

**PRINCIPLES OF GOOD GOVERNANCE
FOR PERUVIAN COMPANIES**

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ASBANC-BVL-CONASEV-CONFIEP-MC&F-MEF-PROCAPITALES-SBS

"Corporate governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as, the board, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining those objectives and monitoring performance" (**Organization for Economic Cooperation and Development OECD**)

Conformation of the Committee

Chairmanship: National Supervisory Commission of Companies and Securities (CONASEV)

Members: Ministry of Economy and Finance (MEF)

Superintendency of Banking and Insurance (SBS)

Lima Stock Exchange (BVL)

Association of Banks (ASBANC)

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INTRODUCTION

Good corporate governance is acquiring more and more significance in local and international environments due to its recognition as a valuable means of reaching more reliable and efficient markets. In the last few years, principles of voluntary adherence have been established, meticulous studies have been carried out and a series of legislative reforms have been implemented, in order to encourage the development of good corporate governance practices. In this way, the direct and significant impact that the implementation of such practices have on the value, soundness and efficiency of companies and therefore, on the economic development and general well-being of countries, has been recognized.

Corporate governance explains the rules and procedures for taking decisions in matters such as the equal treatment of shareholders, the handling of conflicts of interest, capital structure, remuneration schemes and administrative incentives, the acquisition of control, the disclosure of information, the influence of institutional investors, among others, that affect the process through which company income is distributed.

Investors consider the application of good governance practices to be more and more an element of extreme importance in preserving the actual long-term value of their investments, insofar as it leads to the elimination of unequal information between those administering the company and its investors. This objective is strengthened by the existence of a suitable legal framework and efficient supervisory practices which oversee the existence of transparent markets guaranteeing the protection of investors.

Peru is not unaware of the progress and discussions carried out regarding good corporate governance of companies. Over the years, the control framework has been adapting to these tendencies, concentrating efforts in achieving that Peruvian companies succeed to reach international standards and are thus able to offer more confidence to domestic and foreign investors, in particular minority shareholders.

With this in mind, a high level committee was formed, with the participation of the public and private sectors, to establish good corporate governance principles applicable to Peruvian companies. For this, the Principles of the Organization for Economic Cooperation and Development (OECD), approved in April 1999, were considered. Given that the said Principles enjoy worldwide recognition, having been considered as point of reference in the preparation of reforms and recommendations applicable to various company structures at the international level, it was considered appropriate to maintain as far as possible, its structure and content. Nevertheless, certain changes have been made, taking into account the characteristics of Peruvian companies, their shareholding structure and the legal framework in which they are developed.

These "Principles of Good Governance for Peruvian Companies" should be considered as a company guide, in such a way that their implementation evidences a clear capacity for self-determination and self-control, thus promoting the development of a culture of good corporate governance practices. Furthermore, they will act as a frame of reference by which the various interest groups can measure the degree of adherence of Peruvian companies to such principles.

PRINCIPLES OF GOOD GOVERNANCE FOR PERUVIAN COMPANIES

The principles which are stated hereunder can be applied to all companies, whether those whose stocks are registered in the Public Securities Market Registry, or those which are not, recognizing that there are certain principles which are only applicable to the former.

I. SHAREHOLDERS' RIGHTS

The corporate governance framework should protect shareholders' rights.

- A. Basic shareholders' rights include the right 1) that the methods of ownership registration are stipulated and the registration of shares is duly carried out; 2) convey or transfer shares, as well as the timely receipt of certificates of preferential subscription and the shares subscribed in cases of capital increases; 3) obtain relevant information on the corporation on a timely manner; 4) participate and vote in Shareholders' General Meetings; 5) elect members of the Board of Directors; and 6) share in the profits of the corporation and fix a dividend policy which expressly establishes the criteria for the distribution of profits.
- B. Shareholders have the right to participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes such as: 1) amendments to the by-laws, the articles of incorporation or other documents ruling the company; 2) authorization of additional shares; and 3) extraordinary transactions such as new corporate organization and sale or contracts over substantial parts of company assets, or any other transaction which results in or could result in the sale of the company.
- C. Shareholders should have the opportunity to participate effectively and vote in the Shareholders' General Meetings and should be informed of the rules,

including voting procedures, that govern Shareholders' General Meetings.

1. Shareholders should be furnished with sufficient and timely information concerning the date, place and agenda of these General Meetings, as well as full information regarding the issues to be decided at the meeting.

Generic matters should not be incorporated into the agenda, all points to be dealt with should be duly detailed in a such a way that each matter can be discussed separately, facilitating its analysis and avoiding combined resolutions on matters on which there are different opinions.

The venue of the General Meetings should be fixed in a way that facilitates the attendance of the shareholders.

2. Opportunity should be provided for shareholders to place items on the agenda at General Meetings, subject to reasonable limitations.

Any matters introduced into the agenda should be of company interest and should fit within the legal or statutory competence of the Meeting. The Board of Directors should not deny this kind of request without giving the shareholder reasonable justification.

3. Shareholders should have the opportunity to request, before the General Meeting takes place or during the same, any reports or clarifications which they feels are necessary concerning points on the agenda.
4. Shareholders should be able to vote in person or in absentia, and equal effect should be given to votes whether cast in person or in absentia.

- i) The by-laws should not impose limits to the right of every shareholder entitled to participate in General Meetings, to be represented by any person appointed by him.

ii) Whoever requests powers of representation for the General Meeting, should inform the shareholders of matters over which their power of attorney will be exercised and which side they will be voting for, including all relevant information.

D. Capital structures or arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed.

E. Markets for corporate control should be allowed to function in an efficient and transparent manner.

1. Information relative to the acquisition of corporate control and extraordinary transactions should be advised directly and clearly in order that investors understand their rights. Transactions should occur at transparent prices and under fair and equitable conditions in order to protect the rights of all shareholders according to their class.

2. Anti-take-over devices should not be used to shield management from accountability.

3. If a Takeover Bid occurs, company shareholders should have the right to participate in the premium paid by a third party to acquire control of the company.

The issuing company management should act neutrally and not adopt protective measures against purchase offers unless it has the express authorization of the General Meeting.

The transfer of control should include proper disclosure of the valuation criteria supporting any offer. For this purpose, the target company management should establish the mechanisms enabling the holders of shares or other securities capable of being subscribed or acquired, to be aware of the takeover bid and the conditions offered by the bidder and adopt a fairly reasonable decision.

- F. Shareholders, including institutional investors, should consider the costs and benefits of exercising their voting rights.
- G. It should be ensured, in the event of exclusion of a security from the Public Securities Market Registry, that those investors who are considered to be affected by said act, may get rid of their securities and sell them in reasonable conditions before the company is withdrawn from the negotiation mechanism.
- H. It should be encouraged that any discrepancies that occur between the company and its shareholders are resolved by arbitration, with the possibility of providing for said purpose a compulsory arbitration agreement in the by-laws of the company.

II. EQUAL TREATMENT OF SHAREHOLDERS

The corporate governance framework should 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

A. All shareholders of the same class should be treated equally.

1. Within any class, all shareholders should have the same voting rights. All investors should be able to obtain information about the voting rights attached to all classes of shares before they purchase. Any changes in voting rights should be subject to shareholder vote.

The company should try to reach, if possible, convergence towards a single type or class of share, tending to issue shares with voting right (ordinary shares), and maintain a less variety of shares without voting rights (preference or investment shares).

In this sense, it is recommended that any company issuing investment shares or other shareholding stock without voting rights, offers their holders the opportunity to change them for ordinary shares with the right to vote or that they foresee this possibility at the time of their issue.

These exchange processes should be voluntary, involve all the shareholders of the respective class, be carried out in reasonable conditions, and respect the rights of other company shareholders, whether ordinary or not.

2. Votes should be cast by custodians or nominees in a manner agreed upon with the beneficial owner of the shares.
3. The Shareholders' General Meeting processes and procedures should allow for equitable treatment of all

shareholders. Company procedures should not make it unduly difficult or expensive to cast votes.

- B. A sufficient number of directors should be elected, capable of exercising independent judgment to tasks where there is a potential for conflict of interest, being able, for such purpose, to take into consideration the participation of shareholders lacking control.

Independent directors are those selected for their professional prestige and who are not connected to the company management, nor to the control group of the same.

- C. Transactions should not be carried out with the use of insider trading, nor abusive self-dealing trading or that of third parties.

- D. Members of the Board of Directors and Management should be required to disclose any material interest in transactions or matters affecting corporation.

III. ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE

The corporate governance framework should recognize the rights of stakeholders as established by law and encourage active cooperation between corporations and stakeholders in creating wealth, jobs, and sustainability of financially sound enterprises.

- A. The corporate governance framework should assure that the rights of stakeholders that are protected by law are respected, such as workers, suppliers, and creditors.
- B. Where stakeholders interests are protected by law, stakeholders should have the opportunity to obtain effective redress for violation of their rights.
- C. The corporate governance framework should permit performance-enhancing mechanisms for stakeholder participation.
- D. Where stakeholders participate in the corporate governance process, they should have access to relevant information.

IV. 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.

A. Disclosure should include, but not be limited to, material information on:

1. The financial and operating results of the company.
2. Company objectives.
3. Major share ownership and voting rights.
4. Members of the Board of Directors and main executives and their remunerations.
5. Material foreseeable risk factors and the measures taken to reduce their impact.
6. Material issues regarding employees and other stakeholders.
7. Governance structures and policies.
8. Important facts related to the issuing company, the value and offer which is being made.
9. Economic groups.

Material information includes that which could influence economic decisions taken by those who use it.

B. Information should be prepared, audited and disclosed in accordance with high quality standards of accounting and auditing, including a description of the financial and non-financial risks confronting the company.

C. An auditing company or auditor which keeps independence with respect to the body corporate or equity that is being audited, should carry out at least an annual audit in order to provide an external and objective assurance on the way in which financial statements have been prepared and presented.

Although, in general, external auditors are focused on expressing opinions on financial information, these may also refer to opinions or specialized reports on the following aspects: expert accounting reports, operative

audits, systems audits, project evaluation, cost systems evaluation or implementation, tax audits, appraisals for adjustment of assets, portfolio evaluation, inventories, or other special services.

It is recommended that such services be made by different auditors, or in the event they are done by the same auditors, this should not affect the independence of their opinion. The company should reveal all audits and specialized reports done by the auditor.

Reports should be made on all services provided by the auditing firm or auditor to the company, specifying the percentage represented by each one and its participation in the income of the auditing firm or auditor.

D. Channels for disseminating information should provide for fair, timely cost-efficient access to relevant information by users, and taking into account the following:

1. All shareholders should have equal access to information, and any information revealed to a shareholder or third party should be made available to all shareholders.
2. Attention to particular requests for information by shareholders, investors in general, or stakeholders related to the company, should be made through a responsible authority and/or personnel appointed for such purpose.
3. Any cases of doubt over the confidential character of information requested by shareholders or stakeholders related to the company, should be resolved. The criteria should be adopted by the Board of Directors and ratified by the General Meeting, as well as included in the by-laws or internal regulations of the company. In any case, the revealing of information should not put the competitive position of the company in danger nor affect the normal development of company activities.

E. It should be advised when a particular fact or negotiation, which was formerly determined to be confidential, has ceased to be so and its disclosure no longer creates any damage to the company.

F. The company should have internal auditing. The internal auditor, in exercising his functions, should maintain an independent professional relationship with the company which engages him. He should act observing the same principles of diligence, loyalty and confidentiality which is demanded from the Board of Directors and the Management.

The main functions of the internal auditors, which are expressly recognized, should try to cover the following aspects:

1. Constant evaluation of all information generated or recorded by the activity developed by the company, in a way that is reliable and complies with the regulations.
2. Ensure the strength of the internal accounting control.
3. Present to the corresponding areas, any pertinent observations and propose the necessary measures in order to avoid errors and prevent contingencies.
4. Design and conduct the integral internal control policy of the company.
5. Keep the Board of Directors and the General Management informed in writing, of critical internal control issues or matters of which they should be informed or taken care of, as well as any action taken on recommendations which were presented in the period of the report.

V. RESPONSIBILITIES OF THE BOARD OF DIRECTORS

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.

- A Board members should act, in good faith, with due diligence, care and confidentiality, in the best interests of the company and the shareholders, on a fully informed basis.
- B. Where Board decisions may affect different shareholders groups differently, the Board should treat all shareholders fairly.
- C. The Board of Directors should take into account the interests of stakeholders, always ensuring compliance with applicable law.
- D. The Board of Directors should fulfil certain key functions, including:
 - 1. Evaluate, approve and guide corporate strategy; establish the objectives and goals as well as major plans of action, the risk follow up, control and management policy, annual budgets and business plans; monitor the implementation of the same; and oversee major capital expenditures, investments, acquisitions and divestitures.
 - 2. Select, monitor and when necessary, replace the main executives, as well as fixing their remunerations.
 - 3. Evaluate the remunerations of the main executives and members of the Board of Directors, ensuring a formal and transparent board nomination process.
 - 4. Carry out follow up and control of possible conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions.
 - 5. Supervise the integrity of the corporation's accounting and financial reporting systems, including

the independent audit, and the existence of appropriate systems of control, in particular, control of financial and non-financial risks and compliance with the law.

6. Monitor the effectiveness of the governance practices under which it operates and making changes as needed.
7. Oversee the disclosure policy.

E. The Board of Directors should be able of exercise, independently of the management, an objective judgment on corporate affairs. For this the following should be taken into account:

1. The Board of Directors may form special bodies according to the needs and size of the company, in particular, one that assumes the auditing function. In addition, these special bodies may be directed to, among other things, the functions of appointment, retribution, control and planning.

These special bodies will be formed within the Board of Directors as support mechanisms and should preferably consist of independent directors, in order to take impartial decisions on matters that may cause a conflict of interest.

2. The members of the Board of Directors should devote sufficient time to their responsibilities.

The Board of Directors will meet as often as is necessary to ensure adequate and constant follow up of company matters and anything related directly to company interests. It will make use of any technological means permitted by law when physical meetings of its members is not possible.

3. The number of members of the Board of Directors of a company should ensure plurality of opinions within the Board, in such a way that the decisions adopted by it are the result of appropriate deliberation, always observing the best interests of the company and the shareholders.

F. In order to fulfil their responsibilities, the members of the Board of the Directors should have access to accurate, relevant and timely information.

The information referring to matters to be dealt with in each meeting, should be made available to the directors with sufficient notice to enable their checking, except when dealing with strategic matters that are confidential, in which case, it will be necessary to establish mechanisms enabling the directors to properly evaluate such matters.

Following clearly established and defined policies, the Board of Directors may decide to engage the services of specialized advisors that the company may require to take its decisions.

G. Remunerations of directors should be fixed in direct relation to the dedication and professional experience they have, the main premise in fixing such retributions being moderation. The said fees should generate incentives in order to align the interests of the directors with those of the shareholders.

H. The operating capacity of the Board of Directors should consider that:

1. New directors should be instructed on their powers and responsibilities, as well as on the organizational characteristics and structure of the company.
2. The regular directors should inform the substitute or alternate directors with respect to the matters dealt with in the Board meetings, in order that their possible intervention will not hinder the normal decision making process of the Board, considering that they may cover any vacancy, absence or impediment, at any time. In addition, substitute and alternate directors should inform the regular directors whom they temporarily substituted, with respect to the meetings in which they participated.
3. The Board of Directors should establish the procedures to be followed for the election of one or more replacements, if there are no substitute or

alternate directors, and a vacancy occurs for one or more directors, in order to complete their numbers for the remaining period, when there is no provision for any different treatment in the by-laws.

- I. The functions of the Chairman of the Board of Directors or Executive Chairman, should it be the case, as well as the General Manager should be clearly outlined in the company by-laws or internal regulations in order to avoid duplicating functions and possible conflicts.

The organic structure of the company should avoid concentrating functions, attributions and responsibilities in the persons of the Chairman of the Board, the Executive Chairman, should it be the case, the General Manager and of other officials with management responsibilities.

With respect to the functions, attributions and responsibilities of the General Management, it should be considered that:

1. The Management should have sufficient autonomy to develop its functions properly within the guidelines designated by the Board of Directors
2. The Management should act under the same principles of diligence, loyalty and confidentiality, as the Board of Directors.
3. The General Manager should comply with the approved policy of delivering information to the Board of Directors or to individual directors, without prejudice to the responsibilities established in the by-laws.
4. The General Manager should respect the powers and roles of the other managers in such a way that there is no concentration of the same.
5. It is recommended that the Management receives, at least, part of its retribution in function of the results of the company, in such a way as to ensure compliance with its objective of maximizing the value of the company in favor of the shareholders.

VI. COMPANIES NOT REGISTERED IN THE PUBLIC SECURITIES MARKET

All the principles and practices described in the foregoing chapters, insofar as they are pertinent, are applicable to companies not registered in the Public Securities Market Registry, including closed stock corporations.

It is important to emphasize with respect to companies not registered in the Public Securities Market Registry, that:

1. The Board of Directors should meet regularly, without discarding the participation of independent directors that, in addition to their knowledge and experience, contribute with an impartial point of view.
2. The company should have a logical organizational structure aligned with its objectives, in which the line of command and decision taking process is clear. In addition, it should have a professional Management, remunerated according to market standards. The hiring and replacement policies should be clear and properly communicated.
3. It is recommended that the application of standards for supplying information be the same as that applied to companies registered in the Public Securities Market Registry. In addition, there should be a clear policy on handling and distribution of information with respect to the company operations.