



GRATA
INTERNATIONAL

UPDATED CORPORATE GOVERNANCE CODE

GRATA International Mongolia LLP

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LEGAL ALERT: corporate governance code has been updated

In order to develop corporate governance practice in Mongolia, the Financial Regulatory Commission /the “FRC”/ approved the Corporate Governance Code (hereinafter “the Code”) in 2007 for the first time and revised it later in 2014. Under these Codes, public or joint-stock companies whose shares are freely traded on the Stock Exchange had been undertaken to follow this Code mandatorily, while limited liability companies and other legal entities were recommended to use the Code as optional.

On March 23, 2022, the FRC has re-approved the Code, mandating **insurers, companies which provide non-banking financial trust services and investment managements** to comply with the Code in addition to public companies.

This legal alert will provide brief summary of amended regulations in the Code dated 2022.

Structure

The revised Code is structurally composed of two main parts: an introduction and nine corporate governance principles that will be explained in detail.

Implementation of the Code and its reporting

Depending on the nature, structure, size and stage of development of the company, it is not mandatory to fully implement certain provisions of the Code that are not possible to implement specifically. However, if it has not been implemented, what structural measures have been undertaken to replace it, and if the target has been set, the implementation period should be explained in detail according to the approved form.

The frequency of reporting on the implementation of governance principles shall be at least once a year and shall be introduced in the company's annual activity report (in a separate chapter) and published on the company's website.

Corporate governance principles

Nine basic principles of Corporate Governance are defined and explained in detail in the new Code.

I. The structure and organization of the Board of Directors

The content of this principle includes the concept of “the Board of Directors /the “BoD”/ shall be a visionary, creative and effective structure with appropriate multi-faceted skills, knowledge, experience and independence” and companies will take the following measures within the framework of this principle, including:

Action	Explanation
<i>Approve the operational procedure of the BoD</i>	<ul style="list-style-type: none"> ✓ The functions of the executive management /the “EM”/ should be clearly separated from the functions of the BoD; ✓ Define the rights and responsibilities of the Chairman and members of BoD in detail; and ✓ State that, on what issues and what procedures can members seek external professional advice at the company's cost;
<i>Approve the procedure for nominating member of the BoD and the succession policy related documents</i>	<ul style="list-style-type: none"> ✓ Examine information of nominees for a member of the BoD including ethics, behavior, work experience, professional skills, education, criminal record, and overdue loans determined by the court; ✓ Re-appointment of a Board member shall be taken into account the length of service, the report on the work performance during the previous term of office and the evaluation of the member; ✓ It should be clear how the independence of a candidate for an independent member of the BoD is

	<p>defined;</p> <ul style="list-style-type: none"> ✓ Documents required from the candidate for the BoD are: <ul style="list-style-type: none"> ○ Candidate application ○ In the case of an appointment, a letter stating that he/she has ambition, and potential to devote sufficient time to the performance of the duties. ✓ Each newly appointed member of the BoD will be notified of the salary, bonus, liability insurance and, notification procedure as an independent member, procedure for communicating with company information, and confidentiality obligations in writing form and each member shall sign on it; ✓ Board members shall become familiar with and follow internal policy documents and internal procedures;
<p><i>Reporting about a Board Member</i></p>	<ul style="list-style-type: none"> ✓ The annual report will include the following information for each Board member and will be published on its website: <ul style="list-style-type: none"> ○ Work experience ○ Worked period ○ Independence status ○ Shareholding percentage; and ○ Attendance at the meeting; ✓ Evaluate and report on the performance of Board members, committees and secretaries once a year Evaluation will include: <ul style="list-style-type: none"> ○ Work skills ○ Meeting attendance; and ○ Time, effort and results spent on the company's operations and significant achievement; ✓ The performance evaluation of the Chairman of the BoD shall be carried out by one independent member on the basis of obtaining other members' opinion;
<p><i>Approve the policy document on the structure and composition of the BoD and its standing committees</i></p>	<ul style="list-style-type: none"> ✓ The policy document should include the following information: <ul style="list-style-type: none"> ○ Requirements for the Member's education, qualifications, skills, experience and, gender balance, etc.; ✓ The implementation of the objectives set out in the policy document will be reviewed annually and published on the operational report and website; ✓ The BoD shall strive to have at least 30 percent of the members are of either sex. In addition to the BoD. Further, gender balance should be maintained among the company's executive management and staff; ✓ One of the committees (nomination or remuneration) under the BoD is responsible for defining and implementation of the gender policy;
<p><i>Provide trainings for the Board members</i></p>	<ul style="list-style-type: none"> ✓ Organize orientation training to the members upon their first appointment; ✓ The members shall be provided with a regular training for providing them with the skills, knowledge, and information necessary for performance of their duties;
<p><i>Imposition of the liability to the Secretary of the BoD.</i></p>	<ul style="list-style-type: none"> ✓ The BoD shall decide on the appointment and dismissal of the Secretary; ✓ Duties of the Secretary of BoD;

	<ul style="list-style-type: none"> ○ Provide advice and information to the BoD and its standing committees on governance issues; ○ Monitor the implementation of policy documents and internal regulations of the BoD and its standing committees; and ○ Maintain documents and record minutes of the BoD meeting, organize regular meetings and members training;
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II. Standing committees under the Board of Directors and their functions

The content of this principle includes that “The Board is responsible for carrying out its activities through its standing committees, and be liable at last .” In this context, the company should take the following measures. They are:

Action	Explanation
<i>Keep the Chairman and the majority of BoD independent</i>	<ul style="list-style-type: none"> ✓ The Board shall be chaired by an independent member, as it is intended to direct and oversee the executive, not to be influenced by him/her; ✓ Independent Board members will be able to meet and consult without the involvement of ordinary members or executive management;
<i>Approve the procedure of the Audit committee under the BoD and the audit policy</i>	<ul style="list-style-type: none"> ✓ The Audit Committee shall develop its procedure and have them approved by the Board of Directors; ✓ Effectively organize auditing and ensure the quality of financial reporting; ✓ The Chairman and members of the Audit Committee shall have appropriate knowledge and experience in financial reporting; ✓ The company's operational report and the policies, procedures, composition of the Audit committee, and the frequency of and attendance at meetings shall be announced to the public; ✓ The Chairman of the Audit committee shall not have associated with the company's external auditor and not worked for the last 3 /three/ years; ✓ The company may separate the risk management function from the Auditing committee and establish a separate risk committee under the Board of Directors; ✓ In order to ensure the independence of the Audit committee, Company's executive management should involve employees to the meetings only at the request of the Audit Committee;
<i>Approve a remuneration procedure and policy document.</i>	<ul style="list-style-type: none"> ✓ The Remuneration Committee shall develop remuneration policy of the company's authorized officials and have it approved by the BoD; ✓ The remuneration documents, committee's operational procedure, details of members, and frequency of meetings shall be published in the company's annual report and corporate website;
<i>Approve the operational procedures and succession policy document of the Nomination Committee under the BoD</i>	<ul style="list-style-type: none"> ✓ The Nomination Committee shall develop a succession policy and have it approved by the BoD; ✓ The succession policy documents, committee's operational procedures, and frequency of meetings shall be published on the company's annual report and corporate website; ✓ The Nomination Committee shall be responsible for whether the knowledge, skills, and work experience of authorized officials of the company comply with requirements for such job, determination of independency of the independent members of the BoD, and training and

<p><i>The BoD may establish permanent and temporary committees with other functions.</i></p>	<p>qualification of them.</p> <ul style="list-style-type: none"> ✓ Depending on the nature of company's operations, permanent and temporary committee's such as health, safety, and environmental committees may be established under the BoD. Each committee under the BoD shall have its operating procedure, instruction, and personnel with necessary knowledge, skills, and work experiences; ✓ The procedures, policy documents, information of members, frequency of meetings and attendance of other committees of the BoD shall be published on the annual report and corporate website; ✓ These committees shall report its activities to the BoD at least once a quarter; and ✓ In the event of a proposal to purchase all or more of the company's controlling shares, a temporary committee under the BoD will be established to coordinate the matter;
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III. Reporting and Transparency

The content of this principle includes that "The BoD shall ensure the accuracy, completeness and balance of financial and non-financial reporting and information transparency" and companies shall undertake the following measures within the framework of this principle. They are:

Action	Explanation
<p><i>Approve information transparency and reporting procedure of the Company and oversee their implementation</i></p>	<ul style="list-style-type: none"> ✓ Disseminate information to shareholders and the public in a timely and balanced manner, including factual, positive and negative information; ✓ Publish regular and periodic company reporting procedure on the corporate website; ✓ Responsibilities of company's authorized officials and employees, confidentiality of information, information processing, disclosure, reporting, communication with investors and public, corrective work of errors and discrepancies in securities trading and registration information shall be reflected and regulated under the information transparency and reporting procedure;
<p><i>Publish the governance documents, rules, regulations and instructions on their corporate website.</i></p>	<ul style="list-style-type: none"> ✓ Basic operational information and governance policy documents, internal rules, regulations and instructions will be published on the company's website and updated in a timely manner;
<p><i>Financial and non-financial reporting should be balanced, clear and factual.</i></p>	<ul style="list-style-type: none"> ✓ In addition to environmental, social, and governance factors, the non-financial reports include information on how the company has achieved its strategic goals; ✓ Express the financial statements objectively in the time, content and format specified in the law, and attach a sufficient and complete explanation;

IV. Auditing and control system

The content of this principle includes "The BoD shall ensure the independence and effectiveness of the auditing and control system" and companies shall undertake the following measures within the framework of this principle. They are:

Action	Explanation
<p><i>The operational procedure of the Audit Committee shall include information on external auditor and oversee the implementation of the procedure</i></p>	<ul style="list-style-type: none"> ✓ The Audit Committee's operational procedure shall include criterion for selection of external auditors, potential risks to auditor's independence and its management; ✓ The Audit Committee's operating procedures shall include method, structure and organization of regular information exchange between the Auditing Committee, the executive management and the external auditor; ✓ The Audit Committee shall approve and oversee the

	services provided by the external auditor to the company other than those specified by law;
<i>The external auditor shall attend regular shareholders meeting and provide the shareholders with information on issues related to auditing.</i>	✓ Provide conditions for shareholders to ask questions and get an answer from the external auditor;
<i>Inform the public of information on internal auditing and notify them of any changes from time to time</i>	<ul style="list-style-type: none"> ✓ An internal auditing system will make essential contribution to the company's long-term sustainable growth and development through regularly overseeing the activities of risk management and internal control, and improving the results; and ✓ Head of internal auditing unit shall have appropriate knowledge, skills and experience and shall directly communicate and report to the BoD or relevant standing committees;

V. Risk management

The content of this principle includes “Board of Directors shall organize risk management and compliance control with appropriate and independent way, and oversee their effectiveness on a regular basis” and the companies shall undertake the following measures within the framework of this principle. They are:

Actions	Explanation
<i>The company shall have instruction and structure for the risk management and the BoD shall oversee the results and independent activities related to risk management.</i>	✓ The BoD shall have full understanding about evaluating and management of the potential risks that might occur to the company ;
<i>The Board of Directors shall endeavor to have a risk management committee under its auspices, and shall publish and report activities of that specific committee to the public.</i>	<ul style="list-style-type: none"> ✓ It shall at least 3 members, and chairman and majority of the members shall be independent members. ✓ The BoD shall be undertaken to define the type, amount, and scope of potential risks associated with objective and vision of the company. ✓ The risk management committee shall permanently oversee the actions of company's risk management and evaluate the result of actions related to internal system of management and detection of risk, and present a relevant recommendation to the Board of Directors; ✓ Introduce a relationship in which the executive management regularly provides the Risk Committee with complete information on the risks faced by the company and how they are managed it in order to get instructions and guidance; and ✓ The functions of the Risk Committee may be presented to the Audit Committee, in which case the information on the risk management system, procedure and implementation shall be explained in detail in its operational report and on the website;
<i>Evaluate environmental, social responsibility, health, and safety risks in the company's operations and report it to the public and explain how they are managed.</i>	<ul style="list-style-type: none"> ✓ It's important for shareholders and investors to be fully aware and evaluate these risks because environmental, social responsibility, health and safety risks affect the company's long-term sustainable operation; ✓ A company is not required to submit an independent sustainability report, but if it prepares a sustainability report in accordance with internationally accepted standard, it will meet the requirements of this Code by citing it;
<i>The company should have a structure and instructions for compliance control, and the BoD shall oversee the effectiveness and independence of compliance implementation.</i>	<ul style="list-style-type: none"> ✓ The BoD shall approve instructions for compliance control and annual budget, appointments and directly communicates with human resources; ✓ The BoD and executive management shall provide

	necessary assistance, support and ensure independency of the person who is performing the compliance control function;
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VI. Remuneration of authorized officials

The content of this principle includes “Remuneration and incentives of authorized officials shall be fair and transparent in accordance with the company’s visions and natures.” and the companies shall undertake the following measures within the framework of this principle. They are:

Actions	Explanation
<i>Discuss and approve the amount, form and frequency of granting of remuneration to the members of the BoD at the Shareholders meeting.</i>	<ul style="list-style-type: none"> ✓ In case of provision of remuneration separately for work performed as a member of any committee under the Board of Directors, it shall be clearly reflected in the Shareholders meeting materials; ✓ Clearly reflect the actual remuneration and incentives paid to Board members in the annual report. In addition to the official salary of the Board member, the salary of the work performed as a member of any committee of the Board of Directors or in accordance with other agreements with the company shall be included and disclosed in detail;
<i>A company shall include components of the job and the criteria for evaluating the performance of the work which are the basis for determining the amount of the company’s remuneration in the remuneration policy.</i>	<ul style="list-style-type: none"> ✓ Remuneration policy shall strive to have established amount of remuneration on fair and reasonable grounds and competitive in market according to the activities, size and natures of the company’s activities; ✓ The method of determining remuneration shall be transparent. The BoD may seek the advice of a qualified, independent consultant in determining the remuneration of authorized official of the company. An independent consultant is a person who is independent of the company’s authorized officials and any person whose performance and interests may be affected to some extent by the results of the consulting services; and ✓ It is appropriate to set the amount of remuneration of authorized officials at different rates. The remuneration policy shall reflect the basic principles of determining the remuneration of the executive management, and shall specify if the remuneration of the Board members shall be paid at the same time. Also, the remuneration of the executive management team member shall be aligned with a company’s profit and individual’s performance;
<i>The company’s annual operation report shall include performance criteria for the payment of basic salary, bonus and other incentives to the executive management.</i>	<ul style="list-style-type: none"> ✓ Information on the amount of remuneration paid to executive body shall be disclosed to the shareholders. Summarize the structure of executive management’s remuneration (base salary, short and long-term bonus and incentive, etc.) in the remuneration policy; ✓ All information on long-term reward such as shares and convertible options issued to the company’s authorized officials, and their terms and conditions of the implementation shall be disclosed to the public; ✓ Remuneration of the company’s authorized officials shall be included in the annual report in way that can be compared to the previous year. As well as, reports on the performance and justification of long-term reward and incentives such as shares and convertible options shall be issued annually; ✓ When announcing the executive management’s

	remuneration to the public, it is advisable to obtain his or her consent from time to time, or to specify it in the employment contract;
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VII. Interests of Stakeholders

The content of this principle includes “Respect the interests of the company’s stakeholders” and the companies shall undertake the following measures within the framework of this principle. They are:

Actions	Explanation
<i>The Company shall have a policy document on communication and cooperation with stakeholders</i>	<ul style="list-style-type: none"> ✓ The BoD and the Executive Management shall respect the interests of stakeholders and build a culture of cooperation with them. ✓ Recognize the contribution of stakeholders (employee of the company, creditors, clients, suppliers, local citizens in where the company operates), in order to ensure sustainable growth and form medium and long-term value of the company; ✓ The Board of Directors shall correctly define interests and requirements of stakeholders and balance them appropriately within executive structure which is responsible for Company’s strategy growth;
<i>The company’s annual report shall include information including what issues were addressed chiefly and what strategy were followed and how it was implemented in the course of working with stakeholders.</i>	✓ Introduce international best practices and ensure transparency of non-financial information relevant to stakeholders in order to establish effective communication with them;
<i>Operate company’s website effectively in order to cooperate, exchange information and communicate with stakeholders;</i>	
<i>Have internal procedures for receiving and resolving suggestions, requests and complaints by employees, and for resolving social issues as well as retraining for specialty.</i>	

VIII. Corporate culture

This content of this principle includes “Board members set high standards of business ethics for the company and take the lead as well as to ensure implementation by executive management and employees.” and the companies should take the following measures within the framework of this principle. They are:

Actions	Explanation
<i>The BoD shall approve and inform the code of ethics to the public, and oversee the implementation</i>	<ul style="list-style-type: none"> ✓ A company shall adhere to certain legal, ethical, and professional liability norms and in the course of its operations in order to develop and sustain its value in long term; ✓ A company shall take certain measures to strengthen and secure its business reputation and respect among its clients, suppliers, creditors, employees, auditors, and regulators; ✓ Company’s values and code of ethics shall be approved by the BoD, and shall be introduced and implemented by the executive management. This includes regular in-house capacity building training from the executive management and setting principles and attitudes by example;

	<ul style="list-style-type: none"> ✓ The BoD will periodically review the implementation of the Code of Ethics, identified breaches of ethics, and the process for resolving them, and will make the necessary reform and changes;
<i>Have a “whistleblower” system</i>	<ul style="list-style-type: none"> ✓ The whistleblower shall report any unlawful acts and ethical breaches to the BoD or its standing committees. ✓ Principles of ethics that Company’s authorized officials and employees shall comply with their activities shall be included in Code of ethics; ✓ Establish a system for reporting of the breaches and imposing liabilities, and update it, if necessary; ✓ The BoD shall provide authorized officials and employees with regular trainings on whistleblowing structure and instruction on reporting, receiving and resolving the reports.
<i>Prevention from corruption and official misconduct, as well as the promotion /non-promotion/ of political activities and giving /not giving/ donations shall be regulated in the Code of Ethics.</i>	<ul style="list-style-type: none"> ✓ Improper remuneration or bribe is a crime and is detrimental to the company's reputation, thus, the BoD shall regularly provide trainings to relevant staff to prevent from the corruption; ✓ The BoD shall include certain principles and limitations about donations and support to political parties, movements, organizations and individuals engaged in political activities in its instructions and procedures, and oversee its implementation;

IX. Shareholders’ rights

The content of this principle includes “The Company and the BoD must respect the rights of shareholders and treat them equally and provide full access to information and implementation of their rights” and shall undertake the following measures within the framework of this principle. They are:

Actions	Explanation
<i>The Company will provide information on its operations, financial situation, governance structure and performance results on its website from time to time.</i>	<ul style="list-style-type: none"> ✓ Basic information about the company's operations will be published in a way that investors can get acquainted with at any time, for example, on the company's website; ✓ The following information shall be published on the company's website. They are: <ul style="list-style-type: none"> ○ Information on contact person ○ CV of the Chairman and members of the BoD, as well as the executive management. ○ Charter of the Company ○ Financial statements and annual operational reports for the last 5 years ○ Significant decisions and notifications that have been submitted to and received from securities traders and regulatory authorities. ○ Announcement and decisions of the shareholders meeting; ✓ A calendar for major events, types of securities issued, related rights, historical information on their trading prices, dividend policy and information disseminated, press releases, contact details of a person in charge of media relations and securities registration, etc., must be published on the company's website;
<i>The company shall have a program to communicate with investors and develop an electronic channel to communicate and exchange information with investors.</i>	<ul style="list-style-type: none"> ✓ Have a program to engage with investors to receive their opinions and exchange information by ensuring participation of investors; ✓ Deliver information about your business, governance, financial indicators and perspective to investors and stakeholders;

	<ul style="list-style-type: none"> ✓ Develop and use an electronic information channel to deliver information and communicate it to investors in a convenient and accessible manner;
<p><i>A company shall provide conditions for shareholders to exercise their lawful rights such as attending the shareholders' meeting, making proposals, voting and receiving information during the Shareholders' meeting.</i></p>	<ul style="list-style-type: none"> ✓ Shall approve and follow special procedure for convening the Shareholders meeting; ✓ The Shareholders meeting shall be held at a time and place convenient for the shareholders, the announcement of the meeting shall be delivered in advance and the executive management shall be present at the meeting; ✓ A company shall provide conditions for the shareholders to attend and vote at the Shareholders meeting through electronic by using remote technology; and ✓ Particular attention will be paid to ensuring that foreign and small shareholders have the rights such as to be represented on the BoD, receive information, submit proposals to the Shareholders meeting, vote, and appeal to the courts, etc.;
<p><i>Pay special attention to ensuring that shareholders can exercise their voting rights related to the issues such as company's activities and ownership structure.</i></p>	<ul style="list-style-type: none"> ✓ The BoD shall seek to ensure that the current shareholder's shareholding percent is not reduced when raising new capital. It will also allow shareholders to purchase additional shares in proportion to their shareholdings in the event of additional shares being issued; ✓ If it's decided not to grant proportionally, the report must be submitted to the competent state authority and explanation must be published on a corporate website;
<p><i>Approve a procedure for concluding a conflict of interest transaction and report its implementation to the public.</i></p>	<ul style="list-style-type: none"> ✓ Conflict of interest transactions shall be made only in writing form and prior approval of the transaction shall be obtained. The transaction shall be made at a fair market price, and full information on the transaction shall be published on a website and included in the annual operation report; ✓ It will prevent the sole proprietorship of the supply channel, misappropriation and improper transfer of the company's assets, and the issuance of guarantees and sureties on behalf of the company to the shareholders and their affiliates;

Source:

- ✓ Resolution of the Financial Regulatory Commission №145 (on the "Update the Corporate Governance Code") (March 23, 2022)
- ✓ Resolution of the Financial Regulatory Commission №162 (on the "Update the Corporate Governance Code")(May 07, 2014)

For more information and questions, please contact the GRATA international law firm's Partner V.Bolormaa through her mail address volodya@gratanet.com or phone number +976 70155031.

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