FORUM NEDCOMMUNITY 2022

La revisione dei Principi di Corporate Governance del G20/OCSE: una risposta globale alle sfide ed all'evoluzione del governo societario

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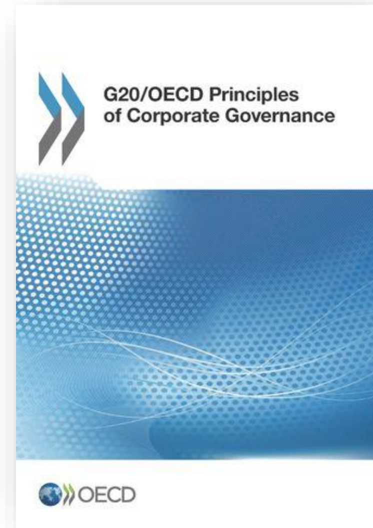
The G20/OECD Principles of Corporate Governance

- **Main international standard for corporate governance**. First issued as OECD instrument in 1999 and last revised in 2015. Endorsed by G20 Leaders in 2015.
- **Help policy makers evaluate and improve the legal, regulatory and institutional framework for corporate governance.** Also provide guidance for stock exchanges, investors, corporations and others that have a role in developing good corporate governance.
- **6 pillars**:
  - Ensuring the basis for an effective corporate governance framework
  - The rights and equitable treatment of shareholders and key ownership functions
  - Institutional investors, stock markets and other intermediaries
  - The role of stakeholders in corporate governance
  - Disclosure and transparency
  - The responsibilities of the board



- **Endorsed by the FSB** as one of its Key Standards for Sound Financial Systems and by the **World Bank** as the benchmark for its national Corporate Governance Assessments.
- **53 adherents**: OECD, all G20 and FSB, Bulgaria, Croatia, Peru and Romania.

The Corporate Governance Committee

OBJECTIVE	To effectively fulfil its responsibilities as an international standard setter in corporate governance, and contribute to economic efficiency, sustainable growth and financial stability by improving corporate governance policies and supporting good corporate practices.
AREAS OF WORK	Corporate Governance; Capital Markets; State-Owned Enterprises
COMPOSITION	OECD Members and accession candidates + all G20 and FSB members + Malaysia
INSTRUMENTS	❖ G20/OECD Principles of Corporate Governance ❖ OECD Guidelines on Corporate Governance of State-Owned Enterprises ❖ OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises

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Strategic Priorities of the Principles

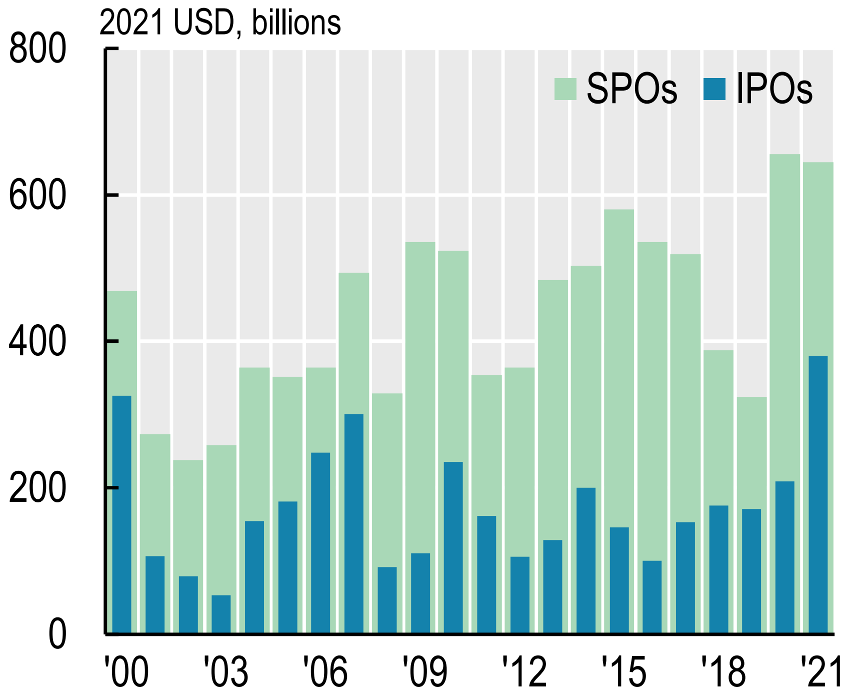
I. To promote access to finance, innovation and entrepreneurship;

II. To provide a framework to protect investors; and

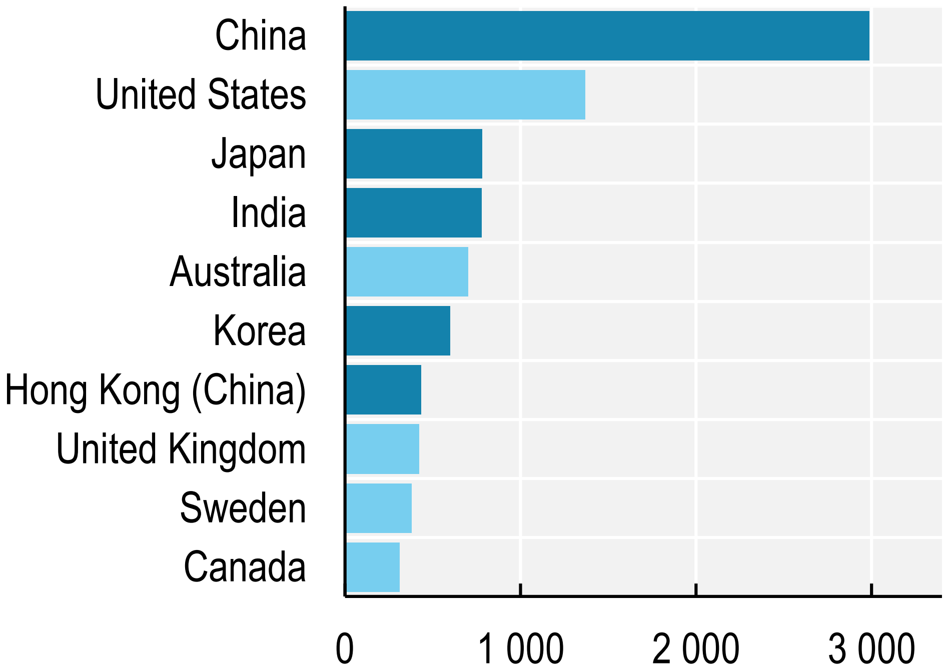
III. To support corporate sector sustainability and resilience.

Promoting access to finance, innovation and entrepreneurship

Capital raised by non-financial companies in public equity markets



Top 10 markets by number of non-financial company IPOs over the last 10 years

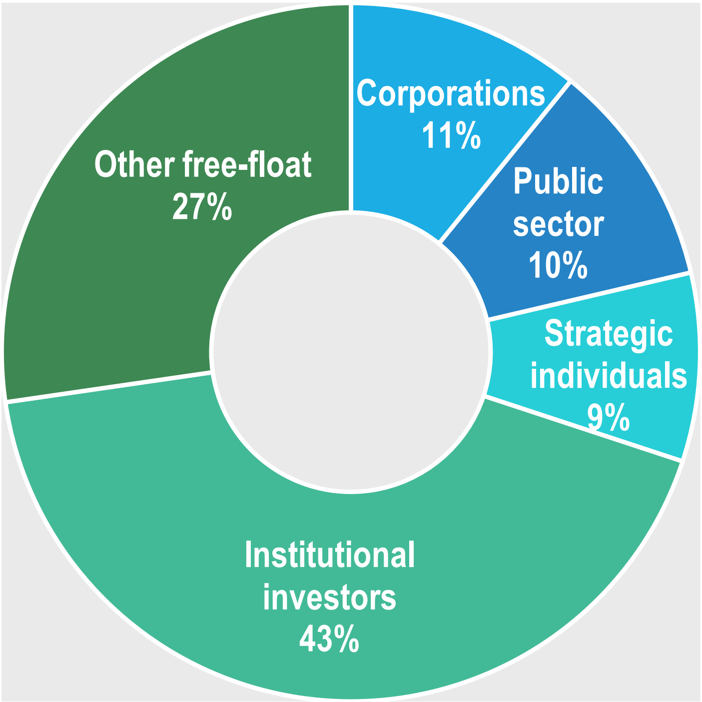


Source: OECD Capital Market Series dataset.

- The Principles lay the foundations for a sound corporate governance framework that gives investors, executives, corporate directors and stakeholders the tools and incentives needed to ensure companies can access the capital they need.
- Record equity issuance during the COVID-19 crisis: USD 2 trillion for 2020 and 2021 combined.
- Structural decline in the number of listed companies in most advanced markets. Except for Asia, which hosts half of all listed companies in the world today.

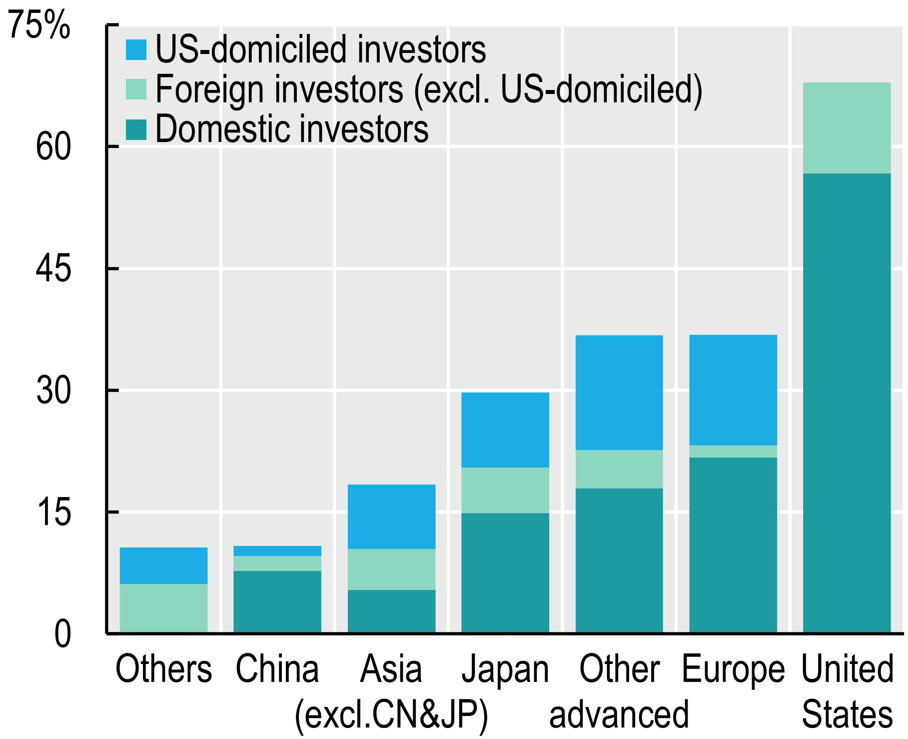
Providing a framework to protect investors

Investors' holdings in public equity markets



Source: OECD Capital Market Series dataset.

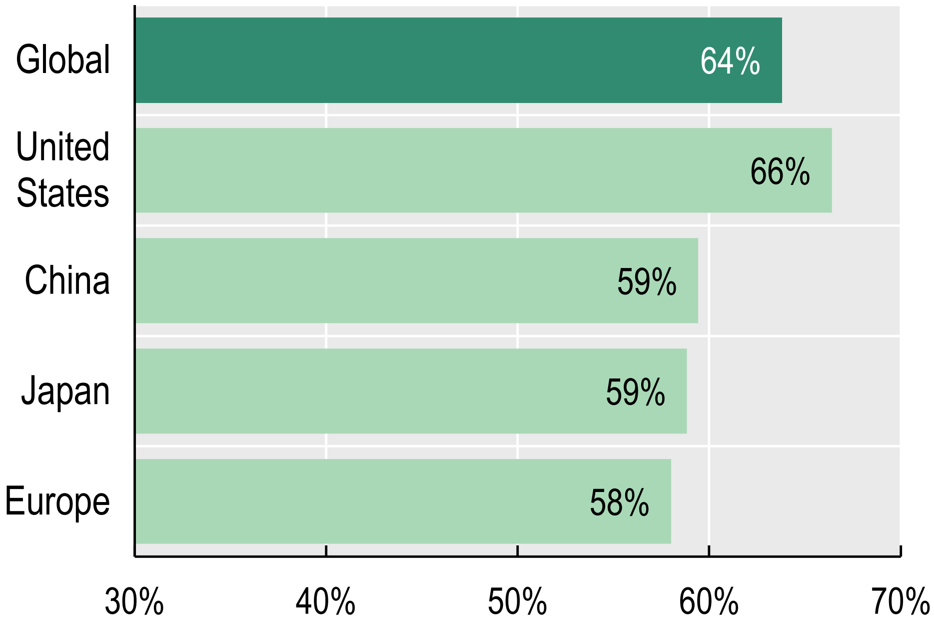
Domestic and foreign institutional investors holdings



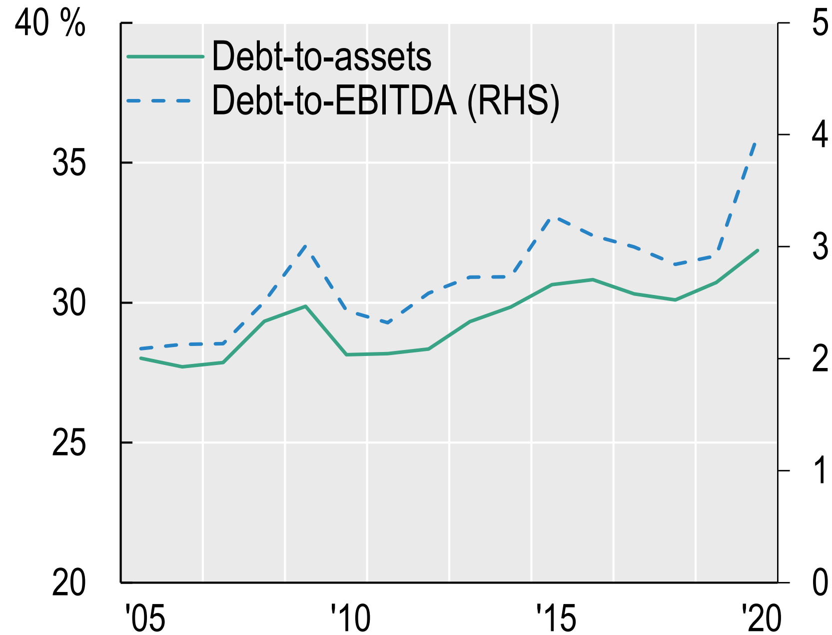
- More than 40 000 listed companies in the world with a combined market value of USD 105 trillion.
- Equity is the largest asset class available to households.
- Institutional investors are the largest owners in stock markets. They invest a large share of their portfolios in foreign markets. This is why sound corporate governance policies are also essential to protect savers across borders.

Supporting corporate sector sustainability and resilience

Share of market capitalisation exposed to financially material climate risks (2020)



Leverage in non-financial corporations



Source: OECD Capital Market Series Dataset, FactSet, Thomson Reuters Eikon, Bloomberg, SASB mapping.

- Climate change is a significant financially material risk for companies representing two-thirds of global market capitalisation.
- Leverage in the corporate sector has increased significantly: The aggregate leverage ratio (debt-to-EBITDA) has doubled since 2005.
- Good corporate governance => better access to capital markets = stronger balance sheets + new and innovative businesses that support the green and digital transitions essential for long-term resilience.

Ten priority areas

- The management of climate change and other environmental, social and governance (ESG) risks
- The growth of new digital technologies and emerging opportunities and risks
- Corporate ownership trends and increased concentration
- The role of institutional investors and stewardship
- Crisis and risk management
- Excessive risk taking in the non-financial corporate sector
- The role and rights of debtholders in corporate governance
- Executive remuneration
- The role of board committees
- Diversity on boards and in senior management

Proposed revisions (I)

Overall direction of changes

- Better reflect the **three overarching objectives**.

Sustainability and resilience (new chapter)

- **Sustainability disclosure**: Promote the disclosure of financial and non-financial information and the use of high-quality international standards that facilitate comparability. Guidance on the concept of materiality.

- **Shareholders and stakeholders**: Promote dialogue in companies' important decisions on sustainability.

- **Board responsibilities**: Highlight the importance of the "business judgement rule" for long-term investments, and clarify that material sustainability risks and opportunities must be considered by the boards.

New chapter: Sustainability and resilience (I)

- **Sustainability disclosure**: Promote the disclosure of financial and non-financial information and the use of high-quality international standards that facilitate comparability. Guidance on the concept of materiality.

> ➢ ***VI.A***. *Sustainability disclosure should be consistent, comparable and reliable, and include retrospective and forward-looking material information that* ***a reasonable investor*** *would consider important in making an investment or voting decision.*
>
> ***VI.A.1***. *Sustainability information should be considered* ***material if it can reasonably be expected to influence an investor's assessment of a company's value****. […], such assessments may also consider sustainability matters that are critical to a company's key stakeholders or a company's influence on non-diversifiable risks.*
>
> ***VI.A.2.*** *Sustainability disclosure frameworks should be consistent with high quality, understandable, enforceable and* ***internationally accepted core standards*** *that facilitate the comparability of sustainability disclosure across markets.*
>
> *[…]*
>
> ***VI.A.4.*** *If a company publicly sets a sustainability-related goal or target, the disclosure framework should ensure that* ***verifiable metrics are disclosed*** *to allow investors to assess the credibility and progress toward meeting the announced goal or target.*

New chapter: Sustainability and resilience (II)

- **Sustainability disclosure (cont'd.)**: Recommend the external assurance of sustainability disclosure in the long term.
  - ***VI.A.5****. Phasing in of requirements should be considered for* ***annual assurance attestations*** *by an independent, competent and qualified assurance service provider in accordance with high quality international assurance standards in order to provide an external and objective assessment of a company's sustainability disclosure.*
- **Shareholders and stakeholders**: Promote dialogue in companies' important decisions on sustainability.
  - ***VI.B.*** *Corporate governance frameworks should allow for the* ***dialogue between directors, key executives, shareholders and stakeholders*** *to exchange views on sustainability matters as relevant for the company's business strategy and its assessment of what matters ought to be considered material.*
- **Board responsibilities**: Clarify that material sustainability risks and opportunities must be considered by the board, and highlight the importance of the "business judgement rule" for long-term investments.
  - ***VI.C. Boards should ensure that governance practices, strategy and risk management policies adequately consider material sustainability risks and opportunities****, including climate-related physical and transition risks.*
  - ***V.A.1.*** *Board members should be protected against litigation if a decision was made in good faith with due diligence.*

Proposed revisions (II)

Corporate ownership and company groups

- Promote a **clear regulatory framework** for company groups and capital structures, group structures and their control arrangements in company groups.
- Improve **risk management** by ensuring disclosure on risks related to company groups.
- Improve disclosure of **related party transactions** by better identifying all related parties in complex group structures and addressing potential conflicts of interest.

Institutional investors and stewarship

- Address the growing use of **stewardship codes** as a tool to support shareholder engagement and increase disclosure requirements for institutional investors.
- Increase disclosure and minimise conflict of interests of **proxy advisors**, **ESG rating and index providers**.

Proposed revisions (III)

Digital technologies

- Strengthen corporate governance practices and supervision with digital technologies while addressing the related risks.
- Ensure board responsibilities for **digital security risks** in terms of disclosure and risk management.
- Underline the importance of a **technology neutral approach**.

Board responsibilities and duties

- Reflect increasing **diversity** considerations and the growing use of **board committees** (e.g. audit, remuneration, nomination).
- Emphasise **risk management** including crisis management.
- Recommend disclosure of sustainability indicators used in determining **executive pay**.

Corporate debt and bondholders

- Address the increasing importance of **corporate debt and bondholders** in markets, their rights, and their impacts.

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Proposed revisions: Board responsibilities and duties

- Reflect the growing use of **board committees** while emphasising flexibility in their establishment and recalling the full responsibility of the board in the decision-making process.

  > ***V.E.2.*** *Boards should consider setting up specialised committees to support the full board in performing its functions, in particular <u>the audit committee – or equivalent body – for overseeing disclosure, internal controls and audit-related matters. Other committees, such as remuneration, nomination or risk management, may provide support to the board</u>, depending upon the company's size, <u>structure, complexity</u> and risk profile. […]*

- Reflect increasing **diversity** consideration in disclosure of the board composition, as well as boards' responsibilities on talent development and succession planning, board nomination and election, and board evaluation.

  > ***V.E.4*** *(Annotation) <u>[…] Diversity may be understood as based on criteria such as gender, age, or other demographic characteristics, but also on experience and expertise, […].</u>*

- Emphasise **risk management**, including crisis management.

  > ***V.D.*** *The board should fulfil certain key functions, including:*
  >
  > ***<u>2.</u>*** *<u>Reviewing and assessing risk management policies and procedures.</u>*

- Provide additional provisions on **remuneration**, including the use of sustainability indicators in executive remuneration (*IV.A.5*).

Timeline

2021

- **October**: OECD Ministers and G20 Leaders: "recognise the importance of good corporate governance frameworks and well-functioning capital markets to support the recovery and look forward to the review of the G20/OECD Principles of Corporate Governance".

2022

- **February**: Terms of Reference and Roadmap agreed.
- **February, June and November**: Committee discussions on revisions.
- **February and July**: OECD Secretary-General's 1st and 2nd progress reports to G20
- **19 September-21 October**: Public consultation on revisions

2023

- **March**: revised Principles approved by Committee.
- **Q2**: revised Principles to be adopted at OECD Ministerial meeting.
- **Q3**: revised Principles to be considered for endorsement by G20.

Thank you for your attention

Annex: Other detailed proposed revisions

Proposed revisions: Company groups

- Promote a **clear regulatory framework** for company groups and improve the disclosure of capital structures, group structures and their control arrangements.
  - ***I.H** (Annotation) […] jurisdictions are encouraged to develop a definition and criteria for the oversight of company groups focusing on aspects such as the controlling relationship of group companies and their parent, companies' domicile, and eligibility to join financial consolidation, among other aspects.*
  - ***IV.A.3.** The disclosure of capital structures, group structures and their control arrangements should be required.*
- Improve **risk management** by ensuring boards' access to key information.
  - ***V.F.** (Annotation) […] In cases when a publicly traded company is a part of a group, the regulatory framework should also ensure board members' access to key information about the activities of its subsidiaries to manage group-wide risks and implement group-wide objectives.[…]*
- Improve disclosure of **related party transactions** by better identifying all related parties in complex group structures and addressing potential conflicts of interest.
  - ***IV.A.** Financial and non-financial disclosure should include, but not be limited to, material information on:*

    ***7.** Related party transactions.*

    (Annotation) […] Special consideration should be given to whether the corporate governance framework properly identifies all related parties in jurisdictions with complex group structures involving publicly traded companies.[…]

Proposed revisions: Institutional investors

- Address the growing use of **stewardship codes** as a tool to support shareholder engagement and increase disclosure requirements for institutional investors.

  > ➢ ***III.A.*** *The corporate governance framework should facilitate and support engagement by institutional investors with their investee companies. Institutional investors acting in a fiduciary capacity should disclose their policies for corporate governance and voting with respect to their investments, including the procedures that they have in place for deciding on the use of their voting rights. Stewardship codes may offer a complementary mechanism to support such engagement.*

- Increase disclosure and minimise conflict of interests of **proxy advisors**, **ESG rating and index providers**.

  > ➢ ***III.D.*** *The corporate governance framework should require that regulated entities that provide analysis or advice relevant to decisions by investors, such as proxy advisors, analysts, brokers, ESG and credit rating agencies, index providers and others, disclose and minimise conflicts of interest that might compromise the integrity of their analysis or advice.*
  >
  > *(Annotation)[…] the methodologies used by service providers that produce ratings and indices should be transparent and publicly available to clients and market participants. This is particularly important when they are also referenced as metrics for regulatory purposes.[…]*

Proposed revisions: Digital technologies

- Strengthen corporate governance practices and supervision with digital technologies while addressing related risks. Underline the importance of a **technology neutral approach**.

  > ➢ ***I.F.*** *Digital technologies may be used to enhance the supervision and implementation of corporate governance requirements, but also require that supervisory and regulatory authorities give due attention to the management of associated risks.*

- Promote **virtual or hybrid shareholder meetings** with proper conduct.

  > ➢ ***II.C.3.*** *General shareholder meetings in virtual or hybrid format should be allowed as a means to facilitate and reduce the costs to shareholders of participation and engagement. Such meetings should be conducted in a way to ensure equal access to information and opportunities for participation of all shareholders, regardless of whether physical or virtual.*

- Ensure board responsibilities for **digital security risks** in terms of disclosure and risk management.

  > ➢ ***V.D.2.*** (Annotation) *[…] Of notable importance is the management of digital security risks, which are dynamic and can change rapidly. Risks may relate, among other matters, to data security and privacy, handling of cloud solutions, authentication methods, and security safeguards for remote personnel working on external networks. As with other risks, these risks should be integrated more broadly within the overall cyclical company risk management framework.[…]*

Proposed revisions: Corporate debt and bondholders

- Address the increasing importance of **corporate debt and bondholders** in markets, their rights, and their impacts.

> ➢ ***VI.D.6.*** *The exercise of the rights of bondholders of publicly traded companies should be facilitated.*
>
> *(Annotation)The extended and substantial rise in the use of bond financing by publicly traded companies and their subsidiaries warrants greater attention to the role and rights of bondholders in corporate governance. […]*

- Promote **disclosure of material information on debt contracts**, including the risk of non-compliance with covenants.

> ➢ ***IV.A.*** *Financial and non-financial disclosure should include, but not be limited to, material information on:*
>
> ***IV.A.10.*** *Debt contracts, including the risk of non-compliance with covenants.*
>
> *(Annotation)[…] the timely disclosure of material information on debt contracts, including the impact of the most significant risks related to a covenant breach and the likelihood of their occurrence, is necessary for investors to understand a company's business risks.*

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