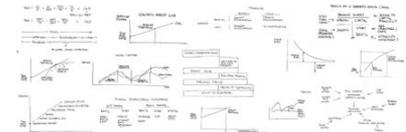


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# Principles and Guidelines of Corporate Governance

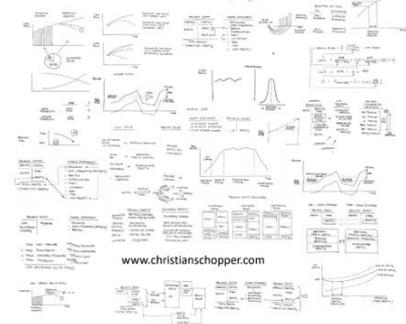
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## Common Themes in Emerging Markets

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## Corporate Governance Affects Development

### Increased access to external financing by firms

Can lead to greater investment, higher growth, and greater employment creation.

### Lower cost of capital

Makes firms more attractive to investors, leading to growth and more employment.

### Better operational performance

Through better allocation of resources and more effective management decision making.

### Financial crises less likely

Important, as highlighted again recently, given the large economic and social costs of crises.

### Better relationships with all stakeholders

Improves social and labor relationships and aspects such as environmental protection, and can help further reduce poverty and inequality.

<b>Topics</b>

- Board Level Improvements
- Management Control and Other Improvements
- Impacts that Can Be Expected
-  Investor Perspective

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## Board Level Improvements

- **Enhancing board stewardship through more diverse boards**
  - Adding new skillsets and, in most cases, recruiting independent directors
- **Reinforcing board roles and strengthening its posture towards management**
  - Clarify the role between board and management which, in many cases, is indistinct
- **Maximizing board efficiency and effectiveness with improved procedures**
  - Improvements to board work procedures in some form (e.g., setting annual work plans, formalizing board papers, improving agendas and proceedings)
- **Adding depth of analysis through board committees**
  - Changes to committee structure, setting up more formal committees with active agendas and proper work procedures
- **Structuring board nomination and evaluation processes**
  - Put in place more formal nomination, appointment, and evaluation procedures to continuously ensure their board composition is structured appropriately and not simply hand-picked by key investors

## Management Control and Other Improvements

- **Strengthening enterprise risk management and improving risk dialogue**
  - Enhance risk management practices to improve monitoring and mitigation at all levels of their organization; especially crucial for many during crisis
- **Upgrading the role of internal audit**
  - Installing an active internal audit function and / or further improvements
  - Strengthen internal audit by expanding its scope and ensuring its proper independence in the organization
- **Enhancing In-house financial management practices**
  - Significant improvements in the finance function – especially in the areas of accounting and control, financial statement preparation, and business consolidation – and appropriate steps to strengthen in-house expertise
- **Addressing succession and 'key-person' risk**
  - Management succession an issue for all types of companies, but especially acute for fast-growing companies transitioning from one generation of leadership to the next
  - Taking action to address succession planning and mitigate over dependence on one to two key persons

## Management Control and Other Improvements (cont'd)

- **Improving reporting and analytics**
  - Significant improvements to internal management analysis and reporting capabilities, supporting effective risk management and board oversight
- **Improving transparency and shareholder relations**
  - Significant strides to improve organizational transparency through enhanced disclosures (e.g., increasing the non-financial information in annual report and on websites)
  - Strengthen shareholder relations, such as improving minority shareholder protection
- **Governing the family's role in the business**
  - Particular family governance issues
  - Typically aimed at putting in place structures and policies to help govern the family's role in the business and prepare the organization for future generations of leadership

## Impacts that Can Be Expected

- **Impact on ability to access finance as strong or substantial**
  - Impact that governance changes have on instilling market confidence and providing added assurance to investors, creditors or other debtors
- **Impact on firm reputation**
  - Significant improvements in firm reputation based on feedback from various market actors, such as shareholders, investors, customers, business partners, and other stakeholders
- **Though difficult to quantify, impact on profitability**
  - Actions taken to control costs and avert losses as helping improve their bottom lines
- **Strong or substantial impact on organizational efficiency**
  - Management control improvements – e.g., establishing more formal processes and controls, clarifying roles and authorities, and improving the level of automation – as leading to efficiency gains
- **Improve crisis response**
  - Governance changes – particularly relating to risk management and board stewardship – help to better respond to a crisis by controlling costs and managing liquidity
- **Sustainability impact and long-term benefits**

## Investor Perspective

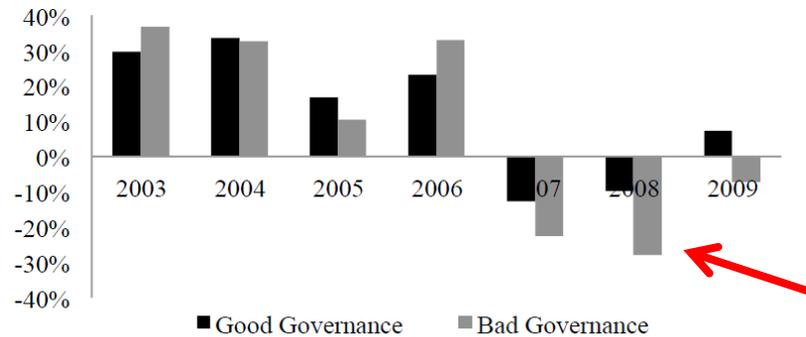
The investor feedback expected to confirm that corporate governance is a crucial part of their investment cycle, noting:

- **An investee company must be committed to making governance changes** or else they will likely not invest
- Following investment, **corporate governance is a key component of the value creation process**, by establishing formal board and management structures and enhancing firm transparency

## Study: Real Estate, Governance, and the Global Economic Crisis

- Observe the effect of the changing investment climate on the returns of the “good” versus the “bad” governance portfolio
- The graph shows the annual returns of the respective portfolios
- During the rising market, the out performance of the portfolios is mixed, with poorly governed REITs outperforming their better-structured counterparts in some years
- However, during the crisis, well-governed companies consistently outperform poorly governed companies, on average

Annual Average Returns of Governance Portfolios



- The “Good Governance” portfolio includes the companies that represent the top-30 percent of CGQ industry ratings
- The “Bad Governance” portfolio includes the companies that represent the bottom 30 percent of CGQ industry scores provided by Institutional Shareholder Services

Study: Piet Eichholtz, Nils Kok, Erkan Yonder (2010)

## A Basic Framework of Corporate Governance Themes

## Topics

- Rights of Shareholders
- Equitable Treatment of Shareholders
- Role of Stakeholders
- Disclosure and Transparency
- Responsibilities of the Board

## Rights of Shareholders

- Are the **voting rights** of shareholders clear and unequivocal?
- Does the company offer **ownership rights**, more than basic rights (voting rights, right to freely transfer shares, and right to timely information)?
- Do shareholders have the right to **nominate and remove** members of the board of directors and the **supervisory board**?
- Are the **dividend** and dividend payment policies transparent?
- Do shareholders have the right to **approve major corporate transactions** (mergers, acquisitions, divestments, and/or takeovers)?
- Was the **AGM** (annual general meeting) **held** within four months of the end of the fiscal year?
- Are there adequate company systems for shareholder **attendance** at the AGM?
- Are the AGM shareholder meeting **notices** effective?
- Are the policies and processes for shareholders to **ask questions** at the AGM clear, and is time provided for on the agenda?
- Does AGM information of the past year record opportunities for shareholders to ask questions?
- Was the **attendance of the chairman / head of supervisory board / other board members/CEO** at the last AGM evident?

## Rights of Shareholders (cont'd)

- Are AGM policies and processes in the past two years (notices and information) sufficient for shareholders to **evaluate** individual **board nominations**?
- Do shareholders effectively **vote** (receive information on, make their views known, and vote) on board and key executive **remuneration** annually?
- Did the external auditor attend the AGM and express his or her views on **audit issues**?
- Did the shareholders effectively approve the **appointment** of the **external auditor**?
- Did information provided to shareholders for the appointment of the external auditor include mention of **auditor independence**?
- Is a full report provided to the AGM on the **board of directors' performance**?
- Is a full report provided to the AGM on the **supervisory board's performance**?
- Did the AGM notices include explicit information on accessible systems for **proxy voting** and voting in **absentia**?
- Did AGM **meeting minutes** and the company website disclose individual resolutions, with voting results for each agenda item?
- Are there **additional items** included in the AGM minutes not included on the original meeting notice?

## Equitable Treatment of Shareholders

- Does each share in the **same class** of shares have the **same rights**?
- Does the company have a “**one share, one vote**” policy?
- **Can minority** shareholders affect the **composition of the board**?
- Are **directors required** to be re-nominated and **re-elected** at regular intervals?
- Is **cross-border voting facilitated** by the company?
- Is the company group structure clearly and **transparently** described?
- Is there evidence of **structures/mechanisms** that have the **potential to violate minority shareholder rights**?
- Are there **mechanisms** that provide effective redress **for complaints of shareholders**?
- Do shareholders have the right to **approve fundamental company changes**?
- **How many days** before the AGM were the **meeting notices** sent out?
- Can a small shareholder place an **item on the AGM agenda**?
- Are there company policies in place that effectively prohibit the **misuse of information** by directors, management, and staff?
- Were there any known cases of **insider trading** involving the company directors, management, or staff in the past year?

## Equitable Treatment of Shareholders (cont'd)

- Are there effective company policies for the company to **approve relevant RPTs** (related-party transactions)?
- For large company transactions, does company policy require the provision of information to explain RPTs and require shareholder approval of RPTs above a certain threshold?
- Were there **cases of noncompliance** with requirements relating to related-party transactions in the past year?
- **How does the board deal with declarations of conflict of interest?**
- Does the company have an **effective investor relations/ information policy** and program?

## Role of Stakeholders

- Does the company recognize **company obligations** (in law and agreements) to key stakeholders and engage them?
- Does the company provide a range of performance-enhancing **employee benefits** to align company and employee interests?
- Have mechanisms been introduced that facilitate **communication to board members of illegal and unethical company practices**?
- Do company policies/information recognize the **safety and welfare of employees**?
- Do company policies/information mention the **environment**?
- Are **stakeholders able to directly communicate** on company performance with the board of directors, board of management, and supervisory board?
- Is there some company recognition of its **obligations to the broader community**?
- Is there a clear framework for the **enforcement of creditors' rights**?

## Disclosure and Transparency

- Is there evidence that the **concept of “material information”** is well-understood by the company?
- Does the annual report give a full and clear picture of the **financial performance** of the company?
- Are the financial reports disclosed in a **timely** manner?
- Did the company provide **quarterly and semiannual reports** in the past year?
- Do the **CEO and chief accountant certify** the annual financial statements, audited and unaudited?
- Does the company use **internationally accepted accounting standards**?
- Does the annual report include a **full and clear picture** of company operations, its competitive position, and other nonfinancial matters?
- Are details of **current largest shareholdings** provided?
- Are **directors’** (board of directors and supervisory board) **shareholdings** disclosed?
- Are senior **management’s shareholdings** disclosed?
- Are the company **shares broadly held**?
- In the annual report, is **board member experience** disclosed?
- In the annual report, are **non-executive directors specifically identified**?
- Does the annual report specifically **identify “independent” directors**?
- Does the annual report disclose board of directors/ supervisory board **meeting attendance** of individual directors?

## Disclosure and Transparency (cont'd)

- Is the basis (level and mix) of **board remuneration** disclosed in the annual report?
- Does the latest annual report identify the company's main **executives and their responsibilities**?
- Does the latest annual report disclose the **remuneration of key executives**?
- Does the company have a policy requiring **disclosure of related-party transactions**?
- Are statements requesting **directors to report their transactions in company shares** evident?
- Does the annual report explain **foreseeable business risks**?
- Does the annual report include a separate, quality **corporate governance report**?
- Does the company have an **annual external audit** undertaken by an authorized auditor?
- Do AGM and/or company documents refer to the "**independence**" of the external auditor?
- If a change of auditor is noted in the past two years, were the **reasons for the change** disclosed?
- Is there a policy that **prevents** the external auditor from **undertaking non-audit services**?
- Is the external auditor's **opinion publicly disclosed**?
- Have there been any accounting/audit qualifications or **queries** related to the financial statements in the past two years?
- Does the company provide a **variety of communication methods**?

## Disclosure and Transparency (cont'd)

- Is the information on the **company website** comprehensive and accessible?
- Does the company have a policy and process to ensure continuous **ad hoc disclosure** of important matters?
- Does the company provide **easy public access** to and contact details for the investor relations person or unit?

## Responsibilities of the Board

- Has the company promulgated good **corporate governance guidelines**?
- Does the company have **clear company values and direction**, led by the board of directors?
- Does company corporate governance guidance disclose the **material transactions** that must be **approved** by the board?
- Is the **chairman's role** at board meetings **clearly described** in the company corporate governance guidance?
- **Is the chairman a non-executive director**?
- **Is the chairman "independent"** of the company?
- **How many** board of directors members are **non-executive**?
- What percentage of the board of directors is **"independent"**?
- Is there evidence of the board of directors being a **"balanced board"**?
- Does company information and director information clearly state/disclose the **number of board seats each director holds**?
- Does the company have a board induction **policy** and program **for new appointments** to the board of directors and supervisory board?
- Do the board of directors and supervisory board undertake an **annual self-assessment/evaluation**?
- Did board of directors and supervisory board members and CEO participate in corporate governance **training** and report this?
- **How often** did the board of directors **meet** in the past year?

## Responsibilities of the Board (cont'd)

- How often did the supervisory board meet in the past year?
- Are there mechanisms in place to ensure that **board members receive adequate notification** of the board meeting for all board of directors/supervisory board meetings?
- Do the board of directors and supervisory board keep **meeting minutes and resolution records** of each meeting?
- Has the board of directors established board of directors **committees** (audit committee, remuneration committee, and human resource committee) or a designated board of directors person?
- Is there evidence that the board of directors **receives regular management reports on the company activities and its financial position**?
- Is there evidence that the board of directors is responsible for the **strategy and business plans** of the company?
- Does the board of directors have responsibility for and oversee the **risk management** system of the company?
- Do the board of directors/supervisory board **assess the CEO and key executives annually**?
- Was there **any evidence of noncompliance** of the company over the last year?
- Do **company documents** cover/explain internal control structures, policies, and practices?
- **Does the internal audit function provide an independent evaluation of the internal control process and risk management of the company annually**?

## Responsibilities of the Board (cont'd)

- Does the company **report on the activities of internal audit** in its annual report and/or supervisory board report?
- Is there evidence of the **supervisory board oversight of the external auditor**?
- Is there evidence of the **supervisory board's review** and approval of the annual report and financial statements?
- Does the supervisory board report include discussion of the supervisory board supervision of operational and financial conditions of the company and performance of the board of directors, management board, and executive officers?
- Does the supervisory board report include reference to the supervisory board's performance, issues discussed, and decisions taken?
- Does the supervisory board report on its evaluation of the coordination between the supervisory board, board of directors, management board, and shareholders?

## Principles of a Corporate Governance Code

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## Topics

- Shareholders and the General Meeting
- Cooperation between the Supervisory Board and the Management Board
- Management Board
- Supervisory Board
- Transparency and Auditing

## Shareholders and the General Meeting

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## Shareholders and the General Meeting

- All **shareholders** are to be **treated equally** under the same conditions
  - The requirement to treat all shareholders equally shall apply, in particular, to institutional investors, on the one hand, and to private investors, on the other hand
- Shares are to be construed in accordance with the principle of **one share – one vote**
- Acceptance or rejection of **takeover bids** shall be **decided solely by the shareholders**
  - The management board and the supervisory board are required to present a balanced analysis of the opportunities and risks of an offer to the persons addressed by the takeover bid
  - *The price of a mandatory bid or of a voluntary bid with the purpose of attaining a controlling interest shall not be below the highest monetary consideration paid or agreed-upon by the offeror or a party acting in concert with the offeror within the past twelve months prior to the announcement of the bid for the shares of the target company*
  - *Furthermore, the price must correspond at least to the average market price weighted by the respective trading volumes for the shares over the past six months prior to the day of the announcement of the intention to make a bid*
- A **general meeting** must be **convened** at the **latest on the 28<sup>th</sup> day** before the ordinary general meeting, otherwise by the latest *on the 21st day* before the general meeting by an official announcement unless by-laws prescribe other longer deadlines
  - The announcement convening the general meeting and the information stipulated by the Companies Act must be made available on the company's website *as of the 21st day* prior to the general meeting

## Shareholders and the General Meeting (cont'd)

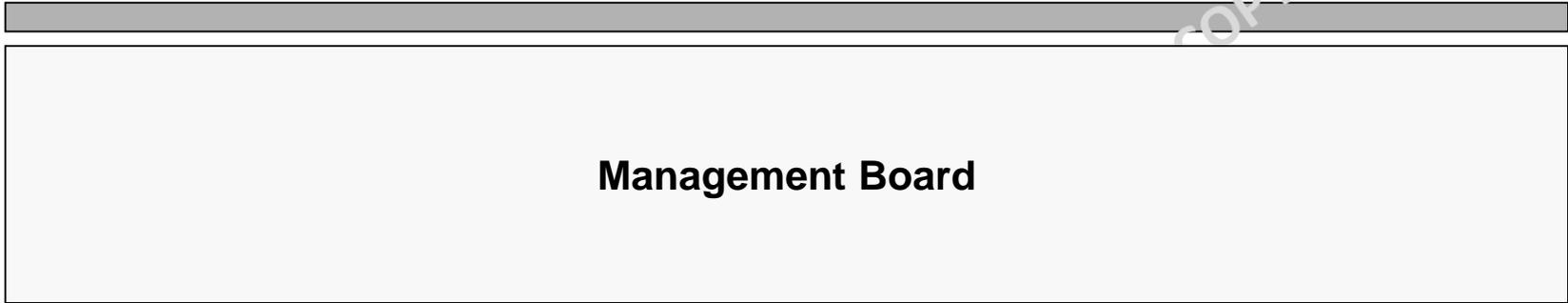
- The candidates for the **supervisory board elections** including all declarations according to the Companies Act must be disclosed by the company at the latest *on the 5th workday* prior to the general meeting on the website of the company
  - Otherwise the persons concerned shall not be included in the elections
- The **resolutions passed** at the general meeting and the information required by the Companies Act shall be **disclosed** on the company's website at the latest *on the 2nd workday* after the general meeting
- The **company supports** its **shareholders** in **participating** in general meetings **and** in **exercising** their **rights** as far as possible
  - This is to be considered when planning the venue and time of the general meeting, when defining the requirements of participation and the exercising of voting rights, and with respect to the right to be heard and receive information
- The general meeting has the right to **authorize** the management board for a period not exceeding thirty months to **buy back** the company's own shares up to a *maximum of 10%* of the share capital in those cases permitted by law
  - The resolution and authorization for the buyback are to be published immediately before execution
  - The resolution and, immediately before implementation, the execution of this buyback authorization shall be disclosed

## Cooperation between the Supervisory Board and the Management Board

## Cooperation: Supervisory Board and the Management Board

- The management board shall provide the supervisory board periodically and in a timely manner with comprehensive **information** on all relevant issues of **business developments** including an assessment of the risk situation and the **risk** management in place at the company and at group companies in which it has major shareholdings
  - If an event of major significance occurs, the management board shall immediately inform the chairperson of the supervisory board
  - Furthermore, the supervisory board shall be immediately informed of any circumstances that may have a material impact on the profitability or liquidity of the company (special report)
  - Ensuring that the supervisory board is supplied with sufficient information is a joint task of the management board and the supervisory board. Members of the boards and the staff members involved are obliged to maintain strict confidentiality
- Under the principles of good corporate governance, an enterprise's management is conducted through **open discussions** between the management board and the supervisory board as well as within these bodies themselves
- The management board shall **agree on the strategic direction** of the enterprise with the supervisory board and shall periodically discuss the progress made on implementing the strategy
- The **materials** and **documents** required for a supervisory board meeting are to be **made available** generally *at least one week* before the respective meeting

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**Management Board**

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## Topics

- Scope of Competence and Responsibilities of the Management Board
- Rules Governing Conflicts of Interest and Self-dealing
- Compensation of Members of the Management Board

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***Scope of Competence and Responsibilities of the  
Management Board***

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## Management Board Competence and Responsibilities

- The **management board** shall have **sole responsibility for managing** the enterprise and shall endeavour to take into account the interests of the shareholders, of the employees and the public good
- **Fundamental decisions** shall be reached by the **entire management board**
  - Such decisions shall include, in particular, the concrete formulation of goals of the enterprise and the definition of the enterprise's strategy
  - In the case of significant deviations from projected figures, the management board shall immediately inform the supervisory board
- The management board shall be **responsible** for the **implementation of the decisions** it takes
  - The management board shall take the appropriate measures to secure compliance with any laws of relevance to the company

## Management Board Competence and Responsibilities (cont'd)

- The management board shall be made up of **several persons**, with **one** member acting as the **chairperson** of the management board
  - Internal rules of procedure of the management board shall define the distribution of responsibilities and the mode of cooperation between management board members
  - Names, date of birth, date of initial appointment and the end of the current period of tenure of the members of the management board as well as assignments of competence in the management board must be reported in the Corporate Governance Report
  - Furthermore, any supervisory board mandates and comparable functions of members of the management board in other Austrian and foreign companies must be disclosed in the Corporate Governance Report unless these are included in the consolidated financial statements
- The management board shall have **overall responsibility for communications tasks** that significantly impact the image of the enterprise as perceived by stakeholders, and may receive support in carrying out these tasks from the relevant departments of the enterprise
- Depending on the size of the enterprise, a separate staff unit is to be set up **for internal auditing**, which shall report to the management board, **or** the task of conducting internal audits may be **contracted out** to a competent institution
  - At least once a year, a report on the auditing plan and any material findings are to be presented to the audit committee
- The management board **reports** to the supervisory board **at least once a year on the measures taken to fight corruption at the company**

***Rules Governing Conflicts of Interest and Self-dealing***

## Governing Conflicts of Interest and Self-dealing

- **Persons** who discharge **managerial responsibilities** at a company **and** persons having a **close relationship** to them must report to the Financial Market Authority and **disclose** all **trades** for their own account in the **company's shares** or equivalent securities that have been admitted to listing on a regulated market as well as any trades in related derivatives or pertaining to affiliated companies within *five workdays* as of the trade execution day
  - Trades executed with a total value of *less than EUR 5,000 within one year* do not need to be reported or disclosed
  - When calculating the total value of the trades executed the trades of all persons with management positions and of all persons closely related to such persons shall be added
  - The disclosure may also be done through the Financial Market Authority
- To **prevent insider dealings**, the company shall issue **internal guidelines governing the passing on of information**, shall monitor compliance with said guidelines and keep a list of persons who are in the company's employ under a work contract or otherwise, and regularly or on ad hoc basis have access to inside information (list of insiders)
  - The company shall apply the provisions of the Compliance Decree for Issuers issued by the Financial Market Authority
- The management board shall take measures to ensure that the provisions of the Compliance Decree for Issuers are implemented throughout the entire enterprise

## Governing Conflicts of Interest and Self-dealing (cont'd)

- The **management board** shall **take its decisions without being influenced** by its own interests or the interests of controlling shareholders, on the basis of the facts and in compliance with applicable laws
- The members of the management board must **disclose** to the supervisory board any **material personal interests** in transactions of the company and group companies as well as any other conflicts of interest
  - Furthermore, they shall also immediately inform the other members of the management board of this
- All **transactions between the company** or a group company **and the members of the management board** or any persons or companies with whom the management board members have a close relationship must be **in line with common business practice**
  - The transactions and their conditions must be approved in advance by the supervisory board with the exception of routine daily business transactions

## Governing Conflicts of Interest and Self-dealing (cont'd)

- Without the approval of the supervisory board, members of the **management board** shall **not be permitted to run an enterprise** or assume a mandate on the supervisory board of another company **unless** such company is **part of the group** or it is associated by a business interest in such company
  - Neither shall members of the management board be permitted without the approval of the supervisory board to engage in business dealings in the same branch of the company for their own account or for the account of third parties or to own other business enterprises as a personally liable partner
- Members of the **management board** shall **not hold more than four supervisory board mandates** (chairperson counts double) in stock corporations that do not belong to the group
  - Companies that are included in consolidated financial statements or in which the company has an investment with a business interest shall not be considered non-group companies
  - Any sideline business of senior management staff, especially any functions in bodies of other companies shall require the approval of the management board unless such company is part of the group or it is associated by a business interest in such company
  - Statutory non-competition clauses applicable to management board members and senior management staff are not repealed

***Compensation of Members of the Management Board***

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## Management Board Compensation

- The supervisory board shall ensure that the total remuneration of the members of the management board (salaries, shares in profits, expense reimbursements, insurance premiums, commissions, incentive-linked remuneration commitments and any other type of payments) are **commensurate with the tasks and performance of each individual member** of the management board, the situation of the company, the usual level of remuneration, and must also take measures to create incentives to promote behaviour supportive of the long-term development of the company
  - This shall apply accordingly to pension payments, survivor's pensions and similar income.
- When concluding management board contracts, the following **principles** shall also be observed:
  - The remuneration contains fixed and variable components
  - The variable remuneration components shall be linked, above all, to sustainable, long-term and multi-year performance criteria, shall also include non-financial criteria and shall not entice persons to take unreasonable risks
  - For the variable remuneration components, measurable performance criteria shall be fixed in advance as well as maximum limits for amounts or as percentage of the fixed remuneration components
  - Precautions shall be taken to ensure that the company can reclaim variable remuneration components if it becomes clear that these were paid out only on the basis of obviously false data

## Management Board Compensation (cont'd)

- When concluding contracts with management board members, care shall be taken that **severance payments** in the case of premature termination of a contract with a management board member without a material breach shall **not exceed** more than *two years annual pay* and that not more than the remaining term of the employment contract is remunerated
  - In the case of premature termination of a management contract for material reasons for which a management board member is responsible no severance payment shall be made
  - Any agreements reached on severance payments on the occasion of the premature termination of management board activities shall take the circumstances under which said management board member left the company as well as the economic situation of the company into consideration
- If a **stock option programme** or a programme for the preferential transfer of stocks is proposed for management board members, then such programmes shall be linked to **measurable, long-term** and sustainable criteria
  - It shall not be possible to change the criteria afterwards. For the duration of such programmes, but at the latest until the end of the management board member's function on the management board, the management board member shall hold an appropriate volume of shares in the own company
  - In the case of a stock option programme, a waiting period of at least three years must be fixed
  - A waiting and/or holding period of a total of at least three years shall be defined in stock transfer programmes
  - The general meeting shall pass any resolutions and/or changes to stock option schemes and stock transfer programmes for management board members

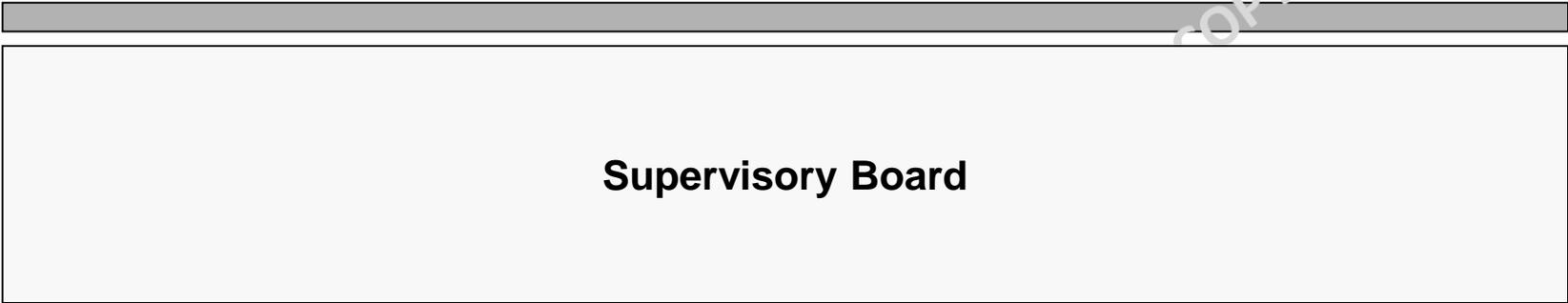
## Management Board Compensation (cont'd)

- The **number and distribution of the options granted**, the exercise prices and the respective estimated values at the time they are issued and upon exercise shall be **reported** in the annual report
  - The total remuneration of the management board for a business year must be reported in the notes to the financial statements
  - The Corporate Governance Report shall contain the total remuneration of each individual member of the management board and disclose the principles governing remuneration policy
- In addition to the information required by law, the **Corporate Governance Report** shall contain the following information:
  - The principles applied by the company for granting the management board variable remuneration, especially for which performance criteria the variable remuneration components are linked; the methods according to which the fulfilment of the performance criteria is determined; the maximum limits determined for the variable remuneration; the shares held in the own company and periods planned; moreover, any major changes versus the previous year must also be reported
  - The ratio of the fixed components to the variable components of the total compensation of the management board
  - The principles of the company retirement plan for the management board and the conditions
  - The principles applicable to eligibility and claims of the management board of the company in the event of termination of the function
  - The existence of a D&O insurance, if the costs are borne by the company

## Management Board Compensation (cont'd)

- The fixed and variable **performance-linked** annual **remunerations** of each individual management board member are to be **disclosed in the Corporate Governance Report** for each financial year
  - This shall also apply if the remuneration is paid through a management company

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## Topics

- Scope of Competence and Responsibilities of the Supervisory Board
- Appointment of the Management Board
- Committees
- Rules Governing Conflicts of Interest and Self-dealing
- Compensation of Members of the Supervisory Board
- Qualifications of Members, Composition, and Independence of the Supervisory Board
- Co-determination

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***Scope of Competence and Responsibilities of the  
Supervisory Board***

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## Supervisory Board Competence and Responsibilities

- The supervisory board shall be responsible for **overseeing the management** board and shall provide **support to the management** board in governing the enterprise and, in particular, shall assist in making decisions of fundamental significance
- The supervisory board **appoints the members of the management board** and has the right to **terminate** their employment
- The supervisory board shall **adopt internal rules of procedure for its work**, which shall contain stipulations regarding the disclosure and reporting obligations of the management board, including subsidiaries, unless these obligations are defined in articles of incorporation or the internal rules of procedure of the management board
  - Furthermore, the internal rules of procedure shall define the establishment of committees and their scope of competence
  - The sections of the internal rules of procedure concerning these areas are to be disclosed on the website of the company
  - The number and type of committees set up and their decision-making scope of competence are to be disclosed in the Corporate Governance Report
- The supervisory board shall **formulate** in concrete terms a **list of business transactions that are subject to its approval**, and depending on the size of the enterprise, shall define the appropriate limits on amounts; this shall also apply to any major transactions concluded by subsidiaries that are of relevance to the group

## Supervisory Board Competence and Responsibilities (cont'd)

- The statutory provisions according to which the supervisory board **must meet at least once every three months** shall be understood as a minimum requirement
  - Additional meetings must be held as required
  - If necessary, the items on the agenda may be discussed and decided by the supervisory board and its committees without the participation of the management board members
  - The number of meetings of the supervisory board must be reported in the Corporate Governance Report
  - The supervisory board shall discuss the efficiency of its activities annually, in particular, its organization and work procedures (self evaluation)
- The **chairperson** of the supervisory board **shall prepare the meetings** of the supervisory board and shall **regularly communicate** with the chairperson of the management board in particular, and discuss the strategy, the course of business and the risk management of the enterprise

***Appointment of the Management Board***

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## Appointment of the Management Board

- The supervisory board shall define a **profile for the management board members** that takes into account the enterprise's business focus and its situation, and shall use this profile to appoint the management board members in line with a predefined **appointment procedure**
  - The supervisory board shall take care that no member of the management board has been convicted by law for a criminal act that would compromise the professional reliability as a management board member
  - Furthermore, the supervisory board shall also give due attention to the issue of successor planning

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**Committees**

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## Committees

- The supervisory board shall set up **expert committees** from among its members depending on the specific circumstances of the enterprise and the number of supervisory board members
  - These committees shall serve to improve the efficiency of the work of the supervisory board and shall deal with complex issues
  - However, the supervisory board may discuss the issues of the committees with the entire supervisory board at its discretion
  - Each chairperson of a committee shall report periodically to the supervisory board on the work of the committee
  - The supervisory board shall ensure that a committee has the authorisation to take decisions in urgent cases
  - The majority of the committee members shall meet the criteria for independence
  - The Corporate Governance Report shall state the names of the committee members and the name of the chairperson
  - The Corporate Governance Report must disclose the number of meetings of the committees and discuss the activities of the committees

## Committees (cont'd)

- Irrespective of the size of the supervisory board, it shall set up an **audit committee in the case of exchange-listed companies**
  - The audit committee shall be responsible for monitoring the preparations for the accounting procedures; for monitoring the work of the auditor; for the audit and preparation of the confirmation of the financial statements, of the proposal for the distribution of the profit, and of the report of the management board
  - The audit committee shall also monitor the group accounting procedures, audit any consolidated financial statements and prepare a proposal for the selection of an auditor for the financial statements and shall report on this to the supervisory board
  - Furthermore, the audit committee shall monitor the effectiveness of the company-wide internal control system, if given, of the internal audit system and of the risk management system of the company
  - At least one person with special knowledge meeting the company's requirements and practical experience in the area of finance and accounting and reporting must belong to the audit committee (financial expert)
  - The chairperson of the audit committee or financial expert may not be a person who in the past three years has served as a member of the management board or as management-level staff or auditor of the company or has signed an auditor's opinion or for any other reason is not independent and free of prejudice

## Committees (cont'd)

- The supervisory board shall set up a **nomination committee**
  - In cases of supervisory boards with no more than six members (including employees' representatives), the function may be exercised by all members jointly
  - The nomination committee submits proposals to the supervisory board for filling mandates that become free on the management board and deals with issues relating to successor planning
- The nomination committee or the entire supervisory board shall present proposals to the general meeting for appointments to the mandates on the supervisory board that have become vacant

## Committees (cont'd)

- The supervisory board shall set up a **remuneration committee** and the chairperson of this committee shall always be the chairperson of the supervisory board
  - Where supervisory boards have not more than six members (including employees' representatives) this function may be assumed jointly by all members
  - The remuneration committee shall deal with the contents of employment contracts with management board members, it shall ensure the implementation and shall regularly review the remuneration policy applicable to management board members
  - At least one member of the remuneration committee shall be required to have knowledge and experience in the area of remuneration policy
  - If the remuneration committee uses the services of a consultant, it must be ensured that said consultant does not at the same time provide services to the management board in matters relating to remuneration
  - In the case of supervisory boards that do not have more than six members (including employees' representatives), this function may be assumed jointly by all members
  - The remuneration committee may be identical with the nomination committee
  - The chairperson of supervisory board shall inform the general meeting once a year of the principles of the remuneration system

***Rules Governing Conflicts of Interest and Self-dealing***

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## Governing Conflicts of Interest and Self-dealing

- Members of the supervisory **board cannot be members of the management board** or permanent representatives of management board members of the company or its subsidiaries at the same time
  - Neither are they permitted to manage the company as employees
  - No person can be a member of the supervisory board of a company who is the legal representative of another company whose supervisory board includes a member of the management board of the company unless such company is part of a group or it is associated by a shareholding in such company
  - When reaching decisions, supervisory board members must not act in their own interests or in the interests of persons or enterprises with whom they have close relationships if such behaviour conflicts with the interests of the enterprise or serves to attract business opportunities to the said member that otherwise would have gone to the enterprise
  - Before the elections, the persons proposed as members of the supervisory board must present to the general meeting their expert qualifications, their professional or similar functions and all circumstances that could give rise to cause for concern of partiality
  - The members of the supervisory board shall comply with provisions of the Compliance Decree for Issuers issued by the Financial Market Authority

## Governing Conflicts of Interest and Self-dealing (cont'd)

- Supervisory board members may **not assume any functions** on the boards of other enterprises which are **competitors** of the company
- If a supervisory board member finds himself or herself in a **conflict** of interest, he or she shall **immediately disclose** this to the chairperson of the supervisory board
  - If the chairperson of the supervisory board finds himself or herself in a conflict of interest, he or she shall immediately disclose this to his or her deputy
- The **granting of loans** by the enterprise to members of the supervisory board shall **not be permitted outside** the **scope** of its ordinary business activity
- The conclusion of contracts with members of the supervisory board in which such members are committed to the performance of a service outside of their activities on the supervisory board for the company or a subsidiary for a remuneration not of minor value shall require the **consent** of the supervisory board
  - This shall also apply to contracts with companies in which a member of the supervisory board has a considerable economic interest
- The company shall **disclose** in the Corporate Governance Report the **object and remuneration of contracts** subject to approval
  - A summary of contracts of the same kind shall be permitted

*Compensation of Members of the Supervisory Board*

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## Supervisory Board Compensation

- The compensation of supervisory board members shall be **fixed by the general meeting or** shall be set out in the **articles** of incorporation, and shall be commensurate with the responsibilities and scope of work of the members as well as with the economic situation of the enterprise.
- The remuneration for the financial year to supervisory board members is to be **reported in the Corporate Governance Report** for each individual member of the supervisory board
  - Generally, there are no stock option plans for members of supervisory boards
  - Should stock option plans be granted in exceptional cases, then these must be decided in every detail by the general meeting

***Qualifications of Members, Composition,  
and Independence of the Supervisory Board***

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## Features Regarding the Supervisory Board

- When appointing the members of the supervisory board, the general meeting shall take due care to ensure the **expertise** and personal qualifications of the supervisory board members and a **balanced composition** with respect to the structure and the business of the company
  - Furthermore, reasonable attention is to be given to the aspect of diversity of the supervisory board with respect to the representation of both genders and the age structure, and in the case of exchange-listed companies, also with a view to the internationality of the members
  - The general meeting shall also pay attention that no member of the supervisory board is considered for appointment who has been convicted by law for a criminal act that would compromise his or her professional reliability
- The **number** of members on the supervisory board (without employees' representatives) shall be *ten at most*
  - New members of a supervisory board must inform themselves adequately of the organization and activities of the company as well as of the tasks and responsibilities of the supervisory board members

## Features Regarding the Supervisory Board (cont'd)

- The **majority** of the members of the supervisory board elected by the general meeting or delegated by shareholders in accordance with the articles of incorporation **shall be independent of the company** and its management board
  - A member of the supervisory board shall be deemed independent if said member does not have any business or personal relations to the company or its management board that constitute a material conflict of interests and therefore suited to influence the behaviour of the member
  - The supervisory board shall define on the basis of this general clause the criteria that constitute independence and shall publish them in the Corporate Governance Report
  - The guidelines in Annex 1 shall serve as further orientation
  - According to the criteria defined, it shall be the responsibility of every member of the supervisory board to declare its independence vis-à-vis the supervisory board
  - The Corporate Governance Report shall clearly explain which members are deemed independent according to this assessment

## Features Regarding the Supervisory Board (cont'd)

- In the case of companies with a **free float** of *more than 20%*, the members of the supervisory board elected by the general meeting or delegated by shareholders in accordance with the articles of incorporation shall include at least one **independent** member who is not a shareholder with a stake of more than 10% or who represents such a shareholder's interests
  - In the case of companies with a free float of **over 50%**, at *least two members* of the supervisory board must meet these criteria
  - The Corporate Governance Report must indicate which members of the supervisory board meet these criteria
- No person may be a member of the **supervisory board** of an **exchange-listed company** who has been a member of the **management board of said company** in the *last two years*, unless the appointment is the result of a proposal by shareholders that hold more than *25 percent* of voting rights in the company
  - However, no more than one person is permitted to be a member of the supervisory board for whom the *two year period* has not yet expired
  - A member of the supervisory board of an exchange-listed company who has been a member of the management board of said company in the *past two years* cannot be appointed as chairperson of the supervisory board

## Features Regarding the Supervisory Board (cont'd)

- Members of the supervisory board shall **not have more than *eight* mandates** (function of chairperson shall count double) as supervisory board members for listed companies
- **Supervisory board members serving on the management board of a listed company may not hold more than *four* positions** on supervisory boards (position of chairperson counts double) of stock corporations not belonging to the group
  - Companies that are included in consolidated financial statements or in which the company has an investment with a business interest shall not be considered non-group companies
- The Corporate Governance Report shall state the chairperson and vice chairperson as well as the name, year of birth, the year of the first appointment of every supervisory board member and the end of the current period of office
  - Furthermore, other supervisory board mandates or similar functions in Austrian or foreign listed companies shall be published in the Corporate Governance Report or on the website of the company for every supervisory board member
  - If a member of a supervisory board fails to personally attend more than half of the meetings of the supervisory board, this fact shall be stated in the Corporate Governance Report

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***Co-determination***

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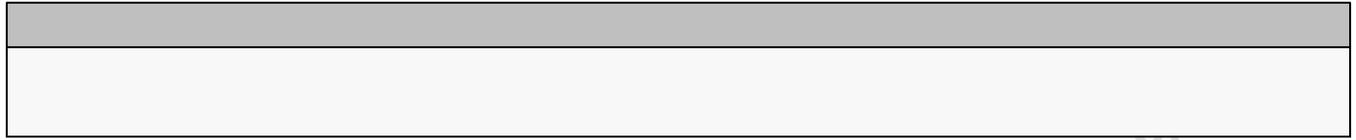
## Co-determination

- The co-determination rights of **employees' representatives** on the supervisory board form part of some statutory systems of corporate governance in addition to the codetermination rights at the operational level in the form of works councils
  - The employees' representatives are entitled to appoint to the supervisory board of a stock corporation one member from among their ranks for every *two* members appointed by the general meeting (but not external members from the trade union). (Statutory one-third parity rule)
  - If the number of shareholder representatives is an odd number, then *one* more member is appointed as an employee representative
  - The one-third parity representation rule also applies to all committees of the supervisory board, except for meetings and votes relating to the relationship between the company and the management board members with the exception of resolutions on the appointment or revocation of an appointment of a member of the management board and on the granting of options on stocks of the company
  - Employees' representatives shall exercise their functions on an honorary basis and their appointment may be terminated at any time only by the works council (central works council)
  - The rights and obligations of employees' representatives shall be the same as those of shareholders' representatives; this shall apply, in particular, to the right to receive information and to monitoring rights, to the obligation to act with due diligence and to maintain secrecy and to their liability for failure to comply
  - In the event of personal conflicts of interest, employees' representatives shall abstain from voting, the same being applicable to shareholders' representatives

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## Transparency and Auditing

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- Transparency of Corporate Governance
- Financial Reporting and Disclosure
- Investor Relations and the Internet
-  Audit of the Financial Statements

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*Transparency of Corporate Governance*

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## Transparency of Corporate Governance

- The company shall prepare a Corporate Governance Report that contains at least the following **information**:
  - Designation of a Corporate Governance Code generally recognized in the respective country or at the respective stock exchange;
  - Information on where it is publicly available;
  - in case it deviates from the Comply or Explain rules of the
  - Code, an explanation of the items concerned and the reasons for the deviation;
  - If the company decides not to adhere to a code, then the reason why;
  - The composition and working procedure of the management board and of the supervisory board and its committees
  - The total remuneration of each individual member of the management board and the principles governing remuneration policy
  - The measures taken to promote women to the management board, supervisory board and to top management positions
  - The supervisory board shall review the Corporate Governance Report within *two months* of receiving it; the supervisory board shall give a statement on the Report to the management board and report on it to the annual general meeting

## Transparency of Corporate Governance (cont'd)

- The commitment to **comply with the Code of Corporate Governance** (Corporate Governance Statement) shall be included in the Corporate Governance Report
  - The Corporate Governance Report must be published on the company's website
  - This website shall be mentioned in the management report
  - Every shareholder has the right to request information on the Corporate Governance Report at the annual general meeting
  - The management board is responsible for reporting on implementation and compliance with the principles of corporate governance within the company
  - Every corporate body addressed by a rule is responsible for compliance with the principles of corporate governance and must explain the reasons for the departures from the rule
- The company shall have compliance with the rules of the Code evaluated periodically, but at least every *three years*, by an external institution and a report on the findings of the evaluation is to be published in the Corporate Governance Report

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## *Financial Reporting and Disclosure*

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## Financial Reporting and Disclosure

- The company shall **disclose** – as soon as it gains knowledge thereof – any **changes in the shareholder structure**, if, as a consequence of the acquisition or disposal of shares in the company, the percentage of shares representing **voting rights** held by a shareholder reaches, exceeds or falls below the **thresholds** of 5 percent, 10 percent, 15 percent, 20 percent, 25 percent, 30 percent, 35 percent, 40 percent, 45 percent, 50 percent, 75 percent or 90 percent
- The company shall **disclose** on its website and in the annual report – if it has knowledge thereof – the **current shareholder structure** broken down by **geographical** origin and type of investor, any **cross-holdings**, the existence of **syndicate** agreements, **restrictions** on **voting** rights, **registered shares** and their related rights and restrictions
  - Current changes in voting rights shall be disclosed without delay on the website of the company
  - The articles of incorporation of the company shall be disclosed on the website of the company

## Financial Reporting and Disclosure (cont'd)

- The company shall prepare the **consolidated financial statements** and the condensed set of financial statements contained in the half-yearly financial report in accordance with International Financial Reporting Standards (IFRS), as adopted by the EU
  - Annual financial reports shall be published at the latest four months after the end of the reporting period, half-yearly financial reports at the latest two months after the end of the reporting period, and shall be publicly available for at least five years
  - If the company prepares quarterly reports for the first and the third quarter in accordance with IFRS, then these shall be published at the *latest 60 days* after the end of the reporting period
  - In the case that the company does not prepare quarterly reports in accordance with IFRS, the interim management statements of the first and third quarter must be published at the latest six weeks after the end of the reporting period
- The company shall prepare **quarterly reports** in accordance with International Financial Reporting Standards, as adopted by the EU (IAS 34)
  - The management board shall explain in the annual and interim reports the reasons for and effects of any material changes or deviations affecting the current and/or subsequent business year as well as any material deviations from previously released sales, revenues, earnings and strategy targets
- The enterprise shall establish **external communication structures** beyond legal mandatory requirements to meet information demands timely and adequately, in particular, by use of the company's website
  - The company shall disclose any new facts that it communicates to financial analysts and similar users to all of its shareholders at the same time

## Financial Reporting and Disclosure (cont'd)

- The company shall publish **annual financial reports, half-yearly financial reports and any other interim reports** in English and the local language, and shall make these available on the company's website
  - If the annual financial report contains consolidated financial statements, the financial statements in the annual report pursuant to the Business Code must only be published and made available in the local language
- The company shall present an adequate **analysis in the consolidated management report** on the course of business and shall describe the essential financial and non-financial risks and uncertainties the company is exposed to as well as the most important features of the internal control system and of the risk management system with respect to the accounting process
- The company shall describe the main **risk management** instruments used with respect to non-financial risks **in the consolidated management report**

## *Investor Relations and the Internet*

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## Investor Relations and the Internet

- The company shall **immediately disclose any inside information** that directly relates to it as well as any substantial changes to such information (ad hoc disclosure)
  - It shall also immediately disclose any relevant circumstances or occurrence of an event – even if not yet formally ascertained
  - The company shall display all inside information, which it is under the obligation to disclose to the public, on its website for an appropriate period of time
  - A listed company may postpone the disclosure of inside information if such disclosure would be damaging to its legitimate interests, but only if the suppression of such inside information would not be misleading to the public and the listed company is in a position to guarantee the confidentiality of the information
  - The Financial Market Authority must be informed immediately of any postponement of the disclosure of inside information
- The company shall appoint a **contact person for investor relations** and shall disclose this person's name and contact numbers and address on the company's website
- The management board shall **immediately post any director's dealing** reported on the company's website and shall keep such information on the website for at least three months
  - The announcement can also be done by making a reference to the corresponding website of the Financial Market Authority

## Investor Relations and the Internet (cont'd)

- A **calendar of corporate financial events** shall be **posted** at least *two months* before the start of the new business year on the website of the company and shall contain all dates of relevance for investors and other stakeholders such as the release of the annual and quarterly reports, annual general meetings, ex-dividend day, dividend payout day and investor relations activities
- The company shall regularly hold **conference calls** or similar information **events for analysts and investors**; if demand is high, also on a quarterly basis
  - As a minimum requirement, the information documents (presentations) used shall be made available to the public on the website of the company
  - Other events of relevance for the capital market such as annual general meetings shall be made accessible on the company's website, if the costs are reasonable, in the form of audio and video transmissions
- The company shall **disclose simultaneously on its website** all financial information on the enterprise that has been published through other media (e.g. printed reports, press releases, ad hoc reports)
  - If additional information is available only on the Internet, this fact must be specifically pointed out
  - If only excerpts of published documents are made available on the website, this fact must also be stated and the source where the full document can be obtained must be indicated
  - The documents shall bear the date on which they were posted on the Internet

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## Audit of the Financial Statements

- The supervisory board shall include in the contract on the audit of the (consolidated) financial statements the stipulation that the audit is to be conducted according to international accounting standards (**ISAs**)
- The **independence of the (group) auditor** is essential for conducting a thorough and unbiased audit, in particular, no grounds for exclusion or risk of partiality exist
  - The auditors shall ensure that any additional business relationships with the company to be audited, such as consulting contracts, do not constitute a hindrance to their economic independence
  - The principal auditors in the company responsible for the consolidated financial statements are not permitted to assume a function on any corporate body of the company or in a management position for *two years* after signing the audit opinion
  - The Audit Committee shall monitor the independence of the (group) auditor, especially with respect to the additional services provided to the company being audited (audit-related and non-audit-related services)
- The (group) auditor shall **immediately inform** the chairperson of the supervisory board and the chairperson of the audit committee of any reasons potentially constituting grounds for **exclusion** or risk of **partiality** that may become evident in the course of the audit
  - Any protective measures taken to ensure an independent and impartial audit shall be reported to the audit committee

## Audit of the Financial Statements (cont'd)

- An auditor or an auditing firm who is to be included in a proposal for appointment must furnish a written report on the matters listed below before the supervisory board makes its proposal and before the election by the shareholders:
  - Valid registration in the public registry as proof of inclusion in the statutory quality assurance system;
  - No reasons for exclusion;
  - Presentation of all circumstances that may indicate the risk of partiality and of measures taken to protect against such risk in order to ensure an independent audit;
  - A list of the total fees broken down by category of services that were received from the company in the preceding financial year
- Immediately after the vote, the supervisory board shall **conclude** the **agreement** with the (group) auditor elected on the execution of the audit of the financial statements and on the fees to be paid
  - The fees must be commensurate with the tasks of the (group) auditor and the expected scope of the audit
  - The audit agreement and the amount of the fees agreed on shall not be made contingent on any requirements or conditions and shall not depend on whether the (group) auditor provides additional services to the audited company besides the auditing activities

## Audit of the Financial Statements (cont'd)

- The Chairperson of the Audit Committee (group) must **invite the auditor** in addition to the cases stipulated by law to a further meeting
  - At this meeting, the mode of communication between the (group) auditor and the audit committee shall be defined
  - Within the scope of these meetings, it must be possible for the audit committee to exchange views with the (group) auditor without the presence of the members of the management board
  - If necessary, the chairperson of the audit committee shall invite the (group) auditor to further meetings of the audit committee
- The **supervisory board** will be **informed on the results** of the (group) final audit in the form of the audit report stipulated by law and the mandatory oral report of the (group) auditor as well as by the report of the audit committee
- After completion of the group audit, the **management board** shall **present** to the supervisory board a list that shows the **entire costs of the audit** for all group companies with a breakdown by expenses for the group auditor, for members of the network to which the auditor belongs and for other auditors working within the group
- In addition, the **auditor shall make an assessment of the effectiveness of the company's risk management** based on the information and documents presented and shall report the findings to the management board
  - This report shall also be brought to the notice of the chairperson of the supervisory board
  - The chairperson shall be responsible for ensuring that the report is dealt with by the audit committee and reported on to the supervisory board

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***Guidelines for Independence***

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## ***Guidelines for Independence***

- The supervisory board member shall not have served as member of the management board or as a management-level staff of the company or one of its subsidiaries in the past five years
- The supervisory board member shall not maintain or have maintained in the past year any business relations with the company or one of its subsidiaries to an extent of significance for the member of the supervisory board
  - This shall also apply to relationships with companies in which a member of the supervisory board has a considerable economic interest, but not for exercising functions in the bodies of the group
  - The approval of individual transactions by the supervisory board pursuant to L-Rule 48 does not automatically mean the person is qualified as not independent
- The supervisory board member shall not have acted as auditor of the company or have owned a share in the auditing company or have worked there as an employee in the past three years
- The supervisory board member shall not be a member of the management board of another company in which a member of the management board of the company is a supervisory board member

## ***Guidelines for Independence***

- A supervisory board member may not remain on the supervisory board for more than 15 years
  - This shall not apply to supervisory board members who are shareholders with a direct investment in the company or who represent the interests of such a shareholder
- The supervisory board member shall not be a closely related (direct offspring, spouses, life partners, parents, uncles, aunts, sisters, nieces, nephews) of a member of the management board or of persons having one of the aforementioned relations

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**Annex 2a**  
***Corporate Governance Report***

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## Corporate Governance Report

The following basic structure is recommended for the Corporate Governance Report:

- Corporate Governance Statement
- Names of the corporate bodies and remuneration
- Information on the working procedures of the management board and of the supervisory board
- Measures to promote women
- Report on an external evaluation, if applicable
  
- The following sections present the specific information required for each item stated here, with the content being derived from legislation and also from the Code of Corporate Governance

## 1. Corporate Governance Statement

This section of the Corporate Governance Report must contain the following information

- Statement of commitment to the Code of Corporate Governance and information where it is publically available
- Information from which Rules of the Code of Corporate Governance the company deviates
  - Every deviation must be explained and the reasons stated in order for the company to be in compliance with the Code

## 2. Members of the Corporate Bodies and their Remuneration

The Corporate Governance Report must contain the following information on the members of the management board:

- Name, date of birth and date of first appointment and end of the current period of office for every member of the management board as well as the name of the chair of the management board, and if applicable, of the vice chair;
- List of all supervisory board mandates or similar positions in other domestic and foreign companies, which are not part of the consolidated group of companies, for each member of the management board;
- The fixed and variable remuneration paid in the financial year to each member of management board; this also applies if the remuneration is paid via a management company

## 2. Members of the Corporate Bodies and their Remuneration

The following information must be included in the Corporate Governance Report on the members of the supervisory board:

- Name, date of birth and date of first appointment and end of the current period of office for each member of the supervisory board;
- Chair and vice chair;
- The remuneration paid in the financial year to each member of the supervisory board;
- Membership in the committees of the supervisory board and the name of the chair of such committees;
- List of all supervisory board mandates or similar positions in other domestic and foreign listed companies for each member of the supervisory board;
- If applicable, object and remuneration of contracts subject to approval

## 2. Members of the Corporate Bodies and their Remuneration

The following minimum information on the independence of the members of the supervisory must be included in the Corporate Governance Report:

- Presentation of the criteria for independence defined by the supervisory board;
- Presentation of the members that may be considered independent; a presentation of which members may not be considered independent is also sufficient;
- Presentation of those independent members of the supervisory board who do not own stakes of more than 10% or represent the interests of such a shareholder

## 2. Members of the Corporate Bodies and their Remuneration

Furthermore, a statement must be made on the principles of the remuneration policy; the principles must cover the following as a minimum:

- Principles according to which the stock option plans of the company are established;
- The principles applied by the company for the variable remuneration of the management board, especially the performance-linked criteria of the variable remuneration components; the methods according to which fulfilment of the performance criteria is determined; the maximum thresholds determined for variable remuneration; the shares held in the own company and periods applicable to stock options and transfer programmes; likewise, any material changes versus the previous year must be reported;
- The ratio of fixed to variable components of the total remuneration of the management board;
- The principles of the company retirement plan for the management board and the conditions;
- The principles of eligibility and claims of the management board in the event of termination of the function;
- The existence of any D&O insurance if the costs are borne by the company.

If the company is a European stock corporation (S.E.) which follows the monistic system with an administrative board, the information that would be required for members of a management board and of a supervisory board must be given for the members of the administrative board

### 3. Working Procedures of Management and Supervisory Board

The Corporate Governance Report must inform on the working procedures of the management board

- This information must state as a minimum the assigned areas of competence

Information on the working procedure of the supervisory board as well as its committees and must contain at least the following information:

- Number and type of committees and their decision-making powers;
- Number of meetings of the supervisory board in the financial year and report on the supervisory board's main activities;
- Number of meetings of the committees in the financial year and report on their activities;
- A note stating if a member of the supervisory board fails to personally attend more than half of the meetings of the supervisory board in a financial year

## 4. Measures to Promote Women

As regards the promotion of women, the Corporate Governance Report must contain at least the following information:

- Information on the share of women on the supervisory board and in management positions;
- Description of the measures taken to promote women to the management board, supervisory board and to management positions in the company during the reporting year

## 5. Information on the External Evaluation

- Report on the findings of the last external evaluation

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**Annex 2b**  
***Guidelines for explanations and reasons for departures  
from the Code***

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## Explanations and reasons for departures from the Code

The company shall give information from which C-Rules of the Code it deviates and for each deviation.

- (a) explain how it deviates;
- (b) present the reasons for the deviation;
- (c) describe how the decision on a deviation was reached within the company;
- (d) if the deviation is limited in time, explain when the company plans to comply with the rule concerned;
- (e) if applicable, describe the measures taken instead of compliance with the rule and explain how this will contribute to the achievement of the underlying objective of the rule concerned or of the Code in general or clarify how these measures contribute to good corporate governance

The information mentioned above should be sufficiently clear, precise and comprehensive to enable shareholders, investors and other stakeholders to assess the consequences of any departure from a specific rule

These explanations should describe the specific characteristics and situation of the company such as size, company structure and ownership or any other relevant features

The reasons for departures from the rules should be presented in the Corporate Governance Report in such a way so that they are easy to find for shareholders, investors and other stakeholders

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**Annex 3**  
***Further Aspects***

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## Further Aspects

### ***No subscription to own shares***

- The company shall not be permitted to subscribe to own shares.

### ***No repayment of paid-in amounts***

- No repayment of amounts paid in by shareholders shall be permitted;

### ***Profit distribution to shareholders***

- The share in the profit claimed by shareholders is defined by the percentages they hold in the share capital of the company

### ***Changes to the articles of association***

- Any change to the articles of association shall require a resolution by the general shareholders' meeting

### ***Exclusion of subscription rights***

- In the case of a capital increase, every shareholder must be allotted upon his or her request a percentage of the new shares that corresponds to the share held

### ***Acquisition of own shares***

- The issuer shall disclose the applicable national laws regarding the acquisition of own shares

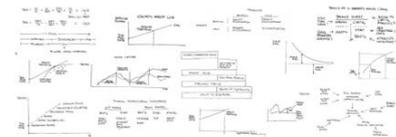
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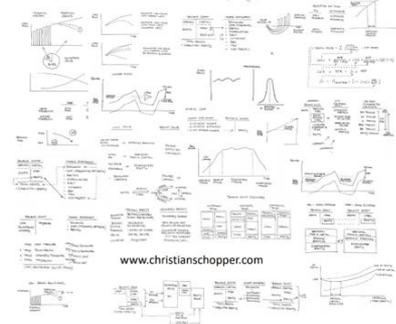
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102