



**SLOVENIAN  
DIRECTORS' ASSOCIATION**

for effective Corporate  
Governance



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**MINISTRY OF ECONOMIC DEVELOPMENT  
AND TECHNOLOGY**

Gospodarska  
zbornica  
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Chamber of Commerce  
and Industry of Slovenia

# **The Corporate Governance Code for Unlisted Companies**

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In case of discrepancies between the translation and the original Slovene version, the Slovene version shall prevail.

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# 1. INTRODUCTION

## 1.1. Purpose of the Code

The Corporate Governance Code for Unlisted Companies (hereinafter: the Code) is intended for all companies other than publicly traded companies (shares of these companies are not listed on a regulated securities market).

The Code is intended as a good practice guideline for shareholders and company members as well as to the management and supervisory bodies of companies. The good practices indicated in the Code can assist them in establishing their own system of governance with regard to the size, type, activity and needs of the particular company. They should assess what recommendations are appropriate for their companies.

Although the Code is suitable for all unlisted companies, it has been designed as a reference code for companies subject to audit. These are the companies that are subject to an audit of their accounts in accordance with Article 59 of the Companies Act (ZGD-1) and are obliged to include in their business report a corporate governance statement as a separate section of the report in accordance with point 1 of paragraph (5) of the ZGD-1. The corporate governance statement includes a reference to the corporate governance code applicable in the company, by indicating information on the code's accessibility to the public and deviations from its individual recommendations.

The recommendations of the Code are not additional regulations and are not binding on any company; however, companies that are subject to an audit and have chosen the Code as their code of reference are, in accordance with the principle of "comply or explain", required to disclose in their corporate governance statement any deviations from individual Code recommendations and to clarify their own alternative practice that they opted for in this area.

The Code is also intended to facilitate all stakeholders and the company's wider environment in assessing the quality of corporate governance.

## 1.2. Application of the Code – basic and advanced levels

Companies can accede to the Code by means of a decision of their management body and in agreement with their supervisory body, if any.

The Code provides good practice recommendations and consists of two levels (basic and advanced). Unlisted companies, for which the Code is intended, are highly diverse in terms of their size, legal organisational form, ownership structure and the volume and complexity of business (branches, groups, family businesses, subsidiaries of public limited companies). For this reason, each thematic area of the Code consists of two levels (the basic and advanced levels), which enables the classification of companies into one of the two levels.

The basic level comprises the basic good practice recommendations for corporate governance, while the advanced level comprises the good practice recommendations for large companies. The criterion for classifying companies into each level is their size pursuant to the ZGD-1. Companies that do not meet the ZGD-1 criteria for large companies are assigned to the basic level and only deviations from the basic recommendations are to be disclosed.

If companies that are not large companies fail to comply with a basic recommendation, they should disclose this in their corporate governance statement and explain the reasons for such non-compliance. The basic recommendations relating to individual thematic areas of the Code are, in principle, suitable for all companies. This is the basic level of corporate governance to be introduced by companies and is suitable for small and medium-sized enterprises as well as less complex companies. These companies may, if so desired, also comply with individual advanced-level recommendations (intended for large companies) but they are not obliged to disclose non-compliance therewith.

In addition to the basic-level recommendations, each thematic area may include advanced-level recommendations for large companies.

Advanced-level recommendations for corporate governance for individual thematic areas are good practice recommendations for large and complex companies. They are an upgrade of the basic level and are intended for companies that have outgrown this level and can boast more effective corporate governance mechanisms. Governance arrangements at such a level enable better management of complex systems and better operations and facilitate a company's liaising with potential strategic partners, obtaining equity financing or even entry into the regulated securities market, i.e. the stock exchange.

As a rule, large companies should fully comply with the basic-level recommendations, i.e. all basic recommendations contained in all thematic areas of the Code. If a company fails to comply with one of these recommendations, it is obliged to disclose such non-compliance separately. Moreover, large companies are obliged to disclose their compliance with the recommendations for large companies (the advanced level) in accordance with the "comply or explain" principle. The articles of association of large private limited companies should take full account of the statutory provisions on supervisory and management bodies, depending on whether such provisions are discretionary or not. Any deviation from these statutory provisions in a company's articles of association should be publicly disclosed as a deviation from the Code's recommendations.

### 1.3. The importance of quality disclosure of deviations from the Code

Practical guidelines for quality explanations in corporate governance statements in accordance with the “comply or explain” principle are provided in the Annex to this Code.

The purpose of the “comply or explain” principle is neither to ensure full compliance nor to coerce compliance with the Code at the expense of the benefits of own governance, but to provide clear and quality clarification of the grounds for deviations and a presentation of appropriate alternative practices in the field that better suit the needs of the company. In order to recognise a company’s own practice as an appropriate substitute for a recommendation in the Code, it is essential to understand the purpose and content of such recommendation.

The guiding principle in formulating the corporate governance statement is the shift from aspiring to full compliance with the Code’s recommendations to the substantive implementation of good practices that suit the company for the purpose of achieving effective governance. Quality disclosure of deviations is much better than compliance with the Code’s recommendations without careful consideration or the provision of incorrect facts.

A deviation from good practice recommendations together with quality clarifications supporting specific aspects of a company can represent a competitive advantage for the company. The same also applies to a company’s decision to create its own code of governance to be used as its reference code and takes into account all its specific characteristics with regard to the basic governance mechanisms.

### 1.4. Definitions

For the purposes of this Code, the following definitions shall apply:

“**Articles of Association**” means the articles of association of a single-member limited liability company, the deed of partnership of an unincorporated business or a private limited company with more than one company member, or the articles of association of a public limited company.

“**Stakeholders**” means individuals and stakeholder groups with a legally recognised legitimate interest in a company. These mainly include employees, customers, creditors, business partners, and suppliers, as well as the business and social environment and the general government.

“**Company**” means a company established in accordance with the ZGD-1. “**Companies**” mean legal persons that operate on the market with the sole purpose of making a profit.

“**Company members**” means holders of equity interests or shares of a company other than the company’s owners. They hold property and management rights as company members.

A “**Corporate governance statement**” is a part of a company’s financial report in which key data on the company’s management, including data on the choice of and compliance with the code of corporate governance, if the company is subject to an audit of its accounts.

“**Listed companies**” means a joint stock companies whose shares are admitted to trading on a regulated market in accordance with the law.

“**Corporate governance code**” means a set of corporate governance good practice recommendations. These recommendations are not binding on companies and are not additional regulations. They provide companies with instruments of corporate governance that are in the interest of companies and their stakeholders, and those performing governance may decide by themselves to use them or not.

“**Committees**”. The supervisory body or the board of directors may establish special committees for the duration of their respective terms of office or upon the occurrence of extraordinary events with a view to finding effective solutions to complex issues. Companies that are subject to a special legal arrangement, such as financial institutions, are required by law to establish specific committees.

“**Conflict of interests**”. A conflict of interests occurs when the impartial and objective performance of the tasks or decision-making in the scope of the performance of a person’s tasks is jeopardised due to the inclusion of personal economic interests, the interests of family members or due to personal affection or any other interests associated with other natural or legal persons.

“**Unlisted company**” means a company whose shares are not admitted to trading on a regulated market, i.e. a company not listed on the stock exchange.

“**Independence**” means the absence of any influence on the impartial, professional, objective, fair and complete personal assessment of an individual in the performance of his/her tasks or decision-making in the framework of his/her function. Persons are deemed to be independent if they have personal, economic or other close links with a company or its management body.

“**Control**” means a relationship between a controlling and a controlled company as defined by the ZGD-1 or a similar relationship between any natural and legal person.

“**Supervisory body**” means a special supervisory body separated from the management body. In companies with a two-tier system of governance this function is performed by supervisory boards. In companies with a one-tier man-

agement system, the board of directors as a whole is deemed to be the supervisory body provided that executive directors have been appointed and entrusted with the management of the company and that at least one of them is a member of the board of directors. If a company has no specific supervisory body<sup>1</sup>, the general meeting assumes the role of such body.

**“Management body”**. The management body consists of persons acting as legal representatives of the company (senior executives). In companies without a supervisory body (usually limited liability companies), this function is generally assumed by directors. In companies with a supervisory board (a two-tier system of governance) this function is assumed by management board members (also directors in limited liability companies). In a board of directors (a one-tier governance system) this function is assumed by executive directors if at least one of them is simultaneously a member of the board of directors and, if executive directors have not been appointed, the board of directors as a whole.

**“The governance policy”** is a document that describes and establishes the system of corporate governance of a company and is jointly formulated and approved by the company’s management and supervisory bodies. In this document they undertake to comply with and to publicly disclose the company’s system of corporate governance, the operation of its bodies and relations between the key stakeholders in the scope of legal provisions and the provisions of the deed of partnership.

**“Related parties”** means independent legal persons that are connected in terms of business, capital or otherwise in order to create, due to these connections, a common business policy and act in concert with the aim of reaching common goals and in such a way that one person may exercise direction over the other or have a significant influence on it when deciding on financing and conducting business, or in such a way that the business or the business results of one person may have a significant influence on the business results or conduct of the business of the other person. Related parties are considered to be those that are related to each other in the following manner:

- as immediate family members;
- so that the person or persons considered to be related, together, directly or indirectly, have a participating interest in another person as holders of capital shares;
- so that the same person or persons considered connected have a participating interest in the same two persons;
- so that they form a group in accordance with the ZGD-1;
- as members of the management or supervisory board, or holders of procuration, or employees under a contract of employment not subject to the tariff part of the collective agreement connected with the company in which they hold such function or are employed, and the immediate family members of such persons.

The **“comply and explain principle”** is a principle codified in paragraph (5) of Article 70 of the ZGD-1. If the Code is the reference code of a company, it should indicate the recommendations not complied with by the company and account for the deviation from individual Code recommendations in the corporate governance statement for the sake of ensuring transparency to the company’s stakeholders.

**Transparency** is the level of disclosure of information on the company that enables the recipients (the stakeholders) to correctly assess the financial situation, operations, risks and governance of the company and make quality decisions. It is one of the most important building blocks of the corporate governance system, and its essential elements include the quality of disclosure, the frequency of providing information and accessibility. Quality disclosure can only be made if the information published has the following characteristics: integrity and completeness, reliability, significance, timeliness and comparability.

**Corporate governance** is a system for the distribution of roles, competences and responsibilities among company members, management bodies and supervisory bodies, and the establishment of key mechanisms for their operation with a view to ensuring the long-term development and success of the company.

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<sup>1</sup> The two-tier governance system institutes a supervisory body between a company’s management board and its shareholders. It establishes an interconnection between the two so that shareholders have no direct influence on the management board. The situation is different in a private limited company since the supervisory body is optional. The general meeting appoints a director as a management executive that performs the function of the company’s legal representative in legal transactions. A limited liability company may also establish a supervisory body, to which the provisions of the ZGD-1 apply, *mutatis mutandis*, unless the deed of partnership provides otherwise.

The one-tier governance system provides for the exercise of management and supervision by a single body, i.e. a board of directors. Members of this body are non-executive directors mainly responsible for supervision and executive directors primarily responsible for management. In Slovenia, a one-tier governance system in limited liability companies is not possible. For this reason and since a board of directors rarely exists in joint stock companies, this Code provides recommendations adapted to the two-tier system.

## 2. CORPORATE GOVERNANCE FRAMEWORK

### BASIC LEVEL

- 2.1. A company should define a balanced basic corporate governance framework by adopting the articles of association and other bylaws.
  - 2.1.1. The company members should take into account the company's long-term interests when adopting its articles of association. The articles of association should indicate the key objectives of the company.
  - 2.1.2. The articles of association should indicate the company's activities and objectives and appropriately regulate the relationships between its founders if there are more than one. It should, therefore, define in detail the rights and duties of company members in order to avoid any disputes and misunderstandings. It should provide for effective mechanisms for settling disputes arising between them and clearly define the procedure and the competent body (e.g. mediation proceedings or the competent arbitration body)<sup>2</sup>. The articles of association should therefore define in greater detail the possibilities, criteria for the withdrawal or squeeze-out of company members in private limited companies and the squeeze-out procedures in public limited companies.
  - 2.1.3. The articles of association should prevent the possibility of blocking decision-making. Companies should avoid 50/50 voting rights.
- 2.2. The articles of association or the bylaws should clearly distinguish between the responsibilities of company members and management or supervisory bodies.
  - 2.2.1. The articles of association should indicate the issues to be decided upon by company members at the general meeting, in particular, the issues to be decided by the management and supervisory bodies, in order to avoid disputes and misunderstandings regarding competence for individual issues.
  - 2.2.2. The supervisory body should efficiently monitor the operations of the company and the management body. For this reason, the power to exercise control is not transferred to the general meeting even if permitted by the legal form of organisation. The supervisory body is appointed and dismissed by the management body, which also decides on its remuneration. The supervisory body approves the company's annual report.
  - 2.2.3. The articles of association should define the powers of the management body so that it may efficiently manage the company's operations. If the members of a limited liability company reserve the right to make managerial decisions, either directly or jointly with the supervisory authority, these decisions should normally be strategic (the adoption of strategic and annual plans, the formation and takeover of other companies, the encumbrance and disposal of property, approvals of larger transactions of the company, etc.). In this regard, they should pay attention to the lawfulness and relevance of the distribution of powers among the individual bodies of the company. Moreover, the power to give instructions are limited to the general meeting, whereas supervisory bodies may only grant prior approval of individual types of transactions, which represents preventive supervision, not management.
- 2.3. The company should ensure respect for the rights and interests of its key stakeholders and strive for mutual trust between them.
  - 2.3.1. The company should safeguard the interests of its employees and should ensure that it has not been found guilty of violating labour legislation before the courts and/or other competent authorities in the past year.
  - 2.3.2. The company should safeguard the interests of its creditors. The company should have no outstanding liabilities more than 90 days overdue and no frozen accounts.
  - 2.3.3. The company should safeguard the interests of its customers and business partners. Its products or services should not be rated negatively by consumer protection organisations and/or by a decision issued by the market inspectorate and/or other competent bodies.
- 2.4. The company should publish its articles of association on its website in a user-friendly format enabling normal reading and text search.
- 2.5. The company should ensure the separation of its own interests from those of its members and the management of conflicts of interest among its members.

<sup>2</sup> Due to the many advantages of arbitration (the flexibility of the procedure, efficiency, confidentiality, etc.) companies are encouraged to include in their articles of association a provision on the settlement of disputes by arbitration (an arbitration agreement) before any established institutional arbitration body in Slovenia (such as the Permanent Court of Arbitration attached to the Chamber of Commerce and Industry) rather than in court.

- 2.5.1. The company members should not use their equity shares to obtain benefits from the company or to exert influence on the company except to exercise their rights expressly conferred on them under the ZGD-1 and the articles of association (voting at the general meeting, minority rights, profit sharing if any, etc.).
- 2.5.2. All members of management or supervisory bodies should act solely in the interest of the company, not third parties or individual members. In a collision of the personal interests of company members with the interests of the company, the latter should prevail.
- 2.5.3. If the members of the management or supervisory body are simultaneously members of the company, this should be disclosed in the corporate governance statement.
- 2.5.4. The members of the management or the supervisory body should formulate a statement of independence and submit it to the supervisory body once a year. The statement should disclose all possible conflicts of interest and how they will be managed.
- 2.5.5. If circumstances arise that represent a conflict of interest between individual members of the management or supervisory body, they should disclose this forthwith to the supervisory body.
- 2.5.6. The supervisory body should take measures to effectively control any conflict of interests. If this is not possible, the supervisory body should remove the member of the management body or propose the removal of the member of the supervisory body to the general meeting.
- 2.6. Companies should set clear strategic objectives and provide appropriate financial and human resources for their implementation.
  - 2.6.1. Companies should have clearly defined strategic objectives for their operation and long-term development. The management body should formulate strategic objectives in cooperation with the supervisory body, if any, or directly with company members.
  - 2.6.2. Annual plans should be harmonised with strategic objectives and reveal their implementation in the forthcoming year.

## ADVANCED LEVEL

- 2.7. A company's basic objective is to maximise its value and long-term profitability.
  - 2.7.1. In addition to the basic objective, the articles of association should also list other objectives to be achieved in the performance of a company's activities, such as long-term value creation and taking into account the social and environmental aspects of operations with a view to ensuring the sustainable long-term development of the company.
- 2.8. The management and supervisory bodies should jointly formulate and adopt a corporate governance policy, establishing and clarifying the key relations between the company's bodies, its relationship with the company members and stakeholders, the principal corporate governance guidelines, taking into account its long-term objectives, and should inform thereof all stakeholders by publishing disclosures on the company's website.
  - 2.8.1. The management body should formulate the corporate governance policy in cooperation with the supervisory body. The policy should take into account the company's developmental needs and its specific characteristics, such as its size and activity.
  - 2.8.2. The corporate governance policy also defines the relations with company members and the method of ensuring their equality.
  - 2.8.3. The corporate governance policy also defines the relations with stakeholders.
  - 2.8.4. The supervisory body should draw up a plan of its activities and define the required frequency and forms of communication with the management body, the role of the supervisory body in assessing the risk control system and the procedure for formulating the proposals for resolutions of the general meeting, in particular the proposals for appointing the supervisory body's members.
  - 2.8.5. When formulating the corporate governance policy, a company may also make reference to other publicly available documents.
  - 2.8.6. The corporate governance policy should apply for a limited period of time and should be updated as often as necessary to ensure its compliance with the current corporate governance guidelines. It should include the date of the last update and should be accessible on the company's website.
- 2.9. A company should publish the rules of procedure for its bodies (the management body, the supervisory body and the general meeting) on its website. The documents should be published in a user-friendly format enabling normal reading and text search.



### 3. RELATIONS BETWEEN THE COMPANY AND ITS MEMBERS

#### BASIC LEVEL

- 3.1. A company shall establish a governance system that respects the principle of equal treatment of its members and guarantees the responsible implementation of their rights.
  - 3.1.1. All company members should have the same rights with regard to their respective holdings. If there are groups of members with different rights in the company (such as different classes of shares), the company should disclose this separately.
  - 3.1.2. A company should encourage all members to actively and responsibly exercise their rights and engage in mutual dialogue.
- 3.2. A company shall inform all its members equally.
  - 3.2.1. If a company does not inform a member through the general meeting, it shall provide the same information to other members at the request of any other member.
  - 3.2.2. If a company does not inform its members through the general meeting, it shall notify all its members at least once a year thereof, including information on which members it notified in this way and the subject of notification.
  - 3.2.3. A company should encourage and enable active exercise of the voting rights by its members by providing them with timely and adequate information on the convening of the general meeting.
- 3.3. Every member shall have the opportunity to participate in the general meeting, to discuss matters on the agenda, to ask questions on agenda items and to give proposals, vote and be equitably informed of the decisions adopted by the general meeting.
  - 3.3.1. A company should provide conditions for the smooth and transparent conduct of the general assembly by ensuring the presence of persons competent to provide explanations and answers in connection with the proposed resolutions of the general meeting within reasonable limits and the topics of the agenda.
  - 3.3.2. If the general meeting elects members of the supervisory board upon the proposal of the supervisory board, in addition to information required by law (knowledge, experience), information on a proposed candidate should also include at least information on his/her membership in other management or supervisory bodies and the evaluation of any potential conflict of interests.
  - 3.3.3. If the subject of a general meeting's resolution is a review of the annual financial statements or if the general meeting is vested with powers to approve them, the company's certified auditor should also be invited to attend the general meeting.

#### ADVANCED LEVEL

- 3.4. A company shall establish a governance system that fully respects the principle of the equal treatment of its members, guarantees responsible implementation of their rights according to the one share-one vote principle and enables them to exercise their minority rights.
  - 3.4.1. A company's rules should not restrict the disposal of shares or equity holdings.
- 3.5. A company should encourage and enable active exercise of the voting rights by its members by providing them with timely and adequate information on the convening of the general meeting and organising and conducting the general meeting in a professional manner. In order to facilitate exercise of their right to information, the company should provide them with reliable information on the affairs of the company and its associated companies that is required to assess the topics of the agenda. Every member should have the opportunity to participate in the general meeting, to discuss the topics of the agenda, to ask questions and make proposals and to be equitably informed of the resolutions adopted by the general meeting.
  - 3.5.1. A company should provide understandable information on the consequences of the proposed resolutions amending the articles of association (an increase or reduction in capital and exclusion of the priority rights of the existing shareholders, a change in the face value of shares, the transformation of shares, etc.) or on changes in its legal status (division, merger, transfer of assets, a change in the legal form of organisation, etc.) for its current members and possible new investors, with reasons for adopting such resolutions.

- 3.5.2. Following a proposed resolution to list or withdraw shares on or from a regulated market, a company should publish understandable information on the consequences of such proposal or a resolution for the existing and future shareholders as well as on the reasons for the proposed resolution. It should also make a timely disclosure of the anticipated procedure for the withdrawal of securities from a regulated market.
- 3.6. If the general meeting decides on the remuneration policy relating to the management body, the policy should be adopted on the proposal of the supervisory authority and substantively adjusted to the situation in the company and in the market with a view to promoting the company's long-term sustainability and providing remuneration in proportion to the company's performance and financial situation. The policy on remunerating the members of the management body should at least substantively follow the recommendations of the Code and should include the following:
- the amount of fixed remuneration;
  - the possibility of variable remuneration;
  - the nature of the criteria for determining the variable part of remuneration by type;
  - potential restrictions on the variable part of remuneration;
  - the annual time schedule for setting the criteria for determining the variable part of remuneration;
  - a definition of any other benefits enjoyed by the members of the management body;
  - remuneration to be paid in the form of equity holdings, shares, options or comparable financial instruments and restrictions on such payments; and
  - annual evaluation of the management body's compliance with the criteria and activities in this area.
- 3.7. The general meeting shall adopt separate resolutions on the use of distributable profit and the dismissal of the management and supervisory bodies under the same item of its agenda. The general meeting also decides on the dismissal of the management and supervisory bodies by means of separate resolutions.

## 4. STRUCTURE OF THE SUPERVISORY BODY

### BASIC LEVEL

- 4.1. A company shall establish a supervisory body.
  - 4.1.1. A company shall establish a supervisory body or a board of directors.
  - 4.1.2. In the preliminary stage before the establishment of a supervisory body, private limited companies may establish a body with an advisory function (an advisory committee). This body may be given supervisory responsibilities, excluding formal decision-making.
- 4.2. The supervisory body of small and less complex companies should have three members, while the supervisory body of companies that satisfy the medium-sized company requirements may also have more than three members if so required by the complexity of the company's operations.
- 4.3. The structure of the supervisory body should facilitate effective supervision.
  - 4.3.1. The supervisory body should consist of persons capable of critical supervision of the company's operations and management. Its members should have the necessary expertise to assess key decisions adopted by the company.
  - 4.3.2. At least one independent expert<sup>3</sup> that is not connected to the company and its members should be appointed a member of the supervisory body.
  - 4.3.3. Companies should strive to ensure that the supervisory body has a heterogeneous structure, which means taking into account the different characteristics of its members (age, sex, international character, etc.), which is intended to prevent the "herd way of thinking", and a complementary structure with regard to expertise so that the body as a whole possesses the necessary knowledge and experience to carry out effective supervision.
- 4.4. The supervisory body is responsible for the supervision and rating of the management body's performance, and the management body has the responsibility to supervise and rate the performance of other employees.
- 4.5. Members of the supervisory bodies elect the chair thereof from among their number by a simple majority.
  - 4.5.1. The chair of the supervisory body heads and represents this body, but should not make any decisions on its behalf<sup>4</sup>.
  - 4.5.2. Any decision communicated to the management body or to third parties by the chair as a representative of the supervisory body should first be discussed by the supervisory body, which should then issue an appropriate decision or grant a power of attorney.
  - 4.5.3. The chair of the supervisory body has the duty to enforce compliance with the procedures relating to preparatory activities, consulting, and adopting and implementing decisions. The agenda should include the items to be discussed.
  - 4.5.4. The supervisory body may change the agenda at the meeting by a simple majority vote.
  - 4.5.5. The chair should ensure that all members have the necessary knowledge and information to participate in the discussion and that there is sufficient time for deliberation and discussion before making any decision.

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- 4.6. The supervisory body should be composed in such a way so as to guarantee responsible supervision and adoption of decisions for the benefit of the company. The structure of this body should take into consideration the mutually complementary expertise, experience, skills and personal characteristics of all members. The duty to appoint at least one independent member of the supervisory body rests with the company members and works councils.

<sup>3</sup> Independent professionals are persons who have experience in managing companies and an appropriate professional profile that suits the needs of the company. Owners of unlisted companies usually select appropriate candidates for this function from among experts in finance, law or some other appropriate profession (such as strategic management) who have worked for the company in the past and can be trusted. It is essential that a member of the supervisory body no longer provides services as an external consultant once he/she starts his/her activity as an independent member or else he/she cannot be considered independent. Companies may also look for suitable candidates for the position of external professional supervisory board member in the register of certified supervisors kept by the Slovenian Directors' Association ([www.zdruzenje-ns.si](http://www.zdruzenje-ns.si)). They should be certified and have the professional qualifications to perform this function (Slovenian Directors' Association Certificate).

<sup>4</sup> Guidelines for the selection and recommendations for the work of the chair of the supervisory board, Slovenian Directors' Association, 2014

- 4.6.1. The supervisory body should have an appropriate number of members to allow it to form the required committees (such as the audit committee) and enable effective discussion and quality decisions based on the diverse experience and skills of its members.
- 4.6.2. The part of the company's business report relating to the structure and functioning of the supervisory bodies should disclose whether each supervisory board member is considered to be independent.
- 4.6.3. An independent member should notify the supervisory board of the existence of facts affecting his/her compliance with the independence criterion without delay.
- 4.6.4. The supervisory body should be composed of at least 20 % of each gender.
- 4.6.5. Upon the formation of the supervisory body, the assumption of office by its new members, and the appointment of its special committees, the chair of the supervisory body, assisted by the company's management body, should ensure that the initiation of new members is successful. During and after the initiation procedure, the supervisory body should formulate its direct commitments relating to the creation and implementation of the key corporate governance instruments.
- 4.7. The procedure for selecting candidates for membership in the supervisory body and formulating the proposal for the general meeting's resolution appointing members of the supervisory board should be transparent and defined in advance.
  - 4.7.1. In addition to the legal requirements, the assessment of the suitability of candidates for membership in the supervisory body should be based on compliance with the following conditions:
    - personal integrity and business ethics;
    - possession of a Bologna 2nd cycle degree (the 7th level in the old system);
    - relevant work experience in management or supervision or in activities performed by the company;
    - comprehensive business and other relevant professional knowledge;
    - the ability to consider in particular the long-term interests of the company in their work and decision-making and to comply with this rule also in cases of possible conflicting personal and individual interests (of third parties, employees, the public or the state);
    - non-performance of any tasks connected with management, supervision, representation or consulting for competitors and not being a major shareholder or partner of competitors carrying out the basic activity performed by the company;
    - availability in the course of performing its tasks;
    - the ability to communicate effectively and work in a team;
    - willingness to pursue continuous education and professional development;
    - a certificate of professional competence required for supervisory board members in Slovenia or abroad.
  - 4.7.2. When the supervisory body has a permanent or temporary nomination committee, it should carefully examine its recommendations and disclose in the materials for the general meeting whether these recommendations have been taken into account in the appointment of candidates.
  - 4.7.3. The supervisory body or the nomination committee should assess the potential candidates' professional knowledge, experience and skills that are required for quality performance of their function in the company. For the purposes of this assessment, the supervisory body should prepare in advance a description of the function and professional knowledge, experience and skills required for the performance of the function of a supervisory board member (a profile of a supervisory body member), which is one of the main criteria for assessing the suitability of candidates. The profile for assessing candidates for membership in the supervisory body should be drawn up with regard to the size, activity and other characteristics and needs of the company.

## 5. OPERATION AND REMUNERATION OF THE SUPERVISORY BODY

### BASIC LEVEL

- 5.1. The supervisory body should be convened often enough to be able to effectively discharge its functions. It should receive information relevant to the operation of the company and to the company as a whole in due time. Appropriate organisation of its meetings and adequate information are of crucial importance.
  - 5.1.1. The supervisory body should convene at least on a quarterly basis or more frequently as necessary.
- 5.2. The chair of the supervisory body is responsible for convening the meetings of the supervisory body in an accurate, timely and understandable manner.
  - 5.2.1. The chair of the supervisory body is responsible for organising work within the body itself and should, therefore, ensure that it convenes in a timely and regular manner whenever necessary and/or envisaged.
- 5.3. The management body should provide the supervisory body with appropriate information promptly, and the members of the supervisory body should request additional explanations and clarifications whenever necessary. Procedures should be established to enable the rapid, accurate and effective flow of information.
  - 5.3.1. The supervisory body receives information from the management body. The company should clearly define the persons responsible for providing information and the content of such information, i.e. what and when<sup>5</sup>.
  - 5.3.2. If the supervisory body establishes that additional clarifications and or information are needed, it should have available a fast, responsive and efficient system to obtain them. The management body should satisfy any request for a report or presentation of documents as soon as possible.
  - 5.3.3. The management body should comply with high standards of confidentiality and IT security.
  - 5.3.4. The management body should notify the supervisory body of all relevant issues relating to the company's operations, its strategy and risk control.
  - 5.3.5. A member of the management body should promptly notify the supervisory body in writing of his/her appointment and the termination of his/her position in the supervisory bodies of other legal persons.
- 5.4. The company should provide the supervisory body with access to external professional advice at the expense of the company when it deems it necessary for the performance of its tasks.
  - 5.4.1. On request, the management body should provide the supervisory body with services by taking into account the supervisory body's requirements with regard to the content and service provider.
  - 5.4.2. The supervisory board may authorise a special expert to examine and verify the information, and the chair of the supervisory board may enter into an agreement with this expert on behalf of the company.
- 5.5. The minutes of the meetings of the supervisory body should include an indication of the members and other persons attending, the resolutions adopted, a muster list of voters for decisions not adopted unanimously, a short summary of the essence of the debate and all statements as required by members. The minutes should include all problematic issues that cannot be resolved by established procedures.
- 5.6. Remuneration of the supervisory body should be appropriate and capable of keeping and motivating members in terms of the professionalism, knowledge and experience necessary for successful supervision of the company.
  - 5.6.1. Appropriate payment of the supervisory body should be determined by company members at the general meeting.
  - 5.6.2. The amount and form of payment should be adapted to the company's financial situations and complexity of the function.
  - 5.6.3. The supervisory body should not be paid, depending on the company's performance.

<sup>5</sup> The Slovenian Directors' Association drafted the document "Recommendations for Reporting to Supervisory Boards – What should a supervisory body request from the management body" to assist members of supervisory bodies.

## ADVANCED LEVEL

- 5.7. The supervisory body should ensure supervision of the company, actively participate in formulating the governance policy and determine the management relations within the company, carefully evaluate the functioning of the company's management body, and perform other tasks in accordance with the law, the company's bylaws and the Code.
- 5.7.1. All members of the supervisory body should take a position on any conflict of interest and their independence and shall disclose it to the other members at the meeting of the supervisory board.
- 5.7.2. The supervisory body should approve, supplement or adopt rules of procedure that are in line with the requirements of the current supervisory body and the Code within a reasonable period following appointment. The rules of procedure should particularly regulate the following:
- specific convening of meetings, communication between supervisory board members and the distribution of materials;
  - the method of voting and decision-making;
  - the frequency of meetings;
  - the content and method of drawing up, coordinating and approving the minutes;
  - the functions of the chair and the secretary of the management body;
  - the system for introducing new supervisory body members;
  - the procedures for selecting and proposing candidates for membership in the supervisory body to the general meeting;
  - the creation of the committees of the supervisory body;
  - the detailed criteria for assessing the conflicts of interest among the members of the supervisory body and the procedures in the event of a conflict of interests.
- 5.7.3. The supervisory body should define in detail the selection of the content and the deadlines to be observed by the management body in the regular provision of information. The selection of content should include the information that facilitates members of the supervisory body making an objective and balanced assessment of the company's financial situation. The management body should provide the supervisory body with information in writing at least on a quarterly basis; information may also be provided in electronic form provided that appropriate protection and IT security have been ensured. The documents required for quality decision-making should be promptly made available to all members of the supervisory body and the members of its committees.
- 5.7.4. The distribution of areas of work and responsibilities among the members of the management body should be determined in the management body's rules of procedure, together with notification of the supervisory body. If the company does not use the mandate system, the supervisory body should define the tasks and responsibilities of the members of the management body in cooperation with the chair of the management body.
- 5.7.5. The supervisory body should use information technology to send materials and convene meetings. If it is feasible due to its size or the remoteness of its members, the supervisory body should also use IT to conduct meetings and voting on proposed resolutions. In its electronic communication with the members of the supervisory body, the company should ensure the basic conditions for effective IT security.
- 5.7.6. The supervisory body should normally send invitations to meetings to the members of the management board. If an item on the agenda makes their presence unnecessary or could influence the independent work of the supervisory body (a decision to appoint the chair of the supervisory body, to appoint or dismiss a member of the management body, a decision on the evaluation and remuneration of the management body, self-assessment of the supervisory body), the supervisory body should decide in the absence of the members of the management body.
- 5.7.7. Upon accepting their candidacy, members of the supervisory body should make an objective assessment of the liabilities already assumed by them in connection with the anticipated and the required availability of time to perform their functions in the company. They should report changes in responsibility or the acceptance of new responsibilities outside the company to the chair of the supervisory body without delay or as soon as possible.
- 5.7.8. The supervisory body should determine in its rules of procedure how to communicate to the public the decisions adopted at the meeting. In exceptional cases, it should decide on the publicity or confidentiality of the adopted decisions and on the method of communicating with the public that takes place

through the intermediary of the chair, unless the decision made by the supervisory body or the absence of the chair requires a different method of communication.

- 5.7.9. Before the appointment of the management body, the supervisory body should verify whether, in addition to the terms and conditions set by law, all candidates meet the conditions provided in the articles of association or in the profile of a member of the management body, as determined by the body's decisions.
- 5.7.10. The supervisory body should carefully examine compliance with the criteria determined in advance and the recommendations for the appointment of the members of the management body as determined by the personnel committee or another competent working body, if any.
- 5.7.11. The supervisory body should ensure the development and implementation of the system of payment regarding the management body in accordance with Recommendation 8 of the Code. It should set the objectives of the members of the management body and the criteria for variable payments for each financial year separately in connection with analysing the annual reports of companies and should also determine the performance of the members in accordance with the criteria each year in connection with analysing the annual financial statements of companies.
- 5.7.12. The company should provide the supervisory body with appropriate premises and the technical devices required for its work, also including the necessary funds for introducing new members and additional training of members, the assistance of external experts and meeting other basic operating expenses of this body. The funds required for its operation also include the funds for the operation of its committees and reasonable payments for external members of its committees.
- 5.7.13. The supervisory body should provide the general meeting with an authentic report of its activities during the year. In addition to the legal content, this report should also provide appropriate information about the supervisory body's internal organisation, structure in terms of the independence of its members, conflicts of interest and their settlement, and about its operating procedures, including an indication of how much self-assessment has contributed to the implemented changes.
- 5.8. The supervisory body shall carry out an annual review of its composition, potential conflicts of interest of its individual members, and the operation of the supervisory body as a whole and its cooperation with the management body. When assessing its performance, the supervisory body should also assess the performance of its committees.
  - 5.8.1. The assessment procedure should include at least the following actions and definitions:
    - an assessment of the current structure of the supervisory body with regard to the needs arising from the company's day-to-day operations in the achievement of the set objectives and with regard to compliance with the diversity policy according to law;
    - an evaluation of the work of the supervisory body or its committee and opinions on the necessary improvements;
    - the scope of the system of supervision and the quality of supervision in financial and non-financial areas;
    - verification of the appropriateness of communication and cooperation between the management and the supervisory bodies;
    - verification of the potential circumstances of each member that could give rise to a conflict of interest or a loss of independence.
  - 5.8.2. To assess the performance, the supervisory body may use assistance from external professionals with appropriate references.
  - 5.8.3. On the basis of the results of the evaluation procedures, the supervisory board should adopt appropriate further measures in due time and take into account the findings of the evaluation in the operation and formulation of the proposals for the general meeting.
- 5.9. Members of the supervisory body elect a chair and a deputy chair from among representatives of capital. All recommendations for electing the chair should also apply to the election of his/her deputy.
  - 5.9.1. Persons who were members of a company's management body or members of the management bodies of associated companies during the past year should not be appointed chair or deputy chair of that company's supervisory body.
  - 5.9.2. The chair of the supervisory body has a duty to enforce strict compliance with the procedures relating to preparatory activities, consulting and the adopting and implementing decisions. The agenda should include the items to be discussed at the meeting. It should also be indicated whether individual items

of the agenda and the accompanying materials have an informative character only and whether they will serve as a basis for the decision-making of the supervisory body (taking note of the report, granting consent or authorisation to the management body, etc.)

- 5.9.3. The chair of the supervisory body shares with the supervisory body's secretary the responsibility to carefully draft the minutes, which should include a summary of the discussion and an indication of any reservations expressed in respect of particular items on the agenda at the meeting. The members of the supervisory body should receive the draft minutes within 15 days of the meeting. The chair of the supervisory body should include promptly received remarks in the materials for approving the minutes at the following meeting.
- 5.9.4. The chair should ensure that all members can participate in the discussion by contributing their knowledge and information and that there is sufficient time for deliberation and discussion before making any decision.
- 5.10. At the proposal of the management body, the supervisory body appoints its secretary, who will be responsible for taking minutes, keeping the supervisory body's archives and supporting this body in all organisational and managerial matters.
  - 5.10.1. The tasks of the supervisory body's secretary is to provide organisational and technical support to this body and its chair. In addition to monitoring the implementation of the supervisory body's procedures defined in its rules of procedure, the secretary should ensure a smooth flow of information among its members and provide assistance in organising training events and obtaining external support for its operations.
  - 5.10.2. The supervisory body should ensure that the secretary signs a statement undertaking to safeguard the confidentiality of data in accordance with the same standards as the members of the supervisory body, unless it is otherwise bound to do so.
- 5.11. Members of the supervisory body should be adequately remunerated for their work. The payment should enable a quality composition of the supervisory body and should be in accordance with the duties and responsibilities it is obliged to perform under the law and the Code.
  - 5.11.1. In addition to the meeting fee, the members of the supervisory board should also be entitled to remuneration for the discharge of their functions in the amount determined by the general meeting. The payment should be money only and should not be directly dependent on the company's performance as shown in its accounts.
  - 5.11.2. A resolution of the general meeting or a change in the articles of association should be adopted to determine remuneration in advance.
  - 5.11.3. External members of committees should be paid from the funds for the work of the supervisory body and which should be provided by the company with Recommendation 5.7.12 to the extent usual for professional work in its area in accordance.
- 5.12. The supervisory body should establish commissions that analyse and provide advice on specific issues, but the decision-making remains within the competence of the supervisory body.
  - 5.12.1. The supervisory body should create an audit committee and, if necessary, also a personnel committee, a remuneration committee, and other committees.
  - 5.12.2. The committees should be established as soon as possible after the supervisory body's constituent meeting and soon enough to enable them to perform their tasks in a responsible manner.
  - 5.12.3. When the supervisory body establishes a committee, it should determine the duration of its term of office, responsibilities and powers. In this regard, it should particularly take into account the company's specificities, the number of supervisory board members and their expert knowledge. The term of office of each committee should not exceed that of the supervisory body.
  - 5.12.4. The supervisory body, acting together with the management body, should provide the committee with all the materials and documents required for its work.
  - 5.12.5. All committee members should solely pursue the objectives of the company in the performance of their functions. The rules on conflicts of interests applicable to the supervisory body shall also apply, *mutatis mutandis*, to external members of the committees (who are not members of the supervisory body). When an external member is not bound by confidentiality under the same criteria as members of the supervisory body in accordance with the law or a bylaw of the company, the supervisory body should ensure that all external committee members sign a statement undertaking to safeguard the confidentiality of data in accordance with the aforementioned standards.
  - 5.12.6. After each meeting of a committee, the supervisory body should be provided an oral or written report on the adopted resolutions and opinions formulated for the supervisory body.



5.12.7. Committee members should have professional and personal characteristics allowing them to take quality and independent actions, in particular the following:

- independence from the management body;
- time available for the work in the committee;
- substantive knowledge of the professional area within the competence of the committee.

5.13. Companies should enter into a contract for liability insurance covering the members of the supervisory body. The contract should take into account the restrictions imposed by the ZGD-1, but should, at the same time, effectively safeguard the company from any damage incurred due to the negligent conduct of the supervisory board members.

## 6. STRUCTURE OF THE MANAGEMENT BODY

### BASIC LEVEL

- 6.1. The size of the management body should comply with the size and complexity of the governing body as well as with the business requirements.
  - 6.1.1. The management body should be effective and consist of one member in companies that do not meet the criteria for medium-sized companies. In medium-sized companies, the management body can be multi-member due to the complexity of the business as a larger volume of business requires the participation of several members from various fields.
  - 6.1.2. Upon the appointment of a multi-member management body, the supervisory body elects a chairman who is responsible for the management of the collective body and ensuring its effectiveness.
- 6.2. The management body should be composed of members who are independent and professional in their work. They should have appropriate knowledge and experience and discharge their functions in a professional manner.
  - 6.2.1. Company members should not at the same time be members of the management body if they lack interest, knowledge time.
  - 6.2.2. A system for appointing the management body should be established to ensure the nomination of professional and independent persons.
  - 6.2.3. All members of the management body should be aware that they should act solely in the interest of the company, irrespective of whether they are also company members. The members of the body who are also company members or are associated therewith should be able to separate their interests from the interests of the company. Their interest should be focused exclusively on the long-term successful operation and development of the company.
- 6.3. Changes in the composition of the management body should be manageable in order to prevent disruptions in operations.
  - 6.3.1. There should be a substitute member of the management body and a management system in the event of the short- or long-term absence of a member or members of the management body.
  - 6.3.2. The appointment of a new member of the management body should be based on objective and professional criteria.
  - 6.3.3. It is recommended that a new member of the management body be chosen from among at least three candidates.
  - 6.3.4. When appointing the management body, the key role should be played by the supervisory body, not the company members.

### ADVANCED LEVEL

- 6.4. The company should be led independently by the management body which, by its work, knowledge and experience, contributes to the long-term success of the company by providing the best possible guidance, assessments and risk management. The management body should determine the values and business strategies of the company and should be organised so as to enable the effective performance of its duties. Optimal operation should be achieved by ensuring the proper staff as well as human and financial resource management.
- 6.5. The management body should be composed in such a way so as to ensure decision-making for the benefit of the company. It should always be multi-member and its composition should ensure careful and responsible achievement of the company's objectives. The management body should act in accordance with high ethical standards and take into account the interests of all groups of company members. There should be mutual trust among its members, facilitating open discussion and constructive acceptance of other opinions. Members' competences and the mode of operation of the multi-member body should be regulated by the rules of procedure of the management body.
  - 6.5.1. In addition to meeting the conditions required by law, the articles of association or other bylaws of the company, the chair of the management body should have the ability to manage and organise work and enjoy the reputation of a good businessperson in the wider social environment.

6.5.2. Each member of the management body and its chair should thoroughly, accurately and regularly inform the management body as a collegiate body of all significant transactions in the areas for which they are responsible.

## 7. OPERATION OF THE MANAGEMENT BODY

### BASIC LEVEL

- 7.1. The management body should be responsible for the operational management of the company.
  - 7.1.1. The management body should be responsible for the company's operations.
  - 7.1.2. The supervisory body should not have the competence to make management decisions or give instructions to the management body.
  - 7.1.3. Company members should bestow such competence and responsibility on the management body so that it can conduct operational business which, inter alia, includes making independent marketing presentations, concluding individual business transactions and managing relations with employees independently.
- 7.2. Each member of the management body should make decisions objectively and exclusively for the benefit of the company.

### ADVANCED LEVEL

- 7.3. Companies should enter into a contract for liability insurance covering the members of the management body. The contract should take into account the restrictions imposed by the ZGD-1, but should, at the same time, effectively safeguard the company from any damage incurred due to the negligent conduct of the members of the management or supervisory boards.

## 8. REMUNERATION OF THE MEMBERS OF THE MANAGEMENT BODY

### BASIC LEVEL

- 8.1. The supervisory body should establish a system for the total remuneration of the members of the management body. Their remuneration should depend on their tasks, the company's financial situation and achievement of the set objectives.
  - 8.1.1. The management body members should also include a variable part to be determined in proportion to their performance. The criteria for variable payments should be determined by the supervisory body for each year. They should ensure the company's long-term performance and, in addition to financial indicators, also include non-financial aspects (developmental indicators, indicators of socially responsible operations, etc.).
  - 8.1.2. The total remuneration system should be defined and adopted by the supervisory body.
  - 8.1.3. The management body should be remunerated in the same manner as in similar companies. The amount and form of remuneration should be such so as to encourage continuous improvement of the company's operations.
- 8.2. The supervisory body should take into account the financial impact of early termination of the management body's term of office.
  - 8.2.1. The drafting of employment contracts for members of the management body should take into account the possibility of the early termination of employment due to the fault of the individual at issue.
  - 8.2.2. The employment contract and the remuneration system in the broader sense of the word should prevent the payment of severance pay and end-of-term allowances or other larger amounts on a different legal basis so that they could be interpreted as compensation for poor work performance.
  - 8.2.3. Members of the management body can be entitled to severance pay only in the event of early dismissal of this body due to no-fault reasons or in the event of the consensual termination of employment for anticipated reasons (illness).

### ADVANCED LEVEL

- 8.3. The supervisory body should establish a system of remuneration for members of the management body to facilitate attracting members to satisfy the needs of the company and simultaneously ensure harmony between the interests of the management body members and the long-term interests of the company.
  - 8.3.1. The remuneration of the members of the management body should consist of a fixed and a variable part. The payment of the variable part depends on predetermined performance criteria. The variable part of the remuneration should distinguish between remuneration for the company's short-term and long-term performance. The criteria should foster the long-term sustainability of the company and ensure that the remuneration is in proportion to the company's performance and financial situation. In addition to the operating performance, the performance criteria should also promote the company's sustainable development and include non-financial criteria that are important for generating the company's long-term value, such as compliance with the company's current rules and ethical standards. The fixed component of the remuneration should represent sufficient payment in the event the company withholds payment of the variable part of the remuneration due to non-performance.
  - 8.3.2. Upon payment of the variable part of the remuneration, the payment of the part exceeding the total fixed remuneration during the past year should be postponed for at least one year.
  - 8.3.3. Severance pay should not exceed the fixed part of the annual remuneration.
  - 8.3.4. If variable remuneration is paid in shares, the shares should not be paid for another three years.
  - 8.3.5. Share option schemes and comparable financial instruments should not represent the predominant part of the variable remuneration of a member of the management body. The criteria for share option schemes and comparable financial instruments exclude the general capital market trends by using benchmark parameters such as the performance of the share index or the achievement of an anticipated increase in the price of the company's shares. Indemnities and compensations for unused options should not be allowed. Members of the management body who acquire shares on the basis of share option entitlements (share option schemes) or on the basis of an equity plan should not be entitled to sell the shares so obtained for at least two years after the expiry of the term of office during which they were acquired.

8.3.6. Variable remuneration paid in the form of shares and the exercise of share options or the exercise of any other rights to acquire shares or rights to remuneration calculated on the basis of the movements in share prices should not be permitted for at least three years after being awarded.

8.4. The general meeting should adopt a remuneration policy for the management body establishing the principles and the frameworks determined in the ZGD-1.

## 9. TRAINING OF THE MEMBERS OF THE MANAGEMENT AND SUPERVISORY BODIES

### BASIC LEVEL

- 9.1. Members of the management and the supervisory bodies should undergo continuing training and ensure that their knowledge, experience and skills meet the requirements of the company. The chair of either of these bodies should ensure that their members regularly improve and upgrade their skills and maintain their knowledge at the level required for the successful discharge of their duties in the company.
  - 9.1.1. A company's management or supervisory body should strive to ensure that all its members improve or upgrade their knowledge and thus follow the company's requirements in terms of its development.
  - 9.1.2. A company should not only facilitate but also encourage further training of the members of its management or supervisory body.
  - 9.1.3. The costs of further training to acquire the functional skills necessary for the performance of the management or supervisory function represent a company's operating costs and are not a part of payments for the performance of these functions.

### ADVANCED LEVEL

- 9.2. The company should have a training programme for members of the supervisory body, which is adopted by the supervisory body every year. The supervisory body should define the extent and the substantive areas of training for each member by taking into account his/her needs and the characteristics of the company.

## 10. PUBLIC REPORTING

### BASIC LEVEL

- 10.1. The management body should publish the company's annual report, which should be designed so as to meet the needs of the company's members and other stakeholders.
  - 10.1.1. The management body should disclose in the annual report all statutory information as well information and clarifications of facts and accounting events that are in the interest of company members. The annual report should be the key information document intended for company members. It should contain disclosures of relations between stakeholders and the level of socially responsible conduct of the company.
- 10.2. The management body should orally present to the general meeting a balanced and clear assessment of the company's financial situation and forecasts for its members.
- 10.3. A company should make a detailed presentation of its governance practice in the corporate governance statement made in accordance with the ZGD-1. The corporate governance statement should be made as a part of the annual report and as a separate statement published on the company's website.

### ADVANCED LEVEL

- 10.4. A company should ensure that information is evenly distributed across all segments of the public. Public announcements should be written in a clear and understandable manner and should not be misleading.
- 10.5. . A company should establish such a system of informing the public so as to provide company members and the public with equal, timely and well-considered access to all important information.
  - 10.5.1. A company should inform its members and other segments of the public through electronic media such as its website.
  - 10.5.2. A company should strive to design a maximally communicative and transparent website. Such should include all the key information about the company and its operations.



## 11. AUDITING AND THE INTERNAL CONTROL SYSTEM

### BASIC LEVEL

- 11.1. In initiating the procedure for selecting an auditor who will actively work together with its management or supervisory body, a company should facilitate the appointment of an auditing firm to ensure an independent and unbiased review of its accounts in accordance with professional and ethical auditing principles and other auditing rules. To comply with these rules, a company should ensure quality communication with the auditor during the procedure.
- 11.1.1. Prior to commencing the selection procedure, the competent body that proposes the appointment of an auditor to the general meeting should set the appointment criteria and the minimum conditions for cooperation with the auditor, including compulsory disclosure of any (non-)auditing services provided to the company or its affiliates by the auditing firm during the past year.
- 11.1.2. The supervisory body should verify the responsiveness of the management bodies to the allegations made in the letter to the management drawn up by the auditor in the pre-audit procedure or after the audit.
- 11.1.3. A company should change its auditor at least every seven years.
- 11.2. The supervisory body should be responsible for establishing a risk management system. The system should facilitate timely identification of the key risks faced by the company. The management body should clearly divide powers and responsibilities for each area of the company's activity (organisational unit or process).
- 11.2.1. If a company requires external assistance to control risks, this assistance should be restricted only to the introduction of the system into the company.

### ADVANCED LEVEL

- 11.3. A company should establish an efficient internal control system that also enables quality risk control. A company, in conjunction with its supervisory body or audit committee, should ensure substantive, periodic and unbiased professional control over the internal control system, adapted to the company's activities and the volume of its operations.
- 11.3.1. The management body should ensure a proper organisation and qualified staff for the timely identification and assessment of the risks to which the company is exposed in its operations and appropriate management of such risks.
- 11.3.2. The supervisory body and the audit committee, if any, should monitor the risk control activities, regularly take note of the key risk control measures and the risk exposure controls, and advise the supervisory board if the company's exposure exceeds the agreed (and permitted) level.
- 11.3.3. The supervisory body or the audit committee, if any, should participate in the process for approving the annual plan of activities of the internal audit and ensure regular monitoring of the internal audit's activities. The audit committee should give the necessary support to the internal audit and thus enable it to carry out its activities in an independent and unbiased manner.
- 11.3.4. A company should ensure the availability of the internal audit's reports and findings to the members of the audit committee, to the members of the supervisory body and to the auditor of the company's financial statements.
- 11.3.5. The internal audit department should be established in accordance with the rules as defined by the International Standards for the Professional Practice of Internal Auditing. The principal task of the persons in charge of internal auditing is to exercise independent control over the regularity and cost-effectiveness of the company's operations, their compliance with regulations and bylaws, with a special emphasis on the quality and appropriateness of the internal control system. These persons' actions should encourage quality valuation and improvement of risk management and risk control procedures and contribute to adding value by giving independent and unbiased assurances to a company's management and supervisory bodies.
- 11.3.6. A company should, as far as possible, also provide for hedging against risks.
- 11.3.7. Internal control procedures, reporting and cooperation between various departments (such as the audit department) should be ensured on a continuous basis. Reporting duties and obligations towards other departments should be clearly defined. Direct cooperation between departments (e.g. between

the financial risks department and the internal audit department), not only indirect cooperation through the management body, is recommended.

11.3.8. Regular dialogue between the management body, the supervisory body and company members regarding internal controls or the internal control system of the risk control system should be established. Periodic verification of the effectiveness of the company's approach to internal control should also be required. Such verification should include all key controls, including financial and procedural controls, controls of compliance with regulations and company bylaws, as well as the risk management system.

11.3.9. The supervisory body should periodically receive risk management information. The effectiveness of a company's approach to internal control or the internal control system should also be verified on a regular basis: whether the risks were identified in due time, how they were reported forward and what measures were taken. Company members have the greatest economic interest in connection with the company; therefore, they should be notified of any potential threat to their assets.

## APPENDIX: Practical guidelines for quality of explanations on corporate governance statements

The corporate governance statement reflects a company's corporate governance practice.

The corporate governance statement, which forms a part of a company's business report, should include at least the following information:

- the code that the company has selected and decided to apply (the reference code),
- the accessibility of the code,
- the code's recommendations not complied with by the company, providing additional clarification of the grounds for such deviation (the "comply or explain" principle).

The process of assessing a company's own corporate governance practice with regard to the Code's recommendations should include all parties involved in creating the company's corporate governance practice.

Presented below are some practical guidelines for drawing up a corporate governance statement and quality explanations of deviations from the Code's recommendations:

1. Selection of the reference code of corporate governance<sup>6</sup>. When selecting the Code of Governance for Unlisted Companies, application of the basic or advanced level should be determined, depending on the size of the company.
2. Reviewing a company's own practices and comparing them to the Code's recommendations – a review of deviations from the practices recommended by the Code (drawing up a list of deviations).
3. The competent bodies' consideration of the specific nature of a company and understanding the reasons for it to deviate from individual recommendations of the Code (a detailed review of the list of deviations from the Code in terms of the current corporate governance practice).
4. The competent bodies' consideration of the justification of deviations:
  - Does the company wish to comply in part or in full with a recommendation of the Code or continue to adhere to its own practice?
  - Does the company wish to create a corporate governance code of its own and publish it on its website, simultaneously undertaking to continuously update it with regard to the current corporate governance practice?
5. Decisions of the competent bodies regarding deviations and the reasons for deviations from the Code and the possible transitional nature of such deviations.
6. The specialised services of a company prepare explanations of established deviations from the Code's recommendations. These explanations should take into account the specific characteristics of the company by making a brief and clear presentation and justification of its different corporate governance practice that equally guarantees respect for each recommendation of the Code and includes the following:
  - the number of the recommendation and its content, accompanied by a clarification of the deviations;
  - a description of the reasons for the deviation (Why?; How can such practice reflect the company's needs and specificities?; What specificities?);
  - an explanation of how a company can use alternative mechanisms to follow the Code's recommendations it has deviated from (describe the alternative measure and explain how it helps to achieve the basic recommendation objective);
  - when the deviation is limited in time, explain when the company intends to comply with the specific recommendation.

Explanations should not be generalised and should not reflect only non-compliance with the recommendation or even disagreement with a particular recommendation or the inappropriateness of a recommendation for the company.

7. A proposed corporate governance statement with explanations of appropriate quality should be approved upon the adoption of the annual report.

<sup>6</sup> Companies currently have several options as regards choosing a reference code:

- The Corporate Governance Code for Public Limited Companies (The Ljubljana Stock Exchange, The Slovenian Directors' Association and The Managers' Association of Slovenia, December 2009);
- The Corporate Governance Code of Companies with State-Owned Financial Assets (Slovenian Sovereign Holding, March 2016);
- The Code of Governance for Unlisted Companies (The Chamber of Commerce and Industry of Slovenia, The Ministry of Economic Development and Technology, The Slovenian Directors' Association, May 2016);
- a company's own, publicly available code.