G20/OECD Corporate Governance Principles get a refresh

The 2023 update to G20/ OECD's corporate governance norms points to the likely tweaks and progressive changes that may be underway in our markets.

During the G20 Summit in Delhi last month, the G20 leaders endorsed the revision of the *G20/OECD Corporate Governance Principles*. First issued in 1999, these principles together with the UK's Cadbury Committee report from 1992, and the Sarbanes-Oxley Act of 2002- a US law, have shaped the governance landscape.

The Cadbury Committee identified governance as a "system by which companies are directed and controlled." Its recommendations and standards have become the foundation for the system of corporate governance regulations around the world. The Cadbury report itself, however, was written to mitigate the risks of corporate failures, such as the Maxwell empire, Bank of Credit and Commerce International, and Polly Peck International. Similarly, the Sarbanes-Oxley Act legislated some of the principles outlined in the Cadbury Committee report and the OECD principles. But this too was a consequence of blowouts at Enron, WorldCom, Tyco, and a few others.

The OECD, in contrast, saw governance as being vital for governments and companies in an increasingly connected world with low barriers to capital flows.

There was a need to recognize the interests of shareholders, who place their trust in corporations and not just foreign investors; it was also crucial for building trust among domestic investors in their own businesses and stock markets. This trust was essential for long-term business competitiveness and the overall strength of the national economies. The OECD thus looked at governance in terms of the interplay of relationships between the regulators, the company's board and its management, its shareholders, and stakeholders.

When first presented, the OECD made clear "there is no single model of good corporate governance" as different approaches based on legal and institutional frameworks and practices have developed around the world. Further, that these principles were to be used as a benchmark to be used by governments to evaluate and improve their laws and regulations to develop the core elements of a good corporate governance regime. While aimed at governments, the private sector was also encouraged to adopt these. This helped these principles gain traction.

Unlike the Cadbury report and the Sarbanes-Oxley Act, that in the narrow sense have been one-off, the OECD recognized that "corporate governance practices are evolutionary in nature, with improvements building upon other improvements and best practices as they are developed. These principles also must be evolutionary". Accordingly, the principles have been revised periodically since their first publication in *1999* (in *2004*, *2015* – the first to be endorsed by the G20 leaders, and now in *2023*). The document also goes through extensive inter-governmental consultation. The 2023 update under the chairmanship of Masato Kanda, for instance, was an outcome of 18 months of work and inputs received from the OECD, Financial Stability Board, and G20 members directly and through the governance roundtable in Asia and South America. These periodic updates have helped make these principles more enduring and find greater acceptance.

Exhibit 1: G20/OECD CG Principles 1999-2023

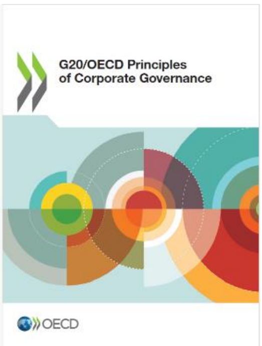
1. The Rights of Shareholders
2. The Equitable Treatment of Shareholders
3. The Role of Stakeholders in Corporate Governance
4. Disclosure and Transparency
5. The Responsibilities of the Board

1. Ensuring the basis for an effective corporate governance framework
2. The rights and equitable treatment of shareholders and key ownership functions
3. Institutional investors, stock markets, and other intermediaries
4. The role of stakeholders in corporate governance
5. Disclosure and transparency
6. The responsibilities of the board

1. Ensuring the basis for an effective corporate governance framework
2. The rights and equitable treatment of shareholders and key ownership functions
3. Institutional investors, stock markets, and other intermediaries
4. Disclosure and transparency
5. The responsibilities of the board
6. Sustainability and resilience

A major impact of the G20/OECD principles is that despite different legal frameworks, institutional structures and market practices, good governance today is agnostic to geography. What is considered good in India is considered good in the UK or Brazil. I believe it is the OECD principles that have had an overarching role in achieving this sameness, that too in a relatively short time.

Turning to the principles themselves. The six enunciated in this revision are (i) Ensuring the basis for an effective corporate governance framework; (ii) The rights and equitable treatment of shareholders and key ownership functions; (iii) Institutional investors, stock markets, and other intermediaries; (iv) Disclosure and transparency; (v). The responsibilities of the board; (vi). Sustainability and resilience. Each of the principles goes on to list a series of supporting principles and sub-principles.



Five of the six principles have remained unchanged, with the revision being the insertion of principles relating to "Sustainability and inclusion". This, the document avers, reflects the desire of member countries to get guidance on environmental and social risks and opportunities, their disclosures, and the accompanying role of shareholders, stakeholders, and the board. The "rights of stakeholders", one of the principles dating back to 1999, has been integrated within these. Although the other five principles remain unchanged, a substantial number of changes have been incorporated throughout, including the inclusion of the role of digital technologies in the supervision of and adherence to good governance practices.

A reading of these principles will show how Indian regulations compare well with the best-in-class globally. Nonetheless, the revisions are a pointer to the tweaks and progressive changes that we should come to expect in our markets.

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