

REPORT ON THE OBSERVANCE OF STANDARDS AND CODES (ROSC)

Corporate Governance Country Assessment

SLOVENIA

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This Corporate Governance Assessment was completed as part of the joint World Bank-IMF program of Reports on the Observance of Standards and Codes (ROSC). It benchmarks the country's observance of corporate governance against the OECD Principles of Corporate Governance and is based on a template developed by the World Bank. This assessment was undertaken on the basis of the template prepared by the law firm of Miro Senica in Odvetniki for the World Bank. Acknowledgments are due to the Bank of Slovenia, Securities Market Agency, Ljubljana Stock Exchange, KDD, the Association of Supervisory Board Members, institutional investors, leading capital market issuers and leading local experts on law and economics. Alexander Berg of the Investment Climate Unit of the Private Sector Development Department of the World Bank drafted the final report, with comments received from Sue Rutledge of the Europe and Central Asia Region. The ROSC assessment was cleared for publication by Securities Market Agency on May 12, 2004.

I. EXECUTIVE SUMMARY

This report provides an assessment of the corporate governance policy framework and enforcement and compliance practices in Slovenia. Slovenia has already upgraded its legislation to meet EU Directives, and its legal and regulatory framework dealing with corporate governance issues is now comparable to that of many EU member states. Strengths and weaknesses are highlighted, and policy recommendations are made where appropriate.

The major issues are driven by the continuing transformation of Slovenian companies. Ownership of smaller companies and some blue chips will likely continue to consolidate, as strategic investors and holding companies acquire control and 100 percent ownership; investor protection in these companies will require the diligent enforcement of takeover rules. For the remaining listed companies and others that will continue to have relatively dispersed ownership, related party transaction protection and improved periodic disclosure are important.

The report recommends that policymakers: (1) require a formal approval and disclosure process for related party transactions; (2) consider methods to increase minority representation on boards; (3) require the disclosure of shareholder agreements; (4) require that the SMA review the content of public company disclosure; (5) require an audit committee of the supervisory board for listed companies, and (6) continue to support supervisory board training activities. The report also proposes that institutional investors (including State-owned funds) develop public voting and board representation policies that require board members to act in the best interest of the company (and thus all shareholders and stakeholders).

II. CAPITAL MARKETS AND INSTITUTIONAL FRAMEWORK

Slovenia's development framework and its successful implementation are based on its drive to join the European Union (EU) in May 2004. Slovenia's corporate ownership structure is a legacy of the privatization program of the mid-1990s. As a result, the ownership of large and medium-sized Slovenian companies is often dominated by both insiders (including managers and employees influenced by company managers) and institutional investors created during the privatization program. The latter include the State-owned pension fund KAD and restitution fund SOD, and the successor funds to the privatization investment funds (PIDs). The PIDs are now transforming and dividing their portfolios between closed-end investment funds (which will keep the liquid, listed portion of the portfolio) and "financial holding companies" (which will keep shares in the relatively illiquid and small companies).¹ At the end of October 2003, there were 24 remaining PIDs (10.7 percent of total share capitalization) and six closed-end investment funds (8.2 percent). All PIDs must complete their transformation by the end of 2003. Open-ended mutual funds and pension funds also play an important role, having grown rapidly over the past five years. Strategic and foreign investors play a minor role relative to other transition and emerging market countries; 5.9 percent of market capitalization was held by foreigners at the end of October 2003.²

While ownership is concentrated (for example, the five largest shareholders controlled 66.2 percent of shares of an average listed company at year-end 2001), the largest shareholder can rarely establish effective corporate control.³ This balance of power among shareholders has led many to believe that effective control of many Slovenian firms is held by managers rather than major shareholders.

¹ The PIDs also had the option of transforming into mutual funds.

² By comparison, 72 percent of Hungarian market capitalization was held by foreigners at the end of 2001.

³ Source: IMAD.

The Ljubljana Stock Exchange (LJSE) was founded in 1989. The equity market is divided into two tiers: the Official (or Listed) Market and Free Market.⁴ 32 companies were listed on the Official Market and 98 (including 30 closed-end investment funds) were listed on the Free Market on October 31, 2003. Market capitalization of all quoted shares (excluding the closed end funds) was USD 5.9 billion, or 22.9 percent of GDP. The ten largest companies account for about 60 percent of the total. No Slovenian firms are listed abroad or have issued ADRs or GDRs.

Ownership is consolidating, and the number of listed companies is declining; 114 issues have been delisted since 1998, including 18 on the Official Market. In 2002, about 40 issues were removed from the Free Market, largely based on delisting resolutions passed by shareholder meetings. Many small companies have delisted, because majority shareholders have bought out minority shareholders and transformed their firms into non-public legal forms. Several large, listed companies have been delisted due to takeovers. As of June 30, 2003, there were about 955,000 shareholders, and shareholder consolidation has caused that figure to decline at a rate of about 100,000 per year.

Slovenia's company law is based on German legislation. The corporate governance framework has undergone recent, major revisions as part of EU harmonization efforts. The Companies Act has general rules on all forms of business associations/company forms and sets the rules that apply to them. The most widely used and modern company forms are the limited liability company ("*d.o.o.*"), selected by most Slovenian companies, and joint stock company ("*d.d.*"). Only a joint stock company may issue shares, and thus be listed at the stock exchange. A firm that has issued all or part of its shares on the basis of a public call for subscription of shares (including all companies that underwent privatization) are defined as "public," and are listed.⁵

Other key laws affecting listed companies include the Securities Market Act (revised 1999), the Mergers and Acquisitions Act (1997), the Dematerialized Securities Market Act (1997), and the new Investment Funds Act (2002). The Securities Market Agency (SMA) is the capital market regulator. It licenses new issues of securities, licenses and supervises the activities of securities intermediaries (including the LJSE, the Central Securities Clearing Corporation (KDD), securities brokers and other investment service providers, custodians, investment funds, asset management companies, and mutual pension funds), enforces stock exchange disclosure requirements and insider trading laws, and oversees takeovers. As an independent agency, SMA may issue legally binding regulations. SMA is fully funded by market participant fees, and has a 2003 budget of SIT 585 million.

SMA's staff of 37 (up from 29 in late 2000) are paid according to civil service salary scales. The SMA has relatively strong authority over supervised and licensed entities (brokers), but limited authority over securities issuers, and has no general duty to protect shareholder rights. Also, SMA staff have no specific legal protection against personal lawsuits for their professional activities, even when conducted conscientiously and in good faith.

Companies file fundamental documents (including company charters) in the Court Register, which is maintained by the Supreme Court and is open to the public.⁶ These include foundation

⁴ Official and Free Market issues have similar disclosure requirements (except no semi-annual report is required for Free Market companies). Listed issues must have more than 25 percent free float and 150 shareholders.

⁵ At the end of June 2003, 880 joint stock companies were registered at KDD, representing almost all joint stock companies. About 40 companies are allowed to keep their own register, because they did not go through privatization and obtained a court order allowing them to do so early in the process.

⁶ Some information is available electronically by subscription, but company charters and other documents must be obtained from one of 11 district courts. The costs are low, depending on the complexity of the request.

documents, articles of association,⁷ contracts/agreements with board members, trade licenses, certain Annual General Meeting (AGM) minutes, financial statements and annual reports.⁸

Stakeholders interested in improving corporate governance standards, led by the LJSE, have drafted (but not yet finalized) a Corporate Governance Code that lays out best practice recommendations. LJSE listing rules will require companies with securities listed on the Official Market to report compliance with the Code on a “comply or explain” basis.

III. REVIEW OF CORPORATE GOVERNANCE PRINCIPLES

This review assesses Slovenia’s compliance with each OECD Principle of Corporate Governance. Policy recommendations may be offered if a Principle is less than fully observed.⁹

Section I: The Rights of Shareholders

Principle 1A: The corporate governance framework should protect shareholders’ rights. Basic shareholder rights include the right to: (1) secure methods of ownership registration; (2) convey or transfer shares; (3) obtain relevant information on the corporation on a timely and regular basis; (4) participate and vote in general shareholder meetings; (5) elect members of the board; and (6) share in the profits of the corporation.

Assessment: Largely observed

Description of practice: Basic shareholder rights are fairly well-protected in law and in practice.

Secure methods of ownership registration. The Central Securities Clearing Corporation (KDD) is the central registry, and performs shareholder record keeping for virtually all joint stock companies. Nominee ownership is not a recognized concept, and only shareholders listed in the KDD’s share register have ownership rights. Institutional investor accounts are set up in their own name. “Custodians” appear to provide oversight over the securities account, but are not directly responsible for administration. Bearer shares are permitted by law but rarely used.

Convey or transfer shares. Shares of publicly-traded firms must be freely transferable.¹⁰ Foreign investment restrictions existed in the recent past, but were abolished by August 2003.¹¹ The KDD carries out the clearing and settlement of reported transactions. The clearing and settlement of LJSE-executed transactions is carried out on a delivery-versus-payment (DVP) T+2 basis.¹²

Obtain relevant information on the corporation on a timely and regular basis. Shareholders have the right to obtain complete and accurate information on the company. They have access to company articles at the Court Register, and to annual and semi-annual reports filed by companies traded on the stock exchange. Companies must also disclose material information.

⁷ For simplicity, this report refers to company articles of association and other company documents as “articles.”

⁸ In Slovenia’s two-tier board structure, the management board is typically referred to as the “board of directors.” We use the term “management board” for the benefit of the international reader, to avoid confusion with the supervisory board.

⁹ **Observed** means that all essential criteria are met without significant deficiencies. **Largely observed** means only minor shortcomings are observed, which do not raise questions about the authorities’ ability and intent to achieve full observance in the short term. **Partially observed** means that while the legal and regulatory framework complies with the Principle, practices, and enforcement diverge. **Materially not observed** means that, despite progress, shortcomings are sufficient to raise doubts about the authorities’ ability to achieve observance. **Not observed** means no substantive progress toward observance has been achieved.

¹⁰ The articles of non-listed companies can limit transferability of their shares. If share transfers are subject to company approval, the exact reasons for refusal must be set out in the articles. For an existing JSC, all shareholders must consent to transfer restrictions. According to KDD, 47 non-listed joint stock companies have transfer restrictions.

¹¹ Restrictions were originally imposed in February 1997 in the interest of currency stability. The Bank of Slovenia removed all investment restrictions on foreign portfolio investment on August 19, 2003.

¹² For trades executed on the LJSE, settlement occurs according to DVP Model II (cash settled on net basis, shares settled on gross basis). A guarantee fund is in place to prevent failed trades; it has been tapped 16 times in eight years. Cash settlement uses the RTGS settlement system. Settlement of block trades is agreed between clients. All ISSA recommendations are followed.

Participate and vote in shareholder meetings. Shareholders may attend and vote at the AGM.

Elect members of the board. The AGM appoints the supervisory board by a majority of voting rights present, and that board appoints the management board. Cumulative voting is not allowed.

Share in the profits of the corporation. Shareholders may decide on the use of profits (including dividends) based on a non-binding proposal of the management board. Dividend dates are not set by the general meeting, sometimes leading to minor confusion among investors.

Policy recommendations: Policymakers should consider measures to increase minority shareholder representation on the supervisory board, possibly including (i) allowing or requiring certain companies to introduce cumulative voting,¹³ or (ii) allowing certain thresholds of shareholders to appoint members of the board. General meetings should be required to set a specific ex-dividend date to avoid investor confusion.

Principle IB: Shareholders have the right to participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes, such as: (1) amendments to the governing documents of the company; (2) the authorization of additional shares; and (3) extraordinary transactions that in effect result in the sale of the company.

Assessment: Largely observed

Description of practice: Shareholder meetings have authority over fundamental decisions, including amendment of the company charter, board member appointment, changes in share rights, mergers and takeovers, share buy-backs, and dividend approval. Most AGM resolutions are made by simple majority, but some key decisions require an extraordinary general meeting (EGM) with a supermajority of 75 percent of shareholders present. Shareholders have preemptive rights for capital increases, and the AGM can waive preemptive rights by supermajority vote. Delisting and transformation into a limited liability company require 90 percent supermajorities. Shareholder approval of large, unusual, or related party transactions is not required, although legal experts argue that large transactions would be considered to be a change in core business, which require amendments to the articles and thus supermajority approval.

Policy recommendations: The lack of provisions requiring special approval for related party transactions is a potential weakness in the law. As part of a review of such approvals, policymakers could consider defining “large transactions” in the Company Law, and shareholder approval (with supermajority) could be required for large or large related party transactions.

Principle IC: Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings and should be informed of the rules, including voting procedures that govern them. (1) Shareholders should be furnished with sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be decided at the meeting. (2) Opportunity should be provided for shareholders to ask questions of the board and to place items on the agenda at general meetings, subject to reasonable limitations. (3) Shareholders should be able to vote in person or in absentia, and equal effect should be given to votes whether cast in person or in absentia.

Assessment: Largely observed

Description of practice: AGMs are convened by the management board.¹⁴ Quorum is set by the articles. While there is no legal quorum requirement for first or second meetings, it seems that

¹³ Cumulative voting allows minority shareholders to elect candidates to the board. Suppose a publicly traded company has two shareholders, one with 80 percent of the votes and one with 20 percent, and five directors must be elected. Without cumulative voting, each shareholder must vote separately for each director. The majority shareholder will get all five seats, since he will outvote the minority shareholder each time by 80:20. With cumulative voting, each shareholder gets five votes, and the minority shareholder can decide how to cast each of his votes. The optimal strategy for the latter would be to cast all his votes (5 times 20 percent) for one board member, enabling him to win that seat.

¹⁴ There is no distinction between ordinary and extraordinary meetings under the law. Meetings may also be convened by the supervisory board or shareholder(s) holding at least 5 percent of capital, but they must provide sufficient justification to a court.

this potential weakness is rarely abused in practice. Meeting attendance reportedly averages 60-80 percent for listed firms, but it has been as low as 1 percent for privatization investment funds.

The meeting notice must be published at least 30 days before the AGM and must include the place, time and complete agenda.¹⁵ The agenda must include specific resolutions and the names of nominated board members. Notices must be published in a public daily newspaper, the official gazette, and the LJSE's information system. All shareholders may attend AGMs, vote, request information and explanations and submit proposals. The AGM should take place at company headquarters unless bylaws state otherwise. Shares are not blocked beforehand. Shareholders must register their intent to vote with the company by mail, up to three days before the AGM.¹⁶

Any shareholder can put items onto the agenda, including director nominations, within seven days of the publication of the meeting notice.¹⁷ The new agenda item(s) must be published at company expense within 12 days of the publication of the notice.

Proxy voting is defined in the Mergers and Acquisitions Act. Shareholders may vote at the AGM by written proxy. A supervisory board member cannot be a proxy. By law, proxies need not be notarized, but must be in written form. Detailed rules regulate the large-scale collection of proxies, which occurs often in companies with many employee shareholders. The SMA approves proxy voting forms if they are to be sent to more than 50 shareholders. Some companies mail proxy forms to small shareholders, which effectively results in a postal ballot system. Electronic voting is not allowed. A commercial service provider (Socius) provides shareholder meeting support services, including registration and electronic vote counting, to over 100 companies.

Policy recommendations: Given the lack of a quorum requirement and the low turnout at investment fund shareholder meetings, policymakers (led by the SMA) should carefully review meeting practices to ensure that meeting regulations are adequate for investment funds. Future regulations could include quorum requirements, perhaps combined with mandatory proxy voting by mail. The alternative could be that investment management companies will gain or retain control of their own funds, potentially at the expense of minority investors.

Principle ID: Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed.

Assessment: Largely observed

Description of practice: Slovenia's Company Law supports the principle of "one-share / one-vote." Joint-stock companies can issue both common and preferred shares. Common shares can only have one vote; non-voting and multiple-voting shares are not allowed. Preferred shares are limited to 50 percent of total capital, are non-voting, and can provide special rights to dividends (including cumulative dividends) and liquidation. When the company fails to pay the preferred dividend, preferred shareholders acquire voting rights until priority dividends are paid. Preferred shareholders also have voting rights at AGMs that discuss payment of the preferred dividend. Other shares with varying voting rights (e.g. golden shares) are not recognized under the law. The 2001 amendments to the Company Law abolished voting caps, effective June 2003. The

¹⁵ The issuer shall promptly deliver to the Stock Exchange the following data on its AGM: date, copy of the notice and conditions for attendance, agenda and proposed resolutions, adopted resolutions (on entitlement to dividends and dividend amount and other resolutions), place and time of dividend payout. If the proposed resolutions are not adopted or are amended at the AGM, the issuer shall immediately notify the Stock Exchange of those that were not adopted and of the contents of amended resolutions.

¹⁶ Act on Dematerialized Securities.

¹⁷ In practice, some shareholders submit proposals at the meeting, and many firms allow them to be voted on (contrary to the law). Article 288 governs shareholder proposals and provides for some situations where management need not publish proposals.

incidence of pyramid structures and complicated cross-shareholdings appears to be low.

The Mergers and Acquisitions Act regulates ownership disclosure by shareholders. Within three working days of crossing each threshold, listed joint stock company shareholders must disclose when they acquire 5 percent of voting rights (and each additional 5 percent). The threshold must take into consideration shares held by third parties but under the control of the disclosing shareholder. The issuer must make the information public within three additional working days. However, shareholder agreements need not be disclosed.

Control and ownership are highly transparent in Slovenia because of the policy to make the central share register publicly accessible. The KDD maintains information on the ultimate ownership of joint stock companies, and information in the registry is easily accessible (for a fee) to investors and the public. As a result, the ownership of all Slovene joint stock companies (and the holdings of financial institutions and holding companies) is generally well-understood. This transparency has contributed to the low incidence of such corporate governance abuses as large-scale asset stripping, and other similar problems faced by other transition countries, although the possible use of foreign bank custodians could be used to obfuscate ownership structures.

Policy recommendations: Shareholder agreements should be disclosed as material events and in the annual report.

Principle IE: Markets for corporate control should be allowed to function in an efficient and transparent manner.

Assessment: Largely observed

Description of practice: Slovenia has an active market for corporate control. 49 takeovers took place over the period 1999-2002, including 18 in 2002. Lek *d.d.*, one of the largest companies traded on the stock exchange, was taken over by Novartis in November 2002.

A shareholder (or group of shareholders acting together) whose ownership in a quoted company reaches 25 percent must declare a tender offer to purchase all listed shares. All shareholders of the same class must be treated equally. The threshold is 40 percent for privatization investment funds. The minimum offer price is set out by law.¹⁸

The SMA has oversight over takeovers.¹⁹ The SMA must approve the before it is published. Additional regulatory permissions are required in specific sectors (e.g. insurance, banking). Competition restrictions are regulated and enforced by the Antimonopoly Office. In special situations the SMA may ask an entity to affirm within 24 hours if it intends to make a takeover bid and to publish such statement without delay. Violators can lose voting rights above the 25 percent threshold, or be fined at least SIT 500,000 (USD 2,570) by an administrative judge. However, the SMA cannot require a takeover bid. In 2002, the SMA reported 24 legal violations. These usually related to the definition of “indirect holdings” and the “coordinated action” of several persons, which together hold over 25 percent. Some market participants report that the current definition is too narrow and caused problems in practice, although the law was drafted on the basis of the London City Code. In some cases, potential acquirers have informally “parked” shares with friendly entities, which were later used to try to acquire control.

Successful bidders can “squeeze-out” shareholders when their stake exceeds 95 percent. To

¹⁸ Mergers and Acquisitions Act The offer price may not be lower than the highest price during previous six months.

¹⁹ The SMA carries out supervision by inspecting the KDD share register and ownership reports, but may require additional reports and information.

delist from the exchange, 90 percent of shareholders must vote for a delisting resolution.²⁰ After the resolution passes, a tender offer must be made to all shareholders who did not vote for the resolution. Another 90 percent resolution is required to transform the company into a less-expensive legal entity (limited liability company).

Some observers have argued that the mandatory bid rule should apply to all privatized companies, not only listed companies. This is due to the ongoing consolidation in ownership in these companies, reportedly caused by “quiet” management buy-outs.

Policy recommendations: The Mergers and Acquisitions Act should be updated to remedy any current enforcement weaknesses. Policymakers should carefully review the 25 percent threshold to ensure that it does not appear to be artificially significant (though not controlling) investment and that it is consistent with the level in neighboring countries.²¹ In addition, administrative fines should be increased, to be proportional to the size of the violation.

To consistently address the problem of “management buy-outs,” policymakers should review the coverage of the Mergers and Acquisitions Act to ensure that all firms with many shareholders are appropriately covered, including current “gray market” companies (private companies with traded shares, like NLB and Telekom Slovenia).

Principle IF: Shareholders, including institutional investors, should consider the costs and benefits of exercising their voting rights

Assessment: Largely observed

Description of practice: Corporate governance in Slovenia is dominated by a number of institutional investors (see above), many of whom play an active role at shareholder meetings.

Policy recommendations: The State-owned funds continue to play a key role in the governance of listed firms. The relatively opaque governance of the State-owned funds (KAD and SOD) and their influence over the corporate sector is a source of concern. Market participants report cases of political interference and non-commercial goals. As a result, policymakers should consider the development of corporate governance standards for State-owned funds. The revisions to the OECD Principles currently under discussion will likely include mandatory disclosure of voting policies by institutional investors (which would include the State funds, pension funds, and investment companies). The EU Corporate Governance Action Plan (EU CGAP) also discusses requirements for institutional investors to disclose voting policies.²² Other policies could include requirements for State funds to appoint independent directors to the boards, who commit to act in the interests of the company and all shareholders. Those drafting the Code of Corporate Governance may also want to consider the question of investor responsibility.

Section II: The Equitable Treatment of Shareholders

Principle IIA: The corporate governance framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights. All shareholders of the same class should be treated equally. (1) Within any class, all shareholders should have the same voting rights. All investors should be able to obtain information about the voting rights attached to all classes of shares before they purchase. Any changes in voting rights should be subject to shareholder vote. (2) Votes should be cast by custodians or nominees in a manner agreed upon with the share’s beneficial owner.

²⁰ Article 542/II of Companies Act. Every shareholder that opposed the delisting resolution at the general meeting can demand that the company purchase his shares (Article 545 of Companies Act). Disagreements over price are resolved in court.

²¹ Slovenia’s mandatory bid threshold is lower than in other World Bank-assessed countries, including Bulgaria, Estonia, Latvia, Lithuania, and Poland (50 percent), the Czech Republic (40 percent), Russia (30 percent), and Slovakia and Hungary (33 percent).

²² *Modernising Company Law and Enhancing Corporate Governance in the European Union – A Plan to Move Forward*, European Commission, Brussels, 21.5.2003.

Assessment: Largely observed

Description of practice: Under company law, shareholders are guaranteed equitable treatment. Market participants report no scandals involving expropriation of minority shareholders. Shareholders have several redress possibilities. First, shareholders can sue to cancel shareholder resolutions that violate the company articles, the law, or fair business practices.²³ In addition, any decision that does harm to a shareholder, is against the interests of the company, or is in the interest of a third party at the expense of the company can also be contested. Many of these types of suits have been filed, but the court process is slow and inefficient for shareholder redress.

Shareholders also have withdrawal rights²⁴ and can withdraw from the company if certain events occur.²⁵ Finally, shareholders can attempt to sue directors for damages to the company, through a derivative-suit-type mechanism (see Principle VB below). Class-action suits are not available.

Some gaps in the authority of the capital market regulator may affect the enforcement of corporate governance regulations. The SMA has become more active in recent years, has imposed sanctions for late disclosure, and has conducted a major insider trading investigation. However, three particular weaknesses in the SMA's authority may affect the enforcement of corporate governance provisions of law and regulation. First, SMA does not have the ability to impose administrative sanctions without first going through a judicial process, which may take a number of years. The courts are widely reported to be slow in reaching decisions, and are not seen as an effective source of shareholder redress.²⁶ However, recent changes to the Law on Misdemeanors will give the SMA the power to directly impose fines, beginning January 2005. Second, the SMA does not review the content of periodic disclosure by companies. Finally, SMA staff are personally liable for actions taken as part of their duties.

Information on share classes and voting rights are defined in the articles, which are available at the Court Register. Changes to class voting rights require a special class supermajority vote. Companies must also disclose changes to share rights in the annual report.

Custodians play a limited role in Slovenia. Because the KDD is a central registry, and there is no legal concept of "nominee ownership," almost all shareholders hold their shares in their own name at the KDD, and custodians and brokers provide "administrative services" (including voting if necessary). Some foreign investors hold shares in the name of their global custodian; in this case, voting rights are determined and exercised on the basis of the agreement between the custodian and its client. As a result, custodians must vote according to the instructions of their clients. Reportedly, it is frequent practice for clients to give their custodians and portfolio managers a general power of attorney to vote on their behalf.

Policy recommendations: In all countries, enforcement is now seen as a key piece of "unfinished

²³ Companies Act, Article 364. Article 359 also voids the decision if the AGM was not convened properly, if it does not comply with legal provisions protecting creditors or the public interest, or if it "...does not comply with public order or morals."

²⁴ Withdrawal rights (sometimes referred to in other jurisdictions as the "appraisal remedy" or "buy-out remedy") gives shareholders the right to have the company buy their shares upon the occurrence of certain fundamental changes in the company.

²⁵ Companies Act, Article 135. Triggering events include reorganizations, delisting, transformation of legal form, and other events. The buy-out price is determined by agreement or by the court.

²⁶ Statistics illustrate difficulties faced by the SMA. In 2002 the SMA began 75 proceedings, including 24 violations of the duty to make a public takeover bid or violations of the duty to inform the SMA upon acquiring a qualified stake, and 47 were for disclosure violations by public companies. Judges reached 22 decisions, but only one was for a 2002 case. In seven of 22 decisions, judges ruled with the SMA and imposed fines, in two cases warnings were issued, and in 12, no penalty or a partial penalty was imposed (this does total 22, as there were three cases with only two decisions). However, in 11 cases, procedures against accused legal persons and accused responsible individuals were stopped. The SMA is appealing many of the decisions.

business” of the corporate governance reform agenda. To that end, upgrading the SMA’s authority and capacity is vital to reform (and capital markets supervision overall). The SMA should increase the effort and resources devoted to implementation and oversight of corporate governance laws and regulations, and should begin to review the content of public company disclosure. SMA officials should be protected from lawsuits when they have conducted their duties with care and due diligence. The SMA should adopt as a mission the protection of shareholders rights.

Principle IIB: Insider trading and abusive self-dealing should be prohibited.

Assessment: Largely observed

Description of practice: The Securities Market Act prohibits insider trading. Illegal insider trading is also a criminal offense.²⁷ Insiders are defined by law as 5 percent shareholders and members of the supervisory or management board. Insider information is defined as information which has not been made public, but which could significantly influence the price of securities. Insiders must report all dealings in shares.²⁸ There have been no convictions on insider trading. However, the SMA has carried out at least one significant pilot insider trading investigation.²⁹

Company law governs conflicts of interest at board and shareholder meetings, and interested parties cannot vote.³⁰ A company may make loans to board members on an arm’s length basis, subject to prior supervisory board consent and disclosure in the annual report. The Law on Concerns (based on German group law) governs transactions between parent companies and majority-owned subsidiaries. There are no other provisions that govern other types of related party transactions. Chile provides an interesting example of how this is done in other countries.³¹

Policy recommendations: The supervisory board should have a general responsibility for approval and disclosure of related party transactions and other conflicts of interest. Enforcement of the insider trading disclosure provisions should be closely enforced. The definition of “insiders” should be carefully reviewed on the basis of experience in order to ensure that there are no clear loopholes in the law. Future revisions to the law could explore the establishment of “black-out” periods around the release of information, when insiders are not allowed to trade.

Principle IIC: Board members and managers should be required to disclose material interests in transactions or matters affecting the corporation.

Assessment: Partially observed

Description of practice: Slovenian accounting standards require significant disclosures of related party transactions as part of annual financial statements. Accounting law requires disclosure of relationships between most types of related parties, regardless of transactions, in the financial statement notes. Relationships with parties where control exists must always be disclosed.

²⁷ Criminal Act, Article 243 punishes “material breaches of trading on the basis of inside information” with three years imprisonment.

²⁸ Securities Market Act, Articles 275-278.

²⁹ In 2002, the SMA investigated trading in the shares of Lek *d.d.* prior to its takeover. The investigation included obtaining of data and documentation from the company and its employees, supervisory board members, workers’ council, union, the LJSE, legal and other consultancy firms, large shareholders, investment firms, and the acquiring company. After analysis, the SMA prepared a charge of reasonable suspicion of insider trading. The case is still on-going.

³⁰ Company Law, Article 271(4), Article 299(1).

³¹ In Chile, the law requires that large firms form a special committee to pre-vet related party transactions and, if a transaction involves substantial amounts, indicate whether it meets market conditions. The board must approve or reject the transaction with the abstention of the interested director or, if the board cannot decide, hire two independent evaluators. Their reports are available to the board and shareholders for 20 working days and transmitted to the regulator. Related party transactions must be disclosed at shareholder meetings. If expert opinions differ substantially, or if shareholders with 5 percent of outstanding shares consider the transaction detrimental to them, the transaction must be approved at a special shareholder meeting by 2/3 of voting shares.

Policy recommendations: As the SMA begins to review the content of periodic disclosure, related party transaction disclosure should be a top priority.

Section III: Role of Stakeholders in Corporate Governance

Principle IIIA: The corporate governance framework should recognize the rights of stakeholders as established by law and encourage active co-operation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises. The corporate governance framework should assure that the rights of stakeholders that are protected by law are respected.

Assessment: Largely observed

Description of practice: Slovenia's legal framework and traditions create a relatively favorable environment for workers. Employees may elect at least 1/3 of supervisory board members. Large companies (with over 20 workers) must set up Worker's Councils, which have certain rights to participate in management. Bankruptcy trustees supervised by creditors manage bankrupt firms. Creditor rights (though not specifically reviewed for this assessment) are strong, as the result of a modern legal framework.³² There are no reports of firms adopting corporate social responsibility codes or policies related to stakeholders (except those relating to labor issues).

Principle IIIB: Where stakeholder interests are protected by law, stakeholders should have the opportunity to obtain effective redress for violation of their rights.

Assessment: Largely observed

Description of practice: Slovenia has a complete set of other laws, including labor law, social insurance, and environmental protection. Stakeholders whose rights have been violated have access to the courts, although redress through the courts is slow. There are no special anti-corruption or bribery rules applicable to directors. General rules apply. Slovenia is among the least corrupt countries in Central and Eastern Europe according to Transparency International.

Principle IIIC: The corporate governance framework should permit performance-enhancement mechanisms for stakeholder participation.

Assessment: Largely observed

Description of practice: Under the Company Law, company bylaws establish profit sharing for employees. Bylaws and the AGM may stipulate that profits may be used for acquisition of shares by employees. Slovenia's law does not address share options; such plans would depend on company policies. There are no reports of stock options being used by Slovenian companies.

Policy recommendations: Careful attention should be paid to international debates on the use/abuse of stock options; Slovenia should tailor its regulatory framework to the new consensus.

Principle IIID: Where stakeholders participate in the corporate governance process, they should have access to relevant information.

Assessment: Largely observed

Description of practice: Stakeholders can access all publicly available company information.

Section IV: Disclosure and Transparency

Principle IVA: The corporate governance framework should ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and the governance of the company. Disclosure should include, but not be limited to, material information on: (1) The financial and operating results of the company. (2) Company objectives. (3) Major share ownership and voting rights. (4) Members of the board and key executives, and their remuneration. (5) Material foreseeable risk factors. (6) Material issues regarding employees and other stakeholders. (7) Governance structures and policies.

³² A creditor rights index developed by the World Bank for 130 countries gives Slovenia 3 out of a possible 4, significantly higher than the regional average. See *Doing Business 2004* at rru.worldbank.org.

Assessment: Partially observed

Description of practice: Companies quoted on the LJSE (including Official and Free Market companies) must make periodic disclosure that includes audited and consolidated annual reports and (for Official Market listed companies) unaudited semi-annual reports. Unaudited unconsolidated statements are due within two months, and unaudited consolidated annual financial statements are due within three months of the financial year's end. Audited reports must be filed within six months. Officially listed issuers must also file a semi-annual report (including notes and information relating to any changes in the data included in the prospectus) within two months of the end of each fiscal half-year. Issuers must send copies to the LJSE (for publication on the electronic information system), and publish a summary in a newspaper. Publicly-traded companies are also required to continuously disclose - "without undue delay"- material events that might affect the share price.³³

Most key items recommended by the OECD Principles are required under the law, including the disclosure of the company's financial and operating results, company objectives, major share ownership and voting rights, and information about board members and key executives (including remuneration in aggregate). No mention is made in the law about material foreseeable risk factors, material issues regarding employees and other stakeholders, or governance structures and policies. The draft Code provides some additional detail on disclosure. Detailed information about ownership is available from KDD, and details about the board and voting rights are available in the articles from the Court Register.

In 2002 the SMA received 166 audited annual reports, 37 half-yearly reports and summaries of half-yearly reports, 1,280 notifications of material events, and 179 notifications of the acquisition of 5 percent of voting shares.

If companies violate the disclosure rules, the LJSE can deliver a private or public reprimand, or can delist the securities. The SMA can issue an order to eliminate the reporting violation, and can recommend fines to the administrative judge. In 2002, the SMA reported 19 cases of disclosure problems to a judge. However, the SMA does not review disclosure content, although there are plans to do so in the future.

Finance newspaper holds an annual competition on the quality of annual reports, and in the last five years the quality of the entrants has steadily improved. Ten to fifteen companies produce high-quality, international-standard reports. Some other companies produce too much information and appear to be aiming for "quantity over quality."

Also, some joint stock companies (such as the state telecommunications company) have active off-exchange trading but are not listed and, therefore, do not meet the disclosure obligations.

Additional comments on financial reporting practices in Slovenia can be found in the Accounting and Auditing ROSC, currently under preparation.

Policy recommendations: See recommendations for the SMA under Principle IIA. In addition, the SMA (together with LJSE) should consider developing a standardized annual report format in law or secondary regulation requiring the disclosure of items recommended by the OECD Principles (and in line with the "Annual Corporate Governance Statement" that is part of the EU

³³Material events include convening a shareholders meeting, holding a meeting, compiling unaudited financial statements, extensive changes in the structure of an issuer's liabilities, the issuing of new securities, significant changes in equity structure, the management or the supervisory board, the signing of important contracts, important judicial and administrative procedures, etc.

CGAP). A simple methodology for reporting compliance with the Corporate Governance Code should be included. SMA should increase its review and enforcement of disclosure content, and should increase its staff in order to do so. Special focus should be given to reviewing the completeness of selected non-financial information.

Principle IVB: Information should be prepared, audited, and disclosed in accordance with high quality standards of accounting, financial and non-financial disclosure, and audit.

Assessment: Partially observed

Description of practice: All firms must follow Slovenian Accounting Standards, which materially differ from International Financial Reporting Standards (IFRS). All listed companies (as well as other public interest entities, such as financial institutions) must apply IFRS by 2005.

Policy recommendations: The move to full application of IFRS will be a major challenge for listed companies and regulators, and may require additional prioritization and resources at the SMA. See the Accounting and Auditing ROSC.

Principle IVC: An annual audit should be conducted by an independent auditor in order to provide an external and objective assurance on the way in which financial statements have been prepared and presented.

Assessment: Partially observed

Description of practice: Listed companies must be audited by an independent auditor. International Auditing Standards are directly applicable in Slovenia; there are no local standards. In 2001, “Big 4” firms audited about 50 percent of listed firms. The AGM appoints and removes the external auditor through a simple majority.³⁴ There are no requirements for an independent audit committee of the supervisory board to increase the independence of audits, although some companies have them, and the draft Code of Corporate Governance recommends an independent audit committee for listed companies.

Policy recommendations: An independent audit committee of the supervisory board has become an important element of the consensus on corporate governance reform. Policymakers should consider adding this requirement to law or listing rules, rather than as a recommendation in a Code of Best Practice. See Accounting and Auditing ROSC for audit recommendations.

Principle IVD: Channels for disseminating information should provide for fair, timely, and cost-effective access to relevant information by users.

Assessment: Largely observed

Description of practice: The LJSE has developed an integrated information dissemination system (SEOnet). Company articles are available at the Court Register, but only as photocopies.

Policy recommendations: The LJSE should continue developing an integrated electronic information system for statutory and public information disclosure. This system should gradually replace statutory paper filing, should allow issuers to make one disclosure that is then sent to the LJSE and the SMA, and should also be disclosed to the public.

Section V: The Responsibility of the Board

Principle VA: The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the board, and the board’s accountability to the company and the shareholders. Board members should act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the company and the shareholders.

Assessment: Largely observed

³⁴ Companies Act, Article 282.

Description of practice: Listed Slovenian companies have a two-tier board structure, consisting of a management board and a supervisory board.³⁵

Management board. The supervisory board appoints the management board and sets its remuneration. The management board oversees day-to-day operations, is the company's executive body, and is appointed for up to five years. It may select and replace key managers and approve their remuneration. The company President/CEO is usually the chairman of the board. By law, the management board must "inform" the supervisory board at least once per year.³⁶

Supervisory board. Supervisory board members are elected by majority vote of the AGM, can be recalled by a $\frac{3}{4}$ supermajority vote, and can be appointed for up to four years. Workers may, under the Worker Participation in Management Act, appoint at least $\frac{1}{3}$ of supervisory board members (depending on the articles), and many companies are moving toward the minimum. The supervisory board should have at least three members; an average board has five-nine (some large firms have as many as 16). There are no requirements for "independent" board members, but supervisory board members are generally not members of the management boards.

The supervisory boards of some large blue-chip companies with relatively dispersed ownership are reportedly dominated by the two State investment funds (the KAD and SOD), who can work together and dominate shareholder meetings (see Principle IF). Other firms have a variety of board practices; some controlling shareholders allow for diverse opinions on the board, while others appoint only their own representatives.

The Association of Supervisory Board Members was founded in 1996 and has offered training programs since 2000. It offers a four-day training program for directors with a certification and exam. One hundred forty five supervisory board members have received certificates.

Future revisions to the Company Law are expected to follow EU regulations and allow a genuine choice between one- and two-tier systems. Legal experts expect many firms to switch to a one-tier system, to move away from the current system of co-determination (worker representation).

Policy recommendations: The Association of Supervisory Board Members should be encouraged and supported in its efforts to train directors. A strong director training organization is now considered essential to upgrading a country's corporate governance. As in many other countries now setting up similar organizations, training provides directors with an understanding of their role and responsibilities, and is particularly useful for creating a group of independent directors. In Slovenia, financial sector regulators could consider requiring special training programs for the boards of regulated institutions, and could assist in training program development.

Policymakers can also explore statutory requirements to create committees of the supervisory board, especially an independent audit committee.

Principle VB: Where board decisions may affect different shareholder groups differently, the board should treat all shareholders fairly.

Assessment: Largely observed

Description of practice: The management board is accountable to the supervisory board, which is

³⁵ According to Article 261.2 of the Companies Act, a company is required to have a supervisory board if its capital is greater than SIT 410,000 (about USD 2,000) or if it has more than 150 employees, 100 shareholders, or if it is quoted on the LJSE.

³⁶ The management board must report to the supervisory board on: 1) planned business policies and other questions of principles concerning operations; 2) company profitability, and particularly the return on capital; 3) state of operations, particularly turnover and the company's financial position, and 4) operations that may have a significant impact on profitability or solvency. The supervisory board may also require a report on other issues.

accountable to shareholders. Management and supervisory board members are fiduciaries under the law. They owe to the company the “fiduciary duty” of good faith, trust, and confidence and must exercise a professional standard of care in managing the company’s business.³⁷ Under Article 280 of the Companies Act, members of the board of directors and the supervisory board are jointly and severally liable for damage to the company and to shareholders, if in carrying out operations they breached their obligations, unless they demonstrate that they fulfilled their obligations honestly and conscientiously or their actions were based on lawful AGM resolutions. Board members may not pursue activities so as to profit in the area of the company’s activity without the supervisory board’s consent, nor conclude operations on their or another person’s own account.³⁸ However some institutional shareholders have noted that they expect that their representatives on supervisory boards will be mindful of those who elected them.

Under the law, shareholders cannot directly sue board members. The management board can file a lawsuit if a simple majority of shareholders decides that damages were caused to the company by a member or members of either board.³⁹ Ten percent of shareholders can ask the court to have the management board file suit. However, there has been only one reported shareholder lawsuit against directors.⁴⁰ Liability insurance for board members is available, but uncommon.

Policy recommendations: See Principles VA and VE.

Principle VC: The board should ensure compliance with applicable law and take into account the interests of stakeholders.

Assessment: Largely observed

Description of practice: Under the Company Law, the supervisory board must monitor compliance with law, company articles, and AGM instructions. It monitors company activities and can convene general meetings when the law is breached or company interests require. It proposes remedial measures to the AGM. Employee seats on the supervisory board protect employee interests and allow them information access. “Company secretaries” are not appointed.

Policy recommendations: See Principles VA and VE.

Principle VD: The board should fulfill certain key functions, including (1) Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans; setting performance objectives; monitoring implementation and corporate performance and overseeing major capital expenditures, acquisitions and divestitures. (2) Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning. (3) Reviewing key executive and board remunerations, and ensuring a formal and transparent board nomination process. (4) Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions. (5) Ensuring the integrity of the corporation’s accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for monitoring risk, financial control, and compliance with the law. (6) Monitoring the effectiveness of the governance practices under which it operates and making changes as needed. (7) Overseeing the process of disclosure and communications.

Assessment: Materially not observed

Description of practice: The supervisory board’s formal duties are limited, and are laid out in the Company Law. The draft Code of Corporate Governance adds some specific requirements. Several general observations can be made about board responsibility:

1) Responsibility for strategic planning is diffuse in theory, concentrating authority at the

³⁷ These principles are based on German legal principles of “professional due diligence.” The relationship between the company and the members of the board of directors and supervisory board is, by its nature, a mandated relationship that is regulated in the Articles 766-787 of the Obligation Act.

³⁸ Article 254, Companies Act.

³⁹ Article 72 of the Mergers and Acquisition Act.

⁴⁰ Following a takeover struggle at Union Brewery, the major shareholder (Laško) required Union’s management board to file suit against some of its members, who did not “...act in accordance with the standard of good profession.” The court has not yet ruled.

management board in practice. The draft Code assigns this to the supervisory board.

- 2) Company risk policy is regulated only for financial institutions. There are no specific legal provisions on the board's duties on annual budgets, corporate performance, or business plans.
- 3) The supervisory board should be responsible for succession planning. The draft Code recommends establishing a "personnel" committee to nominate members for both boards.
- 4) The supervisory board sets remuneration for members of both boards.
- 5) There are no legal requirements for the oversight of financial reporting systems. The draft Code gives this responsibility to the management board, where international best practice would give oversight of these systems to the supervisory board.
- 6) In practice, the supervisory board is relatively weak, and in many companies does not appear to play much of a role in establishing governance systems.
- 7) Typically, the management board is responsible for information disclosure.

Policy recommendations: A Corporate Governance Code should be adopted and implemented as soon as possible.⁴¹ A set of detailed guidelines/manuals on board issues and specific recommendations should be created, perhaps with the Association of Supervisory Board members (and regulators, for financial institutions). Regarding board committees, international best practice continues to focus on the importance of a strong, independent audit committee of the supervisory board. It may be too ambitious at this stage to recommend other board committees for non-financial institutions (e.g. personnel).

Principle VE: The board should be able to exercise objective judgment on corporate affairs independent, in particular, from management: (1) boards should consider assigning a sufficient number of non-executive board members capable of exercising independent judgment to tasks where there is a potential for conflict of interest. Examples of such key responsibilities are financial reporting, nomination, and executive and board remuneration. (2) board members should devote sufficient time to their responsibilities.

Assessment: Partially observed

Description of practice: There are no regulations governing director independence, other than the requirement that management board members may not be supervisory board members in the same company. Audit and other board committees are not required under Slovenian law. Directors may serve on a maximum of five supervisory boards (not counting affiliated companies). The supervisory board must meet at least four times a year. There are no requirements for the board to meet regularly or for members to disclose their meeting attendance. No rules govern the conduct of directors who have interests in particular transactions.

The draft Code of Corporate Governance recommends the independence of a majority of the supervisory board, and the establishment of an audit committee. The definition listed in the draft Code does not require independence from shareholders (or controlling shareholders). The imposition of independence requirements is also a key feature of the EU CGAP.

Policy recommendations: The independence recommendation in the draft Code of Corporate Governance is an important starting point, but is only vaguely defined, may be too ambitious, and should explicitly refer to employee shareholders. A recommendation of 25 percent of board independence (including the employee board members, perhaps with a minimum of two) may be easier to implement. Boards (especially of financial institutions) should be required to meet more often, and the Code should set even higher levels as best practice.

Principle VF: In order to fulfill their responsibilities, board members should have access to accurate, relevant and timely information.

⁴¹ A Corporate Governance Code prepared by the Ljubljana Stock Exchange with the assistance of the Manager Association and the Association of Supervisory Board members came into force on March 18, 2004.

Assessment: **Largely observed**

Description of practice: A company can appoint specialists for certain questions (e.g. tax, legal, safety). In difficult/unique situations, a supervisory board may demand that the management board prepare an expert opinion. Supervisory board members have no explicit right to engage independent professional expertise.

Policy recommendations: The supervisory board should have access to outside experts and training, and perhaps a reasonable budget for these in order to reduce its reliance on the management board. This recommendation could be added to the draft Code of Best Practice.

IV. SUMMARY OF POLICY RECOMMENDATIONS

This section sets out recommendations to improve Slovenian listed companies' compliance with the OECD Principles. The governance framework of the corporate (and banking) sector is strong relative to the OECD Principles, and adheres to high levels of transparency of ownership. Several institutions, including the KDD and Association of Supervisory Board Members, set examples for other countries. The recommendations are also in line with the EU CGAP. Two key themes that focus on implementation are prioritized as follows:

For large, listed companies, the report recommends that (as in the EU and most other mature markets) policymakers focus on enhancing the supervisory board's effectiveness. Recommendations include the adoption and implementation of a Code of Best Practice, considering methods to increase minority representation on boards, a mandatory audit committee of the supervisory board (for financial institutions and listed firms), requirements for formal approval and disclosure process for related party transactions, and support and encouragement of supervisory board training activities. The assessment also proposes that institutional investors (including State-owned funds) develop public voting and board representation policies that require board members to act in the best interest of the company and all shareholders. Investor protection also requires the disclosure of shareholder agreements, increased review of the content of disclosure by the SMA, and diligent enforcement of takeover and insider trading rules.

For small privatized companies, consolidation and management buy-outs can be expected to continue. Small investor protection in these firms will require the diligent enforcement of takeover rules, and could involve their extension (with modification) beyond the listed sector.

Legislative reform: This report identifies several areas where changes to the laws would increase compliance with OECD guidelines; these are catalogued in Annex B. *Priority: medium*

Institutional strengthening: International experience suggests that enforcement of corporate governance rules remains the key challenge. The assessment recommends continued enforcement of disclosure provisions, with an emphasis on a review of content. *Priority: medium*

Voluntary/private initiatives: Despite increased awareness of corporate governance in Slovenia, additional efforts would be valuable. The completion of a Code of Corporate Governance (perhaps with an expanded group of participants, including the Bank of Slovenia) will help to build a national consensus on the supervisory board's role, duties, and functions. Over time, key pieces of the Code could move into law. Additional support and encouragement should be given to the Association for Supervisory Board Members to expand director training opportunities, including for members of the boards of banks and insurance firms. *Priority: high*

Annex A: Summary of Observance of OECD Corporate Governance Principles

Principle	O	LO	PO	MO	NO	Comment
I. THE RIGHTS OF SHAREHOLDERS						
IA Basic shareholder rights		X				<ul style="list-style-type: none"> Central depository (KDD) is central registry. Nominee ownership is not a recognized concept. Clearing and settlement is DVP T+2, meeting all international standards.
IB Rights to participate in fundamental decisions.		X				<ul style="list-style-type: none"> Shareholder meetings have authority over fundamental decisions – 75 percent supermajority. No shareholder approval for large or large related party transactions.
IC Shareholders AGM rights		X				<ul style="list-style-type: none"> 5 percent of shares can call meeting. No quorum requirement for first or second meetings. Meeting notice is one month (30 days). Shares are not blocked before the annual meeting. Any shareholder can put items onto agenda, including director nominations. Detailed rules regulate the large-scale collection of proxies. Mail and electronic voting are not allowed.
ID Disproportionate control disclosure		X				<ul style="list-style-type: none"> Control and ownership highly transparent because of policy to fully disclose the central share register. Company Law supports "one-share / one-vote." Listed company shareholders must disclose ownership at 5 percent thresholds. Shareholder agreements need not be disclosed.
IE Control arrangements should be allowed to function.		X				<ul style="list-style-type: none"> Active market for corporate control. Mandatory bid threshold 25 percent. Squeeze-out threshold 95 percent. 90 percent of shareholders must vote for a delisting resolution.
IF Cost/benefit to voting		X				<ul style="list-style-type: none"> Institutional investors play active role
II. EQUITABLE TREATMENT OF SHAREHOLDERS						
IIA All shareholders should be treated equally		X				<ul style="list-style-type: none"> Shareholders can sue to cancel shareholder decisions. SMA has become more active in recent years, imposes sanctions for late disclosure, has conducted a major insider trading investigation. Weaknesses in the SMA authority may affect the enforcement of corporate governance provisions of law and regulation. Custodians play a limited role in Slovenia.
IIB Prohibit insider trading		X				<ul style="list-style-type: none"> Securities Market Act prohibits insider trading. Illegal insider trading is also criminalized. At least one significant pilot insider trading investigation.
IIC Board/Mgrs. disclose interests			X			<ul style="list-style-type: none"> Slovenian accounting standards require significant disclosures of related party transactions in annual financial statements.
III. ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE						
IIIA Stakeholder rights respected		X				<ul style="list-style-type: none"> Employees may elect at least 1/3 of supervisory board. Large companies (>20 workers) must establish Worker's Councils.
IIIB Redress for violation of rights		X				<ul style="list-style-type: none"> Complete set of other laws, including labor law, social insurance and environmental protection.
IIIC Performance enhancement		X				<ul style="list-style-type: none"> Company bylaws establish profit sharing for employees.
IIID Access to information		X				<ul style="list-style-type: none"> Based on public disclosure. Stakeholders have no special rights to company information.
IV. DISCLOSURE AND TRANSPARENCY						
IVA Disclosure standards			X			<ul style="list-style-type: none"> All companies file annual reports (audited and consolidated). Official Market listed companies must file unaudited semi-annual reports. Most key items recommended by the OECD Principles are required under the law. No mention is made in the law about material foreseeable risk factors, material issues regarding employees and other stakeholders, or governance structures and policies. The draft Code provides some additional detail on disclosure.
IVB Standards of accounting & audit			X			<ul style="list-style-type: none"> All firms in Slovenia must follow Slovenian Accounting Standards, which materially differ from International Accounting Standards.

IVC	Independent audit annually			X		<ul style="list-style-type: none"> • International Auditing Standards are directly applicable in Slovenia; there are no local standards. • The supervisory board appoints and removes the auditor on the basis of a simple majority. • “Big 4” firms audited about 50 percent of listed firms. • No requirements for an independent audit committee of supervisory board to increase the independence of audits.
IVD	Fair & timely dissemination		X			<ul style="list-style-type: none"> • The LJSE has developed an integrated information dissemination system (sem-on.net). • Company documents are available at the Court Register and its Collection of Documents.
V. RESPONSIBILITIES OF THE BOARD						
VA	Acts with due diligence, care		X			<ul style="list-style-type: none"> • Listed Slovenian companies have a two-tier board structure, consisting of a management board and a supervisory board. • The supervisory board appoints the management board and sets its remuneration. • The Association of Supervisory Board Members provides director training.
VB	Treat all shareholders fairly		X			<ul style="list-style-type: none"> • Members of both boards are “fiduciaries” under the law, and owe to the company the duties of good faith, trust, confidence and candor. • Board member actions are judged by the standard of “professional due diligence.” • 10 percent shareholders can initiate derivative-style suit against board members. • Liability insurance for board members is available but appears to be uncommon.
VC	Ensure compliance w/ law		X			<ul style="list-style-type: none"> • Supervisory board is bound to monitor compliance with law, company articles, and AGM instructions.
VD	The board should fulfill certain key functions				X	<ul style="list-style-type: none"> • Supervisory board’s formal duties are limited under the law. • The draft Code of Corporate Governance adds some specific requirements.
VE	The board should be able to exercise objective judgment			X		<ul style="list-style-type: none"> • There are no regulations that govern director independence. • The draft Code of Corporate Governance recommends the independence of a majority of the supervisory board.
VF	Access to information		X			<ul style="list-style-type: none"> • Law grants access to information. • No specific access to special expertise.

Annex B: Summary of Policy Recommendations

I. THE RIGHTS OF SHAREHOLDERS	
IA Basic shareholder rights	<ul style="list-style-type: none"> Consider measures to increase minority shareholder representation on the supervisory board. General meetings should be required to set a specific ex-dividend date to avoid investor confusion.
IB Rights to participate in fundamental decisions.	<ul style="list-style-type: none"> Shareholder approval (with supermajority) could be required for large or large related party transactions.
IC Shareholders AGM rights	<ul style="list-style-type: none"> Review investment fund meeting practices to ensure that meeting regulations are adequate for investment funds.
ID Disproportionate control disclosure	<ul style="list-style-type: none"> Shareholder agreements should be disclosed as material events and in the annual report.
IE Control arrangements should be allowed to function.	<ul style="list-style-type: none"> Carefully review the 25 percent threshold, to ensure that it does not appear to be artificially significant (though not controlling) investment. To consistently address the problem of “management buy-outs,” companies with large number of shareholders should all be treated as quoted (Free Market) companies, including the current “gray market” companies.
IF Cost/benefit to voting	<ul style="list-style-type: none"> Policymakers should consider the development of corporate governance standards for the State-owned funds, including mandatory disclosure of voting policies by institutional investors. Establish requirements for the State funds to appoint independent directors to the boards, who commit to act in the interests of the company and all shareholders.
II. EQUITABLE TREATMENT OF SHAREHOLDERS	
IIA All shareholders should be treated equally	<ul style="list-style-type: none"> SMA should increase the effort and resources devoted to implementation and oversight of corporate governance laws and regulations, and should specifically begin to review the content of public company disclosure. SMA staff members should be protected from lawsuits when they carry out their duties with care and due diligence. The SMA should adopt as a mission the protection of shareholders rights.
IIB Prohibit insider trading	<ul style="list-style-type: none"> The supervisory board should have a general responsibility for approval and disclosure of related party transactions and other conflicts of interest. Insider trading disclosure provisions should be closely enforced. Review the definition of “insiders” should be carefully reviewed on the basis of experience. Future revisions to the law could explore the establishment of “black-out” periods around the release of information, when insiders are not allowed to trade.
IIC Board/Mgrs. disclose interests	<ul style="list-style-type: none"> As the SMA begins to review the content of periodic disclosure, related party transaction disclosure should be a top priority.
III. ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE	
IIIA Stakeholder rights respected	NA
IIIB Redress for violation of rights	NA
IIIC Performance enhancement	NA
IIID Access to information	NA
IV. DISCLOSURE AND TRANSPARENCY	
IVA Disclosure standards	<ul style="list-style-type: none"> Consider the development of a standardized annual report format in law or secondary regulation requiring the disclosure of items recommended by the OECD Principles. A simple methodology for reporting compliance with the Corporate Governance Code should be included. SMA should increase its review and enforcement of disclosure content. Special focus should be given to reviewing the completeness of selected non-financial

		information.
IVB	Standards of accounting & audit	<ul style="list-style-type: none"> • See the Accounting and Auditing ROSC.
IVC	Independent audit annually	<ul style="list-style-type: none"> • Consider requiring audit committee in law or listing rules, rather than as a recommendation in a Code of Best Practice. • See the Auditing and Accounting ROSC for audit recommendations.
IVD	Fair & timely dissemination	<ul style="list-style-type: none"> • The LJSE should work to continue to enhance the develop an integrated electronic information system
V. RESPONSIBILITIES OF THE BOARD		
VA	Acts with due diligence, care	<ul style="list-style-type: none"> • The Association of Supervisory Board should be encouraged and supported in its efforts to provide training to directors. • Financial sector regulators could consider requiring special training programs for the boards of regulated institutions, and could assist in training program development.
VB	Treat all shareholders fairly	<ul style="list-style-type: none"> • Policymakers can also explore statutory requirements to create committees of the supervisory board, especially an independent audit committee.
VC	Ensure compliance w/ law	<ul style="list-style-type: none"> • See Principle VA and VE.
VD	The board should fulfill certain key functions	<ul style="list-style-type: none"> • See Principle VA and VE.
VE	The board should be able to exercise objective judgment	<ul style="list-style-type: none"> • A Corporate Governance Code should be adopted and implemented as soon as possible. • In addition, a set of detailed guidelines / manuals on board issues and specific recommendations should be developed.
VF	Access to information	<ul style="list-style-type: none"> • Refine independence recommendation in the draft Code of Corporate Governance. • A recommendation of 25 percent of board independence (including the employee board members, perhaps with a minimum of 2) may be easier to implement. • Boards (especially of financial institutions) should be required to meet more often, and the Code should set even higher levels as best practice.