




THE OECD GUIDELINES: OVERVIEW AND 2014 REVISION

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The OECD and its work on SOEs

the OECD	<ul style="list-style-type: none"> Hosts the world's only standing body representing the owners of SOEs Oversees the implementation of the world's only multilaterally endorsed recommendation - the OECD Guidelines on Corporate Governance of State-Owned Enterprises (Guidelines)
the Guidelines	<ul style="list-style-type: none"> Acts as a powerful driver for SOE reform by holding national practices against a benchmark of internationally agreed good practices. Is also an important signalling device to reassure foreign regulators and policy makers of high governance standards, especially as SOEs become more involved in international trade and investment
Membership	<ul style="list-style-type: none"> Brings benefits beyond adherence Opens the way to co-shaping the agenda and participating in a continued process of peer discussions and exchange of experiences. This is particularly relevant for emerging economies whose development process depends on the efficiency of large and economically important SOE sectors

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The OECD Guidelines on Corporate Governance of SOEs

- Developed through extensive and inclusive consultations with relevant players from OECD members and non-member countries
- Non-binding
- Complementary to the OECD Principles of Corporate Governance
- An OECD legal instrument
- An aspiration rather than a minimum standard

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Priorities in the OECD Guidelines

- Ensure a level-playing field with the private sector
- Reinforce the ownership function within the state administration
- Provide equitable treatment of shareholders and other investors
- Improve transparency of SOEs' objectives and performance
- Improve stakeholder relationship
- Strengthen and empower SOE boards

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A 2011 Report to Stock-take Change in OECD Countries

Since 2005, 20 member countries have reformed the legal and regulatory frameworks, or governance arrangements, of the SOE sectors. Four new countries have joined the OECD. The changes were concentrated in:

- The State acting as an owner
- Transparency and accountability
- The functioning of SOE Boards

... and additional changes followed from a changing SOE portfolio.

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The Guidelines are currently being revised

The revision is overseen by the OECD Working Party on State Ownership and Privatisation Practices, which expects to finalise the text in the first half of 2015.

- The Guidelines will become more of an independent instrument
- Nothing is agreed before all is agreed. However, at the current point it looks like there will be:
 - A greater attention to definitions and applicability
 - A new chapter dealing with "The Rationales for State Ownership"
 - A revamped chapter dealing with the competition between SOEs and private firms

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An overview of the main changes to the Guidelines as of December 2014

A new introductory section on "Applicability and definitions"

- Proposes definitions and guidance for determining which entities should be considered as "SOEs" for the purpose of the Guidelines.
- The section deals with elements such as an entity's corporate form, commercial orientation and degree of government control.
- The Guidelines apply to any corporate entity recognised by national law as an enterprise, and in which the government exercises ownership, leaving open their possible applicability to enterprises held by sub-national governments

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A new chapter on defining and communicating the rationales for state ownership

- Proposes stronger language on the need for governments to identify and disclose the public policy rationales that justify the maintenance of enterprises under state ownership.
- It builds on existing text on developing an ownership policy. It also calls for governments to define the rationales for owning individual SOEs and subject these to recurrent review.

A revamped chapter entitled "SOEs in the marketplace"

- Deals exclusively with competition between SOEs and private enterprises, and how to ensure a level playing field between the two to avoid market distortions.
- It builds on the existing "level playing field" guidance, but includes more explicit text to put into practice, notably concerning the conditions of both private and public debt and equity financing, rate-of-return requirements, and public procurement procedures.



Other material changes to the Guidelines as of December 2014

- SOEs should observe high standards of responsible business conduct;
- SOEs should not be used to finance political activities;
- The ownership entity should take measures to encourage gender equality on boards, referring to the OECD Gender Recommendation; and
- When SOEs engage in public-private partnerships, care should be taken to respect partners' contractual rights and to monitor and manage related fiscal risks for the government. -

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The OECD Principles of Corporate Governance

- Originally issued in 1999, revised in 2004, the Principles are the **globally recognised standard on corporate governance**, and one of the Financial Stability Board (FSB)'s key standards for sound financial systems. Adhering to the instrument demonstrates willingness and ability to develop a policy framework that meets international expectations.
- How well companies are run affects their performance, market confidence and private sector investment. The **OECD supports countries in their efforts to evaluate and improve the legal, institutional and regulatory framework for corporate governance**, contributing to the global monitoring of implementation and effectiveness of corporate governance standards and initiatives at national, regional and global level.
- The **OECD Corporate Governance Committee**:
 - *oversees the implementation of the OECD Principles of Corporate Governance and the OECD Guidelines on Corporate Governance of State-Owned Enterprises*
 - *co-ordinates and guides the Organisation's work on corporate governance and related corporate affairs issues*
 - *guides and supports OECD's dialogue with non-member economies in the area of corporate governance.*
 - *Meets 2 times a year and is composed of representatives from the 34 OECD member countries and partners countries.*

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Where does input to the revision come from?

Following the Committee's report, "The Corporate Governance Lessons from the Financial Crisis" (OECD, 2010), **six peer reviews** have been completed:

- 1 Board Practices: Incentives & Governing Risks
- 2 The Role of Institutional Investors in Promoting Good Corporate Governance
- 3 Related Party Transactions and Minority Shareholder Protection
- 4 Board Nomination and Election
- 5 Risk Management and Corporate Governance
- 6 Supervision and Enforcement

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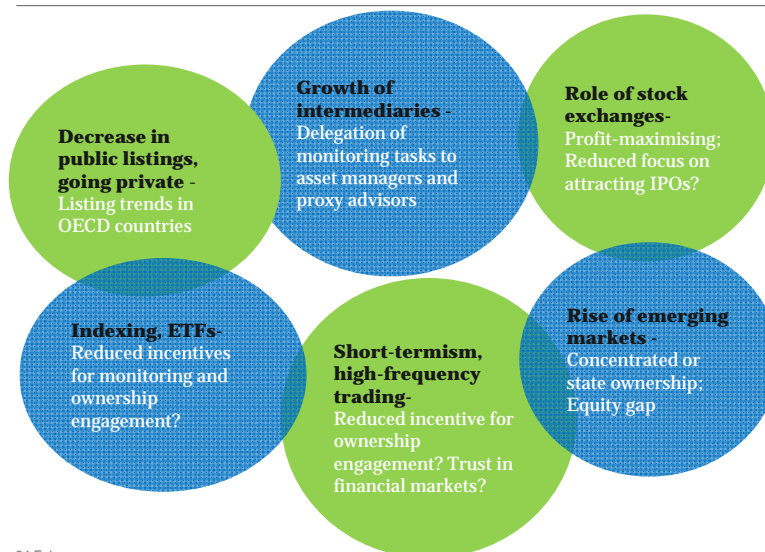
Where does input to the revision come from? (cont.)

- **Value creation, corporate governance and growth:**
Supports the key objective of ensuring that the financial sector can serve the needs of the real economy - that savings are effectively channeled to corporations that need capital for innovation, job creation and growth. [Key documents: institutional investors, equity market, who cares paper, bond markets]
- **Input from our work and consultations around the world**, including by the OECD-Asian Roundtable on Corporate Governance, was valuable.

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Challenges to existing CG frameworks : the rationale



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Draft revisions to the OECD Principles of Corporate Governance

- I. Ensuring the basis of an effective corporate governance framework
- II. The rights and equitable treatment of shareholders and key ownership functions
- III. Institutional investors, stock markets, and other intermediaries
- IV. The role of stakeholders in corporate governance
- V. Disclosure and transparency
- VI. The responsibilities of the board

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Draft revisions to the OECD Principles (cont.)

- I. Ensuring the basis of an effective corporate governance framework**
 - Increased emphasis on supervision & enforcement (public & private)
 - Governance of regulators
 - Changing role of stock markets
 - International cooperation / MoUs

- II. The rights and equitable treatment of shareholders and key ownership functions**
 - Combines old chapters II and III
 - Update of various provisions to better reflect increased shareholder rights since 2004, such as:
 - b) Say-on-pay
 - c) Electronic voting
 - d) Related-party transactions

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Draft revisions to the OECD Principles (cont.)

III. Institutional investors, stock markets, and other intermediaries

- New chapter: role of incentives in the investment chain for corporate governance
- Disclosure of voting records, fee structures, conflicts of interest
- Multiple stock market listings
- High-frequency trading
- Proxy advisors

IV. The role of stakeholders in corporate governance

- Reference to international agreements
- Alignment with MNE Guidelines (e.g. whistleblowing)

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Draft revisions to the OECD Principles (cont.)

V. Disclosure and transparency

- Internationally recognised accounting standards
- Country-by-country reporting
- Non-financial and sustainability reporting
- Political donations
- Beneficial ownership
- Related-party transactions
- CEO/Chair responsibilities
- Independent audit regulators

VI. The responsibilities of the board

- Tax planning strategies
- Risk management system
- Remuneration, claw-back provisions
- Audit and other board committees
- Internal audit function
- Direct board reporting
- Board evaluation & training, diversity
- Board employee representation (where applicable)

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