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Corporate Governance - Enterprise Performance Assessment Tool

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Abstract: Within an enterprise, whether public or private, there are interests between managers and partners: shareholders, creditors, employees, suppliers, customers etc. It is imperative that these interests be harmonized because the company's performance is significantly influenced by the form of corporate governance. Performance and sustainable growth in the long term are essential attributes of corporate governance, which depend on concern of companies on social responsibility towards the environment, satisfaction of shareholders, customer satisfaction, ensuring good working conditions for employees, concerns which must be incorporated into processes of decision making. In this study, the purpose of research is to analyze corporate governance issues and objectives involved to provide an overview of the positive effects generated by the implementation of its principles.

Keywords: corporate governance; corporate governance principles; enterprise performance; shareholder; stakeholder; transparency.

JEL Classification: G30; M41

1. Introduction

Starting from expression that the company's financial performance is incomplete if it does not take into account the risk taken to achieve such performance (Buglea, 2005, p. 282) there is another way of management - the governance, which monitors and assesses the performance, satisfy stakeholders and creates added value helping to maximize enterprise value. Consequently, only after studying the field of corporate governance we can address the true value of risk management and internal audit, ensuring performance and accountability.

Corporate governance mechanisms are relevant for large economic entities, where there is a separation between ownership on the stakeholders and the effective administration of the business. Joint stock companies represent specific form of legal organization of this type of arrangement. Typically, these are listed on organized markets like stock exchanges. For small economic entities in which the investor or a small number of investors are directly involved in company management, corporate governance is relevant only in certain aspects, such as relations with employees, creditors. (Sitaru, 2009, p. 206).

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This performance assessment tool has attracted our attention during the research and we consider that is an area of wide interest currently. Given that the company which we intend to analyze is a company whose securities are traded on a regulated market, as required by law, it is mandatory annual reporting of information on corporate governance, information on enterprise business performance, financial position, internal control and the governance code which it applies and which must contain: corporate governance practices, explanations of principles of the code, which does not apply and the reasons were not applied, risk management systems, the duties of the General Meeting of Shareholders, shareholders' rights, the structure of the administrative, management and supervisory bodies.

2. Literature Review

2.1. Definition

In literature, the term “corporate governance” takes over a terminology consecrated worldwide to denote a well-defined problematic area, related to conducting large companies in the interest and under the control of shareholders and respecting the rights of other parties holding interests in company. This problematic area is slightly different from the one designated by terms such as “corporate governance” or “management” (Corporate governance in Romania - OECD 2001, p. 16).

Corporate governance can be defined by some perspectives:

- *Investors' perspective* - is considering the ways that investors ensure that they will receive the expected benefits by making an investment in the enterprise;
- *Perspective of business relations with third parties* - can be defined as the ensemble of relationships with its shareholders, on the one hand and society as a whole, on the other hand (employees, government, regulatory bodies and other groups interested in the management of business enterprise);
- *Perspective of rights and responsibilities within the company* – distributed for those categories involved in decision-making (Board of Directors, Executive Management, shareholders and other categories), such as: promoting fairness, transparency and accountability at the enterprise level;
- *Perspective of law sources* - Corporate governance is a set of rules under which companies are directed and controlled, it is the result of rules, traditions and behavioral models developed by each legal system;
- *Science perspective* - Corporate governance is branch of economics studying the efficiency of some documents such as Articles of Incorporation, organizational chart, internal rules and legislative framework, without limitation just how managers are paid by shareholders for generate dividends as a result of investments.

Currently, the concept is used to describe the act of governing, the manner to endorse, manage, both at the state level, global bodies and businesses (Paşcu, 2011, p. 587). At the enterprise level, corporate governance examines the organization of power and distribution of responsibilities between shareholders, directors and managers. Contemporary economic activities are dominated by the internationalization of markets. This causes severe direct competition, which requires companies to innovate constantly and to restructure. The rhythm of change and adaptation to this rhythm has become the key the performance and survival of these entities. The stake is increasing the response

capacity and reactivity of enterprises to essential characteristics: time, quality, quantity and costs. (Roman, Roman, & Boghiu, 2012, p. 117).

2.2. Classical Models of Corporate Governance

In corporate governance system can be found following interested factors: shareholders, directors, managers, employees, creditors, suppliers, customers, government and the community. Depending on these factors, the system of government knows more models of governance.

According to research in the field, we identified two models of corporate governance: *shareholder model* and *stakeholder model*. While the shareholder model aims to maximize value for shareholders, stakeholder model is interested in maximizing value for all parties involved in the life of the company (shareholders, managers, employees, trading partners and so on) (Feleagă, Feleagă, Dragomir, & Bigioi, 2011, p. 7).

In international practice there are three main models of corporate governance generally accepted, namely: the Anglo-Saxon model, Continental-European model and Japanese model. A comparison of these patterns is shown in Table 1:

Table 1. Comparative analysis of corporate governance models

	Anglo-Saxon Model	Continental-European Model	Japanese Model
Main financier	Exchange market	Banking market	Banking market
Ownership right	Based on the ownership of shareholders	Based on the ownership of shareholders and the relationship between employees and company	Based on the interests of the parties (stakeholders), mainly keiretsu (a type of grouping several firms)
Shareholder structure	Dispensed	Concentrated	Concentrated (cross-holding of shares)
Council composition	Unitary system of governance: <ul style="list-style-type: none"> • Executive managers • Non-executive managers 	Dual governance system: <ul style="list-style-type: none"> Execution Board - in charge for company management Board of Directors - in charge for supervision of the Execution Board 	Board of Directors includes representatives of stakeholders and Censors Commission
Control mechanisms	Extern	Intern	Intern
Accounting system	Generally Accepted Accounting Standards (GAAP)	International Financial Reporting Standards (IFRS)	GAAP and IFRS

Source: Cuc, S. & Tripa, S., 2006, p. 437.

I. The Anglo-Saxon Corporate Governance Model or the Shareholder Model is based on dominance of shareholders, the only interested parties to whom managers have an obligation to respond. They act as administrators of money because their predominant interest is the enrichment.

The management of company is provided by a unitary Board of Directors, without differentiating between non-executive and executive positions, since all board members are responsible for all legal actions of the company. These members have the obligation to defend the interests of shareholders.

The model shows a negative side in terms of excessive interest on profitability without taking into account the implementation of long-term development strategies, but also a positive side in terms of making investments from inefficient domains in efficiency domains.

Among the proposals on the improvement of this system is increasing the number of shares held by institutional investors at the expense of speculative investors by encouraging long-term relationship between investors and the company.

The UK has the largest number of corporate governance codes, about one third of all codes issued by EU member countries, and accepted the international codes and also pan European codes.

In the early 90s, in the US there were many laws for listed companies, as well as Sarbanes-Oxley Law, which contain detailed rules for the proper management of the companies.

US corporate governance model is based on dominance of independent persons and individual shareholders that are unrelated by the corporation through business relationships (“outsiders”). The social capital is dispersed to a lot of shareholders who are mainly interested in dividends. Shareholders are “aggressive and revolutionaries” in the sense of acceleration the implementation of effective policies, being prone to fast reorganization of unprofitable divisions and financing for new profitable activities

The first corporate governance code was *The Cadbury Code* (1992) containing rules on the organization and management of an enterprise to achieve maximize efficiency and transparency to shareholders, but penalties are not provided for them. The reports series begun by Sir Adrian Cadbury in 1992, admitted the need for the establishment of audit committees, the widespread use of executive directors independent (non-executive directors) *who have managerial responsibility within the enterprise*. (Ghiță, Popescu & Croitoru, 2009, p. 23).

Paul Ruttman Report (1993) comes with something extra, namely considers that any listed company must report on the internal financial control.

Nolan Code (1994) works on the principle of corporate ethics, based on altruism, integrity, objectivity, accountability, fairness, honesty and conduct of persons working in the public system.

Richard Greenbury Report (1995) is notable for transparency, regarding directors' remuneration based on the performance achieved.

Also in 1995 it elaborated *Hampel Report* concerning the implementation of internal audit and annual verification by company directors.

Combined Code (1998) is basically a combination of the previous codes. This code works on the principle of transparency “comply or explain”, in this sense forcing companies to justify any deviation from corporate governance codes.

The guide of Combined Code for directors, known as *Nigel Turnbull Report* (1999) focuses on risk assessment, an important step in making a good system of internal control, based on the model of Internal Control - Integrated Framework (COSO) developed in 1992 by The Committee of Sponsoring Organizations of the Treadway Commission and improved in 2004 by the Enterprise Risk Management – Integrated Framework (COSO-ERM). The second model COSO ERM adds besides the five components of the COSO Report 1992 other components, such as: internal environment, setting goals, identifying events, risk assessment, response to risk, control activity, information and communication, and monitoring.

In the period 2001-2002 was adopted a law project *Sarbanes Oxley* in the US differently from the principles and rules adopted in the UK, about the principle of “comply or explain”, which provided severe sanctions for false declaration of financial information. Currently, this law sets limits for new rules issued by the Committee of Transferable Financial Instruments and Securities - SEC (Ghiță, 2008, p. 41), concerning information about governance, risk management and internal audit. Some American companies have decided to use the UK Combined Code, using the COSO-ERM model, which is a legislative framework based on internal control.

In 2003 the UK develop a *revised Combined Code* by adopting a set of principles and clauses tougher to implement corporate governance.

In the US, for listed companies from most sectors, the reporting must also include an *annual Statement of internal audit*. Based on this declaration, the trustees are sure that through the control system implemented the company is managed effectively, the risks are monitored and are secured growth conditions of company, which requires an *integrated System of Internal Control* and is the target for the *Corporate Governance System*. (Ghiță, Popescu, & Croitoru, 2009, p. 69).

The most reports and codes were issued in the UK, which has the greatest contribution today in the development of corporate governance.

II. The Continental-European corporate governance model has a starting point, namely *The Cadbury Code*. A significant number of European countries have revised over time the codes of corporate governance in line with European Commission regulations, paying particular attention to how it is ensured corporate governance, especially in view of the consequences of the current economic crisis, which has strongly marked the confidence of investors about the how businesses in which they invest are managed efficiently and in the interests of shareholders and investors (Boța-Avram, & Mătiș, 2011, p. 19).

In France, appears in 1995 the *Report Vienot I* containing recommendations on the Boards of Directors of listed companies in France, followed in 1999 by the *Report Vienot II* containing Recommendations of the Committee on corporate governance, and the last revision was made in 2011.

In 1999, the Organisation for Economic Co-operation and Development (OECD) publishes the *Corporate Governance Principles*, revised edition in 2004, principles recognized by the Financial Stability Forum. OECD and the World Bank and International Monetary Fund develop a set of 12 basic standards which have been a reference point for making a large number of national codes on corporate governance (White paper on Corporate Governance in South East Europe, 2003). Countries such as Denmark, Germany, Ireland, Italy, Latvia, United Kingdom, Portugal, Sweden were concerned themselves with reviewing corporate governance codes required by the business environment.

Another milestone in the evolution of corporate governance codes is 2002 when the European Commission claims not to need a European governance code, but an application of the principles of Sarbanes-Oxley Law.

In 2011, the European Commission is drafting the *Green Paper*, which aims to assess the effectiveness of the corporate governance framework of the European Union for European companies, in which corporate governance and corporate social responsibility are keys to building public confidence in the single market (Green Paper - The UE corporate governance framework, 2011). According to the *Green Paper*, the three central issues to good governance are: Board of Directors, the shareholders and the principle of “comply or explain”.

In Europe, policies and legislation take into account not only the interests of shareholders, but also other categories of interest groups, namely: employees, creditors, local community and civic organizations (Ghiță, Popescu & Croitoru, 2009, p. 14).

The Continental-European corporate governance model (German) is a model oriented towards banking market because banks are involved in corporate governance, through which the investments are financed. The German model is a model based on dual governance system led by two councils. Unlike the Anglo-Saxon model, the German model has a clear separation between the executive posts and non-executive posts, so the Board of Directors (Council of execution) is a deciding factor, enjoying the freedom to lead their company, but accountable to the supervisory board (Administrative Board) of how to use this authority. Board of Directors duties are set by the Administrative Board. There is also the possibility that employee representatives may be elected to the Board of Directors.

Not in all European countries there are two councils, for example, Sweden adopts single system, dual system operates in the Netherlands and Italy, because most large companies are family businesses, adopt single council model.

Also this model has advantages and disadvantages. The advantage of this model is the orientation of shareholders towards long-term strategies which strengthens business stability, and the disadvantage is rigidity about the stagnation of some inefficient sectors of the business.

Manner of implementation of concept of corporate governance is captured in *Figure 1*. This diagram illustrates the internal and external mechanisms which make up the efficient framework of corporate governance adopted by the World Bank.

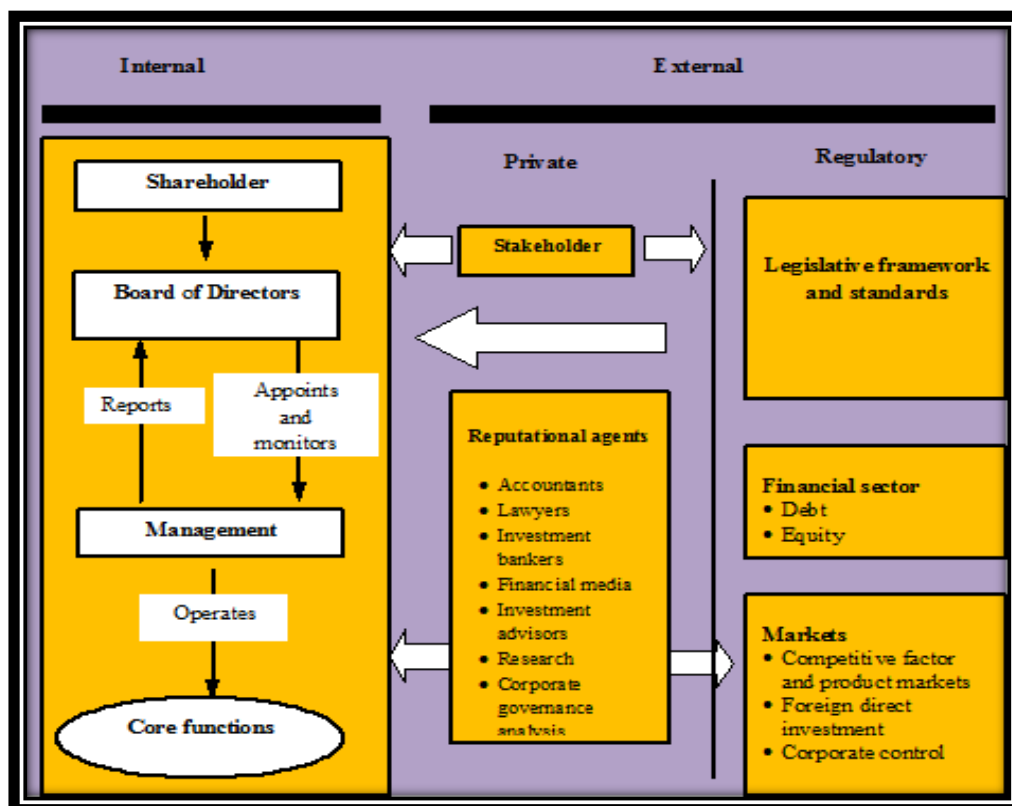


Figure 1. The scheme of an effective system of corporate governance

Source: (Shkolnikov, & Wilson, 2009, p. 17)

The traditional structure of corporate governance shown in the left side of Figure 1 deals with conventional issues: relationship between shareholders, between shareholders and Board of Directors, the relationship between council and managers, procedures on board composition, operational management etc. All these different parts important by their nature constitute the internal function - management of the company.

Corporate governance ensures to administrators the existence of the necessary tools to ensure efficiency, accountability and healthy decisions. Reporting requirements need improved accounting procedures and internal control systems, which, in turn, provide managers and shareholders the tools they need to control income and expenditure. By increasing transparency, quality and regularity of financial reporting, managers can become more responsible for their decisions and performance. Weak performance or activities that redirect resources towards activities unprofitable can be quickly identified and fixed.

Corporate governance is emerging as a solution to the delimitation of relations between managers and shareholders, because the interests of both parties are often different, shareholders seeking profits and high dividends and strict control over the managers decisions, while managers want a higher power for a decision and negotiation, salary and other financial benefits (Tabără, & Ungureanu, 2011, p. 39).

Increased accountability of managers, highlighted by the remuneration and their loyalty, points to a series of strategic decisions that affect both performance and risk assumed. These remunerations reveal an increased interest in the decision-making process, exerting a positive influence on activities in enterprises. Thus, in recent years, it can be seen how markets, shareholders and regulatory authorities have a strong interest in control instruments on the corporative performance, reinforcing the need for specialized management and institutions that ensure managers existence of a type of training and information in support the opportunities in relational process.

For developing countries, very important is the right side of figure, which captures the external mechanisms that help to completion of the corporate governance framework. Broadly, both the private and public sectors make up the institutional framework for implementation of corporate governance.

Regulation and implementation of corporate governance is based on the main characteristics: transparency, fairness and accountability. If there is a proper functioning, the benefits will have a long term impact, increasing investor confidence and risk-taking.

III. Japanese Corporate Governance Model is distinguished by the active role of state in strategic planning of enterprises. The model is stakeholder type, which also includes interested parties. Human capital is major in this model, employees being very important, because after graduation they are employed in such a company, and discontinuation of the collaboration is done upon retirement. Even if Japanese law claims that shareholders are owners of businesses, employees are those who own the enterprises, because they operate in the interests of employees and not for shareholders.

The advantages of this model are: business flexible financing and effective communication among banks and companies.

After analyzing the three models, we notice similarities and differences due to the circumstances regarding cultural differences that influence a country's policy, financial reporting models and accounting and legislative harmonization. In Romania, at present, companies apply a general corporate governance model based on the internal control of employees and of management.

In conclusion, the purpose of corporate governance is to ensure investor confidence so that financial decisions respect the principles of efficiency, accountability, transparency, ethics and equity (Onofrei, 2009, p. 70).

2.3. Corporate Governance in Romania

Worldwide, the evolution of corporate governance was marked by the emergence and development of codes and specific principles. A total of 70 countries have come to publish corporate governance codes, as specified the European Institute. However, few of these have marked the history of this concept and influenced the development of a code of governance also in Romania.

Internationally, OECD is the organization that adopted in 1999 *five principles of corporate governance* which were imposed as a reference worldwide and have been inspiration to develop codes for the Member States and other countries. These are (Grosu, 2011, p. 252):

1. The right of shareholders and their key functions;
2. Equitable Treatment of Shareholders;
3. The role of stakeholders in corporate governance;
4. Transparency and dissemination of information;
5. Liability of the Board of Directors.

Thus, the remarks regarding governance of companies in Romania they were inspired by the OECD principles, in particular those relating to *modeling of management structure (Board of Directors and the management) to the needs of dualist system* (characterized by a clear separation between the Executive and the Board of Directors/Supervisory Board). Therefore, Law no. 31/1990 on commercial companies - updated and consolidated in 2015, establishes the distinction between executive management positions and non-executive, establishes the framework of management responsibility, the criteria defining independence and role of the Board of Directors and the management, the relationship between them, as well the relationship between these and investors-shareholders.

Subsequently, the adoption in US of the Sarbanes-Oxley Federal Law in 2002 had the role of strengthen the management of enterprises and restore investors confidence in the financial statements presented by the management of companies owned. The Act was sponsored by the US Senator Paul Sarbanes and Michael Oxley.

The Sarbanes-Oxley Law was approved in response to a large number of accounting scandals involving prominent corporations and companies in the US. These scandals have resulted in loss of public trust in accounting practices and situations reported. In these circumstances, the law sets new standards or higher for all the structures of a public interest company and for the management. It contains 11 titles and sections, spanning from additional responsibilities of management structures to sanctions resulting from its breaches. The implementation of these rules and requirements of the new law is the responsibility of the Security Exchange Commission. But is not observed any influence of this act in the Romanian legislation.

The Order no. 150 of February 11, 2015 on amendment of Accounting Regulations compliant with IFRS applicable to companies whose securities are admitted to trading on a regulated market, are mentioned the following aspects of the corporate governance code applied by these companies, and it recommends:

- Improving the transparency for shareholders, investors and other stakeholders;

- Description of the implementation of corporate governance code recommendations, relevant on topics of utmost importance for shareholders;
- Regular information on their websites with clear data, accurate and complete information needed in order to facilitate access for shareholders, investors and other stakeholders. The information must include company size, company structure or ownership structure or any other relevant characteristics;
- Inclusion of a reference towards site in the directors' report.

If enterprises deviate from the recommendations of the corporate governance code voluntarily applied, they must clearly indicate the recommendations breached, separately for each deviation from an individual recommendation:

- Explain how the company was deviated from a recommendation;
- Describe reasons for deviation;
- Describe how the decision was made to deviate from the recommendation;
- If the deviation is limited in time, explain when the company expects that it will comply with a certain recommendation;
- Describe the measure taken to comply and explain how the measure achieve the objective underlying the specific recommendation or code as a whole or clarify how they contribute to good corporate governance of the company.

3. Data and Research Methodology

The performance of listed companies is significantly influenced by the form of corporate governance, namely by the ability of decision makers to identify and harmonize the interests of its social partners: shareholders, employees, creditors, suppliers, customers.

Corporate governance code of Bucharest Stock Exchange (BVB) offers flexibility, which is an advantage for the enterprise in terms of freedom to decide for achieve strategic objectives.

According to Order no. 150 of February 11, 2015 on amendment of Accounting Regulations compliant with IFRS applicable to companies with securities admitted to trading on a regulated market, have the obligation to report information about corporate governance in the “Content of management report” in the annual financial statements, information on *performance* business activity, *financial position*, *internal control*, *risk management*, and a reference to the *corporate governance code applied* that must contain:

- Corporate governance practices of the enterprise;
- Explanations of parts of code that do not apply and reasons of disapplication;
- Risk management systems;
- Powers of General Meeting of Shareholders and their rights;
- The structure of the administrative, management and supervisory bodies and their committees.

The website of European Corporate Governance Institute hosts the corporate governance codes of all countries which have them published, including Romania. For our country, it presented the *Corporate Governance Code of the Bucharest Stock Exchange* (first issued in 2000 and updated in 2008), which includes 19 principles.

Governance practices applied by the company must be made public, so that if it deviates from code, it should give explanations of parts of code that do not apply and reasons of disapplication. The issuers who decide to adopt full or partial the recommendations the Code must submit annual to BVB, a statement of compliance /non-compliance called Statement “Comply or Explain”.

Our research aims to concrete issues concerning the drawing up of this statement (Table 2), because the company CNFR X S.A. It has published such a document. This document is the *essence of corporate governance structure* which determines completion of the internal structure of the company, and may be included as a very important *objective* to support all enterprise perspectives, that lead to company's performance.

Table 2. Statement “Comply or Explain” of the leadership S.C. CNFR XSA - Corporate Governance Code of BVB

Principle/ Recommendation		Question	YES	NO	If NOT, then EXPLAIN
P19		The issuer is administered into a dualist system?	YES		
P1	R1	The Issuer has developed a Statute/Regulation of Corporate Governance to describe the main aspects of corporate governance?	YES		
		Statute/Regulation of corporate governance is posted on its website, indicating the date of the last update?		NO	It was not posted on the website for reasons of domestic politics.
	R2	In the Statute/Regulation of corporate governance are defined corporate governance structures, functions, competences and responsibilities of the Board of Directors (BD) and Executive Board (EB)?	YES		
	R3	Issuer's Annual Report provides a chapter on corporate governance which describing all the relevant events related to corporate governance, recorded during the previous financial year?	YES		
		The issuer disseminates information on its website about the following issues regarding of its corporate governance policy: a) Description of its corporate governance structures?		NO	Corporate governance policy is part of confidential elements.
		b) Articles of Incorporation updated?	YES		
	c) Internal rules of operation/its essential aspects for each commission /committee specialty?		NO	Corporate governance policy is part of confidential elements.	

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Principle/ Recommendation		Question	YES	NO	If NOT, then EXPLAIN
		d) Statement “Comply or Explain”?		NO	Corporate governance policy is part of confidential elements.
		e) members list of BD mentioning which members are independent and/or non-executive directors in the EB and committees/commissions specialized?	YES		
		f) a brief version of CV for each member of BD and EB?	YES		
P2		The issuer respects the rights of holders of financial instruments issued by it, providing them fair treatment and subjecting for approval any modification of conferred rights, in special meetings of their respective owners?	YES		
P3	R4	The issuer publish in a special section of its website the details of the General Meeting of Shareholders (GMS): a) the convener GMS?	YES		
		b) materials/documents related to the agenda and any other information relating to items on the agenda?	YES		
		c) special proxy forms?	YES		
	R6	The issuer has prepared and proposed to GMS procedures for orderly and efficient conduct of GMS, without prejudice to right of any shareholder to express their opinion on the matters under discussion?	YES		
	R8	The issuer disseminates in a special section of its website the shareholder rights, and the rules and procedures for participation in GMS?	YES		
		The issuer provide information in time (immediately after the GMS) to all shareholders through the special section of its website: a) concerning the decisions taken at the GMS?	YES		
		b) concerning the detailed result of voting?	YES		
		The issuer disseminates through a special section of its web page, easily identifiable and accessible: a) current reports/communications?	YES		
		b) financial calendar, annual reports, biannual and quarterly?	YES		
	R9	In the company of issuer there is a specialized department or person dedicated to investor relations?	YES		

Principle/ Recommendation		Question	YES	NO	If NOT, then EXPLAIN
P4, P5	R10	The BD shall meet at least once a trimester to monitor the activity of the issuer?	YES		The Board of Directors meets monthly, analyzes the financial result and approves credit lines up to an amount fixed in GMS.
	R12	The issuer has a set of rules regarding the behavior and reporting the obligations of trading of the shares or other financial instruments issued by the company (“the company's securities”) made on their account by administrators and other natural persons involved?	YES		
		If a member of BD or EB or another person involved performs its own account a transaction with the company's shares, then transaction is disseminated through its website, according to the applicable rules?	YES		
P6		The structure of the issuer's BD ensures a balance between executive and non-executive members (in particular, independent non-executive directors) so that no one person or a limited group of persons should not dominate, generally, in the decision making of BD?	YES		
P7		The BD structure of the issuer provides a sufficient number of independent members?	YES		
P8	R15	In its activity, the BD has the support of advisory committees/commissions to examine specific topics chosen by it and to advise it on these topics?	YES		
		Advisory committees/commissions submit activity reports of BD on the issues assigned to them?	YES		
	R16	For assessing the independence of its non-executive members, BD use the evaluation criteria set out in Recommendation 16?	YES		
	R17	Members improve their knowledge permanently, through training on corporate governance?	YES		
P9		Election of BD members is based on a transparent procedure (objective criteria regarding personal/ professional qualifications etc.)?	YES		

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Principle/ Recommendation	Question	YES	NO	If NOT, then EXPLAIN	
P10	There is a Nomination Committee within the company?		NO	BD members are named by the GMS, based on the proposals of the consultative commissions based on CVs and results from prior periods. The mandate is annually, with updating at the GMS.	
P11	R21	The BD examine at least once a year the need to establish a remuneration committee / remuneration policy for directors and executive managers?		NO	There are political mandate for one year. Remuneration is determined at GMS meeting.
		Remuneration policy is approved by AGA?	YES		
	R22	There is a Remuneration Committee consists exclusively of non-executive directors?		NO	There is no such committee, because it is not required, remuneration is fixed for one year by the mandate.
	R24	The remuneration policy of the company is presented in the Statute/Regulation of Corporate Governance?		NO	It is intended that this remuneration policy be analyzed, for now remuneration is made in the company on the basis of performance policy.
P12, P13	R25	The issuer disseminates in English the information which is subject to reporting requirements:	YES		
		a) regular information (regular provision of information)?			
		b) continuous information (continuous provision of information)?	YES		
		Issuer prepares and disseminates financial reporting according to IFRS?	YES		
R26	The issuer promote, at least once a year, meetings with financial analysts, brokers, rating agencies and other market specialists, in order to presenting financial elements relevant to the investment decision?	YES			

Principle/ Recommendation		Question	YES	NO	If NOT, then EXPLAIN
	R27	There is in the company an Audit Committee (AC)?	YES		
	R28	The BD or AC regularly examines the efficiency of financial reporting, internal control and risk management system adopted by the company?	YES		
	R29	The AC consists exclusively of non-executive directors and has a sufficient number of independent directors?	YES		
	R30	The AC is meeting at least 2 times a year, meetings dedicated to drafting and dissemination of biannual and annual results to shareholders and the public?	YES		
	R32	The AC makes recommendations to the BD on the selection, appointment and replacement of the financial auditor, and the terms and conditions of its remuneration?	YES		
P14		BD has adopted a procedure to identify and settle any conflict of interest?	YES		
P15	R33	Administrators inform BD about conflicts of interest as they arise and abstain from deliberating and voting on such matters in accordance with the legal provisions?	YES		
P16	R34/ R35	The BD has adopted specific procedures to ensure procedural fairness (criteria for identifying significant transactions, transparency, objectivity, non-competition) in order to identify transactions with parties involved?	YES		
P17	R36	The BD has adopted a procedure for internal circuit and disclosure to third parties of documents and information regarding the issuer, paying particular importance to information that may influence the market price of the securities issued by it?	YES		
P18	R37/ R38	The issuer carries out activities concerning the Environmental and Social Responsibility of the company?	YES		

Source: Statement "Comply or Explain", retrieved from: <http://www.bvb.ro/>

4. Conclusion

From this study are the following conclusions with regard to application or disapplication the 19 principles set out in the Code, so that CNFR X:

- Apply **the principle 19**, under which the company is managed through a **dualist system** consisting of a Board of Directors (BD) formed by 3 members and a Supervisory Board and Executive Board (EB) composed of 8 members. This dualist system has advantages over unitary system of management, it improves the corporate governance based on two management structures, by the fact that the first structure acts as a supervisor and tracks activity as a whole, and the second structure has an executive role being responsible for the daily operations;
- Apply **the principle 1** partially, namely:
 - At recommendations R1 and R2, the issuer has a Corporate Governance Regulation describing the main aspects of corporate governance: company history, structure and duties BD and EB, convocation, organization and attributions GMS, shareholders' rights, transparency, financial reporting, internal control and risk management, transactions with related parties and social responsibility (environmental protection). This regulation is not posted on the company website for reasons of domestic politics.
 - On the recommendation R3 concerning the Annual Report, it contains information of corporate governance about relevant events on: board members, CVs presentation of directors and executive directors, updated Articles of Incorporation, documents posted on the website. Within the same recommendation, documents such as internal rules of operation and the Statement "Comply or Explain" are not made public.
 - Apply **the principle 2**, according to which the company respects the rights of shareholders and ensures them a fair treatment and approve any modification of the rights conferred in shareholders' meetings.
 - Apply **the principle 3**, according to which the company provide relevant information to shareholders and treats them equally, giving them all the information and documents required for participation in GMS in time, through its website. Voting results and memorandum of GMS are posted in good time on the portal or by email. Shareholders and investors can get detailed relationships within a specialized department dedicated to the relationship with shareholders/investors.
 - Apply **the principles 4 and 5**, under which the BD meets monthly, analyzes the financial results and limit the transactions with securities issued by the company for a determined period of time If an administrator or another natural person performs on their own a transaction with the company's shares and control officer was informed, the transaction is publicly disseminated
 - Apply **the principle 6**, based on which the structure of BD ensures a balance without dominance of any group or person, so enable efficiency of decision-making.
 - Apply **the principle 7**, according to which BD has a sufficient number of independent members.

- Apply **the principle 8**, on the recommendation R15 the BD has the support of a committee on the submission by it of an activity report with a theme entrusted by BD. Following the recommendation of R 16, non-executive members provide information on financial activity, in order that the Board of Directors to operate efficiently and non-executive members support the development of strategy and policy proposed by the executive board.

For continuous improvement knowledge of board members, the company offers them trainings on corporate governance.

- Apply **the principle 9**, by which the company uses a transparent procedure on the election of board members, focusing on personal/professional qualifications.
- Do not apply **the principle 10**, because in company does not exist a Nomination Committee to recommend proposals submitted by shareholders, board or executive management, and be able to appoint nomination for the BD. This committee should assist the BD in appointing executive directors. The company considered that is not the case to establish such a committee.
- Do not apply **the principle 11**, because the company does not have in its structure a remuneration committee, the responsibilities of this committee being taken by the BD, which has the political mandate for one year and the remuneration is determined in GMS meeting. Concerning the presentation of remuneration policy in the Regulation of Corporate Governance, the company is still analyzing this issue, for now it adopts the policy of remuneration based on performance and is correlated to the achievement of performance indicators, so this motivates the interests of those with such remuneration
- Apply **the principles 12 and 13**, under which the company performs continuous and regular reports in English and financial reporting according to IFRS; promotes meetings with financial analysts, brokers and other specialists for financial elements relevant in investment decision; develop operating rules of the Audit Committee; Audit Committee shall examine regularly the effectiveness of financial reporting, internal control and risk management system adopted by the company
- Apply **the principle 14**, according to which BD adopts a procedure for identifying and resolving conflicts of interest.
- Apply **the principle 15**, through which the BD ensures avoidance of conflicts of interest with the company or another subsidiary controlled by the company, and if they occur, each board member informs BD about potential conflicts that may occur.
- Apply **the principle 16**, wherein the BD adopt correct identification criteria for transactions with significant impact, for transparency, objectivity, non-competition with the parties involved in transactions.
- Apply **the principle 17**, according to which BD provides complete and accurate information, timely to the public, so as to enable objective decision making on investments; the company constantly updates information for investors on website, and access to information is equal for all shareholders and investors.

- **Apply the principle 18**, according to which social responsibility is the concern of companies to protect the environment and the welfare of society, so that the company complies with ISO 14001/2009 standard on environmental management systems and operates according to Government Ordinance no. 195/2005 on environmental protection and the Danube Commission Recommendations on the prevention of ships pollution, and organization of waste collection from ships sailing on the Danube.

The data analyzed for the preparation of the Statement “Comply or Explain” were drawn from the annual reports of the company CNFR X. On determining the degree of compliance or noncompliance with the recommendations of corporate governance code, we used the non-participating observation method and we took into consideration defining elements of the principles of governance and transparency by the existence of a web page to drafting a Regulation of corporate governance, respecting the rights of shareholders, concern for social responsibility criteria that are applied mostly to 90%.

5. References

- Boța-Avram, C. & Mătiș, D. (2011). Analysis of corporate governance codes of the European Union in terms of contribution of external audit. *The Journal Financial Audit*, Year IX, No. 8, pp. 17 – 26.
- Buglea, A. (2005). *Financial analysis. Concepts and Case Studies*. Timișoara: Publisher Mirton.
- Cuc, S. & Tripa, S. (2006). Corporate governance in the context of globalization. *Annals of University of Oradea - Economics*, TOM XV, Vol. II, p. 436 – 442.
- Feleagă, N.; Feleagă, L.; Dragomir, V.D. & Bigioi, A.D. (2011). Guvernanța corporativă în economiile emergente: cazul României. *The journal Theoretical and Applied Economics*. Bucharest, Vol. XVIII, No. 9(562), pp. 3 – 15.
- Ghiță, M.; Menu, M.; Vilaia, D.; Popescu, M. & Croitoru, I. (2009). *Corporate governance and internal audit*. Chișinău: Publisher Tehnica-Info.
- Ghiță, M. (2008). *Corporate Governance*. Bucharest: Publisher Economică.
- Grosu, M. (2011). Codes and practices of implementation of corporate governance in Romania and results reporting. *European Integration - New Challenges, 7th Edition*, 27-28 May, University of Oradea Publishing House, pp. 251 – 256.
- Onofrei, M. (2009). *Corporate financial governance*. Bucharest: Publisher: Wolters Kluwer.
- Pașcu, A. M. (2011). Role of Internal Audit in optimizing corporate governance. *Economic Sciences Series, Studia Universitatis “Vasile Goldiș” Arad*, Year 21, Part I, Vol. 1, pp. 585 – 592.
- Roman, C.; Roman, A. G. & Boghiu, A. (2012). New governance and globalization. Bucharest: *The journal Theoretical and Applied Economics*, Vol. XIX, No. 1(566), pp. 113 – 126.
- Shkolnikov, A. & Wilson, A. (2009). From Sustainable Companies to Sustainable Economies. Corporate Governance as a Transformational Development Tool. *CIPE - Corporate Governance the Intersection of Public and Private Reform*. Retrieved from: http://www.cipe.org/sites/default/files/publication-docs/CG_USAID.pdf., date: 14.01. 2016.
- Sitaru, D. A. (2009). Corporate governance. *Lex et Scientia, International Journal*. Bucharest: Pro Universitaria, No. XVI Vol. 2, pp. 186 – 213.
- Tabără, N. & Ungureanu, M. (2011). Evolution and present concept of corporate governance worldwide and in Romania. *The Journal Public Finance and Accountancy*, Year XXII, No. 3.

Corporate governance in Romania – OECD (2001). Retrieved from: <http://www.oecd.org/daf/ca/corporategovernanceprinciples/2390809.pdf>, date: 24.02.2016.

The Boards of Directors of Listed Companies in France. (1995). Retrieved from: http://www.ecgi.org/codes/documents/vienot1_en.pdf, date: 6.12.2015.

Recommendations of the Committee on corporate governance (1999). Retrieved from: http://www.ecgi.org/codes/documents/vienot2_en.pdf, date: 6.12.2015.

White paper on Corporate Governance in South East Europe (2003). Retrieved from: <http://www.oecd.org>, date: 6.12.2015.

Green Paper – The framework of corporate governance in UE (2011). Retrieved from: http://ec.europa.eu/internal_market/company/docs/modern/com2011-164_ro.pdf, date: 6.12.2015.