BIAC Thought Starter

Key business considerations in Corporate Governance

Key business considerations

As recognized by the OECD Corporate Governance Principles, any corporate governance framework should be developed with a view to its impact on the healthy functioning of our businesses, their key stakeholders and the capital markets. Corporate governance rules and principles should enable business to grow and create sustainable value, keeping in mind the interests of key stakeholders as appropriate. A fundamental governance policy objective is to stimulate entrepreneurship and innovation in corporations, which requires access to and effective allocation of capital. Corporate governance principles should therefore ensure that capital is sufficiently allocated for business to make the necessary investments and pursue opportunities with the ultimate objective of fostering growth and employment. By facilitating the accountability of companies to their investors, good corporate governance encourages the financing of business and lowers the cost of capital.

While in no way an exhaustive list, BIAC would like to bring the following key messages to the attention of the OECD and encourage the Corporate Governance Committee to take them into account as they discuss their future program of work:

- In order to be effective, corporate governance needs to provide a flexible and adaptable framework which companies and their boards can apply with intelligence to suit the specific circumstances of their business. It should not be, or be seen as, a rigid compliance framework. Such a lack of flexibility risks undermining its relevance and effectiveness.

- Governance principles exist to improve oversight of businesses in service to its long-term sustainability. We therefore encourage policy makers to always remember that governance frameworks and principles should support strong, sustainable businesses and to consider the likely impact of these policies. This also requires the ability to strike a balance between managing risk and seizing opportunities.
• While the benefit of many corporate governance standards is now taken largely for granted, a number of governance provisions, and their occasional overly rigid interpretation have proven overly burdensome and have not always had the intended positive effect. On the other hand, other issues have increasingly come up in discussions over the years - such as executive compensation, diversity and sustainability, the effects of which should be carefully evaluated.

• Governance policy should support market-based mechanisms that allow investors to reward and punish companies for strong and weak governance practices, respectively.

• In addition, governance policy should support efforts to encourage long-term thinking, including ensuring that investors are appropriately accountable to their beneficiaries. Policy should also encourage corporations to attract and pursue long-term investors themselves.

Active involvement in on-going key OECD activities

BIAC appreciates the opportunity to contribute its views to the activities of the OECD Corporate Governance Committee and its Working Party on State Ownership and Privatization Practices through regular participation in consultations, expert meetings and contacts with the OECD secretariat. We appreciate the objective and fact-based analysis these groups carry out in a wide range of areas and would in particular like to offer our strong support for the following on-going projects:

• Update of the OECD Corporate Governance Principles: BIAC would like to express its strong wish to become actively involved in the update of the OECD Corporate Governance Principles, which will be an overarching priority going forward. Nine years after the last update, it is timely and urgent to proceed with discussions on how the changes that have taken place over the last years, both in business and in wider society, should be reflected in the Principles to ensure that they remain relevant as an international reference document. At the same time, BIAC supports the OECD approach to analyze recent and on-going changes in capital markets to help define the policy objectives of the update. BIAC therefore confirms its strong desire to become actively involved in discussion with the Corporate Governance Committee and provide input all along the process to ensure that the revised Principles remain both a key international point of reference and feasible for business to implement in both OECD and non-OECD countries. Recognizing that there are no one-size-fits-all approaches, we recommend that work on the Principles primarily focus on listed companies, bearing in mind that subsequently there may be a need to consider additional work on SOEs, SMEs and family-owned companies. BIAC would welcome the opportunity to organize meetings with executives and board members of leading companies to provide substantive input into the update.
• **Value creation and growth:** BIAC supports the value creation and growth initiative, which can make an important contribution to increase our understanding of the critical role that equity markets play in the search for innovation and job creation. The project, in addition to other analysis conducted by the OECD, can make an important contribution by informing both policy makers and business of the key changes in equity markets and providing critical insights for the update of the OECD Principles. It should thus contribute to shedding further light on the ability of effective equity markets to serve the long-term needs of the real economy and the role of effective corporate governance to help encourage the confidence necessary for the channelling of savings to corporations that need capital for innovation, job creation and growth.

• **Competitive neutrality:** Ensuring competitive neutrality is a key issue for the OECD business community. BIAC congratulates the Corporate Governance Committee and its Working Party on State Ownership and Privatization Practices on the active role they have taken and would like to offer its strong support for a broad-based OECD work program in this area. The OECD can make an important contribution by providing a deeper and wider understanding of key challenges and opportunities, while fostering capacity building by sharing its analysis with emerging economies and engaging them in the process. In this context, BIAC also supports efforts to further professionalize SOE directors, bearing in mind their fundamental role in steering the company and overseeing a longer-term strategy.

• **Contribution to horizontal OECD projects:** Corporate governance affects every aspect of the investment cycle and is thus of key importance in broader OECD discussions on economic growth. We therefore encourage the OECD Corporate Governance Committee to make an active contribution to major horizontal and high-visibility OECD projects, including among others the OECD initiative on New Approaches to Economic Challenges (NAEC) as well as ongoing OECD work on diversity, in which BIAC is actively involved. Specifically, BIAC recognizes that “diversity of thought” in the boardroom, however one achieves that goal, should be given due consideration in the OECD discussions, bearing in mind that approaches differ from case by case, depending on the national context.

• **Global engagement:** Business is global and cross-border. Much of global growth is in emerging markets, and so the work and solutions provided should be global and globally applicable as far as possible. In line with the OECD's broader strategy of working with key partner countries, BIAC welcomes the fact that active global engagement is a core part of OECD corporate governance work. BIAC has itself significantly stepped up its own outreach program and would appreciate the opportunity to discuss possibilities to get increasingly involved in this dialogue in close cooperation with its own observer organizations in major non-member economies.
Pro-active business proposals for future OECD activities

When the OECD discusses its future program of work, BIAC would like to suggest giving consideration to the following issues, which are of major importance to the business community and which would benefit from new or additional OECD research:

- **Non-financial reporting:** On-going discussions among policy makers often call for an increase in non-financial reporting requirements. While it is recognized that reporting needs to go beyond financial reporting, the additional costs for companies connected with complex reporting requirements should be carefully considered and weighed against the benefits of providing additional information and the confidence it engenders in investors. The OECD should help shed further light on which particular issues and which ways of non-financial reporting are desirable and which are not. In this regard, due attention should be paid to integrated reporting, which aims for the provision of better and more concise information, rather than *more* information.

- **Addressing the risk of over-regulation:** As highlighted by the OECD analysis on Corporate Governance and the Financial Crisis, an urgent challenge is to encourage and support effective implementation of already agreed standards. At the same time, it is important that the regulatory framework be regularly reviewed to ensure its continued relevance. However, many governments have had a tendency to consider additional regulations as the first response to the crisis. In BIAC’s view, due consideration must be given to the risk of over-regulation as a response to a crisis - both with regard to over-regulation as a source of a further crisis and over-regulation as an impediment to economic recovery. The OECD could make a useful contribution by explicitly addressing this issue. We therefore support the OECD’s efforts to assess the current market landscape as an important input to subsequent discussions on the update of the Principles.

- **Exploring SME governance issues:** SMEs have an essential role to play in strengthening our economies and creating jobs. On the one hand, better governance improves SMEs access to finance and ensures their sustainability, on the other hand it has to be recognized that certain regulations can represent a particular burden for SMEs. An OECD study of the particular governance needs of SMEs and how countries have responded to specific governance issues confronting SMEs could be a useful tool to help promote SMEs and ensure their long-term success. Such work could be carried out in close cooperation with the OECD Centre for Entrepreneurship, SMEs and Local Development.

- **Private companies and private-equity backed companies:** Private equity represents a large and growing number of many member countries’ capital markets. Yet there is little in the way of good governance practice for these firms. Without introducing burdensome regulations, the OECD could play a useful role by highlighting practices that lead to more stable and more successful private-equity backed firms.
• **The role of technology:** Technology will play an increasingly important role in the context of the AGM, including voting at AGMs. However, technology is also relevant with regard to the execution of board responsibilities. Issues can arise related to meeting quorums, board confidentiality, information tabled at meetings, meeting records and decision making. OECD analysis on the challenges and opportunities related to the increased use of technology would be helpful.

**The important role of the OECD**

Thanks to its Corporate Governance Principles, the OECD is an internationally recognized standard setter in this area. The OECD is also an important forum for fostering on-going dialogue among policy makers on current and future corporate governance issues both among OECD member countries, and an increasing number of non-member economies. BIAC believes that the OECD should continue to play a leading role in the international debate on corporate governance and provide leadership to shape further understanding about the issues that are at stake. BIAC would be pleased to work as a key partner in close cooperation on on-going and future key projects and explore ways of further strengthening our constructive dialogue.