



Corporate Governance Current Trends

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Background to the new codes

- Increased public interest in CG
- International corporate scandals
- Sarbanes Oxley Act of 2002 (USA)
- EU interest in CG
 - Winter Report (2002) and Commission's Action Plan
 - Consultations
 - Recommendations
 - Proposal for Directive on Shareholders' rights



New codes and recommendations

- OECD Principles of Corporate Governance, 2004
- Combined Code, 2003 (UK)
- Le gouvernement d'entreprise des sociétés cotées 2003 (F)
- Deutscher Corporate Governance Kodex, 2002
- Greece 2001
- Austrian Code 2002
- Italy 2002
- Sarbanes Oxley Act of 2002 (USA)
- Finland, Recommendation for Listed Companies, 2003
- Netherlands 2003
- Belgian Code 2004
- Iceland, Recommendation 2004
- Swedish Code 2004
- Japan 2004
- Norway 2004
- Spain 2004
- Denmark 2005



Self-regulation or law

- Different approaches
 - Europe: recommendations, self-regulation
 - USA: Sarbanes Oxley Act
- Why self-regulation
 - legislation process not suitable for detailed CG codes
 - participation of business community
 - expertise
 - helps to win acceptance among companies
 - flexibility, possibility to review codes regularly



Self-regulation – problems?

- how to enforce codes
- Finnish solution
 - Recommendation given by major organizations and stock exchange
 - Stock exchange has included the Recommendation in its rules – binding for listed companies
 - Comply or Explain -principle
- credibility – does the code meet today's standards?



Combination of self-regulation and legislation

- different approaches have their advantages and disadvantages
- CG Recommendation, company law and stock exchange rules form the CG system together
 - comparison of different national systems requires knowledge of all these fields



Proposal for Directive on Shareholders' rights

- **Latest consultation deadline in March**
- **General Meeting**
 - Invitation minimum 30 days
 - Two-phase invitation (German system)
 - Invitation by mail
 - Advance information
 - Website
 - Mail voting
 - Electronic voting
 - Shareholders right to ask questions and table resolutions
 - Information after the General Meeting
- **Impact assessment**
 - Strange interpretations
 - "foreign shareholders have paid on overprice of 19.13 %", "359.257 million euro distortion"
 - Gross mistakes



Corporate Social Responsibility issues

- Increasingly important for listed companies
- A separate issue from CG
- codes do not usually include Corporate Social Responsibility issues
- OECD principles include the role of stakeholders



Key issues of new CG codes

- Transparency
- Independence of directors
- Committee work

- Same key issues in Commission's recommendations
 - Remuneration of directors, 2004/913/EC
 - Independence of directors, 2005/162/EC



Transparency

- Investors require information
 - to make decisions concerning investments
 - international trend
- It is not enough that a company operates in an appropriate manner if investors don't know this
- Investors need to receive information on the policies and actions of the company
- Comply or Explain Principle



Transparency issues

- Advance information before AGM
 - nomination of directors
 - nomination of auditors
- Information on directors to be disclosed
 - biographical details
 - independence
 - holdings in the company
 - compensation



Transparency

- Information on managing director to be disclosed
 - also retirement age and pension details
 - period of notice, compensation based on termination of contract
- Compensation system
- Commission's recommendation – wide transparency demands



Website on Internet

- Importance of electronic investor information
- EU emphasis - directive
- All listed companies shall have a website on Internet
 - well structured pages good PR for company
 - all information to be disclosed also on Internet
- Corporate Governance Statement
 - Internet – use of links possible
 - information to be reported to investors




Board of directors

- annual evaluation of its performance
- term of directors one year
- independence of directors
 - Commission's recommendation



Independence of directors

- Combined Code: strong presence of both executive and non-executive directors
 - at least half the board excluding chairperson, non-executive directors, except for smaller companies
 - Finland: majority of directors to be independent of the company and two of them also independent of significant shareholders
 - board shall evaluate the independence of directors and disclose the outcome
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Independence of directors

- Non-independent of the company
 - Employee
 - Past employee (3-5 yrs)
 - Participates in share option scheme
 - Cross-directorship
 - Family ties
 - Some codes: has served many years on the board
- Non-independent of significant shareholders
 - 10 % of all shares
 - Employee of a significant shareholder



Committees

- prepare matters belonging to the board
- board nominates members and chairperson
- Key committees:
 - Nomination committee
 - Compensation committee
 - Audit committee
- Commission's recommendation
- special emphasis on audit committee
 - independent board members
 - New directive



Advantages of the new codes

- Investors receive more information
 - Useful for decisions concerning investments
- Practices of listed companies to be harmonised
- Promotes trust in securities markets
- Transparency of compensation systems – helps to eradicate excessive schemes



Women as Board Members

- Europe's top 200 companies:
 - UK 10 %
 - France 6 %
 - Germany 10 %
 - Belgium 3 %
 - Spain 3 %
 - Denmark 4 %
 - Italy 2 %

- In Sweden almost 17 per cent of company directors are women.
- Finland 17 %
 - Government announced its aim to promote women's board membership in state-owned companies.
 - Financial newspapers and magazines follow the development eagerly



Gender equality and CG codes

- codes don't include gender equality
- 2 exceptions
 - Finnish code of 2003
 - “It is imperative for the board work and its effective functioning that the board is composed of directors with versatile and mutually complementing capabilities and skills. The age mix and the proportion of both sexes can also be taken into account in the composition of the board.”



Gender Equality and CG codes

- Swedish Code of 2004
 - 3.2.2 An equal gender distribution on the board is to be an aim.



Gender equality and legislation

- Board membership
 - Norwegian law: 40 % of board members of listed and state-owned companies shall be women by 2005
 - Sanction: Company dissolution
 - As of 1 January, 2006 for new listed companies
 - By the end of 2007 existing companies must conform
 - Sweden: quotas to be set unless 25 % of board members voluntarily



Gender Equality - CG - EU

- EU is silent
- EWLA wishes to promote equal opportunities of men and women also concerning board membership
 - Draft resolution



Unlisted companies

- OECD, EU, ICC interest
 - No EU recommendations
- Some national codes recommended to be complied also by major unlisted companies
 - No sanctions
- Dutch Recommendation for Family Enterprises (2003)
- The Central Chamber of Commerce of Finland
 - Recommendation 2006



The Central Chamber of Commerce of Finland Recommendation

- Major unlisted companies should implement the code for listed companies
 - Large ownership
 - E.g. state and community owned companies
 - Banks, insurance companies
- Agenda published for promoting good governance of unlisted companies
 - Voluntary "check list" of questions



The Future of CG

- Great interest in EU
 - Commission follows the effect of its recommendations
 - directives to be given?
- EU continues its company law and CG projects
- Women's increased board membership?

