

CODE OF CORPORATE GOVERNANCE

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Introduction

A good system of corporate governance represents the key element for the improvement of economic efficiency. Corporate governance represents the system by which a corporation is managed and controlled.

International standards pay high attention to the corporate governance. In accordance with OECD principles for corporations' management, corporate governance implies a set of relations between the Council, executive body, shareholders and other associated parties (employees, partners, creditors, local authorities etc.) of the company.

The EU Corporate Governance Plan emphasizes that the new initiatives in the field of corporate governance in EU should clarify the responsibilities of management bodies. This idea is fully applicable to the Republic of Moldova which, up to the development of the present Code, did not have a clear definition of the management's liabilities toward the shareholders.

A good entrepreneurial spirit, which includes integrity and transparency in the decision making process by the company management, and a proper administration, are crucial in order to trust the management and supervision bodies. Namely on these principles a successful corporate management is based.

The Code contains principles and concrete situations, which the implied persons of the company (members of the executive body, Council, supervisory bodies, and the shareholders) should follow in mutual relations. The principles were developed in the form of best situations from the national and international practice and represent a set of governance standards in order to guide the company management and shareholders in the implementation of the general principles of efficient management of a company.

Although the observance of the Code is voluntary, there are a lot of strong and convincing reasons to observe it. The potential investors frequently will pay more for stock in a well governed company. The increase of investors' confidence in Moldovan companies will lead to the growth of their competitiveness and to the integration of the national economy into the international securities market.

The strategic investors will evaluate the observance of the corporate governance norms as part of their measures for protection of stockholders rights and against risks according to the accepted general norms in a particular country.

The voluntary character of this Code is enhanced by the fundamental requirement "observe or explain", based on which the Council shall provide a detailed written explanation on any action or decision that is taken, and that deviates from the Code.

Application and observance of the Code's principles depends on the company's shareholders. The shareholders are those who shall decide on the application or denial of the best practices of corporate government.

Chapter I. Shareholders' rights

Principle – The corporate governance framework should protect shareholders' rights and facilitate their exercise. The shareholders must be sure that their property right over the securities will not be violated.

The shareholder has the right to have access to full information about the company and its activity, to require the exercise of a solid corporate management and of supervision by the Council of the company, designed to increase the value of his investments.

The best practices

1.1. The right to certain mechanisms of property registration and confirmation.

1.1.1 The company must ensure the register keeping to the person that holds the most efficient system of security measures for the register of security holders, such as:

a) control over internal and external access to the systems and data on owners;

b) measures of protection of the information, data, records and other documents concerning the owners and their accounts against unauthorized access thereto, their alteration, destruction, forgery, disclosure and dissemination, as well as against their accidental loss or damage;

c) preventing systems and plans of action in case of fire, natural disasters or other exceptional circumstances;

d) measures for data protection on digital devices;

e) periodic assessment of risk related to operations, data processing systems and premises;

f) procedures of document procession;

g) plan of data recovery for emergency situations, including:

- ensuring preservation of data files copies, updated periodically in accordance with the current legislation;

- ensuring personnel and immediate access to the software, procedures and instructions to recover the register in case of emergency situations.

h) measures to keep a safe and regulated work environment.

1.1.2 The company shall select a professional participant in the field of activity to keep the register of security owners, who shall correspond to the following criteria, without limiting to them:

- professional reputation and rank on the security market;

- independence from the company, members of the corporate administrative and executive bodies and owners of important stock or control stock, affiliated companies;

- quality and price of services rendered;

- accessibility of the professional participant seat.

1.2. The right to transfer and sell his shares, pursuant to the law.

1.2.1 The free transfer and sale of shares shall be ensured for the shareholders of companies, whose securities are traded on a regulated market.

To ensure this right, it is necessary that the company and the registrar exclude any unjust and unfounded (illicit) restrictions and conditions, so that the shareholders have the opportunity to use the right to freely transfer their shares starting with the moment of registering ownership over them.

1.2.2 All the transfers and sales of shares shall be recorded in the register of securities owners pursuant to the provisions of normative acts in force.

1.3. The right to be informed. The shareholders have the right to:

- a) exercise their rights without confronting any informational barriers established by the company;
- b) be informed about their rights and the way to exercise them;
- c) obtain in due time the information requested from the company;
- d) be informed on the structure of capital and the agreements that allow shareholders to control the company;
- e) be informed on the identity of all shareholders who own at least 5% of company's stock.

1.4. The right to participate and vote in the general meeting of shareholders. In order to ensure the effective exercise of this right, it is necessary that:

- a) the way of informing about the general meeting of shareholders allow the shareholders to properly prepare for participation therein;
- b) the shareholders are ensured the opportunity to see the list of persons entitled to participate in the general meeting of shareholders;
- c) the place, date and hour of the general meeting of shareholders are selected in such a way, that the shareholders have a real and convenient opportunity to participate;
- d) the shareholders right to call a general meeting and submit proposals for the agenda is not unjustifiably impeded by the confirmation by the shareholders of the existence of such a right;
- e) each shareholder has the opportunity to exercise his right to vote in the simplest and most convenient way.

1.5. The right to a share in the company's profit.

In order to ensure the exercise of this right, it is necessary that:

- a) a clear and transparent mechanism of calculating the amount of dividends and of payment thereof is established for the use of shareholders;
- b) sufficient information is presented to the shareholders, so that they can have a clear image on the conditions and way of dividend payment;
- c) it is established a way of paying dividends that does not create unjustifiable burdens at their receipt;
- d) the liability of the executive body is provided in cases of non-payment or late payment of announced dividends.

1.6. The right of pre-emption in case of subscription to newly-issued shares.

1.6.1 The company shall establish a sufficient time-limit for the shareholders to exercise their right to pre-emption in cases of subscription to newly-issued shares.

1.7. Besides the rights that result from the legal provisions and common rights of all shareholders, a minority shareholder has the right:

- To be protected against direct or indirect abusive actions from the part of - or in the interest of – shareholders who possess control stock; and
- To be protected from the doubtful behavior of the Council by a requirement that any transaction between the majority shareholders and the company to be executed without trespassing the material interests of the company;
- To know if anybody from the company’s shareholders are interested in executing transactions with conflict of interests.

1.8. The rights of a specific class of security holders can be modified only by the general meeting of shareholders, when a separate decision is approved with the vote of at least three-fourths of the securities of the class concerned.

1.9. The management should treat equally all shareholders of the same class of shares.

1.10. The Council should pay special attention in order to guarantee a correct and impartial treatment for all shareholders when can be envisaged a risk that a decision to be adopted will affect differently separate groups of shareholders.

1.11. In carrying out their management functions, the members of the corporate bodies should act in the general interest of shareholders and not serve only the interest of the resident shareholders, majority shareholders or those who have the controlling stock.

Chapter II. The management bodies

2.1. The general meeting of shareholders

Principle – a good corporate management requires a full involvement of all shareholders in the process of decision making at the general meeting. It is for the benefit of the joint-stock company to involve the highest possible number of shareholders in this process. The company shall offer the shareholders, to the possible extent, the opportunity to vote by proxy and to communicate between them.

The general meeting of shareholders has an important role in the control and supervision system, and therefore it will have the power to influence the policy of the company’s Council and the activity of the executive body.

The shareholders are informed and they analyze the causes of each case of non-compliance by the company’s Council and the executive body with the best practices reflected in the present Code.

The best practices

2.1.1. The company's policies regarding profit distribution, increase of reserves, dividend payment, alteration of number and nominal structure of the company's Council, of the Auditing Commission, as well as the approval of remuneration amounts and the cease of mandate of the members of the mentioned bodies before the established date shall be introduced as separate subjects in the agenda of shareholders' general meeting.

2.1.2. The general meeting should approve with a higher number of votes than the one provided by the normative acts in force, the decisions regarding:

- a) approval of joint-stock company's charter or amendments and additions to the charter;
- b) alteration of share capital;
- c) approval of the Rules of the company's Council, cease of the mandate of the Council members before the established date, setting the remuneration for their work, annual payments and compensations, as well as decisions concerning the liability or relieve of liability of Council members;
- d) approval of the Rules of the Auditing Commission, appointing its members and cease of their mandate before established date, setting the remuneration for their work, as well as auditors' liability or relieve of liability;
- e) conclusion of large-scale transactions;
- f) approval of rules concerning distribution of the company's profit;
- g) distribution of annual profit, including the payment of annual dividends or coverage of company's losses;
- h) alteration of shareholders' rights that are given by the possessed shares;
- i) approval of the company's annual financial report, the annual report of the company's Council and of the Auditing Commission;
- j) appointing of the external audit company and establishing the retribution for its services;
- k) reorganization or dissolution of the company;
- l) approval of the transmission act, division balance, consolidated balance or company's liquidation balance.

2.2. The transparency of the general meeting shareholders and of events that can influence the price of shares

Principle – the company's Council and executive body shall provide the shareholders all necessary information in order to understand objectively the issues included in the agenda and approve the decisions at the general meetings of shareholders, as well as in order to form a personal attitude toward the company.

The best practices

2.2.1 The company's charter has to provide shareholders the timely information regarding the date, hour, form and agenda of the general meeting of shareholders.

2.2.2 The company shall select those newspapers and mass-media, which, most probably, will be observed by the maximum number of shareholders. The

information about the general meeting of shareholders shall be posted on the website of the company.

2.2.3 The period of shareholders announcement about the general meeting of shareholders has to be at least one month.

2.2.4 The materials on the agenda of the general meeting of shareholders, including the drafts of the documents that are presented for examination and approval, shall be in due time:

- a) available at the company's office and the place where the general meeting of shareholders takes place in an accessible manner for the shareholders;
- b) sent to all shareholders or their legal representatives (depending on the form of general meeting of shareholders and provisions of the company Rules);
- c) posted on the company's web-site.

2.2.5 The agenda is a document of notification and shall clearly and completely describe all the proposed issues for the general meeting of shareholders. The agenda shall not include issues for discussion named "Others" or "Miscellaneous".

2.2.6 The agenda cannot be modified from the moment it was announced to the shareholders, except the cases when at the general meeting of shareholders 100% of the voting shares are present.

2.2.7 As additional material necessary for the election of members of the company's Council, the shareholders shall receive complete and objective information about all candidates. This information shall include at least: education, employment record for the last five years, the number of shares owned in the company and any existent or potential conflicts of interest.

2.2.8 The materials submitted to the shareholders shall be structured in a way to be easily used, to describe the opinions of the members of the Council and executive body on the subjects included in the agenda.

2.2.9 Each issue on the agenda shall be voted separately.

2.2.10 The shareholders shall have the real possibility to exercise their rights, to advance initiatives, to express their opinion, to address questions and to vote.

2.2.11 The shareholders have the right to address questions and to receive answers to these questions, to suggest solutions and to participate at the meetings by mail, and when there are technical possibilities, to use informational technologies for that purpose.

2.2.12 When the company is subject to audit, a representative of the audit company shall be present at the general meeting of shareholders in order to offer shareholders the possibility to address questions and receive answers.

2.2.13 The general meeting of shareholders shall last sufficient time in order to guarantee ample debates on every issue included in the agenda and in order to ensure that every attending shareholder has the possibility to address questions and receive answers regarding the issues on the agenda before these are voted. As a rule, the general meeting of shareholders shall not last more than one day, except in exceptional cases.

2.2.14 The company's Council or executive body cannot impose compulsory conditions or interdictions concerning the participation/non-participation of shareholders at the general meeting of shareholders.

2.2.15 After the general meeting of shareholders, the reports presented for examination to the general meeting of shareholders shall be posted on the company's website, and the decisions approved shall be published on the company's webpage and in the media indicated in the company charter.

2.2.16. The company shall post and permanently update on its website the information that, according to the provisions of the normative acts in force and of the present Code, has to be mandatory disclosed.

2.2.17 The company's Council shall permanently inform the company shareholders about the intention to approve decisions regarding the execution of major transactions at least 15 days before the meeting. This information shall be published in the media indicated in the company charter and posted on the webpage.

2.3 Council of Joint-stock company

Principle – Joint-stock company's Council shall supervise the activity of the executive body by taking mandatory decisions and giving guidelines. In its activity the Council shall be guided by the company's interests, shareholders' interests and by the interests of the company's affiliated enterprises.

The Council is responsible for implementation of the corporate strategy, the control policies over risks and business plans and supervises their execution by the executive body.

The most important aspects of the Council's activity must be included in its report that is examined and approved by the general meeting of shareholders.

The composition of the Council shall ensure an efficient carrying out of its duties. When setting the number of Council members, it should be envisaged such a number that will allow the adoption of equilibrated decisions in short time.

The best practices

2.3.1. The Council responsibilities, as well as their distribution between its members shall be stipulated in its Regulation. The Council Regulation shall have a separate chapter concerning the relation with the executive body and general meeting of shareholders and shall be posted on the joint-stock company's webpage.

2.3.2. The Council shall include at least 3 members, but in companies who have more than 50 shareholders and nominal holders of shares, the Council shall include at least 5 members, but not more than 11 members, including the chairman.

2.3.3. The nominal structure of the Council should be sufficiently diversified in order to ensure objective and balanced debates in the process of decision making. The members of the executive body cannot be appointed to the Council.

2.3.4. Any change in numeric structure of the company's Council shall be approved by the general meeting of shareholders.

2.3.5. The Council's report, presented to the general meeting of shareholders, must include the Council's activities during the financial year and the significant effects for the joint-stock company and shareholders, the company's strategy and business risks, as well as information for every member separately concerning the attendance of Council's meetings.

2.3.6. The first meeting of the company's Council must be organized during the first month from the general meeting of shareholders.

2.3.7. The quorum for the Council's meetings must be not less than 2/3 from the total number of appointed members.

2.3.8. Decisions shall be taken with the majority vote of the appointed members, except where the law, the joint-stock company's charter or the Council Rules set a higher quota.

2.3.9. The Council shall assemble at least 4 times a year, as well as any time when it is necessary for a good execution of its responsibilities and an efficient co-operation with other bodies of the company.

2.3.10. The Council shall discuss at least once a year:

- a) the efficiency of its activity;
- b) the efficiency and the performances of the executive body's activity;
- c) the results of observance by the executive body of the risk control policy;
- d) the company's strategy and business risks;
- e) negative and positive changes that took place.

The results of such discussions shall be reflected in the Council's report.

2.3.11. The Council of the company and each of its members separately, can ask from the executive body and the Auditing Commission any information necessary to properly fulfill its duties.

2.3.12. In order to fulfill its duties, the Council may use the services of external experts if it decides that it is necessary.

2.3.13. The annual report of the Council shall include a separate chapter to reflect to what extent the principles and best practices of the present Code are applied. The report shall be presented to the general meeting of shareholders for approval and will be placed on the joint-stock company's website.

2.4. Chairman of the company's Council

Principle – the Chairman of the Council draws up the agenda, presides the meetings of the Council, monitors the correct functioning of the Council, ensures the conveyance of full information to the Council members, ensures that there is enough time to take decisions and acts on behalf of the Council.

The Chairman of the Council is assisted in his/her activity by the secretary of the company's Council.

The Chairman of the Council shall ensure the possibility for the employees to report any deviation in the activity of the executive body, without jeopardizing their position in the company. The established deviations shall be presented to the Chairman of the Council in order to be discussed at the Council's meetings.

The best practices

The Chairman of the company's Council shall supervise:

- a) that the members of the Council receive in due time all information necessary to properly carry out their duties;
- b) that there is sufficient time for debates and decision making during the Council's meetings;

c) if the decisions and recommendations of the Council, regarding the deviations in the activity of the executive body, are executed or not.

2.5. Executive body

Principle – the role of the executive body is the current management of the company, in order to achieve the objectives set in its business plan. The executive body is under the control of the company's Council and of the general meeting of shareholders. In carrying out its duties the executive body shall act in the interests of the company, shareholders' and of the affiliated companies.

The executive body is liable to observe the normative acts in force, the company's charter and internal regulations. The executive body shall present the evolution of the company and discuss the internal risk management and the control system with the Council and Auditing Commission.

The most important aspects of the activity of the executive body shall be included in its reports.

The best practices

2.5.1. The duties of the executive body shall be stipulated in the company's charter and its Regulation. The Regulation shall have a separate chapter concerning the relations with the Council and general meeting of shareholders and shall be placed on the joint-stock company's website.

2.5.2. The members of the executive body shall be appointed for a fixed period of time.

2.5.3. Any change in the numerical or nominal structure of the executive body shall be published and posted on the company's website.

2.5.4. The executive body shall ensure the possibility for the employees to report any deviation in the activity of the company's bodies, without jeopardizing their position in the society.

2.5.5. The executive body is responsible for providing full, accurate and essential information to the company Council, Auditing Commission and external auditor.

2.5.6. The annual reports of the executive body shall include a separate chapter to reflect to which extent the principles and best practices of the present Code are applied. The report shall be presented to the general meeting of shareholders for approval and will be placed on the joint-stock company's website.

Chapter III. Remuneration

Principle – the amount and structure of remuneration for members of the company's Council and executive body shall be established in a way to employ and keep qualified managers. If the remuneration is formed by one fixed part and one variable, then the variable part shall be determined in relation with the performances in the process of achieving the planned short-term and long-term goals.

The annual report of the Council shall include a separate chapter regarding the policy of remuneration of its members and of the executive body and the remuneration structure.

The best practices

3.1. The remuneration structure that includes variable payments shall promote the company's short-term and long-term interests and shall encourage the members of the Council and executive body to act for the interest of the company, and not for their personal interests.

3.2. The policy of remuneration proposed for the next financial year and any change in the remuneration policy for the current year shall be approved by the general meeting of shareholders.

3.3. The remuneration of the executive body's members shall be determined by the Council in the context of the remuneration policy, approved by the general meeting of shareholders.

3.4. The annual report of the company's Council shall reflect the way in which the remuneration policy was implemented in the previous financial year and contain a synthesis of remuneration policy planned for the next financial year, including:

a) a description of the performance criteria and of the ways to determine their execution;

b) changes in the remuneration policy;

3.5. The competences, amount of fixed salary, structure and amount of the variable remuneration components, including any bonuses and shares (if there are optional programs for managers) of the members of the Council and executive body and shall be reflected in the annual report of the company.

Chapter IV. Conflict of interests

Principle – any conflict of interests between the company and the members of the Council or executive body shall be avoided. The decisions over certain transactions in which the members of the Council or executive body might have conflict of interests of material importance for the company are approved in the absence of the members interested in the execution of such transactions.

The best practices

4.1. A member of the company's Council or executive body:

a) shall not receive gifts or accept services without payment from the company, from affiliated persons as well as from other persons involved in relations with the company, except those the value of which do not exceed the minimum wage established by the Government;

b) shall not give advantages to third parties at the company's expense;

c) shall not use business opportunities of the company in his own interest, or the interest of his relatives or his business partners' interests, as well as in the interests of any other persons.

4.2. Members of the company's Council or executive body shall inform immediately the Chairman of the Council or, accordingly the head of the executive

body and shall provide the relevant information about any conflict of interests or potential conflict of interests with material importance for the company.

4.3. The company's Council shall decide, in the absence of the interested person, with unanimity of votes of the appointed non-interested Council members on the approval of a transaction with a conflict of interests.

4.6. The information on the adopted decisions concerning the execution of certain transactions with conflict of interests with the members of the Council or executive body shall be included in the annual report of the Council. The relevant information shall include a description of the conflict of interests and a declaration regarding the conformity of its adoption to the provisions of the normative acts in force and, as the case may be, of the present Code.

Chapter V. Independence

Principle – the structure of the Council shall give the possibility to its members to act independently from each other and from the executive body.

The best practices

5.1. Members of the Council should be independent in the decision making process.

5.2. When it is necessary, the Chairman of the Council can propose employment, on the expense of the company, of external consultants in order to solve the key corporate problems.

5.3. If, after his/her election, the Chairman or a member of the Council is confronting with circumstances that threaten his/her independence or impartiality, he/she should announce the Council or, accordingly, the Chairman of the Council in writing about this fact.

Chapter VI. Associated parties

Principle – It is in the company's interest to promote a long-term cooperation between the associated parties (employees, creditors, investors and suppliers), that will lead to value creation.

Protecting the rights of the associated parties and establishing with them relations that will encourage value creation is for the benefit of the company and shareholders.

The best practices

6.1. The company's Council and executive body should clarify the company's responsibilities as regards its relations with the important associated parties. These parties should ensure that there is a proper structure and sufficient mechanisms to know the company's obligations towards different associated parties and ensure the fulfillment of these obligations. Such mechanisms could include the official informing of the associated parties and, in particular, the employees concerning their specific rights and ways of their rectification.

6.2 The company should establish an efficient communication with its employees and other associated parties on issues that affect them directly. Such

communication is especially important in such fields as labor law, health, social protection etc.

6.3 A continuous informing of the employees regarding the issues that could affect them will help a lot in setting common objectives that could prevent potential conflicts and contribute to a wise resolution thereof.

6.4 When the rights of the associated parties are violated, there should exist mechanisms of redressing the situation, including appealing to the competent public authorities and courts of law. The company must offer protection to the associated parties who inform on the illegal acts of the company or the management.

Chapter VII. Financial transparency and external audit

Principle – the executive body is responsible for the quality and completeness of the annual financial report, publicly disclosed pursuant to the requirements of the normative acts in force. The company's Council shall check if the executive body observes this responsibility.

The external auditor and his remuneration shall be approved by the general meeting of shareholders.

The best practices

7.1. The executive body has to assume the responsibility regarding the transparency of:

- a) company's annual financial report;
- b) internal control;
- c) reports presented by the external auditors.

7.2. The annual financial report of the company shall be disclosed by publishing it in the media stipulated by the company's charter and on the company's website.

7.3. The annual financial report of the company shall contain the information regarding major transactions with company's assets, reports and explanatory notes presenting in detail the basic indicators: profit (losses), sales amount, operational expenditures, and profitability coefficients.

7.5. The external audit shall be carried out by an independent company which shall be liable for the audit performed, and shall sign a declaration, on his/her own responsibility, stating that from the information presented to him by the executive body, the audit was carried out accurately and exhaustively.

7.7. A representative of external auditor shall attend the meetings of the Council and the general meeting of shareholders where the financial reports are to be examined and approved.

7.8. The report of the external auditor shall contain additionally those aspects that the auditor wants to emphasize to the company executive body and Council.

7.9. The Auditing Commission of the company which exercises the internal economic and financial control can be replaced with an audit company, which shall not have the right to carry out the external audit.

Chapter VIII. Use of mechanisms for protection of shareholders' rights

Principle – the potential investors shall have full confidence in a Code of corporate governance only if this is fully supported by an implementation mechanism.

The best mechanism for protection of the shareholders' rights is observance of the requirements of corporate governance stipulated in the normative acts in force and the present Code.

The shareholders are responsible to hold liable the Council members and the executive body for the deviations from the Code's provisions.

The best practices

8.1. The Council shall inform the shareholders about the reception of warning letters from the National Commission regarding the violation of the provisions of the normative acts in force.

8.2. The Stock Exchange is called upon to use internal measures to protect the shareholders rights and to promote good corporate governance.

8.3. The listed companies shall present to the Moldova Stock Exchange their declarations regarding the application or non-application of the Corporate Governance Code, which shall be made public by the Moldova Stock Exchange.

Chapter IX. Responsibilities

Principle – The Code of Corporate Governance, adopted by a company, is an agreement between the management bodies and shareholders. The Council and executive body must observe their responsibilities in order to act in the best interests of shareholders. Violation of these responsibilities accompanied by damages to the company should imply consequences to the persons who committed such violations.

The best practices

The employment contracts between companies and the members of their management bodies shall provide that violation of the responsibilities specified in the Code can be punished in accordance with the provisions of the current legislation.