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Assonime and Confindustria comments on the "Review of the G20/OECD Principles of Corporate Governance"

The Italian Association of Joint Stock Companies (Assonime) and the General Confederation of Italian Industry (Confindustria) welcome the opportunity to contribute to the revision of the G20/OECD Corporate Governance Principles (hereinafter the "Principles") and are eager to follow also the future works of the OECD Corporate Governance Committee and the OECD Secretariat at this regard.

The Principles actually play a leading role as global standard and reference benchmark assisting policy makers in the evaluation and the improvement of national corporate governance frameworks, with a view to increasing the attractiveness and the effectiveness of capital markets and supporting more broadly economic efficiency, sustainable growth, and financial stability. This role is particularly important in the current evolving context, facing the decline of some local capital markets, on one side, and the global sustainability and digital transformation challenge, on the other side.

As stated in the preamble to the Principles, "*well-designed corporate governance policies can play an important role in contributing to the achievement of broader economic objectives*", pursuing the three public policy benefits of helping companies to access financing from capital markets, while at the same time protecting investors and supporting the sustainability and the resilience of the corporations and, in turn, of the broader economy.

This OECD approach is particularly relevant for a number of OECD jurisdictions, especially European ones, that are facing a significant decline of public equity markets and where costs of becoming a public company have risen considerably. In such countries, the Principles shall represent an important guidance for policy makers in the identification of regulatory and self-regulatory tools that can contribute to a better environment for listing and help to relaunch a vibrant capital market that can support the economic growth and recovery, especially in such challenging times.

This goal is largely achieved by the Principles but shall be further improved, especially by taking stock from the evolving practices and governance tools across OECD countries. At this regard we identified some elements that could deserve in our view a better consideration in the revision of the Principles.

- We suggest the OECD to provide a better consideration of governance tools that could represent an important factor for fostering companies' access to capital markets.

  In this field, one of the most interesting phenomena regards the increasing number of OECD jurisdictions that decided to depart from the one-share-one-vote principle, allowing the listing of companies' shares granting more than one vote. Multiple voting shares, weighted voting shares as well as loyalty shares underwent swift evolution, and thanks to rules and practices that provide significant safeguards against their misuse proved to be an important enabling factor of companies' access to capital markets, making the latter more attractive for domestic and foreign issuers. In the US experience, where dual class shares are allowed since long ago, their use has grown significantly in the last decade. In main Asian markets, local stock exchanges developed their own approach to the need of large and small companies with a controlling shareholder, providing for weighted voting shares specifically labelled for incentivising the founder-controlling shareholder to go public without losing control over the firm. European countries are in turn developing a diversified approach toward the listing of shares with multiple voting rights: from the introduction of the possibility to double voting rights for shares that are held for a certain period of time (loyalty shares) to the possibility of listing multiple voting shares with or without a voting cap. The phenomenon is key in the policy makers attempt to revitalise capital markets and attract new listings, as testified by recent innovative proposals brough to public discussion in France[1], Germany[2], Italy[3] and the UK[4].

  Looking from the European perspective, it is noteworthy that significant studies commissioned by the European Commission in order to assess the needs and the actions

[1] See the options discussed by the Haut Comité Juridique de la Place Financière de Paris in the "Rapport sur les droits de vote multiples" (Report on multiple voting), published on 22 September 2022.

[2] The coalition agreement "Mehr Fortschritt wagen" (Dare More Progress) signed by the three-party coalition of Social Democrats (SPD), Greens (Bündnis 90/Die Grünen) and Liberals (FDP) on 7 December 2021.

[3] Green Paper published by the Italian Economic Ministry "La competitività dei mercati finanziari italiani a supporto della crescita" (The competitiveness of the Italian capital market to support growth), published on 28 February 2022.

[4] The Lord Hill UK Listing Review, launched on 19 November 2020 as part of a plan to strengthen the UK's position as a leading global financial centre.

to be taken for the improvement of the Capital Market Union unanimously identified this issue – among others – for possible consideration by the European policy makers.

In this light, we believe the OECD shall at least acknowledge this phenomenon, which is barely handled in the current edition of the Principles, and to consider it from a global perspective.

- We call the OECD to a better overall consideration of company groups.

We observe that the draft revision introduces a number of significant provisions with regard to company groups but, unlike for other issues, where the supporting principles and the annotations describe the phenomenon, emphasise its positive effects and drawbacks, and identify the goals to pursue, groups are mentioned within the Principles exclusively to highlight the associated risks.

We therefore suggest adding a suitable introduction to company groups within the first Chapter of the Principles, taking stock from the findings of the OECD peer review on *"Duties and responsibilities of boards in company groups*" and specifically recognising groups as an established governance tool that, when well-managed – and especially if distinguished by the adoption of group protocols and governance guidelines – can contribute significantly to economic development and employment through achievement of economies of scale, synergies and other efficiencies.

Having made this essential preamble, still in line with the findings of the aforesaid OECD peer review, it can be pointed out that company groups present nevertheless the potential for inequitable treatment of shareholders and other stakeholders and other negative consequences for the efficiency and development of capital markets and economies more broadly; in this context the following different provisions of the Principles that highlight the risks associated to company groups can be finally better framed and understood.

- We suggest the OECD to further enhance the reference to corporate governance codes, that appear to some extent neglected, even though they played a significant role in shaping the global corporate governance framework especially in the last two decades and can still contribute to its timely evolution.

Corporate governance codes, commonly understood as a systematic collection of best practices that apply on a 'comply or explain' basis, represent an important complementary element to existing laws and regulations. Their contribution is vital especially in an evolving context such as the current sustainability and digital transformation challenge, where they proved to be flexible and dynamic enough to identify stakeholders' expectations, to update best practices, and, at the same time, to ensure an adaptable and transparent environment, making companies responsible toward the market.

Taking stock of the last revision process that have been carried out by codes' custodians in a number of OECD jurisdiction, the corporate governance code's contribution to the sustainability and resilience of the corporation was timely and effective, as it actively encouraged companies toward a better consideration of their impact on the environment and the civil society and nudged their governance model to evolve accordingly.

For these reasons, we suggest the OECD to further elaborate this topic in the Principles with a clearer statement that shall support a better consideration of corporate governance codes by national and international policy makers.

- We encourage the OECD to <u>enhance the consistency and the clarity of the new Chapter VI on sustainability and resilience</u>.

While we welcome the OECD intention to provide some global guidelines for policy makers in such an evolving framework of rules and standards regarding (especially) sustainability as well as resilience of companies, we would suggest enhancing the consistency and also the clarity of this new Chapter, taking into consideration the need to provide a global but also a homogenous position toward the sustainability challenge.

As to the core of the sustainability definition, we share the OECD introductory statement that even *"in jurisdiction that allow for or require the consideration of stakeholders' interests, companies should still consider the financial interest of their shareholders"*, which endorses an enlightened shareholder value approach rather than pure stakeholderism. This general recognition of the enlightened shareholder value approach is reflected even more clearly in other parts of the Principles, especially in Chapter V, which we believe deserve a better coordination with the new Chapter VI. Specifically, in order to improve consistency within the Principles and ensure more clarity in the sustainability debate, we would suggest recalling explicitly in the introduction to Chapter VI some key amendments that have been incorporated in Chapters II and V. One of those amendments regards the directors' fiduciary duties recognised in supporting principle V.A., which states that *"board members … should* *act in the best interest of the company and the shareholders, taking into account the interests of stakeholders"* (principle V.A., p. 35). In the same fashion, a key statement regarding the central role of the board of directors in the definition of the company's strategy is included in the annotations to the opening principle of Chapter II[5].

We furthermore highlight that the boundaries of directors' fiduciary duties are shaped not only by legal provisions, but also by best practices and case-law. In fact, even if many legal frameworks could be considered "neutral" vis-à-vis corporate boards' consideration of stakeholders' interests, at the same time they do not seem to hamper companies' choices toward a sustainable long-term strategy. In this light, corporate governance codes[6] and best practices can play a significant role, even in jurisdiction with a more specific legal framework of the directors' duties[7], and shall be adequately considered in the revision of the Principles.

As to the sustainability disclosure, we believe that its standards shall be global, gradual and proportional. We overall share the definition of materiality provided in the Principles, as well as the choice of the prioritisation of disclosure requirements and the phasing in of other requirements (e.g., assurance attestations by independent service providers); nevertheless, we would suggest some fine-tuning in order to ensure that the aim of the Principles to provide an overall homogeneous reference for policy makers be actually attained. As

[5] Namely, reference is made to the following sentence: "the responsibility for corporate strategy and operations is typically placed in the hands of the board and the management team (…)" (p. 15).

[6] For example, the commitment toward sustainability has been significantly supported by the 2020 edition of the Italian Corporate Governance Code, which recommends the board be guided as its pole star by the sustainable success of the company's business', intended as *"the long-term value creation for the benefit of shareholders, ensuring adequate consideration of the interests of other stakeholders relevant to the company"*. The sustainable success goal is further developed throughout this Code, which identifies it as the loadstar of the company's strategy and business plan, of its internal control and risks management system, as well as of its internal (e.g. directors and top management remuneration) and external (stakeholder dialogue) governance; in particular, the dialogue with shareholders and stakeholders is considered the cornerstone of the company's sustainable success. Even if the Code found its first application in 2021, a significant number of companies already reported on the integration of the sustainable success goal within their strategic plan or specific company's policies, while linking part of directors' variable remunerations to ESG targets (frequently climate-related ones) and ensuring proper support to the board also through a (in case established) committee with preliminary tasks on sustainability.

[7] As to the company law models and their interaction with governance best practices, an interesting example is offered by the UK legal framework. On one side this legal framework set forth the "enlightened shareholder value" approach by requesting directors to promote the success of the company for the benefit of its members as a whole, while taking into account also relevant stakeholder interests (see section 172 of the Companies Act) and to report on how they have discharged this duty. On the other side, the legislative approach has been further developed by the UK Corporate Governance Code, which does not only regard the quality of the company's disclosure but also recommends the adoption of specific governance practices of engagement with the workforce (i.e., a director appointed from the workforce, and/or a formal workforce advisory panel, and/or a designated non-executive director; see UK CG Code, provision 5) .

materiality has to be assessed by each individual company, the concept should make reference to the effects on the reporting entity of the interactions between its business activity and the general environment and social framework, as it is defined under the so-called dynamic materiality concept. It implies an evaluation of those effects in the long-term, but the identification of the long-term dimension cannot be established by regulators as it is based on the specific business model of single companies. This is the method followed by the IFRS that is developing a “gradualist” approach in tackling with the materiality challenge, initially focusing its efforts on the sustainability information most relevant to investors and other market participants. Information provided according to this concept of materiality can be complemented by further disclosure requirements on the relevant effects of business activity on the environmental and social framework which are not captured under the dynamic materiality criterium, but such requirements should be based on scientific assessments.

A detailed annex with remarks and comments about draft revised Principles is attached.

assonime

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Annex – specific comments and wording proposals

Introduction & About the Principles section

Section or page #	**Comments**
About the Principles, annotations pp. 10-11	We appreciate the broader reference to corporate governance codes and thus a better recognition of their contribution to the definition of the corporate governance framework. In this light, we would suggest recommending all OECD jurisdiction to promote the definition of code of conduct in the private sector. Proposed amendment to supporting principle I.B.: *"The legal and regulatory requirements that affect corporate governance practices should be consistent with the rule of law, transparent and enforceable. Corporate governance codes may offer a complementary mechanism to support the development and evolution of companies' best practices, provided that their status and implementation is duly defined."* Moreover, the code's contribution to the global governance framework shall be also emphasised in the new Chapter VI, considering that the flexibility and the adaptability of corporate governance codes can represent – and actually already represent in most OECD jurisdictions – an important tool for the evolution of the corporate governance framework and the corporate practices toward a more sustainable business activity.
Principle I, annotations p. 10	Consistently with the three major public policy benefits mentioned in the preamble to the Principles (p. 6), we suggest the following amendment to the third paragraph of the annotations to principle I: *"Countries seeking to implement the Principles should monitor their corporate governance framework with the objective of maintaining and strengthening its contribution to market integrity, access to capital markets, economic performance, ~~and~~ transparent and well-functioning markets, and the sustainability and the resilience of corporations."*

I. Ensuring the basis for an effective corporate governance framework

Section or page #	**Comments**
I.A. (p. 10)	Considering that a significant number of OECD jurisdictions have introduced/are introducing multiple voting shares or similar instruments as a possible tool to enable access to capital markets for growth companies, we would suggest to supplement the first paragraph of the annotations to supporting principle I.A. as follows: *"Public equity markets play a key role in providing companies with capital that allows them to innovate and support economic growth, as well as efficiently diversify their financing sources. Equity financing also supports their resilience to overcome temporary downturns while meeting their obligations to employees,*

	creditors and suppliers. Policy makers and regulators need to consider how the corporate governance framework may encourage opportunities to access public equity markets and impact corporate access to market-based financing. To support companies' access to capital markets and taking into account the prevailing ownership structure, some jurisdictions envisage the possible issuance and listing of shares with multiple voting rights and/or loyalty shares, subject to certain conditions."
I.C. (p.12)	We suggest clarifying that also corporate governance codes could play a role in the policy making, as they represent an important complementary element to existing positive laws and regulations. Their contribution is vital especially in an evolving context, where they proved to be flexible and dynamic enough to identify stakeholders' expectations, to update best practices, and, at the same time, to ensure an adaptable but transparent environment, making companies responsible toward the market. For this purpose, we suggest amending the following sentence in the first paragraph of the annotations to supporting principle I.C.: *"Under these circumstances, there is a risk that the variety of legal influences may cause unintentional overlaps and even conflicts, which may frustrate the ability to pursue key corporate governance objectives. It is important that policy makers are aware of this risk, ~~and~~ take measures to ensure a coherent institutional and regulatory framework and enhance the contribution of corporate governance codes."*
I.H. (pp. 13-14)	The draft revision introduces a number of relevant provisions with regard to company groups. Unlike for other issues, where the principles and the annotations describe the phenomenon, emphasise its positive effects and its drawbacks, and identify the goals to pursue, groups are mentioned within the G20/OECD Principles of Corporate Governance exclusively to highlight the associated risks. We therefore suggest adding a broader introduction to supporting principle I.H., whose wording could sound (in line with the findings of the OECD peer review on "Duties and responsibilities of boards in company groups", page 11) as follows: *"Well-managed company groups, especially if distinguished by the adoption of protocols and governance guidelines at group level, can contribute significantly to economic development and employment through achievement of economies of scale, synergies and other efficiencies. Nevertheless, company groups present the potential for inequitable treatment of shareholders and other stakeholders and other negative consequences for the efficiency and development of capital markets and economies more broadly."* *The text could then follow, as currently proposed, with "The prevalence of company groups in many jurisdictions has therefore heightened the need for regulators (….). Company groups operating in different sectors and across borders call for co-operation between domestic regulators and across jurisdictions to strengthen the effectiveness and consistency of regulatory oversight."*

I.E. (p. 13)	As to definition of fees imposed on supervised entities, we would suggest improving the OECD statement introducing a reference to the transparency of the definition of such fees as well as to the criteria that are adopted for setting their amount and distribution among supervised entities. The second paragraph of the annotations to supporting principle I.E. could be therefore amended as follows: *"(…) Many jurisdictions impose levies on supervised entities in combination with, or as an alternative to, government funding. This may support greater financial autonomy from governments to carry out their mandates, while structuring such fees to avoid impeding supervisory independence from regulated industry participants and providing adequate transparency on the criteria adopted to set the fees and their fair distribution among supervised entities. (…)"*

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

Section or page #	Comments
p. 15	For sake of clarity, we suggest the following amendments to the third paragraph of annotations following the principle of Chapter II: *"(…) Additional rights have also been established in various jurisdictions, such as direct nomination of ~~individual~~ board members ~~or board member slates~~, the ability to pledge shares, the approval of distributions of profits, shareholder ability to vote on board member and/or key executive remuneration, approval of material related party transactions and others."*
II.C.3 (p. 17)	The reference to virtual and hybrid shareholders' meetings is important and well balanced. Nevertheless, it would be useful to stress more clearly, on one hand, that the adoption of such new formats requires the actual availability of cutting-edge and secure technologies and, on the other hand, that companies usually rely on technology vendors to handle virtual meetings, the latter being required to possess appropriate professionalism. It is therefore suggested to amend and supplement the second paragraph of the annotations to sub-principle II.C.3 as follows: "*The availability of a cutting-edge technology, able to assure a smooth, stable, reliable, and secure development of the meeting, is required when recourse is made to virtual or hybrid format. ~~Many~~ Companies usually rely on technology vendors to handle virtual or hybrid meetings. It is ~~important~~ therefore necessary that such vendors have the ~~necessary~~ appropriate professionalism, as well as data handling and digital security capacity to support the conduct of fair and transparent shareholder meetings that allow for shareholders' equal*

	participation, identification as well as the confidentiality and security of votes cast prior to the meeting."
II.D. (p. 19)	In the first paragraph of the annotations to supporting principle II.D. we suggest the deletion of the sentence regarding controlled companies, considering that the co-ordination of investors' engagement is important for all companies: *"(…) Some major institutional investors have created initiatives to facilitate the co-ordination of their engagement, for example to address climate-related concerns. ~~In jurisdictions where publicly traded companies have controlling shareholders, these actions safeguard the interest of minority shareholders while increasing their voice in company matters.~~ (…)"*
II.E.1. (p. 20)	Considering the presence of multiple voting rights and loyalty shares in some OECD jurisdictions, we suggest introducing such examples in the first paragraph of the annotations to sub-principle II.E.1.: *"The optimal capital structure of the company is best decided by the management and the board, subject to the approval of the shareholders. Some companies issue preferred (or preference) shares which have a preference in respect of receipt of the profits of the company but which normally have limited or no voting rights. Other companies issue shares with multiple voting rights and/or loyalty shares, the latter ensuring additional voting rights to long term shareholders after a minimum holding period. Companies may also issue participation certificates or shares with limited or no voting rights, which would presumably trade at different prices than shares with full voting rights. All of these structures may be effective in distributing risk and reward in ways that are thought to be in the best interests of the company and to cost-efficient financing."*
II.F.1. (p. 21)	Some amendments regarding the approval of related party transactions are not entirely clear. In the second paragraph of the annotations to sub-principle II.F.1. we deem that possible shareholder approval appears justified with regard to "large transactions", while the grounds of this approval are less clear with regard to *"those conducted outside of the ordinary course of business or those not on market terms"*: on one side, the shareholder approval of all transactions that are not carried out in the ordinary course of business or not on market terms seems too wide, including almost all transactions that are not exempted; on the other side, envisaging possible shareholder approval for those large transactions that are not carried out in the ordinary course of business and/or not on market terms would be tautological, inasmuch they are in any case large transactions that are not exempted. Therefore, we propose the following amendment: *"(…) Shareholders may also be given a say in approving certain transactions, in particular large transactions, ~~those conducted outside the ordinary course of business or those not on market terms,~~ with interested shareholders excluded from voting. (…)"*
II.F.2. (p. 21)	We suggest considering also the case of jurisdictions permitting the vote of the director having an interest in the transaction, provided that adequate information

	about his/her interest has been provided and timely disclosed to the whole board. This solution favours better accountability of the director, who is called to attend the meeting, provide necessary information and vote (if deemed advisable), bearing the responsibility for his/her behaviour. Therefore, we propose the following amendment in the annotations to sub-principle II.F.2.: *"(…) Where a material interest has been declared, it is required or considered good practice in some jurisdictions for that person not to be involved in any decision involving the transaction or matter and/or for the decision of the board to be specifically motivated against the presence of such interests and/or to justify the interest of the transaction for the company, notably by mentioning the terms of the transaction."*

III. Institutional investors, stock markets, and other intermediaries

Section or page #	Comments
p. 23	For sake of clarity, we suggest the following amendment to the third paragraph of annotations to the opening principle of Chapter III, considering that codes are not adopted by jurisdictions as they are developed by private bodies: *"(…) Many jurisdictions, as a complementary governance tool, ~~have adopted~~ codes on shareholder engagement ("stewardship codes") have been adopted with the aim of strengthening both institutional investor accountability and their role in holding company boards and management accountable."*
III. A (p. 24)	We suggest clarifying that shareholders and their engagement policy shall take adequately into account the engagement policy adopted by the company. For this purpose, we share the example of Italian companies, where about half of all listed companies adopted an engagement policy and clearly identified the contact point, who is in charge of receiving all the dialogue requests from the shareholders, as well as the director (usually the CEO or the Chair) who is in charge of the management of the dialogue. For a general reference, see Assonime Principles' for Listed Companies Dialogue with Investors. We therefore suggest amending the following sentence in the second paragraph of annotations to supporting principle III.A: *"As part of an engagement policy, institutional investors can establish a continued dialogue with portfolio companies either on company-specific matters or systemic factors affecting their entire portfolio, taking into account the engagement policy established by the companies and the relevant distribution of roles within the latter."*
III.D. (p. 25)	We share the importance given to the requirements aimed at ensuring the integrity of different providers of advice, analysis and rating. Nevertheless: (i) we would suggest the OECD to consider some guidelines about the definition and the application of the methodology used by such service

	providers, that shall adequately consider the legal features of the jurisdiction in which the company has the legal seat, taking into account both binding and non-binding rules that necessarily influence its governance; (ii) we are concerned with the annotations to supporting principle III.D., where the disclosure of the methodology used by rating and index providers is considered particularly relevant when these ratings and indexes are "*also referenced as metrics for regulatory purposes*": although the annotations underline that *"exclusive reliance on ratings in regulation may raise questions"*, it also recognises that *"the process for deciding which ratings are eligible for use for regulatory purposes should be transparent and could be subject to evaluation at various level of frequency"*. On one hand, the transparency of the methodology is key for market participant, with likely positive effects on the competition and the quality of the ratings, while their use for regulatory purposes could lack of an appropriate justification. On the other hand, any regulatory reliance on rating providers can introduce uncertainty (especially in case of very diversified ESG ratings) and new costs for companies and investors, with significant effects on smaller ones. These additional burdens appear particularly difficult to explain especially in jurisdictions with relevant regulations on the same issues covered by such providers. We would suggest the following amendments to the annotations to supporting principle III.D: *"Considering the importance of – and sometimes dependence on – various services in corporate governance, the corporate governance framework should promote the integrity of regulated entities that provide analysis or advice relevant to decisions by investors, such as proxy advisors, analysts, brokers, ESG and credit rating agencies, and index providers. These service providers, particularly ESG rating and index providers, can have significant impact on companies' governance and sustainability policies given their rating methodologies and index inclusion criterion. When properly constructed and managed appropriately, these can play an important role in shaping good corporate governance practices. Therefore, the methodologies used by service providers that produce ratings and indices should be transparent and publicly available to clients and market participants, and shall find application having due regard to the specific rules of the jurisdiction of the individual company. ~~This is particularly important when they are also referenced as metrics for regulatory purposes.~~ Exclusive reliance on ratings in regulation may raise questions, while the process for deciding which ratings are eligible for use for regulatory purposes should be transparent and could be subject to evaluation at various levels of frequency*."
III.D (pp. 25-26)	We suggest mentioning also some jurisdictions' requirement to provide information about the dialogue occurred between proxy advisors and companies, inasmuch this interaction is important for enhancing their mutual understanding and the accountability and accuracy of the proxy service provider activity. We therefore suggest mentioning it in the last paragraph of the annotations to supporting principle III.D:

	"Many jurisdictions require or recommend that providers of proxy advisory services disclose publicly and/or to investor clients the research and methodology that underpin their recommendations, and the criteria for their voting policies relevant for their clients. Some jurisdictions require that proxy advisory services apply and disclose a code of conduct, and disclose information on their research, advice and voting recommendations and any conflict of interest or business relationships that may influence their research, advice or voting recommendations and the actions they have undertaken to eliminate, mitigate or manage the actual or potential conflicts of interests. Considering the importance of a transparent interaction with the monitored companies, some jurisdictions also require proxy advisors to publicly disclose whether they have dialogues with the companies which are the object of their research, advice or voting recommendations and with the stakeholders of the company, and, if so, the extent and nature thereof."

IV. Disclosure and transparency

Section or page #	Comments
IV.A.3. (p. 29)	When considering the disclosure of capital structures, we believe that the new reference to company groups appears redundant as it is already covered by the transparency issue regarding pyramid structures as well as the second and third sentences of sub-principle IV.A.4. We therefore suggest deleting the following addition: *"Company groups are often complex structures that involve several layers of subsidiaries, including across different sectors and jurisdictions. These structures may limit the ability of non-controlling shareholders of the parent and subsidiary companies to influence corporate policies and understand the risks involved."*
IV.A.6. (p. 30)	Considering that sub-principle IV.A.6. regards information about individual directors, we suggest deleting the reference to the "composition" which clearly refers to the board as a whole. *"Information about board members, including their qualifications, the selection process, ~~their composition,~~ other company directorships and whether they are regarded as independent by the board."*
IV.A.7. (p. 31)	For sake of clarity, we would suggest rephrasing the following sentence of the last paragraph of the annotations to sub-principle IV.A.7. regarding related party transactions as follows: *"To be effective, disclosure thresholds may need to be based mainly on quantitative criteria, ~~but avoidance of disclosure through splitting of transactions with the same related party should not be permitted~~ and good practice suggests aggregating transactions that are homogeneous or made under a unified purpose as far as they are carried out with the same related party over a certain period of time."*

IV.A.9. (p. 32)	For sake of clarity, we suggest emphasising in the first paragraph of annotations to sub-principle IV.A.9. that in most jurisdictions the monitoring report on the compliance with the code is published by the same custodian of the code. *"(…) In m~~M~~ost jurisdictions, ~~publish~~ the code custodian publishes a national report reviewing adherence to the code by publicly traded companies as a good practice to support effective disclosure and implementation of "comply or explain" codes."*
IV.D. (p. 34)	The new reference to the direct communication on the findings of the annual audit between the external auditor and shareholders in too vague and could be misleading. In order to reflect current practice, we therefore suggest clarifying that such interaction occurs "*on the occasion of the annual general meeting*". Proposed amendment to annotations to supporting principle IV.D.: *"The practice that external auditors (…). It also underlines that the external auditor owes a duty of due professional care to the company rather than any individual or group of corporate managers that they may interact with for the purpose of their work. Shareholders and external auditors should also have the possibility to communicate directly on the findings of the annual audit on the occasion of the annual general meeting."*

V. The responsibilities of the board

Section or page #	Comments
V.A.1 (p. 36)	We agree with the proposal to include the statement that board members should be protected against litigation if a decision was made in good faith with due diligence, as this would better enable them to assume the risk of a decision that is expected to benefit the company. Considering the increasing attention regulators and companies are devoting to their supply or value chain, we would suggest the OECD to clarify that same considerations apply also to cases of litigation that could occur in the company's value chain, provided that they acted in good faith and with the due diligence. Accordingly, we suggest the following addition to the annotations to sub-principle V.A.1: *"Protecting board members and management against litigation, if they made a business decision diligently, with procedural due care, on a duly informed basis and without any conflicts of interest, will better enable them to assume the risk of a decision that is expected to benefit the company but which could eventually be unsuccessful. Such a safe harbour would apply even if there are clear short-term costs and uncertain long-term cash inflows, as long as managers diligently assess whether the decision could be reasonably expected to contribute to the long-term success and performance of the company.* *Same safeguards shall protect board members and management against litigation in case of damages caused by third parties, including suppliers,*

	partners and other stakeholders of the company, provided that directors' organizational measures regarding the due diligence in the value chain have been taken diligently, with procedural due care, on a duly informed basis and without any conflicts of interest."
V.D.4 (p. 38)	In order to ensure better clarity about the role of the nomination committee and ensure consistency within the Principles (e.g. see annotations to sub-principle V.D.6), we suggest considering the tasks usually recommended by corporate governance codes and accepted best practices. For this purpose, we suggest the following amendment to the annotations to sub-principle V.D.6: *"In exercising this fundamental function, the board may be assisted by a nomination committee, when established ~~such a committee exists~~, which may be tasked with defining the general or individual profile of board members, including the profile ~~making recommendations to the board on the appointment~~ of the CEO ~~and key executives~~, and identifying the potential candidates for the board composition."*
V.E. (p. 41)	When considering the presumptions for directors' non-independence, we suggest eliminating the provision regarding the number of boards on which a director may serve. The prevention of over-boarding is an important governance best practice that is relevant for all directors, but that has not any direct connection with their independence; therefore, we suggest moving the same sentence to the annotations to sub-principle V.E.3., dealing specifically with over-boarding. Proposed amendment to second-last paragraph of annotations to supporting principle V.E.: *"In defining independence for members of the board, (…). Many countries also set a maximum tenure for directors to be considered independent. ~~It may also be considered good practice to limit the number of boards on which a director may serve.~~"*
V.E.2 (p. 42)	The recognition of a best practice regarding the separation of functions between the audit and the risk committees does not seem to reflect – especially for non-financial companies – current rules and best practices among OECD countries. We therefore suggest deleting the following sentence in the second paragraph of the annotations to sub-principle V.E.2: *"(…) The separation of functions of the audit committee and risk committees may be valuable given the greater recognition of risks beyond the financial risks, to avoid audit committee overload and to allow more time for risk management issues"*.
V.E.2 (p. 42)	We fully support the proper flexibility envisaged in the sub-principle V.E.2. regarding the possible establishment of board committees. For this purpose, we would suggest some minor amendments that may ensure better clarity. New third paragraph: *"According to company's size and stage of development, the tasks of the nomination and the remuneration committee can be entrusted*

	to the whole board, provided that it has an adequate number of independent directors and that the board dedicates specific sessions to the fulfilment of those tasks". The first sentence of the second-last paragraph could be rephrased as follows: *"It remains at the discretion of the board to establish additional committees on specific issues."* These changes require the deletion of the first sentence of the last paragraph ("*The establishment of additional committees remains at the discretion of the company and should be flexible according to the needs of the board."),* which would be incorporated in the above-mentioned amendment proposed to the second-last paragraph.
V.E.4. (p. 43)	We suggest clarifying that additional and complementary measures could be considered if deemed appropriate, i.e. where the diversity issue arises. For this purpose, we suggest the following amendment to the third paragraph of the annotations to sub-principle V.E.4.: *"To enhance gender diversity, many countries require or recommend that publicly traded companies disclose the gender composition of boards and of senior management and some have established mandatory quotas or voluntary targets for female participation on boards. Where deemed appropriate, ~~C~~countries and companies should also consider additional and complementary measures as tools to strengthen the female talent pipeline and reinforce other policy measures aimed at enhancing board and management diversity. Some jurisdictions have also established guidelines or requirements intended to ensure consideration of other forms of diversity, such as with respect to experience, age and other demographic characteristics."*
V.F. (p. 43)	In order to ensure better clarity of the text, and taking stock from some best practices, such as the recommendations set forth in the Italian Corporate Governance Code (see art. 3, recommendations 12 and 17), we would suggest the following addition to the directors' access to information in the first paragraph of the annotations to supporting principle V.F.: *"(…) The contributions of non-executive board members to the company can be enhanced by providing access to certain key managers within the company such as, for example, the company secretary, the internal auditor, and the head of risk management or chief risk officer, also by their attendance to board and board committees' meetings, and recourse to independent external advice at the expense of the company."*
V.G. (p. 43)	In the first paragraph of the annotations to supporting principle V.G. we suggest deleting the reference to the "independence" as possible contribution of employee representatives on boards, considering that these directors (being usually workers) certainly can bring competence and information to the board decision making, but cannot be considered independent.

VI. Sustainability and resilience

Section or page #	Comments
p. 44, principle	The opening principle of Chapter VI on Sustainability and resilience could have a broader scope, embracing the scope of the supporting principles, sub-principles and annotations that follows. For this purpose, we suggest amending the text of the principle as follows: *"The corporate governance framework should provide incentives for companies and their investors to make ~~financing and investment~~ decisions, as well as to manage their risks, in a way that contributes to the sustainability and resilience of the corporation."* Minor amendments are proposed also to the first paragraph of the annotations: *"Companies play a central role in our economies by creating jobs, contributing to innovation, generating wealth, and providing essential goods and services. Several jurisdictions have made commitments to transition to a net-zero/low-carbon economy, which will require companies to respond ~~flexibly~~ to rapidly changing regulatory and business circumstances. In addition, many companies are making voluntary commitments or otherwise taking steps to anticipate a future transition. A sound corporate governance framework would allow investors and companies to consider and manage the potential risks and opportunities ~~from~~ associated with such transition pathways."*
p. 44, annotations	In the third paragraph of the annotations to the opening principle of Chapter VI, we support the OECD intention to underline the importance to ensure the compatibility of the sustainability policies with the accessibility and the effectiveness of capital markets. To strengthen this approach, we suggest the following amendments: *"Several jurisdictions have oriented their capital market policies to foster a greener and more resilient corporate sector. In doing so, such policies ~~may~~ should aim to also preserve access to capital markets by preventing prohibitively high costs of listing a company while still ensuring that investors have access to the information necessary to allocate capital efficiently to companies. Investors, directors and key executives must also be open to a constructive dialogue ~~on the best strategy~~ to support the definition of the best strategy ~~the company's~~ toward sustainability and resilience. (…)"*
pp. 44-45, annotations	We share the OECD statement that even *"in jurisdiction that allow for or require the consideration of stakeholders' interests, companies should still consider the financial interest of their shareholders"*, which endorses an enlightened shareholder value approach rather than pure stakeholderism. In this spirit, we would suggest recalling explicitly in this introduction also some key references introduced in Chapters II and V, which provide a fundamental contribution and clarity in the sustainability debate. Accordingly, we would suggest recalling in the annotations introducing Chapter VI the key statements acknowledging that "*the responsibility for corporate strategy and operations is typically entrusted to the board of directors and the management team*" (p. 15) and that "*board members … should act in the best interest of the company and the shareholders, taking into account the interests of stakeholders*" (principle V.A., p. 35).

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pp. 44-45, annotations	In the last paragraph of the annotations to the opening principle of Chapter VI, we understand the OECD intention to provide a global view on the problems that could or could not be faced by directors. Nevertheless, we observe that the examples provided go beyond concrete reference to rules and practices, polarizing hypotheses of short-termism and pure stakeholderism; this approach does not seem to be in line with the structure of the Principles and could appear confusing. For sake of clarity, we would suggest deleting these examples as follows: *"Corporate directors cannot be expected to be responsible for resolving major environmental and societal challenges stemming from their duties alone.* ~~*On the one hand, a narrow view of directors' fiduciary duties as a simple obligation to maximise short-term profits may have detrimental effects, for example on the corporate sector's long-term performance. On the other hand, an opposite approach also presents risks. If directors in all companies are required to equally balance shareholders' financial interests with the interests of all stakeholders and, in addition, to fulfil a number of specific public interest missions, the corporate sector could become less efficient in allocating resources.*~~ *To guide corporate activities (…)."*
VI.A. (p. 45)	We share the approach toward the opportunities and the challenges of mandatory sustainability disclosure, including the prioritisation and the phasing-in preferences. We also agree that limiting the mandatory sustainability disclosure to listed companies might result in a disincentive for companies to go public. As regards listed companies, we would suggest underlining that – as reflected in the most advanced sustainable regulation requirements – the mere status of "listed" company shall not be used as a requisite for the definition of the scope of mandatory provisions regarding sustainability. Any mandatory sustainability disclosure shall instead be triggered by the company's size and/or industry, that could be viewed as an indicator of its impact on the environment and the civil society. Proposed amendment to third paragraph of the supporting principle VI.A.: *"(…) Limiting mandatory sustainability disclosure to listed companies might result in a disincentive for companies to go public. With these challenges in mind, policy makers may need to limit the scope of mandatory sustainability disclosure to companies of a certain size and/or operating in specific industry sectors that could be viewed as an indicator of their impact on relevant stakeholders, and devise sustainability disclosure requirements that are flexible with respect to the size of the company and its stage of development."*
VI.A. (p. 45)	For sake of clarity, we suggest deleting in the second paragraph of annotations to supporting principle VI.A. the reference to a very specific example that appears to limit the broader consideration of stakeholder interest that can be found in some jurisdictions. "*In jurisdictions that allow or require the consideration of stakeholder interests, disclosures may benefit such stakeholders.* ~~*For instance, disclosure on collective bargaining coverage and mechanisms for employee representation*~~

	~~*may be both material for an investor's assessment of a company's value and relevant to its employees and other stakeholders.*~~*"*
VI.A. (p. 45)	We share the prioritisation approach supported by the OECD (fourth paragraph of annotations to supporting principle VI.A.) in the definition of the contents and tools of sustainability disclosure.
VI.A.1. (pp. 45-46)	The sub-principle VI.A.1. introduces the concept of the investor's *"assessment of the company's value"*, which appears vague with respect to the definition used in supporting principle VI.A., which refers to *"information that a reasonable investor would consider important in making an investment or voting decision".* For sake of clarity, we would suggest deleting the first sentence of sub-principle VI.A.1. as follows: *"VI.A.1.* ~~*Sustainability information should be considered material if it can reasonably be expected to influence an investor's assessment of a company's value.*~~ *If consistent with a jurisdiction's legal and disclosure requirements, the* ~~*such*~~ *assessments of material information may also consider sustainability matters that are critical to a company's key stakeholders or a company's influence on non-diversifiable risks."*
VI.A.3. (p. 46)	Having regard to the annotations to sub-principle VI.A.3, for sake of clarity we suggest deleting the first two sentences as, being rather vague in their formulation and mainly centred on financial information, they could be misleading in this Chapter. *"*~~*Corporate disclosure frameworks, including financial reporting standards and regulatory filing requirements (e.g. public offering prospectuses), should have the same goal of providing information that a reasonable investor would consider important in making an investment and voting decision. It follows that information understood as material in a sustainability report should also be considered and assessed in the preparation and presentation of the financial statements.*~~ *To improve the credibility and reliability of sustainability information, effective governance and internal controls are needed. The same level of rigour applied to the measurement and reporting of financial information should be applied to the measurement and reporting of sustainability information. Ensuring such connectivity between different corporate disclosures implies the consideration of material sustainability matters in financial estimates and assumptions in the financial statements, as well as in the disclosure of risks that have had or are likely to have a material impact on a company's business."*
VI.B. (p. 47)	With regard to the dialogue with shareholders and stakeholders, we are formulating some amendment requests to ensure better clarity on the dialogue and its participants. In particular, we propose to: (i) strengthen the importance of a dialogue that shall be not only allowed but also encouraged, at least at best practice level; (ii) clarify the role of the shareholders' meeting and (iii) clarify that the dialogue occurs between shareholders/stakeholders, on one side, and the company and its representatives, on the other. Having regard to this last point, the

	identification of the person representing the company shall follow the division of powers within the board and the power of attorney system adopted by each company and further clarified in the company's engagement policy, where adopted. Therefore, we propose the following amendments to the supporting principle VI.B.: *"VI.B. Corporate governance frameworks should ~~allow for~~ encourage the dialogue between companies ~~directors, key executives~~, shareholders and stakeholders to exchange views on sustainability matters as relevant for the company's business strategy and its assessment of what matters ought to be considered material.* The following amendments shall be considered in the annotations: *"While general shareholder meetings provide an important ~~forum for a structured decision-making process~~ informative opportunity for shareholders, dialogue between companies ~~directors, key executives~~, stakeholders and shareholders may play an essential role in informing management's decision-making process and in building investors' and stakeholders' trust in a long-term business strategy. (…)."*
VI.B.1. (p. 47)	The sub-principle VI.B.1. and the related annotations provide for a vague consideration of legal frameworks envisaging companies' possibility to pursue profit and non-profit objectives. We propose the deletion of this sub-principle and the related annotations, considering that this issue does not seem to fit with this part of the Chapter, dedicated to the dialogue with shareholders and stakeholders, and that examples of such legal institutes and arrangements are diversified and connected to the characteristics of each jurisdiction, where dissenting shareholders and their right of withdrawal is ensured where substantial conditions are met. *~~VI.B.1. When corporate governance frameworks allow for existing companies to adopt both for-profit and public benefit objectives, such frameworks should provide for due consideration of dissenting shareholder rights.~~* *~~A number of jurisdictions have frameworks that enable companies to incorporate both for-profit and public benefit objectives, which allow them to pursue explicit objectives related to environmental and social matters. In cases where an existing for-profit company adopts public benefit objectives, it is important to provide mechanisms providing for the due consideration of dissenting shareholder rights. Possible solutions to protect the interests of dissenting shareholders could include requiring the consent of minority shareholders or a supermajority shareholders' approval for a company to add non-financial goals to its articles of association, or by providing the right for dissenting shareholders to sell their shares back to the company at a fair price.~~*

VI.C.1. (p. 47)	In the annotations to sub-principle VI.C.1. we suggest deleting the last sentence, which provides for extreme examples. *"Boards should effectively oversee the lobbying activities management conducts and finances, in order to ensure that management gives due regard to the long-term strategy for sustainability adopted by the board. ~~For instance, lobbying against any carbon pricing policy may be expected to increase a company's short-term profits but not be in line with the company's commitment to make an orderly transition to a low carbon economy.~~"*