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## **2016 G20 Hangzhou Summit Interim Compliance Report**

6 September 2016 to 17 February 2017

Prepared by  
Sarah Scott, Alissa Xinhe Wang and the G20 Research Group, Toronto,  
and Mark Rakhmangulov, Irina Popova, Andrey Shelepov, Andrei Sakharov and the  
Center for International Institutions Research  
of the Russian Presidential Academy of National Economy and Public Administration,  
Moscow

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[www.g20.utoronto.ca](http://www.g20.utoronto.ca)  
[g20@utoronto.ca](mailto:g20@utoronto.ca)

“The University of Toronto ... produced a detailed analysis to the extent of which each G20 country has met its commitments since the last summit ... I think this is important; we come to these summits, we make these commitments, we say we are going to do these things and it is important that there is an organisation that checks up on who has done what.”

— *David Cameron, Prime Minister, United Kingdom, at the 2012 Los Cabos Summit*

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## 19. Corporate Governance

“We support the effective implementation of the G20/OECD Principles of Corporate Governance”

*G20 Leaders' Communiqué: Hangzhou Summit*

### Assessment

	No Compliance	Partial Compliance	Full Compliance
Argentina			+1
Australia			+1
Brazil			+1
Canada			+1
China			+1
France			+1
Germany			+1
India			+1
Indonesia		0	
Italy			+1
Japan		0	
Korea		0	
Mexico			+1
Russia			+1
Saudi Arabia			+1
South Africa			+1
Turkey			+1
United Kingdom			+1
United States			+1
European Union			+1
Average		+0.85	

### Background

The Principles of Corporate Governance were first developed by the Organization for Economic Cooperation and Development (OECD) in 1999, and subsequently updated in 2004 and 2015.<sup>2535</sup> The 2015 revision, the G20/OECD Principles of Corporate Governance were approved at the meeting of G20 Finance Ministers and Central Bank Governors in Ankara on 4-5 September 2015<sup>2536</sup> and endorsed by the leaders at the Antalya summit on 15-16 November 2015.<sup>2537</sup>

Corporate governance is defined by the OECD as “Procedures and processes according to which an organisation is directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among the different participants in the organisation – such as the board, managers, shareholders and other stakeholders – and lays down the rules and procedures for decision-making.”<sup>2538</sup>

<sup>2535</sup> G20/OECD Principles of Corporate Governance, OECD 2015. Access date: 11 November 2016.

<https://www.oecd.org/corporate/principles-corporate-governance.htm>.

<sup>2536</sup> Communiqué of G20 Finance Ministers and Central Bank Governors meeting, G20 2015. Access date: 11 November 2016. <http://www.g20.utoronto.ca/2015/150905-finance.html>.

<sup>2537</sup> G20 Leaders' Communiqué, G20 2015. Access date: 11 November 2016.

<http://www.g20.utoronto.ca/2015/151116-communication.html>.

<sup>2538</sup> Glossary of statistical terms, OECD. Access date: 11 November 2016.

<https://stats.oecd.org/glossary/detail.asp?ID=6778>.

### **Commitment Features**

The 2015 G20/OECD Principles of Corporate Governance document contains six main principles:

1. Ensuring the basis for an effective corporate governance framework

The corporate governance framework should promote transparent and fair markets, and the efficient allocation of resources. It should be consistent with the rule of law and support effective supervision and enforcement.

2. The rights and equitable treatment of shareholders and key ownership functions

The corporate governance framework should protect and facilitate the exercise of shareholders' rights and ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights.

3. Institutional investors, stock markets, and other intermediaries

The corporate governance framework should provide sound incentives throughout the investment chain and provide for stock markets to function in a way that contributes to good corporate governance.

4. The role of stakeholders in corporate governance

The corporate governance framework should recognise the rights of stakeholders established by law or through mutual agreements and encourage active co-operation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises.

5. Disclosure and transparency

The corporate governance framework should ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and governance of the company.

6. The responsibilities of the board

The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the board, and the board's accountability to the company and the shareholders.<sup>2539</sup>

To achieve full compliance members are required to uphold all the G20/OECD Principles of Corporate Governance in conducting their policies regarding corporate governance practices. The assessment implies assessing government actions (including those taken before the compliance period) or currently endorsed local set of corporate governance rules against the principles corresponding to appropriate issue areas.

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<sup>2539</sup> G20/OECD Principles of Corporate Governance, G20/OECD 2015. Access date: 11 November 2016.  
[http://www.oecd-ilibrary.org/governance/g20-oecd-principles-of-corporate-governance-2015\\_9789264236882-en](http://www.oecd-ilibrary.org/governance/g20-oecd-principles-of-corporate-governance-2015_9789264236882-en).

**Scoring Guidelines**

-1	Member makes only corporate governance-related policy decisions and/or upholds existing set of corporate governance rules which contravene the G20/OECD Principles of Corporate Governance
0	Member makes both corporate governance-related policy decisions which contravene and those which conform to the G20/OECD Principles of Corporate Governance
+1	Member makes only corporate governance-related policy decisions made during the monitoring period and/or upholds existing set of corporate governance rules which conform to the G20/OECD Principles of Corporate Governance

**Argentina: +1**

Argentina has fully complied with the commitment on corporate governance.

During the period of 1990-2000 the following laws were adopted: Foreign Investment Law (Law N° 21382), National Securities Commission (Law N° 22169), Corporate Bonds Law (Law N° 23576), Mutual Funds Law (Law N° 24083), Private Pension Funds Law (Law N° 24241), New Central Bank Chart (Law N° 24144), Trust Funds Law (Law N° 24441), New Penal Law on Taxes (Law N° 24769), Tight Budget Constraint Law, Investors Protection Bill.<sup>2540</sup> These laws still function. These laws conform to all the 2015 G20/OECD Principles of Corporate Governance.

On 22 March 2016, Argentina's insurance regulator lifted rules that had weighed on insurance companies for several years. The changes included lifting restrictions on the amount of foreign-currency assets insurers could hold, allowing them to better protect the value of their portfolios against any further devaluation of the peso.<sup>2541</sup> This measure conforms to all the 2015 G20/Organization for Economic Cooperation and Development (OECD) Principles of Corporate Governance.

On 18 August 2016, Argentina proposed the law that would change the way the country prosecutes malfeasance. The legislation would seek to incentivize corporations to crackdown on corruption themselves by expanding liability to cover businesses as a whole.<sup>2542</sup> This law conforms to all the 2015 G20/OECD Principles of Corporate Governance.

Argentinean corporate governance regime and recent relevant policy decisions conform to the 2015 G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Angelina Khudoleeva*

**Australia: +1**

Australia has fully complied with the commitment on corporate governance.

On 17 March 2016, Australian Securities and Investment Commission (ASIC) provided a guide for securities issuers who are required to prepare and lodge a disclosure document under Ch 6D of the Corporations Act 2001. It helps stakeholders understand the ASIC's interpretation of procedural

<sup>2540</sup>Corporate Governance in Argentina, New Developments through 1991-2000, Universidad del CEMA. Access date: 25 December 2016. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.198.5230&rep=rep1&type=pdf>.

<sup>2541</sup>Argentine insurance industry outlook changes to stable from negative on improved operating environment and sovereign credit trends, Moody's, 22 March 2016. Access date: 25 December 2016. [https://www.moody.com/research/Moodys-Argentine-insurance-industry-outlook-changes-to-stable-from-negative--PR\\_346122](https://www.moody.com/research/Moodys-Argentine-insurance-industry-outlook-changes-to-stable-from-negative--PR_346122).

<sup>2542</sup>Argentina's Quiet (Giant) Step Against Corruption, Americas Quaterly, 18 August 2016. Access date: 25 December 2016. <http://americasquarterly.org/content/argentinas-quiet-giant-step-against-corruption>.

aspects of Ch 6D.<sup>2543</sup> This action covers the principle of disclosure and transparency. The taken measure does not break any principles.

On 11 September 2016, the Australian Prudential Regulation Authority (APRA) released a paper on risk culture, noting that the global financial crisis revealed major shortcomings in the way the financial services sector managed risk. The prudential regulation body made the point that these shortcomings were an issue of deficiencies in institutions' attitudes towards risk.<sup>2544</sup> This action covers such principles as the role of stakeholders in corporate governance; disclosure and transparency; the responsibilities of the board. The taken measure does not break any principles.

On 28 September 2016, ASIC issued a legislative instrument. According to it, a company that was party to a deed of cross guarantee at the end of the relevant financial year does not have to comply with a set of requirements of Part 2M.3 of the Corporation Act 2001 in relation to the financial year. In addition, the directors of a company referred to in subsection (1) do not have to comply with the requirement under section 317 to lay reports before the AGM of the company following the relevant financial year.<sup>2545</sup> This action covers the principles of disclosure and transparency; responsibilities of the board; ensuring the basis for an effective corporate governance framework. The taken measure does not break any principles.

Overall, an ASIC's website offers multifaceted view of corporate governance issues, including external sources like ASX, Governance Institute of Australia.<sup>2546</sup> Particularly, the given field is regulated through the Corporations Act 2001<sup>2547</sup> and a set of regulatory guides. Moreover, Australian Standard for Corporate Governance of Information and Communication Technology (2005) exists. Apart from named acts, in 2014, the Australian Stock Exchange (ASX) issued the 3<sup>rd</sup> edition of Corporate Governance Principles and Recommendations,<sup>2548</sup> which are in force as of December 2016. However, these principles are to be applied only to the securities listed on the ASX. Nevertheless, they cover all the G20/OECD key principles like the responsibilities of the board, order of disclosure and transparency and others.

Australian corporate governance regime and recent relevant policy decisions conform to the 2015 G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Ildar Khalilyulin*

### **Brazil: +1**

Brazil has fully complied with the commitment on corporate governance.

Brazilian Federal Law 6,385/1976, "Corporation Law," regulates the securities market and the Brazilian securities and exchange commission (Comissão de Valores Mobiliários, CVM). Under this

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<sup>2543</sup> Regulatory Guide 254 Offering securities under a disclosure document, Australian Securities and Investment Commission. Access date: 28 December 2016. <http://download.asic.gov.au/media/3578442/rg254-published-17-march-2016.pdf>.

<sup>2544</sup> Good Governance Guide, Governance Institute of Australia. Access date: 28 December 2016. [https://www.governanceinstitute.com.au/media/881479/ggg\\_risk-governance\\_oct16.pdf](https://www.governanceinstitute.com.au/media/881479/ggg_risk-governance_oct16.pdf).

<sup>2545</sup> ASIC Corporations (Wholly-owned Companies) Instrument 2016/785, Federal Register of Legislation. Access date: 28 December 2016. <https://www.legislation.gov.au/Details/F2016L01538>.

<sup>2546</sup> Corporate governance, Australian Securities and Investment Commission. Access date: 28 December 2016. <http://asic.gov.au/regulatory-resources/corporate-governance/>.

<sup>2547</sup> Corporations Act 2001, Commonwealth Consolidated Acts. Access date: 28 December 2016. [http://www.austlii.edu.au/au/legis/cth/consol\\_act/ca2001172/](http://www.austlii.edu.au/au/legis/cth/consol_act/ca2001172/).

<sup>2548</sup> Corporate Governance Principles and Recommendations, ASX. Access date: 28 December 2016. <http://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf>.

law corporations must adhere to the various rules, regulations and guidance opinions issued by the CVM, among which:

- Ordinance 358/2002, which addresses the disclosure requirements and use of relevant information of the corporation;
- Ordinance 361/2002, which regulates tender offers of Brazilian listed corporations, including delisting offers, hostile offers and sale of control offers;
- Ordinance 400/2003, which regulates the public offer for the distribution of securities, including the disclosure and control of inside information before the offer period;
- Ordinance 480/2009, which contains the requirements for a corporation to obtain registration with the CVM and thus be listed. It also establishes annual, quarterly and periodic financial reporting and other continuing obligations, and imposes additional obligations on directors, officers and controlling shareholders;
- Ordinance 481/2009, which regulates proxy solicitations and information that must be disclosed to shareholders on matters to be voted in shareholder meetings.<sup>2549</sup>

This law and its rules comply with the 1st, 3rd and 5th principles of the 2015 G20/OECD Principles of Corporate Governance.

The new Code of Best Practices of Corporate Governance was published in 2016 by the Brazilian Institute of Corporate Governance (IBGC) in order to contribute to the creation of better governance systems within organizations, with a view to improving their performance and longevity. Changes and innovations will fulfill the role of making the Brazilian organizational and institutional environment stronger and fairer, as well as more accountable and transparent. This Code contains general structure and basic principles of corporate governance, defines shareholders' rights, rules for protection of their interests, ownership functions, effective mechanisms for the prevention and settlement of disputes as well as corporate governance structure is clearly stated in this Code in order to ensure the strategic guidance of the company, the effective monitoring of management by the board, and the board's accountability to the company and the shareholders.<sup>2550</sup> This Code complies with the all principles of the 2015 G20/OECD Principles of Corporate Governance.

The IFRS Standards were incorporated into law and regulations. Brazil has already adopted the IFRS Standards for all companies whose securities are publicly traded and for most financial institutions whose securities are not publicly traded, for both consolidated and separate (individual) company financial statements.<sup>2551</sup> The adoption of such Standards is in compliance with the 1st and 5th principles of the 2015 G20/OECD Principles of Corporate Governance.

Brazil upholds existing set of corporate governance rules which conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Sofia Streltsova*

### **Canada: +1**

Canada has fully complied with the commitment on corporate governance.

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<sup>2549</sup> Brazil Corporate Governance 2016, International Comparative Legal Guides 13 June 2016. Access date: 28 December 2016. <https://www.iclg.co.uk/practice-areas/corporate-governance/corporate-governance-2016/brazil>.

<sup>2550</sup> Code of Best Practices of Corporate Governance 5th edition, Brazilian Institute of Corporate Governance 2016. Access date: 28 December 2016. <http://www.ibgc.org.br/userfiles/2014/files/CMPGEN.pdf>.

<sup>2551</sup> IFRS Application around the world, jurisdictional profile: Brazil, the Website of the IFRS Foundation and the IASB, 16 June 2016. Access date: 28 December 2016. <http://www.ifrs.org/Use-around-the-world/Documents/Jurisdiction-profiles/Brazil-IFRS-Profile.pdf>.

Corporate governance practices in Canada are shaped by legal rules and best practices promoted by institutional shareholder groups, the media and professional director associations such as the Institute of Corporate Directors (ICD). Sources of legal rules include provincial corporate statutes, securities laws and rules, stock exchange requirements and the common law, as well as a wide variety of other regulatory statutes, regulations and policies.<sup>2552</sup>

On 1 June 2015, the Canadian Extractive Sector Transparency Measures Act was proclaimed into force. The legislation's stated purpose is to 'implement Canada's international commitments to participate in the fight against corruption through the imposition of measures applicable to the extractive sector', and it requires Canadian businesses involved in resource extraction to file and make publicly available reports on certain types of payments made to both domestic and foreign governments.<sup>2553</sup>

In February 2016, the Canadian Securities Administrators announced fundamental amendments to the takeover bid regime in Canada. These changes are expected to affect the market practice in connection with shareholder rights plans, the structure of white knight transactions and the ways in which boards of directors in Canada respond to hostile bids.<sup>2554</sup>

On 28 September 2016, the Canadian federal government introduced Bill C-25: An Act to amend the Canada Business Corporations Act. The stated objectives of the proposed amendments are: to reform the process for electing directors of certain corporations; modernize communications between corporations and their shareholders; and require disclosure of information respecting diversity among directors and senior management. The bill introduces amendments that will "increase shareholder democracy and participation, support the push to increase women's participation on corporate boards and in senior management, and improve corporate transparency and business certainty while reducing regulatory burden."<sup>2555</sup>

Canada's set of corporate governance rules and related policy decisions conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Irina Popova*

### **China: +1**

China has fully complied with the commitment on corporate governance.

The Chinese corporate governance institutional framework provides for shareholders' equal participation in corporate governance through ensuring "equal voting power, low participation costs, enquiry and inspection rights, proposal right and rights for cumulative voting."<sup>2556</sup>

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<sup>2552</sup> The Governance Review Corporate Governance Review, Olser. Access date: 17 January 2017.

<https://www.osler.com/osler/media/Osler/reports/corporate-governance/Corporate-Governance-Review-Canada-2016.pdf>.

<sup>2553</sup> Extractive Sector Transparency Measures Act (ESTMA), Natural Resources Canada. Access date: 17 January 2017. <http://www.nrcan.gc.ca/mining-materials/estma/18180>.

<sup>2554</sup> Canadian securities regulators adopt fundamental changes to take-over bid regime, Canadian Securities Administrators 25 February 2016. Access date: 17 January 2017. <http://www.csa-acvm.ca/aboutcsa.aspx?id=1439>.

<sup>2555</sup> An Act to amend the Canada Business Corporations Act, the Canada Cooperatives Act, the Canada Not-for-profit Corporations Act and the Competition Act, 28 September 2016. Access date: 17 January 2017. <http://news.gc.ca/web/article-en.do?nid=1130719>.

<sup>2556</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 8 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.



Related-party transactions of majority shareholders are regulated through the following mechanisms: withdrawing voting rights from shareholders in a related-party guarantee, prohibiting loans to the related parties and the duty to compensate the damage which was caused in related-party transactions if there were such.<sup>2557</sup>

In case of a violation of medium and minority shareholders' rights, instruments to ensure effective compensation include shareholders' rights to request the confirmation of the resolutions of general shareholder meetings' and board meetings as null and void and thereby revoke them. Shareholders could also demand compensation for damage incurred due to the actions of controlling shareholders, compensation for the damage done by company's directors or executives, and have a right to file derivative suits in case the company's interest is damaged by any other person.<sup>2558</sup>

According to the Article 20 of the Company Law, companies have no legal personality status. Thus, if a shareholder of a company evades the payment of his debts by abusing the independent status of legal personality or the shareholder's limited liabilities he shall bear joint liabilities for company debts.<sup>2559</sup>

Creditors may execute their rights of guarantee. According to the Guarantee Law, participating in such economic activities as buying, selling, borrowing, possessing, transporting goods, or outsourcing entails guaranty initiation through "assurance, mortgage, pledge, lien or down-payment to ensure the fulfilment of their rights as debtors."<sup>2560</sup>

Any creditor is entitled to the subrogation rights. Article №73 of the Contract Law of China states that in case one of the debtors delays in exercising its creditor's right towards a third person, thus causing harm to the creditor, the latter could file a petition to the People's Court for subrogation and all the expenses for subrogation by the creditor will be paid by the debtor.<sup>2561</sup>

Any creditor is able to file a petition to the court in order to cancel debtors' actions regarding handling abnormal assets. According to the Article №74 of the Contract Law, the debtor waives its creditor's right against a third party or assigns its property without reward, thus causing harm to the interests of the creditors, the latter will be able to file a petition to the People's Court demanding cancellation of the debtor's act. If there is a situation in which the debtor appoints the price of its property at a low level and this is evidently unreasonable, thus causing harm to the creditor, and the assignee is considered to be aware of this situation, the creditor is also able to file a petition to the

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<sup>2557</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 8 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2558</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 8 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2559</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 8 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2560</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 08 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2561</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 08 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

People's Court demanding cancellation of the debtor's act. All expenses incurred by the creditor while exercising his right to cancel will be paid by the debtor.<sup>2562</sup>

The Civil Procedure Law of China (Adopted at the Fourth Session of the Seventh National People's Congress on 9 April 1991) provides that debtors are entitled to the right to initiate a civil procedure at the Court. Before the proceedings or during the civil trial, protective measures, debtors may apply for, include: seizure, closure and freezing of assets.<sup>2563</sup>

According to the Company Law of China (Entered into force on 1 July 1994), shareholders' have the following self-benefit rights: the right to demand the dispensation of the dividends, the right to demand the dispensation of residual assets, the right to convey shares and the right to enquire share purchases. Shareholders' co-benefit rights consist of the following: the right to vote, the right to represent another shareholder and to assign somebody as a representative, the right to demand or convoke shareholders' general meetings, and also proposal rights, enquiry rights, the right to cancel or confirm the annulment of the decisions taken during a shareholders' meeting, the right to cancel or confirm the annulment of the decisions of the Board, and also inspection rights and rights for cumulative voting.<sup>2564</sup>

According to the Article 107 of the Company Law, a shareholder has a right to attend general shareholders' meetings by proxy, who can provide the statement on behalf of the shareholder. Article №9 of the Code of Corporate Governance of Listed Companies in China also states that shareholders have a right either to be personally present at the shareholders' meetings or to nominate a proxy to vote on their behalf. Both ways of participating in shareholders' meeting and voting result in a same way from the legal perspective.<sup>2565</sup>

The Code of Corporate Governance of Listed Companies states companies should respect the rights of its stakeholders and provide compensation in case their legitimate interests are violated.<sup>2566</sup>

The Code of Corporate Governance of Listed Companies elaborates that as well as ensuring continuous growth and maximum stakeholder interests, listed companies also should be committed to ensuring community welfare, protecting the environment, addressing charity issues and be concentrated on their own public responsibilities.<sup>2567</sup>

Legislative bodies of People's Republic of China and other regulatory institutions and organizations have attributed great importance to developing the disclosure of corporate information, and

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<sup>2562</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 08 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2563</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 08 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2564</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 08 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2565</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 08 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2566</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 08 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2567</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organisation for Economic Co-operation and Development 22.09.2011. Access date: 08 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

intensively supported its improvement in terms of quality and transparency. To some extent, progress has been attained by forming an Omni-directional and multi-tier information disclosure framework. The legislations that mold the basis of the framework are complemented by regulatory acts, for example relevant administrative laws, ministerial norms and directions. The directions are compliant with international practices concerning normative principles, operational specifications and methods of disclosure. Generally, listed companies have improved the extent of information disclosure every year, increasing the accuracy, range and depth of the information being disclosed.<sup>2568</sup>

In 2008, China's State-owned Assets Supervision and Administration Commission (SASAC) issued a regulation that strongly encourages state-owned organizations to follow clear CSR practices and inform about CSR activities. In spite of the fact that this regulation is not binding, SASAC has a lot of impact on the business sphere, and this directive shows China's government's commitment to corporate social responsibility.<sup>2569</sup>

China's set of corporate governance rules and related policy decisions conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Kirill Krivosheyev*

**France: +1**

France has fully complied with the commitment on corporate governance.

On 30 March 2016 the Autorité des Marchés Financiers (AMF) of France published a comparative study on corporate governance codes in ten European countries where France was considered the only country where codes were drawn up by bodies representing issuers. France was also named the only country where the market regulator published every year a precise monitoring report including individual quotes on good and bad practices.<sup>2570</sup>

On 22 September 2016, the French National Assembly adopted a draft law aimed at giving shareholders a binding vote on executive pay. The Law on Transparency, the Fight Against Corruption and Economic Modernization, also known as the Sapin 2, was introduced in 2015 and triggered an increase in shareholders' power.<sup>2571</sup>

On 4 October 2016, France adopted anti-bribery policies providing for the threat of prosecution if employees bribe government officials seeks to place the same kind of obligations on French businesses. This law also requires one of the procedures of the company to be a whistleblower hotline so employees can report suspected misconduct.<sup>2572</sup>

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<sup>2568</sup> Corporate Governance of Listed Companies in China (Self-Assessment by the China Securities Regulatory Commission), Organization for Economic Co-operation and Development 22.09.2011. Access date: 08 January 2017 <http://www.oecd.org/china/corporategovernanceoflistedcompaniesinchina.htm>.

<sup>2569</sup> Global Trends in Corporate Governance, Deloitte Touche Tohmatsu India LLP. 01 December 2016. Access date: 08 January 2017. [https://www2.deloitte.com/content/dam/Deloitte/in/Documents/risk/Corporate Governance/in-risk-global-trends-in-corporate-governance-4Dec2015-noexp.pdf](https://www2.deloitte.com/content/dam/Deloitte/in/Documents/risk/Corporate%20Governance/in-risk-global-trends-in-corporate-governance-4Dec2015-noexp.pdf).

<sup>2570</sup> Corporate governance : publication of a comparative study of codes in ten European countries, Autorité des marchés financiers 30.03.16 .Access date: 8 December 2016. [http://www.amf-france.org/en\\_US/Reglementation/Dossiers-thematiques/Societes-cotees-et-operations-financieres/Gouvernement-d-entreprise/Etude-comparee--Les-codes-de-gouvernement-d-entreprise-dans-10-pays-europeens.html](http://www.amf-france.org/en_US/Reglementation/Dossiers-thematiques/Societes-cotees-et-operations-financieres/Gouvernement-d-entreprise/Etude-comparee--Les-codes-de-gouvernement-d-entreprise-dans-10-pays-europeens.html)

<sup>2571</sup> France to Introduce Binding Pay Votes In Some Form, Glass Lewis 22.09.16. Access date: 8 December 2016 <http://www.glasslewis.com/france-introduce-binding-pay-votes-form/>

<sup>2572</sup> How France is toughening anti-corruption laws ,Thomson Reuters 04.11.16. Access date: 8 December 2016 <http://blog.financial.thomsonreuters.com/france-toughening-anti-corruption-laws/>

On 17 November 2016, the Autorité des Marchés Financiers (AMF) published its annual report on corporate governance. The AMF noted that French companies dedicate increased resources invested in this matter regarding time, resource allocation and development of new monitoring tools. Also, it highlighted the methodological transparency of indicators, which appeared to be a strong point for French issuers, even if their comparability between issuers could be improved further.<sup>2573</sup>

France has made corporate governance-related policy decisions during the monitoring period and upheld existing set of corporate governance rules which conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analysts: Mark Rakhmangulov & Anastasiya Polovko*

### **Germany: +1**

Germany has fully complied with the commitment on corporate governance.

The German Corporate Governance Code, adopted in 2002 and updated on a regular basis (last update – 24 June 2014) has a legal effect in accordance with the Stock Corporation Act.<sup>2574</sup> The Code specifies management and supervision procedures for German listed companies. It also provides recommendations and suggestions on international and national standards for good and responsible corporate governance. Despite the fact that its provisions are not mandatory, failure to comply with them should be explained and the reasons behind it disclosed in the annual declaration of conformity.<sup>2575</sup>

The Code also aims to reflect best practices of corporate governance, in order to “enhance transparency and comprehensibility of the German corporate governance system, strengthen investors’ confidence, clients, employees and the general public in the management and supervision of German listed companies.”<sup>2576</sup>

On 16 September 2016, the nominees for the Corporate Social Responsibility Prize of the Federal Government were approved.<sup>2577</sup>

On 26 September 2016, Institute for Ecological and Economic Research and the German Association of Enterprises evaluated the corporate social responsibility (CSR) reports from the 150 largest German companies. 79 reports corresponded to the requirements for full reporting. State Secretary Albrecht highlighted the growing importance of good CSR reporting on entrepreneurship. When the company's management and employees are involved in the reporting process, this raises

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<sup>2573</sup>The AMF assesses the social, societal and environmental responsibility information published by listed companies and publishes its annual report on corporate governance, Autorité des marchés financiers 17.11.16. Access date: 8 December 2016 [http://www.amf-france.org/en\\_US/Actualites/Communiqués-de-presse/AMF/annee-2016.html?docId=workspace per cent3A per cent2F per cent2FspacesStore per cent2F038fded4-d52a-4700-8935-7bcd75f647f6](http://www.amf-france.org/en_US/Actualites/Communiqués-de-presse/AMF/annee-2016.html?docId=workspace%20per%20cent3A%20per%20cent2F%20per%20cent2FspacesStore%20per%20cent2F038fded4-d52a-4700-8935-7bcd75f647f6)

<sup>2574</sup> Aktiengesetz, dejure.org. Access date: 17 January 2017. <https://dejure.org/gesetze/AktG/161.html>.

<sup>2575</sup> German Corporate Governance Code, Regierungskommission Deutscher Corporate Governance Kodex 2017. Access date: 17 January 2017.

[http://www.dcgk.de/en/code/archive.html?file=files/dcgk/usercontent/en/download/code/2014-06-24\\_German\\_Corporate\\_Governance\\_Code\\_with\\_highlighted\\_amendements\\_EN.pdf](http://www.dcgk.de/en/code/archive.html?file=files/dcgk/usercontent/en/download/code/2014-06-24_German_Corporate_Governance_Code_with_highlighted_amendements_EN.pdf).

<sup>2576</sup> German Corporate Governance Code, Regierungskommission Deutscher Corporate Governance Kodex 2017. Access date: 17 January 2017.

[http://www.dcgk.de/en/code/archive.html?file=files/dcgk/usercontent/en/download/code/2014-06-24\\_German\\_Corporate\\_Governance\\_Code\\_with\\_highlighted\\_amendements\\_EN.pdf](http://www.dcgk.de/en/code/archive.html?file=files/dcgk/usercontent/en/download/code/2014-06-24_German_Corporate_Governance_Code_with_highlighted_amendements_EN.pdf).

<sup>2577</sup> CSR-Preis der Bundesregierung, Federal Ministry of Labour and Social Affairs 16.09.2016. Access date: 25 December 2016. <http://www.bmas.de/DE/Presse/Pressemitteilungen/2016/csr-preis-der-bundesregierung.html>.

the awareness of sustainability as an important future topic for the entire company and promotes innovation.<sup>2578</sup>

On 31 October 2016, The German Federal Ministry of Economics and Technology issued a brochure aimed at creation of favorable climate for future entrepreneurs. The brochure offers numerous information and practical tips for entrepreneurs and their successors.<sup>2579</sup>

On 16 November 2016, the Cabinet adopted a bill that expands the control rights of the members of the self-governing bodies. Information, reporting and recording obligations will be extended. This helps to avoid irregularities.<sup>2580</sup>

On 25 November 2016, the German Consumer Dispute Resolution Act was released. According to it, companies must disclose whether they participate in consumer dispute resolution. In addition to the individual procedures, companies can also actively set up new branch-specific dispute centres.<sup>2581</sup>

Germany's set of corporate governance rules and related policy decisions conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1

*Analyst: Elizaveta Nekrasova*

### **India: +1**

India has fully complied with the commitment on corporate Governance.

Corporate governance in India was guided by Clause 49 of the Listing Agreement before the introduction of then Companies Act of 2013.<sup>2582</sup> As per the new provision, the Securities and Exchange Board of India (SEBI) Guidelines authorized some modification in the Listing Agreement to enhance transparency in the transactions of listed companies and to empower minority stakeholders to affect the decisions of the management.<sup>2583</sup> These amendments became effective on 1 October 2014.

In accordance with the requirements of the Companies Act of 2013, Section 149 (1) "all listed companies (with some exceptions) and every other public company having a paid up share capital of INR100 crore or more, or, turnover of INR300 crore or more must have at least one woman director."<sup>2584</sup> Moreover, SEBI had authorized that the assignment of woman directors to the board

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<sup>2578</sup> Fachkonferenz zur CSR-Berichterstattung von Unternehmen - Transparenz in Lieferketten verbessern, Federal Ministry of Labour and Social Affairs 26.09.2016. Access date: 25 December 2016.

<http://www.bmas.de/DE/Presse/Meldungen/2016/fachkonferenz-csr-berichterstattung.html>.

<sup>2579</sup> Unternehmensnachfolge, Federal Government 31.10.2016. Access date: 25 December 2016.

[https://www.bundesregierung.de/Content/Infomaterial/BMWI/nexxt-unternehmensnachfolge-die-optimale-planung\\_23490.html](https://www.bundesregierung.de/Content/Infomaterial/BMWI/nexxt-unternehmensnachfolge-die-optimale-planung_23490.html).

<sup>2580</sup> Mehr Transparenz in der Selbstverwaltung, Federal Government 16.11.2016. Access date: 25 December 2016.

<https://www.bundesregierung.de/Content/DE/Artikel/2016/11/2016-11-16-gkv-selbstverwaltungsstaerkungsgesetz.html>.

<sup>2581</sup> Konferenz „Verbraucherschlichtung aus Unternehmenssicht“, Federal Ministry of Justice and Consumer Protection 25.11.2016. Access date: 25 December 2016.

[http://www.bmjv.de/SharedDocs/Artikel/DE/2016/11252016\\_Konferenz\\_Verbraucherschlichtung.html;jsessionid=1FOFD079A33B62EB80FCB936F58307D0.1\\_cid297](http://www.bmjv.de/SharedDocs/Artikel/DE/2016/11252016_Konferenz_Verbraucherschlichtung.html;jsessionid=1FOFD079A33B62EB80FCB936F58307D0.1_cid297).

<sup>2582</sup> The companies act, 2013, Ministry of law and justice of the Republic of India 30.08.2013. Access date: 18 December 2016. <http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf>.

<sup>2583</sup> Corporate governance in the Textile Industry, Shobhit Mani Gopal, 16.10.2016. Access date: 18 December 2016. <https://lawupdaterblog.wordpress.com/2016/10/03/article-on-corporate-governance-in-the-textile-industry/>.

<sup>2584</sup> Director's Handbook, National Foundation for Corporate Governance of the Republic of India. 01.10.2014. Access date: 05 January 2017. <http://www.nfcgindia.org/pdf/2014-ICSI.pdf>.

must turn out no later than 1 April, 2015. If the listed companies don't meet the requirements before 1 April 2015, stock exchanges are forced by SEBI to impose monetary penalties starting from June 30 2015, at the same time that additional penal measures would be accepted for companies remaining in default.<sup>2585</sup>

In the Union Budget 2015–2016, the government announced the establishment of the Bank Boards Bureau to improve governance in the public sector banks. The Bank Boards Bureau was established based on the recommendations of the “Gyan Sangam,” a conclave of public sector banks and foreign investors organized in the beginning of 2015. The Bank Boards Bureau, which commenced its functioning on 1 April 2016, was established to strengthen the risk management practices undertaken by the public sector banks.<sup>2586</sup>

On March 30, 2015, the National Stock Exchange of India Limited (NSE) organized a seminar on “Board Evaluation: An Imperative for Corporate Governance” in Mumbai. The broad objective of this seminar was to familiarize the directors of its listed companies - who constituted the bulk of the audience - with the relevance of board evaluation exercises, the various options available for the same, and the associated implementation issues.<sup>2587</sup>

India's set of corporate governance rules and related policy decisions conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Evgeny Tsarik*

## **Indonesia: 0**

Indonesia has partially complied with the commitment on corporate governance.

Firm operations are basically covered by the Law No. 40 of 2007 on Limited Liability Companies (“Company Law”), having provisions for establishment of a company, capital issues, management and governance of a company, shareholders' rights and meetings, major corporate actions (such as mergers, consolidations, spin-offs and acquisitions) and the dissolution and liquidation of companies.<sup>2588</sup> In addition to the Company Law, public companies are governed by Law No. 8 of 1995 on Capital Markets (“Capital Market Law”), covers issues such as minority protection issues, insider trading, market manipulation, fraud and conflict-of-interest transactions.<sup>2589</sup>

In addition, public companies must also follow the regulations issued by the Financial Services Authority (*Otoritas Jasa Keuangan*, OJK), as well as the listing rules of the Indonesia Stock Exchange, providing the framework for the work of audit committees, non-affiliated directors, independent commissioners, dealing with conflict-of-interest transactions, material transactions and conservative processes for major corporate actions.<sup>2590</sup>

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<sup>2585</sup> SEBI Board Meeting, SEBI 13 January 2014. Access date: 18 December 2016.

[http://www.sebi.gov.in/cms/sebi\\_data/pdffiles/27383\\_t.pdf](http://www.sebi.gov.in/cms/sebi_data/pdffiles/27383_t.pdf).

<sup>2586</sup> Indradhanush plan for revamp of public sector banks, Ministry of Finance of the Republic of India 14.08.2015.

Access date: 27 December 2016. <http://financialservices.gov.in/PressnoteIndardhanush.pdf>.

<sup>2587</sup> An Imperative for Corporate Governance, NSE 30.03.2015. Access date: 27 December 2016.

[https://www.nseindia.com/research/content/res\\_panel\\_1\\_30032015.pdf](https://www.nseindia.com/research/content/res_panel_1_30032015.pdf).

<sup>2588</sup> Indonesia. Corporate Governance 2016, International Comparative Legal Guides 13 June 2016. Access date: 14 December 2016. <http://www.iclg.co.uk/practice-areas/corporate-governance/corporate-governance-2016/indonesia>.

<sup>2589</sup> Indonesia. Corporate Governance 2016, International Comparative Legal Guides 13 June 2016. Access date: 14 December 2016. <http://www.iclg.co.uk/practice-areas/corporate-governance/corporate-governance-2016/indonesia>.

<sup>2590</sup> Indonesia. Corporate Governance 2016, International Comparative Legal Guides 13 June 2016. Access date: 14 December 2016. <http://www.iclg.co.uk/practice-areas/corporate-governance/corporate-governance-2016/indonesia>.

In 2006, Indonesia's National Committee on Governance issued the Code of Good Corporate Governance, providing "reference points for all companies in Indonesia" and "setting a minimum standard" for companies in their implementation of corporate governance practices.<sup>2591</sup> The Code is not a regulation and hence non-binding in its nature, aiming to provide fundamental guidance for companies with respect to the issues general principles of corporate governance, business ethics and code of conduct, shareholders and stakeholders rights and participation, organs and management of the company, etc.<sup>2592</sup>

Implementation, though, is traditionally a weak point of Indonesia's corporate governance practices, due to Indonesia being a "principle-based," "civil law" jurisdiction<sup>2593</sup> and a non-binding nature of the Code. To improve the consistency with the framework and transparency of corporate governance practices, in 2014 OJK released the Indonesia Corporate Governance Roadmap and jointly with the International Finance Corporation of the World Bank Group the Indonesia Corporate Governance Manual.

The purpose of the Roadmap is to strengthen the supervising role of company boards, increase the quality of disclosure and company transparency, and the protection of the rights of shareholders and stakeholders.<sup>2594</sup> It also introduces the "comply-or-explain" approach to corporate governance<sup>2595</sup> contrasting with earlier practices of voluntary implementation of the guidelines.

The Manual<sup>2596</sup> is benchmarked against internationally accepted principles of corporate governance, including the OECD Principles of Corporate Governance.<sup>2597</sup> The Manual is positioned as "a cornerstone for the implementation of good corporate governance in Indonesia" has, among others, provisions for shareholders rights and participation in management, the responsibilities of the board, disclosure and transparency, etc.<sup>2598</sup>

In November 2015, OJK enacted Rule No. 21/POJK.04/2015 on the Implementation of Public Companies' Corporate Governance Guidelines and issued Circular Letter No. 32/SEOJK.04/2015 on Public Companies' Corporate Governance Guidelines, which impose a legal obligation on public companies to implement the Guidelines or, if any of these recommendations have not been implemented, disclose in their annual reports from 31 December 2016 the reason for non-

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<sup>2591</sup> Indonesia's Code of Good Corporate Governance, National Committee on Governance 2006. Access date: 14 December 2016. [http://www.ecgi.org/codes/documents/indonesia\\_cg\\_2006\\_en.pdf](http://www.ecgi.org/codes/documents/indonesia_cg_2006_en.pdf).

<sup>2592</sup> Indonesia's Code of Good Corporate Governance, National Committee on Governance 2006. Access date: 14 December 2016. [http://www.ecgi.org/codes/documents/indonesia\\_cg\\_2006\\_en.pdf](http://www.ecgi.org/codes/documents/indonesia_cg_2006_en.pdf).

<sup>2593</sup> Indonesia. Corporate Governance 2016, International Comparative Legal Guides 13 June 2016. Access date: 14 December 2016. <http://www.iclg.co.uk/practice-areas/corporate-governance/corporate-governance-2016/indonesia>.

<sup>2594</sup> Indonesia Corporate Governance Roadmap, Indonesia Financial Services Authority 2014. Access date: 14 December 2016. [http://www.ojk.go.id/id/data-dan-statistik/ojk/Documents/ROADMAPTATAKELOLAPERUSAHAANINDONESIA\\_1391520776.PDF](http://www.ojk.go.id/id/data-dan-statistik/ojk/Documents/ROADMAPTATAKELOLAPERUSAHAANINDONESIA_1391520776.PDF).

<sup>2595</sup> Indonesia Corporate Governance Roadmap, Indonesia Financial Services Authority 2014. Access date: 14 December 2016. [http://www.ojk.go.id/id/data-dan-statistik/ojk/Documents/ROADMAPTATAKELOLAPERUSAHAANINDONESIA\\_1391520776.PDF](http://www.ojk.go.id/id/data-dan-statistik/ojk/Documents/ROADMAPTATAKELOLAPERUSAHAANINDONESIA_1391520776.PDF).

<sup>2596</sup> The Indonesia Corporate Governance Manual. First edition, Indonesia Financial Services Authority, International Finance Corporation 2014. Access date: 14 December 2016. [https://www.ifc.org/wps/wcm/connect/64185f0042cc3ab0b145fd384c61d9f7/Indonesia\\_CG\\_Manual\\_Feb2014.pdf?M OD=AJPRES](https://www.ifc.org/wps/wcm/connect/64185f0042cc3ab0b145fd384c61d9f7/Indonesia_CG_Manual_Feb2014.pdf?M OD=AJPRES).

<sup>2597</sup> Previous edition of the OECD Principles.

<sup>2598</sup> The Indonesia Corporate Governance Manual. First edition, Indonesia Financial Services Authority, International Finance Corporation 2014. Access date: 14 December 2016. [https://www.ifc.org/wps/wcm/connect/64185f0042cc3ab0b145fd384c61d9f7/Indonesia\\_CG\\_Manual\\_Feb2014.pdf?M OD=AJPRES](https://www.ifc.org/wps/wcm/connect/64185f0042cc3ab0b145fd384c61d9f7/Indonesia_CG_Manual_Feb2014.pdf?M OD=AJPRES).

implementation or any alternative actions taken instead,<sup>2599</sup> i.e., legally enforce the “comply-or-explain” approach to corporate governance. The Guidelines contain recommendations on:<sup>2600</sup>

- Increasing the value of general meetings of shareholders;
- Increasing the quality of communications between public companies and their shareholders or investors;
- Strengthening the membership and composition of the boards of commissioners, improving the quality of implementation of their duties;
- Strengthening the membership and composition of the boards of directors, improving the quality of implementation of their duties;
- Certain policies for stakeholders participation, including a policy to prevent insider trading, an anticorruption and anti-fraud policy, a whistleblowing policy and a policy for giving long term incentives to members of the board of directors and employees;
- Improving disclosure.

Indonesia’s framework for corporate governance has headline and content matchings with the G20/OECD Principles of Corporate Governance,<sup>2601</sup> whereas implementation of this framework by business still leaves a lot to be desired. It is reflected, namely, in the Asian Corporate Governance Association “Corporate Governance Watch 2016” assessment, ranking Indonesia eleventh out of 11 Asian countries.<sup>2602</sup> Moreover, the framework for corporate governance in Indonesia needs to be updated in accordance with the latest edition of the G20/OECD Principles of Corporate Governance, which is to be further monitored throughout the whole compliance period (ending in June 2017). Thus, Indonesia receives a score of 0.

*Analyst: Pavel Doronin*

### **Italy: +1**

Italy has fully complied with the commitment on corporate governance.

In June 2011, the Italian Corporate Governance Committee was set up by the issuers and investors associations (ABI, ANIA, Assonime, Confindustria and Assogestione), as well as the Italian Stock Exchange (Borsa Italiana S.p.A.). The main objective of the Committee is to promote the good corporate governance of Italian listed companies, that has to be pursued either by a constant alignment of the Corporate Governance Code for Listed Companies with best practices and through other initiatives which would enhance the credibility of the Code.<sup>2603</sup>

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<sup>2599</sup> OJK Raises Corporate Governance Standards Imposed on Public Companies, Global Business Guide Indonesia 11 January 2016. Access date: 14 December 2016.

[http://www.gbgingonesia.com/en/main/legal\\_updates/ojk\\_raises\\_corporate\\_governance\\_standards\\_imposed\\_on\\_public\\_companies.php](http://www.gbgingonesia.com/en/main/legal_updates/ojk_raises_corporate_governance_standards_imposed_on_public_companies.php).

<sup>2600</sup> OJK Raises Corporate Governance Standards Imposed on Public Companies, Global Business Guide Indonesia 11 January 2016. Access date: 14 December 2016.

[http://www.gbgingonesia.com/en/main/legal\\_updates/ojk\\_raises\\_corporate\\_governance\\_standards\\_imposed\\_on\\_public\\_companies.php](http://www.gbgingonesia.com/en/main/legal_updates/ojk_raises_corporate_governance_standards_imposed_on_public_companies.php).

<sup>2601</sup> G20/OECD Principles of Corporate Governance. Access date: 1 December 2016. <http://www.oecd-ilibrary.org/docserver/download/2615021e.pdf?expires=1480621751&id=id&accname=guest&checksum=1EF3CB9B4D0C5E6BD69B945528FF37C3>.

<sup>2602</sup> “CG Watch 2016 – Ecosystems Matter”, Asian Corporate Governance Association 29 September 2016. Access date: December 1, 2016. [http://new.acga-asia.org/upload/files/CG\\_Watch\\_2016\\_Press\\_Conference\\_ppt.pdf](http://new.acga-asia.org/upload/files/CG_Watch_2016_Press_Conference_ppt.pdf).

<sup>2603</sup> The Corporate Governance Committee. Access date: 06 January 2017. <http://www.borsaitaliana.it/comitato-corporate-governance/homepage/homepage.en.htm>.



On 5 December 2011, the new edition of Corporate Governance Code of Listed Companies was presented in Milan. «The Corporate Governance Code sets out the best practices of corporate governance, in line with the main international market experience; such practices are recommended by the Committee to all listed companies and they have to be applied according to the comply or explain principle, requiring the explanation of the reasons for any omitted compliance to one or more recommendations set forth by the principles or the criteria of the Code».<sup>2604</sup>

On 9 July 2015, the Corporate Governance Committee, promoted by the most important Italian business associations (i.e., ABI, ANIA, Assonime and Confindustria), the association of institutional investors (i.e., Assogestioni) and the Italian stock exchange (i.e., Borsa Italiana S.p.A.) with the goal of supporting best practices of corporate governance for Italian listed companies, approved several amendments to the Corporate Governance Code (the “Code”). These amendments intend to reflect developing best practices in corporate governance and cover different areas, including corporate social responsibility, the risk profile of the company, the system of internal control and risk management, the role of the Nomination Committee and the compensation of the Statutory Auditors. The new provisions, besides providing some helpful guidance and clarifications on various points, mainly focus on the area of risks, with an emphasis on the risks that can affect the sustainability of an issue.<sup>2605</sup>

On 20 July 2016, The Italian Corporate Governance Committee held a meeting. The Committee pointed out “the importance of the issuers’ and the investors’ need for the stability and the clarity of the self-regulatory framework, also in order to foster an even more substantive compliance with the most recent revisions of the Code. Furthermore, the Committee highlighted the need to investigate issues concerning small and medium enterprises (SMEs)’ corporate governance, the enhancement of the board of directors’ role, the procedures for the appointment of the directors and relations with shareholders – in order to identify areas of improvement in corporate governance practices.”<sup>2606</sup>

On 1-2 December 2016, the Italian Corporate Governance Conference that was hosted by Italian Corporate Governance Committee took place in Milan. Participants discussed such issues as corporate governance and long-term decisions; how environmental, social and governance issues affect the performance of investment portfolios by institutional investors; the opportunities stemming from the challenges posed by “integrated governance.”<sup>2607</sup>

Italy’s set of corporate governance rules and the related policy decisions conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Maria Strelnikova*

## **Japan: 0**

Japan has partially complied with the commitment on corporate governance.

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<sup>2604</sup> New edition of the Italian Corporate Governance Code, Press Releases of the Corporate Governance Committee 5 December 2011. Access date: 06 January 2017. <http://www.borsaitaliana.it/comitato-corporate-governance/news/20111205.en.pdf>.

<sup>2605</sup> The Corporate Governance Code, Corporate Governance Committee July 2015. Access date: 27 December 2016. <http://www.borsaitaliana.it/borsaitaliana/regolamenti/corporategovernance/code2015.en.pdf>.

<sup>2606</sup> Mr. Tommaso Corcos appointed as Deputy Chairman of the Italian Corporate Governance Committee. No revision of the Corporate Governance Code planned for 2016/2017, Press Releases of the Corporate Governance Committee 20 July 2016. Access date: 06 January 2017. <http://www.borsaitaliana.it/comitato-corporate-governance/news/20160720eng.en.pdf>.

<sup>2607</sup> Italy Corporate Governance Conference 2016. Access date: 27 December 2016. <http://icgconference.org>.

The G20/OECD Principles of Corporate Governance<sup>2608</sup> (further stated as the G20/OECD Framework) comprise 6 items.

Principle 1 of the G20/OECD Framework – “Ensuring the basis for an effective corporate governance framework” – has been implemented in Japan through 3 main measures. First, corporate governance reform was granted the highest-level political support by making it an important element of the “the third arrow” of Abenomics (structural reforms for growth). Japan’s corporate governance reform has been implemented by introduction of Japan’s Stewardship Code (Principles for Responsible Institutional Investors)<sup>2609</sup> in 2014 and Japan’s Corporate Governance Code<sup>2610</sup> (guiding corporations in establishing corporate governance structures that are more closely aligned with the global norms). Both Codes are examples of soft legislation applying “comply-or-explain” principle (i.e. “either comply with the principles, or explain why you cannot do so in your personal circumstances”), and are positioned as “the two wheels of a cart such that the sustainable growth of companies will be promoted by both sides of investors and companies.”<sup>2611</sup> To monitor compliance with the two Codes and further improve corporate governance Japan’s Financial Services Agency and Tokyo Stock Exchange have jointly established the “Council of Experts Concerning the Follow-up of Japan’s Stewardship Code and Japan’s Corporate Governance Code.”<sup>2612</sup> The key to implementation of the Codes is inspiring all economic actors to share the aim and spirit of the principles they consist of. This turned out to be a very efficient strategy – as of December 2015, nearly 2,500 Japanese companies had submitted corporate governance reports in accordance with the Corporate Governance Code, out of which 78 percent had reported their compliance with 90 percent of the Code’s principles.<sup>2613</sup>

Principle 2 of the G20/OECD Framework – “The rights and equitable treatment of shareholders and key ownership functions” – is clearly reflected in Japan’s Corporate Governance Code Section 1 “Securing the Rights and Equal Treatment of Shareholders” and Section 5 “Dialogue with Shareholders,” though correspondence between the two is not complete. Both have provisions for protecting basic shareholders’ rights (elimination of impediments to exercising shareholders’ rights, explanation of the strategy to shareholders, effective participation in management through general meetings, etc.), the rights of minority and foreign shareholders, related party transactions, anti-takeover measures, etc. As for absent correspondence, Japan’s Corporate Governance Code has no provisions on efficient and transparent functioning of markets for corporate control.

Principle 3 of the G20/OECD Framework – “Institutional investors, stock markets, and other intermediaries” – is partly reflected in Japan’s Stewardship Code. Both have provisions for disclosing by institutional investors of their governance and voting policies, managing the conflicts of interest. A

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<sup>2608</sup> G20/OECD Principles of Corporate Governance, OECD website. Access date: 21 December 2016. <http://www.oecd-ilibrary.org/docserver/download/2615021e.pdf?expires=1480621751&id=id&accname=guest&checksum=1EF3CB9B4D0C5E6BD69B94528FF37C3>.

<sup>2609</sup> Principles for Responsible Institutional Investors “Japan’s Stewardship Code” – To promote sustainable growth of companies through investment and dialogue, Japan’s Financial Services Agency 26 February 2014. Access date: 21 December 2016. <http://www.fsa.go.jp/en/refer/councils/stewardship/20140407/01.pdf>.

<sup>2610</sup> Japan’s Corporate Governance Code. Seeking Sustainable Corporate Growth and Increased Corporate Value over the Mid- to Long-Term, Tokyo Stock Exchange 1 June 2015. Access date: 21 December 2016. <http://www.jpx.co.jp/english/equities/listing/cg/tvdivq000008jdy-att/20150513.pdf>.

<sup>2611</sup> Enhancing Corporate Governance, Japan Exchange Group website. Access date: 21 December 2016. <http://www.jpx.co.jp/english/equities/listing/cg/>.

<sup>2612</sup> Enhancing Corporate Governance, Japan Exchange Group website. Access date: 21 December 2016. <http://www.jpx.co.jp/english/equities/listing/cg/>.

<sup>2613</sup> Japanese companies fall short on governance best practice, IR Magazine 1 December 2016. Access date: 21 December 2016. <https://www.irmagazine.com/articles/corporate-governance/21748/japanese-companies-fall-short-governance-best-practice/#>.

number of components of the Principle, as stated in the G20/OECD Framework, is not reflected in Japan's Stewardship Code. However, its basic orientation towards "sound incentive throughout the investment chain" is reflected in Japan's Stewardship Code orientation towards "sustainable growth of investee companies" and "constructive engagement with investee companies."

Principle 4 of the G20/OECD Framework – "The role of stakeholders in corporate governance" – is clearly reflected in Japan's Corporate Governance Code Section 2 "Appropriate Cooperation with Stakeholders Other Than Shareholders," though correspondence between the two is not complete. Both have provisions for granting respect towards the rights of stakeholders and reporting about illegal or unethical (inappropriate) practices without compromising the rights of whistleblowers for doing this. However, the correspondence in Japan's Corporate Governance Code is missing for the provisions in the G20/OECD Framework for redress for violation of the rights of stakeholders, permissions to develop mechanisms for employee participation, access to information for the purposes of participating in the governance processes, and the necessity to complement the corporate governance framework with frameworks on insolvency and enforcement of creditor rights.

Principle 5 of the G20/OECD Framework – "Disclosure and transparency" – is clearly reflected in Japan's Corporate Governance Code Section 3 "Ensuring Appropriate Information Disclosure and Transparency," though correspondence between the two is not complete. Types of information to be fully disclosed are almost identical in both frameworks. In the G20/OECD Framework those include financial and operating results; company objectives and non-financial information; major share ownership, including beneficial owners, and voting rights; remuneration of members of the board and key executives; information about board members, including their qualifications, the selection process, other company directorships and whether they are regarded as independent by the board; related party transactions; foreseeable risk factors; issues regarding employees and other stakeholders; governance structures and policies. In Japan's Corporate Governance Code those are financial standing and operating results; non-financial information, including business strategies and business issues, risk and governance, company objectives (e.g., business principles), business strategies and business plans; basic views and guidelines on corporate governance based on each of the principles of the Code; board policies and procedures in determining the remuneration of the senior management and directors; board policies and procedures in the appointment of the senior management and the nomination of directors and *kansayaku*<sup>2614</sup> candidates; explanations with respect to the individual appointments and nominations. Likewise, mostly similar are the provisions of both frameworks on the quality of disclosed information and auditing. However, Japan's Corporate Governance Code, unlike the G20/OECD Framework, has no specific mentioning of "equal, timely and cost-efficient access to relevant information by users" (though it does not seem critical).

Principle 6 of the G20/OECD Framework – "The responsibilities of the board" – is clearly reflected in Japan's Corporate Governance Code Section 4 "Responsibilities of the Board," though correspondence between the two is not complete. Both have provisions for certain key functions of the board (strategy, budget, oversight, appointments, remuneration, etc.), adequate engagement of independent directors), access to information, training of the board, etc. Japan's Corporate Governance Code has no specific mentioning of the principles of operation of the board, such as acting on "informed basis, in good faith, and in the best interest of the company" (though it does not seem critical).

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<sup>2614</sup> Statutory auditor.

Japan has significantly improved its performance on key parameters associated with corporate governance. However, Japan's policies on corporate governance and performance by companies still have a distance to go to achieve full compliance with the G20/OECD Principles of Corporate Governance. Thus, Japan receives a score of 0.

*Analyst: Pavel Doronin*

### **Korea: 0**

Korea has partially complied with the commitment on corporate governance.

Korea's first attempt to improve chaebol-system based corporate governance was taken in 1999 in response to the advice from the International Monetary Fund in the aftermath of the 1997 Asian financial crisis. It resulted in issuing by the Corporate Governance Service<sup>2615</sup> of a non-binding "Code of Best Practices for Corporate Governance" (the "Code"), further revised in 2003 and unchanged since then.<sup>2616</sup>

The "Code" has headline and content matchings with the G20/OECD Principles of Corporate Governance,<sup>2617</sup> namely with respect to the issues of rights and equitable treatment of shareholders, stakeholders participation, functioning and responsibilities of the board, and disclosure.

However, Korea's corporate governance practices are widely recognized as outdated, with Korea ranking last out of 61 countries in a recent survey by the Swiss-based International Institute for Management Development and eighth out of 11 Asian countries as assessed by the Asian Corporate Governance Association.<sup>2618</sup> This finds its reflection in a long-known issue of "Korea discount," meaning that the value of the Korea-originating companies and their products is assessed by the global markets lower their true potential due to obsolete practices of running businesses.<sup>2619</sup>

In recent months the Korean government has been showing its decisiveness to enhance the framework for corporate governance and revise the "Code" (including owing to the impetus received from the G20/OECD Principles of Corporate Governance modified in 2015). It is planned that the updated "Code" will oblige businesses to make public the reasons for non-compliance with the "Code" (comply-or-explain principle).<sup>2620</sup> It is also expected that a "stewardship code," i.e., a voluntary set of behavioral principles institutional investors should follow, will be introduced in Korea under the new framework of corporate governance.<sup>2621</sup>

The work on enhancing the corporate governance framework has already started with passing of the "Act on Governance of Financial Companies," effective since 1 August 2016, which has brought

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<sup>2615</sup> A corporation set up by capital market-related organizations, including the Korea Exchange and the Korea Financial Investment Association. Access date: 6 December 2016. [http://www.cgs.or.kr/ECGS\\_main.asp](http://www.cgs.or.kr/ECGS_main.asp).

<sup>2616</sup> 2003 version of Korea's "Code of Best Practices for Corporate Governance" can be accessed at [http://www.cgs.or.kr/ECGS\\_main.asp?MenuIndex=E](http://www.cgs.or.kr/ECGS_main.asp?MenuIndex=E) (access date: 6 December 2016).

<sup>2617</sup> G20/OECD Principles of Corporate Governance, OECD website. Access date: 1 December 2016. <http://www.oecd-ilibrary.org/docserver/download/2615021e.pdf?expires=1480621751&id=id&accname=guest&checksum=1EF3CB9B4D0C5E6BD69B945528FF37C3>.

<sup>2618</sup> Seoul sets about upgrading lagging corporate governance, The Korea Times 12 September 2016. Access date: 6 December 2016. [http://www.koreatimes.co.kr/www/news/biz/2016/09/123\\_213956.html](http://www.koreatimes.co.kr/www/news/biz/2016/09/123_213956.html).

<sup>2619</sup> Seoul sets about upgrading lagging corporate governance, The Korea Times 12 September 2016. Access date: 6 December 2016. [http://www.koreatimes.co.kr/www/news/biz/2016/09/123\\_213956.html](http://www.koreatimes.co.kr/www/news/biz/2016/09/123_213956.html).

<sup>2620</sup> Ibid. and also Korea's corporate governance still a headache: experts, The Korea Herald 24 October 2016. Access date: 6 December 2016. <http://www.theinvestor.co.kr/view.php?ud=20161024000966>.

<sup>2621</sup> Seoul sets about upgrading lagging corporate governance, The Korea Times 12 September 2016. Access date: 6 December 2016. [http://www.koreatimes.co.kr/www/news/biz/2016/09/123\\_213956.html](http://www.koreatimes.co.kr/www/news/biz/2016/09/123_213956.html).

stricter qualifications for outside directors and introduced a regular review system on the qualification of controlling shareholders.<sup>2622</sup>

It is notable that the presidential crisis in Korea “can spur corporate governance reform at Korea Inc.,” giving the potential successor of President Park “a mandate for sweeping political and corporate changes.”<sup>2623</sup>

Korea’s policies towards corporate governance have a distance to go to achieve full compliance with the G20/OECD Principles of Corporate Governance (to be further monitored throughout the entire compliance period ending in July 2017). Korea, however, is demonstrating its willingness to work in this direction, and the odds are in favor of Korea’s practices’ on corporate governance better compliance with the G20/OECD framework. Thus, Korea receives a score of 0.

*Analyst: Pavel Doronin*

### **Mexico: +1**

Mexico has fully complied with the commitment on the corporate governance.

The General Law of Business Organisations (GLBO) is the statute governing mercantile entities. The most common or used forms of Mexican mercantile entities are the sociedad anónima (SA) and the sociedad de responsabilidad limitada (S de RL). The GLBO was adopted in 1934. In 1997 the Mexican Code of Best Practices of Corporate Governance (the Code) was adopted. The best practices of corporate governance provided for in the Code cover not only publicly held companies (PHCs) but also non-publicly held companies (NPHC) and even non-profit entities. The Code was updated in 2016. The provisions of the Code are not mandatory. The corporate governance best practice codes, including the Cadbury, Greenbury and Hampel Reports (the United Kingdom), the Vienot Report (France) and the Código de las Sociedades Cotizadas (Código Olivencia) (Spain) laid the basis for the Code as well as the OECD corporate governance rules.

Starting from 2001 a number of Laws were adopted, namely the Stock Exchange Law (the Exchange Act), the Banking Institutions Law (the Banking Act), the Law Ruling Financial Groups and the Investment Funds Law making several of the recommendations of the Code mandatory.

Regulations by the CNBV also contain corporate governance matters related to PHCs and other financial entities.

As for December 2016, best practices of corporate governance are mandatory for banks, broker dealers, personal holding companies (PHCs), financial group holding companies and investment funds in Mexico.

According to the rules of the Mexican Stock Exchange (BMV) all information concerning the fulfillment of the best practices of corporate governance described in the Code shall be disclosed to the investors.

Mexico was one of the first countries in Latin America that adopted a best practice corporate governance code.

Now Mexico works on inclusion of mandatory best practices of corporate governance in the GLBO.<sup>2624</sup>

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<sup>2622</sup> Korea’s corporate governance still a headache: experts, The Korea Herald 24 October 2016. Access date: 6 December 2016. <http://www.theinvestor.co.kr/view.php?ud=20161024000966>.

<sup>2623</sup> Ongoing presidential scandal can spur corporate governance reform at Korea Inc, Global Times 27 November 2016. Access date: 6 December 2016. <http://www.globaltimes.cn/content/1020532.shtml>.

On 8-9 September 2016, Mexico participated in the 2016 Meeting of the Latin American Corporate Governance Roundtable held in San José, Costa Rica and shared its experience in developing, monitoring and use of voluntary corporate governance codes as well as legal and regulatory requirements for disclosure.<sup>2625</sup>

On 8-9 September 2016, the VI Private Capital Update Forum was organized by the Mexican Association of Private Capital (AMEXCAP) with contribution from Mexican Capitalization and Investment Fund for the Rural Sector (FOCIR). The Forum aimed to bring together financial sector decision makers and representatives of consulting firms, funds and law firms with experience in corporate law to discuss the best regulatory and corporate governance practices in companies.<sup>2626</sup>

On 15 September 2016, the amendment to the General Corporations Law (“LGSM”) came into effect introducing the Simplified Stock Company (“Sociedad por Acciones Simplificada or SAS”). The SAS was created to enable individual entrepreneurs to incorporate a company in a much faster procedure through an online application without cost and a need of a public notary. This type of company can be approved within 24 hours online through the electronic system established by the Ministry of Economy of Mexico.<sup>2627</sup>

Mexico has made only corporate governance-related policy decisions made during the monitoring period and/or upholds existing set of corporate governance rules which conform to the G20/OECD Principles of Corporate Governance. Thus, Mexico receives a score of +1.

*Analyst: Elizaveta Safonkina*

#### **Russia: +1**

Russia has fully complied with the commitment on corporate governance.

In July 2016, Russian Prime-Minister signed the order on improving the corporate governance in Russian companies related to the protection of rights of minority investors. The new regulations include the following provisions:

- Increasing transparency of the Russian companies ownership structure, the protection of rights of minority investors during transaction with the conflict of interest, reorganization, increase of registered capital and concentration of considerable portfolio of shares by specific investors;
- Settlement of the issues related to control of financial and operational activities of companies and the responsibility in case of infliction of losses to the companies;
- Increasing effectiveness and transparency of management in the companies, including in the public sector.<sup>2628</sup>

The new regulation is expected to increase the rank of Russia in the Minority Investors Protection index within the World Bank Doing Business rating.

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<sup>2624</sup> Corporate Governance 2017. Mexico. Published on Monday, 12 December 2016. <http://latinlawyer.com/reference/topics/69/jurisdictions/16/mexico/>.

<sup>2625</sup> The 2016 Meeting of the Latin American Corporate Governance Roundtable. Date of access: 25 November 2016. <http://www.oecd.org/daf/ca/LART-2016-Key-Highlights-and-Conclusions.pdf>.

<sup>2626</sup> FOCIR participa en el VI Foro de Actualización de Capital Privado organizado por la Asociación Mexicana de Capital Privado (AMEXCAP). Date of access: 26 November 2016. <https://www.gob.mx/focir/articulos/focir-participa-en-el-vi-foro-de-actualizacion-de-capital-privado-organizado-por-la-asociacion-mexicana-de-capital-privado-amexcap?idiom=es>.

<sup>2627</sup> Mexico. Corporate Governance 2016. Date of access: 26 November 2016. <http://www.iclg.co.uk/practice-areas/corporate-governance/corporate-governance-2016/mexico>.

<sup>2628</sup> Правительство защитило миноритарных инвесторов, Ministry of Economic Development for the Russian Federation, 7 May 2016 <http://economy.gov.ru/minec/about/structure/banking/20160705>

In March 2016, when discussing draft Guidelines for the Development of the Russian Financial Market in 2016–2018 the Russian Prime-Minister emphasized that the Government would continue to “improve the mechanisms of corporate governance of joint stock companies and protect the rights of minority shareholders.”<sup>2629</sup>

In May 2016 the Board of Directors of the Bank of Russia approved the Guidelines for the Development of the Russian Financial Market in 2016–2018. One of the goals of the document is “enhancing investor appeal for the equity financing of public companies via improved corporate governance.” According to the Guidelines the Bank of Russia plans to implement measures to refine the principles of corporate governance and to introduce them into the practice of public companies in order to “raise the efficiency of enterprises and the attractiveness of the domestic financial market to both internal and external investors.”

Russia has made corporate governance-related policy decisions during the monitoring period and upheld existing set of corporate governance rules which conform to the G20/OECD Principles of Corporate Governance. Thus, Russia receives a score of +1.

*Analyst: Mark Rakhmangulov*

### **Saudi Arabia: +1**

Saudi Arabia has fully complied with the commitment on corporate governance.

The Corporate Governance Regulations dated 12 November 2006 is the key document in the area of corporate governance in Saudi Arabia. The Regulations generally apply to joint-stock companies listed on the Saudi Arabian capital market. The rules of the Regulations were initially not mandatory, however since January 2009 listed companies were required by the Capital Market Authority (CMA) to comply with certain rules of the Regulations for the purpose of enhancing transparency and protecting shareholders’ rights. These selected mandatory rules require the directors’ annual report to include information about compliance with the Corporate Governance Regulations; the composition of the board of directors and the balance between executive and non-executive directors, and the other joint-stock companies directors holding a seat in its board of directors; a brief description of the composition of committees formed by the board of directors, such as audit, nomination and remuneration committees; the details of compensation and remuneration paid to the chairman, board members and the highest-paid five executives; any punishment, penalty or restrictions imposed on the company by any regulatory, executive or judicial authority, and the annual review of the effectiveness of its internal audit. In line with its efforts towards boosting transparency in the Saudi capital market, the CMA adopted other amendments to the mandatory rules of the Corporate Governance Regulations in 2009 and 2010. The purpose of these amendments was to clarify the definition and selection criteria of an “independent member,” and disclosures required in relation to conflict of interest and remuneration of board members.<sup>2630</sup>

On 14 March 2016, the Ministry of Commerce and Industry started implementing the new Corporate Law designed to increase the companies’ value, reduce procedure costs and stimulate business initiatives. The new system provides the appropriate framework for practice of fair corporate

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<sup>2629</sup> Draft guidelines on the Russian financial market’s development in 2016-2018, Excerpts from Dmitry Medvedev's opening remarks at the Government meeting, 3 March 2016. <http://government.ru/en/news/22051/>

<sup>2630</sup> Stricter Corporate Governance in Saudi Arabia, King and Spalding 20.06.2011. Access Date: 29 December 2016. <http://www.kslaw.com/imageserver/KSPublic/library/publication/ca062011.pdf>.

governance principles in terms of transparency and disclosure and allows for a more important role of the shareholders' associations and boards of directors in shaping the corporate strategies.<sup>2631</sup>

On 6 April 2016, the Ministry of Commerce and Investment announced that the officials of 12 joint stock and limited liability companies were referred to the Bureau of Investigation and Public Prosecution because of violating the Corporate Law. The violations included non-compliance with the mandatory rules and regulations such as non-revealing the amendments occurred in the company's contract and recorded in the Commercial Registration, non-disclosure of the transactions in which officials had a personal interest, delay in issuing the annual budgets, lack of commitment to provide the shareholders or partners with the annual reports on the companies' activities, preventing partners from having access to company's documents.<sup>2632</sup>

On 11 April 2016, the Ministry of Commerce and Industry called on the public to express opinions, views and suggestions on the Draft of Non-Profit Corporate Law. The important objectives of the draft are the following: addressing the endowment issues; supporting the public sector in achieving sustainable and comprehensive development targets; developing the regular environment of the non-profit work.<sup>2633</sup>

On 17 April 2016, the Ministry of Commerce and Industry issued a number of circulars on the protection of the minority shareholders' rights. These circulars comply with the current corporate law and aim to raise transparency and disclosure of companies operating in the country: 1) Circular No. 24230 obliges all Board of Directors members of joint stock companies not to be engaged in any activity that would compete with the company's business or do it only after obtaining a license from the company's General Assembly; 2) Circular No. 24233 recommends all joint-stock companies to include in their boards of directors people who meet the necessary requirements on experience, competence and honesty; 3) Circular No. 24231 concerns all limited liability companies distributing profits among their partners; 4) Circular No. 24232 obliges all limited liability companies to hand over invitations to their partners to attend assembly meetings not later than 30 days prior to the date of the meeting.<sup>2634</sup>

On 26 April 2016, the Ministry of Commerce and Investment and the Capital Market Authority published the draft Corporate Governance Regulations and invited the public to submit comments on them. In the Draft the agencies reiterated the importance for companies to adopt clear, efficient and sound decision-making processes which help protect shareholders and stakeholders.<sup>2635</sup>

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<sup>2631</sup> The New Corporate Law Comes Into Force Today, Monday 25.07.1437 H, As Confirmed By MCI, Ministry of Commerce and Investment 2.05.2016. Access Date: 21 December 2016. <https://mci.gov.sa/en/MediaCenter/News/Pages/02-05-16-01.aspx>.

<sup>2632</sup> For The Protection Of The Corporate Shareholders, MCI Referred Twenty Four Company Officials For Investigation Recently, Ministry of Commerce and Investment 6.04.2016. Access Date: 21 December 2016. <https://mci.gov.sa/en/MediaCenter/News/Pages/05-04-16-01.aspx>.

<sup>2633</sup> MCI Requests The Opinions Of The Public On The Draft Of Non-Profit Corporate Law, Ministry of Commerce and Investment 11.04.2016. Access Date: 21 December 2016. <https://mci.gov.sa/en/MediaCenter/News/Pages/10-04-16-01.aspx>.

<sup>2634</sup> MCI Has Issued A Number Of Circulars To Improve The Indicators Of Protecting The Minority Shareholders' Right And To Enhance The Competitive Environment In The Kingdom, Ministry of Commerce and Investment 26.04.2016. Access Date: 21 December 2016. <https://mci.gov.sa/en/MediaCenter/News/Pages/26-04-16-02.aspx>.

<sup>2635</sup> Key Highlights Of The Draft Saudi Arabian Corporate Governance Regulations, Mondaq 17.05.2016. Access Date: 29 December 2016. <http://www.mondaq.com/saudiarabia/x/491962/Corporate+Governance/Key+Highlights+Of+The+Draft+Saudi+Arabian+Corporate+Governance+Regulations>.



Saudi Arabia's set of corporate governance rules and related policy decisions conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Aydar Shakirov*

### **South Africa: +1**

South Africa has fully complied with the commitment on the corporate governance.

Corporate governance in South Africa is regulated by both hard and soft law. Hard law is represented by Companies Act of 2008, which contains major principles and norms in these sphere. It includes provisions on formation, administration and dissolution of companies, enhanced accountability and transparency, public offerings of company securities, fundamental transactions, takeovers and offers, business rescue and compromise with creditors.<sup>2636</sup> These spheres are regulated by principles which correspond to G20/OECD Principles of Corporate Governance.

Major piece of soft legislation is King's Report which contains the best practices of corporate governance and supplements and compliments Companies Act. Listed companies whose shares are present at Johannesburg Stock Exchange have to fulfill the requirements disclosed in King's report.<sup>2637</sup> Principles and goals of King's Reports intersect greatly with G20/OECD Principles of Corporate Governance and in some cases coincide with them.

Also there is the Code for Responsible Investing in South Africa (CRISA) which came into effect in 2012 and required companies to apply the principles of King Report and, if not, to explain why the principles are not applied. CRISA applies to institutional investors as asset owners, (pension funds and insurance companies) as well as to service providers of institutional investors (asset and fund managers). CRISA encourages companies to apply sound governance principles through investee companies' share ownership.<sup>2638</sup>

South Africa upholds existing set of corporate governance rules which conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Irina Popova*

### **Turkey: +1**

Turkey has fully complied with the commitment on corporate governance.

On 3 January 2014, major piece of legislation regulating corporate governance in Turkey came into effect.<sup>2639</sup> The new Corporate Governance Communiqué among other issues sets the main principles of corporate governance. These principles regulate:

#### 1. Shareholders' rights and their protection.

The major components here are facilitation of exercise of shareholders' rights, right to obtain information, regulation of voting and minority rights, payment of dividends and transfer of shares.

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<sup>2636</sup>No. 71 of 2008: Companies Act, 2008, South African Government 9 April 2009. Access date: 17 January 2017.

[http://www.gov.za/sites/www.gov.za/files/32121\\_421\\_0.pdf](http://www.gov.za/sites/www.gov.za/files/32121_421_0.pdf).

<sup>2637</sup>King IV Report on Corporate Governance for South Africa 2016. Adams&Adams. Access date: 17 January 2017.

[http://www.adamsadamsip.com/wp-content/uploads/2016/05/King\\_IV\\_Report\\_draft.pdf](http://www.adamsadamsip.com/wp-content/uploads/2016/05/King_IV_Report_draft.pdf).

<sup>2638</sup>Code for Responsible Investing in SA (CRISA), Institute of Directors South Africa. Access date: 17 January 2017.

<http://www.iodsa.co.za/?page=CRISACode>.

<sup>2639</sup>Communique on Corporate Governance, Erdem&Erdem. Access date: 17 January 2017. [http://www.erdem-erdem.av.tr/publications/law-post/communiqu\\_per\\_centC3\\_per\\_centA9-on-corporate-governance-i/](http://www.erdem-erdem.av.tr/publications/law-post/communiqu_per_centC3_per_centA9-on-corporate-governance-i/).

2. Public disclosure

Under this section of principles two issues are disclosed: company's website and annual reports.

3. Stakeholders' rights and scope of participation

This set of principles regulates Corporation's policy on stakeholders, human resources policy of the corporation, relations with customers and suppliers, ethical rules and social responsibility.

4. Board of directors and its functions and responsibilities.

This section sets the principles in the following aspects: function of the board of directors, structure of the board of directors, procedure of board of directors meetings, committees formed within the structure of the board of directors, audit committee, corporate governance committee, nomination committee, remuneration committee, financial rights provided for members of the board of directors and executives.<sup>2640</sup>

Thus principles of corporate governance in Turkey coincide with the G20/OECD Principles of Corporate Governance.

Turkey upholds existing set of corporate governance rules which conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Irina Popova*

**United Kingdom: +1**

The United Kingdom has fully complied with the commitment on corporate governance.

The United Kingdom Corporate Governance Code, adopted in September 2014, specifies provisions relating to the role of the board, division of responsibilities between the running of the board and the executive responsibility for the running of the business, chairman's responsibilities, duties of non-executive directors, composition and appointment of the board, the amount of time directors commit to their responsibilities, human resource development, election of directors, financial and business reporting standards, risk management and internal control, audit committee composition and responsibilities, procedures on executive remuneration, dialogue with stakeholders, and general meetings procedure. The Code is based on a well-defined list of main principles divided into five sections: leadership, effectiveness, accountability, remuneration, and relations with stakeholders.<sup>2641</sup> None of the abovementioned principles, and regulations, established by the Code, were found to be in contradiction to the G20/OECD Principles of Corporate Governance.

On 29 November 2016, the Department for Business, Energy & Industrial Strategy launched a public consultation on measures to strengthen corporate governance. The measures proposed by the government body included: strengthening the corporate governance framework for the UK's largest privately-held companies, determining which types of companies need to strengthen stakeholder voices and how best the opinions of workers and customers can be better heard in the boardroom,

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<sup>2640</sup>II-17.1 Communiqué On Corporate Governance, European Corporate Governance Institute. Access date: 17 January 2017. [http://www.ecgi.org/codes/documents/turkey\\_code\\_3jan2014\\_en.pdf](http://www.ecgi.org/codes/documents/turkey_code_3jan2014_en.pdf).

<sup>2641</sup>The UK Corporate Governance Code, Financail Reporting Council. Access date: 17 January 2017. <https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/UK-Corporate-Governance-Code-2014.pdf>.

and increasing shareholder influence over directors' remuneration, including increasing transparency and simplifying and strengthening long-term incentive plans.<sup>2642</sup>

The United Kingdom maintains a set of corporate governance rules which conforms to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Elina Nizamova*

### **United States: +1**

United States fully complied with the commitment on corporate governance.

In the US corporate governance is regulated on the level of states. Each of them has its own corporate law, with Delaware General Corporation Law being one of the most important and influential one as more than 50 per cent of all publicly-traded companies in the United States have chosen Delaware as a place for their registration.<sup>2643</sup>

However, there are two major pieces of federal legislation which contain important provisions on corporate governance principles.

On 30 July 2002, Public Law 107–204 or Sarbanes-Oxley Act (SOX Act) was adopted to protect investors from fraudulent accounting activities by corporations. The SOX Act mandated strict reforms to improve financial disclosures from corporations and prevent accounting fraud.

The two main provisions of the Sarbanes-Oxley Act required senior management to “certify the accuracy of the reported financial statement” and “establish internal controls and reporting methods on the adequacy of those controls.” In the SOX Act also outlined requirements to IT-departments regarding electronic records and their storing.<sup>2644</sup>

This act became a major step towards transparency and introduced strict disclosure principles and requirements. It fully corresponds with the fifth G20/OECD Principle of Corporate Governance and does not violate the others.

On 21 July 2010, the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank) was signed into federal law. Title IX “Investor Protections and Improvements to the Regulation of Securities,” Subtitle G “Strengthening Corporate Governance” of the act served to improve the protection of shareholders and stakeholders’ rights and corporate governance principles in general. It provides that the Securities and Exchange Commission can “issue rules and regulations that include a requirement that permit a shareholder to use a company’s proxy solicitation materials for the purpose of nominating individuals to membership on the board of directors.” The company also has to tell investors the reason “why the same person is to serve as chairman of the board of directors and chief executive officer, or why different individuals are to serve as chairman of the board of directors and chief executive officer.”<sup>2645</sup>

This act improves the protection of rights of shareholders and stakeholders and is compliant with the first and the fourth G20/OECD Principles of Corporate Governance and does not violate the others.

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<sup>2642</sup>Government launches review of corporate governance 29 November 2016. Access Date: 15 December 2016.

<https://www.gov.uk/government/news/government-launches-review-of-corporate-governance>.

<sup>2643</sup>Division of Corporations, About Agency, the Official Web-site of Delaware State. Access date: 13 January 2017.

<http://www.corp.delaware.gov/aboutagency.shtml>.

<sup>2644</sup>Public Law 107–204—July 30, 2002, Securities and Exchange Commission. Access date: 13 January 2017.

<https://www.sec.gov/about/laws/soa2002.pdf>.

<sup>2645</sup>Dodd-Frank Wall Street Reform and Consumer Protection Act, United State Government Publishing Office 21 July 2010. Access date: 13 January 2017. <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/html/PLAW-111publ203.htm>.

The United States has made only corporate governance-related policy decisions made during the monitoring period and/or upholds existing set of corporate governance rules which conform to the G20/OECD Principles of Corporate Governance. Thus, the United States receives a score of +1.

*Analyst: Irina Popova*

### **European Union: +1**

The European Union has fully complied with the commitment on corporate governance.

The EU corporate governance strategy was clearly defined in two action plans, published by the European Commission in 2003 and 2012. These long-term action plans are aimed at developing corporate governance practices, increasing competitiveness, and developing sustainability among European companies. The EU Action Plan 2003 established 4 pillars for corporate governance reforms: 1) Modernizing the board of directors – boards should comprise a balance of executive and nonexecutive directors so that no individual or group of individuals can dominate decision making; a sufficient number of independent directors should be elected to the board of companies to ensure that any material conflict of interest involving directors will be properly dealt with; European listed companies should disclose their remuneration policy and remuneration details of individual directors in their annual report; there should be collective responsibility of all board members for both financial and nonfinancial reporting; 2) Enhancing corporate governance disclosure – all listed companies in the EU should include in their annual report a comprehensive corporate governance statement covering the key elements of their governance structures and practices; 3) Strengthening shareholders' rights – shareholders should have similar rights throughout the EU; 4) Coordinating corporate governance initiatives in member states. The EU Action Plan 2012 envisages new provisions for reporting on board diversity, risk management, and executive remuneration as well as for improving the quality of corporate governance reports, especially explanations made under the comply-or-explain framework.<sup>2646</sup>

On 22-23 September 2016, the Annual Conference on European Company Law and Corporate Governance was held in Trier, Germany. Its key topics: case law and legislation; the Fourth Anti-Money Laundering Directive and the Market Abuse Regulation; sustainable companies and European corporate governance; employee co-determination rules across Europe; the role of foreign employees in codetermination in the light of case C-566/15 *Erzberger*.<sup>2647</sup>

On 28 September 2016, the European Commission proposed a new inter-institutional agreement on the lobby transparency register. The Commission announced that it will not give an extension to its own ban on high-level officials meeting with unregistered lobbyists and that it will simplify the financial disclosure requirements on lobby consultancies and streamline the definition of lobbying used in the register. The proposed new register will be mandatory but not legally-binding.<sup>2648</sup>

On 27 October 2016, the 19th European Corporate Governance Conference was held in Bratislava, Slovakia. The key topic of the conference was “Digitization and Transparency” and their impact on

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<sup>2646</sup> A Guide to Corporate Governance Practices in the European Union, International Finance Corporation 2015. Access date: 29 December 2016.

[http://www.ifc.org/wps/wcm/connect/c44d6d0047b7597bb7d9f7299ede9589/CG\\_Practices\\_in\\_EU\\_Guide.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/c44d6d0047b7597bb7d9f7299ede9589/CG_Practices_in_EU_Guide.pdf?MOD=AJPERES).

<sup>2647</sup> Annual Conference on European Company Law and Corporate Governance 2016, Academy of European Law 23.09.2016. Access date: 21 December 2016. [https://www.era.int/cgi-bin/cms?\\_SID=NEW&\\_sprache=en&\\_bereich=artikel&\\_aktion=detail&idartikel=125716](https://www.era.int/cgi-bin/cms?_SID=NEW&_sprache=en&_bereich=artikel&_aktion=detail&idartikel=125716).

<sup>2648</sup> ALTER-EU reaction to Commission's announcement on transparency register, Access Info Europe 28.09.2016. Access date: 21 December 2016. <https://www.access-info.org/eut/26277>.

the corporate governance. The program included plenary sessions and panel debates around recent developments in corporate governance, new tendencies and innovations in digitalization.<sup>2649</sup>

On 21 November 2016, the European Banking Authority (EBA) published additional information related to the application of the proportionality principle to the remuneration provisions laid down in the Capital Requirements Directive in response to a request for advice from the European Commission. The additional information is a follow-up to the Opinion on the application of proportionality issued in December 2015.<sup>2650</sup>

On 22 November 2016, the European Commission proposed a Directive of the European Parliament and of the Council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU. The proposal on business restructuring and rights of shareholders will predominantly contribute to "prevention", the rules on avoidance, insolvency practitioners and judicial or administrative authorities to 'value recovery' and the rules on second chance to 'debt discharge'.<sup>2651</sup>

On 24 November 2016, the CFA Institute published the report "Corporate Governance Policy in the European Union: Through an Investor's Lens." According to the report, investors believe that EU can do more to simplify mechanisms on corporate accountability and reap maximum value from the undertaken reforms. Besides, investors are open to many stakeholder issues, such as environmental reporting, promoting board diversity and good corporate citizenship.<sup>2652</sup>

The European Union upholds existing set of corporate governance rules which conform to the G20/OECD Principles of Corporate Governance. Thus, it receives a score of +1.

*Analyst: Aydar Shakirov*

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<sup>2649</sup> Digitization and Transparency – transforming the future of corporate governance? EY, 27.10.2016. Access date: 21 December 2016. [https://emeia.ey-vx.com/969/46335/june-2016/invitation-slovakia\(1\).asp?sid=3f2ef52b-99f8-4f78-9409-5b69605acddf#](https://emeia.ey-vx.com/969/46335/june-2016/invitation-slovakia(1).asp?sid=3f2ef52b-99f8-4f78-9409-5b69605acddf#).

<sup>2650</sup> EBA provides overview on the proportionate application of remuneration requirements across the EU, European Banking Authority 21.11.2016. Access date: 21 December 2016. <http://www.eba.europa.eu/-/eba-provides-overview-on-the-proportionate-application-of-remuneration-requirements-across-the-eu>.

<sup>2651</sup> Proposal for a Directive of the European Parliament and of the Council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU, European Commission 22.11.2016. Access date: 21 December 2016. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:723:FIN>.

<sup>2652</sup> Report on corporate governance policy in the European Union, IASPlus 24.11.2016. Access date: 21 December 2016. <http://www.iasplus.com/en/news/2016/11/corporate-governance>.