

**Principles of  
Good Corporate Governance  
Revised Code for  
Issuers of Listed Securities  
Nov 2005**

The 'Code of Good Corporate Governance' introduced in 2001 and included as an Appendix to the Listing Rules was targeted to be adopted by Issuers of Listed Securities.

The Listing Rules encourage Issuers to 'endeavour to adopt' but none of the Principles were made mandatory. Instead the Listing Rules require Issuers of Listed Securities to include in the Annual Report a statement, verified by the auditors, with regards to the 'effective measures they have taken to ensure compliance' with the Code.

The Code has been reviewed and revised as a result of the experience gained and in line with EU Recommendations.

Furthermore, the need was felt to introduce a 'Code' specifically targeted to Public Interest Companies.

The Authority intends to eventually make obligatory all the Principles included in the revised code for Issuers of Listed Securities, after a period of transition.

**With effect from November 3, the draft code for issuers of listed securities, the draft code for public interest companies as well as a document highlighting those principles which the Authority is proposing should become mandatory can be downloaded from the MFSA website at [www.mfsa.com.mt](http://www.mfsa.com.mt). Interested persons are invited to send their comments in writing addressed to the Deputy Director, Company Compliance Unit, MFSA or via e-mail to [cocomp@mfsa.com.mt](mailto:cocomp@mfsa.com.mt), by not later than the 31 December 2005.**

3 November 2005  
MFSA

### ***Revised Code of Good Corporate Governance Principles.***

The Code of Good Corporate Governance Principles which form part of the Listing Rules as an Appendix to Chapter 8 (Continuing Obligations) has been revised primarily as a result of the EU Commission recommendation of the 15 February 2005.

The existing 'Code' was introduced in 2001 and it was felt that it was also opportune to review the current code and to fine-tune in the light of experience gained. The revised 'Code' was discussed internally with and includes the input of the Company Compliance Unit, the Listing Committee and the Director General.

The 'Code' was intended to serve as guideline and the Listing Rules encourages Listed Companies to 'endeavour to adopt' but none of the Principles were made mandatory. The Listing Rules required Issuers of Listed Securities to include in the Annual Report a statement, verified by the auditors, with regards to the 'effective measures they have taken to ensure compliance' with the Code.

It is now felt that the time is right to make the introduction of the Principles obligatory. It is recommended however that this transition should take place gradually and we are therefore attaching a list of those Principles which we feel may be made mandatory. As far as the remaining non-obligatory Principles, it is suggested that, instead of the currently required statement with regards to the effective measures taken to comply, Issuers of Listed Securities should seek to 'comply or else explain' in the Annual Report why the Principles have not been complied with.

## **Recommended Principles to be obligatory**

### ***Principle 1:***

Nil

### ***Principle 2:***

2.1 The Chairman's role in leading the Board should be separate from that of the Chief Executive and the division of responsibilities should be clearly established, set out in writing and agreed by the Board.

### ***Principle 3:***

3.2 It is desirable that listed companies should set a minimum number of non-executive directors to sit on the Board in order to ensure a balance such that no individual or small group of individuals can dominate the Board's decision making. The exact composition and balance on a Board will depend on the circumstances and business of each enterprise but it is recommended that at least one third of Board members are non-executive and the majority of these should be independent.

### ***Principle 4:***

4.9 The Board shall require management to constantly monitor performance and report, at least quarterly, fully and accurately on the key performance indicators to its satisfaction.

4.10 The Board shall ensure that the financial statements of the company and the annual audit thereof have been completed within the stipulated time periods.

### ***Principle 5:***

5.1 The Board should set procedures to determine the frequency, purpose, conduct and duration of meetings and meet regularly, at least once every quarter, in line with the nature and demands of the Company's business.

5.4 If directors fail to attend for more than three consecutive meetings without a justifiable cause they shall forfeit their seat on the Board.

### ***Principle 6:***

Nil

### ***Principle 7:***

7.1 The Board should appoint a Committee chaired by a non-executive director in order to regularly carry out performance evaluation to establish whether each director continues to contribute effectively and to demonstrate commitment to the role.

7.2 The Committee is to report directly to the Chairman who should act on the results of the performance evaluation process in order to ascertain the strengths and to address the weaknesses of the Board members and to report to the Board and, where appropriate, to the Annual General Meeting.

***Principle 8:*** (in its entirety)

8.1 When a Director or Officer of the company is in possession of unpublished price-sensitive information in relation to the securities of that company, he shall not directly or indirectly deal in those securities:

8.1.1 on consideration of a short-term nature;

8.1.2 during such other period as may be established by the Malta Financial Services Authority from time to time;

8.1.3 unless the circumstances are exceptional (for example where a pressing financial commitment has to be met) and he has obtained the prior written approval of the Malta Financial Services Authority.

8.2 In other circumstances a director or officer of the company shall not directly or indirectly deal in securities of the company of which he is a director or officer, when in possession of unpublished price-sensitive information in relation to those securities, without giving advance written notice to the chairman or other designated director. In his own case, the Chairman or such other designated director shall not deal without giving advance written notice to the Board if directors or any other designated director as appropriate.

8.3 A written record shall be maintained by the company of all dealings by directors and officers in any of the securities of the company. The Chairman or the designated director or officer shall confirm in writing to the Director giving notice as aforesaid that a record of such notice has been retained.

8.4 These restrictions on dealings by a director or officer, and other dealings in which he is to be treated as interested, shall be regarded as equally applicable to any dealings by the Director's/Officer's spouse or by or on behalf of any infant child. It is the duty of the Director or Officer therefore, to seek to avoid any such dealing at a time when he himself is not free to deal.

8.5 Any employee of the Company or Director or employee of a subsidiary undertaking or parent undertaking of the Company who, because of his office or employment in the Listed Company or subsidiary undertaking or parent undertaking, is in possession of unpublished price-sensitive information in relation to the Company shall comply with the terms of this Principle as though he were a Director.

8.6 Directors and employees of the company must not disclose price-sensitive confidential information unless that disclosure has been authorised by the Board and such disclosure is made available to the market.

**Principle 9:** (in its entirety)

9.1 The Board should establish and maintain an Audit Committee of at least three (3) members, the majority of whom shall be non-executive Directors. The Committee shall be chaired by a non-executive director.

9.2 The Board should determine the terms of reference, life span, composition, role and function of such committee and should establish, maintain and develop appropriate reporting procedures.

9.3 The Audit Committee's primary purpose is to protect the interests of the company's shareholders and assist the Directors in conducting their role effectively so that the company's decision-making capability and the accuracy of its reporting and financial results are maintained at a high level at all times.

9.4 The Board should ensure that the Audit Committee establishes internal procedures and should monitor these on a regular basis.

9.5 The Audit Committee should establish and maintain access between the internal and external auditors of the Company and should ensure that this is open and constructive.

9.6 The Audit Committee should meet as regularly as possible, but at least, twice a year. The person responsible for Internal Audit or Finance should attend the meetings of this Committee.

9.7 The main role and responsibilities of the audit committee should be:

9.7.1 to review procedures and internal control systems;

9.7.2 to assist the Board of Directors in monitoring the integrity of the financial statements, the internal control structures, the financial reporting processes and financial policies of the company;

9.7.3 to maintain communications on such matters between the Board, management, the independent auditors and the internal auditors;

9.7.4 to review the company's internal financial control system and, unless addressed by a separate risk committee or the Board itself, risk management systems;

9.7.5 to monitor and review the effectiveness of the company's internal audit function on a regular basis;

9.7.6 to make recommendations to the Board in relation to the appointment of the external auditor and to approve the remuneration and terms of engagement of the external auditor following appointment by the shareholders in general meeting;

9.7.7 to monitor and review the external auditor`s independence, objectivity and effectiveness; and

9.7.8 to develop and implement policy on the engagement of the external auditor to supply non-audit services.

9.8 When the audit committee`s monitoring and review activities reveal cause for concern or scope for improvement, it should make recommendations to the Board on action needed to address the issue or make improvements. The Board should satisfy itself that any issues raised by the Audit Committee and the external auditor and communicated to the Board have been adequately addressed.

***Principle 10:***

Nil

***Principle 11:***

11.1 The company should provide the market with regular, timely, accurate, comprehensive and comparable information in sufficient detail to enable investors to make informed investment decisions.

11.3 Listed Companies should hold at least annually a meeting with shareholders and other interested parties other than the Annual General Meeting. Other meetings at more frequent intervals may be necessary in the light of Board decisions or other developments affecting the Company.

11.7 The agenda for general meetings of shareholders and the conduct of such meetings must not be arranged in a manner to frustrate valid discussion and decision-taking.

11.8 A detailed explanatory memorandum must accompany all proposals put before an extraordinary general meeting or proposals considered as extraordinary business and it must be provided well in advance of the meeting, at least fifteen (15) days before, with adequate time within which shareholders can evaluate it.

11.9 Provision must be made for shareholders who do not attend a general meeting to appoint a proxy of their choice to attend and vote on any matter either in favour of, or against, any proposal presented at a general meeting of shareholders, or to abstain.

11.15 Directors must not make improper use of information acquired by them by virtue of their position as a Director.

***Principle 12:***

Nil

***Principle 13:***

13.1 A director should avoid conflicts of interest at all times and shall not accept a nomination if he is aware that he has an actual conflict of interest.

13.2 Should an actual or potential conflict arise the director must disclose and record the conflict in full and in time to the Board and the Board shall determine whether or not that director should participate in the discussion. In any event the director shall refrain from voting on the matter. In certain circumstances it may be appropriate for the Board to disclose in a public document that an actual conflict or potential for conflict of interest has arisen.

**Code of Principles**  
of  
**Good Corporate Governance**

**17 October 2005**



## **Principles of Good Corporate Governance Revised Code Nov 2005**

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3 November 2005  
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## Introduction

These guidelines are designed to enhance the legal, institutional and regulatory framework for good governance in the Maltese corporate sector. They thus complement the current provisions already in force in the Companies Act. Hence, Malta provides a comprehensive corporate governance framework based on the guidelines provided by the Organization for Economic Cooperation and Development.

These guidelines are targeting companies whose securities are admitted to listing on a Recognised Investment Exchange but are not applicable to Collective Investment Schemes. Companies are urged to adopt these guidelines so as to provide proper incentives for the Board and management to pursue objectives that are in the interests of the company and its shareholders. The Guidelines should facilitate effective monitoring thereby encouraging firms to use resources more efficiently.

The adoption of these guidelines is expected:

- to provide more transparent governance structures and improved relations within the market which should enhance market integrity and confidence;
- to ensure proper transparency and disclosure of all dealings or transactions involving the Board, any Director, Senior Managers or Officers in a position of trust or other related party; and
- to protect shareholders from the potential abuse of those entrusted with the direction and management of the company by the setting up of structures that improve accountability to them..

While these guidelines are not mandatory in nature, it is recommended that as far as possible they are observed by all market participants. Companies are however required to report whether they comply with the guidelines or not.

In an increasingly globalized world economy where competition is intense, the adoption of good corporate governance guidelines can make an actual difference to how companies are viewed both domestically and within the international scenario.

## PRINCIPLE 1: THE BOARD

***Every listed company should be headed by an effective Board, which should lead and control the company.***

1.1 The Board should be composed of persons who are fit and proper to direct the business of the company. The concept of fit and proper requires directors to be honest, competent and solvent persons.

1.2 Boards of Directors are stewards of a company's assets and their behaviour should be focused on adding value to those assets by working with management to build a successful company and enhance shareholder value.

1.3 The shareholders, as the owners of the company, have the jurisdiction and discretion to appoint or remove directors on the Board. The process of appointment should be transparent and conducted at properly constituted shareholder general meetings where the views of the minority can be expressed.

1.4 All directors are required to provide leadership, integrity and judgment in directing the company.

1.5 All Directors should:

1.5.1 exercise prudent and effective controls which enables risk to be assessed and managed in order to achieve continued prosperity of the company;

1.5.2 be accountable for all actions or non-actions arising from discussion and actions taken by them or their delegates;

1.5.3 determine the company's strategic aims and the organizational structure;

1.5.4 regularly review management performance and ensure that the company has the appropriate mix of financial and human resources to meet its objectives and improve the economic and commercial prosperity of the company;

1.5.5 set the company's values and standards in order to enhance and safeguard the interests of shareholders and third parties;

1.5.6 act with integrity and due diligence while discharging their duties as directors and in particular in the decision and policy-making process of the company, which should be reflected in all company's dealings and at every level of the organization;

1.5.7 exercise accountability to shareholders and be responsible to relevant stakeholders.

1.6 Leadership can only come about if the directors, individually and collectively, are of the appropriate calibre, with the necessary skills and experience to contribute effectively to the decision making process.

1.7 Directors therefore should:

1.7.1 acquire a broad knowledge of the business of the company;

1.7.2 be aware of and be conversant with the statutory and regulatory requirements connected to the business of the Company;

1.7.3 allocate sufficient time to perform their responsibilities; and

1.7.4 attend meetings of the Board regularly.

1.8 In cases when a director is unable to agree with a decision of the Board because a proposed course of action is not deemed to be consonant with his statutory or fiduciary duties and responsibilities and all reasonable steps have been taken to resolve the issue, the director may feel that resignation may be a better alternative to submission. In such instances, the shareholders are entitled to an honest account of any such disagreements between directors.

## PRINCIPLE 2:

## CHAIRMAN AND CHIEF EXECUTIVE

***There should be a clear division of responsibilities at the head of the company between the running of the Board and the executive responsibility for the running of the company's business. No one individual or small group of individuals should have unfettered powers of decision.***

2.1 The Chairman's role in leading the Board should be separate from that of the Chief Executive and the division of responsibilities should be clearly established, set out in writing and agreed by the Board.

2.2 The Chairman has a pivotal role to play in helping the Board achieve its full potential. He should allow every director to play a full and constructive role in the affairs of the company.

2.3 The Chairman is responsible to:

2.3.1 lead the Board and set its agenda;

2.3.2 ensure that the directors of the Board receive precise, timely and objective information so that they can take sound decisions and effectively monitor the performance of the company;

2.3.3 ensure effective communication with shareholders;

2.3.4 encourage active engagement by all members of the Board for discussion of complex or contentious issues;

2.3.5 ensure that the performance of the Board and of its members is evaluated at least once a year.

## **PRINCIPLE 3: NON-EXECUTIVE DIRECTORS**

***The Board should be composed of executive and a number of non-executive directors (including independent non-executives).***

3.1 The Board should ensure that it is composed of members who, as a whole, have the required diversity of knowledge, judgment and experience to properly complete their tasks.

3.2 It is desirable that listed companies should set a minimum number of independent non-executive directors to sit on the Board in order to ensure a balance such that no individual or small group of individuals can dominate the Board's decision making. The exact composition and balance on a Board will depend on the circumstances and business of each enterprise but it is recommended that at least one third of Board members are non-executive and the majority of these should be independent.

3.3 A director is considered to be independent when he is free from any business, family or other relationship - with the company, its controlling shareholder or the management of either – that creates a conflict of interest such as to jeopardize exercise of his free judgment.

3.4 A non-executive director is a director who is not engaged in the daily management of the company. A non-executive director has an important role in overseeing executive directors and dealing with situations involving conflicts of interest.

3.5 Non-executive directors and executive directors have as board members the same duties and responsibilities in terms of law. However, as the non-executive directors are not involved in the day-to-day running of the business, they can bring fresh perspectives and contribute more objectively in supporting as well as constructively challenging and monitoring the management team.

3.6 The company should appoint non-executive directors of sufficient calibre whose independence and standing would offer a balance to the strength of character of a Chairman.

3.7 Non-executive directors should be free from any business or other relationship which could interfere materially with the exercise of their independent and impartial judgment.

3.8 Each director should apply to his duties the necessary time and attention, and should undertake to limit the number of any directorships held in other companies to such an extent that the proper performance of his duties is assured.

3.9 Non-executive directors should:

3.9.1 constructively challenge and help develop proposals on strategy;

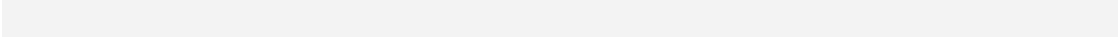
3.9.2 monitor the reporting of performance;

3.9.3 scrutinize the performance of management in meeting agreed goals and objectives;

3.9.4 satisfy themselves on the integrity and financial information and that financial controls and risk management systems are well established;

3.9.5 determine the appropriate level of remuneration of executive directors; and

3.9.6 have a primary role in appointing and, where necessary, removing, executive directors and in succession planning.



## PRINCIPLE 4: THE RESPONSIBILITIES OF THE BOARD

***The Board has the first level responsibility of executing the four basic roles of corporate governance namely; accountability, monitoring, strategy formulation and policy development.***

4.1 The Board should regularly review and evaluate corporate strategy, major operational and financial plans, risk policy, performance objectives and monitor implementation and corporate performance within the parameters of all relevant laws, regulations and codes of best business practice.

4.2 The Board should clearly define its level of power and ensure that it is known by all directors and the senior management of the company. Delegation of authority to management should also be clear and unequivocal. Independently of any powers and functions that the directors may from time to time validly delegate to management, it remains a fundamental responsibility of directors to monitor effectively the implementation of strategy and policy by management.

4.3 The Board should apply high ethical standards and take into account the interests of stakeholders. Its members should act:

4.3.1 responsibly for exercising independent objective judgment with the highest degree of integrity; and

4.3.2 on a fully informed basis in good faith with due diligence, and in the best interests of the company and the shareholders.

4.4 The Board should:

4.4.1 define in clear and concise terms, the company's strategy, policies, management performance criteria and business policies which can be measured in a precise and tangible manner;

4.4.2 establish a clear internal and external reporting system so that the Board has continuous access to accurate, relevant and timely information such that the Board can discharge its duties, exercise objective judgment on corporate affairs and take pertinent decisions to ensure that an informed assessment can be made of all issues facing the Board;

4.4.3 continuously assess and monitor the company's present and future operations opportunities, threats and risks in the external environment and current and future strengths and weaknesses;

4.4.5 recognise and support enterprise and innovation within the management of the company. The Board should examine how best to motivate company management.

4.4.6 seek to establish an effective decision-making process in order to develop the company's business efficiently;



4.4.7 evaluate the management's implementation of corporate strategy and financial objectives. The strategy, processes and policies adopted for implementation should be regularly reviewed by the Board using key performance indicators so that corrective measures can be taken to address any deficiencies and ensure the future sustainability of the enterprise;

4.4.8 be committed to corporate social responsibility especially in regard to the environment, health and safety, employee relations, ethical consumer conduct and social accountability;

4.4.9 ensure that the company has appropriate policies and procedures in place to assure that the company and its employees maintain the highest standards of corporate conduct, including compliance with applicable laws, regulations, business and ethical standards;

4.4.10 recognise that the Company's success depends upon its relationship with all groups of its stakeholders, including employees, suppliers, customers and the wider community in which the company operates. The Board should maintain an effective dialogue with such groups in the best interests of the company and monitor the application by management of its policies.;

4.4.11 strike a balance between enterprise and control in the company; and

4.4.12 develop a succession policy for the future composition of the Board of Directors and particularly the executive component thereof, for which the Chairman should hold key responsibility.

4.5 Upon being appointed to the Board and throughout the term of their appointment, directors should ensure that they have sufficient and adequate information about the company, its affairs and their fiduciary duties, responsibilities and liabilities. It is desirable that periodic information sessions are organised to ensure that directors are familiar with, inter alia;

4.5.1 their statutory and fiduciary duties;

4.5.2 the company's operations and prospects;

4.5.3 the skills and competence of the senior management;

4.5.4 the general business environment; and

4.5.5 the Board's expectations.

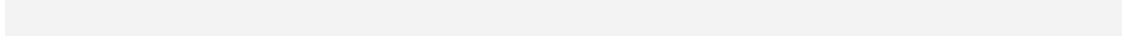
4.6 The Board must understand and fully appreciate the business risk issues and key performance indicators effecting the ability of the company to achieve its objectives.

4.7 The Board should assess regularly any circumstances, whether actual or potential, that could expose the company or its directors to risk, and take appropriate action,

4.8 The business risk and key performance indicators should be benchmarked against industry norms so that the company's performance can be effectively evaluated.

4.9 The Board shall require management to constantly monitor performance and report, at least quarterly, fully and accurately on the key performance indicators to its satisfaction.

4.10 The Board shall ensure that the financial statements of the company and the annual audit thereof have been completed within the stipulated time periods.



## **PRINCIPLE 5:**

## **BOARD MEETINGS**

***The Board should meet sufficiently regularly to discharge its duties effectively. Ample opportunity must be given to all Board members during meetings to convey their opinions and discuss issues set on the Board agenda so that they honour their responsibilities at all times.***

5.1 The Board should set procedures to determine the frequency, purpose, conduct and duration of meetings and meet regularly, at least once every quarter, in line with the nature and demands of the Company's business.

5.2 The Chairman is primarily responsible for the efficient working of the Board. He must ensure that all relevant issues are on the agenda supported by all available information.

5.3 The Board agenda should strike a balance between long-term strategic and shorter-term performance issues.

5.4 If directors fail to attend for more than three consecutive meetings without a justifiable cause they shall forfeit their seat on the Board.

5.5 Notice of the dates of the forthcoming meetings together with the supporting material should be circulated well in advance to the directors so that they have ample opportunity to appropriately consider the information prior to the next scheduled Board meeting. Advance notice should be given of ad hoc meetings of the Board to allow all directors sufficient time to re-arrange their commitments in order to be able to participate.

5.6 Conduct of Board meetings should facilitate and encourage the presentation of views pertinent to the subject matter and should give all directors every opportunity to contribute to relevant issues on the agenda.

5.7 After each Board meeting and before the next meeting, minutes that faithfully record attendance and decisions should be prepared and should be made available to all directors as soon after the meeting as practicable.

## **PRINCIPLE 6: INFORMATION AND PROFESSIONAL DEVELOPMENT**

### ***The Board should:***

- ***appoint the Chief Executive Officer;***
- ***actively participate in the appointment of senior management;***
- ***ensure that there is adequate training in the company for management and employees; and***
- ***establish a succession plan for senior management.***

6.1 Boards should actively consider the establishment and implementation of appropriate schemes to recruit, retain and motivate high quality executive directors and the management team.

6.2 All new directors should be offered a tailored induction programme on joining the Board which covers to the extent necessary the company's organization and activities and his responsibilities as a director.

6.3 The Chief Executive Officer is responsible to ensure that the directors continually update and refresh their skills, competencies and capabilities to properly complete their tasks. The company must provide the necessary resources for the directors' regular professional development including obtaining independent advice at the company's expense.

6.4 The Chief Executive Officer should ensure that systems are in place:

6.4.1 to provide for the development of the management and employees generally and to provide for adequate training in the company;

6.4.2 to ensure staff receive adequate and relevant training so that the company remains competitive;

6.4.3 to provide additional training for individual directors;

6.4.4 to monitor management and staff morale;

6.4.5 to establish a succession plan for senior management; and

6.4.6 for all directors to be supplied with precise, timely and clear information to enable Board members to disseminate information to effectively contribute to Board decisions.

6.5 The Chief Executive Officer should participate in the recruitment and appointment of senior management.

## **PRINCIPLE 7: PERFORMANCE EVALUATION**

***The Board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors.***

7.1 The Board should appoint a Committee chaired by a non-executive director in order to regularly carry out performance evaluation to establish whether each director continues to contribute effectively and to demonstrate commitment to the role.

7.2 The Committee is to report directly to the Chairman who should act on the results of the performance evaluation process in order to ascertain the strengths and to address the weaknesses of the Board members and to report to the Board and, where appropriate, to the Annual General Meeting.

7.3.1 In effecting the Board's performance evaluation, the Performance Evaluation Committee should consider:

- 7.3.1.1 its performance objectives;
- 7.3.1.2 testing and development of strategy;
- 7.3.1.3 the composition and effectiveness of the Board's relations;
- 7.3.1.4 the Board's response to problems;
- 7.3.1.5 the Board Agenda;
- 7.3.1.6 overall Board commitment.

7.3.2 Criteria for individual performance evaluation of directors should focus on:

- 7.3.2.1 the preparedness of the non-executive directors in attendance at Board meetings;
- 7.3.2.2 their commitment to the company and its business;
- 7.3.2.3 the quality and value of their contribution at Board meetings;
- 7.3.2.4 the contribution to strategy development and risk management;
- 7.3.2.5 the evaluation of the information given;
- 7.3.2.6 the effective and proactive follow up on any areas;
- 7.3.2.7 the level of mutual trust and respect within the Board;
- 7.3.2.8 training and personal development; and
- 7.3.2.9 the ability to communicate and convince their views to others.

## **PRINCIPLE 8: INSIDE INFORMATION**

***The Board should monitor and record dealings by Directors and Officers in any of the securities of the company.***

8.1 When a Director or Officer of the company is in possession of unpublished price-sensitive information in relation to the securities of that company, he shall not directly or indirectly deal in those securities:

8.1.1 on consideration of a short-term nature;

8.1.2 during such other period as may be established by the Malta Financial Services Authority from time to time;

8.1.3 unless the circumstances are exceptional (for example where a pressing financial commitment has to be met) and he has obtained the prior written approval of the Malta Financial Services Authority.

8.2 In other circumstances a director or officer of the company shall not directly or indirectly deal in securities of the company of which he is a director or officer, when in possession of unpublished price-sensitive information in relation to those securities, without giving advance written notice to the chairman or other designated director. In his own case, the Chairman or such other designated director shall not deal without giving advance written notice to the Board if directors or any other designated director as appropriate.

8.3 A written record shall be maintained by the company of all dealings by directors and officers in any of the securities of the company. The Chairman or the designated director or officer shall confirm in writing to the Director giving notice as aforesaid that a record of such notice has been retained.

8.4 These restrictions on dealings by a director or officer, and other dealings in which he is to be treated as interested, shall be regarded as equally applicable to any dealings by the Director's/Officer's spouse or by or on behalf of any infant child. It is the duty of the Director or Officer therefore, to seek to avoid any such dealing at a time when he himself is not free to deal.

8.5 Any employee of the Company or Director or employee of a subsidiary undertaking or parent undertaking of the Company who, because of his office or employment in the Listed Company or subsidiary undertaking or parent undertaking, is in possession of unpublished price-sensitive information in relation to the Company shall comply with the terms of this Principle as though he were a Director.

8.6 Directors and employees of the company must not disclose price-sensitive confidential information unless that disclosure has been authorised by the Board and such disclosure is made available to the market.

## **PRINCIPLE 9: AUDIT COMMITTEE AND AUDITORS**

***The Board should establish an Audit Committee to review and assess the effectiveness of the internal control systems, including financial reporting.***

9.1 The Board should establish and maintain an Audit Committee of at least three (3) members, the majority of whom shall be non-executive Directors. The Committee shall be chaired by an independent non-executive director, other than the Chairman.

9.2 The Board should determine the terms of reference, life span, composition, role and function of such committee and should establish, maintain and develop appropriate reporting procedures.

9.3 The Audit Committee's primary purpose is to protect the interests of the company's shareholders and assist the Directors in conducting their role effectively so that the company's decision-making capability and the accuracy of its reporting and financial results are maintained at a high level at all times.

9.4 The Board should ensure that the Audit Committee establishes internal procedures and should monitor these on a regular basis.

9.5 The Audit Committee should establish and maintain access between the internal and external auditors of the Company and should ensure that this is open and constructive.

9.6 The Audit Committee should meet as regularly as possible but at least twice a year. The person responsible for Internal Audit or Finance should attend the meetings of this Committee.

9.7 The main role and responsibilities of the audit committee should be:

9.7.1 to review procedures and internal control systems;

9.7.2 to assist the Board of Directors in monitoring the integrity of the financial statements, the internal control structures, the financial reporting processes and financial policies of the company;

9.7.3 to maintain communications on such matters between the Board, management, the independent auditors and the internal auditors;

9.7.4 to review the company's internal financial control system and, unless addressed by a separate risk committee or the Board itself, risk management systems;

9.7.5 to monitor and review the effectiveness of the company's internal audit function on a regular basis;

9.7.6 to make recommendations to the Board in relation to the appointment of the external auditor and to approve the remuneration and terms of engagement of the external auditor following appointment by the shareholders in general meeting;

9.7.7 to monitor and review the external auditor's independence, objectivity and effectiveness; and

9.7.8 to develop and implement policy on the engagement of the external auditor to supply non-audit services.

9.8 When the audit committee's monitoring and review activities reveal cause for concern or scope for improvement, it should make recommendations to the Board on action needed to address the issue or make improvements. The Board should satisfy itself that any issues raised by the Audit Committee and the external auditor and communicated to the Board have been adequately addressed.



## **PRINCIPLE 10: REMUNERATION COMMITTEES**

***The Board should set up formal and transparent procedures for developing policies on executive remuneration and for fixing the remuneration packages of individual directors.***

10.1 The Board of Directors should establish Remuneration Committees composed of independent non-executive directors with no personal financial interest other than as shareholders in the Company, one of whom should chair the Committee. No director should be involved in deciding his or her own remuneration.

10.2 Remuneration Committees have as their prime role the function of devising the appropriate packages needed to attract, retain and motivate executive Directors with the right qualities and skills for the proper management of the company.

10.3 Remuneration Committees should however avoid paying more than is necessary to secure the executive Directors with the appropriate skills and qualities.

10.4 The Remuneration Committee should judge where to position their company relative to other companies in the marketplace. These comparisons should be exercised with care, in view of the risk of an upward ratchet of remuneration levels with no corresponding improvement in performance. Moreover, they should also be sensitive to pay and employment conditions elsewhere in the group, especially when determining annual salary increases.

10.5 The performance-related elements of remuneration of executive directors and other executives should form a significant proportion of the total remuneration package particularly of executive directors and should be designed to align the interests with those of shareholders and to give these directors keen incentives to perform at the highest levels.

10.6 It is highly desirable that executive Directors are engaged on definite service contracts. In deciding the term of office, a balance should be sought between the need to provide continuity at the highest executive levels of the Company and the importance that the position of executive Directors is not entrenched in the company.

10.7 The Remuneration Committee should carefully consider what compensation commitments their directors' terms of appointment would entail in the event of early termination. The aim should be to avoid rewarding poor performance. They should take a robust line on reducing compensation to reflect departing directors' obligations in order to mitigate loss.

10.8 The Remuneration Committee's main duties are:

10.8.1 to make proposals to the Board on the remuneration policy for executive directors;

10.8.2 to make proposals to the Board on the individual remuneration to be attributed to executive directors, ensuring that they are consistent with the remuneration policy adopted by the company and the evaluation of the performance of the directors concerned;

10.8.3 to monitor the level and structure of remuneration of the non-executive directors on the basis of adequate information provided by the executive or managing directors.

10.8.4 to prepare a statement in the Annual Report about its activities, providing information regarding its membership, the number of meetings held, the attendance over the year, its main activities, and a "Remuneration Statement". The 'Remuneration Statement' shall contain details of individual directors' remuneration packages and the remuneration policy of the company including profit-sharing, share options and pension benefits, as well as specific arrangements relating to the disclosure of information on performance.

#### 10.9 The Committee:

10.9.1 should consult the Chairman and/or the Chief Executive Officer about proposals relating to the remuneration of other executive directors;

10.9.2 may avail itself of remuneration consultants, who may be useful in providing the necessary information on market standards for remuneration systems; and

10.9.3 should be responsible for establishing the selection, appointing and setting the terms of reference for any remuneration consultants who advise the committee.

10.10 The Board itself, subject to the approval of shareholders in general meeting, should determine the aggregate emoluments of the Directors, including that of the members of the Remuneration Committee.

10.11 Shareholders shall have the right to approve the aggregate remuneration payable and the criteria applied to establish the remuneration of the directors but not the remuneration paid to each individual director.

10.12 The company should provide shareholders with the information regarding the remuneration paid by the company to individual directors, both executive and non-executive, in the preceding financial year in order to help shareholders appreciate whether the remuneration is appropriate in the light of the overall performance of the company.

## **PRINCIPLE 11: RELATIONS WITH SHAREHOLDERS AND WITH THE MARKET**

***The Board shall serve the legitimate interests of the company, account to shareholders fully and ensure that the company communicates with the market effectively. The Board should as far as possible be prepared to enter into a satisfactory dialogue with institutional shareholders and market intermediaries based on the mutual understanding of objectives. The Board shall use the General Meeting to communicate with shareholders.***

11.1 The company should provide the market with regular, timely, accurate, comprehensive and comparable information in sufficient detail to enable investors to make informed investment decisions.

11.2 Communication with the market is crucial for Listed Companies and the integrity of the market itself. The Board should ensure that long-term strategic decisions are communicated where Directors consider such to be in the best interests of the Company.

11.3 Listed Companies should hold at least annually a meeting with shareholders and other interested parties other than the Annual General Meeting. Other meetings at more frequent intervals may be necessary in the light of Board decisions or other developments affecting the Company.

11.4 The Board should endeavour to protect and enhance the interest of both the company and its shareholders, present and future. The chairman should ensure that the views of shareholders are communicated to the Board as a whole.

11.5 The Board should:

11.5.1 always ensure that all holders of each class of capital are treated fairly and equally; and

11.5.2 act in the context that its shareholders are constantly changing and, consequently, decisions should take into account the interests of future shareholders as well.

11.6 Shareholders must appreciate the significance of participation in the general meetings of the Company and particularly in the election of Directors. They should continue to hold Directors to account for their actions, their stewardship of the company's assets and the performance of the Company.

11.7 The agenda for general meetings of shareholders and the conduct of such meetings must not be arranged in a manner to frustrate valid discussion and decision-taking.

11.8 A detailed explanatory memorandum must accompany all proposals put before an extraordinary general meeting or proposals considered as extraordinary business and it must be provided well in advance of the meeting, at least fifteen (15) days before, with adequate time within which shareholders can evaluate it.

11.9 Provision must be made for shareholders who do not attend a general meeting to appoint a proxy of their choice to attend and vote on any matter either in favour of, or against, any proposal presented at a general meeting of shareholders, or to abstain.

11.10 Minority shareholders should be able to call special meetings on matters of importance to the Company. However, to prevent capricious behaviour on the part of only a small number of shareholders, a minimum threshold of share ownership, as established in the Memorandum or Articles of Association of the company, should be set up before a group or an individual may call a special meeting.

11.11 Procedures should be established to resolve conflicts between minority shareholders and controlling shareholders. To resolve conflicts, there should be some mechanism, disclosed under company practice, to trigger arbitration.

11.12 Minority shareholders should be allowed to formally present an issue to the Board of Directors if they own a predefined threshold of shares.

11.13 The company should consider making available for inspection to its shareholders for a period of not less than fifteen (15) days particulars of service contracts and particulars of any contract in which a Director of the company is materially interested and which is significant in relation to the business of the company and its subsidiaries taken as a whole.

11.14 The company should disclose the total of any outstanding loans granted by the company or any of its subsidiaries or the parent of such company to the Directors of the Company and of any guarantees provided for their benefit.

11.15 Directors must not make improper use of information acquired by them by virtue of their position as a Director.

11.16 The Board should consider whether, from time to time, disclosure should be made by the company to other stakeholders other than its shareholders, but in other respects treating them equally as regards content and timeliness.

## PRINCIPLE 12: INSTITUTIONAL SHAREHOLDERS

***Institutional shareholders have a responsibility to make considered use of their votes.***

12.1 Institutional shareholders have the knowledge and expertise to analyse market information and make their independent and objective conclusions of the information available. As such, their role in the market is, and is perceived by investors as being, a very significant one. Accordingly, institutional shareholders are expected to conduct themselves in an appropriate manner in the market and act as a more effective check on Listed Companies.

12.2 Institutional shareholders should take steps to ensure that their voting objectives are being translated into practice. They should work towards the adherence to very general principles of good governance without taking the reins from the hands of the company's Board and management.

12.3 The term 'institutional shareholders' should be interpreted widely and includes any person who by profession, whether directly or indirectly, takes position in investments as principal; or manages or holds funds for or on behalf of others and includes custodians, banks, financial institutions, fund managers, stockbrokers, investment managers and others.

<b>PRINCIPLE 13:                      CONFLICTS OF INTEREST</b>
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**Directors` primary responsibility is always to act in the interest of the company and its shareholders as a whole irrespective of who appointed them to the Board.**

13.1 A director should avoid conflicts of interest at all times and shall not accept a nomination if he is aware that he has an actual conflict of interest.

13.2 Should an actual or potential conflict arise the director must disclose and record the conflict in full and in time to the Board and the Board shall determine whether or not that director should participate in the discussion. In any event the director shall refrain from voting on the matter. In certain circumstances it may be appropriate for the Board to disclose in a public document that an actual conflict or potential for conflict of interest has arisen.

13.3 The personal interests of a director must never take precedence over those of the company and its shareholders.

13.4 A director having a continuing material interest that conflicts with the interests of the company, should take effective steps to eliminate the grounds for conflict. In the event that such steps do not eliminate the grounds for conflict then the director should consider resigning.

13.5 Each director should declare to the company his or her interest in the share capital of the company distinguishing between beneficial and non-beneficial interest and should only deal in such shares as referred to in Principle 8.