



# Code of Corporate Governance

# Preamble

*This Code was developed with the assistance of Nestor Advisors, Nestor Nestor Diculescu Kingston Petersen, and SC Concept SRL in the course of the project “Review and Implementation of the Romanian Corporate Governance Code”, co-financed by the Bucharest Stock Exchange (BVB) and the European Bank for Reconstruction and Development (EBRD)*

The Bucharest Stock Exchange Code of Corporate Governance is a set of principles and recommendations for companies whose shares are admitted to trading on the regulated market. The Code aims at building an internationally attractive capital market in Romania, based on best practices, transparency and trust. It encourages companies to build a strong relationship with their shareholders and other stakeholders, communicate effectively and transparently and show openness towards all potential investors.

This new Code replaces the original Code which was issued in 2001 and revised in 2008. The changes made to the new Code were desirable, taking into account the lessons learned from the previous versions, the evolving legal environment in Romania and Europe and the new aspirations of the society and of the stakeholders regarding the responsibilities and conduct of companies.

The goal of the Bucharest Stock Exchange Code of Corporate Governance is to improve confidence in the listed companies by promoting positive developments in the corporate governance of these companies.

A good corporate governance is a powerful tool for enhancing the market competitiveness.

The Bucharest Stock Exchange maintains a mechanism based on the “comply or

explain” principle which gives the market clear, accurate and actual information about listed companies’ compliance with corporate governance rules.

At the center of this Code are access to information for investors and protection of shareholders’ rights. While we refrain from imposing a burden on listed companies which may outweigh the benefits, we believe that efforts to satisfy investors’ expectations generate advantages for companies and their management. Therefore, each listed company should aim to fulfill all provisions of the Code. The role of good governance is to facilitate good, effective, entrepreneurial management that can deliver the long-term success for the company.

Companies shall include a corporate governance statement in their annual report, as a specific section of the annual report, which shall contain a self-assessment of how the “provisions to comply with” are observed and shall include the measures taken in order to comply with provisions that are not fully met.

All situations where a company does not observe the “provisions to comply with” must be reported to the market via the form of a current report, in accordance with the BVB Rulebook.

# Section A

## Responsibilities

### General principles

The role of the Board of Directors in a one-tier board system and the role of the Supervisory Board/Management Board in a two-tier board system should be clearly defined and documented in the company's articles of association, internal regulations and/or other similar documents. The Board<sup>1</sup> should ensure that company's articles of association, the resolutions of the general meeting of shareholders, and the internal regulations of the company include a clear distinction of powers and competencies between the general meeting of shareholders, the Board and the executive management.

The Board should be structured in such a way that allows it to diligently fulfill its duties. The Board should meet sufficiently regularly to discharge its duties effectively.

The Board should ensure that a formal, rigorous and transparent procedure is put into place regarding the appointment of new members to the Board.

There should be a clear division of responsibilities between the Board and the executive management.

The Board and its committees should have the appropriate balance of skills, experience, gender diversity, knowledge and independence to enable them to effectively perform their respective duties and responsibilities. It is recommended for the majority of non-executive members of the Board of Directors or Supervisory Board to be independent. All members of the Board should be able to allocate sufficient time to the company to discharge their responsibilities effectively.

The Board should ensure that it is appropriately informed to enable it to discharge its duties.

Board members must strictly observe the secrecy of the proceedings, debates and decisions taken, unless otherwise decided by the Board or unless regulations in force require the appropriate disclosure.

<sup>1</sup> In this Code of Corporate Governance, the term Board refers to the Board of Directors in one-tier board systems and to the Supervisory Board or Management Board, depending on the context, in two-tier board systems if the provisions are applicable to both cases. If not, the provisions will mention separately the Board of Directors or the Supervisory Board / Management Board.

## Provisions to comply with:

**A.1.** All companies should have internal regulation of the Board which includes terms of reference/responsibilities for Board and key management functions of the company, applying, among others, the General Principles of Section A.

**A.2.** Provisions for the management of conflict of interest should be included in Board regulation. In any event, members of the Board should notify the Board of any conflicts of interest which have arisen or may arise, and should refrain from taking part in the discussion (including by not being present where this does not render the meeting non-quotable) and from voting on the adoption of a resolution on the issue which gives rise to such conflict of interest.

**A.3.** The Board of Directors or the Supervisory Board should have at least five members.

**A.4.** The majority of the members of the Board of Directors should be non-executive. At least one member of the Board of Directors or Supervisory Board should be independent, in the case of Standard Tier companies. Not less than two non-executive members of the Board of Directors or Supervisory Board should be independent, in the case of Premium Tier Companies. Each member of the Board of Directors or Supervisory Board, as the case may be, should submit a declaration that he/she is independent at the moment of his/her nomination for election or re-election as well as when any change in his/her status arises, by demonstrating the ground on which he/she is considered independent in character and judgement in practice and according to the following criteria:

**A.4.1.** Not to be the CEO/executive officer of the company or of a company controlled by it and not have been in such position for the previous five years.

**A.4.2.** Not to be an employee of the company or of a company controlled by it and not have been in such position for the previous five (5) years.

**A.4.3.** Not to receive and not have received additional remuneration or other advantages from the company or from a company controlled by it, apart from those corresponding to the quality of non-executive director.

**A.4.4.** Is not or has not been an employee of, or has not or had not any contractual relationship, during the previous year, with a significant shareholder of the company, controlling more than 10% of voting rights or with a company controlled by it.

**A.4.5.** Not to have and not have had during the previous year a business or professional relationship with the company or with a company controlled by it, either directly or as a customer, partner, shareholder, member of the Board/Director, CEO/executive officer or employee of a company having such a relationship if, by its substantial character, this relationship could affect his/her objectivity.

**A.4.6.** Not to be and not have been in the last three years the external or internal auditor or a partner or salaried associate of the current external financial or internal auditor of the company or a company controlled by it.

**A.4.7.** Not to be a CEO/executive officer in another company where another CEO/executive officer of the company is a non-executive director.

**A.4.8.** Not to have been a non-executive director of the company for more than twelve years.

**A.4.9.** Not to have family ties with a person in the situations referred to at points A.4.1. and A.4.4.

**A.5.** A Board member's other relatively permanent professional commitments and engagements, including executive and non-executive Board positions in companies and not-for-profit institutions, should be disclosed to shareholders and to potential investors before appointment and during his/her mandate.

**A.6.** Any member of the Board should submit to the Board, information on any relationship with a shareholder who holds directly or indirectly, shares representing more than 5% of all voting rights. This obligation concerns any kind of relationship which may affect the position of the member on issues decided by the Board.

**A.7.** The company should appoint a Board secretary responsible for supporting the work of the Board.

**A.8.** The corporate governance statement should inform on whether an evaluation of the Board has taken place under the leadership of the chairman or the nomination committee and, if

it has, summarize key action points and changes resulting from it. The company should have a policy/guidance regarding the evaluation of the Board containing the purpose, criteria and frequency of the evaluation process.

**A.9.** The corporate governance statement should contain information on the number of meetings of the Board and the committees during the past year, attendance by directors (in person and in absentia) and a report of the Board and committees on their activities.

**A.10.** The corporate governance statement should contain information on the precise number of the independent members of the Board of Directors or of the Supervisory Board.

**A.11.** The Board of Premium Tier companies should set up a nomination committee formed of non-executives, which will lead the process for Board appointments and make recommendations to the Board. The majority of the members of the nomination committee should be independent.



# Section B

## Risk management and internal control system

### General principles

The company should have in place an efficient risk management and internal control system. The Board should determine the principles of and approaches to the risk management and internal control system in the company.

The company should arrange for internal audits to independently evaluate, on a regular basis, the reliability and efficiency of the risk management and internal control system and the corporate governance practices. The Board of Directors or Supervisory Board, as the case may be, should set up an independent audit committee capable of ensuring the integrity of financial reporting and of the internal control system, including the internal and external audit processes.

The company will ensure that all related party transactions are considered on their merits in a manner that ensures independence and the protection of the interests of the company, compliant with the restrictions set out in related legislation and fairly disclosed to shareholders and potential investors. The definition of related parties follows that of International Accounting Standard 24.

### Provisions to comply with:

**B.1.** The Board should set up an audit committee, and at least one member should be an independent non-executive. The majority of members, including the chairman, should have proven an adequate qualification relevant to the functions and responsibilities of the committee. At least one member of the audit committee should have proven and adequate auditing or accounting experience. In the case of Premium Tier companies, the audit committee should be composed of at least three members and the majority of the audit committee should be independent.

**B.2.** The audit committee should be chaired by an independent non-executive member.

**B.3.** Among its responsibilities, the audit committee should undertake an annual assessment of the system of internal control.

**B.4.** The assessment should consider the effectiveness and scope of the internal audit function, the adequacy of risk management and internal control reports to the audit committee of the Board, management's responsiveness and effectiveness in dealing with identified internal control failings or weaknesses and their submission of relevant reports to the Board.

**B.5.** The audit committee should review conflicts of interests in transactions of the company and its subsidiaries with related parties.

**B.6.** The audit committee should evaluate the efficiency of the internal control system and risk management system.

**B.7.** The audit committee should monitor the application of statutory and generally accepted standards of internal auditing. The audit committee should receive and evaluate the reports of the internal audit team.

**B.8.** Whenever the Code mentions reviews or analysis to be exercised by the Audit Committee, these should be followed by cyclical (at least annual), or ad-hoc reports to be submitted to the Board afterwards.

**B.9.** No shareholder may be given undue preference over other shareholders with regard to transactions and agreements made by the company with shareholders and their related parties.

**B.10.** The Board should adopt a policy ensuring that any transaction of the company with any of the companies with which it has close relations, that is equal to or more than 5% of the net assets of the company (as stated in the latest financial report), should be approved by the Board following an obligatory opinion of the Board's audit committee, and fairly disclosed to the shareholders and potential investors, to the extent that such transactions fall under the category of events subject to disclosure requirements.

**B.11.** The internal audits should be carried out by a separate structural division (internal audit department) within the company or by retaining an independent third-party entity.

**B.12.** To ensure the fulfillment of the core functions of the internal audit department, it should report functionally to the Board via the audit committee. For administrative purposes and in the scope related to the obligations of the management to monitor and mitigate risks, it should report directly to the chief executive officer.



# Section C

## Fair rewards and motivation

### General principles

The level of remuneration should be sufficient to attract, retain and motivate skillful and experienced people as members of the Board and the management. The Board should ensure transparency related to remuneration matters. The shareholders should be provided with relevant information in order to understand the principles applied by the company regarding the remuneration policy, which is based on fair rewards and motivation for Board members, and for the CEO or Management Board.

A company should have a remuneration policy and rules defining that policy. It should determine the form, structure and level of remuneration of members of the Board, the CEO and when applicable, members of the Management Board.

### Provisions to comply with:

**C.1.** The company should publish a remuneration policy on its website and include in its annual report a remuneration statement on the implementation of this policy during the annual period under review.

The remuneration policy should be formulated in such a way that allows stakeholders to understand the principles and rationale behind the remuneration of the members of the

Board and the CEO, as well as of the members of the Management Board in two-tier board systems. It should describe the remuneration governance and decision-making process, detail the components of executive remuneration (i.e. salaries, annual bonus, long term stock-linked incentives, benefits in kind, pensions, and others) and describe each component's purpose, principles and assumptions (including the general performance criteria related to any form of variable remuneration). In addition, the remuneration policy should disclose the duration of the executive's contract and their notice period and eventual compensation for revocation without cause.

The remuneration report should present the implementation of the remuneration policy vis-à-vis the persons identified in the remuneration policy during the annual period under review.

Any essential change of the remuneration policy should be published on the corporate website in a timely fashion.



# Section D

## Building value through investors' relations

### General principles

The company should disseminate the most important information both in Romanian and English, to enable Romanian and foreign investors to have access to the same information at the same time.

A company should do its best to enable its shareholders to participate in general meetings, aiming at using electronic communication means through (a) live broadcast of general meetings and/or (b) live bilateral communication where shareholders may express themselves during a general meeting from a location other than that of the general meeting, as long as this is in line with legislation regarding data processing.

A company should aim to provide for an electronic voting system at general meetings, including remote electronic voting.

### Provisions to comply with:

**D.1.** The company should have an Investor Relations function - indicated, by person (s) responsible or an organizational unit, to the general public. In addition to information required by legal provisions, the company should include on its corporate website a dedicated Investor Relations section, both in Romanian and English, with all relevant information of interest for investors, including:

**D.1.1.** Principal corporate regulations: the articles of association, general shareholders' meeting procedures.

**D.1.2.** Professional CVs of the members of its governing bodies, a Board member's other professional commitments, including executive and non-executive Board positions in companies and not-for-profit institutions;

**D.1.3.** Current reports and periodic reports (quarterly, semi-annual and annual reports) – at least as provided at item D.8 – including current reports with detailed information related to non-compliance with the present Code;

**D.1.4.** Information related to general meetings of shareholders: the agenda and supporting materials; the procedure approved for the election of Board members; the rationale for the proposal of candidates for the election to the Board, together with their professional CVs; shareholders' questions related to the agenda and the company's answers, including the decisions taken;

**D.1.5.** Information on corporate events, such as payment of dividends and other distributions to shareholders, or other events leading to the acquisition or limitation of rights of a shareholder, including the deadlines and principles applied to such operations. Such information should be published within a timeframe that enables investors to make investment decisions;

**D.1.6.** The name and contact data of a person who should be able to provide knowledgeable information on request;

**D.1.7.** Corporate presentations (e.g. IR presentations, quarterly results presentations, etc.), financial statements (quarterly, semi-annual, annual), auditor reports and annual reports.

**D.2.** A company should have an annual cash distribution or dividend policy, proposed by the CEO or the Management Board and adopted by the Board, as a set of directions the company intends to follow regarding the distribution of net profit. The annual cash distribution or dividend policy principles should be published on the corporate website.

**D.3.** A company should have adopted a policy with respect to forecasts, whether they are distributed or not. Forecasts means the quantified conclusions of studies aimed at determining the total impact of a list of factors related to a future period (so called assumptions): by nature such a task is based upon a high level of uncertainty, with results sometimes significantly differing from forecasts initially presented. The policy should provide for the frequency, period envisaged, and content of forecasts. Forecasts, if published, may only be part of annual, semi-annual or quarterly reports. The forecast policy should be published on the corporate website.

**D.4.** The rules of general meetings of shareholders should not restrict the participation of shareholders in general meetings and the exercising of their rights. Amendments of the rules should take effect, at the earliest, as of the next general meeting of shareholders.

**D.5.** The external auditors should attend the shareholders' meetings when their reports are presented there.

**D.6.** The Board should present to the annual general meeting of shareholders a brief assessment of the internal controls and significant risk management system, as well as opinions on issues subject to resolution at the general meeting.

**D.7.** Any professional, consultant, expert or financial analyst may participate in the shareholders' meeting upon prior invitation from the Chairman of the Board. Accredited journalists may also participate in the general meeting of shareholders, unless the Chairman of the Board decides otherwise.

**D.8.** The quarterly and semi-annual financial reports should include information in both Romanian and English regarding the key drivers influencing the change in sales, operating profit, net profit and other relevant financial indicators, both on quarter-on-quarter and year-on-year terms.

**D.9.** A company should organize at least two meetings/conference calls with analysts and investors each year. The information presented on these occasions should be published in the IR section of the company website at the time of the meetings/conference calls.

**D.10.** If a company supports various forms of artistic and cultural expression, sport activities, educational or scientific activities, and considers the resulting impact on the innovativeness and competitiveness of the company part of its business mission and development strategy, it should publish the policy guiding its activity in this area.

