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THE NEW CORPORATE GOVERNANCE LANDSCAPE AND ITS IMPACT ON THE COMPANIES' FUTURE

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Abstract
The world regulatory landscape of the corporate governance (CG) changed substantially in the last six years having an impact on the company's business operations and ability to attract capital necessary for the economic growth of the company as the quality of CG significantly contributes to the enhancement of investor and shareholder confidence in the company. Therefore, good corporate governance is a key factor in attracting both local and foreign investments, retaining investor confidence in the company and increasing the company's competitiveness. Corporate governance refers to having the appropriate people, processes, and structures to direct and manage the business and affairs of the company to enhance long-term shareholder value, whilst considering the interests of other stakeholders. Companies that embrace the tenets of good governance, including accountability, transparency, and sustainability, are more likely to engender investor confidence and achieve long-term sustainable business performance. The attention paid to the international dynamics of corporate governance evolution has led, for example, to a focus on sustainability, through the persistence in promoting the long-term success of the company and its contribution to the community at large. Also in recent years, there has been an increased focus on the role of shareholders/investors in listed companies based on the revised EU legal framework of the dedicated Directive. In addition, G20 and OECD CG principals from 2015 and Paris Agreement from 2015 determined a lot of amendments to the CGC of the capital markets worldwide. The authors will present in this research paper the main directions of the mentioned legal provisions and their impact on the CGC analyzed in the seven years and the new directions for changes proposed by the G20 and OCED after the consultations from 2022.

Keywords: *ESG values, sustainability, long-term value creation, shareholder value maximization, investors, Codes of corporate governance*

JEL Classification: A13, G10, G11, G23, G32, G34, G41, Q56

I. INTRODUCTION

ESG, commonly referred to as environmental, social, and corporate governance (ESG), is a framework that is intended to be integrated into an organization's strategy and considers the requirements and opportunities to create value for all organizational stakeholders (such as employees, customers and suppliers and financiers) (Gelles, 2023).

Stakeholders can utilize ESG corporate reporting to evaluate the important sustainability-related risks and opportunities that are pertinent to a firm. Using models built on the premise that the identification, assessment, and management of sustainability-related risks and opportunities in respect of all organizational stakeholders results in higher long-term risk-adjusted return, investors may use ESG data in addition to assessing material risks to the organization in their evaluation of enterprise value (SASB, 2022).

Customers, suppliers, workers, the leadership, and the environment are just a few examples of organizational stakeholders. Based on their 1980s-era research, the United Nations has increased pressure since 2020 to overlay ESG data with the Sustainable Development Goals (SDGs) (UN Report, 2022).

The phrase "ESG" was first used in a study titled "Who Cares Wins" in 2004, which was a collaborative effort of financial firms at the request of the UN (UN Environment Program, 2023). The ESG movement has evolved from a United Nations-sponsored corporate social responsibility program into a worldwide phenomenon with more than US$30 trillion in assets under management in less than 20 years (GreenBiz, 2023).

According to Morningstar, Inc., money invested in ESG-linked products reached US$17.67 billion in 2019 alone, an almost 525 percent increase from 2015 (Chung J and Michaels D, 2019). Opponents accuse the movement of greenwashing and assert that ESG connected goods have not had and are unlikely to have the desired effect of raising the cost of capital for polluting enterprises (Armstrong, 2022).

Depending on the writer's objectives, corporate governance is defined, described, or characterized in a variety of ways. Authors who are interested in a particular discipline or setting (such as accounting, finance, law, or management) frequently utilize constrained definitions that seem to have a single purpose. Broader structural descriptions are repeatedly used by authors who are concerned with regulatory policy in connection to corporate governance procedures. "Corporate governance explains the processes, institutions, and procedures that impact the control and direction of organizations" is a wide (meta) definition that incorporates several approved definitions (Shailer Greg 2023).

Three texts published since 1990—The Cadbury Report (UK, 1992), the Principles of Corporate Governance (OECD, 1999, 2004 and 2015), and the Sarbanes-Oxley Act of 2002—have become common references in debates about corporate governance today (US, 2002). The papers from Cadbury and the Organization for Economic Co-operation and Development (OECD) outline basic guidelines for how corporations should conduct themselves to ensure good governance. The Sarbanes-Oxley Act, sometimes known as Sarbox or SOX informally, is an effort by the federal government of the United States to enact legislation that adheres to several of the guidelines suggested in the Cadbury and OECD studies.

Customer expectations are always evolving along with the rest of the globe. Nowadays, businesses are being held to a higher standard than they were in the past. They must address matters of social justice and the environment. Being socially conscious is now a corporate growth strategy rather than a need. Customers nowadays are more likely to associate with companies that are taking proactive steps to address social and environmental challenges through corporate social responsibility programs.

CSR is a moral means to improve the company, the workers, and the society sense of corporate responsibility. It is a framework that enables businesses to serve the requirements of shareholders, employees, and consumers while also giving back to society. It entails non-financial actions such as fostering a favorable business image, exhibiting company values, and pledging to do good in the communities in which they operate.

Companies should be based on social responsibility and sustainability. Profits will come after. One of the guiding principles is that to prosper, we must lift both hands: one to assist ourselves, the other to assist others. CSR is an essential component of operating a business, and businesses should think about engaging in active CSR. In other words, it ought to be a "must-have" for enterprises.

Consumers today are aware of how their purchasing choices affect the environment. They care about how companies spend their money and hold corporations accountable for any carelessness in dealing with the public. You run the risk of losing clients who are choosing to patronize businesses that place a high value on sustainability if your company has not shown a commitment to CSR. Hence, implementing CSR initiatives will assist you in retaining current clients and luring in new ones that share your beliefs.

II. LITERATURE REVIEW

1.The G20/OECD Principles of Corporate Governance from 2015

These Principles help policy makers evaluate and improve the legal, regulatory, and institutional framework for corporate governance, with a view to supporting economic efficiency, sustainable growth, and financial stability. First published in 1999, the principles have since become the international benchmark. In 2015, the updated Principles were endorsed by the OECD Council and the G20 Leaders' Summit.

The G20/OECD Principles of Corporate Governance provide this benchmark. They clearly identify the key building blocks for a sound corporate governance framework and offer practical guidance for implementation at a

national level. Partnering with the G20 gives the Principles a global reach and further underlines that they reflect experiences and ambitions in a wide variety of countries at different stages of development and with varying legal systems. To be relevant, it is essential that corporate governance rules and regulations are adapted to the reality in which they will be implemented. That is why the update of the Principles has been supported by extensive empirical and analytical work on emerging trends in both the financial and corporate sectors. This includes corporate governance lessons from the global financial crisis, the increase in cross-border ownership, changes in the way that stock market's function and the consequences of a longer and more complex investment chain from household savings to corporate investments. The conclusions of this fact-based research are reflected in the recommendations. The Principles also address the rights of the many stakeholders whose jobs and retirement savings depend on the performance and integrity of the corporate sector (OECD G 20, 2015).

The Principles are presented in six different chapters:

I) Ensuring the basis for an effective corporate governance framework.
II) The rights and equitable treatment of shareholders and key ownership functions.
III) Institutional investors, stock markets, and other intermediaries.
IV) The role of stakeholders.
V) Disclosure and transparency
VI) The responsibilities of the board.

Each chapter is headed by a single principle that appears in bold italics and is followed by several supporting sub-principles. The Principles are supplemented by annotations that contain commentary on the Principles and are intended to help readers understand their rationale. The annotations may also contain descriptions of dominant or emerging trends and offer alternative implementation methods and examples that may be useful in making the Principles operational.

2. The Corporate Governance framework according to the Paris Agreement

An international agreement on climate change which is known as the Paris Agreement, sometimes as the Paris Accords or the Paris Climate Accords. The agreement, which was adopted in September 2015, addresses financing, adaptation, and mitigating climate change. 195 parties engaged in negotiations on the Paris Agreement during the 2015 United Nations Climate Change Conference in the vicinity of Paris, France. The deal was intended to be ratified by 196 parties as of February 2023, according to the United Nations Framework Convention on Climate Change (UNFCCC). Iran is the only significant emitter among the four UNFCCC member states that have not signed the accord. In 2020, the United States left the accord, but returned in 2021.

On April 22, 2016, also known as Earth Day, a ceremony in New York officially opened the Paris Agreement for signing. Once the European Union approved the deal, enough nations had done so that accounted for enough of the world's greenhouse gas emissions for it to go into effect on November 4, 2016.

Given that doing so would significantly lessen the consequences of climate change, the Paris Agreement's long-term temperature objective is to restrict the rise in the average world temperature to far below 2 °C (3.6 °F) over pre-industrial levels, and preferably to 1.5 °C (2.7 °F). By the middle of the twenty-first century, emissions should be net-zero and to reach this goal emissions reductions should begin now. Until 2030 the Emissions must be reduced by around 50% to keep global warming below 1.5 °C. This is the sum of the nationally defined contributions from each nation (Schleussner, 2022).

It aspires to raise enough money and assist nations in coping with the repercussions of climate change. Each nation is required to decide, organize, and periodically report on its contributions under the agreement. The setting of precise emissions objectives is not mandated by any process, although each target should be higher than the one before it. The line between industrialized and developing nations is blurred, in contrast to the 1997 Kyoto Protocol, such that the latter must also submit plans for emission reductions.

The pact was praised by international leaders, but several environmentalists and experts condemned it for not being sufficiently binding. The efficacy of the accord is up for discussion. There is a mechanism for higher ambition, even though present commitments made under the Paris Agreement are insufficient to meet the established temperature objectives. Climate litigation has effectively leveraged the Paris Agreement to compel nations and an oil business to step up their climate efforts. Brazil's Supreme Federal Court has recognized the Paris Accord as a human rights pact on July 4, 2022.

The Paris Accord is a succinct document with 29 articles and 16 opening lines. It includes operational and procedural elements, such as the requirements for entrance into force (mitigation, adaptation, and finance).

Although many of its articles do not imply duties or are meant to ease international collaboration, it is a binding agreement (Savaresi, 2016). The International Civil Aviation Organization and the International Maritime Organization, respectively, oversee international aviation and shipping, which are exempt from its coverage of the majority of greenhouse gas emissions (Dessler and Parson, 2020).

According to Article 2, the goal of the agreement is to respond more forcefully to the threat posed by climate change. It tries to improve the UNFCCC's implementation on Climate Change:

a) Recognizing that limiting the temperature increase to 1.5 °C, over pre-industrial levels would greatly decrease the risks and consequences of climate change, efforts should be made to keep the increase in the global average temperature well below 2 °C.
b) Fostering climate resilience and low greenhouse gas emissions development while improving ability to respond to the negative effects of climate change in a way that does not jeopardize food production.
c) Aligning financial flows with a strategy for achieving low greenhouse gas emissions and development that is climate resilient.

In addition, nations want to achieve "a worldwide peaking of greenhouse gas emissions as soon as practicable.

Every five years, countries are required to raise their ambition under the Paris Agreement. The agreement established the Global Stock take, which evaluates progress, with the first review taking place in 2023, to help with this. Input for new nationally determined contributions of parties is to be taken from the outcome (Höhne, Jeffery et al, 2019).

In 2018, the Talanoa Conversation served as a model for the worldwide inventory (Hermwille, Siemons et al, 2019). A report and a call for action were produced after a year of deliberation, but nations did not raise their ambitions as a result.

The stock take contributes to the Paris Agreement's goal of raising the bar for carbon reductions. The global stock take reassembles parties to consider how their new national determined contribution must change so that they consistently represent a country's "maximum feasible ambition" because analysts concurred in 2014 that the national determined contribution would not contain increasing temperatures below 2 °C (Yeo, 2016). While one of the main goals of the global stock take is to increase the ambition of national determined contribution, it also evaluates initiatives that go beyond mitigation. The five-year assessments will also include technological development and transfer, climate financing, and adaptation (Yeo, 2016).

The Paris Agreement's basic commitment and review system, which allows countries to define their own NDCs rather than having objectives imposed from above, has been referred to as having a bottom-up structure (Falkner, 2016.) The Paris Agreement, which places a strong focus on fostering agreement, differs from its predecessor, the Kyoto Protocol, in that it allows for voluntary and nationally defined objectives. So, rather than being required by law, the precise climate targets are politically promoted. International law only mandates the procedures guiding the reporting and evaluation of these goals.

The scope of each agreement is a significant distinction between the Paris Agreement and the Kyoto Protocol. The Paris Agreement eliminates the distinction between the wealthier nations with a long history of contributing to climate change, and other nations because all parties are obligated to submit plans to reduce emissions. The Paris Agreement continues to emphasize the idea of "Common but Differentiated Responsibility and Respective Capabilities," which recognizes that different countries have varying capacities and responsibilities with regard to addressing climate change, but it does not establish a clear distinction between developed and developing countries (Sinha, 2015).

3. Analysis of the worldwide Corporate Governance Codes main amendments between 2016-2022

Milton Friedman's epigram, "The social responsibility of business is to increase its profits", must be reinterpreted in the light of the view that an organization is a part of society. This century is characterized by fundamental changes in both business and society which influenced both its content and approach. New global realities are testing the leadership of organizations on issues as diverse as inequality, globalized trade, social tensions, climate change, population growth, ecological overshoot, geopolitical tensions, radical transparency and rapid technological and scientific advancement. In 2015 all governments of United Nations agreed on Sustainable Development Goals. In addition, the six capitals, as set out in the International Integrated Reporting Council's (IIRC) Integrated Reporting Framework, and which are financial, manufactured, human, intellectual, natural and social and relationship capital organizations operate in the triple context of the economy, society and the

environment. All mentioned above and also the legal framework of the EU since 2014 impacted significantly the way the countries approach the Environment, Social and Governance. The most important drivers for changing the world are financial instability, climate change, transparency based on social media platforms, technological advances, activism by the civil society, stakeholders and shareholders. In this context of the changed world the authors of the research paper looked in details at the landmark of the corporate governance worldwide.

The analyzed period of 7 years showed that 36 countries and their stock exchanges amended the Codes of Corporate Governance (CGC), or the framework related to the principles, recommendations, standards, guidelines, rules of conduct and best practices implemented on their capital markets like stewardship Codes (Denmark, Netherlands, UK). The authors remarked that 3 countries out of 36, respectively France (4 changes), Portugal and Germany (3 changes) made annual amendments of their CGC. In this respect the years of changing were for France and Portugal 2016, 2018 and 2020. For Germany were 2017 and 2019. In addition, for France and Germany also in 2022. Also, there were other 9 countries which made 2 amendments within the period analyzed, as follows: Denmark, USA, Slovenia, UK, Canada, New Zealand, Austria, and Italy. The other 24 countries carried out changes annually for the period analyzed. A detailed analysis for all the 36 countries is presented below in the Table no. 1.

Table no. 1 – Number of Codes of CG changed in the last 7 years.

No.	Country/Stock Exchange	2016	2017	2018	2019	2020	2021	2022	Total
1	Switzerland	1							1
2	Denmark	1		1					2
3	Portugal	1		1		1			3
4	Poland	1							1
5	France	1		1		1		1	4
6	Netherlands	1		1				1	3
7	South Africa	1							1
8	USA	1	1						2
9	Slovenia	1		1					2
10	EUA	1							1
11	Sweden	1							1
12	United Kingdom	1		1					2
13	Germany		1		1			1	3
14	Canada		1	1					2
15	Malaysia		1						1
16	New Zealand		1	1					2
17	South Arabia		1						1
18	Austria			1			1		2
19	Italy			1		1			2
20	Japan			1					1
21	Luxembourg			1					1
22	Norway			1					1
23	Singapore			1					1
24	Argentina				1				1
25	Australia				1				1
26	Brazil				1				1
27	Ireland				1				1
28	Lithuania				1				1
29	Belgium					1			1
30	Finland					1			1
31	Latvia					1			1
32	Spain					1			1
33	Ukraine					1			1
34	Greece						1		1
35	Island						1		1
36	Great China (HK)			1					1
		12	6	15	6	8	3	3	53

In the view of changing the national legal framework most of the countries organized extended consultations like open consultation process or round table discussions (Sweden, Portugal, China, Belgium, Island, Poland, New Zealand, Denmark, Luxembourg, Norway, Australia, Latvia) or conducted research on many other capital markets national Codes of CG like Brazil which analyzed for 2 years 18 countries in this respect. There are

also countries like Ireland who recognizes for their stock exchange that the UK Corporate Governance Code (formerly the Combined Code) has set the standard for corporate governance internationally and it is regarded as being the pre-eminent corporate governance code and is widely emulated.

The main triggers for the revised provisions or the amendments were presented on a different way by each country representative authority on corporate governance matters. From changes of the EU Directive issued in 2014 dedicated to the capital markets, or the European Commission's recommendation on the quality of CG reporting "comply or explain" (Austria), or the updated shareholder rights directive (Finland), or the directive on non-financial information (Luxembourg) and the directive and regulation on auditors and audits to the national regulatory environment (UK), the company's law (Slovenia) or of the new G20/OECD principles issued in 2015 (Denmark).

Switzerland Code from 2016 which has proven since 2002 to be "an effective instrument of self-regulation" distinguished from other countries taking into consideration various developments occurred from changes of Federal Constitution. In addition, important amendments were related to composition of the Board of Directors like representation of women, or the risk management.

Some countries Codes were restructured implementing recommendations and principles based on the European Commission Recommendation from 2014 regarding the CG reporting like those from Poland in 2016 and Singapore in 2018. Other countries like South Africa changed in 2016 their main principle of applying the Code from "apply or explain" to "apply and explain" and reducing significantly from 75 principles to 17 principles. Slovenia made also in 2016 a wide and various changes to its CGC regarding the diversity policy, introducing CG statement, external and internal assessment of the Board and management boards, emphasizing the necessity of equal treatment of shareholders, the independency of the Board, continuous training of the Boards' members, succession plans to be prepared ad transparency of operations. In USA, public companies have undertaken unprecedented levels of proactive engagement with their major shareholders in recent years (Business Roundtable, Principles of CG, 2016).

According to the changes made in 2017 of the German CGC, "Good corporate governance is defined by legal, ethical and self-responsible conduct, enhancing transparency to provide a solid basis for assessment and alignment with international best practice in investor communications". For Malaysian Code of CG in 2017, it was adopted a new approach to promote greater internalization of CG culture. In this respect key features of the new approach were the Comprehend, Apply and Report approach which means Care; the shift from "comply or explain" principle to "apply or explain" principle as an alternative; Greater focus and clarity on the Intended Outcomes for each Practice; Guidance to assist companies in applying the Practices; Identify exemplary practices which support companies in moving towards greater excellence – Step Ups.

Domestic regulations regarding financial reporting and auditing issues were also considered when amending the Austrian Code of CG which entered into force in 2018. The Italian CGC issued in 2018 is structured in principles, criteria and comments invited the issuers to apply the gender diversity criteria as a separate mentioning. For the capital markets of Luxembourg, the need to adapt to the new realities together with the developments of the CG concept in neighboring countries and in Europe generally, as well as the regulatory framework and the way in which it is applied in this country, have determined the revision of the principles of CG towards a more sustainable economy. In this regard the amendments were dedicated particular to introduce an approach to extra-financial information relating to companies' corporate social responsibility with the scope to facilitate a stronger integration of financial and non-financial data, respectively a new principle for CSR. Topics changed and reformulations were presented by Norway in 2018 and were related to guidelines for CSR, responsibility of the board of directors to define objectives, strategies and risk profiles, restrictions on owning, trading and voting for shares, including by using different classes of shares, setting-up nomination committee or define process of nomination, guidelines for internal control and systems for risk management and board remuneration.

In 2019, the Australian capital markets authorities in charge with the principles and recommendation on domestic CG decided to address emerging issues around culture, values, and trust, fueled by recent examples of conduct by some listed entities falling short of community standards and expectations. In this regard the new approach which is fundamental to the operation of the principles and recommendations is "if not, why not" and ensures that the market receives an appropriate level of information with the scope that investors will have a meaningful dialogue with the board and management on governance matters.

Portugal, as one the countries who did more amendments in comparison with other countries analyzed in this paper, committed through the domestic authority on this matter to revaluate the content of the Code on a

regular basis considering the reality determined by the monitoring, changes in the law and the international dynamics of evolution of the Corporate Governance best practices. The domestic legal framework, the transposition of the Shareholders Rights Directive with recommended developments of remuneration and transactions with related parties and the current focus on sustainability with a view to promote the long-term success of the company and its contribution to the community at large.

The Belgium Code of CG contains several amended concepts and provisions and put emphasize on sustainable value creation with an explicit focus on long term, on responsible behavior at all levels of the company and on the permanent attention to the legitimate interest of stakeholders. Mainly provides the option of a two-tier structure, with a supervisory board distinct from the management board, respectively a two-tier structure and the innovation of the implementation of the concept "relationship agreement". This model was studied and took from several neighboring countries, in particular Netherlands and Germany, where it has proven its efficacy. In addition, more explicit expectations are related to the diversity, talent development and succession planning, in relation to the company's annual reporting on non-financial matters and remuneration policy.

Besides the central change underlying the revision of the CGC based on the EU's Second Shareholder Rights Directive, which has been implemented in national legislation in 2019, other changes were related to provisions concerning the remuneration policy and remuneration report, audit committee, related party transactions, independence of directors and clear duties of the committees for remuneration and nomination for Board.

4. The new directions for OECD Principles (draft 2022)

Rebuilding our economies in the aftershock of the COVID-19 crisis provides an important opportunity to transform production processes and consumption patterns in a way that mitigates the impact of climate change and environmental degradation. Both our own well-being and that of future generations depend on it. As more and more countries and companies rise to the challenge and commit to achieving net-zero emissions by 2050 in line with the Paris Agreement, the challenge now is to turn these commitments into tangible outcomes.

There are 10 new priority areas formulated for alignment with the new realities post COVID-19 and the current geo-political situation, each bearing principles for execution:

1) Climate change management and other ESG risks. The corporate governance framework must provide incentives for companies to make financing and investment decisions and to manage their risks in a way that contributes to the sustainability and resilience of the enterprise.
2) Tendencies in the shareholding structure - merger of holdings. There should be a disclosure of capital structures, group structures and their control mechanisms, the minority shareholders protection against abusive actions, and access to information regarding transactions with related parties.
3) The role of institutional investors and supervision. There is an increasing importance of codes as tools to support shareholder involvement.
4) Increasing the impact of digital technology, the resulting opportunities, and risks. The shareholder meetings conducting virtual, and hybrid led to enhanced importance of digital security risks within the foreseeable risk factors and raised the councils' responsibilities regarding digitalization issues.
5) Taking excessive risks in the non-financial corporate sector and creating appropriate risk-taking procedures for different scenarios.
6) The role and rights of debt holders in corporate governance and increased importance because of the expansion of bond financing.
7) Remuneration of the executive management and the link between remuneration and the long-term performance of the company.
8) The role of the Councils supporting committees are better defined (audit, risk, nomination, remuneration) as well as increasing the role of independent members.
9) Diversity within the Boards of Directors and management structures boosted the significance of the right combination of background and skills of board members and the promotion of women in management positions.
10) Management of risks and crisis situations determines a review and evaluation of risk management policies and procedures and a review of risks related to digital security and risks related to sustainability.

The climate danger is the greatest threat to mankind in the twenty-first century. Certainly, climate change entails temperature increases that affect life patterns and raise the chance of extreme weather occurrences. The

most recent IPCC assessment report also portrays a bleak picture of the future of the globe (IPCC, 2021). Beyond the immediate impact on natural disasters, biodiversity, health, and population movement, climate change may also bring about a new economic order because of the shift to a low-carbon economy. The financial system's ability to withstand risks associated with climate change is being questioned in this situation.

Beyond the immediate impact on natural disasters, biodiversity, health, and population movement, climate change may also bring about a new economic order because of the shift to a low-carbon economy. The financial system's ability to withstand risks associated with climate change is being questioned in this situation. Because of this, financial institutions, regulators, and governments have made addressing climate change their top priority and it has grown to be one of the biggest systemic risks (FSB, 2020). As addressing climate risk involves all stakeholders, it also affects the asset management sector. So, for both asset owners and managers, daily realities include portfolio decarbonization, temperature alignment, net zero carbon investment, Paris-aligned benchmark.

From 2014, the growth of ESG investment in Europe has increased interest in financial concerns associated to climate change (Bennani et al., 2018; Drei et al., 2019). During the Covid-19 crisis, environmental concerns lagged social concerns, but the net zero carbon race and the Glasgow COP 26 event recently reversed the trend, and climate risk is currently the biggest topic in asset management.

Investors' attention is now again being drawn to climate risk, which goes beyond ESG ratings. Methodologies for assessing climate risk have not yet matured. There are several projects that propose alternative climate risk mitigation strategies to the conventional scope 1 + 2 carbon emissions at this early stage. The method we estimate the risk to portfolio building is changed by taking scope 3 into consideration. In fact, the dispersion of carbon intensities with scope 3 is much decreased, suggesting that decarbonizing a portfolio is more challenging. Similarly, rather than relying just on the most recent carbon measurements, investors are increasingly evaluating carbon trajectories.

So, the addition of trend or target dynamics signals a change in how a portfolio is allocated. More broadly, the sophistication and evolution of climate risk metrics influence portfolio optimization. We noted that these strategies have gained significant momentum in active management despite having first been created on the side of passive management and low-carbon equities indexes.

III. THE IMPACT OF THE OECD PRINCIPLES ON THE CORPORATE GOVERNANCE

Current situation

The G20/OECD principles of Corporate Governance is the main international standard for corporate governance (CG). First issued in 1999 by Organization of Economic, Cooperation and development (OECD), later in 2015 was also endorsed by G20 Leaders and by Financial Stability Board for sound financial systems and by World Bank, that uses in national CG assessments. Presently in 2023 there are 53 jurisdictions that adhered, out of which 34 in OECD perimeter, all representing 90% of the Global Domestic Product (GDP).

The set of Principles it is used by following governments to evaluate and improve the legal, regulatory and institutional frameworks and it is based on six pillars: corporate governance framework, shareholders, institutional investors, stock markets, other stakeholders; disclosure and transparency and boards responsibilities.

It fulfills three major functions for our economies:

1) access to finance, innovation and entrepreneurship though capital markets that finance equally large institutions and innovative companies, including in pandemic (2020 – 2021) when non-financial corporation raised new capital of 2 trillion USD. In the same time, 30.000 companies delisted in most advanced markets, while flourishing in Asia, that holds half of listed companies and most dynamic markets for IPOs.
2) provides a framework to protect savers while encouraging innovation and investments. There are 105 trillion USD market value of 40.000 companies, public equity market being the largest asset class available and institutional investors being the largest owners heavily investing in foreign markets, bringing an immense responsibility for savers protect regardless the frontiers.
3) supports the corporate sector sustainability and resilience, where climate change is a material risk for two thirds of global market capitalization represented by listed companies, and indebtedness doubled since 2005.

The benefits of good CG are reflected in improved trust and cooperation of market-based finance, including public equity leading to stronger corporate financial statements that make possible the green and digital transition, comprised in long-term resilience strategies and plans post-pandemic.

Post-Covid-19 era

In the post-Covid era, in 2021, the initiators decided and informed about the strengthening of the principles, by including the pandemic's learnings from the impact on capital markets and CG practices, publishing two reports in 2021: "The future of CG on capital markets" and "the 2021 CG Factbook" that shows three negative effects. The first one is the climate change and other environmental, social and governance (ESG) risks and the low crisis resilience of companies. The second one is the declining number of listed companies, and the third refers to corporate ownership and dominance of group structures and growing state ownership, all three needed to be urgently addressed in a constant changing environment.

A review was started and put in transparence in October 2021, followed internal discussion and put in public consultation in the fall of 2022, targeting a 2023 OECD validation in Q2 and G20 endorsement in Q3.

The principles are aimed to be "concise, understandable and accessible", giving the formulation freedom to be adapted to all type of national governance, being focused on the increase of investors' trust, financial stability and capital formation, and established 10 priority areas.

For a clearer decision-making process, a set of 7 reports and working papers were sent for public consultation, as follows (OECD, 2022).

(i) Climate change and corporate governance
(ii) Corporate ownership and concentration
(iii) Gender diversity on company boards and in senior management
(iv) The role of board-level committees in corporate governance
(v) Digitalization and corporate governance
(vi) Institutional investors and stewardship
(vii) The role and rights of debtholders in corporate governance

Importantly to notice, the OECD Guidelines is complemented by an OECD CG on State-Owned Enterprises (SOE) and one for Multinational Companies, referring to critical topics like decision making process, ethics, anti-corruption or environmental.

OECD Principles draft (2022) compared with G21/OECD Principles (2015)

The OECD's 2022 draft submitted in public consultation has six chapters, mostly kept from the 2015 version, each with their own principles and sub-principles:

I) Ensuring the basis for an effective corporate governance framework
II) The rights and equitable treatment of shareholders and key ownership functions
III) Institutional investors, stock markets, and other intermediaries
IV) Disclosure and transparency
V) The responsibilities of the board
VI) Sustainability and resilience (that includes the former Chapter IV) "The role of stakeholders")

When comparing the G20/OECD Principles in force (2015) with the draft submitted for public consultation as described above, one may notice several differences and similitudes in structure and content.

I) **The first one** refers to the territorial applicability, as the OECD group increased, and several new members are included.

II) **The second one** refers to the number of chapters that although remained the same, the content is different, as follows:

2015 G20/OECD		2022 OECD Principles in public consultation	
I)	*Ensuring the basis for an effective corporate governance framework.*	*I)*	*Ensuring the basis for an effective corporate governance framework.*
II)	*The rights and equitable treatment of shareholders and key ownership functions.*	*II)*	*The rights and equitable treatment of shareholders and key ownership functions.*
III)	*Institutional investors, stock markets, and other intermediaries.*	*III)*	*Institutional investors, stock markets, and other intermediaries.*
IV)	*The role of stakeholders.*	*IV)*	*Disclosure and transparency.*
V)	*Disclosure and transparency.*	*V)*	*The responsibilities of the board*
VI)	*The responsibilities of the board*	*VI)*	*Sustainability and resilience*

The authors noticed that five out of six chapters where kept, only one was replace, the former (IV) “the role of stakeholders” with the actual “(VI) “sustainability and resilience”, lifting the former V) and VI) one, which became actual IV) and V).

III) **The third one** refers to the clarity of principles referring to each chapter. They are simpler and more direct, based on the experiences accumulated in pandemic when CG was heavily challenged. Illustrations are given and the flexibility is kept.

Example: “*…. desired outcomes by adapting approaches to fit particular circumstances. For example, the desired outcome of ensuring desired effective implementation …*”
Even more, the best spirit form previous version (2015) is kept whenever possible, in order to fulfill the major economic outcomes.
Example: “*…the corporate governance framework is more likely to avoid over-regulation, support the exercise of entrepreneurship and limit the risks of …”*

IV) **The fourth one** refers to the new 10 priorities’ content itself, that is build according to the time elapsed form the last 2015 version, integrating the pandemic impact on the corporate governance framework, that are reflected in the six chapter for the document.

1) **Corporate ownership and increased concentration**, as the three largest owners hold more than 60% of the equity capital in over 44% of listed companies. Beside this dominance, the growing state ownership, or institutional large organizations, or even the differences of ownership concentration and ownership structure, led to new challenges for policy makers. Thus, they must consider the ddisclosure of capital structures, group structures and their control mechanisms, protection of minority shareholders against abusive actions and access to information regarding transactions with related parties.
2) **The management of climate change and other ESG risks**, that impacts investors’ decisions, represents a serios material risk for 64% of the global market capitalization, that must be linked with executives’ remuneration plans, among which 27% already started. This needs better risk management, high-quality disclosures, and shareholders rights. The corporate governance framework must provide incentives for companies to make financing and investment decisions and to manage their risks in a way that contributes to the sustainability and resilience of the enterprise.
3) **The role of institutional investors and stewardship**, who are increasingly concentrated especially in some territories, the fostering of index investment strategies and complex investments chains represents reasons to question the actual incentives schemes. There is an increased importance of codes as tools to support shareholder involvement.
4) **The growth of new digital technologies and emerging opportunities** such as potential listing process or technology driven fundraising more attractive and risks, see the remote or hybrid participation at shareholders’ meetings or digital boards, with a decrease in CG practices efficiency. The importance of digital security risks within the foreseeable risk factors and councils' responsibilities regarding digitalization issue
5) **Crisis and risk management** regards the review and evaluation of risk management policies and procedures, including the ones related to digital security and risks related to sustainability.
6) **Excessive risk taking in the non-financial corporate sector** is focused on creating appropriate risk-taking procedures for different scenarios.
7) **The role and right of debtors in CG** gain important ace as the bond issuance had doubled in the past years for non-financial institutions, made critical the topic related to their usage, as they have been

diversified for non-investment activity such as shareholders payouts, all underlying the need for reinforcement of creditors' rights.

8) **Executive remuneration** became one of the most sensitive matter post pandemics, determining the criticality of the and the link between remuneration and the long-term performance of the company.
9) **The board committees' roles** that contribute to the boards' effectiveness, better tasks allocation and knowledge exploitation, and board accountability. The risk and costs through silos communication information segregation, additional expenses must be carefully watched, beside potential new specific tasks that can be created the beside the recommended or compulsory ones (audit, remuneration, nomination), like risk and sustainability, where independent members may plan a significant role.
10) **Diversity on boards and senior management** – the gender diversity and the right combination of background and skills becomes a key corporate governance framework, shareholders, institutional investors, stock markets, other stakeholders, disclosure and transparency and boards responsibilities.

V) **The fifth one** refers to the six chapters' content itself. Our analysis regards the changes done compared to the last 2015 version from mild differences and new information perspectives.

IV. DISCUSSIONS

OECD Principles – 2022 draft

The first chapter refers to the effective corporate governance framework, the flexible organization framework allowing companies' growth that takes into account the proportionality principle and development stage, ownership and control structure geographical presence and activity sector, key variables like incentive structure and conflict of interest. The rule of law, transparency and enforceability are equally important, being complemented by non-legally bounded provision of codes. Also, all authorities involved serving the public interests, having clear roles, the stock market being a supporter, and the authority, integrity, and resources for professional work, in a cross-border collaboration.

The 2022 version introduce several **precisions** related to

a) The role of public equity markets in companies' financing and growth, encouraging the policy makers to increase the access.
b) Adding-on the self-regulatory bodies beside authorities serving the public and differentiating their responsibilities
c) More legislative territorial precisions, by complementing them (e.: with international laws, stock exchanges) or rules at "group of companies" level.
d) Principles to be respected (e.g., autonomy and capacity to fulfill the duties, complementary added to authority, resources, and integrity; reinforced the conflict-of-interest avoidance or operational independence increase through budgetary and human resources autonomic decisions)

There are also **newly introduced principles**:

a) Usage of digital tools for increase efficiency of CG by all actors
b) Frameworks regarding the oversight of companies included in groups of companies.

The second chapter is oriented to an equal treatment of all shareholders no matter the class shares and key ownership functions. A particular attention is given to the minority shareholders and possibility to address the violation of rights. They should be capable to influence important CG actions referring to basic rights like board composition, extraordinary transactions and control arrangements, company law an internal statute, and additional ones like auditors' selection, direct board members' nomination, pledging shares, conflict of interest disclosures, profits distribution and approve the compensation schemes, but importantly, have access at information and active participation possibility at shareholders' meetings or contrary voting in absentia.

The 2022 version introduce several **precisions** related to:

a) Shareholders equitable treatment regarding the right of voting, beside the participation rights in shareholders meetings.
b) Reasonable costs and in due time for good governance exercise, especially after pandemic experiences. It also highlights the impact of a bad CG mechanism, for better clarity. This is unambiguously referred to regarding the minority shareholders, reinforcing the message for directors' fiduciary's duties.

c) The board members nomination in case of various jurisdictions is more explicit.
d) Similarly for institutional investors, where climate related matters are given an increased importance.

The most important **new introduced principles**:

a) The basic rights of shareholders must include form now on the external auditor approval and repairing mechanisms existence in case of violations rights, approval of directors' remunerations' that should include sustainability indicators or liability insurance policies for directors and officers.
b) Usage of digital tools for increase efficiency of general shareholders' meetings, with compulsory equal information and opportunities rights for all participants, whether physical or virtual one
c) Board members screening mechanisms are being made strong and independent criteria is mentioned when independent board member is concerned, including its fiduciary duty for the company and not the controlling company if in a group.
d) Provision regarding the dominant position of institutional investors in order to avoid anticompetitive behaviors and abusive actions and the protection of non-controlling shareholders by putting limitation in cross-shareholdings.
e) Whistleblowing mechanism are mentioned in the disclosure provision as a possible mechanism.

The third chapter is focused on sound investment leading to good CG, regards the voting policies, material conflict management, avoidance of trading and market manipulation, fair and efficient price discovery, and disclosures to be done in other jurisdictions other than the incorporation one.
The 2022 version introduce several **precisions** related to:

a) Reinforcement of CG framework for increase engagement of institutional investors with their investees
b) More clarity regarding the analysis or relevant advice provided by regulated entities, with concrete examples.
c) The integrity of actions in the process and methodology used for reporting are better defined, focused on transparency and quality of information.

The most important new introduced principles:

a) The stewardship codes are mentioned for the first time as a complementary mechanism for investors engagement through voluntary compliance and disclosures, when implemented being monitored too.

The fourth chapter from the 2015 publications is no longer part of the public consultation document as a separate chapter, the main information is included in the new sixth chapter related to the sustainability and resilience. In the former version still in force until newly adopted one, it was concentrated on stakeholders, their rights and protection, employee development mechanism, information access and obligation of illegal and unethical reporting, and effective and efficient insolvency framework.

The actual fourth chapter in 2022 proposal is the former fifth chapter, concentrated on the timely and accurate disclosure of all material matters as financial situation, objectives and non-financial information, foreseeable risks factors, performance, ownership including beneficial owners and voting rights. Also, it refers to the selection criteria and process, remuneration of the board and key executives, related party transactions, any issue regarding the stakeholders, governance structures and policies of the company, all being equally shared for all shareholders, a topic of highest importance for the good functioning of the market. An annual external independent audit should be conducted based on professional job 'standards, as well as the highest quality of accounting, financial and non-financial reporting.

The 2022 version introduce several **precisions** related to:

a) The cost efficiency and effort are pointed out as an alert, together with financial and timing provisions for disclosures.
b) The group structures are emphasis in connection with their control arrangements and similarly for equity markets that are characterized by dispersed structures, with regards to small shareholders protection.
c) The related parties are underlined as important disclosure topic especially in jurisdictions with complex group structures involving publicly traded companies.

d) Digital and sustainability risks, the same for value chains are stressed in the foreseeable risk factors chapter OECD Secretary-General's Report to G20 Finance Ministers and Central Bank Governors on the Review of the G20/OECD Principles of Corporate Governance (2022)
e) A strong recommendation is done for clarity and quality of all financial statements; a strong specification is done for public traded companies to support effective disclosures.

The most important **new introduced principles**:

a) Newly focused introduced on social and governance matters, beside existing environmental topics, within sustainability information disclosures, that are more detailed in the new Chapter six.
b) The remuneration for board members and key positions has levels and amounts requirements, taking into account the resilience and sustainability performance indicators that investors may have the possibility to assess if they are linked with the sustainability risks and incentivize on long-term view.
c) The board composition, gender and demographic specifications are new requirements added, adapted to the local form of governance.
d) Inclusion of non-compliance risk in covenant of debt contract like corporate bonds, that are not in shareholders or directors' direct control; the impact and likelihood of their occurrence are to be specified for the investors' better understanding.
e) The quality of the external auditor documents, work and independence is emphasized in a new strong way connected with the professional standards of Forum of Independent Audit Regulators (FIAR) and regulators penalties measures for non-compliance.

The fifth (former sixth) chapter is for the board responsibilities for monitoring the management and be accountable to the company and shareholders, with ethics and fairness regarding all stakeholders. The core roles and responsibilities regard the strategy, objectives, budget, major company's events like big capital expenditures, acquisitions and divestitures, effectiveness the CG practices and key position holders, top leaders' transparent nomination and clear remuneration alignment with the long-term strategy, integrity and conflicts of interests, communication and disclosures, and objective corporate affairs. A particular focus is done on the board independency, from mindset and judgement to structural measures like separation the CEO form the Chair position in most one tier governances, support committees for the board, evaluation of their performance and right composition.

The 2022 version introduce several **precisions** related to:

a) Several complementary clarifications are done for practical reasons (eg in election board process to have majority of shareholders voting), and the company group logic was identified whenever was making sense (e.g. reporting)
b) The stakeholders' interests are highlighted in the board's fiduciary duty with long-term perspective, as no specific chapter is no longer valid.
c) The board's protection is made important in case of good faith decisions and the whistleblowing policy implementation is recapped in this chapter too.
d) The independence definition is better explored, recognized as a national specific as criteria and implementation.

The most important new introduced principles:

a) Several clauses are focused on board's setting responsibility for strategy and risk policies and procedures, considering the proportionality principle, ensuring sanity of frameworks and policies for increased resilience.
b) Creation of a nomination committee is recommended for board and key executives' appointments.
c) The responsibility of remuneration scheme is stressed, to be fully aligned with the company's performance and strategy, not immediately submitted to adjustment on economic shocks.
d) The compulsory and optional support committees are well defined now, within their recommendation 'role, as well as the remaining responsibility of the board and "comply or explain" principle and disclosure for both boards and committees.
e) The boards and committees' activity evaluation includes now specific gender and demographic criteria.

The sixth is a **new chapter,** so all the information may be considered as a change, for previous chapters' comparison, except the stakeholders' former chapter that is integrated at the end. This section is focused on company's **sustainability and resilience**, generating innovation, and growing wealth, through a solid corporate governance framework, contributing to financing and investment decisions, solid risk management, opportunities identification that are appropriated in the jurisdictions' strategies.

V. CONCLUSION

Equally important are the information' **disclosures,** that are well prioritize according with company's specifics, important for all stakeholders. This should be done both on retrospective and forward looking on long-term perspective.

There are several interesting factors to follow by investors. **The first** one is the materiality of the climate change and social issues that are increasingly analyzed in many jurisdictions, but not all. **The second** regards the "quality, understandability, enforceability, and international accepted" core standards (VI.A.2) that allow comparability across the markets. **The third** one is about the connectivity of all information all corporate documents for trust building and easiness of controls. The **fourth** refers to publicly disclosures of sustainability metrics that should be easy to be verified by investors. **The fifth** is about the assurance done on international standards by an" independent, competent, and qualified service provider "(VI.A.5).

The **dialogue between all stakeholders** on company's business strategy and materiality of important factors is a key success factor of CG frameworks, where good structured decision-making processes contributes to well facing short-term challenges in cash with long-term benefits. The strategy, governance and risk management must include the **climate physical and transition risks** that is reflected in key executive remuneration and nomination or sustainability committee existence. The **lobby activities** must be coherent with sustainability commitments and supervised by the boards, in concordance with the approved strategy. The **capital structure** is important to be aligned with strategic goals and risk appetite, in the framework validated by shareholders.

The **stakeholders**' rights, roles and responsibilities must also generate cooperation for long-term wealth creation, increased sustainability, and resilience of the company, regulated by different types of laws or contractual relations. In case of violation, they should have the mechanisms to correct the situation at a reasonable cost and without excessive delay.

The employee has a specific subchapter addressing mechanism for their increased involvement in the corporate governance, through better access to information on regular basis or to decision making structure and processes. Also, the reporting of unethical and illegal practices must be facilitated and should offer protection to individuals and representative bodies, giving the direct access to an independent board member or an ombudsman.

Due to the rise of **bond financing**, the authorities pay important attention to the publicly traded companies' bondholders protection, through (typically) an independent trustee especially for minority during debts and restructuring. The principles incited creditors to be more active in demanding stewardship codes, enforceable and clear covenants in protecting their bond holders' rights. Finally, a good corporate governance is proved by lower financing costs and by higher access of creditors in the governance in case of insolvency.

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