock exchanges and trading venues in terms of standard setting, supervision and enforcement of corporate governance rules. Effective regulation of corporate governance requires an assessment of how different business models of stock exchanges affect their incentives and ability to carry out these functions that are sometimes costly and in many respects serve a public function. Within the frame of this approach, the level of corporate governance of a stock exchange can be rated in terms of standard setting, supervision and enforcement of corporate governance rules.</td></tr>
<tr><td colspan="2">COMMENTS: When rating stock exchanges, we recommend taking into account their incentive programs for the listed companies for best corporate governance practices.

We also recommend putting additional insights as to how stock exchanges can promote corporate governance practices since this topic has not been given in detail in this chapter as it is.</td></tr>
<tr><th>E.11.</th><th>E.11.</th></tr>
<tr><td>Supervisory, ~~Regulatory~~ regulatory and enforcement responsibilities should be vested with bodies that are operationally independent and</td><td>Regulatory and enforcement responsibilities should be vested with bodies that can pursue their functions without conflicts of interest and</td></tr>
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<td>accountable in the exercise of their functions and powers, have adequate powers, proper resources, and the capacity to perform their functions and exercise their powers, including with respect to corporate governance. Many countries have addressed the issue of political independence of the securities supervisor through the creation of a formal governing body (a board, council, or commission) whose members are given fixed terms of appointment. If the appointments are staggered and made independent from the political calendar, they can further enhance independence. Where certain functions, for example in the context of takeover reviews, have been delegated to non-public bodies, the governance structure of any such delegated institutions should be transparent and encompass the public interest. They should be able to ~~can~~ pursue their functions without conflicts of interest and that are their decisions be subject to judicial review. ~~As~~ When the number of ~~public companies,~~ corporate events and the volume of disclosures increase, the resources of supervisory, regulatory and enforcement authorities may come under strain. As a result, in order to follow developments, they will have a significant demand for fully qualified staff to provide effective oversight and investigative capacity which will need to be appropriately funded. The ability to attract staff on competitive terms will enhance the quality and independence of supervision and enforcement.</td>
<td>that are subject to judicial review. As the number of public companies, corporate events and the volume of disclosures increase, the resources of supervisory, regulatory and enforcement authorities may come under strain. As a result, in order to follow developments, they will have a significant demand for fully qualified staff to provide effective oversight and investigative capacity which will need to be appropriately funded. The ability to attract staff on competitive terms will enhance the quality and independence of supervision and enforcement.</td>
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<tr>
<td colspan="2">COMMENTS: The corporate governance framework should clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities (Previous provision should be saved). Also, especially in jurisdictions where bank finance is the main source of funding and stock markets are in their developing stages, actions trying to merge capital markets regulatory authorities into banking regulatory authority or similar may well cause to hinder more the development of capital markets and institutions as well as investor base for equities in those specific jurisdictions.</td>
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II. THE RIGHTS AND EQUITABLE TREATMENT OF SHAREHOLDERS AND KEY OWNERSHIP FUNCTIONS	
The corporate governance framework should protect and facilitate the exercise of shareholders' rights and ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights.	***The corporate governance framework should protect and facilitate the exercise of shareholders' rights and ensure the equitable treatment of all shareholders, including minority, retail and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights.***
18.	**18.**
There is some risk that a legal system, which enables any investor to challenge corporate activity in the courts, can become prone to excessive litigation. Thus, many legal systems have introduced provisions to protect management and board members against litigation abuse in the form of tests for the sufficiency of shareholder complaints, so-called safe harbours for management and board member actions (such as the business judgement rule) as well as safe harbours for the disclosure of information. In the end, a balance must be struck between allowing investors to seek remedies for infringement of ownership rights and avoiding excessive litigation. Many countries have found that alternative adjudication procedures, such as administrative hearings or arbitration procedures organised by the securities regulators or other regulatory bodies, are an efficient method for dispute settlement, at least at the first instance level. Specialised court procedures can also be a practical instrument to obtain timely injunctions, and ultimately facilitate the rapid settlement of disputes.	There is some risk that a legal system, which enables any investor to challenge corporate activity in the courts, can become prone to excessive litigation. Thus, many legal systems have introduced provisions to protect management and board members against litigation abuse in the form of tests for the sufficiency of shareholder complaints, so-called safe harbours for management and board member actions (such as the business judgement rule) as well as safe harbours for the disclosure of information. In the end, a balance must be struck between allowing investors to seek remedies for infringement of ownership rights and avoiding excessive litigation. Many countries have found that alternative adjudication procedures, such as administrative hearings or arbitration procedures organised by the securities regulators or other regulatory bodies, are an efficient method for dispute settlement, at least at the first instance level. Specialised court procedures and effective dispute resolution mechanisms can also be ~~a~~ practical instruments to obtain timely injunctions, and ultimately facilitate the rapid settlement of disputes. Directors and Officers (D&O) Liability Insurance is also considered good practice to allow the necessary environment for the Board members to make well-founded decisions.

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<tr><td colspan="2"><u>COMMENTS</u>: Effective dispute resolution mechanisms and Directors and Officers (D&O) Liability Insurance are both very effective legal tools for company disputes and we recommend including them within this article as examples of good practice. A detailed explanation can be found on the “overarching comments” section of our comment.</td></tr>
<tr><td>A. Basic shareholder rights should include the right to: 1) secure methods of ownership registration; 2) convey or transfer shares; 3) obtain relevant and material information on the corporation on a timely and regular basis; 4) participate and vote in general shareholder meetings; 5) elect and remove members of the board; and 6) share in the profits of the corporation.</td><td>A. Basic shareholder rights should include the right to: 1) secure methods of ownership registration; 2) convey or transfer shares; 3) obtain relevant and material information on the corporation on a timely and regular basis; 4) participate and vote <u>equitably</u> in general shareholder meetings; 5) elect and remove members of the board; and 6) share in the profits of the corporation.</td></tr>
<tr><td>B. Shareholders should <u>be sufficiently informed about, and</u> have the right to <u>approve or</u> participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes such as: 1) amendments to the statutes, or articles of incorporation or similar governing documents of the company; 2) the authorisation of additional shares; and 3) extraordinary transactions, including the transfer of all or substantially all assets, that in effect result in the sale of the company.</td><td>B. Shareholders should <u>be sufficiently informed about, and</u> have the right to <u>approve or</u> participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes such as: 1) amendments to the statutes, or articles of incorporation or similar governing documents of the company; 2) the authorisation of additional shares; and 3) extraordinary transactions, including the transfer of all or substantially all assets, that in effect result in the sale of the company <u>or changing of its main business or cash flow structure 4) any fundamental board decision that is not participated by the majority of independent board members.</u></td></tr>
<tr><td>C. Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings and should be informed of the rules, including voting procedures, that govern general shareholder meetings:
1. Shareholders should be furnished with sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be decided at the meeting.</td><td>C. Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings and should be informed of the rules, including voting procedures, that govern general shareholder meetings:
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2. Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Company procedures should not make it unduly difficult or expensive to cast votes.	**2. Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Company procedures should not make it unduly difficult or expensive to cast votes. General shareholder meetings of listed companies should also meet via electronic platforms by allowing the shareholders to have all the rights given for physical meetings.**
COMMENTS:	
5.24.	**5.24.**
The Principles recommend that voting by proxy be generally accepted. Indeed, it is important to the promotion and protection of shareholder rights that investors can place reliance upon directed proxy voting. The corporate governance framework should ensure that proxies are voted in accordance with the direction of the proxy holder ~~and that disclosure is provided in relation to how undirected proxies will be voted~~. In those jurisdictions where companies are allowed to obtain proxies, it is important to disclose how the Chairperson of the meeting (as the usual recipient of shareholder proxies obtained by the company) will exercise the voting rights attaching to undirected proxies. Where proxies are held by the board or management for company pension funds and for employee stock ownership plans, the directions for voting should be disclosed. It is regarded as good practice that treasury shares and shares of the company held by subsidiaries should not be allowed to vote, nor be counted for quorum purposes. The objective of facilitating shareholder participation suggests that jurisdictions and/or companies promote the enlarged use of information technology in voting, including secure electronic voting in all listed companies.	The Principles recommend that voting by proxy be generally accepted. Indeed, it is important to the promotion and protection of shareholder rights that investors can place reliance upon directed proxy voting. The corporate governance framework should ensure that proxies are voted in accordance with the direction of the proxy holder ~~and that disclosure is provided in relation to how undirected proxies will be voted~~. In those jurisdictions where companies are allowed to obtain proxies, it is important to disclose how the Chairperson of the meeting (as the usual recipient of shareholder proxies obtained by the company) will exercise the voting rights attaching to undirected proxies. Where proxies are held by the board or management for company pension funds and for employee stock ownership plans, the directions for voting should be disclosed. It is regarded as good practice that treasury shares and shares of the company held by subsidiaries should not be allowed to vote, nor be counted for quorum purposes. The objective of facilitating shareholder participation suggests that jurisdictions and/or companies promote the enlarged use of information technology in voting, including secure electronic voting, even by Proxy, in all listed companies.

COMMENTS:	
6.25.	**6.25.**
Foreign investors often hold their shares through chains of intermediaries. Shares are typically held in accounts with securities intermediaries, that in turn hold accounts with other intermediaries and central securities depositories in other jurisdictions, while the listed company resides in a third country. Such cross-border chains cause special challenges with respect to determining the entitlement of foreign investors to use their voting rights, and the process of communicating with such investors. In combination with business practices which provide only a very short notice period, shareholders are often left with only very limited time to react to a convening notice by the company and to make informed decisions concerning items for decision. This makes cross border voting difficult. The legal and regulatory framework should clarify who is entitled to control the voting rights in cross border situations and where necessary to simplify the depository chain. Moreover, notice periods should ensure that foreign investors in effect have similar opportunities to exercise their ownership functions as domestic investors. To further facilitate voting by foreign investors, laws, regulations and corporate practices should allow participation through electronic means ~~which make use of modern technology~~ in a non-discriminatory way.	Foreign investors often hold their shares through chains of intermediaries. Shares are typically held in accounts with securities intermediaries, that in turn hold accounts with other intermediaries and central securities depositories in other jurisdictions, while the listed company resides in a third country. Such cross-border chains cause special challenges with respect to determining the entitlement of foreign investors to use their voting rights, and the process of communicating with such investors. In combination with business practices which provide only a very short notice period, shareholders are often left with only very limited time to react to a convening notice by the company and to make informed decisions concerning items for decision. This makes cross border voting difficult. The legal and regulatory framework should clarify who is entitled to control the voting rights in cross border situations and where necessary to simplify the depository chain. Moreover, notice periods should ensure that foreign investors in effect have ~~similar~~ same opportunities to exercise their ownership functions as domestic investors. To further facilitate voting by foreign investors, laws, regulations and corporate practices should allow participation through electronic means ~~which make use of modern technology~~ in a non-discriminatory way.
COMMENTS:	

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<tr><td>F. Related-party transactions should be approved and conducted in a manner that ensures proper management of conflict of interest and protects the interest of the company and its shareholders.</td><td>F. Related-party transactions should be approved and conducted in a manner that ensures proper management of conflict of interest and protects the interest of the company and mainly its non-controlling shareholders.</td></tr>
<tr><td colspan="2">COMMENTS: One of the main objective of this article should be to protect the non-controlling shareholders.</td></tr>
<tr><td colspan="2">III. INSTITUTIONAL INVESTORS, STOCK MARKETS, AND OTHER INTERMEDIARIES</td></tr>
<tr><td>44.</td><td>44.</td></tr>
<tr><td>The Principles recommend that institutional investors disclose their policies with respect to corporate governance. Voting at shareholder meetings is, however, only one channel for ownership engagement. Direct contact and dialogue with the board and management represent other forms of ownership engagement that are frequently used. In recent years, some countries have begun to consider adoption of so-called “stewardship codes” that institutional investors are invited to sign up to on a voluntary basis. As investors may pursue different investment objectives, the Principles do not advocate any particular investment strategy and do not seek to prescribe the optimal degree of investor activism. Nevertheless, in considering the costs and benefits of exercising their ownership rights, many investors are likely to conclude that positive financial returns and growth can be obtained by undertaking a reasonable amount of analysis and by using their rights.</td><td>The Principles recommend that institutional investors disclose their policies with respect to corporate governance. Voting at shareholder meetings is, however, only one channel for ownership engagement. Direct contact and dialogue with the board and management, without violating any related rules and regulations, represent other forms of ownership engagement that are frequently used. In recent years, some countries have begun to consider adoption of so-called “stewardship codes” that institutional investors are invited to sign up to on a voluntary basis. As investors may pursue different investment objectives, the Principles do not advocate any particular investment strategy and do not seek to prescribe the optimal degree of investor activism. Nevertheless, in considering the costs and benefits of exercising their ownership rights, many investors are likely to conclude that positive financial returns and growth can be obtained by undertaking a reasonable amount of analysis and by using their rights.</td></tr>
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COMMENTS: Direct contact with the Board Members and top-level management officials can be problematic in some cases. This clause should therefore approach this issue with due diligence, hence we recommend stating that this direct dialogue is recommended only when necessary regulatory mechanisms are in effect, not to interfere with the independent functioning of the Board.

F.57.	**F.57.**
It is increasingly common that companies are listed or traded at venues located in a different jurisdiction than the one where the company is incorporated. This may create uncertainty among investors about which corporate governance rules and regulations apply for that company. It may concern everything from procedures and locations for the annual shareholders meeting, to minority rights. The trading venue and/or the company should therefore clearly disclose which jurisdiction's rules are applicable. When key corporate governance provisions fall under another jurisdiction than the jurisdiction of trading, the main differences should be noted.	It is increasingly common that companies are listed or traded at venues located in a different jurisdiction than the one where the company is incorporated. This may create uncertainty among investors about which corporate governance rules and regulations apply for that company. It may concern everything from procedures and locations for the annual shareholders meeting, to minority rights. The trading venue and/or the company should therefore clearly disclose which jurisdiction's rules are applicable. When key corporate governance provisions fall under another jurisdiction than the jurisdiction of trading, the main differences should be noted. Company's disclosure on complying with tighter corporate governance rules could be considered as good practice.

COMMENTS:

G.59.	**G.59.**
Effective corporate governance requires that shareholders are able to monitor corporations by comparing market information with their own assessments of company prospects and performance. When they believe it is advantageous, shareholders will either use their voice to influence corporate behaviour, sell their shares, or underweight a company's shares in their portfolios. Equal, timely and cost-effective access to market information, including the process of stock price formation, is therefore an essential prerequisite for exercising effective corporate governance. The ability of stock markets to provide equal, timely and cost-effective access to market information is not	Effective corporate governance requires that shareholders are able to monitor corporations by comparing market information with their own assessments of company prospects and performance. When they believe it is advantageous, shareholders will either use their voice to influence corporate behaviour, sell their shares, or underweight a company's shares in their portfolios. Equal, timely and cost-effective access to market information, including the process of stock price formation, is therefore an essential prerequisite for exercising effective corporate governance. The ability of stock markets to provide equal, timely and cost-effective access to market information is not only essential for

only essential for effective governance. It is also a cornerstone for investors' confidence and trust in the integrity of the markets.	effective governance. It is also a cornerstone for investors' confidence and trust in the integrity of the markets and in order to increase that integration of the markets, cross-listed companies should make their disclosures simultaneously at both markets even if it may not be mandatory in one of the jurisdictions.
COMMENTS:	
IV. THE ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE	
60.	**60.**
A key aspect of corporate governance is concerned with ensuring the flow of external capital to companies both in the form of equity and credit. Corporate governance is also concerned with finding ways to encourage the various stakeholders in the firm to undertake economically optimal levels of investment in firm-specific human and physical capital. The competitiveness and ultimate success of a corporation is the result of teamwork that embodies contributions from a range of different resource providers including investors, employees, creditors, ~~and~~ suppliers, and customers. Corporations should recognise that the contributions of stakeholders constitute a valuable resource for building competitive and profitable companies. It is, therefore, in the long-term interest of corporations to foster wealth-creating co-operation among stakeholders. The governance framework should recognise ~~that the interests of the corporation are served by recognising~~ the interests of stakeholders and their contribution to the long-term success of the corporation.	A key aspect of corporate governance is concerned with ensuring the flow of external capital to companies both in the form of equity and credit. Corporate governance is also concerned with finding ways to encourage the various stakeholders in the firm to undertake economically optimal levels of investment in firm-specific human and physical capital. The competitiveness and ultimate success of a corporation is the result of teamwork that embodies contributions from a range of different resource providers including ~~investors~~, employees, creditors, ~~and~~ suppliers, and customers. Corporations should recognise that the contributions of stakeholders constitute a valuable resource for building competitive and profitable companies. It should not be forgotten that the society impacted by the actions of the company is another stakeholder group which does not have a direct contribution to the company but has a major role in sustaining its activities. It is, therefore, in the long-term interest of corporations to foster wealth-creating co-operation among stakeholders. The governance framework should recognise ~~that the interests of the corporation are served by recognising~~ the interests of stakeholders and their contribution to the long-term success of the corporation.

COMMENTS: Investors cannot be described as a stakeholder group; a share-holding investor is a partner and a lender is a creditor. These groups are discussed in different chapters in detail and do not belong in the stakeholder chapter. On the other hand, the society affected by the actions of the company is now universally accepted as a legitimate stakeholder group; hence should be discussed in this chapter.

C.63.	**C.63.**
The degree to which employees participate in corporate governance depends on national laws and practices, and may vary from company to company as well. ~~In the context of corporate governance, performance enhancing mechanisms for participation may benefit companies directly as well as indirectly through the readiness by employees to invest in firm specific skills.~~ Examples of mechanisms for employee participation include: employee representation on boards; and governance processes such as works councils that consider employee viewpoints in certain key decisions. With respect to performance enhancing mechanisms, employee stock ownership plans or other profit sharing mechanisms are to be found in many countries. Mechanisms for employee participation that aim at improving corporate performance may also increase the readiness of employees to invest in firm specific skills. Pension commitments are also often an element of the relationship between the company and its past and present employees. Where such commitments involve establishing an independent fund, its trustees should be independent of the company's management and manage the fund for all beneficiaries. International conventions and norms also recognise the rights of employees to information, consultation and negotiation.	a) The degree to which employees participate in corporate governance depends on national laws and practices, and may vary from company to company as well. ~~In the context of corporate governance, performance enhancing mechanisms for participation may benefit companies directly as well as indirectly through the readiness by employees to invest in firm specific skills.~~ Examples of mechanisms for employee participation include: employee representation on boards; and governance processes such as works councils that consider employee viewpoints in certain key decisions. With respect to performance enhancing mechanisms, employee stock ownership plans or other profit sharing mechanisms are to be found in many countries. Mechanisms for employee participation that aim at improving corporate performance may also increase the readiness of employees to invest in firm specific skills. Pension commitments are also often an element of the relationship between the company and its past and present employees. Where such commitments involve establishing an independent fund, its trustees should be independent of the company's management and manage the fund for all beneficiaries. International conventions and norms also recognise the rights of employees to information, consultation and negotiation. b) The company has the responsibility to create a safe working environment for the employees and ensure necessary precautions for occupational health and safety measures. The company also has a responsibility to create an environment of equality in its hiring processes and as a best practice could publish its HR policies that guarantees that

	no discrimination will be made based on race, language, religion, gender and/or political views.

COMMENTS: Employees are a very important stakeholder group and should be address in more detail in this article. We suggest, for example, adding another article on this matter which addresses the issues of occupational health and safety measures and non-discriminatory hiring processes.

E.65.	**E.65.**
Unethical and illegal practices by corporate officers may not only violate the rights of stakeholders but also be to the detriment of the company and its shareholders in terms of reputation effects and an increasing risk of future financial liabilities. It is therefore to the advantage of the company and its shareholders to establish procedures and safe-harbours for complaints by employees, either personally or through their representative bodies, and others outside the company, concerning illegal and unethical behaviour. ~~In many countries t~~The board ~~is being~~ should be encouraged by laws and or principles to protect these individuals and representative bodies and to give them confidential direct access to someone independent on the board, often a member of an audit or an ethics committee. Some companies have established an ombudsman to deal with complaints. Several regulators have also established confidential phone and e-mail facilities to receive allegations. While in certain countries representative employee bodies undertake the tasks of conveying concerns to the company, individual employees should not be precluded from, or be less protected, when acting alone. ~~When there is an inadequate response~~ In the absence of timely remedial action or in the face of reasonable risk of negative employment action to a complaint regarding contravention of the law, the OECD Guidelines for	Unethical and illegal practices by corporate officers may not only violate the rights of stakeholders but also be to the detriment of the company and its shareholders in terms of reputation effects and an increasing risk of future financial liabilities. It is therefore to the advantage of the company and its shareholders to establish procedures and safe-harbours for complaints by employees, either personally or through their representative bodies, and others outside the company, concerning illegal and unethical behaviour. ~~In many countries t~~The board ~~is being~~ should be encouraged by laws and or principles to protect these individuals and representative bodies and to give them confidential direct access to someone independent on the board, often a member of an audit or an ethics committee. Some companies have established an ombudsman to deal with complaints. Several regulators have also established confidential phone and e-mail facilities to receive allegations. While in certain countries representative employee bodies undertake the tasks of conveying concerns to the company, individual employees should not be precluded from, or be less protected, when acting alone. ~~When there is an inadequate response~~ In the absence of timely remedial action or in the face of reasonable risk of negative employment action to a complaint regarding contravention of the law, the OECD Guidelines for Multinational Enterprises encourage ~~Them~~

<table>
<tr><td>Multinational Enterprises encourage ~~Them~~ employees to report their bona fide complaint to the competent public authorities. Additionally or alternatively, any case of violations of the recommendations provided for in the OECD Guidelines on Multinational Enterprises can be brought to the National Contact Point (NCP). The company should refrain from discriminatory or disciplinary actions against such employees or bodies.</td><td>employees to report their bona fide complaint to the competent public authorities. Additionally or alternatively, any case of violations of the recommendations provided for in the OECD Guidelines on Multinational Enterprises can be brought to the National Contact Point (NCP). The stakeholders should be informed regarding the complaint channels that they can appeal to and how their complaints are assessed. The employees should be assured that the company ~~should~~ will refrain from discriminatory or disciplinary actions against such employees or bodies.</td></tr>
<tr><td colspan="2">COMMENTS: The company may provide channels for the stakeholders to raise freely their complaints. However, if the stakeholders are not well-informed about these channels that they can appeal to and how their complaints are handled, they may not be willing to use them. Moreover, “assurance” is vital to encourage employees to express their opinions and complaints.</td></tr>
<tr><td colspan="2">V. DISCLOSURE AND TRANSPARENCY</td></tr>
<tr><td>A.1.73.</td><td>A.1.73.</td></tr>
<tr><td>Audited financial statements showing the financial performance and the financial situation of the company (most typically including the balance sheet, the profit and loss statement, the cash flow statement and notes to the financial statements) are the most widely used source of information on companies. ~~In their current form, the two principal goals of financial statements are to~~ They enable appropriate monitoring to take place and to provide the basis to value securities. Management’s discussion and analysis of operations is typically included in annual reports. This discussion is most useful when read in conjunction with the accompanying financial statements. Investors are particularly interested in information that may shed light on the future performance of the enterprise.</td><td>Audited financial statements showing the financial performance and the financial situation of the company (most typically including the balance sheet, the profit and loss statement, the cash flow statement and notes to the financial statements) are the most widely used source of information on companies. ~~In their current form, the two principal goals of financial statements are to~~ They enable appropriate monitoring to take place and to provide the basis to value securities. Management’s discussion and analysis of operations is typically included in annual reports. This discussion is most useful when read in conjunction with the accompanying financial statements. Investors are particularly interested in information that may shed light on the future performance of the enterprise. For this fact, annual or interim reports should also include significant developments and strategic decisions, that may affect the</td></tr>
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	future cash flows of the company, as well as management's future expectations.

COMMENTS: Integrated reporting is a rising new reporting mechanism. Although we cannot yet anticipate the fate of the Integrated Reporting scheme, its main idea that the companies should disclose information that shed light to future performance in their annual reports/interim reports is an important one. It will be increasingly important in the future and companies should start familiarizing themselves with this concept.
In addition, Turkish companies' practice of disclosing their future expectations in the Public Disclosure Platform may also be introduced as good practice for disclosure and transparency.

A.2.76.	**A.2.76.**
In addition to their commercial objectives, companies are encouraged to disclose policies relating to business ethics, the environment, human rights, including where relevant within their supply chain, and other public policy commitments. Such information may be important for investors and other users of information to better evaluate the relationship between companies and the communities in which they operate and the steps that companies have taken to implement their objectives.	In addition to their commercial objectives, companies are encouraged to disclose policies relating to business ethics, the environment, human rights, anti-bribery and anti-corruption, conflict of commitment and interest, including where relevant within their supply chain, and other public policy commitments. Such information may be important for investors and other users of information to better evaluate the relationship between companies and the communities in which they operate and the steps that companies have taken to implement their objectives.

COMMENTS: As expressed in the principles, conflicts of interest may arise in several situations. Those potential conflicts of interest should be identified and a policy document on of how they can be treated and prevented should be disclosed and made publicly available.

As advised in the article VI.D.7.117., the companies should establish anti-bribery and anti-corruption programs and measures. In order to substantiate this advice, the companies can be encouraged to establish their anti-bribery and anti-corruption policies which will identify certain risks, ensure certain programs and measures to monitor and to cope.

A.3.78.	**A.3.78.**

One of the basic rights of investors is to be informed about the ownership structure of the enterprise and their rights vis-à-vis the rights of other owners. The right to such information should also extend to information about the structure of a group of companies and intra-group relations. Such disclosures should make transparent the objectives, nature and structure of the group. ~~Countries often require d~~Disclosure of ownership data should be provided once certain thresholds of ownership are passed. Such disclosure might include data on major shareholders and others that, directly or indirectly, control or may control the company through special voting rights, shareholder agreements, the ownership of controlling or large blocks of shares, significant cross shareholding relationships and cross guarantees.	One of the basic rights of investors is to be informed about the ownership structure of the enterprise and their rights vis-à-vis the rights of other owners. The right to such information should also extend to information about the structure of a group of companies and intra-group relations. Such disclosures should make transparent the objectives, nature and structure of the group. ~~Countries often require d~~Disclosure of ownership data should be provided once certain thresholds of ownership are passed. Such disclosure might include data on major shareholders and others that, directly or indirectly, control or may control the company through special voting rights, shareholder agreements, options and other derivative contracts, the ownership of controlling or large blocks of shares, significant cross shareholding relationships and cross guarantees.

COMMENTS:

A.9.90.	**A.9.90.**
Companies should report their corporate governance practices, and ~~in a number of countries~~ such disclosure ~~is now~~ should be mandated as part of the regular reporting. ~~In several countries, c~~Companies ~~must~~ should implement corporate governance principles set, or endorsed, by the listing authority with mandatory reporting on a "comply or explain" basis. Disclosure of the governance structures and policies of the company, including, in the case of non-operating holding companies, that of significant subsidiaries, ~~in particular the division of authority between shareholders, management and board members~~ is important for the assessment of a company's governance and should cover the division of authority between shareholders, management and board members. Companies should clearly disclose the different	Companies should report their corporate governance practices, and ~~in a number of countries~~ such disclosure ~~is now~~ should be mandated as part of the regular reporting. ~~In several countries, c~~Companies ~~must~~ should implement corporate governance principles set, or endorsed, by the regulatory or the listing authority with mandatory reporting on a "comply or explain" basis. Disclosure of the governance structures and policies of the company, including, in the case of non-operating holding companies, that of significant subsidiaries, ~~in particular the division of authority between shareholders, management and board members~~ is important for the assessment of a company's governance and should cover the division of authority between shareholders, management and board members. Companies should clearly disclose the different roles

roles and responsibilities of the CEO and/or Chair and, where a single person combines both roles, the rationale for this arrangement. It is also good practice to disclose the articles of association, board charters and, where applicable, committee structures and charters.	and responsibilities of the CEO and/or Chair and, where a single person combines both roles, the rationale for this arrangement. It is also good practice to disclose the articles of association, board charters and, where applicable, committee structures and charters.
COMMENTS: We recommend adding this distinction for some jurisdictions where regulatory and listing authorities are separate.	
VI. THE RESPONSIBILITIES OF THE BOARD	
A.104.	**A.104.**
This principle states the two key elements of the fiduciary duty of board members: the duty of care and the duty of loyalty. The duty of care requires board members to act on a fully informed basis, in good faith, with due diligence and care. In some jurisdictions there is a standard of reference which is the behaviour that a reasonably prudent person would exercise in similar circumstances. In nearly all jurisdictions, the duty of care does not extend to errors of business judgement so long as board members are not grossly negligent and a decision is made with due diligence etc., or to an obligation to pursue aggressive tax avoidance. The principle calls for board members to act on a fully informed basis. Good practice takes this to mean that they should be satisfied that key corporate information and compliance systems are fundamentally sound and underpin the key monitoring role of the board advocated by the Principles. In many jurisdictions this meaning is already considered an element of the duty of care, while in others it is required by securities regulation, accounting standards etc. The duty of loyalty is of central importance, since it underpins effective implementation of other principles in this document relating to, for	This principle states the two key elements of the fiduciary duty of board members: the duty of care and the duty of loyalty. The duty of care requires board members to act on a fully informed basis, in good faith, with due diligence and care. In some jurisdictions there is a standard of reference which is the behaviour that a reasonably prudent person would exercise in similar circumstances. In nearly all jurisdictions, the duty of care does not extend to errors of business judgement so long as board members are not grossly negligent and a decision is made with due diligence etc., ~~or to an obligation to pursue aggressive tax avoidance.~~ The principle calls for board members to act on a fully informed basis. Good practice takes this to mean that they should be satisfied that key corporate information and compliance systems are fundamentally sound and underpin the key monitoring role of the board advocated by the Principles. In many jurisdictions this meaning is already considered an element of the duty of care, while in others it is required by securities regulation, accounting standards etc. The duty of loyalty is of central importance, since it underpins effective implementation of other principles in this document relating to, for example, the equitable

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<td>example, the equitable treatment of shareholders, monitoring of related party transactions and the establishment of remuneration policy for key executives and board members. It is also a key principle for board members who are working within the structure of a group of companies: even though a company might be controlled by another enterprise, the duty of loyalty for a board member relates to the company and all its shareholders and not to the controlling company of the group.</td>
<td>treatment of shareholders, monitoring of related party transactions and the establishment of remuneration policy for key executives and board members. It is also a key principle for board members who are working within the structure of a group of companies: even though a company might be controlled by another enterprise, the duty of loyalty for a board member relates to the company and all its shareholders and not to the controlling company of the group.</td>
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<td colspan="2"><u>COMMENTS:</u>
The reference to “an obligation to pursue aggressive tax violation” is not very clear and could be misleading. We suggest it is deleted from the text.</td>
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<th>C.106.</th>
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<td>The board has a key role in setting the ethical tone of a company, not only by its own actions, but also in appointing and overseeing key executives and consequently the management in general. High ethical standards are in the long term interests of the company as a means to make it credible and trustworthy, not only in day-to-day operations but also with respect to longer term commitments. To make the objectives of the board clear and operational, many companies have found it useful to develop company codes of conduct based on, inter alia, professional standards and sometimes broader codes of behaviour. <s>The latter might include a voluntary </s><u>A good practice is the</u> commitment by the company (including its subsidiaries) to comply with the OECD Guidelines for Multinational Enterprises which reflect<u>, inter alia,</u> all four principles contained in the ILO Declaration on Fundamental Labour Rights. <u>Similarly, jurisdictions are increasingly demanding that boards oversee the tax planning strategies management is allowed to conduct, thus discouraging practices that</u></td>
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<tr><td>do not contribute to the long term interests of the company and its shareholders, and can cause legal and reputational risks.</td><td>term interests of the company and its shareholders, and can cause legal and reputational risks.</td></tr>
<tr><td colspan="2">COMMENTS: The reference to the strategies could be extended to cover not only tax strategies but also all financial strategies.</td></tr>
<tr><th>D.7.</th><th>D.7.</th></tr>
<tr><td>Ensuring the integrity of the corporation’s accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards. Large companies should be encouraged to put in place an internal audit function and an audit committee of the board to oversee the effectiveness and integrity of the internal control system.</td><td>Ensuring the integrity of the corporation’s accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards. ~~Large~~ companies should be encouraged to put in place an internal audit function and an audit committee of the board that can be simpler or more sophisticated depending on the scale and needs of the company, to oversee the effectiveness and integrity of the internal control system.</td></tr>
<tr><td colspan="2">COMMENTS: Only referring to “large” companies at any point can prove to be problematic as stated in the “overarching comments” section of our comments and hinder our efforts to make Corporate Governance Principles prevalent. Internal audit and control mechanisms can be necessary even for start-ups.</td></tr>
<tr><th>E.2.127.</th><th>E.2.127.</th></tr>
<tr><td>Where justified in terms of the size of the company and its board, ~~While~~ the use of committees may improve the work of the board. ~~they may also raise questions about the collective responsibility of the board and of individual board members.~~ In order to evaluate the merits of board committees it is ~~therefore~~ important that the market receives a full and clear picture of their purpose, duties and composition. Such information is particularly important in the</td><td>Where justified in terms of the size of the company and its board, ~~While~~ the use of committees may improve the work of the board. ~~they may also raise questions about the collective responsibility of the board and of individual board members.~~ In order to evaluate the merits of board committees it is ~~therefore~~ important that the market receives a full and clear picture of their purpose, duties and composition. Such information is particularly important in the ~~increasing number of~~ many jurisdictions</td></tr>
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~~increasing number of~~ many jurisdictions where boards are have establishing established independent audit committees with powers to oversee the relationship with the external auditor and to act in many cases independently. In large companies, the audit committee should also be able to oversee the effectiveness and integrity of the internal control system. Other such committees include those dealing with nomination ~~and~~, compensation, and risk. The establishment of additional committees can sometimes help avoid audit committee overload and to allow more board time to be dedicated to those issues. Nevertheless, t~~T~~he accountability of the rest of the board and the board as a whole should be clear. Disclosure ~~should~~ need not extend to committees set up to deal with, for example, confidential commercial transactions.	where boards are have establishing established independent audit committees with powers to oversee the relationship with the external auditor and to act in many cases independently. ~~In large companies, t~~The audit committee should also be able to oversee the effectiveness and integrity of the internal control system. Other such committees include those dealing with nomination ~~and~~, compensation, and risk. The establishment of additional committees can sometimes help avoid audit committee overload and to allow more board time to be dedicated to those issues. Nevertheless, t~~T~~he accountability of the rest of the board and the board as a whole should be clear. Disclosure ~~should~~ need not extend to committees set up to deal with, for example, confidential commercial transactions.
COMMENTS: Size should not be a factor for the audit committee for overseeing the internal control system.	
E.4. Boards of large companies should regularly carry out evaluations to appraise their performance and assess whether they possess the right mix of background and competences.	**E.4. Boards ~~of large companies~~ should regularly carry out evaluations to appraise their performance and assess whether they possess the right mix of background and competences.**
COMMENTS: The principle should be the importance of self-assessment of the boards. Self-assessment processes have many advantages for both large and small and medium companies not to mention it is a good corporate governance practice. The only element that is dependent upon the size of the company; therefore may be left to the scrutiny of the company itself is the scale and method of the assessment.	
E.4.129.	**E.4.129.**
In order to improve board practices and the performance of its members, an increasing number of jurisdictions now encourage companies to engage in board training and voluntary board evaluation that meet the needs of the individual company, sometimes with the help of external facilitators to increase objectivity. This might include	In order to improve board practices and the performance of its members, an increasing number of jurisdictions now encourage companies to engage in board training and voluntary board evaluation that meet the needs of the individual company, sometimes with the help of external facilitators to increase objectivity. This might include that

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<tr><td>that board members acquire appropriate skills upon appointment, and thereafter remain abreast of relevant new laws, regulations, and changing commercial and other risks through in-house training and external courses. In order to avoid groupthink and bring a diversity of thought to board discussion, boards should also consider if they collectively possess the right mix of background and competences.</td><td>board members acquire appropriate skills upon appointment, and thereafter remain abreast of relevant new laws, regulations, and changing commercial and other risks through in-house training and external courses. In order to avoid groupthink and bring a diversity of thought to board discussion, boards should also consider if they collectively possess the right mix of background and competences. It is considered good practice in many jurisdictions to assess the Board’s performance through methods suitable for the Board’s particular need and structure.</td></tr>
<tr><td colspan="2"><u>COMMENTS:</u> The assessment of boards’ performance has usually been the issue disputed in Turkey. There are some preconceptions about this issue, but it is a very good Corporate Governance practice and should be addresses in this article. We realize that there are several different methods to be used when dealing with subtleties of different Boards; hence we also recommend that this article states some good practice examples that may guide the companies in this process.</td></tr>
<tr><td>E.4.130.</td><td>E.4.130.</td></tr>
<tr><td>Measures such as voluntary targets, disclosure requirements and private initiatives that enhance gender diversity on boards and in senior management should be encouraged.</td><td>Measures such as voluntary targets, disclosure requirements and private initiatives that enhance gender diversity on boards and in senior management should be encouraged. It is considered as good practice that companies disclose their attitude toward gender inequality, the steps that they take to fight it and their goal for the future. Some companies introduce coaching schemes for female workers who aspire to become Board members and/or high-level managers.</td></tr>
<tr><td colspan="2"><u>COMMENTS:</u> The glass ceiling that women face every day at their workplace is a universally accepted phenomenon. Considering that half of the world’s population is female and face challenges that bore resulting from this phenomenon, we recommend that this article emphasize the enhancement of gender-diversity on high levels more while championing some best practices around the world.</td></tr>
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