21 October 2022

GFIA comments on the draft revisions to the OECD-G20 Principles of Corporate Governance

General comments

GFIA welcomes and appreciates the work of the OECD in establishing voluntary global best practices for corporate governance and updating them to meet evolving circumstances. GFIA also appreciates the opportunity to comment and is available for any follow up that the drafters would find useful.

Accordingly, GFIA strongly supports maintaining without change the general comments at the beginning of the document that explain its purpose and intended uses, specifically that the principles:

- Are nonbinding.
- Emphasize the importance of proportionality.
- Recognize that no single corporate governance structure is recommended.
- Are not intended to second guess corporate decision-making.
- Apply as well to State Owned Enterprises (SOEs).

With regard to SOEs, GFIA asks that the language in paragraph 8 on page 7 be strengthened to clearly recommend that these principles apply to them.

Emphasizing this point is particularly important so that public policymakers pay due attention to the document.

Section I

I.A. GFIA appreciates the reference to proportionality.

I.B. GFIA welcomes the references to the rule of law, transparency and balancing of the costs versus the benefits. GFIA fully supports the application of those principles to all actions referencing, or based on, the OECD-G20 principles.

I.F. GFIA notes the appropriate refence to digital concerns. However, there is a need to also reference the protection of confidential and trade secret information.

I.H. GFIA supports international cooperation. However, unless criminality is involved, the document should clearly state that confidential information and trade secrets belonging to the company should be protected and the company should be informed when the cooperation is taking place, so that misunderstandings can be quickly discussed and resolved.

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Section II.

GFIA takes the view that elements of this section go too far in that they give disinterested third parties the ability to second guess the company's decisions in areas such as selection of auditors and insurance coverage.

Section III.

III.A. This section references and appears to endorse "stewardship codes". It is not clear what stewardship codes are, how they are established and whether they are appropriately applied in all or any circumstances.

Section IV.

The principle repeatedly uses terms such as "sustainability" and "ESG", which are not well defined.

IV.A.5. This and other discussions of remuneration are fine at a high level, for example in terms of aligning remuneration with the goals of the company, but appear to allow too much second guessing, in practice. Again, the lack of a clear definition of what constitutes "sustainability" is raised.

IV.A.8. GFIA is concerned that the provision on reporting might be interpreted as requiring real time reporting of cyber-attacks. A requirement for such real time reporting of attacks could inadvertently expose the company to more attacks.

Section V.

The discussion of non-financial roles for corporations is interesting and it is acknowledged that corporations should play a positive and constructive social role. However, the point needs to be made that if a corporation fails financially, it is incapable of performing its other non-financial social roles. The financial well-being of corporation should be recognized as first and foremost: however, GFIA agrees that it should not be the sole goal of the company.

GFIA is concerned about references to "affected communities". There is neither a definition of affected communities nor a way to determine what they are. And once that is determined, how is a company supposed to measure its impact and weigh it against all other legitimate business concerns? GFIA takes the view that this concept is too ambiguous and problematic to apply, and so should not be included in the document.

V.A. 1. GFIA fully supports the notion of a safe harbor.

V.C. GFIA is concerned with the reference to "lobbying". In some jurisdictions, this is protected free speech and should not be a target of disclosures or any other pressure. GFIA also suggests that the term lobbying is overly broad and carries negative connotations to some interested parties. Language limiting or discouraging company advocacy is both problematic and detrimental to outcomes such as safer and more sustainable, insurable and resilient insureds, communities and societies.

V.E.4. GFIA agrees with the importance of diversity in experience and expertise, so as to manage all aspects of the business and role of the company. GFIA does not, however, support quotas.

Diversity should be defined more in terms of experience and expertise and not so much in terms of demographic factors as they do not always assure the diversity that is essential for the performance of the company financially and in connection with its other designated roles. Different demographics may or may not assure the diversity in thinking that is the real goal.

Section VI.

This section seems too prescriptive and in effect universalising the mandates in several specific jurisdictions. Instead, the section should recognize that disclosures and other activities must be considered in the context of different political and energy security contexts. As an alternative, GFIA suggests stating that a company should be aware of, and manage, all of its material and relevant risks and opportunities including those relating to climate and social issues.

VI.B. GFIA supports the notion of dialogue with supervisors and regulators on ESG to the extent relevant and material to a company. It is, however, unclear what is meant by dialogue with "stakeholders", beyond voluntary public statements and other voluntary communications a company may choose to make.

VI.C.1. GFIA is again concerned about the reference to lobbying, as this is protected free speech in some jurisdictions.

VI.D. GFIA is again concerned with the concept of "affected communities", how they are to be defined and what consideration should be given them.

Conclusion

GFIA fully supports the concepts set forth in the background and general statements. GFIA also welcomes efforts to establish best practices at an international level. However, there are specific provisions that lack necessary definition or that seem to be inconsistent with those concepts in favor of a much more prescriptive approach. GFIA remains available should the OECD wish to follow up on any of our comments.

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About GFIA

The Global Federation of Insurance Associations (GFIA), established in October 2012, represents through its 40 member associations and 1 observer associations the interests of insurers and reinsurers in 67 countries. These companies account for 89% of total insurance premiums worldwide, amounting to more than $4 trillion. GFIA is incorporated in Switzerland and its secretariat is based in Brussels.