

Corporate Governance: Main Actors and Structure

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Brief Profile of Ms. Tinuade Awe



Tinuade Awe is the Chief Executive Officer of NGX Regulation Limited, which is a subsidiary of the Nigerian Exchange Group Plc. She is a Non-Executive Director of the Central Securities Clearing System Plc (CSCS).

She has an LL.B Degree from the Obafemi Awolowo University, Ile-Ife as well as LL.M Degrees from Harvard Law School and The London School of Economics and Political Science (LSE). She is admitted to both the Nigerian and New York Bars. She is an Associate Member of the Institute of Chartered Secretaries and Administrators of Nigeria (ICSAN) and Institute of Capital Market Registrars (ICMR). She is a Life Member of the Institute of Directors.

She was a member of the Senate's Technical Advisory Committee on the Companies and Allied Matters Act (CAMA) Amendment Bill 2020. She served two terms as member of the Board of Financial Reporting Council of Nigeria (FRC). From 2017 to 2021 she served as the Chair of the FRC Board's Corporate Governance Committee, which had Board level responsibility for overseeing the implementation of the National Code of Corporate Governance. She was also a Trustee of the Nigerian Exchange Limited's Investors' Protection Fund until 2021.

She was recently selected as one of the World Federation of Exchange's Women Leaders for 2021. She is the recipient of The African Legal Awards 2018, General Counsel of the Year; Law Digest Africa Awards, General Counsel of the Year 2018, and Esq. Nigeria Legal Awards, General Counsel of the Year 2017.

Her interests include education, travelling, African art, and gender and development.

Objectives

At the end of this presentation, participants should be able to:

Recognize the key actors in Corporate Governance;

Know the contribution of Corporate Governance main actors towards organizational strategy; and

Know the roles and responsibilities of other stakeholders.

Outline



1

• Introduction

2

• Structure of Corporate Governance

3

• Main Actors and Their Roles

4

• Contribution to Organisational Strategy

5

• Role of Other Stakeholders

6.

• Questions and Answers



INTRODUCTION

What is Corporate Governance?



Corporate Governance is...



Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals. . . . The aim is to align as nearly as possible the interests of individuals, corporations and society.

Sir Adrian Cadbury; Corporate Governance Overview, 1999 [World Bank Report]



Corporate Governance involves a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate Governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.

OECD (2015), G20/OECD Principles of Corporate Governance



Corporate governance has also been more narrowly defined as a system of law and sound approaches by which corporations are directed and controlled focusing on the internal and external corporate structures with the intention of monitoring the actions of management and directors and thereby, mitigating agency risks which may stem from the misdeeds of corporate officers.

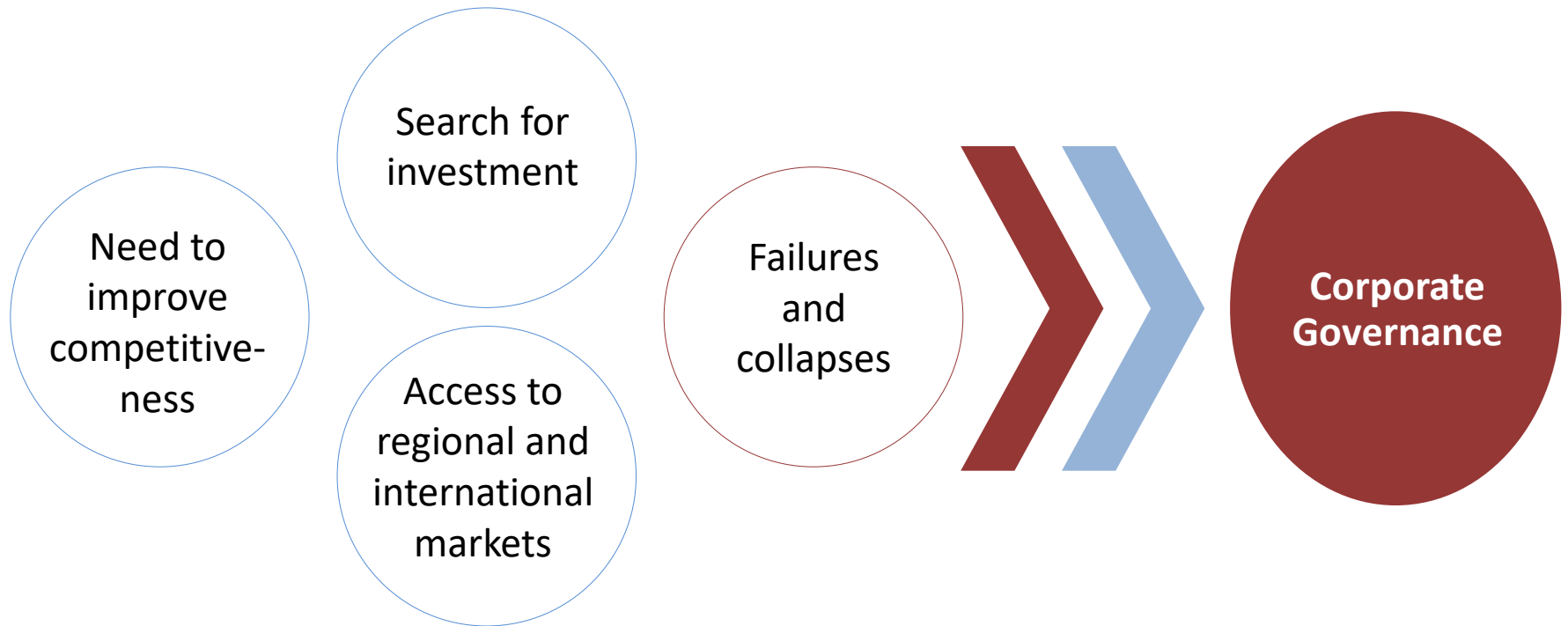
Sifuna, Anazett Pacy (2012). "Disclose or Abstain: The Prohibition of Insider Trading on Trial". Journal of International Banking Law and Regulation. 27 (9).

Corporate Governance is...

Corporate governance is the system of rules, practices, and processes by which a firm is directed and controlled. Corporate governance essentially involves balancing the interests of a company's many stakeholders, such as **shareholders, senior management executives, customers, suppliers, financiers, the government, and the community.**

Investopedia

Drivers of Corporate Governance



The 4Ps of Corporate Governance



PEOPLE

- Shareholders
- Institutional Investors
- Employees
- Regulators
- Government
- General Public
- Auditors



PURPOSE

- Vision
- Mission
- Objectives
- Strategy



PROCESS

- Organizational Structure
- Risk Management
- Internal Control
- Compliance
- Code of Conduct
- Business Ethics



PERFORMANCE

- Stakeholder Satisfaction
- Sustainability
- Social Responsibility

Good Corporate Governance



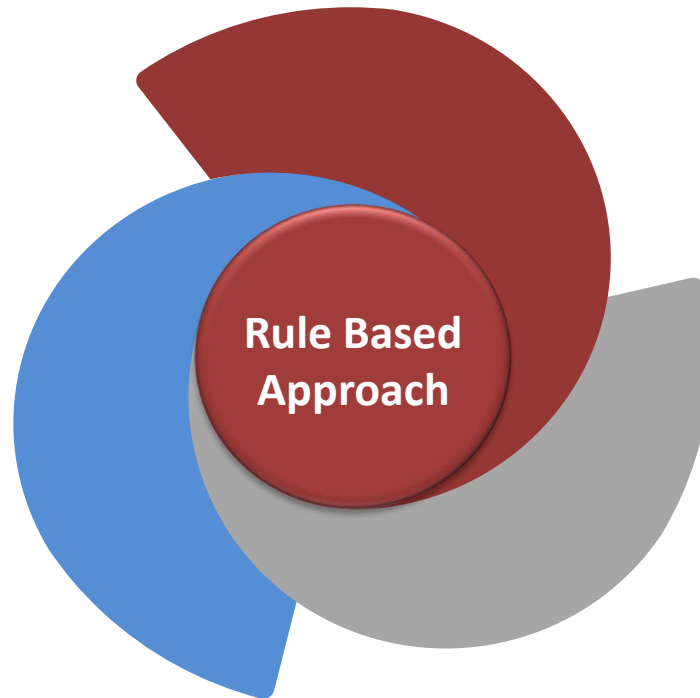
Corporate Governance Approaches



Approach: Rule Based

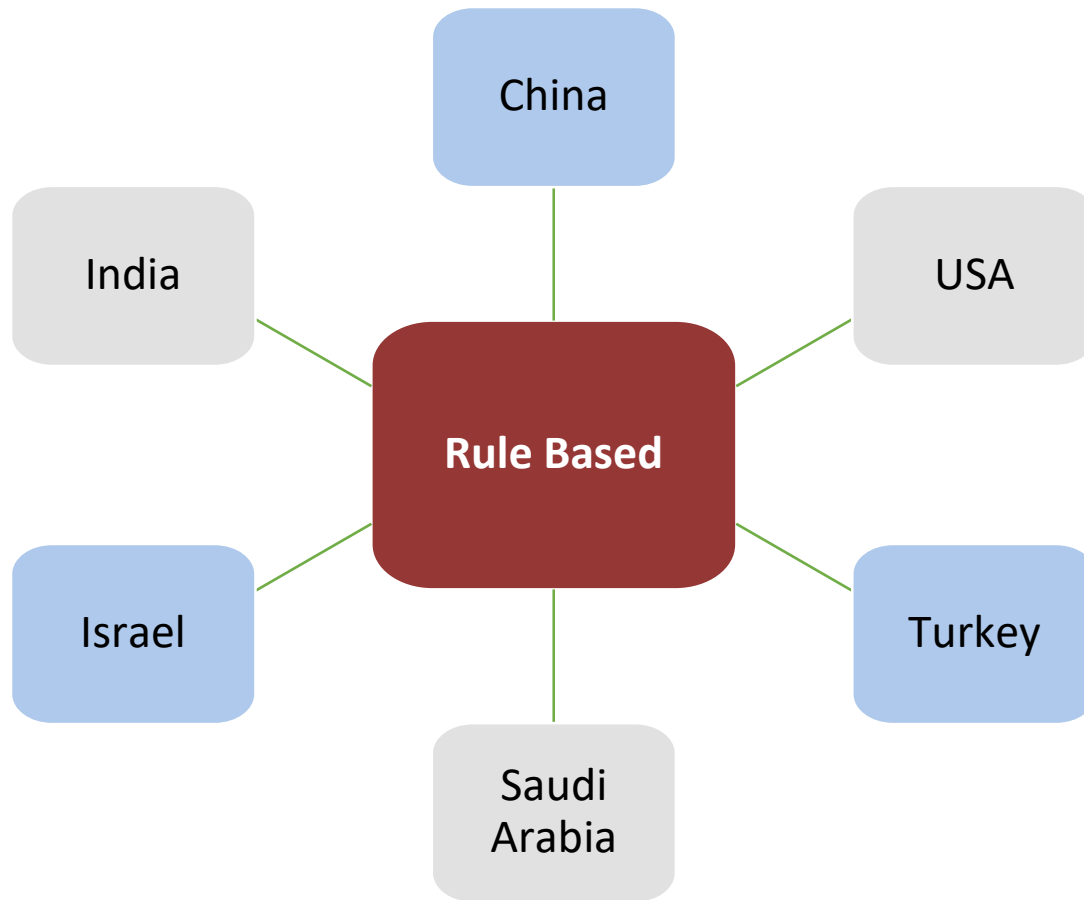
It provides a consistent minimum standard and it is easier to comply.

It incorporates the code into law with appropriate penalties for transgression.

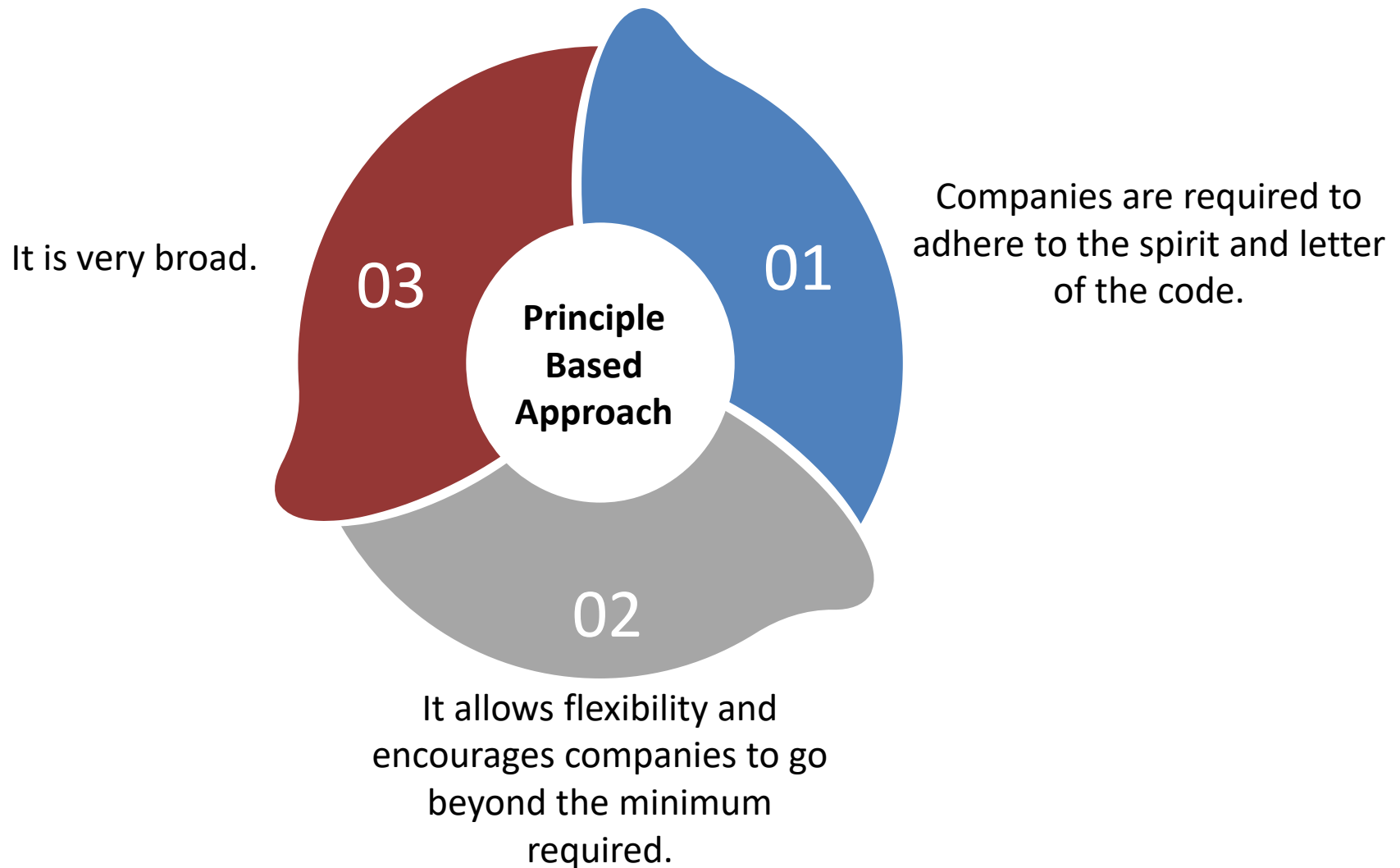


It is not flexible, enforcement can be difficult for situations not covered by the code, and it is expensive.

Rule Based



Approach: Principle Based

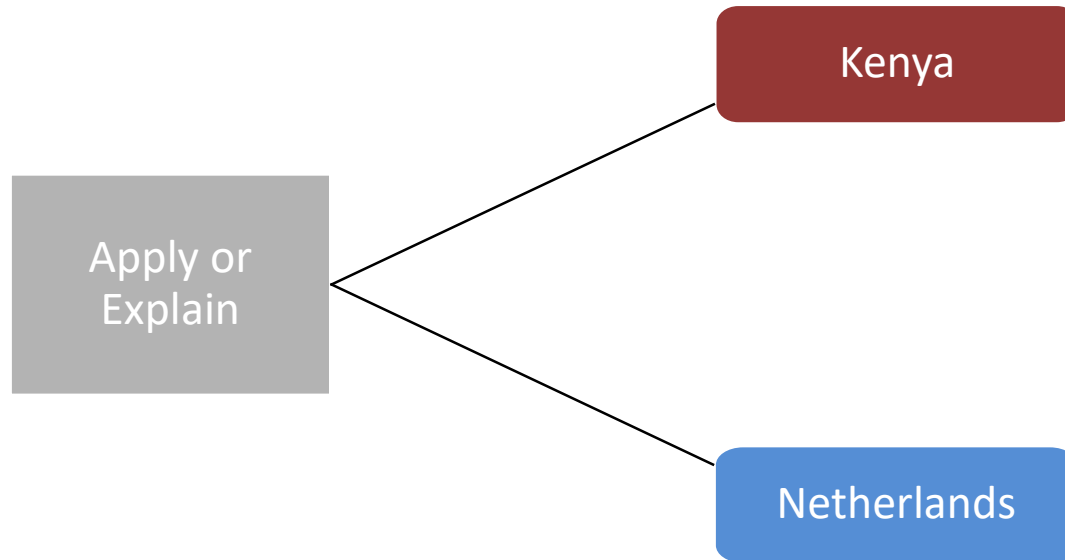


Principle Based: Comply or Explain

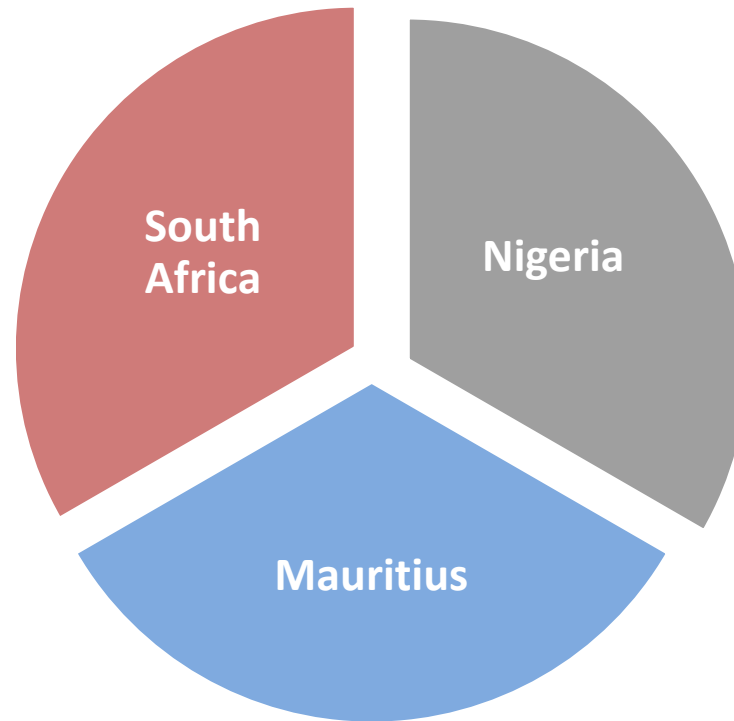
- Argentina
- Australia
- Austria
- Belgium
- Brazil
- Canada
- Chile
- Columbia
- Czech Republic
- Denmark
- Egypt
- Ethiopia
- Estonia
- Finland
- France
- Germany
- Greece
- Hong Kong
- Hungary

- Iceland
- Indonesia
- Italy
- Japan
- Latvia
- Luxemburg
- Malawi
- New Zealand
- Norway
- Poland
- Portugal
- Russia
- Rwanda
- Slovak Republic
- Slovenia
- Spain
- Sweden
- Tanzania
- Turkey
- United Kingdom
- Zambia

Principle Based: Apply or Explain



Principle Based: Apply and Explain



Corporate Governance Across the Globe

G20/OECD
Principles of
Corporate
Governance

Guidance & Good
Practices in Corporate
Governance Disclosure
(UN)

Singapore Code of
Corporate
Governance, 2018

Malaysian Code on
Corporate
Governance, 2017

Code of Corporate
Governance for State
Owned Enterprises in
Egypt, 2015

Code of
Corporate
Governance
for Mauritius,
2016

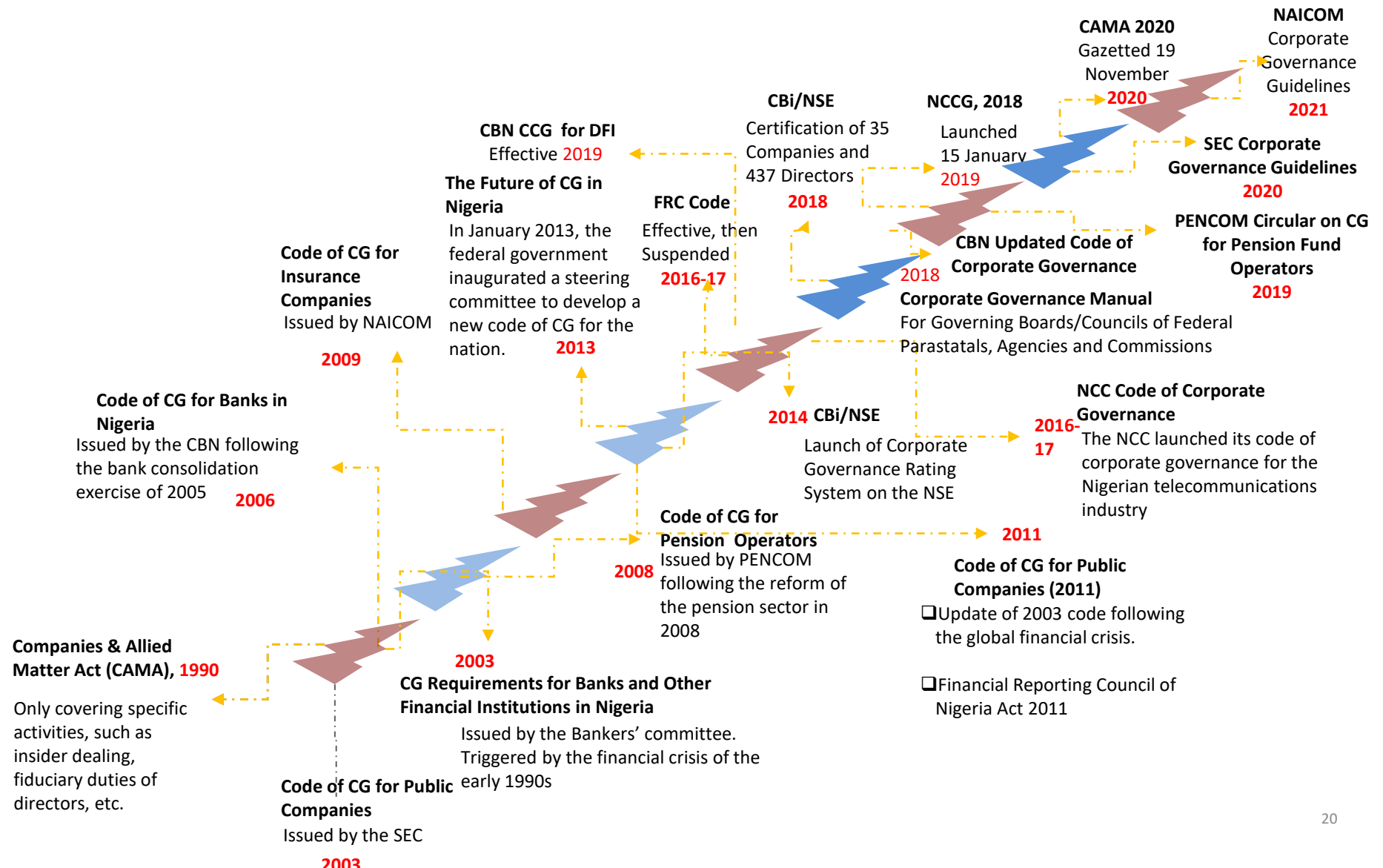
Indian
Companies
Act, 2013

King Reports
(South Africa)

Sarbanes-
Oxley
Act, 2002

European
Corporate
Governance
Network

Corporate Governance in Nigeria



The National Code



Structure of the Code

7 Parts



28 Principles

Corporate
Governance ideals
that companies
should strive to
embed



**247
Recommended
Practices**

Governance best
practices to be
adopted on a
scaled level by
each company
depending on
their growth
trajectory



Why the Code?



Institutionalized
Code of
Corporate
Governance

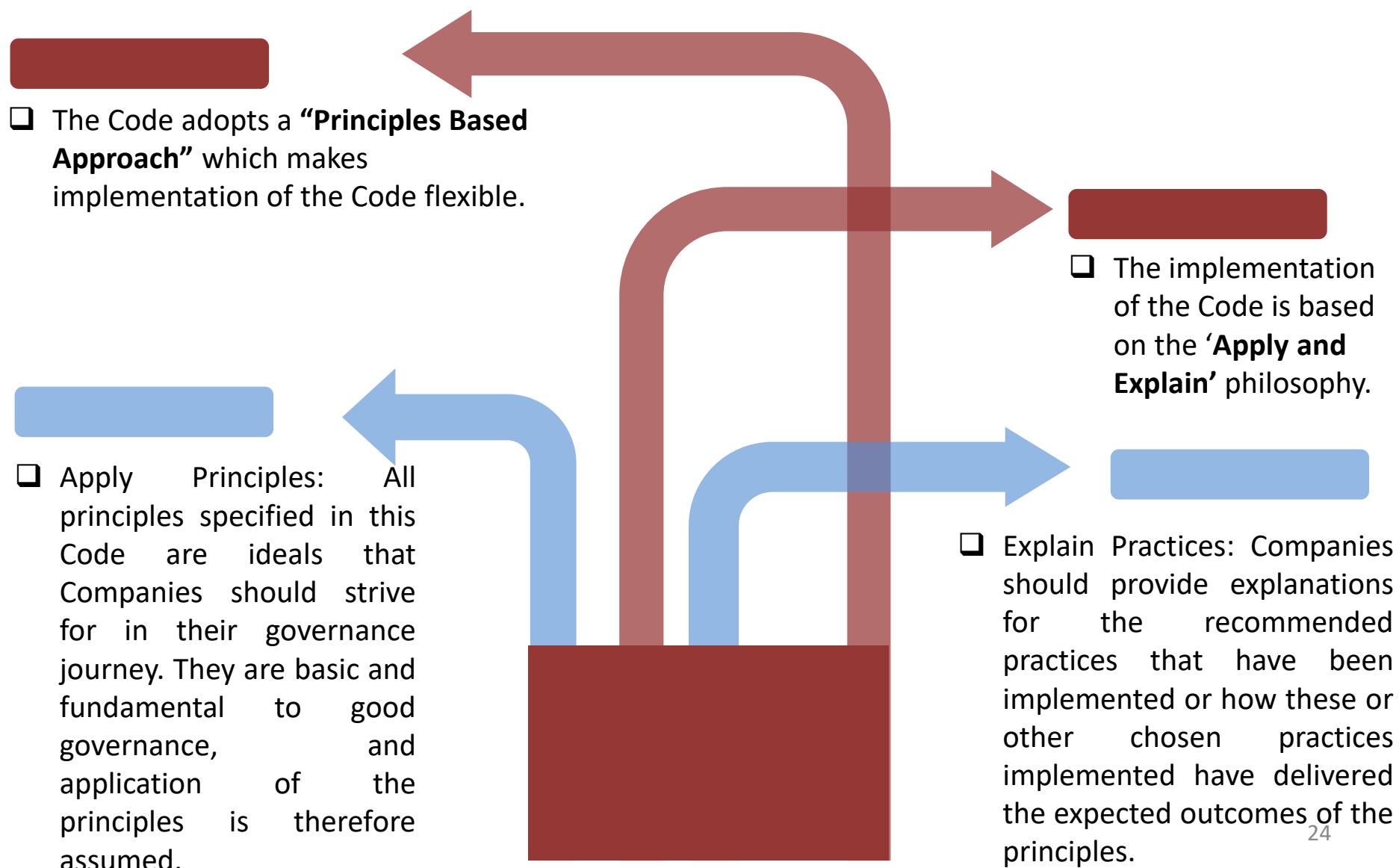


Build public trust
and confidence



Promote public
awareness on
essential
corporate values

Philosophy of the Code

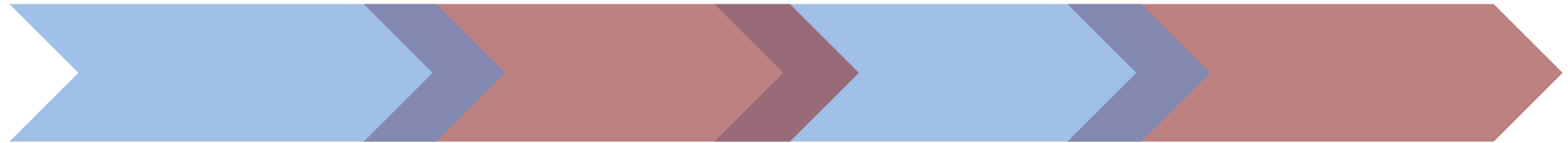
- 
- ❑ The Code adopts a **“Principles Based Approach”** which makes implementation of the Code flexible.

- ❑ The implementation of the Code is based on the **‘Apply and Explain’** philosophy.

- ❑ **Apply Principles:** All principles specified in this Code are ideals that Companies should strive for in their governance journey. They are basic and fundamental to good governance, and application of the principles is therefore assumed.

- ❑ **Explain Practices:** Companies should provide explanations for the recommended practices that have been implemented or how these or other chosen practices implemented have delivered the expected outcomes of the principles.

Scope of Application



All public companies (whether listed or not);

All private companies that are holding companies of public companies or other regulated entities;

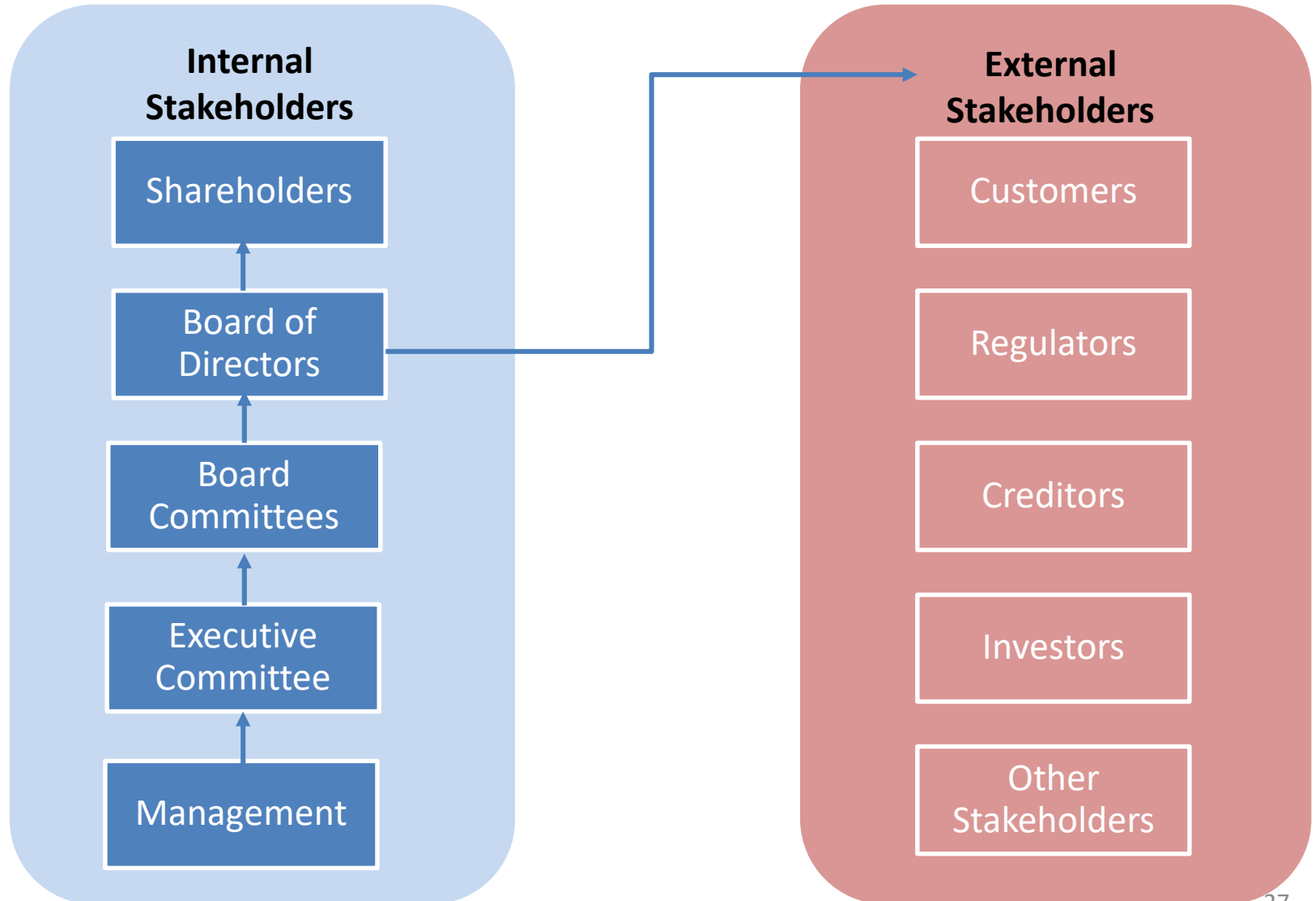
Concessioned or privatized companies; and

All regulated private companies that **file returns to any regulatory authority** other than the FIRS and CAC.



STRUCTURE OF CORPORATE GOVERNANCE

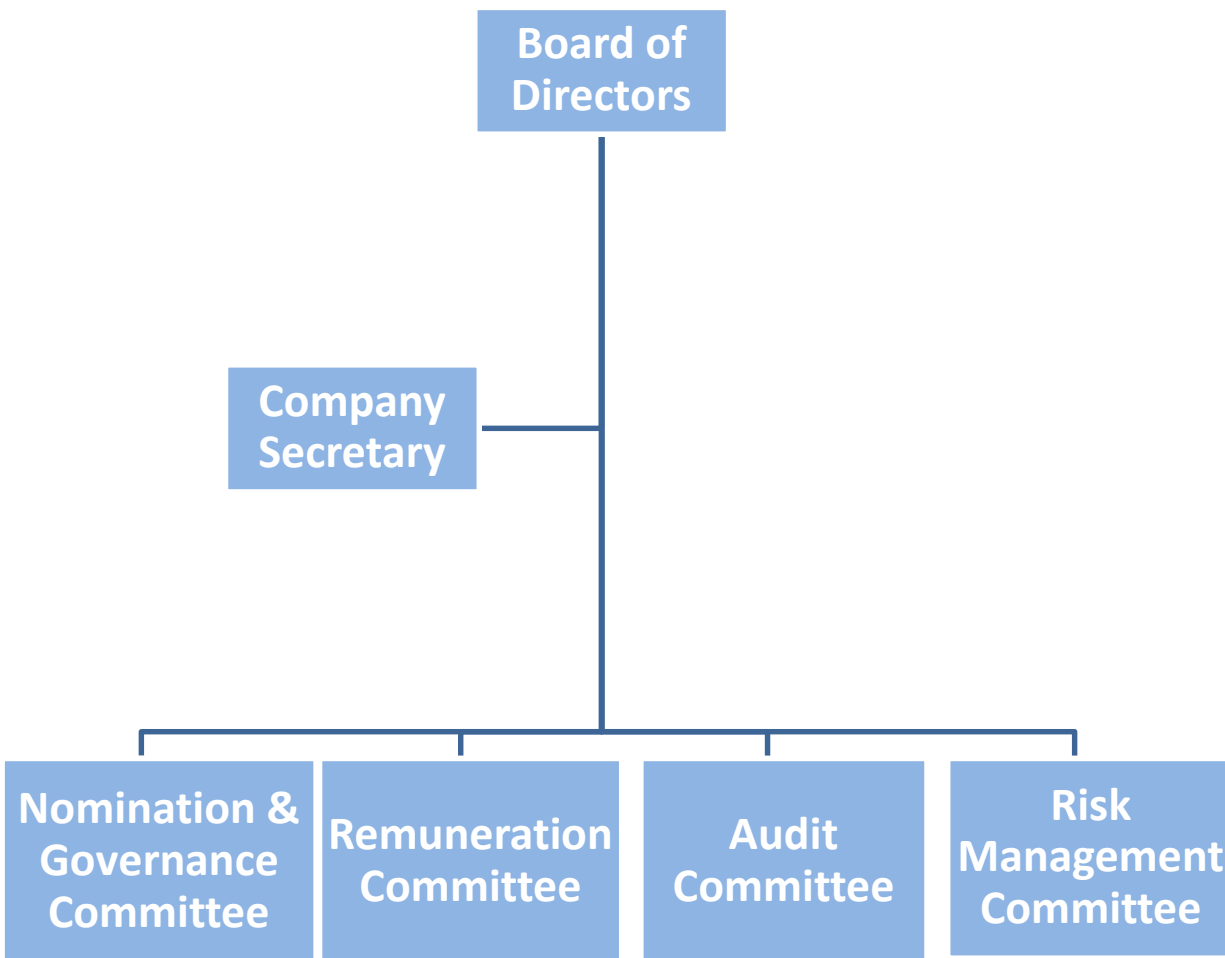
Typical Corporate Governance Structure





MAIN ACTORS AND THEIR ROLES

Board of Directors: Structure and Composition



Composition of Board of Directors

- Chairman
- Managing Director/Chief Executive Officer (MD/CEO)
- Independent Non-Executive Director (INED)
- Non-Executive Director (NED)
- Executive Director (ED)

Role of the Board

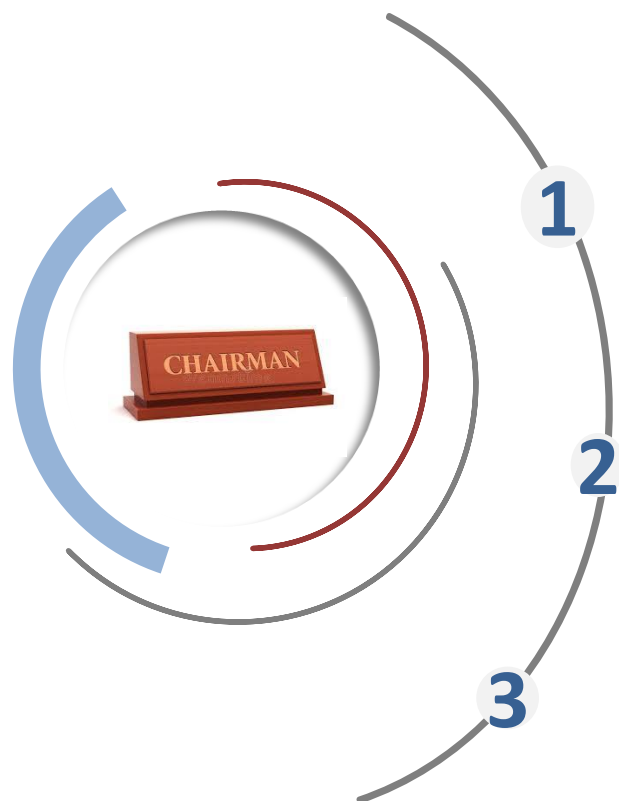
*A **successful** Company is headed by an **effective** Board which is responsible for providing **entrepreneurial** and **strategic leadership** as well as promoting **ethical culture** and **responsible corporate citizenship**. As a link between stakeholders and the Company, the Board is to exercise **oversight** and **control** to ensure that management acts in the **best interest** of the **shareholders** and other **stakeholders** while **sustaining** the **prosperity** of the Company.*

Principle 1: NCCG 2018

Main Actors and their Roles: The Board



Main Actors and Their Roles: Chairman



1 Ensures the effective operation of the Board such that the Board works towards achieving the Company's strategic objectives.

2 Provides overall leadership of the Company and the Board, and elicits the constructive participation of all Directors to facilitate effective direction of the Board.

3 Provides guidance to the MD/CEO and is available to him for regular communication and guidance.

Main Actors and Their Roles: MD/CEO

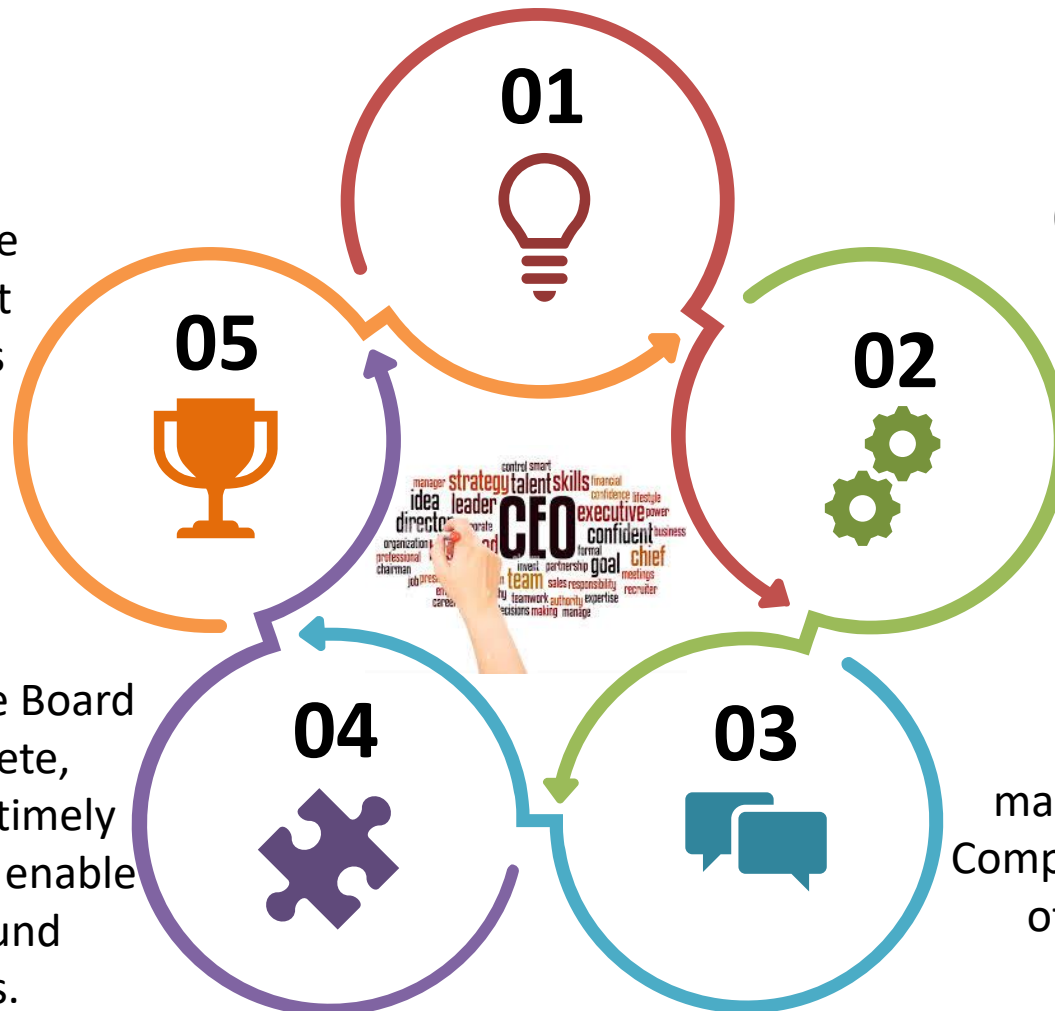
01. Responsible for day to day management of the Company.

02. Proper implementation and achievement of the Company's strategic imperatives to ensure the sustainable development and growth of the Company.

03. Prudent management of the Company's finances and other resources.

04. Provide the Board with complete, accurate and timely information to enable it make sound decisions.

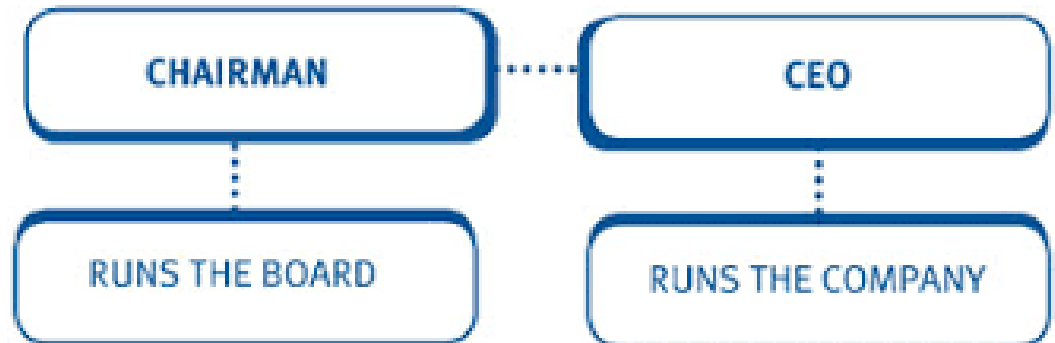
05. Promote and protect Company's interests.



Main Actors and Their Roles: Chairman and MD/CEO

The positions of the Chairman of the Board and the MD/CEO of the Company should be separate such that no person can combine the two positions.

Principle 2.7: NCCG 2018



Main Actors and Their Roles: EDs

1

Support the MD/CEO in the operations and management of the Company.

2

Executive Directors are involved in the day-to-day operations of the Company.

3

Support the MD/CEO in the proper implementation and achievement of the Company's strategic imperatives, as well as prudent management of the Company's finances and other resources.

Main Actors and Their Roles: NED and INED



Not involved in the day-to-day operations of the Company.



Bring to bear their knowledge, expertise and independent judgment on issues of strategy and performance on the Board.



INEDs bring a high degree of objectivity to the Board for sustaining stakeholder trust and confidence.

Main Actors and Their Roles: Board Committees (I)

Nomination and Governance Committee

Nomination

Nominate members for appointment to the Board.



Governance

Exercise oversight over governance matters.

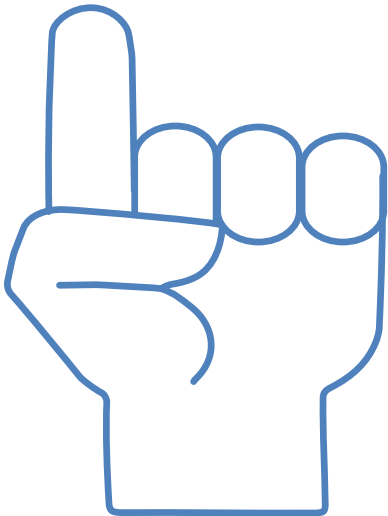


Review

Review the structure, size, composition and commitment of the Board at least annually and make recommendations on any proposed changes to the Board.

Main Actors and Their Roles: Board Committees (II)

Remuneration Committee



Develop a formal, clear and transparent framework for the Company's remuneration policies and procedures.



Recommend to the Board on the Company's remuneration policy and structure for all Directors, executive and senior management employees.



Other governance responsibilities related to remuneration.

Main Actors and Their Roles: Board Committees (III)

Audit Committee

1 Policies

Ascertain whether the Company's accounting and reporting policies are in accordance with legal requirements and agreed ethical practices.

2 Oversight Role

Ascertain the integrity of the Company's financial statements, compliance with all applicable legal and other regulatory requirements.

3 Internal Audit

Authorise the internal auditor to carry out investigations into any activities of the Company which may be of interest or concern to the committee.

4 Assessment

Assess the performance of Company's external and internal audit function; and qualifications and independence of external auditors.

5 Appointment & Remuneration

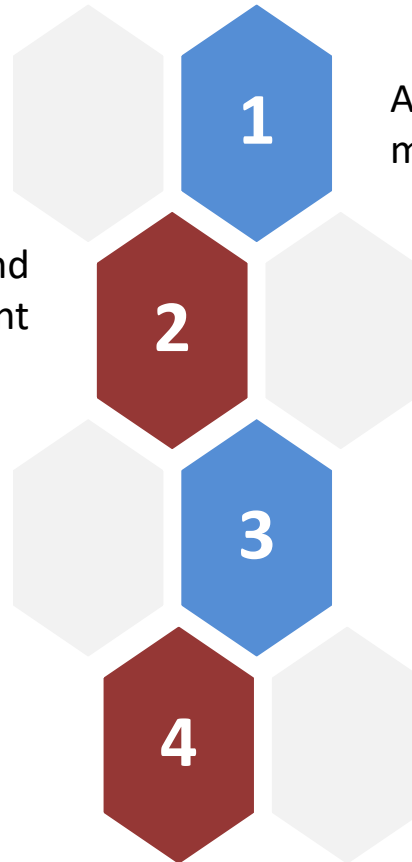
Recommend the appointment, removal and remuneration of the external auditors of the Company.

Main Actors and Their Roles: Board Committees (IV)

Risk Management Committee

Review the adequacy and effectiveness of risk management and controls.

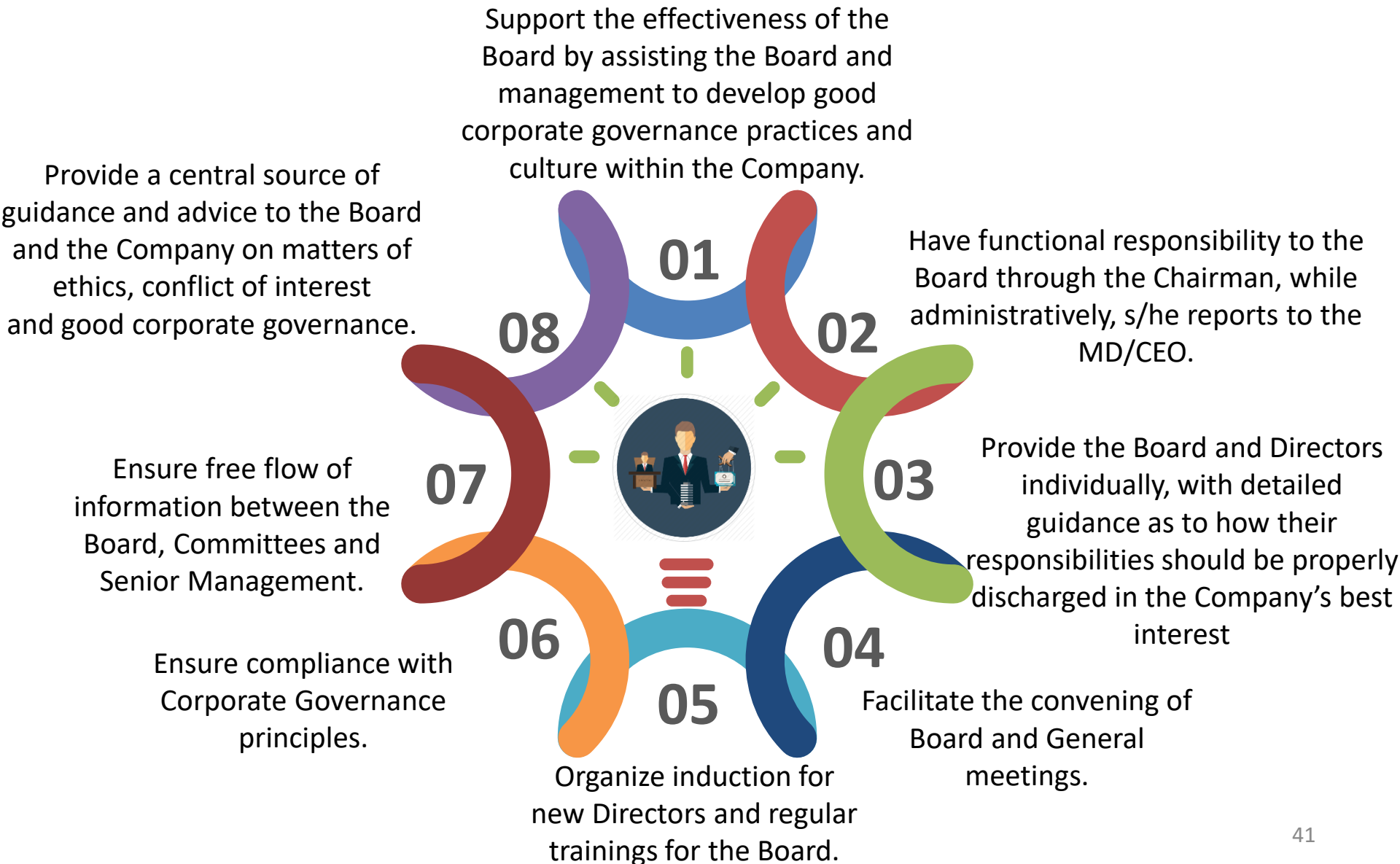
Review changes in the economic and business environment, and other factors relevant to the Company's risk profile and those trends which may threaten the Company's key strategies, future performance, solvency and liquidity and make recommendations to the Board.




Assist the Board in its oversight of risk management strategy.

Review a Company's level of compliance with applicable laws and regulatory requirements which may impact its risk profile.

Main Actors and Their Roles: Company Secretary




Other Stakeholders: Internal Auditor/Risk Management Officer



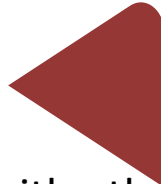
Develop sound framework for managing risk and ensuring an effective internal control system essential for achieving the Company's strategic objectives.

01



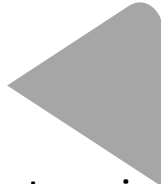
Develop an annual risk-based internal audit plan which should be approved by the committee responsible for audit.

02



Liaise with other internal and external providers of assurance to ensure proper coverage and to minimize duplication of efforts.

03



Conduct periodic evaluations to determine the effectiveness and efficiency of the Company's internal control systems and make recommendations

04

Other Stakeholders: External Auditor



Provide an independent opinion on the true and fair view of the financial statements of the Company to give assurance to stakeholders on the reliability of the financial statements.

Other Governance Requirements



Whistle Blowing

- Develop a framework for reporting any illegal or unethical behaviour.
- Review reported cases and bring them to the notice of the committee responsible for audit.



Communications and Sustainability Function

- Develop, review and implement sustainability Policies.
- Report on the extent of compliance with the policies.



Stakeholder Engagement

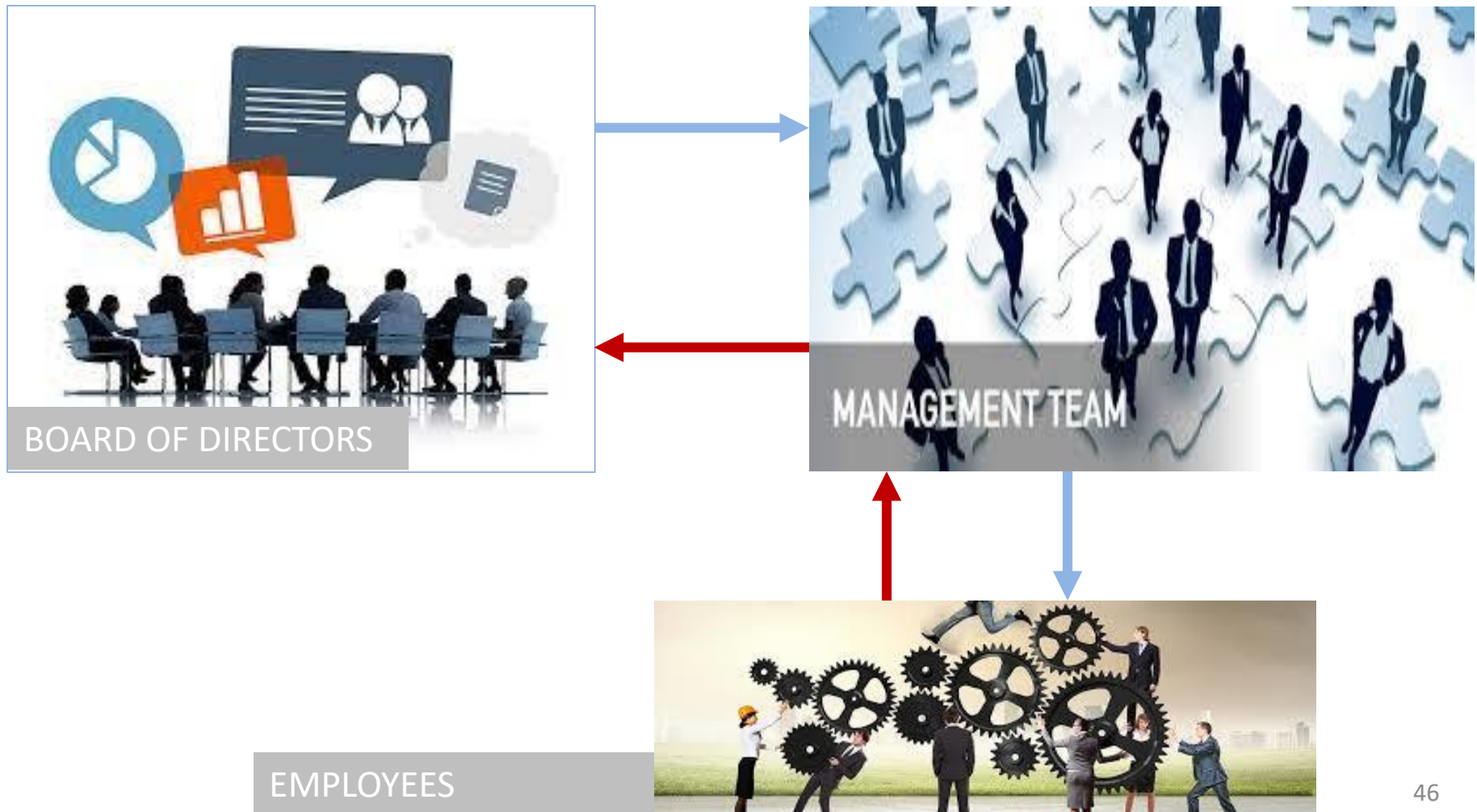
- Develop and implement a stakeholder and communication policy.
- Establish an investors portal on the company's website where relevant information are published.



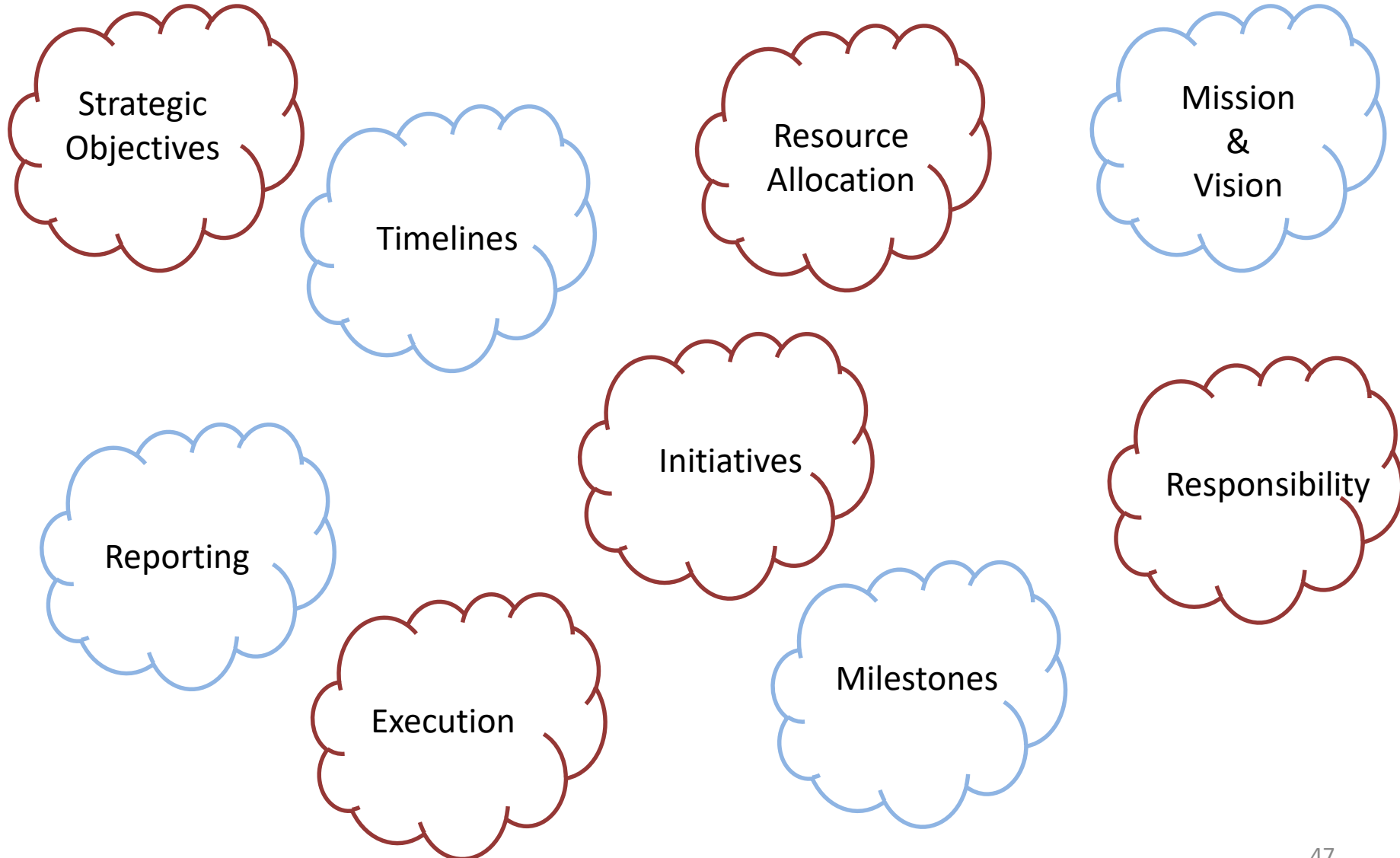
CONTRIBUTION TO ORGANISATIONAL STRATEGY

Contribution to Organisational Strategy

An Organisational Strategy is owned by the Board but implemented by management under the Board's supervision.



Contribution to Organisational Strategy





ROLE OF EXTERNAL STAKEHOLDERS



ROLE OF INVESTORS



Role of Investors



Retail Investor

**Institutional
Investor**



Activist Investors

An activist investor is an investor who uses his or her right to bring change to the company. Such shareholders try to influence the company's policies and decisions.

Motivates management to work hard to boost shareholders' value.

Bring fresh ideas to enhance shareholders value.

Strongly influence management decision.



ROLE OF REGULATORS



Role of Regulators



Set Standards and Guidelines

Ensure compliance





ROLE OF GOVERNMENT



Government's Role

what
do YOU
think?

A 3D rendered graphic of the text "what do YOU think?". The words are arranged in three lines: "what" on the top line, "do YOU" on the middle line, and "think?" on the bottom line. The letters are thick and blocky. The colors are light blue, red, and grey. The word "YOU" is in red, while "what", "do", "think", and the question mark are in light blue. The letters have a slight shadow and are set against a white background.

Government's Role

Investor Confidence

Restore investor confidence through enabling good business environment.

1

Promote Corporate Governance

Prevent Unlawful Practices

Prevent corporate scandals through the development and implementation of laws and regulations.

2

3

Effective Judicial System

For the prompt and final resolution of dispute and clarity of legal interpretation.

4

Others

Carry out other activities necessary to promote corporate governance.

Questions and Answers





For further questions, please contact:

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