



**MALTA STOCK EXCHANGE
PROSPECTS**

Prospects

Principles of Good Corporate Governance



Introduction

While Prospects, a market under the MTF structure, is subject to a lighter regulatory regime than the regulated market, one of its most important underlying concepts is investor protection, achieved not only through compliance with stringent admission and continuing obligations rules but also through full transparency regarding the operations of the company admitted to Prospects, and business as would be required of any company listed on the regulated markets.

Good corporate governance principles assist a company in achieving these goals as they ensure a robust stewardship of corporate business and assets. Good corporate governance transcends mere strict compliance with applicable law as it aims to deliver an effective strategy of long-term sustainable growth for the business. This adds value not just to the business owners but also to its employees, the wider market, and other stakeholders.

Corporate governance principles support but do not supplant any legal, institutional or regulatory requirements that apply to a company. Corporate governance regimes are based on the guidelines laid out by the Organisation for Economic Cooperation and Development ('OECD') and in summary can be said to benefit a company by:

- providing transparent governance structures thereby enhancing market integrity and confidence;
- ensuring proper transparency and disclosure of all dealings or transactions involving the board, any director, senior managers or officers in a position of trust or other related party; and
- protecting shareholders from the potential abuse of those entrusted with the company's direction and management by the setting up of structures improving accountability to them.

The current "comply or explain" corporate governance regime adopted in Malta and in many other jurisdictions, to which companies admitted to Prospects must adhere, fits in well with the overall rules governing this market. These are to a large extent disclosure based rather than criteria-based, which allow for flexibility in the application of the rules governing the market without compromising on transparency and the quality of information made available to investors and potential investors. Within this framework, the corporate governance regime provides companies to be admitted to Prospects with clear guidance as to the governance, operational and regulatory standards that all stakeholders expect companies to adhere to, without, at the same time, adding significant compliance burdens on companies.

It is expected that corporate advisors who act as the quality assurance check on Prospects companies' adherence to admission requirements and subsequently on their compliance with the Prospects rules, are fully conversant with the relevant good corporate governance code to be adopted by the applicant company. This would enable them to advise the Prospects company on its interpretation of how best to comply with the relevant code and also to assist in the preparation of the corporate governance report as required in the rules.

The purpose of this guide, therefore, is to provide easy access to the prevalent code currently included in the listing rules and to assist corporate advisors in their responsibilities towards Prospects companies. The Exchange, as operator of Prospects, will further support corporate advisors and Prospects companies by providing on-going support regarding corporate governance requirements.



Corporate Governance Report

A Prospects company ('Company') is required to comply with the relevant good corporate governance standards issued by the listing authority in Malta which form part of the listing rules (Appendix 8.1) or equivalent standards in case its securities are already admitted to trading in another recognised jurisdiction (Prospects Rule 4.01.01.07).

A company is expected to disclose its level of compliance with such governance standards in an annual statement made by the company in its annual report together with an assessment on the report made by the company and its Auditors. Where

the company does not comply with any of the Principles an explanation as to why it is non-compliant should be included in the annual statement.

Where the Prospects company is a licensed open-ended collective investment scheme it is exempt from compliance with corporate governance principles as such companies are already subject to stricter licensing and regulatory requirements. This includes the mandatory attribution and separation of investment management and custody of underlying pooled assets respectively to licensed investment managers and custodian third parties.

A Company's annual corporate governance statement shall as a minimum set out:

- (a) the code to which it is subject or which it may have voluntarily decided to apply, and how such code may be accessed;
- (b) the governance practices applied beyond the applicable legal requirements;
- (c) an explanation stating the reasons for any non-compliance with the said code;
- (d) the composition and operation of its board of directors or equivalent body, of the audit committee and of any other committee established by the board;
- (e) a description of the main features of its internal control and risk management systems on the financial reporting processes;
- (f) the key powers and manner how a general meeting is conducted and a description of shareholders' rights and how they can be exercised;
- (g) corporate social responsibility policies including recruitment policies that do not make distinctions in terms of gender, disabilities, etc.; and
- (h) in the context of a takeover bid, information on:
 - (i) any direct or indirect shareholdings exceeding 5% of the issued share capital;
 - (ii) holders of any securities with special control rights and a description of such rights;
 - (iii) any employee share scheme control rights not directly exercised by employees;
 - (iv) any voting rights restriction deadlines for exercising voting rights, or systems enabling the separation with the company's cooperation of the financial rights attaching to securities from the holding of securities;
 - (v) the rules governing the appointment and replacement of directors and amendment of the Memorandum and Articles of Association; and
 - (vi) the directors' powers, including any power to issue or buy back shares.

Underpinning corporate governance rules is the integrity, transparency and accountability of the board. In particular, therefore, the corporate governance report would be expected to include details regarding the composition of the board indicating the split between executive and non-executive directors, the responsibilities of the board, the number of meetings held and the attendance record of the individual director, relationships with senior management, especially the chief executive officer and the chief financial officer.

The corporate governance report should also include details of

internal policies guiding how the board maintains transparency, such as for example, declarations by directors regarding their business interests and relationships with clients of the company as well as relationships with any employees of the company. Another aspect of this would be how any conflicts that may arise in the performance of directors' duties would be resolved. In this respect, clear policies on conflict resolution should be in place and appropriate details should be included in the corporate governance report which should also state if such policies had to be applied during the year being reported on and in which circumstances.



Audit Committee

Boards set up a number of committees to which they delegate particular functions in order to assist the board in the performance of its duties and to ensure monitoring and transparency. These can include a risk committee, a management committee, a nominations committee, etc., depending on the size and complexity of the company.

The corporate governance report should include details regarding the committees set up by the board, stating clearly the composition and responsibilities and functions delegated to them and the relationship between the board and management, reporting structure, meetings held, attendance, etc. It should be noted that any policies regarding transparency, conflict resolution and mix between executive/non-executive directors and management which are applicable to the board would also be applicable to the committees as far as possible.

Particular mention should be made of the audit committee. It is to be noted that both with regard to listed companies and companies listed on Prospects, setting up an audit committee is a statutory requirement with which companies must comply.

The audit committee forms an integral part of the governance structure of the company and its responsibilities include financial reporting and monitoring, monitoring of effective risk management and internal audit controls and systems, as well as relationships with external auditors. A very important function of the audit committee is scrutinising “related party transactions” taking into consideration the materiality and nature of such transactions with a view to ensuring full transparency and disclosure.

The Principles

The code of good corporate governance issued by the listing authority (Listing Rules Appendix 8.1 – www.mfsa.com.mt) includes twelve (12) main principles which generally can be said to focus on one hand, on the board, its role and functions, composition and the appointment of senior management and, on the other hand, addresses the relations of the board with shareholders, the market and the wider community. The principles seek to provide a robust and transparent governance structure supported by an equally strong and transparent management structure for the benefit of all stakeholders.

The principles strongly indicate the value of having the right mix of directors on the board, not only with regard to the breadth and depth of expertise and knowledge, but also as regards the right mix of executive, non-executive directors (NEDs) and independent directors, in order to have an effective board which could lead the company to achieve its strategic aims. The principles emphasise the role of the NEDs as regards participation in the various committees set up by the board, particularly in the nominations and remuneration committees, as well as in their role in the on-going evaluation of the performance of the board. Furthermore, the principles also focus on the qualities required from the chairman of the board and the chief executive. A basic recommendation is to have the posts of chairman and chief executive separate from each other in order to have a clear delineation between strategy and the implementation of such strategy to avoid any possible conflicts of interest as well as to avoid vesting power in only one individual. The issue of conflicts of interest also arises in the responsibility of the directors to act in the best interests of all shareholders and not only for that individual or group of shareholders who voted them onto the board.

Other principles relate to the procedures governing board meetings, the role and responsibilities of the board and processes with regard to board nominations and the remuneration of the board and senior management.

Another aspect of a company's operations addressed in the principles relates to the relationship of the company with its shareholders. The principles focus on the necessity of timely and relevant information being made available to its shareholders and the market in general. With regard to shareholders, the principles refer in particular to the rights of minority shareholders and the importance of institutional investors as drivers of the market in view of their ability to influence voting in decisions taken by the company. Therefore, the principles highlight the need for institutional investors to not only attend meetings convened by the company but also to exercise their voting rights in a manner which will not be detrimental to the company and its other shareholders.

Increasingly, investors are looking to invest in companies which not only fulfil their legal obligations towards their shareholders but also act responsibly toward the environment in which they operate. To this end the principles recommend that companies have a clear social responsibility policy in place.

As indicated above, where a Prospects company is adhering to a different code, it is important that stakeholders are informed of the code being applied and where it may be accessed. The company should report in detail how the code being applied differs from the principles quoted below and/or its equivalence and how equivalence with the principles below will be attained.

1. The Company's Board of Directors

"Every company should be headed by an effective board, which should lead and control the company."

As stewards of a company's assets, directors are primarily involved in adding shareholder value by working with management to build a successful company and achieve its corporate goals. Directors provide leadership, integrity and judgement in directing the company. Directors can provide leadership if they possess the individual and collective, appropriate calibre, necessary skills and experience essential to contribute effectively to a company's decision-making process.

Directors should thus:

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- (a) set the company's values and standards in order to enhance and safeguard the interests of shareholders and third parties;
 - (b) act with integrity and due diligence while discharging their duties as directors and in particular in the decision and policy-making process of the company, which should be reflected in all the company's dealings and at every level of the organisation; and
 - (c) exercise accountability to shareholders and be responsible to relevant stakeholders.

Directors need to be fit and proper to direct the company's business, demonstrating honesty, competence and integrity. As owners of the company, shareholders invariably have the power and discretion to appoint or remove directors on the board. The directors' appointment process has to be transparent and conducted at properly constituted general meetings where the minority shareholders' views may be expressed.



The Principles (contd.)

Directors should:

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- (a) exercise prudent and effective controls enabling risk assessment and management so as to achieve the company's continued prosperity;
 - (b) be accountable for all actions or non-actions arising from their deliberations and for actions taken by their delegates;
 - (c) determine the company's strategic aims and its organisational structure;
 - (d) regularly review management performance and ensure that the company has the appropriate mix of financial and human resources necessary to meet its objectives and improve its economic and commercial prosperity;
 - (e) acquire a broad knowledge of the company's business and the statutory and regulatory requirements relevant to such business; and
 - (f) allocate sufficient time to perform their responsibilities and regularly attend meetings of the Board.

In those cases where a director is unable to agree with a board decision on a proposed course of action conflicting with his statutory or fiduciary duties and responsibilities, in spite of all reasonable steps having been taken to resolve the issue, they may feel that resignation may be called for as a better alternative to submission. In such circumstances, the shareholders are entitled to an honest account of any such disagreements among the directors.

2. The Company's Chairman and Chief Executive

"There should be a clear division of responsibilities at the head of the company between the running of the board and the executive responsibility for the running of the company's business. No one individual or small group of individuals should have unfettered powers of decision."

The chairman has a crucial role of assisting the board to achieve its full potential encouraging every director to play a full and constructive role in the company's affairs. The chairman also facilitates the effective contribution of non-executive directors, while ensuring collaboration between executive and non-executive directors. On the other hand, the separation of the roles of the chairman and chief executive avoids concentration of authority and power in one individual and differentiates leadership of the board from the running of the company's business.

It is thus expected that the positions of the chairman and that of

the chief executive should be occupied by different individuals. The division of the two positions' respective responsibilities should be clearly established, set out in writing and agreed by the board. If exceptionally a board decides that a chief executive should become chairman, the board should consult major shareholders in advance and explain its reasons for such a course of action at the time of such appointment to both shareholders and the market through a company announcement and also in the next annual report issued by the company.

The chairman should:

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- (a) lead the Board and set its agenda;
 - (b) ensure that the Directors of the Board receive precise, timely and objective information so that they can take sound decisions and effectively monitor the performance of the company;
 - (c) ensure effective communication with shareholders; and
 - (d) encourage active engagement by all members of the Board for discussion of complex or contentious issues.

The chairman should also meet the independence criteria that would likewise be required of non-executive directors ('NEDs').

3. Composition of the Board

"The board should not be so large as to be unwieldy. The board should be of sufficient size that the balance of skills and experience is appropriate for the requirements of the business and that changes to the board's composition can be managed without undue disruption. The board should be composed of executive and non-executive Directors, including independent non-executives."

- (a) The board should ensure that it is composed of members who, as a whole, have the required diversity of knowledge, judgement and experience to properly complete their tasks.
- (b) The board must understand and fully appreciate the business risk issues and key performance indicators affecting the ability of the company to achieve its objectives.
- (c) It is desirable that a company should have a sufficient number of NEDs sitting on the board in order to ensure a balance such that no individual or small group of individuals can dominate the board's decision making. The exact composition and balance on a board will depend on the circumstances and business of each enterprise but it is recommended that the majority of the directors should be independent.



The Principles (contd.)

- (d) A NED is a Director who is not engaged in the daily management of the company, but assumes an important role in overseeing executive or managing Directors and dealing with situations involving conflicts of interests. NEDs and executive Directors have the same Directors' duties and responsibilities in terms of law. But since NEDs are not involved in the actual, day-to-day running of the Company's business, they can bring to bear a more distinctively external and objective perspective in supporting, monitoring and/or constructively challenging the management team.
- (e) The company should appoint NEDs of sufficient calibre whose independence and standing counter-balances the strength of the chairman's role. Where exceptionally the roles of the chairman and chief executive officer are combined:
 - (i) It is particularly important that NEDs exercise independent judgement on the various issues arising at board level; and
 - (ii) one of the independent NEDs should be appointed by the Board to be the senior independent director to act as a reference and coordination point for any requests and contributions of the other independent NEDs.
- (f) NEDs should be free from any business or other relationships that could materially interfere with the exercise of such independent and impartial judgement.
- (g) A director is considered to be independent if they are free from any business, family or other relationship - with the company, its controlling shareholder/s or the management of either - that creates a conflict of interest such as to jeopardise exercise of their free judgement.
- (h) The board committee membership should be refreshed so that no undue reliance is placed on any particular individual when deciding on the chairing and membership of committees.
- (i) No one other than the committee chairman and members is entitled to be present at a meeting of the audit or remuneration committee. Others may only attend upon invitation of the committee.
- (j) NEDs are expected to take an active role in:
 - (i) constructively challenging and help developing proposals on strategy;
 - (ii) monitoring the reporting of performance;
 - (iii) scrutinising the performance of management in meeting agreed goals and objectives; and
 - (iv) satisfying themselves on the integrity of financial information and that financial controls and risk management systems are well established.
- (k) In the company's annual report, each NED considered to be independent shall be identified. Where a NED is still considered independent in spite of the existence of relationships or circumstances perceived to impinge on such independence, the board should state its reasons for its determination, including in cases where a director:
 - (i) has been an executive officer or employee of the company or its subsidiary or parent company within the last 3 years;
 - (ii) has, or has had within the last 3 years, a significant business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company. A "business relationship" includes the situation of a significant supplier of goods or services (including financial, legal, advisory or consulting services), of a significant customer, and of organisations that receive significant contributions from the company or its group;
 - (iii) has received or receives significant additional remuneration from the company or any member of its group in addition to a director's fee, such as participation in the company's share option or a performance-related pay scheme, or membership of the company's variable benefit pension scheme;
 - (iv) has close family ties with any of the company's executive directors or senior employees;
 - (v) has served on the board for more than 12 consecutive years; or
 - (vi) is or has been within the last 3 years an engagement partner or a member of the audit team of the present or former external auditor of the company or any other company within its group.
- (l) Each director should dedicate the necessary time and attention to their duties, undertaking to limit the number of any other directorships in other companies so as to ensure proper performance of said duties.
- (m) Every NED shall undertake in writing to the board that they will:
 - (i) in all circumstances maintain independence in their analysis, decision and actions;
 - (ii) not seek or accept any unreasonable advantages that could be considered as compromising their independence; and
 - (iii) clearly express their opposition to any Board decision that may harm the company.



MALTA STOCK EXCHANGE
Market Closed
BOV 2.230

IG18A 101.750 0.150	IG24A 108.000 0.000	IH20A 101.750 0.000	IH21A 103.000 0.000
29/07 0.15%	01/08 0.00%	29/07 0.00%	11/07 0.00%
IG25A 105.250 0.000	IG19A 101.750 0.150	IG20A 101.750 0.000	IG21A 103.000 0.000
29/07 0.00%	01/08 0.15%	29/07 0.00%	11/07 0.00%
IG26A 105.250 0.000	IG27A 105.250 0.000	IG28A 105.250 0.000	IG29A 105.250 0.000
29/07 0.00%	01/08 0.00%	01/08 0.00%	01/08 0.00%



The Principles (contd.)

- (n) When an independent NED has serious reservations about any board decision, they should draw all the appropriate consequences from this state of affairs. If they should resign, they should explain their reasons in a letter to the board or the audit committee, and – where appropriate – to any relevant body external to the company.

4. The Responsibilities of the Board

“The board has the first level responsibility of executing the four basic roles of corporate governance, namely accountability, monitoring, strategy formulation and policy development.”

- (a) The board should:
 - (i) regularly review and evaluate corporate strategy, major operational and financial plans, risk policy and performance objectives, and monitor implementation and corporate performance within the parameters of all relevant laws, regulations and codes of best business practice;
 - (ii) apply high ethical standards while taking into account stakeholders' interests and act responsibly to exercise independent objective judgement with the highest degree of integrity, on a fully informed basis, in good faith, with due diligence, and in the best interests of the company and the shareholders;
 - (iii) recognise that the company's success depends upon its relationship with all groups of its stakeholders, including employees, suppliers, customers and the wider community in which the company operates, and thus maintain an effective dialogue with such groups in the best interests of the company;
 - (iv) monitor management's execution of its policies; and
 - (v) recognise and support enterprise and innovation within the company management, examining how best to motivate the latter.
- (b) The board should strike a balance between enterprise and control in the company.
- (c) The board's powers should be known by the company's directors and senior management. Any delegation of responsibilities and functions should also be clear and unequivocal. Independently of any such delegation however, directors still remain essentially responsible to effectively monitor management's implementation of strategy and policy.
- (d) The board should:
 - (i) clearly and concisely define strategy, management performance criteria and business policies which can be measured in a precise and tangible manner;
 - (ii) set up a clear internal and external reporting system so as to ensure continuous access to accurate, relevant and timely information enabling it to discharge its duties, exercise objective judgement on corporate affairs and take pertinent decisions leading it to an informed assessment of all relevant issues;
 - (iii) establish an audit committee as required under Prospects Rule 4.01.01.01(d);
 - (iv) continuously assess and monitor the company's present and future operations, opportunities, threats and risks in the external environment and current and future strengths and weaknesses;
 - (v) evaluate the management's implementation of corporate strategy and financial objectives. The strategy, implementation processes and policies should be regularly reviewed by the board using key performance indicators so that corrective measures can be taken to address any deficiencies and ensure the future sustainability of the enterprise;
 - (vi) ascertain that the company has appropriate policies and procedures in place to ensure that the company and its employees maintain the highest standards of corporate conduct, including compliance with applicable laws, regulations, business and ethical standards; and
 - (vii) develop a succession policy for the future composition of the board of directors and particularly the executive component thereof (if any), for which the chairman should hold key responsibility.
- (e) The board should organise regular information sessions to ensure that directors are made aware of their duties and responsibilities, including their statutory and fiduciary duties, the company's operations and prospects, the skills and competence of senior management, the general business environment and the board's expectations.
- (f) The board should regularly assess any circumstances, whether actual or potential, that could expose the company or its directors to risk, and take appropriate action.
- (g) The business risk and key performance indicators should be benchmarked against industry norms so that the company's performance can be effectively evaluated.
- (h) The board shall require management to constantly monitor performance and report to its satisfaction, at least on a quarterly basis, fully and accurately on the key performance indicators.
- (i) The board shall ensure that the financial statements of the company and the annual audit thereof are completed within the stipulated time periods.



The Principles (contd.)

5. Board Meetings

“The board should meet regularly to discharge its duties effectively. Board members should be given ample opportunity during meetings to discuss issues set on the board agenda and convey their opinions.”

- (a) The chairman is primarily responsible for the efficient working of the board and for ensuring that all relevant issues are on the agenda supported by all available information.
- (b) The board agenda should strike a balance between long-term strategic matters and shorter-term performance issues.
- (c) In conducting board meetings, the chairman should facilitate and encourage the presentation of views pertinent to the subject matter and should give all directors every opportunity to contribute to relevant issues on the agenda.
- (d) The board should set procedures to determine the frequency, purpose, conduct and duration of meetings and meet regularly in line with the nature and demands of the company's business. Directors' attendance of board members should be reported to shareholders at annual general meetings.
- (e) Notice of dates of the forthcoming board meetings together with the supporting material should be circulated well in advance to the directors so that they have ample opportunity to appropriately consider the information prior to the next scheduled board meeting. Advance notice should be given of ad hoc board meetings to allow all directors sufficient time to re-arrange their commitments in order to be able to participate.
- (f) After each board meeting and before the next meeting, minutes that faithfully record attendance and decisions should be prepared and circulated to all Directors as soon as practicable after the meeting.

6. Information and Professional Development

The Board should:

- 1) appoint the chief executive officer ('CEO');
 - 2) actively participate in the appointment of senior management;
 - 3) ensure that there is adequate training in the Company for directors, management and employees;
 - 4) establish a succession plan for senior management; and
 - 5) ensure that all directors are supplied with precise, timely and clear information so that they can effectively contribute to board decisions.
- (a) Boards should actively consider the setting up and implementation of appropriate schemes to recruit, retain and motivate high quality executive officers and the management team.
 - (b) The chairman should ensure that board members continually update their skills, knowledge and familiarity with the company as required to fulfil their role both on the board and on board committees. The company should provide the necessary resources for developing and updating its directors' knowledge and capabilities.
 - (c) Under the chairman's direction, the company secretary's responsibilities include ensuring good information flows within the board and its committees and between senior management and NEDs, as well as facilitating induction and assisting with professional development as required.
 - (d) The company secretary should be responsible for advising the board through the chairman on all governance matters.
 - (e) All new directors should be offered a tailored induction programme on joining the board which covers the company's organisation and activities and their responsibilities as a director.
 - (f) The board should ensure that directors, especially NEDs, have access to independent professional advice at the company's expense where they judge it necessary to discharge their responsibilities as directors. Committees should be provided with sufficient resources to undertake their duties.
 - (g) All directors should have access to the advice and services of the company secretary, who is responsible to the board for ensuring that board procedures are complied with.



The Principles (contd.)

- (h) The CEO should ensure that systems are in place:
 - (i) to provide for the development and training of the management and employees generally so that the company remains competitive;
 - (ii) to provide additional training for individual directors where necessary;
 - (iii) to monitor management and staff morale; and
 - (iv) to draft a succession plan for senior management for the board's consideration.
- (i) The CEO should be responsible for the recruitment and appointment of senior management.

7. Evaluation of the Board's Performance

"The board should undertake an annual evaluation of its own performance and that of its committees."

- (a) The board should appoint a committee chaired by a NED in order to carry out a performance evaluation of its role.
- (b) Such committee should directly report to the chairman who should act on the results of the performance evaluation process in order to ascertain the strengths and to address the weaknesses of the board and to report to the board and, where appropriate, to the annual general meeting.
- (c) The NEDs should be responsible for the evaluation of the chairman, taking into account the views of the executive directors.
- (d) As part of the disclosure requirements in the annual report, the board should provide adequate information about its internal organisation, including an indication of the extent to which the self-evaluation of the board has led to any material changes in the company's governance structures and organisation.

8. Remuneration and Nomination Committees

A) Remuneration Committee

For the purposes of this section the term "senior executive" shall mean any person reporting directly to the board of directors.

"The board should establish a remuneration policy for directors and senior executives. It should also set up formal and transparent procedures for developing such a policy and for establishing the remuneration packages of individual directors."

- (a) The role of the remuneration committee is to devise the appropriate compensation packages needed to attract, retain and motivate directors, whether executive or not, as well as senior executives with the right qualities and skills for the proper management of the company. It should however avoid paying more than is necessary to secure the people with the appropriate skills and qualities. In carrying out this function, the remuneration committee should judge where to position the company in comparison to other companies in the marketplace.
- (b) The remuneration committee's main duties are:
 - (i) to make proposals to the board on the remuneration policy for directors and senior executives;
 - (ii) to make proposals to the board on the individual remuneration to be attributed to executive directors, ensuring that they are consistent with the remuneration policy adopted by the company and the evaluation of the performance of the directors concerned; and
 - (iii) to monitor the level and structure of NEDs' remuneration on the basis of adequate information provided by the executive or managing directors.
- (c) The remuneration committee:
 - (i) may consult the chairman and/or the CEO about proposals relating to the remuneration of other executive directors;
 - (ii) may avail itself of consultants who may be useful in providing the necessary information on market standards for remuneration systems; and
 - (iii) should be responsible for establishing the selection, appointing and setting the terms of reference for any consultants who advise the committee.
- (d) No member of the remuneration committee shall be present while their remuneration is being discussed at a meeting of such committee.
- (e) The board of directors should establish a remuneration committee composed of non-executive directors with no personal financial interest other than as shareholders in the company, one of whom shall be independent and shall chair the committee.
- (f) Where, however, the directors' remuneration is not performance-related, the functions of the remuneration committee may be carried out by the board and in such case any reference to such committee shall then refer to the board of directors. "Performance-related" remuneration includes share options and pension benefits,



The Principles (contd.)

profit sharing arrangements and any other emolument payable to the directors that is related to the performance of the company.

(g) The remuneration committee shall prepare a report which forms part of the annual report providing information regarding its membership, the number of meetings held, the attendance over the year and its main activities.

(h) The annual report should contain a “remuneration statement” which discloses at least the following information:

- (i) the current remuneration policy of the company, including profit-sharing, share options and pension benefits, as well as specific arrangements relating to the disclosure of information on performance, highlighting any significant changes in the company’s remuneration policy as compared to the previous financial year as well as any changes that the company intends to effect in its remuneration policy for the following financial year;
- (ii) an explanation of the relative importance of the variable and non-variable components of directors’ and/or senior executives’ remuneration;
- (iii) sufficient information on the performance criteria on which any entitlement to share options, shares or variable components of remuneration is based;
- (iv) sufficient information on the linkage between remuneration and performance;
- (v) the main parameters and rationale for any annual bonus scheme and any other non-cash benefits;
- (vi) a description of the main characteristics of supplementary pension or early retirement schemes for directors and/or senior executives;
- (vii) a summary and an explanation of the company’s policy with regard to the terms and conditions of the contracts of executive directors and senior executives including information on the duration of such contracts, the applicable notice periods and details of provisions for termination payments and other payments linked to early termination under the said contracts;
- (viii) the total emoluments, whether in cash or otherwise, received by directors from the company or any other undertaking of the group of which the company forms part;
- (ix) the total emoluments, whether in cash or otherwise, received by senior executives from the company or any other undertaking of the group of which the company forms part;
- (x) the compensation paid or receivable by each former executive director in connection with the termination of their activities during that financial year;

(xi) the compensation paid or receivable by each former senior executive in connection with the termination of their activities during that financial year;

(xii) with respect to shares and/or rights to acquire share options and/or all other share-incentive schemes:

- (A) the number of share options offered or shares granted by the company or any other undertaking of the group of which the company forms part during the relevant financial year and their conditions of application;
- (B) the number of share options exercised during the relevant financial year and, for each of them, the number of shares involved and the exercise price or the value of the interest in the share incentive scheme at the end of the financial year;
- (C) the number of share options unexercised at the end of the financial year, their exercise price, the exercise date and the main conditions for the exercise of the rights;
- (D) any change in the terms and conditions of existing share options occurring during the financial year; and
- (E) with respect to supplementary pension schemes:
 - 1. when the pension scheme is a defined-benefit scheme, changes in the accrued benefits under that scheme during the relevant financial year; and
 - 2. when the scheme is a defined-contribution scheme, details of the total contributions paid or payable by the company or any other undertaking of the group of which the company forms part during the relevant financial year.

(i) The company shall report separately on sub-paragraphs (viii) and (x) above, and, in doing so, it shall divide the part dealing with the emoluments of the directors and the other dealing with the emoluments of senior executives into four sections entitled “fixed remuneration”, “variable remuneration”, “share options” and “others”. The company may also provide an explanation on which items fall under one of the four categories of emoluments referred to herein.

(j) Without prejudice to the requirements of paragraph (vi) above, the disclosure of any information in the remuneration statement shall not oblige the company to disclose commercially sensitive information.



The Principles (contd.)

B) Nomination Committee

“There should be a formal and transparent procedure for the appointment of new directors to the board. The procedure shall ensure, inter alia, adequate information on the personal and professional qualifications of the candidates.”

- (a) Appointments to the board should be made on merit and against objective criteria. Care should be taken to ensure that appointees have enough time available to devote to the job. This is particularly important in the case of chairmanships.
- (b) The functions of the nomination committee shall be:
 - (i) to propose to the board candidates for the position of director, including those persons that are considered to be independent, taking into account any recommendations in this regard received from shareholders;
 - (ii) to periodically assess the structure, size, composition and performance of the board and make recommendations to the board with regard to any changes;
 - (iii) to properly consider issues related to succession planning; and
 - (iv) to review the policy of the board for selection and appointment of senior management.
- (c) The board of the company shall determine the terms of reference of the nomination committee.
- (d) In performing its duties, the nomination committee should be able to use any resources it deems appropriate, including external advice or advertising, and should receive appropriate funding from the company to this effect.
- (e) The nomination committee may invite directors, company officers or experts to attend meetings where appropriate to assist in the effective discharge of its duties.
- (f) While the nomination committee should try to achieve consensus on the recommendations it makes to the board, where such consensus cannot be achieved, decisions shall be made by a majority vote. In the event of any dissent with the majority view on any particular matter, the dissenting member/s may make a dissenting report to the board setting out the reasons for dissenting from the majority opinion.
- (g) A nomination committee should be composed entirely of directors. The majority of the members of the nomination committee shall be NEDs, at least one of whom shall be independent.
- (h) No member of the nomination committee shall be present at a meeting while his nomination as a director is being discussed.
- (i) For any new board appointment, the nomination committee should evaluate the skills, knowledge and experience already present and those needed on the board and, in light of that evaluation, prepare a description of the role needed.
- (j) With respect to the chairman's appointment, the nomination committee should prepare a job specification, including an assessment of the time commitment expected. A chairman's other significant commitments should be disclosed to the board before appointment and any changes to such commitments should be reported to the board as they arise.
- (k) The letter of appointment for NEDs should set out the expected time commitment. Before appointment, NEDs should undertake that they will have sufficient time to meet what is expected of them, while disclosing to the board their other significant commitments, with a broad indication of the time involved and subsequent changes.
- (l) Any shareholders' proposal for a director appointment should be accompanied by a recommendation from the board based on the advice of the nomination committee.
- (m) The lists of candidates to the role of director, accompanied by exhaustive information on the expertise and professional qualifications of the candidates, with an indication, where appropriate, of their eligibility to qualify as independent and competent in accounting and/or auditing, shall be deposited at the company's registered office at least fourteen (14) days prior to the date fixed for the annual general meeting.
- (n) A separate section of the company's annual report should describe the nomination committee's work, including the process followed on board appointments.
- (o) The nomination committee shall periodically assess the skills, knowledge and experience of individual directors, and report accordingly to the board.



The Principles (contd.)

9. Relations with Shareholders and with the Market

“The board shall serve the legitimate interests of the company, account to shareholders fully and ensure that the company communicates with the market effectively. The board should as far as possible be prepared to enter into a satisfactory dialogue with institutional shareholders and market intermediaries based on the mutual understanding of objectives. The board shall use the general meeting to communicate with shareholders.”

- (a) The company should provide the market with regular, timely, accurate, comprehensive and comparable information in sufficient detail to enable investors to make informed investment decisions.
- (b) Communication with the market is crucial for Prospects companies and market integrity. The board should ensure that long-term strategic decisions are communicated where directors consider these to be in the best interests of the company.
- (c) The board should endeavour to protect and enhance the interests of both the company and its shareholders, present and future. The chairman should ensure that the views of shareholders are communicated to the board as a whole.
- (d) The board should:
 - (i) always ensure that all holders of each class of capital are treated fairly and equally; and
 - (ii) act in the context that its shareholders could be constantly changing and, consequently, decisions should take into account future shareholders' interests.
- (e) Shareholders should appreciate the significance of participation at general meetings of the company and particularly in the directors' election. They should continue to hold directors to account for their actions, their stewardship of the company's assets and the performance of the company.
- (f) The agenda for shareholders' general meetings and the conduct of such meetings must not be arranged in a manner to frustrate valid discussion and decision-taking.
- (g) Whilst recognising that most shareholder contact is with the CEO and finance director, the chairman should maintain sufficient contact with major shareholders to understand their issues and concerns.

- (h) The board should consider whether, from time to time, disclosure should be made by the company to other stakeholders other than its shareholders.
- (i) The board chairman should arrange for the chairmen of the audit, remuneration and nomination committees to be available to answer questions at the annual general meeting and for all directors to attend.
- (j) Minority shareholders should be able to call special meetings on matters of importance. However, a minimum threshold of share ownership, as established in the memorandum or articles of association of the company, should be set up before a group or an individual may call a special meeting.
- (k) Procedures should be established to resolve conflicts between minority shareholders and controlling shareholders. There should be some mechanism for conflict resolution in the company's memorandum or articles aimed at triggering arbitration as necessary.
- (l) Minority shareholders should be allowed to formally present an issue to the board.

10. Institutional Shareholders

The term “institutional shareholders” should be interpreted widely and includes any person who professionally or in the course of business, whether directly or indirectly, takes a position in investments as a principal, manager or otherwise holds funds for others, including custodians, banks, financial institutions, fund managers, stockbrokers, investment managers and others.

A) Shareholder Voting

“Institutional shareholders have a responsibility to make considered use of their votes.”

- (a) Institutional shareholders have the knowledge and expertise to analyse market information and make their independent and objective conclusions of available information. Their role in the market is thus perceived by individual investors as a very significant one. Accordingly, institutional shareholders are expected to engage in appropriate market conduct and act as a more effective check on Prospects companies.



The Principles (contd.)

- (b) Institutional shareholders should take an active role in the pursuit of the attainment of their voting objectives. They should work towards the adherence to principles of good governance without substituting themselves for a company's board and management.
- (c) Institutional shareholders should make available to their clients, upon request, information on the proportion of resolutions on which votes were cast and non-discretionary proxies lodged.
- (d) Institutional shareholders should use their best endeavours to attend companies' annual general meetings. Companies and registrars should facilitate such attendance.

B) Evaluation of Governance Disclosures

"When evaluating the company's governance arrangements, particularly those relating to board structure and composition, institutional shareholders should give due weight to all relevant factors drawn to their attention."

- (a) Institutional shareholders should consider carefully the explanations given for departure from this code and make reasoned judgements in each case. They should give an explanation to the company, in writing where appropriate, and be prepared to enter a dialogue if they do not accept the company's position. Avoiding a box-ticking approach in prioritising substance over form when assessing a company's corporate governance, they should bear in mind the particular company's size, complexity and nature of risks and challenges faced.

11. Conflicts of Interest

"Directors' primary responsibility is always to act in the interest of the company and its shareholders as a whole irrespective of who appointed them to the board."

- (a) A director should avoid conflicts of interest at all times and not accept a nomination if they are aware that they have an actual conflict of interest.
- (b) A director's personal interests should never take precedence over those of the company and its shareholders.
- (c) Where an actual or potential conflict arises during their term of appointment, a director should disclose to the board and record such conflict in a comprehensive and timely manner. A director should not participate in a discussion on matters in which they have a conflict of interest unless the board finds no objection to their

presence. In any event, such director shall not vote on the matter. In certain circumstances, the board should decide whether disclosure in a public document about such actual or potential conflict of interest would be appropriate.

- (d) A director having a continuing material interest conflicting with the company's interests, should effectively eliminate the grounds for the conflict. Where the grounds for conflict cannot be effectively eliminated, such director should consider resigning.
- (e) Each director should declare to the company their interest in the share capital of the company, distinguishing between beneficial and non-beneficial interest. Directors should only deal in such shares as allowed by law.

12. Corporate Social Responsibility

"Directors should seek to adhere to accepted principles of corporate social responsibility in their day-to-day management practices of their company."

- (a) "Corporate Social Responsibility" refers to the continuing commitment by business entities to behave ethically and contribute to economic development while improving the quality of life of employees and their families, as well as of the local community and society at large. Being socially responsible means not only fulfilling legal expectations, but also going beyond compliance and investing rather in human capital, the environment and relations with stakeholders.
- (b) Prospects companies should take up initiatives aimed at augmenting investment in human capital, health and safety issues, and managing change, while adopting environmentally responsible practices related mainly to the management of natural resources used in production processes or in the services delivery.
- (c) Prospects companies should be civic-minded in the local community and work closely with suppliers, customers, employees and public authorities.
- (d) Prospects companies should be familiar with corporate social responsibility themes and relevant initiatives taken in the local and international scenario.





Conclusion

There can be no doubt that, irrespective of whether an organisation is seeking access to the capital market or not, the adoption of good corporate governance principles will contribute positively to how the organisation manages itself and its processes. Well-governed entities are likely to operate more efficiently, improving their access to resources, while mitigating risks and safeguarding against mismanagement. Corporate governance makes companies more accountable and transparent to investors and other key stakeholders, and contributes to development through increased access to capital, encouraging new investment, economic growth, and providing employment opportunities.

Improved governance structures and processes therefore help ensure quality decision-making, encourage effective succession planning for senior management and enhance the long-term prosperity of companies, independent of the type of company and its sources of finance. Clearly, in the SME and family-run business environment, these companies are being given an incentive to adopt good corporate governance structure that will not only improve their internal operations and efficiency but also provide them access to the Prospects capital market.



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