

Draft Corporate Governance Code

Practice Principles for Board of Directors of Listed Companies

Summary for the public hearing of draft CG Code Comments are welcome until November 15, 2016

Issues for Discussion



- I. Why do we need a new CG Code?
- II. What is the "CG Code"? How is it differ from the present CG Principles?
- III. How to apply the new CG Code?



I. Why do we need a new CG Code?

Current Status



- Good CG creates investors' confidence. Current mechanisms promoting CG in listed companies include:
 - SET issued Principles of Good Corporate Governance for Listed Companies
 2012 based on OECD Principles
 - SEC requires disclosure of 'comply or explain' to the Principles
 - IOD reviews CG reports and assesses compliance to the Principles and scores them from 1-5 stars (announce only 3-5 stars companies)

OECD Principles

- Respect SH Rights
- Equitable treatment
- Role of Stakeholders
- Disclosure
- Board responsibilities

SET CG Principles

- Respect SH Rights
- Equitable treatment
- Role of Stk holders
- Disclosure
- Board responsibilities

IOD CGR

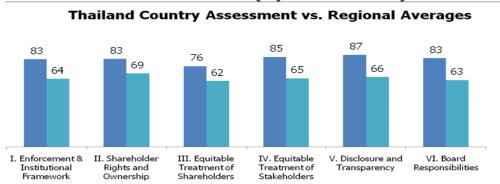
- Respect SH Rights
- Equitable treatment
- Role of Stk holders
- Disclosure
- Board responsibilities

^{*} Current developments include effective legal structure and enforcement, active role of II, exchanges and intermediaries.

Thailand leads the region in CG development



CG ROSC 2012 (by World Bank)



■Thailand 2012 ■ Selected Asia (Indonesia, India, Malaysia, Thaliand, Philippines, Vietnam

Thailand ranked the highest among SEA countries that had the CG ROSC results

ASEAN CG Scorecard

2013-2014 Average scores of top 100 Thai listed companies were the highest in the region

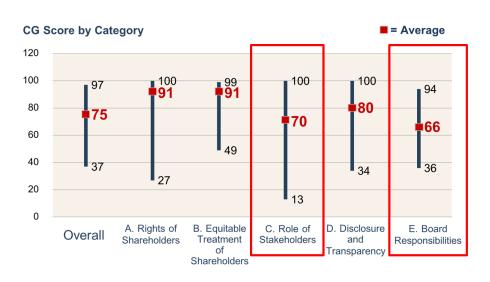
2015 23 Thai listed companies were ranked in the Top 50 ASEAN companies and 2 companies earned the TOP 5 ASEAN PLCs Awards.

CG Watch market scores : 2007 to 2014							
2007	2010	2012	2014				
1. Hong Kong (67)	1. Hong Kong (67)	1. Singapore (69)	1. Hong Kong (65)				
2. Singapore (65)	2. Singapore (65)	2. Hong Kong (66)	2. Singapore (64)				
3. India (56)	3. Japan (57)	3. Thailand (58)	3. Japan (60)				
4. Taiwan (54)	4. Thailand (55)	4. Japan (55)	4. Thailand (58)				
5. Japan (52)	5. Taiwan (55)	5. Malaysia (55)	5. Malaysia (58)				
6. Korea (49)	6. Malaysia (52)	6. Taiwan (53)	6. Taiwan (56)				
7. Malaysia (49)	7. India (49)	7. India (51)	7. India (54)				
8. Thailand (47)	8. China (49)	8. Korea (49)	8. Korea (49)				
9. China (45)	9. Korea (45)	9. China (45)	9. China (45)				
10. Philippines (41)	10. Indonesia (40)	10. Philippines (41)	10. Philippines (40)				
11. Indonesia (37)	11. Philippines (37)	11. Indonesia (37)	11. Indonesia (39)				

CGR assessment shows continual improvement and extended to development on ESG









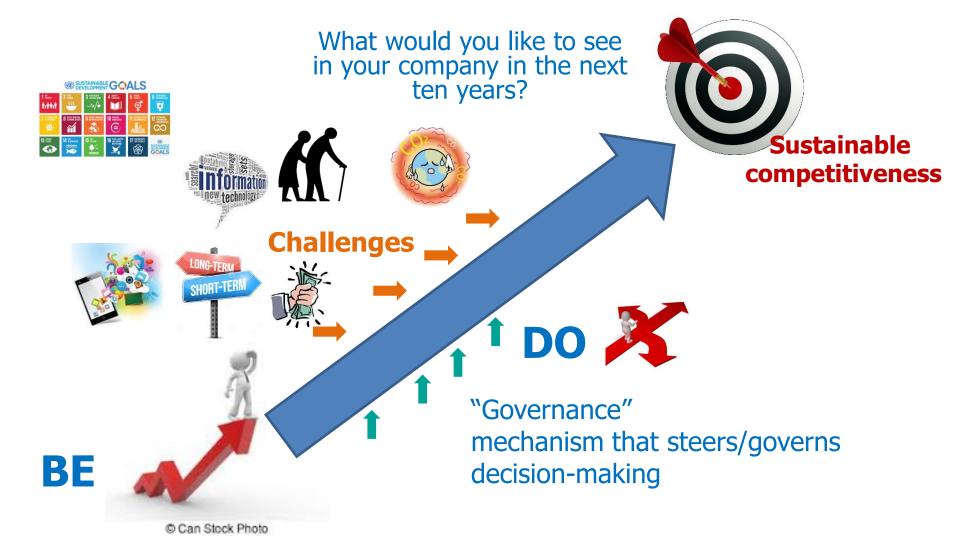
69% of listed companies are in the three highest score groups.

Sustainability

- SET issued CSR guidelines, provides training to listed companies to better prepare SD report and produces "Thailand sustainability Investment" list
- Within the region, Thailand has the largest number of listed companies that prepared SD report and with recognized quality

Looking ahead





"Governance"



G20/OECD CG Principles key Objectives

To Create market confidence & business integrity, essential to access capital market

G20/OECD Principles

- Rights of shareholders
- Equitable treatment of shareholders
- Role of stakeholders
- Disclosure and transparency
- Effective CG Framework
- Roles of exchange & II
- Principles for policy makers
- Fairness and transparency
- Shareholders-focused



Objective

"governance" focuses on

 Structure of the board as the governing body

BOD's roles on monitoring

Strategy

Compensation architecture

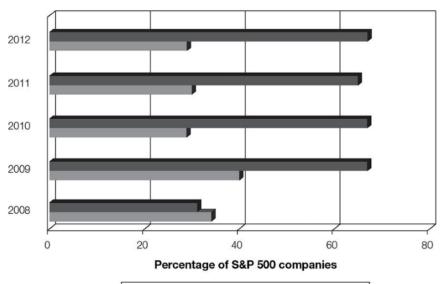
Competency etc.

Included in roles of BOD

What governs organization's decision-making

What topics should the board of director pay attention to...



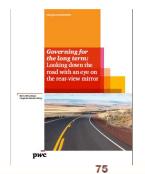


Company strategy

Governance topics required greatest attention by S&P 500 board of directors 2008-2012

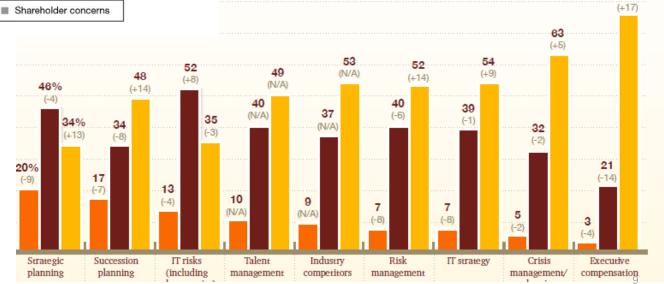
Source: Spencer Stuart 2012

Please indicate if you believe your board should change the amount of time it spend on the following:





Source: Governing for the long term, PWC, 2015



CG Development: Focus more on the board's role



From ceremonial → Monitor → Leader role of the board
 `Governing boards should take more active leadership of the enterprise, not just monitor its management.'



From 'Duty of Care' and 'Duty of Loyalty' to include 'Duty of Leadership'

A new model of 'collaborative leadership'

When to Take Charge

- Building central ideas
- Selection of CEO
- Board competence, architecture, and modus operandi
- Ethics and integrity
- Compensation architecture

When to Partner with Management

- **Strategy**, capital allocation
- Financial goals, shareholder values, stakeholders balance
- Risk appetite
- Resource allocation
- Talent development
- Culture of decisiveness

When to Stay out of the Way

- Execution
- Operations
- Delegated executive authorities
- Nonstrategic decisions
- Excluded by board charter

Sustainability Development framework



Trends & Issues include matters on social and environmental changes

Assess throughout the value chain

Identify stakeholders' needs

Select issues material both to stakeholders and the company

Reporting

International Accepted Standards, for instance, GRI and Integrated Report are used as a guide. Strategies and ESG should be inter-related and key indicators should be identified.

Formulate Strategies

Choose target development level for each issue. Key indicators should be identified

Operations







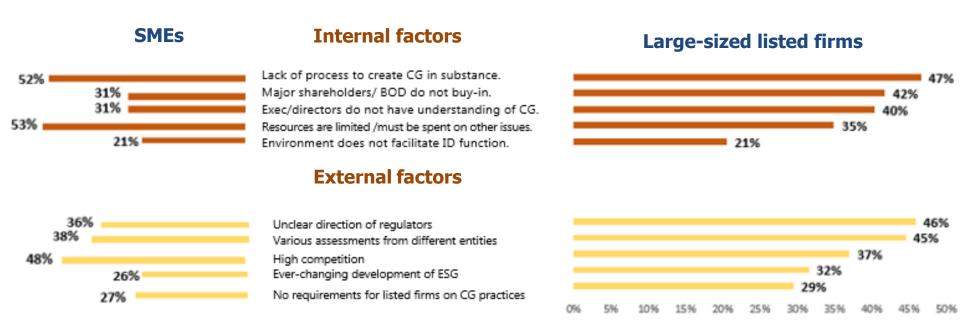
CSR in-process: Fairness and Impacts

Survey on Obstacles to CG in substance



Survey results

- Large companies: Lack of mechanism that integrates CG (and CSR) principles into business practices
- SMEs: Limited resources / lack of mechanism to apply CG Principles



Results from the survey responded by 417 directors, shareholders and executives of listed companies as of July 2015

Summary: Needs for new CG Code



- Increase "WHY": Expand objectives
 Shareholders' confidence → sustainable competitiveness
- Increase "WILL": Align with business interest CG for Compliance → Achieving sustainable business objectives
- Increase "CAN": Guidelines for applying CG (and CSR) principles into business process
 CG Principles → Practice principles for BOD



II. What is the new "CG Code"? How is it differ from the present CG Principles?

Proposal: New CG Code with more emphasis on board's role in corporate governance



Intended Outcome

- 1. Listed Co. builds sustainable business with consideration of its impact to society and environment
 - 1.1 Good performance and create value with a long-term perspective (good performance)
 - 1.2 Operate ethically and responsibly to stakeholders and respect shareholders right (Responsible business)
 - 1.3 Provide social benefit or create no negative impact to society and environment (Good corporate citizen)
 - 1.4 Resilience
- 2. Board of director has principles and guidelines to apply for as fit to its business

Concept for drafting the CG Code



 Integrating principles on CG, CSR and SD into board's roles and responsibilities in the whole business cycle

Adding practices necessary for the current trends and development of CG code

in other jurisdictions

SET CG Principles

- 1. Respect SH Rights
- 2. Equitable treatment
- 3. Role of Stk holders
- 4. Disclosure
- 5. Board responsibilities

SET CSR Guidelines

- 1. Respect human rights
- 2. Env. preservation
- 3. Anti-corruption
- 4. Product safety
- 5.

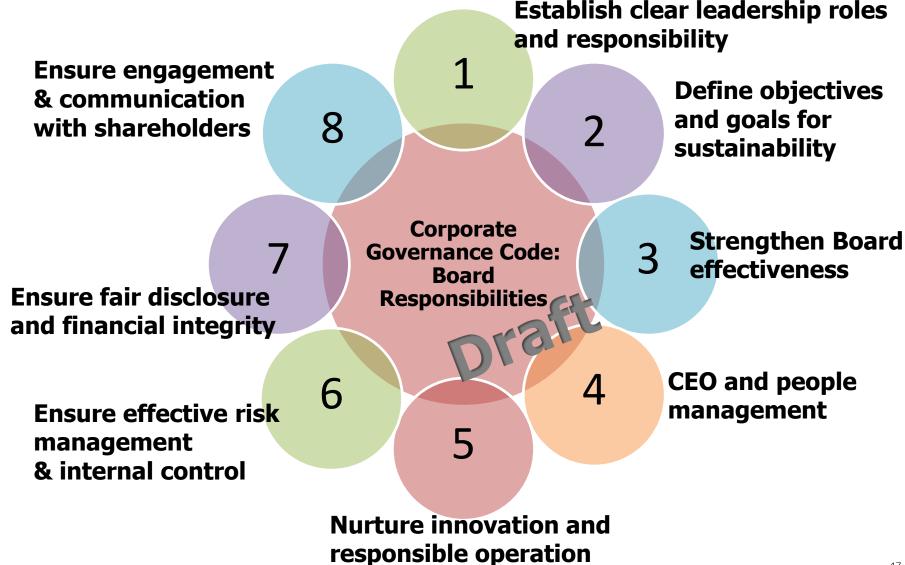
CG/ESG development

- G20/OECD CG Principles 2015
- GRI: guidelines on SD reporting which includes on stakeholder engagement, setting strategic priorities, implementation and reporting
- CG concept: more focus on board's role
- CG Code: UK, South Africa, Malaysia
- Others: GRC concept, IT governance, Innovation governance, Integrating governance



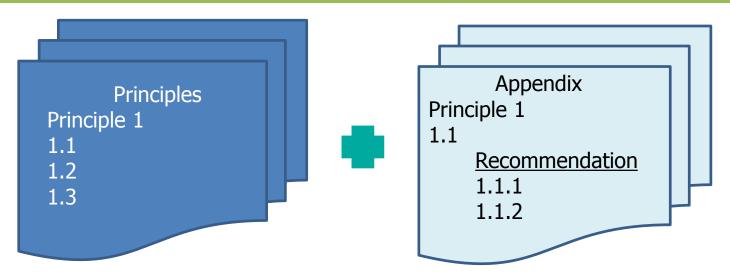
Corporate Governance Code





CG Code Structure





- Based on OECD Principles and CG Principles 2012
- Consistent with OECD's definition of 'corporate governance'

"Corporate governance involves a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which:

- (1) the objectives of the company are set
- (2) the means of attaining those objectives
- (3) and monitoring of performance are determined"
- Most of the recommendations are taken from SET CG Principle 2012, ESG best practices and CG Codes in other countries

<u>Principle 1</u> Establish Clear Leadership Roles and Responsibilities



- 1.1 Board of directors should understand and clearly acknowledge their leading role in corporate governance which includes
 - (1) Setting objectives and goals
 - (2) Determining business strategies to achieve the objectives
 - (3) Monitoring and disclosure
- 1.2 Corporate governance should aim for sustainability:
 - (1) Value creation and performance with a long-term perspective
 - (2) Ethical and responsible business & respect shareholders' right
 - (3) Good corporate citizen
 - (4) Resilience
- 1.3 Board of Directors should ensure that all directors and the management discharge their duty of care and duty of loyalty

Principle 1 Establish Clear Leadership Roles and Responsibilities (Cont.)



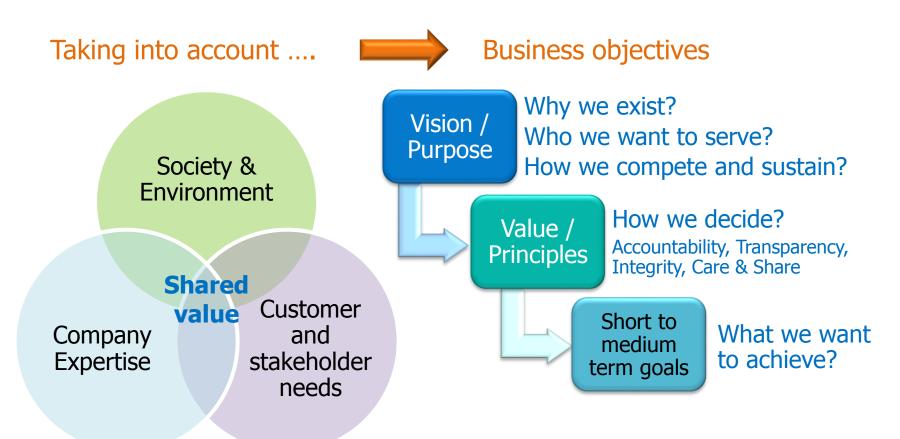
1.4 Establish clear roles and responsibilities between the board and management, e.g.

Matters that Board should take charge	Matters that board should partner with management	Matters that board should stay out of way	
1. Identify central ideas	1. Strategy and goals	 Execution of delegated executive authorities Recruitment 	
2. Board structure, competence, practices	2. Risk appetite & management		
3. Selection of CEO	3. Authorization limit	3. Procurement	
4. Compensation architecture	4. Resource allocation and budget	4. Matters prohibited under charter or rules, e.g. matters with conflict of interest	
5. Ethics & integrity	5. Key HR policy and plan		
6. Disclosure Integrity	6. Monitor and evaluate performance		

<u>Principles 2</u>: Define Objectives and Goals for Sustainability



<u>Core concept</u>: Set business objectives (central ideas) for sustainability and align short to medium term goals accordingly



Principles 3 Strengthen Board Effectiveness



- Board should ensure proper settings to achieve business objectives
 - Board structure / Skills and qualifications / Selection
 - Development and other modus operandi
 - Evaluation (boards as a whole / individuals)
- Roles of Chairman of the Board
 - Oversee board performance and set ethical culture
 - Determine meeting agenda with CEO to ensure that important matters are brought to Board's attention
 - Allocate sufficient time for discussion in board meeting
 - Promote good relationship between Board and management
- Independence: Ability to provide independent and objective opinion
 - Separation of Chairman and CEO
 - If not, Board should either comprise > 50% independent directors or appoint a Lead Director to determine meeting agenda with CEO

<u>Principles 4</u>: Enhance CEO and People Management



- Ensure that CEO perform his duties to achieve objectives and goals and have adequate succession plan
- Determine appropriate compensation architecture to be effective motivation for people to achieve company's objectives and goals
- For a family business, Board should seek to understand the impact of "family governance" on control, management, succession plan and ensure that they are fair to other shareholders as well as promote efficient management
- Ensure that management foster effective and fair human resource management that enable the company to have sufficient and talented people for achieving the company's objectives and goals. Board should also support their people to have financial literacy necessary to provide for their long-term savings.

<u>Principles 5</u>: Nurture Innovation and Responsible Business



- Support innovation that creates shared value
- Determine strategies so that company meet its objectives and goals and monitor to ensure that they are cascaded throughout the whole operations of the company.
- Ensure that the strategies are for sustainable objectives and promote business responsibility to stakeholders, society and environment
- Ensure efficient allocation of resources where calculation of cost and benefits take into account all important capital (financial, manufactured, intellectual, human, social & relationship, and natural capital) used and caused throughout the process
- Support sufficient IT governance to ensure that technology is effectively used in the company's stratgies and cyber securities are properly managed

<u>Principles 6</u>: Strengthen Effective Risk management and Internal control



- Ensure that risk management and internal control system support the company to meet its objectives and complies with laws and regulations
- Ensure that the company has an effective and independent audit committee to review risk management system
- Monitor and manage conflict of interest and also ensure the safeguard of inside information
- Establish clear anti-corruption policy and guideline
- Establish procedure to support complaint handling and whistle blowing

Principles 7: Ensure Fair Disclosure and Financial Integrity



- Oversee financial reporting and disclosure to ensure that it is accurate and adequate
 - Ensure competent and sufficient staff
 - Carefully review and consider relevant facts/info before approving
- Monitor the adequacy of liquidity and abilities to pay debt
- Where the company is experiencing financial problems, ensure that recovery plan is in place without violating creditors and shareholders' right
- Should consider preparing a sustainability report as appropriate

<u>Principles 8</u>: Ensure Engagement and communication with shareholders



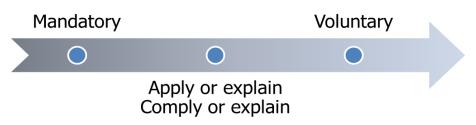
- Ensure that the shareholders participate in decision making on important matters
- Ensure that shareholder meeting is properly arranged and well managed and also facilitate shareholders to exercise their right
- Ensure that the minute of shareholders' meeting is correct and timely



III. How to apply the CG Code?

Compliance with the CG Code





<u>Current</u> <u>Comply or explain</u>

- "Comply" conveys the tone of having CG for compliance purpose
- "Explain" is in disclosure documents and the information will be used for CGR – CG assessment.

Proposed Apply or explain

- "Apply" means companies take each principle and apply it to become practices that are suitable for their needs
- "Explain" means need to explain:
 - When making decision not to apply each principle - have to make conscious decision and explain at least in the board why the principle is not or not yet applicable
 - In disclosure documents as much as required at present (e.g. board structure)
 - When there is potential breach of laws

When and Where to explain...



Current

SET CG Principles

- 1. Respect SH Rights
- 2. Equitable treatment
- Role of Stk holders
- 4. Disclosure
- 5. Board responsibilities

Disclosure document

Form 56-1

- Policy & strategies
- Nature of business
- Control & mngt. structure
- Governance
- Social responsibility
- Financial status

Annual report

Notice to call SH meeting

Minutes of the SH meeting

SD Report

Website

Proposed





Self-explanation when decide not to apply



Explain the exercise of due care when suspected of engaging in illegitimate activity

Options for Issuing the Practice Principles



<u>Task Force</u>: Mr. Chanin Vongkusolkit, Ex-CEO, Banpu Plc. as Chairman and members from SEC, SET, IOD, TLCA, TMA, PWC Thailand

Options: The Task Force discussed options in introducing the practices:

	SET CG Principles 2012	CG Code
All	 Use current CG Principles only (plus separate CSR Principles) 	4. Convert to the new CG Code
Partial	Use CG Principles + CGCode as additional bestpractices	3. Allow listed companies to adopt either the current CG Principles or the new CG Code

The Task Force unanimously chose Option 4 to convert to the new CG Code as a single reference. This Option 4 requires a lot of communication at the beginning but still easier than Option 2-3 where such communication is needed at all time.

Driving Mechanism for Practices



SEC/SET/IOD/TLCA

reward

Awareness

and Capacity

Building

support practices migrated from current CG
Principles. The CGR will cover about 70% of
practice principles under CG Code.

• Rewards and recognitions for the new
principles/practices will be revised after listed
companies have time to adapt the new CG Code.

CGR under present scheme will be maintained to

 IOD will provide relevant training for board members

- TLCA/SET will provide courses for overall listed companies and their company secretary, IR and other relating personnel
- FAP (Federation of Accounting Profession)
 will provide training and professional
 support for CFO/RM/IA
- SEC and SET will provide support (visit, guidelines, and tools) and motivation for companies and their major SH to create understanding and buy-in

No need for major revision of disclosure requirements

 May issue disclosure guidelines to provide clarifications and examples

Disclosure

Timeline



SEC published CG Code on website for public hearing

- Public hearing (English) (Sept - Oct 2016)
- Distribute draft CG Code to relevant organization



Jul	Aug	Sep	Oct	Nov	Dec
	 Public hearing (The Public hearing) Focus group (de Pocus group (Inc.) Distribute drafter relevant organism 	company secr MAI) It CG Code to	retary)	 Summarize results and amend draft CG Code accordingly Reviewed by the Taskforce 	

Taskforce comprises of:

- Mr. Chanin Vongkusolkit (Banpu), Chairman
- Members from SEC / SET / IOD / TLCA (who are from large companies, MAI as well as members of CS / RM clubs)
- PWC
- TMA (Thailand Management Association)

Timeline for Implementation



As specified in the public hearing document



Being reviewed. No major revision to the disclosure requirement nor CGR criteria are expected.

The new Code should help listed companies integrate CG /CSR/ SD into business operations and have better CG in substance. Hopefully, the content of disclosure will change from application of the Code, not higher burden from hieghtened disclosure requirements.





www.sec.or.th Tel. 1207

Please download document at

www.cgthailand.org