A GENERAL INTRODUCTION INTO THE CORPORATE GOVERNANCE

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ABSTRACT: *The Corporate Governance Code establishes a set of rules and demanding that influence the management of a company in terms of strategic planning and decision making to optimize the interests of shareholders, creditors, customers, employees and employers.*

KEY WORDS: *companies, corporate, governance, performance, non-financial.*

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1. INTRODUCTION

Corporate Governance concept emerged in 1992, following the report Cadbury UK. It is a development of the concept of "corporate social responsibility". In the 1970s, Milton Friedman in "theory stake-holder OF THE" believed that maximizing financial results or dividend paid to shareholders is the highest social responsibility of a company subsequently changed conceptions.

Currently, it is considered that a company belongs to the community in which it operates; she became "a citizen of the community" with some rights and many obligations.

In essence, corporate governance is defined as the management of the relationship of a company with its shareholders and with the society as a whole.

According to the OECD definition, "corporate governance specifies the distribution of rights and responsibilities of different categories of persons involved in a

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company: Board of Directors, directors, shareholders and other categories and establishes rules and procedures for making decisions on a company's activity".

As a set of rules by which companies are directed and controlled, corporate governance is the result of rules, traditions and behavioural models developed by each legal system.

In the European Union, the concept of corporate governance has started to emerge more clearly after 1997, when most countries have adopted codes of corporate governance but with optional character. The impulse for adopting these codes were the financial scandals linked to the failure of UK companies quoted on the stock market. On the other hand, the Asian economic crisis of 1978 and the withdrawal of investors from Asia and Russia have put the international business community in face of problems with consequences such as distrust of investors in company management.

2. OECD PRINCIPLES OF CORPORATE GOVERNANCE

I. Ensuring the basis for an effective corporate governance framework. Ongoing corporate governance framework should promote transparent and efficient markets, be consistent with the law and clearly articulate the division of responsibilities between supervisory authorities, regulatory and execution.

II. The rights of shareholders and key ownership functions

Ongoing corporate governance framework should protect and facilitate the exercise of shareholders' rights.

III. Fair treatment of shareholders

Ongoing corporate governance framework should ensure fair treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights.

IV. The role of shareholders in corporate governance

Ongoing corporate governance framework should recognize the rights of shareholders, as they are established by law or through mutual understanding and encourages active cooperation between companies in creating wealth, jobs and supporting companies financially viable.

V. Dissemination and Transparency

Ongoing corporate governance framework should ensure proper and timely dissemination of all material matters regarding the company, including the financial situation, performance, ownership and management.

VI. The obligations of the Board of Directors

Ongoing corporate governance framework should ensure the strategic guidance of the company, effective monitoring of management by the Governing Council and responsibility to the company and shareholders.

3. SHORT DESCRIPTION OF THE CORPORATE GOVERNANCE CODE

Today, the corporation is the main form of business organization in the world economy. The main characteristics that underpin its success allow efficient movement of capital from investors to investors by ensuring the efficient operation of a large company. These are:

- liability investors
- free transfer of capital
- legal personality
- centralized management

Each of these features can be seen from many points of view both favourable and unfavourable, since it creates conflicts, problems that constitute a permanent structural feature of the corporate system.

In international corporations, the company management is centralized within the Board of Directors which plays a passive role of supervision compared with the main officials who actually conduct daily business. The basic function is to facilitate centralized management specialization. Although there may be overlaps, investors may simply be investors and managers may be simple managers, professionals with experience in the company's business. On the other hand, managers can achieve optimal communication and control within the company, a hierarchical structure that increases managerial efficiency of the company itself.

Regarding shareholders, they have economic benefits generated from the company, but very few advantages generated by driving except for a few situations where company laws and rules of association grants them in the company the right to vote. The relationship between shareholders and managers is one based on a contract. Shareholders undertake managers to offer certain services on their behalf, which gives the manager a certain authority, which may give rise to mistrust between them, as in any other contract. Beneficiaries may find that managers do not always act in their interest, therefore they must take certain measures.

Corporate Governance Code establishes a set of rules and demanding that influence the management of a company in terms of strategic planning and decision making to optimize the interests of shareholders, creditors, customers, employees and employers.

This code does not fix the rules that define business ethics, or relationships between different companies or rules of ethics that employees of a company must comply. To guarantee that these provisions will be put in practice they must be entered in the articles of the birth certificate of the company.

The current code can be applied to any company, but especially companies listed on the stock exchange, regardless of origin or current initial capital - public or private. Also, provisions of this Code may be applied to commercial companies receiving funding through a fund venture capital or whose shares are held by a mutual fund, a closed-end fund (other than a risk capital fund) or pension fund, even if the shares of these companies are not yet listed on the stock market.

4. THE DISCUSSION BASE

Relatively low relevance of non-financial information in assessing an investment return and risk capital investors led to the priority given to non-financial information on business activity. Investors are not only interested in the past history of the company, reflected mainly by financial indicators, but especially future prospects of development resulting from the use of material, financial, human, information and organizational aspects of its business environment context.

The concept of the overall performance of the company is based on the theory of the stakeholders. Managers cannot maximize the firm value if they ignore the interests of its social partners: shareholders, managers, employees, creditors, suppliers, customers, government, etc. From the company perspective, these interests may be contradictory, which may give rise to conflicts within the organization, adversely affecting its financial results. For example, wage and providing appropriate working conditions determine the needs of employees, but involves making additional expenditures at the company or diminishing profits and competitiveness.

The performance of listed companies is significantly influenced by the shape of corporate governance, namely the ability of policy makers to identify and harmonize the interests of the most significant social partners. For the activity in a competitive upper management should avoid all these potential conflicts between business partners and, moreover, to consider and harmonize them.

Harmonize these interests is ensured through the system of corporate governance.

The ability managers and other stakeholders, such as shareholders, Board of Directors, auditors, harmonize and prioritize these interests directly influence the risk and earnings generated by investment in the shares of that company. So quality and operational efficiency of corporate governance determines the shape of the control variables that have a major impact on economic and financial results of enterprises.

In this regard, according to the study conducted by Ernst & Young Centre for Business Innovation and the use of non-financial indicators, variables related to corporate governance system are considered among the most important performance criteria of nonfinancial indicators used by investors to assess listed companies (see table).

Thus, of the eight non-financial performance criteria relevant to investors, half of them relate to the administration and governance of companies: management quality, corporate culture, management remuneration policy effectiveness and system quality communications executive with shareholders. Quality management is defined by variables degree of quality strategy and its execution, management experience, leadership style of managers etc.

Table 1. Non-financial criteria related to corporate governance practice used by investors to assess the performance of companies

Management quality	**Score**	**Effectiveness of executive management remuneration policies**	**Score**
The execution of the company strategy		Harmonization of management stimulus policy with the interests of shareholders	
The quality of the company's strategy		Remuneration policies based on relevant performance criteria	
Managerial experience		Relationship between the remuneration of executive management and remuneration of labour	
Clarity of the organizational vision			
Leadership style of management			
Corporate culture	**Score**	**The quality system of communication with shareholders**	**Score**
Ability to attract and retain talented people		The credibility of management	
Quality of workforce		Management availability	
The quality system of granting incentives		Efficiency of the relations department with shareholders	
The quality of staff training programs		The quality of the materials published	
Social and environmental policies			
Using teamwork			

Corporate culture is assessed using several non-financial variables, such as the ability to attract and retain talented people, quality of workforce, quality system of offering incentives, social and environmental policies, using teamwork etc.

Effectiveness of executive management remuneration policy is expressed on account of factors related to management incentive policy for harmonization with the interests of shareholders, remuneration policies based on relevant performance criteria, the ratio of executive management remuneration and remuneration of labour etc.

The fourth non-financial benchmark regarding the system of corporate governance, the quality system of communication with shareholders is evidenced by a circle of variables, such as the credibility of management, availability management, shareholders' relations department efficiency, quality published materials etc.

The level of the scores given by investors to these non-financial performance criteria shows that most of the criteria placed among the top ten investors are related to the quality of the governance system of the enterprise (see table 2).

Table 2. Ranking the top 10 non-financial performance criteria

Non-financial performance criteria	Score
The execution of the company strategy	1
The credibility of management	2
The quality of the company's strategy	3
The potential for innovation	4
Ability to attract and retain talented people	5
Market share	6
Managerial experience	7
Harmonization of management stimulus policy with the interests of shareholders	8
The quality of production processes	9
The advantage of research	10

The final conclusion of this empirical study conducted by Ernst & Young Centre for Business Innovation on the use of non-financial indicators, shows that, on average, 35% of the information used by investors in the placement of their capital are likely non-financial. Moreover, the structure and the score for this information shows that half of this information directly relates to various aspects of corporate governance system.

These results are confirmed by other studies regarding the relevance of statistical information on the corporate governance of the company, including other variables of this kind are essential in the process of investing - disinvestment. The consulting firm McKinsey analysed the opinion of institutional investors in emerging countries (Asia, Southeast Europe and Latin America) on corporate governance, the final conclusion of this study is that local investors are aware of the need to reform corporate governance in these countries.

Also, there is a general tendency to reduce the level of this award in all countries, not because of the relevance diminished information on corporate governance, but as a result of reforms in this area and in those areas that have already generated an improvement in system governance of listed companies.

The results of these studies on the relevance of information on the quality and efficiency of the governance and management of listed companies for investors, demonstrates that improving corporate governance system may be a strategy to increase their overall performance, to increase the price of their stocks on the capital market and thus increase the value of their businesses.

5. CONCLUSION

The Corporate governance code is a set of principles, standards and best governance practices issued by an institution, whose application is not binding, but optional. In the European Union (EU) has been adopted a number of 35 codes, each country having at least a code of corporate governance. Most of these codes (25) were issued after 1997, after financial scandals and bankruptcy cases of companies quoted on the UK stock market. Thus, Cadbury Code (1992) was developed in order to prevent similar financial scandals and regain public and investors' confidence in corporate governance practices.

This code contained 19 recommendations on the structure, independence and responsibilities of the Board of Directors, internal financial control policy and remuneration of directors and executive management. The UK has the largest number of corporate governance codes (11), nearly a third of all codes issued by EU member states. There are also two international codes and two pan-European codes that are applicable to EU companies.

According to a comparative study by the European Commission in this area, codes of corporate governance in the EU countries were issued by different parties, eg governmental groups, committees or commissions organized by national governments or stock exchanges, business associations, industrial or academic associations of directors, investor groups, etc. Most, about a third of all applicable codes in EU member states, however, were developed by groups or associations of investors. Variety issuers default generates a different official status of such codes of corporate governance in the issuing countries and the codes presented their views on what should be a best practice in corporate governance.

Thus, it appears that for some Member States (Belgium, Spain, Portugal, Italy, etc.) and at international organizations (OECD), an objective for developing codes of governance is improving the information provided on the capital market or improving company performance, competitiveness and / or access to capital. For countries with a tradition in the field and liquid capital markets (UK, France, Germany, etc.), the priority objective of the codes work concerns the Board of Directors or improve Board governance and improving the quality of information provided on market of capital.

Although differing in terms of the purpose of their development and degree of detail, all codes available in the member countries of the European Union addresses four important issues: the equitable treatment of all shareholders, whose interests should take priority; clear responsibility of the Board of Directors and management; transparency of the company or financial and nonfinancial reporting accuracy in a timely manner; responsibility for the interests of minority shareholders and other social partners and respect for law.

General characteristic of corporate governance codes is the fact that they are not mandatory. However, in some states, like the UK and Italy, and explain the reasons for non-implementation reporting is mandatory. Thus, British listed companies are not required to follow the recommendations Combined Code of Corporate Governance Code (1998), but according to the listing requirements, they have to report if they have complied with the recommendations of the code and explain the reasons for such non-compliance. In this regard, it was found that no cases of application of penalties for reporting non-implementation of recommendations by the Controller code of compliance with the listing of the London Stock Exchange (Financial Services Authority).

Applying the principle of comply or explain (Comply or Explain basis) is putting pressure on companies in meeting the principles largely avoiding these codes and their reports were not applied. Thus, although lack of application of these codes is explicit, they put significant pressure on the corporate governance practices of companies in the EU. On the other hand, corporate governance codes flexibility is a significant advantage because it gives companies freedom of decision and action to the objectives of their policy.

Contrary to the fact that these corporate governance codes issued by entities in countries with different cultures, traditions on the financing structures shareholders and legal systems, stands outstanding similarities between them, particularly in the functions and responsibilities of the Board, and recommendations on the structure and operation. All codes are trying to present and explain the details of best practices of corporate governance, but their translation into practice is consuming companies time.

Importance placed by investors to quality and efficiency of corporate governance and the favourable effects of the recommendations of corporate governance codes in the EU countries, allow us to consider it necessary to impose mandatory application of the Code of management and administration not only for listed companies of the Bucharest stock Exchange, and all other companies listed on the Romanian capital market and all important companies in order to improve their overall performance.

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