

Code of Best Practice of Corporate Governance

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L'Institut Arabe des Chefs d'Entreprises
Cellule des Jeunes Membres
IACE-CJM



INSTITUT
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with the collaboration of the
Center for International Private Enterprise
(CIPE)



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PREAMBLE

Since the 1990s, corporate governance practices (setting up audit committees, enhancing fiscal transparency, ensuring effective functioning of the board of directors, increasing directors' independence, improving the employers–employees relationships, protecting shareholders' rights, designing managerial compensation etc) have been the subject of numerous codification attempts. The need to codify corporate governance best practices is nowadays more pressing than ever, especially in the aftermath of recent financial scandals, to guard against serious economic risks.

Being aware that best governance practices increase companies' value and shareholders' trust, the Arab Institute of Business Managers (IACE) with the Center of International Private Enterprise (CIPE) collaboration has set up a project whose objective is to publish a guide for corporate governance best practices for Tunisian corporations. This guide encompasses practical recommendations and measures that can improve corporate governance in Tunisia.

To do so, the IACE has assembled representatives of key economic actors in Tunisia. The recommendations included in this guide and identified by experts are the output of long debates with professionals, particularly members of the Cellule des Jeunes Membres of the IACE (CJM–IACE), representatives of le Conseil du Marché Financier (CMF), la Banque Centrale de Tunisie (BCT) and la Bourse des Valeurs Mobilières de Tunis (BVMT), Ministry of Finance, l'Association Tunisienne des Auditeurs internes (ATAI) and l'Association Professionnelle des Banques Tunisiennes et des Etablissements Financiers (APBTEF). Thus, this Guide has been issued by those who are supposed to adhere to it and to implement it.

This Guide of best corporate governance practices for Tunisian corporations presents the major recommendations related to corporate management and control. It also includes international and national standards known for company's good conduct and responsible management. The Guide aims at making Tunisian corporate governance system more transparent and intelligible. Its ultimate objective is to promote the trust in Tunisian corporations' management and control of national and international investors, customers, employees and the community.

The main corporate governance issues addressed in the Guide and shared by many other guides throughout the world are the following: internal audit, external audit, fiscal transparency, ethics and societal responsibility, managers' role, employers–employees' relationships, the board of directors, the shareholders' rights and managerial compensation.

Given the specific features of Tunisian corporations, we have judged it appropriate to devote a chapter to good governance practices in family firms.

Certainly, some will find this Guide so general to the point that it lacks precision. Such a position is natural given the wide variety of companies' characteristics. However, the virtue of this Guide is to attempt to set up a certain harmonization of corporate governance practices for all stakeholders. This Guide will be subject to a review and, if possible, to a periodical adaptation following your recommendations and remarks.

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1. SHAREHOLDERS' RIGHTS

Good corporate governance has to protect shareholders against any abusive and unfairly prejudicial act and to preserve their information and voting rights. For this aim, any corporation adopting this Guide should:

1.1 The “one share–one vote” rule

- adopt the “one share–one vote” rule

1.2 Shareholders' right to information

- ensure that all its shareholders are equally treated. The corporation should make sure that all the shareholders are provided with all necessary information and with all the devices that allow them to properly exercise their rights.
- facilitate shareholders' access to the company's statutes and, if it exists, to corporate governance charter by providing these documents at the company's headquarters and (or) on its website.
- for publicly listed companies, provide a prominent and easily accessible hyperlink on the companies' websites to the investors' information including a calendar of periodical information, of general assemblies dates and of past and forthcoming events. This website should also include resolutions' projects, financial statements and annual reports.

1.3 Shareholding

- publish in its annual report and/or on its website the identities of its main shareholders along with a description of their ownership rights, their voting rights and when they exist, the mechanisms that allow them to exercise an incommensurate control in comparison with their ownership¹
- disclose the ownership structure of its main legal entity shareholders

1) The number and the percentage of shares and voting rights held by each of the main shareholders.

- publish in its annual report and/or on its website the existing agreements between the main shareholders.

1.4 The general assembly

1.4.1. Convening of the meeting

- call the shareholders' general assembly at least 30 days before it takes place. This deadline which is longer than the one set by law allows shareholders to have a better knowledge of the documents provided by the company and to make a decision with full understanding of facts.
- use telematic solutions (such as the website of the corporation) to supplement the traditional means of publication of the notice calling the general assembly meeting.

1.4.2 Venue and Date

- Choose the venue and date for the meeting of the general assembly in a way that maximizes the shareholders' attendance.

1.4.3 Voting in absentia

- encourage shareholders to take part in the general meeting and allow those of them who cannot attend that meeting to vote in absentia either by correspondence or by certified proxy.
- provide shareholders with the necessary documents to vote by correspondence or by proxy within a deadline distant enough from the date of the general meeting, 30 days before it takes place, so that they can undertake the necessary procedures. These documents could also be diffused through telematic solutions.

1.4.4 Agenda and documentation

- allow one or more shareholders holding together at least 2.5 per cent of the company's share capital to request the inclusion of an additional resolution on the agenda of the shareholders' general meeting. Any additional resolution that appears within 10 days before the general meeting takes place has to be put at the disposal of all the shareholders at the company's head office and/or on its website.

- provide an explanatory notice regarding the reasons and the possible consequences of the main points on the agenda of the shareholders' general meeting.
- put the necessary documentation at the disposal of all shareholders so that they can take stand as to all matters to be considered at the general meeting. This documentation should be available at the corporation's head office and/or on its website at least 30 days before the scheduled date of the general meeting.
- provide a practical notice explaining the participation modalities at the general meeting. This notice has to be put at the shareholders' disposal at the company's head office and/or on its website.

1.4.5 Procedures

- make sure that all the procedures related to the shareholders' general meetings guarantee that all shareholders are equally treated.
- avoid any procedure that makes the exercise of voting rights difficult, expensive or time-consuming for the shareholders.
- take the necessary measures to respond to the shareholders' inquiries or relevant questions.
- guarantee an appropriate organization of the general assembly and act in a way that the meeting does not last more than five hours. To do so, the chairman of the general assembly can restrict, when he judges necessary, the time allocated to each speaker, especially when many participants are concerned with the same issue.

1.4.6 Summary report

- elaborate a summary report from the general assembly minute and put it at the disposal of shareholders by publishing it on the company's website and/or by mailing it to shareholders who have voted by proxy or by correspondence and this within a deadline of two weeks from the scheduled meeting.

This report communicates to all shareholders information about the assembly decisions, about the attendance of the voters in person, of the voters'

representatives and the voters by correspondence as well as about the voting results' percentages.

1.5 Investors relations service

- maintain contacts with shareholders even after the general meeting by informing them about the company's perspectives and major events. The corporation can dedicate an employee or an "investor relations service" to this end.

1.6 The Guide implementation

- clearly explain to shareholders the reasons why one (or some) recommendation(s) of this Guide has (have) not been considered so that they come up with their own idea about the company's position.

2.THE BOARD OF DIRECTORS: STRUCTURE AND RESPONSIBILITIES

The board of directors is a collegial authority which has to represent all shareholders' interests and act in the company's interest. The board of directors' functioning is governed by the requirements of articles 189 to 223 of the code of commercial companies.

2.1 The board of directors' structure

For a better corporate governance of companies with board of directors, the present Guide recommends the following:

2.1.1 The separation of CEO and Chairman roles

To separate the roles of CEO and chairman of the board of directors for an efficiency purpose².

When the board of directors decides that both positions should be filled by one person, it is requested to account for this choice to the shareholders.

2.1.2 The independent directors

To appoint independent directors selected for their qualification and expertise. To this end, it is recommended that at least one third of the members of the board of directors be independent.

An independent director is any person who has no direct or indirect relationship with the corporation, with one of its group's companies or with its executive management. The director's independence should guarantee the impartiality of his/her engagement. The independent director insures the safeguarding of the company's interest without favoring some shareholders upon others or neglecting the interest of other stakeholders.

Consequently, an independent director should not:

2) The Tunisian legislator offers corporations that desire to make a strict separation between management and control roles the option to adopt a dual structure with a management board and supervisory board (article 224 of the code of commercial companies)

- be an employee or a corporate officer of the company or of one of its group’s companies.
- have direct or indirect ties with an entity that has significant commercial, financial or professional links with the company, with one of its group’s companies or with one of the controlling shareholders.
- receive any remunerations from the company other than those as a director or a member of one of the board of directors’ committees.
- have subordinate ties with the company.
- be related to any entity that receives donations, subsidy or significant funds from the company.
- have family ties with a corporate officer.

Directors’ independence should be regularly reconsidered during the general shareholders meeting.

2.1.3 The representation of minority shareholders

The appointment of independent directors is a pledge for impartiality and for safeguarding minority shareholders’ interests.

2.1.4 The interlocking directorates

In the absence of significant financial ties, it is recommended to corporations adopting this Guide to eliminate situations of interlocking directorates.

2.1.5 The duration and renewal of the directors’ mandates

- to appoint independent directors by the founding general assembly or by the ordinary general assembly for a maximum period of three years renewable only once. The appointment of independent directors and the renewal of their mandate should be carried out according to clear, objective and transparent criteria.

- the renewal of the board of directors' mandate should be progressively done and not in a straightaway manner while safeguarding the interests of the corporation and the prerogatives of the general assembly.

2.1.6 The size of the board of directors

Each company is free to determine the size of its board of directors according to its specificities within the limits of the law. The board of directors should be small enough in numbers for prompt and efficient decision making and as large as possible in a way to benefit from its members' competence and experience diversity.

2.1.7 The composition of the board of directors

The composition of the board of directors should be balanced. Directors should be of different ages, different experiences, different profiles and different expertise³. Their presence on the board should be a source of wealth and of competitive advantage for the company.

Directors' competences should be as large as possible and cover many fields. They should include but should not be limited to:

- an extensive experience in other directorship positions;
- a long-standing experience as chief executive officer or as vice chief executive officer;
- knowledge in accounting, finance and business management;
- knowledge about local and foreign markets;
- an experience in the identification and follow-up of risk sources as well as in crisis management .

3) It is recommended as much as possible that 1/3 of directors be less than 40 years old and that 1/3 be more than 60. This structure facilitates a corporation management by intergenerational alliance.

When a substantial part of the company's activities is achieved abroad, it is recommended to appoint one or many directors who have a long experience abroad or, if necessary, foreign directors.

2.1.8 The committees of the board of directors

To improve the efficiency of the boards of directors, it is in the interest of large companies that adopt this Guide to:

- appoint specialized committees such as an audit committee, a nomination committee, a compensation committee, a strategic committee... depending on the specificities and peculiarities of each company.
- clearly define the mandate, the composition and the functioning procedures of all created committees .
- inform shareholders about all these elements by publishing them in the corporate annual report.
- insure that each of the these committees, other than the audit committee, is composed of members of the board of directors, preferably independent ones and non-salaried staff known for their proficiency, experience and honesty.

The article 256 bis of the code of commercial companies states that “the permanent audit committee consists of, at least, three members who are appointed either by the board of directors or the supervisory board among their members.” It is recommended that the audit committee includes at least one independent member as it is defined in the present Guide.

2.1.9 The information policy

To enforce transparency, any company adopting this Guide should:

- publish in its annual report the following information regarding the members of the board of directors:
 - the age of each director;
 - the number of shares he/she holds in the company;
 - the beginning and end dates of his/her mandate;
 - an indication of his/her status (independent or not);
 - the list of current mandates and functions he/she holds in other companies;

- the list of his/her mandates that have expired during the past ten years in other companies;
 - his/her main function;
 - a biographical résumé giving an idea about his/her professional experience;
- to disclose the number and dates of the meetings of the board of directors and those of the committees that were held during last year by publishing them in the company annual report.

2.2 The responsibilities of the board of directors

The board of directors should define its engagements' terms in the corporations' bylaws. It should carry out some major tasks, notably:

- insure compliance with laws and standards applicable to the company.
- fix, evaluate and reconsider on a regular basis:
 - the major orientations, strategies and values of the company ;
 - the annual budgets, activities' plans and company's financing priorities;
 - the company's objectives in terms of performance;
 - the process of hiring managers and their remuneration;
 - the plan of follow-up of managers' activities and the organization of their succession;
 - the procedures of directors' nomination, election and remuneration as well as specialized committees' implementation;
 - the company's risk level;
 - the company's code of ethics ;
 - good corporate governance rules and their application by the company.
- evaluate and reconsider regularly the main action plans and the global corporate performances.
- ensure company protection through anti-competition clauses, confidentiality clauses...
- define the procedures to be followed and decide on the contracts to be concluded between the company and its stakeholders without violating any applicable law or regulation.

- define the modalities that allow directors to perform their engagements while complying with applicable regulations.
- coordinate the communication between the company and its stakeholders (shareholders, employees, customers, suppliers, the state, local authorities...)
- approve the agreements concluded between the corporation and its stakeholders⁴.
- insure the integrity of the accounting system and the financial and non-financial disclosure systems.
- supervise the disclosure of the annual report which includes all company's important information. This report should be accessible to all concerned parties without restriction and notably published on the company's website.

Under all circumstances, the members of the board of directors have to act in the company's interest. They are required to:

- devote the necessary time and attention to their engagements.
- be diligent in performing their engagements.
- inform the board about any new nomination of any kind and particularly about directorship or executive functions in other companies.
- respect the company's charter of ethics (or code) if it exists.
- respect the confidentiality obligation and ensure that all shareholders have an equal access to information.
- insure, as much as possible, that the board of directors does not make any decision that goes against a particular category of shareholders.
- take into account the interests of all stakeholders involved in the company's life.
- declare to the board of directors any existing or latent conflicts of interests which are harmful to the company.
- strive to be informed about all operations going beyond the assigned strategy and about the main company's engagements.

4) Each company determines, according to its specificities, the threshold beyond which the agreement must be submitted to the board of directors for approval.

3. THE ROLE OF MANAGERS

The notion of “manager” covers all corporate top employees who assume the ultimate responsibility of management (chief executive officers, general managers, members of the management board, executive vice presidents...). The manager is accountable for performance. He/she ensures value maximization in all its dimensions and acts after undertaking adequate due diligence and care.

3.1 The contribution of corporate governance to value creation

The manager ensures value maximization in all its dimensions especially:

- to meet the interests of shareholders and other stakeholders.
- to respect the principles of good governance: transparency, equity and responsibility.
- for a better command of the activity within the segment.
- to constantly follow business evolution as well as its related risks.
- to coordinate conception spirit, execution ability and arrangement skill.

3.2 Management due diligence

The manager has to act with due diligence. He/She:

- establishes values, principals and operational and ethical norms.
- ensures the compliance with the applicable laws and regulations.
- meets the requirements of sustainable development.
- respects the commitments towards all stakeholders particularly professional organizations (associations, federations, unions...).
- avoids conflicts of interests and manages them when they emerge.
- configures the corporate structure and locates responsibilities.
- identifies the type of planning and “reporting” systems to be used.

- establishes the surveillance mechanisms needed to manage risks and ensures the continued existence of the company.
- implements the appropriate mechanisms that allow permanent and periodical evaluations of systems, functions and delegated responsibilities.
- defines accounting choices and ensures that disclosed information meets as much as possible the assigned qualitative characteristics.

3.3 The successful company piloting

The manager should ensure a successful company piloting by coordinating between the three following complementary axes:

- managing by results by:
 - allocating resources optimally;
 - developing performance indicators;
 - reviewing and improving work procedures, processes and systems;
 - engaging preventive actions to identify problems and preoccupations.
- engaging oneself in continual improvements as an agent of change, which leads the manager to:
 - run calculated risks;
 - lessen the extent of resistance;
 - optimize his/her intervention in order to enrich his/her experience;
 - update his/her knowledge and capitalize on learning;
 - watch out for success opportunities;
 - set up networks.
- adopting an ethical conduct that conveys a positive self-image and which incites to:
 - be open-minded, honest, sincere, upright and able to keep his/her promises;
 - recognize his/her checks;
 - satisfy his/her personal ambition;
 - show determination and tenacity;
 - be rigorously energetic;
 - manage by showing his/her personal example and commitment

4. THE EMPLOYERS – EMPLOYEES’ RELATIONSHIPS

The relationships between “employers” and “employees” are defined by the labor code, the collective labor agreements and the companies’ bylaws. It often happens that some real-life situations are not clearly defined in advance in these codes, which could occasionally lead to deviant behavior. The adoption of an ethical conduct fills this gap as it fosters a healthy atmosphere in the company and preserves satisfactory professional relationships. It also guarantees better working conditions that take into consideration employees’ health, safety and dignity.

The respect of the good practices stated below will be beneficial for employers, employees and companies.

4.1 Employees’ rights, discrimination and harassment at work

General principle: respect human rights and fight against any kind of discrimination and guarantee the professional development of human resources

- respect human rights in the company’s sphere of influence in conformity with international laws and the commitments of governments of the countries where the company operates.
- ensure that the company does not turn up to be an accomplice in human rights violation.
- eliminate any kind of forced or obligatory work such as children’s work.⁵
- comply with applicable national laws and regulations on discrimination.
- encourage actions that are likely to promote employment of the disabled.
- act in favor of more equal employment opportunities.
- prohibit any aspects of employment discrimination based on race, skin color, country of origin, sex, religious creed, ethnicity, political views or

5) In consistency with the provision of the Convention n° 138 on the work of children between 15 and 18.

social position, and this as far as recruitment, compensation and promotion are concerned.

- avoid situations that may trigger harassment' incidents (either sexual or moral) which are qualified as being illicit regarding applicable laws and regulations. ⁶
- reinforce the government's programs towards professional training by helping apprentices to gain entry to professional careers.

4.2 hygiene, health promotion, safety and working conditions

General principle: supervise employment and professional relationships through norms and bylaws

- respect the labor code and bylaws' provisions.
- comply with the requirements of hygiene, health promotion, workplace safety and ergonomics.⁷
- promote welfare work.
- make human resources aware of their health capital (tobacco addiction, nutrition, sport...)
- respect the employment and labor relationships' standards of both native and establishment countries.

4.3 Freedom of speech and social dialogue

General principle: advocate for cohesion within the company by allowing freedom of speech and social communication through a disclosure of the policy of corporate societal responsibility.

- establish a confidence building relationship by encouraging employees to express themselves freely.
- respect the employee's right to representation in unions and in other legitimate organizations.

6) Including in the absence of hierarchical or subordinate ties.

7) Especially for research and development, conception, and manufacturing job positions.

- promote consultation and cooperation between employers, employees and their representatives about common interests' issues.
- consider employees' interests and preoccupations when major changes and important strategic decisions are carried out.
- inform, in a reasonable deadline, employees' representatives as well as competent public authorities of any major change affecting the company's future
- cooperate with the employees' representatives and with public authorities to go with any change occurring within the company.
- be engaged not to make the issues of transferring activities abroad or establishing some operating units abroad as threats towards employees.

4.4 Employability and professional development

General principle: valorize human capital by encouraging professional development

- develop employees' potentials through the following devices:
 - making employees responsible and autonomous
 - various competences as well as polyvalence
 - interesting professional perspectives
 - contribution to continuous progress
 - commitment and participation
- communicate the training policies and plans to employees.
- invest in the training of employees to improve their qualifications. To do so, the company can cooperate with employees' representatives and with competent public authorities.
- provide employees and their representatives with exact information about company' activities and outcomes.
- identify employability skills and communicate them to employees.

5. THE NECESSITY OF THE INTERNAL AUDIT FUNCTION

The Institute of Internal Auditors (IIA) defines the internal audit as an activity “that provides independent, objective assurance and consulting services designed to add value and improve an organization’s operations. The internal audit activity helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management and control processes and makes appropriate recommendations for improving them.” The principal mission of the internal audit function is to evaluate and appreciate the efficiency of the company’s internal control system.

Any company adopting this guide should establish an internal audit function adapted to its specificities.

5.1. The internal audit function

Any company adopting the present Guide should:

- set up an objective, systematic and methodical evaluation approach of its governance, risk management and control processes.
- set up an investigation and evaluation process for the internal control activity. This process is implemented periodically within the corporation to help managers master their activities.
- define the short, medium and long term objectives and set up mechanisms that help assess the achievement of these objectives.
- set up an audit of conformity and consistency which consists in checking the conformity with regulations, instructions, procedures and standards; the absence of fraud, errors or situations of loss of corporate assets.
- do with only one internal auditor or resort to a qualified independent internal audit structure in case of lack of human or financial resources.
- ensure, in case of externalization of the internal audit function, that this externalization does not undermine the auditor’s independence and that the latter is competent enough and has sufficient knowledge about the company’s environment.

Companies having an internal audit function should:

- provide the internal audit structure with human and financial resources needed for its independence and for the achievement of the assigned engagements.
- assess the systems' and procedures' efficiency and effectiveness, evaluate the optimality of the resources' use, measure the performance of the entity under audit and verify the adaptability of the allocated resources to the assigned objectives.
- ensure that the internal auditor is highly qualified and possesses knowledge of key information and available technology-based audit techniques. Particularly, he/she should have:
 - an academic education (at least 4 years of study at university)
 - specific skills of analysis, synthesis, writing and communication
 - professional internal audit experience

Listed and large companies should:

- create an internal audit structure and supply sufficient human and material resources for its independence and good functioning.
- consider their specificities and their human and material resources' limitation while determining the size of the internal audit structure.
- implement a management or strategic audit to ascertain the extent to which the company has established an adequate strategy to achieve the assigned objectives.
- appoint an audit committee including at least one independent director as defined by the present guide.
- report annually on the activities of the internal audit.

5.2 The internal audit prerequisites

Any company adopting this Guide should establish an efficient internal control system consisting of:

- an organization chart, post sheets and a detailed description of tasks and procedures to be followed.
- a system of risk detection, analysis and follow-up.
- clear objectives which can be quantified on the short, medium and long terms.
- a highly-qualified staff
- a good quality of information system
- an adequate hierarchical control

Companies having an internal audit structure should:

- guarantee the professionalism of the internal auditors as well as their ability to form a partnership with other functions to achieve the company's objectives.
- provide internal auditors with sufficient material, organizational and human resources to ensure their independence and objectivity.
- ensure that the internal auditors are independent from activities under audit in a way to preserve neutrality and objectivity. Prior to any engagement, internal auditors should inform the senior management office when their neutrality or objectivity is threatened.
- Assign the internal audit structure directly to the senior management rather than to other operational or functional directions.
- Ensure that the internal auditors possess knowledge, skills, and other competencies required to perform their responsibilities. If needed, training and/or assistance by qualified professionals can be provided to the internal auditors.
- ensure that each internal auditor performs his/her engagements with the required proficiency, due diligence and expertise.
- apply, with the assistance of the internal auditor, specific vigilance to significant risks that might affect the company's objectives, operations or resources.

- schedule, in annual or multiannual programs, punctual interventions of the internal audit function to evaluate hierarchal and functional controls.
- communicate to auditors all information needed to perform their engagements and particularly information relative to the current internal procedures, standards and practices.

Listed and large companies should include on the meeting agenda of their board of directors (or of their audit committee if it exists) a point relative to their compliance with the audit recommendations.

5.3 The internal audit functioning

The internal auditors of any company applying this Guide should:

- evaluate the extent to which operations and program objectives are conform to those of the company.
- collaborate with senior management to develop adequate criteria to determine whether the company’s objectives have been accomplished.
- Assess risks relevant to the activity under audit. Engagement objectives must reflect the results of this assessment.

Companies having an internal audit structure should respect the following recommendations:

- establish by-laws (working hours...) in a way to make the internal auditors respect the rules of conduct and carry out their mission without disturbing the work of the entities under audit.
- senior management and internal auditors have to plan the audit strategy with respect to the company’s priorities and potentials to ameliorate the current model of risk management and its overall functioning. Any consulting service should be indicated in the audit plan.
- ensure that internal auditors share information and coordinate activities with other providers of consulting and assurance services in a way to minimize duplication of efforts and guarantee proper coverage. It is mainly the case of the relations with external auditors.
- the internal audit function should assess and improve control, risk management and governance processes implemented in the company.

- the selection of the internal audit members should consider the nature and complexity of each engagement, time constraints and available resources.
- the senior management should communicate to auditors all information needed to achieve their engagements' objectives.
- engagements must be supervised to ensure that objectives are achieved and quality is assured.
- internal auditors must communicate the engagement results in a clear, complete, accurate and concise manner. Communications should be exempt from subjectivity and be produced timely. They must include the engagements scope and objectives as well as applicable conclusions, recommendations and action plans.
- in case of non-conformity with the standards of a specific internal audit engagement, communication of the results should disclose the standards with which full or partial conformity was not achieved, the reasons for non-conformity and its impact on the engagement.
- the internal audit team must establish a follow-up process to monitor and ensure that management actions have been effectively implemented following the recommendations communicated to management resulting from the achieved engagements of internal audit.
- the internal audit team must develop, maintain and update a quality assurance program that covers all aspects of internal audit activity. This program implies a periodic report on the internal and external assessment of the audit quality.

For a more efficient internal audit function, listed and large companies should respect the following recommendations:

- the company should elaborate an internal audit charter consistent with the international internal auditors' standards and guidance and present it to the board of directors for approval. This charter should formally define the authority and responsibility of the internal audit activity as well as the engagements relative to risk management, control and governance assessment.

- the senior management and the board of directors should discuss, evaluate and approve an appropriate resources allocation to the internal audit function.
- the internal audit team must report periodically to the senior management and board of directors on the internal audit purpose, authority, responsibility and performance relative to its plan as well as significant risk exposure, and control and governance processes.
- the internal audit function must assess risk exposures relative to the information system and the company's operations and governance. In particular, it must evaluate the effectiveness and efficiency of its operations, verify that the company complies with laws, regulations, charters, codes and contracts and provide assurance on the quality, the consistency and the integrity of disclosures relative to operational and financial information.

6. FISCAL TRANSPARENCY AND THE ROLE OF EXTERNAL AUDITORS

Fiscal transparency is a prerequisite for good governance. It promotes more macro-economic and micro-economic stability. Consequently, companies must meet their tax liabilities and avoid tax evasion.

Besides, fiscal transparency requires accounting transparency since accounting determines the different tax bases. Accounting transparency is reinforced through the external auditor's mission which consists in checking that financial statements reflect the economic reality of the company. Irregularities are systematically reported to the executive management in order to be resolved.

In accounting auditing framework, external auditors seek sufficient audit evidence to formulate their opinion on the company's accounting "quality". They hold permanent connections with the company under audit and particularly with its executives for better corporate governance.

This Guide encourages any company to:

6.1 Fiscal transparency

- establish a fiscal function whose role is to manage fiscal risks and to pursue an optimized fiscal policy.
- consult experts to get some advice regarding the interpretation and the implementation of agreements, status or regulations from the point of view of the tax administration.
- consult tax authorities for advice whenever the corporation encounters difficulties in interpreting tax laws (the ruling technique).
- help external auditors check the existence of possible tax risks and provide them with all the necessary documentation and information.

6.2 External auditors' independence

To better insure the reinforcement of auditors' independence and prevent any conflict of interest, this Guide recommends:

- to reconsider the independence of the external auditor when the remuneration perceived from the company, or one (or many) of its affiliates, for auditing activities represents an important proportion of his/her revenues. The auditing committee and/or the board of directors should insure that the external auditor does not financially depend on the audited corporation.
- that listed corporations should avoid appointing as external auditor any person that has received a salary or a remuneration from the corporation, or from any of its affiliates, for any services other than those of external auditing for the last three fiscal years.
- that the auditing committee and/or the board of directors undertake an objective evaluation of the external auditor before suggesting his/her designation or his/her mandate renewal to the general shareholders assembly. They should mainly check all the elements related to the independence of the external auditor and to his/her application of laws, texts and professional standards in use.
- that corporations require from the candidate for external auditor a signed letter that mentions any incompatibility or any situation that may hinder his/her independence. This letter has to be signed again in case of mandate renewal.

6.3 The joint auditing

In case of joint auditing, it is recommended to establish a rotational system whereby the auditors' mandates do not expire simultaneously.

6.4 Transparency and control

For transparency and control issues, any corporation should:

- authorize its external auditors to get information from its suppliers, customers, banks, insurance companies, lawyers... about their reciprocal operations by signing them a confirmation letter in consistency with the

code of commercial companies. In turn, the company should reply to information requested by other companies' external auditors.

- put all needed accounting and extra-accounting documents at the disposal of external auditors who must formulate an opinion on the fairness and regularity of the financial statements in accordance with the applicable financial reporting framework. The senior management has to sign an affirmation letter in this sense.
- the present Guide states, according to article 13 quinter of the code of commercial companies, that companies have to appoint one or many external auditors selected among Tunisian chartered certified accountants and to sign annually an "affirmation letter" certifying that they have supplied all the diligences required to insure the completeness and the conformity of financial statement with the applicable financial reporting framework.

6.5 The board of directors– external auditors' relationships

The board of directors or the audit committee if it exists should:

- periodically exchange information with the external auditors.
- meet external auditors as needed and at least once a year without the executives' presence.
- examine the external auditors' conclusions.
- examine the external auditors' reports as well as the related executive management comments and follow-up.
- insure coordination between internal auditors and external auditors. The latter should gauge the functioning of the internal audit structure.
- insure a clear procedure for external auditors' selection as well as their mandates' renewal.
- insure external auditors' independence and examine their fees.

6.6 External auditors' observations

External auditors should formulate as clearly as possible their opinion on the fairness and regularity of the financial statements prepared under the management responsibility, and which have to reflect the company's actual situation and its performance as of the end of the fiscal year.

The incumbent external auditor should inform the audit committee or the board of directors about accounting and internal control systems deficiencies, applicable recommendations and about his/her disagreements with senior management. He/she should also provide the board or the audit committee with an analysis of the main adopted accounting choices, the alternative ones and the potential company's risks (especially fiscal risks). This information set should also be communicated to the head office.

7. ETHICS AND CORPORATE SOCIETAL RESPONSIBILITY

Values system, transparency and socially responsible investments feature the most successful companies and dictate the ethical conduct of the different parties. In fact, meeting the requirements of shareholders, customers, employees and the environment should lead to a corporate strategy that targets profitability and growth as well as global performance regarding economic, social and environmental issues and this, by developing an organizational culture advocating for loyalty, confidentiality and ethical values.

The compliance with good practices stated below will benefit all parties involved. Moreover, it reinforces the reputation of the company and builds trust with stakeholders.

7.1 Honesty and public-spiritedness

General principle: to act in a transparent way when dealing with stakeholders and carry out one's economic, legal and societal duties.

- safeguard corporate assets and resources⁸
- meet one's financial commitments towards different stakeholders
- provide exact, clear and sufficient information on goods and services relative to their components, safety in use, maintenance and their stocking and destruction conditions.
- advocate for the involvement of collaborators in charity and societal-supporting activities.
- take part in preserving and valuing the local cultural, historical, linguistic and artistic heritage.

7.2 Justice and equity

General principle: to establish a balance between the stakeholders' different interests.

8) including those relative to intellectual property, hardware and software facilities, real estate property, equipments, machines, components, raw materials and liquidity.

- establish mutual beneficial and equitable relationships with stakeholders.
- act in a way so that supplied services guarantee equity and reliability and that prices account for customers' needs and requirements.
- supply goods and services with a high added value for the country (in relation to technology, research and innovation, proximity services development...)

7.3 Loyalty and integrity

General principle: to act with rectitude.

- prevent any conflict of interest in case one of the close relatives or an employee is likely to obtain private benefits from the company.
- take a strong stance against any form of bribery, corruption or extortion by:
 - sensitizing employees to the measures taken to combat such practices.
 - insuring adequate communication of such measures and organizing training sessions to make them respected
 - implementing disciplinary procedures
- adopt transparent practices of general and tax accounting.
- adopt management control systems and adequate internal audit mechanisms.
- prohibit offering, promising, giving or requesting, directly or through intermediaries, any undue pecuniary or non-pecuniary advantage in order to obtain or retain business or any other improper advantage.
- prohibit offering or accepting to pay public officials or the employees of business partners any fraction of a contract payment.
- abstain from resorting to subcontracts, purchase orders or consulting contracts to channel payments, directly or indirectly, to public officials, to the employees of their business partners or to their relatives or business associates.
- Ensure that the managers' remuneration is appropriate and for legitimate services only.

- avoid anti-competitive agreements.⁹

7.4 Societal responsibility

General principle: to be aware of the consequences of one's decisions.

- maintain the confidentiality of any document or data that have a strategic dimension.
- adopt strategic orientations and options in consistency with market and stakeholders' requirements and expectations.
- comply with the professions' rules.
- develop activities in domestic and foreign markets consistent with sound commercial practices and try to get suitable means to achieve them.
- encourage, when possible, company's partners, including suppliers and subcontractors, to apply the business ethics principles.
- Encourage local capacity building and the creation of employment opportunities.

7.5 Respect of law, people and environment

General principle: to comply with laws, codes, regulations and ethical principles.

- respect consumers' right to privacy and protect personal data
- make sure to provide high quality goods and services to clients in accordance with accepted or prescribed standards on consumers' health and safety.¹⁰
- consider the potential effects of company's methods, goods and services on environment, health, safety, and this regarding their whole lifecycle.
- provide employees with an appropriate training on healthcare, safety and environmental issues.¹¹

⁹ Agreements between competitors aiming at imposing their prices, achieving bid rigging, restricting or fixing quotas for industry output or exclusively sharing markets and allocating customers, suppliers, territories or specific types of goods and services.

¹⁰ including warnings about health dangers and product safety labelling.

- consider, implement and apply an environmental management system which is adapted by:
 - a timely collection and evaluation of information in relation to the potential effects of the company's activities.
 - a steady follow-up and control of the progress in meeting objectives.
- implement emergency plans to prevent, attenuate and handle company's activities that seriously undermine environment, health and safety and alert competent authorities when necessary.
- develop energy and natural resources-saving products and services which can be reused, recycled or safely abandoned.
- sensitize customers to the environmental consequences of the use of the company's products and services.
- Develop research activities to improve the company's long-term environmental performances.

7.6 Openness and transparency

General principle: to communicate effectively and regularly with stakeholders.

- implement transparent, efficient and fair procedures as well as a reasonable deadline for dealing with customers' complaints and litigations.
- collaborate with public authorities to prevent and eliminate serious health and public safety risks associated with the consumption or use of company's goods.
- Enhance the transparency on the company's activities that fight against bribery, corruption and extortion.
- cooperate with public authorities to implement and enforce regulations.
- provide local authorities with the information required by law.

¹¹ especially training programs on the use of dangerous materials, on the prevention of accidents that may cause damages to the environment and on more general aspects of environmental management.

- resort to amicable settlements' and mediation procedures to deal with customers, consumers and partners' litigations.

8. MANAGERIAL COMPENSATION

Managerial compensation is an effective means to attract, keep and motivate talented, experienced and highly skilled managers and to align their interests with those of shareholders. Essentially, the managerial compensation package should be:

- of a satisfactory level for the manager, the company and its shareholders.
- known to allow comparison in time and space.
- under scrutiny to avoid abuses.

8.1 The compensation package

The compensation package of the manager should be designed and controlled in accordance with the principles of good governance. Therefore, every company should:

- tie the design of senior managers' compensation and its total amount to objective evaluation criteria.
- fix the design and the amount of managers' compensation in a way that allows to hire, keep, and motivate the most qualified and experimented staff.
- determine the compensation of each manager according to the following criteria which should be considered by the board of directors or by the compensation committee when it exists:
 - The compensation levels within the industry.
 - The compensation received by other managers in the company and its compensation system (to preserve equity and fairness, the motivation of all managers and social cohesion).
 - The proficiency, the competence, the experience and the skills of the manager.
 - Risks taken by the manager and the difficulty of his mission.
 - The company's general performance.
 - The accomplishment of the quantitative and qualitative objectives set for the manager.
- find the right balance between short-term incentive programs (bonus and (or) allowance) and the long term incentive programs (stock options and (or) stock grants either restricted or not).

- take into account the risks the manager has taken and the results he/she has achieved when calculating the severance pay.
- Adjust the severance pay to the assessment of the manager’s mission.

8.2 The monitoring of managerial compensation

Publicly listed corporations should:

- set up a compensation committee composed of competent directors, preferably independent.

This committee should deliberate in a fair and neutral manner and make proposals to the board of directors on the senior executive managers’ compensation policy based on clearly specified criteria. Managers should not be present or intervene when the committee is discussing their compensation

- submit the managers’ compensation formulae as well as any substantial modification of these formulae to prior shareholders’ approval by way of a resolution at shareholders’ ordinary general meeting ¹².

8.3 Compensation transparency

Publicly listed companies should:

- allow shareholders to appreciate senior managers’ compensation in the light of the corporation’s global performance.
- disclose all the components of the senior managers’ compensation, monetary or not, which include:
 - the total amount of salaries related to the last fiscal year.
 - the total amount of bonuses and non-monetary emoluments related to the last fiscal year.
 - severance pay and “golden parachutes”.
 - the number of stock options granted, exercised and lapsed unexercised during the last fiscal year.
 - the complementary retirement pension plan for the incumbent managers during the last fiscal year.

¹² For instance, formulas used to attribute stock grants (either restricted or not), stock options or any other rights allowing for the acquisition of shares or compensating managers depending on share prices.

9. GOOD CORPORATE GOVERNANCE PRACTICES IN FAMILY FIRMS

Implementing good corporate governance practices reinforces the long-run viability of family companies. These practices must be appropriate to the company's size, culture and shareholding.

Improving family companies' governance practices involves four issues:

- information and transparency;
- organization and internal control system;
- control mechanisms and structures;
- succession.

9.1 Information and transparency

In addition to common mechanisms aiming at producing and sharing information and at ensuring operations' transparency, family companies' governance should help:

Training

- train family members for major corporate governance concepts and principles.
- ensure a common understanding and agreement on definitions and contents of governance principles.

Information

- establish instruments, procedures, techniques and an information system to produce sufficient, high-quality, reliable and timely information on company's operations.
- make contact and get in touch with each shareholder to make him/her aware and involved.
- guarantee high-quality and equality of information for all shareholders and for all family members.
- resort to external advisors to facilitate dialogue between shareholders in general and the family members in particular regarding corporate governance issues.

9.2 corporate organization and management

In addition to common mechanisms that aiming at organizing company's operations and at reinforcing internal control system, corporate governance of family companies should consider:

Procedures' objectivity and formalization

- restructure corporate operations according to objective and operational criteria.
- ensure that professional relations dominate personal relations.
- ensure that the procedures are impersonal, clear and systematic.
- take profit from the symbolic role of the founding father to implement impersonal mechanisms and practices of good governance and dialogue and to establish a transparent management.
- institutionalize and make impersonal the relationship with stakeholders (especially customers and suppliers) by accustoming them to dealing with the corporation rather than with individuals.

Human relations and staff motivation

- decentralize decision making which supposes a clear definition of responsibilities.
- implement a merit-based compensation system and provide an adequate competence-compensation ratio on one side and an appropriate results-dividend relationship on the other side.
- discharge senior management of operational tasks so that they can devote enough time and energy to elaborating strategy.
- provide a loyal and equitable subordinate treatment and avoid that non-family members feel discarded.
- improve manager to employee ratio and ensure good incentives for non-family managers.
- make executive positions open to non-family members.

9.3 structures and mechanisms of control

In addition to common internal and external control mechanisms, family firm governance should notably consider:

Family and company dissociation

Family companies should:

- establish and make people respect psychological and legal dissociation of company's patrimony from that of the family and consider the company as an institution in its own right rather than a personal property.
- increase the number of family meetings and formalize them. Introduce the culture of structured and formal family meetings.
- engage independent director(s).
- engage an external expert to help the family cope with corporate governance changes.
- clarify family/company relationship through many institutional documents established by the family council or panel and that consist notably of the family conduct code, the family ethics charter and a document including fundamental values of the company and the family, etc.

The family council

Family companies should:

- establish a specific family governance system: the family council. This council should be composed of five to eight family members.
- charge the family assembly to elect the family council. The former should meet periodically and extraordinarily. In any case, family assembly cannot substitute for the shareholders general assembly.
- indicate the chief executive officer authority limitations in the board of directors or the family bylaws.
- formalize, by writing, the functioning and organization of the family council. Particularly, if the company shareholding and executive management involve many one-family generations, a family charter should be established to clarify professional, patrimonial and personal family members' relationships.

9.4 The transmission of family firms

The transmission of a company from one generation to another should be planned well in advance to insure a smooth succession and guarantee the continued existence of the company. With this aim, companies should identify

and manage the four steps of the founding manager's succession as well the three phases of the company's property evolution.

The manager succession

The main requirements for these different steps are:

Step 1: incubation and willingness to transmit

- prepare well in advance the company's transmission.
- establish well in advance a clear succession strategy.
- promote team spirit.

Step 2: succession preparation and successor selection

- formalize the identification of future managers as well as their training process via an anticipated engagement in the company.
- stimulate the desire to manage the company.
- ensure the emergence of skilled managers selected from the inside or the outside of the company and establish instructive dialogue to prevent destructive rivalry between the potential successors.
- train potential successors and create a healthy competition between them.
- transmit explicit and tacit knowledge.
- delegate a maximum of responsibilities and clearly define each of them.
- establish impersonal procedures.
- select the successor on a competence and devotion basis to the company and make him/her be accepted.

Step 3: Joint executive management by both manager and successor

- cope with eventual emergence of interests conflicts.
- analyze the conflicts and opinion divergence origins.
- identify and define responsibilities.
- establish mechanisms that ease cohabitation.
- do not stay on this step for long.

Step 4: The founder's disengagement

- avoid interfering in successor's responsibilities and be restricted to an advising role.

The corporate property evolution

In this perspective, the three phases of family firms' property evolution should be distinguished and managed. The main requirements for these different phases are:

Phase 1: the founder and his/her close family

- involve the family in the company's life
- build up the family skills
- ensure the success of the founding manager's succession.

Phase 2: the second generation, the first and second level family.

- set up executive management teams
- reinforce family harmony and articulate family objectives.
- improve the family members' potential
- prepare issuing capital to the public and predict the company's evolution according to family evolution and/or expansion.

Phase 3: the third generation, relatives and the extended family

- deal with partnership issues
- confirm family's commitment towards the company
- develop new family projects
- preserve entrepreneurial spirit.

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