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Via email: Serdar.CELIK@oecd.org

7th December 2021

Dear Serdar,

Thank you once again for providing the opening keynote to commence the recent ICGN Global Virtual Summit on 3rd November. It was a privilege to hear your remarks focused on the OECD publication on *The Future of Corporate Governance in Capital Markets Following the COVID-19 Crisis.* Over 200 delegates from 50 regions convened for thought-provoking discussion. In addition, almost 30 of our colleagues served on panel discussions, which are now available on demand for additional viewing.

We also welcome your announcement that the OECD will be reviewing the G20/OECD Principles of Corporate Governance, which were first published in 1999 and subsequently updated in 2015. We appreciate that *The OECD Corporate Governance Factbook* will serve as an important foundation for the review, highlighting the different ways in which the Principles will be implemented across all OECD, G20, and FSB member jurisdictions. We look forward to the associated OECD consultations and roundtable discussions in which ICGN has traditionally participated.

You will also be aware that the ICGN Global Governance Principles (ICGN Principles) have been updated this year as part of a three-year review cycle. First published in 2001, the ICGN Principles provide an international benchmark, from an institutional investor perspective, on the highest standards of corporate governance. Many ICGN Members default to the ICGN Principles as a bellwether for their voting policies and company engagements. The ICGN Principles also inform regulators on internationally accepted standards to help inspire the evolution of national codes.

Since the last review of the ICGN Principles in 2017, there has been considerable societal change, including the disruptive effects of Covid-19 on public health and economic activity, ethnic and social tensions, and growing concerns about climate change. The role and purpose of the corporation has faced renewed scrutiny, and stakeholder capitalism has emerged as a challenge to the model of shareholder primacy that prevails in many markets.

In this context, ICGN's position has been, and remains, to focus on the sustainable success and value creation of the company itself which involves meeting legitimate shareholder needs for

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returns on capital while maintaining positive relations with relevant stakeholders, including the workforce, customers, suppliers, communities, and civil society more broadly.
Against this background there are many changes to the ICGN Principles, several of which reflect the need for a greater focus on corporate purpose, improving stakeholder relations, and ensuring that sustainability issues are a meaningful part of board oversight and the governance process. This requires companies and investors to focus, not only on aspects relating to preserving and building a company's long-term financial capital, but factors impacting human and natural capital too.

Given the forthcoming review of the OECD Principles we have taken the liberty of sharing some of the key governance and sustainability related changes to the ICGN Principles which may help to assist in your deliberations.[1]

Key governance changes

- Leadership: We have emphasised the importance of independent board leadership and a clear division of responsibilities between the role of the Chair and CEO to avoid unfettered powers of decision-making. We also think the roles of both should be clearly described and publicly disclosed.

- Independence: We have strengthened our standard for a majority of independent directors on the board – not just in companies with widely-held share ownership, but also for those with concentrated share ownership and subsidiaries.

- Diversity: Board diversity guidance has been expanded to encourage effective, equitable, and inclusive decision-making across the workforce in alignment with the company's purpose and key stakeholders. And we have separated out specific guidance for gender diversity with a preference for at least one-third of board positions to be held by women.

- Evaluation: We emphasise the importance of conducting board evaluation annually to review composition in alignment with the company's long-term strategy, succession planning and diversity policy. And we maintain the importance of having external board evaluation once every three years.

- Tenure: Reference to board tenure has been enhanced to clarify that, term limits, where they exist, and the identity of directors who have exceeded limits (and thus are no longer independent) should be disclosed. More generally we believe director re-election should be contingent on a satisfactory performance evaluation of his or her contribution to the board.

- Appointments: There should be a formal and transparent approach to board director appointments based on relevant and objective selection criteria, led by an independent Nomination Committee, to ensure appropriate board refreshment aligned with the company's long-term strategy, succession planning, and diversity policy.

[1] https://www.icgn.org/policy/global-governance-principles

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- Capital allocation: There is new guidance on capital allocation to manage competing company, investor, and stakeholder interests, while maintaining sufficient liquidity to ensure resilience.
- Fiscal policy: We have acknowledged public debate around tax avoidance by emphasising the board's role in overseeing a company's tax policy - not only within a legal context but within the bounds of acceptable social norms.

- Audit: In relation to audit, the work of the Audit Committee should be explained in the annual report. There should be engagement with shareholders on any significant issues arising from the audit relating to the financial statements and how they were addressed. Additionally, shareholders will want to know about the effectiveness of the audit process including auditor tender, tenure, independence, fees, and any non-audit services.

- Annual General Meetings: Primarily instigated by the Covid crisis, we have added new Principles emphasising the importance of shareholder participation at AGMs (particularly virtual AGMs) to ensure they are efficiently, democratically, and securely facilitated. Companies should take care to remove any artificial barriers to participation and replicate as best as possible the in-person AGM experience to enable constructive interactivity between shareholders and the board to take place.

Key sustainability changes

- Company purpose: We clarify that boards should disclose a company purpose to guide management's approach to strategy, innovation, and risk. This is usually accompanied by a statement of values which describe a set of beliefs shared by the board and workforce, ingrained in behaviours and corporate culture.

- Stakeholders: We clarify directors' duties to promote the best interests of the company, thereby preserving and enhancing long-term share value, while having regard to relevant stakeholders. Boards should identify their key stakeholders, disclose how their interests are considered and ensure processes for review of any grievances.

- Director Duties: We clarify directors' duties to promote the best interests of the company, thereby preserving and enhancing long-term share value, while having regard to relevant stakeholders.

- Risk oversight: Risk oversight has been expanded to systemic events including climate change, ecological degradation, social inequality, and digital transformation. This is alongside more traditional threats such as cyber-security, supply chain resilience, performance, solvency, liquidity, and reputation.

- Double materiality: There is new reference to 'double' materiality in the ICGN Principles for reporting on a company's external impacts on society and the environment, as well internal impacts on the company's own financial performance. We also refer to 'dynamic materiality' recognising that materiality evolves over time alongside emerging technology, product innovation, regulatory developments and so on.

- Executive remuneration: Remuneration plans should be designed to align the interests of the CEO fairly and effectively with the workforce and long-term company strategy, including the use of sustainability-related metrics. More generally, we anticipate that

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investors will expect Remuneration Committees to disclose a clear rationale to justify their decisions, particularly for companies that received public financial support as part of COVID recovery plans. In particular investors are likely to focus on:

- Any changes to bonus schemes including adjustments to performance targets or measurement periods.
- Fairness and how CEO incentives compare with the average company worker including pension and other benefits like medical insurance.
- How sustainability metrics are used in KPIs, particularly those aligned with reducing carbon emissions according to the company's net zero transition plan.

- Human capital: The ICGN Principles now call for companies to disclose information about their human capital policies, practices and performance linked to succession planning and long-term strategy. We welcomed a change of reporting rules by the US SEC last year to require companies to report 'material' human capital objectives and this theme is referenced in Japan's updated Corporate Governance Code. Going forward we encourage companies to publish more comprehensive information, for example around workforce training, lost-time injury rates, pay ratios, turnover, demographics, and details around workforce diversity particularly in relation to recruitment, retention, and promotion.

- Human rights: There is also new guidance on workforce safety and how companies mitigate risks in its operations and supply chains – this extends to human rights abuses (particularly modern slavery) and the boards role in overseeing due diligence, reporting, and accountability processes.

- Climate change: We recommend that boards assess the risks and opportunities from climate change on the business model and disclose a clear transition plan on how it will be adapted to meet the needs of a net zero economy by 2050. This plan should be aligned with publicly declared targets as part of a long-term strategy. This helps investors understand company resilience in addressing climate change risks and opportunities as well as assessing progress towards achieving net zero targets. In turn, investors themselves are better able to disclose how their own portfolios are aligned for net-zero transition. This is described in the ICGN Statement of Shared Climate Change Responsibilities published ahead of COP 26 in October.

- Sustainability reporting: We encourage companies to use sustainability-related accounting and reporting frameworks to facilitate consistency and comparability across markets and industries. In this regard, we welcomed the announcement at COP 26 of the establishment of the International Sustainability Standards Board and consolidation of the Climate Disclosure Standards Board and the Value Reporting Foundation into a single body under the IFRS Foundation. These efforts will help meet investors' information needs and facilitate consistent, comparable, and verifiable sustainability related information across markets and industries. It will equip investors to assess the 'climate competitiveness' of companies as a key determinate of value.

Since 2015, the landscape of governance practices and global market activity has evolved into a more complex and challenging environment. The advent of stewardship activities by institutional investors and fund managers has led to the adoption of principles-based approaches, centered around their fiduciary duty to beneficiaries.

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In this regard we would like to draw your attention to the ICGN Model Mandate, first published in 2012 and which will be updated by January 2022, in partnership with the UN Global Investors for Sustainable Development Alliance. In this Mandate, we have encouraged asset owners to ensure that they hard-wire stewardship and sustainability objectives into their contracts with asset managers. ICGN hopes to help shift the behaviours of key actors along the investment chain towards a longer term, sustainable perspective, particularly those related to the UN Sustainable Development Goals.

Additionally, the ICGN Global Stewardship Principles, based on the 2003 ICGN Statement of Institutional Shareholder Responsibilities, and most recently updated in 2020, articulate clear responsibilities for investors around the analysis, monitoring, and integration of ESG factors in investment decision-making, voting, and investee company engagement.[2] For markets that have yet to embrace this mindset, regulatory clarification that ESG integration does not compromise returns and, therefore, fiduciary duty, would be a significant catalyst for change. While ICGN created two separate documents, one for Global Governance and the other for Global Stewardship, OECD may desire to incorporate stewardship language within its revised principles.

In conclusion, ICGN appreciates the opportunity to provide comments on the review of the OECD Principles, and we continue to applaud your work around the world. We would welcome the opportunity to provide additional comment when you issue a formal public consultation. In the meantime, should you have any questions around our letter, please contact me or George Dallas, ICGN's Policy Director, by email at george.dallas@icgn.org.

Yours faithfully,

Kerrie Waring
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[2] ICGN Global Stewardship Principles 2020

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