

Innovative Board Governance 2030

Swiss Board Forum – sharing experience

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Die Zukunft **gemeinsam** denken

Reflektion



Herausforderungen im Jetzt (..und Chancen für die Zukunft)

- ❖ Makroökonomische wOw's → ohne Worte.
- ❖ Unsere (Um-) Welt... → 0.0000001 vor 12 ?
- ❖ ...und die Menschen → physische, mentale und finanzielle *Gesundheit*

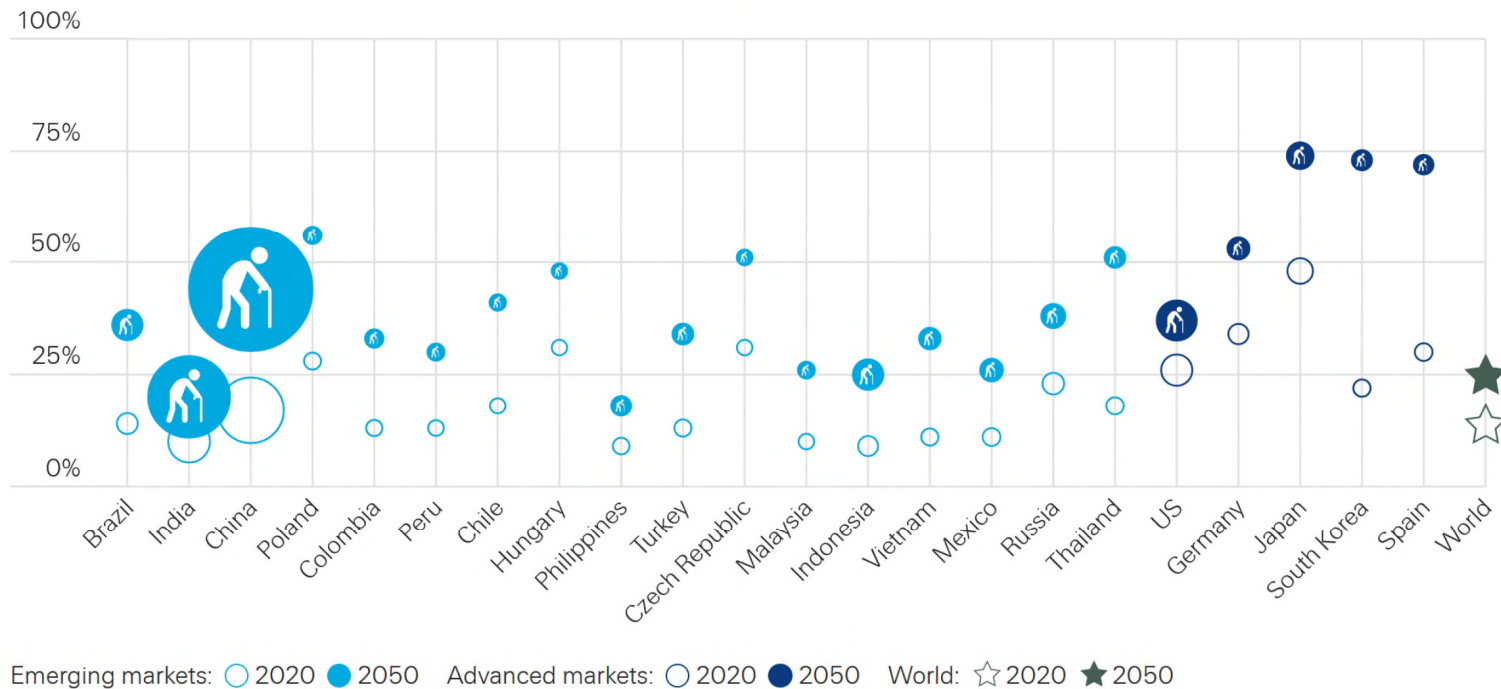


- ❖ Plattform Zeitalter → Opportunitäten
- ❖ Wider Stakeholder Community → CIK
- ❖ Commitment für ESG → Aktion/Prioritäten

Exkurs:

Finanzielle Gesundheit der Menschen

Old-age dependency ratios in 2020 and 2050F, emerging and advanced markets



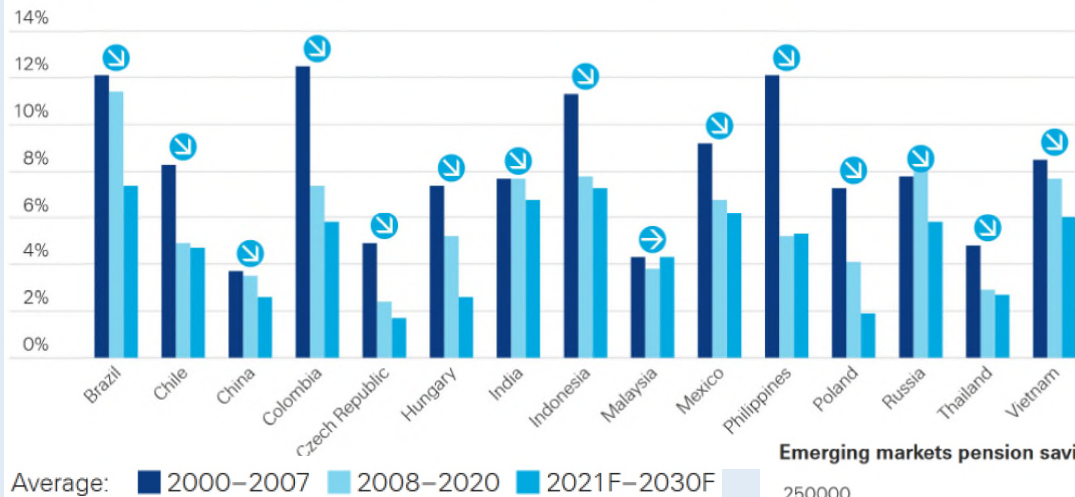
Note. Bubbles refer to size of population aged 65 years old and above. Unfilled bubbles show 2020 actual data and filled bubbles are 2050 forecasts.

Source: United Nations, Swiss Re Institute

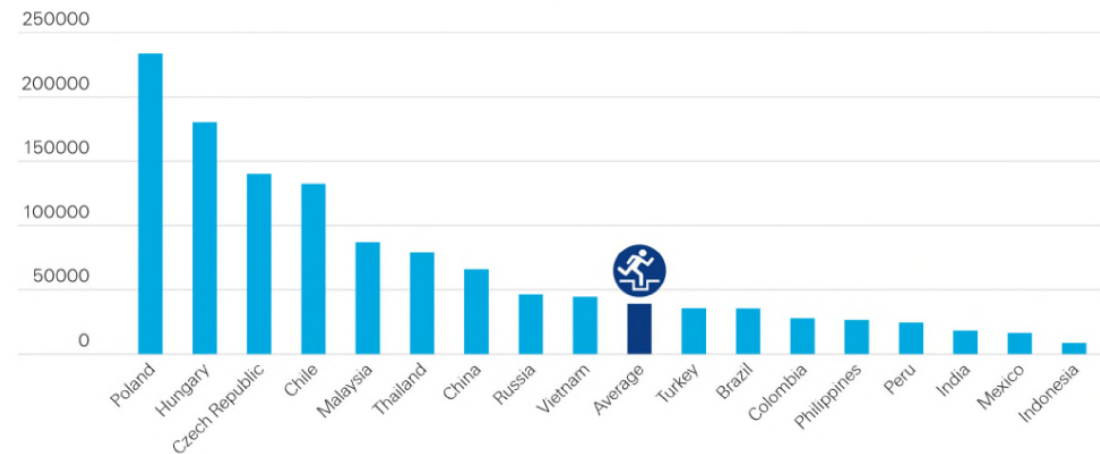
Source: sigma 2/2021 Emerging markets, Swiss Re Institute

Exkurs (Forts.): Finanzielle Gesundheit der Menschen

Average 10-year government bond yields in emerging markets, 2000–2030F



Emerging markets pension savings gaps per worker in USD, 2019 values



Source: sigma 2/2021 Emerging markets
Swiss Re Institute

Einblick in die Corporate Governance

1. Was ist Corporate Governance?
2. Weshalb ist es wichtig?
3. Wer ist dafür verantwortlich?
4. ...und wen kümmerts?



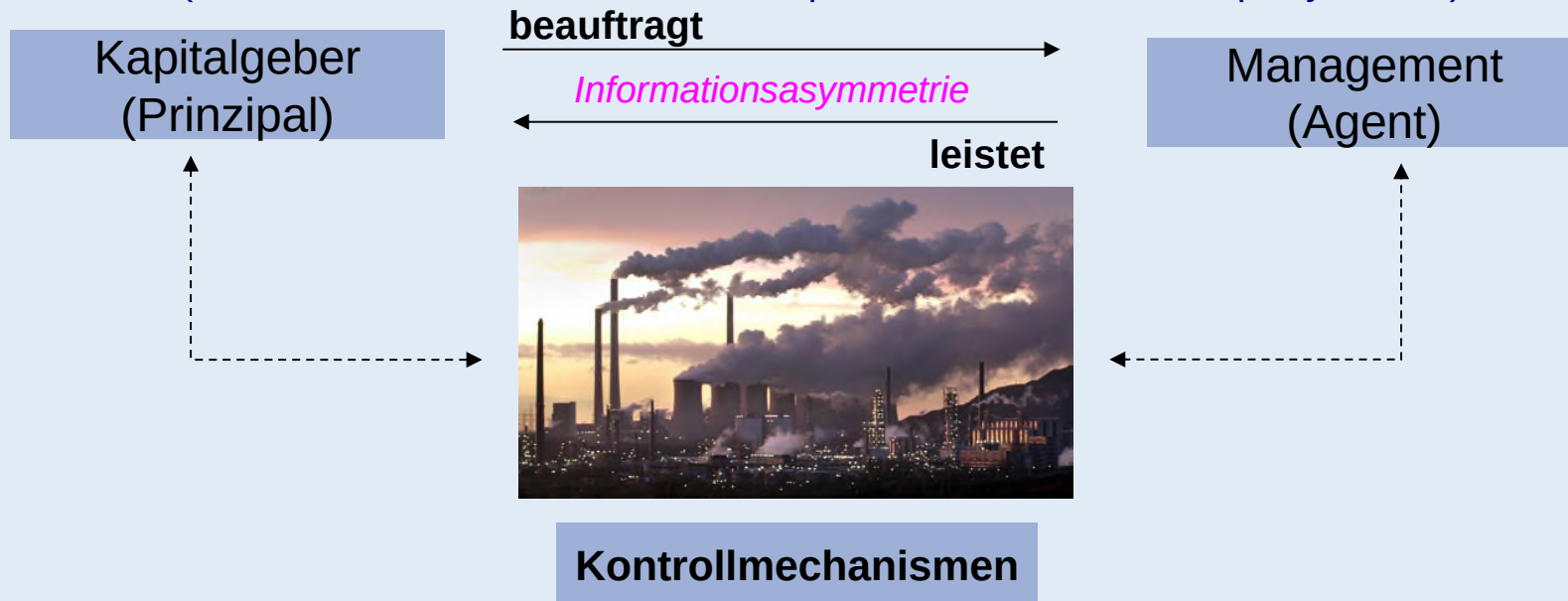
Was ist Corporate Governance?

- ❖ Corporate Governance ist ein **vielfältiges** Konzept
- ❖ Im 20. Jahrhundert, nach dem Wall Street Crash von 1929, wurde die sich **verändernde Rolle der "modernen" Unternehmung** zunehmend debattiert; dies vor allem in Bezug auf die Trennung von Eigentum und Unternehmensführung-, Steuerung und Überwachung (u.a. Berle/Means "The Modern Corporation and Private Property", 1932)
- ❖ In den späten 70er Jahren entstand eine zweite grosse Reformation, resultierend aus **zunehmenden Ansprüchen von Aktionären** hinsichtlich Eigentumsrechten und Erhöhungen von Aktienwerten
- ❖ Zu Beginn des 21. Jahrhunderts erfolgte aufgrund von **weltweiten Unternehmenszusammenbrüchen** (u.a. Worldcom, Enron, Parmalat, Swissair), ein grosser und bis anhin nachhaltiger gesellschaftlicher Diskurs über die Notwendigkeit einer "guten" Corporate Governance
- ❖ In der Folge verschärften sich die **Regulierungen** erneut und die **Aufgaben der Verantwortlichen steigen kontinuierlich** an

Exkurs: Agency-Problematik

Ausgangspunkt: Trennung von Eigentum und Kontrolle

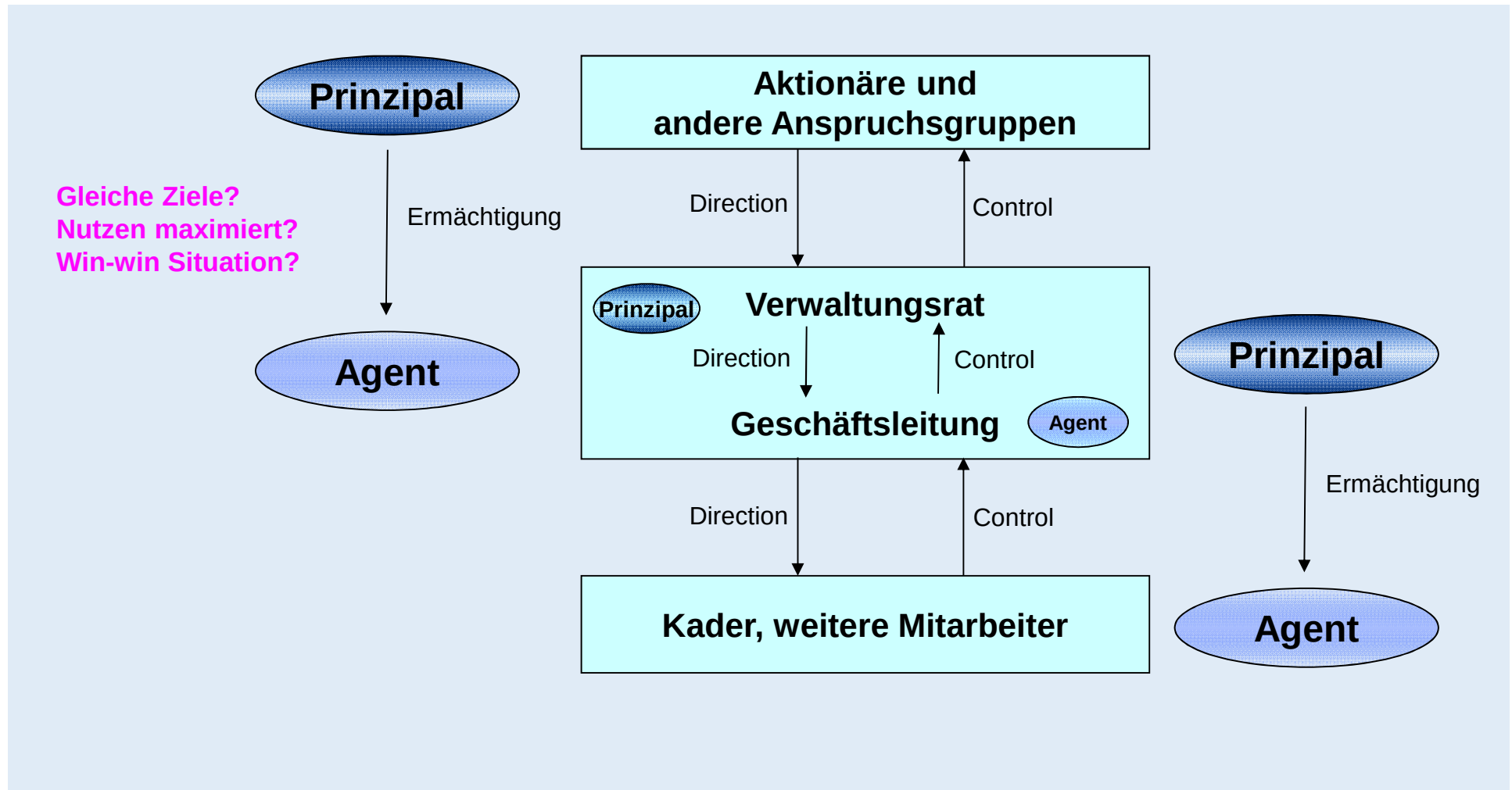
(Berle and Means "The Modern Corporation and Private Property", 1932)



“The directors of such [joint stock] companies, however, being the managers rather of other people’s money than of their own, it cannot well be expected, that they should watch over it with the same anxious vigilance with which the partners in a private copartnery frequently watch over their own.”

(von wem ist dieses Zitat?)

Exkurs: Agency-Problematik (Forts.)



Exkurs: Agency-Problematik (Forts.)

Asymmetrische Informationen: Wie kann ein Interessenkonflikt gelöst werden?

Führung (Direction)

- Vision
- Strategie
- Kurz- und langfr. Pläne
- Code of Ethics
- Gesetzliche Bestimmungen
- Interne Richtlinien und Weisungen

Rechenschaft (Control)

- Externe Revision
- Interne Revision
- Risikomanagement
- Legal, Compliance
- Controlling
- Weitere finanzielle und nicht-finanzielle Performance Massnahmen

„Classic“
assurers

„Potential“
assurers

what's
going to
be *new*?

Was ist Corporate Governance? (Forts.)

Definition by the Cadbury Committees (1992):

„The system by which companies are directed and controlled.“



Definition by the G20-OECD (2020):

„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. As a consequence, **good corporate governance** will reassure shareholders and other stakeholders that their **rights are protected** and make it possible for corporations to **decrease the cost of capital** and to **facilitate their access to the capital market**.“

Was ist Corporate Governance? (Forts.)



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In the context of rebuilding our economies in the wake of the COVID-19 crisis and promoting stronger, cleaner and fairer economic growth, good corporate governance plays an essential role. It fosters an environment of market confidence and business integrity that supports capital market development. The quality of a country's corporate governance framework is decisive for the dynamism and the competitiveness of its business sector and the economy at large. It will also support the corporate sector to manage environmental, social and governance (ESG) risks and better harness the contributions of different stakeholders, be it shareholders, employees, creditors, customers, suppliers, or adjacent communities, to the long-term success of corporations.

Was ist Corporate Governance? (Forts.)



(Quelle: <http://world.honda.com/profile/governance/>)

Weshalb ist Corporate Governance wichtig?



Weshalb ist Corporate Governance wichtig? (Forts.)

Unternehmen	Jahr	Land	Details
	2011	CH	CHF 2 Mrd. Handelsverlust aufgrund eines einzigen Traders, Steuerskandal, CHF 60 Mrd. "troubled assets" 2008
	2010	UK	Ölkatastrophe im Golf von Mexiko – die grösste in seiner Geschichte, u.a. Risikomanagement Versagen
	2006	D	Korruptionsskandal in dreistelligem € Millionenbereich, Deutschlands grösster Schmiergeldfall
	2003	I	Italienischer Lebensmittelkonzern, Insolvenz aufgrund Finanzbetrug mit Fehlbeträgen von über € 8 Mrd.
	2002	F	Insolvenz aufgrund allzu aggressiver Akquisition, nicht eingehaltene Budgetvorgaben
	2002	USA	Korruptionsskandal, ehemaliger CEO und CFO schuldig gesprochen wegen Diebstahl von \$ 100 Mio.
	2002	USA	Unternehmenszusammenbruch aufgrund von \$ 41 Mrd. Schulden, u.a. aufgrund "kreativer Buchhaltung"
	2001	CH	Insolvenz, u.a. aggressive Akquisitionsstrategie und nicht optimale Arbeitsweisen im Verwaltungsrat
	2001	USA	Bankrott der damals siebtgrössten US Unternehmung, u.a. aufgrund von massiven Bilanzfälschungen

...und weitere.

Company	Year	Country	Detail
	2021	USA	USD 20bn fire stock sales as Archegos failed to meet banks margin calls. Credit Suisse (USD 5.5 bn) and Nomura's (USD 2.87bn) losses made clear that banks risk management systems were inadequate.
	2021	UK	USD 3bn loss for business supplied loans that faced frauds and 'potential criminal actions' (case still ongoing)
	2020	CN	USD 180mn penalty to settle accounting fraud charges for overstating 2019 revenues (Luckin Coffee is one of Starbucks main competitors)
	2020	DE	EUR 1.9bn found to be "none-existent", share price dropped by over 72% (day of announcement); finally forced into bankruptcy
	2019	USA	USD 4.5bn in settlement and insolvency (into public trust) for the aggressive sale and marketing of opium product that led to addiction and deaths
	2015	DE	USD 33bn in fines and settlements because of illegal defeat devices to circumvent diesel standards
	2015	CH	USD 15mn in bribes by executives. The scandal led to resignation of FIFA president Sepp Blatter.
	2015	USA	USD 700mn in investor money and USD 9bn market value lost due to (potential) fraudulent communication to investors about the workings of the technology. CEO Holmes is up on trial facing 20 years in prison (case still ongoing)

Die essenzielle unternehmerische Frage:

Warum und **wie** soll es uns
in Zukunft geben?

Good Corporate Governance

Auch eine Frage des Kulturwandels

Ausgeprägte Verhaltensweisen

Ich (Ich / Team / Unternehmen)
Kontrolle
Vertraulichkeit
Innensicht
Harmoniebedürfnis
Vorgabe
Sicherheitsorientierung
Expertentum
Vielfalt
Kontinuität
Genauigkeit
Rücksicht
Bauchgefühl
Zufriedenheit

Zu stärkende Verhaltensweisen

Wir (Unternehmen / Team / Ich)
Vertrauen
Transparenz
Aussenperspektive
Konfliktfähigkeit
Eigenverantwortung
Risikobereitschaft
Aufgeschlossenheit
Fokussierung
Flexibilität
Pragmatismus
Konsequenz
Objektivität
Leistungsanspruch



Herausforderungen für den **Verwaltungsrat**

- **Abnehmende Verfügbarkeit an Zeit**
..u.a. weitere Beschäftigungen, Teilzeitmandate, Unabhängigkeitsaspekte
- **Steigendes Komplexitätsniveau**
..u.a. basierend auf grösseren, weltwirtschaftlichen Interdependenzen
- **Massiver Informationsüberfluss**
..versus begrenztem Zugang zu Qualitätsinformationen
- **Zunehmende Verantwortlichkeit**
(*liability, accountability, responsibility*)
..u.a. aufgrund der erweiterten Stakeholder-Orientierung

...die gesellschaftlichen Erwartungen sind hoch!





Zukünftige Governance Prioritäten

Weltweite Corporate Governance Initiativen

International:

- ICGN Global Corporate Governance Principles 1999, 2021
- G20-OECD Principles of Corporate Governance 2015
- IFAC Governance in the Public Sector 2001

Canada:

- Corporate Governance Guideline 2018
- Saucier Report 2001
- Toronto Report 1994

USA:

- Common Sense Principles 2.0, 2018
- Report of the NYSE Commission on Corporate Governance 2017
- NYSE Corporate Governance Rules 2017
- Sarbanes-Oxley Act 2002
- Blue Ribbon Committee 1999
- COSO Internal Control – Integrated Framework 1992, 2013
- Cohen Commission 1978

EU:

- 8th Company Law Directive 2006/43/EC
- Winter Report 2002

United Kingdom:

- The UK Stewardship Code 2020
- The UK Corporate Governance Code 2018, 2022
- Guidelines for Disclosure and Transparency in Private Equity 2007
- Combined Code of the London Stock Exchange 2003 incl. Turnbull Guidance on Internal Control and Smith Guidance on Audit Committees
- Hampel-Report 1998, Greenbury-Report 1995
- Cadbury Report 1992

Germany:

- Deutscher Corporate Governance Kodex 2002, 2020
- Transparenz- und Publizitätsgesetz (TransPuG) 2002
- Gesetz zur Kontrolle und Transparenz im Unternehmensbereich (TransPuG) 1998

Switzerland:

- Schweizerisches Obligationenrecht, 1911, 2017/22
- SIX Corporate Governance Directive 2002, 2018
- Swiss Code of Best Practice 2002, 2016/rev. 2022
- Governance in Family Firms 2006

Japan:

- Japan's CG Code 2018
- Principles of Corporate Governance for Listed Companies 2004
- Keidanren Report 1997

Australia:

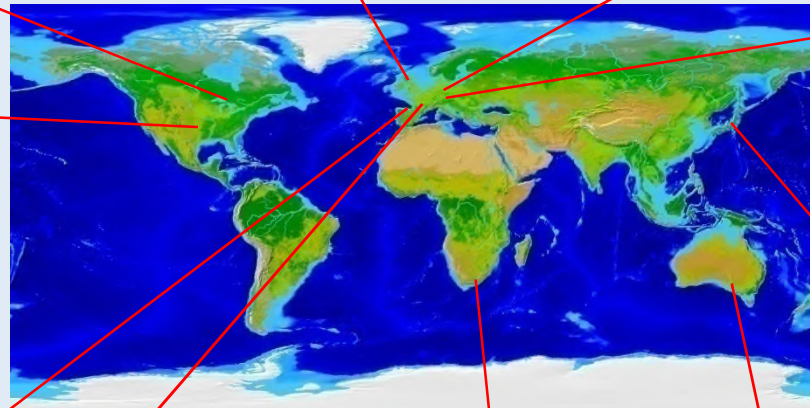
- Corporate Governance Principles and Recommendations 2014
- Horwath 2002 Corporate Governance Report
- Bosch Report 1995

South Africa:

- King Code of Governance 2016
- King II Report 2002
- King I Report 1994

France:

- AFEP-MEDEF CG Code of Listed Corporations 2016
- Recommandations sur le gouvernement d'entreprise 2011
- The Corporate Governance of Listed Corporations 2003
- Viénot I/II Report 1999, 1995



(source: www.ecgi.org/codes/all_codes.php)

Kognitive Diversität und Engagement

Inherent Factors:

- ❖ Nature and complexity of work
- ❖ Historical background
- ❖ Culture of society and organization
- ❖ Economic environment
- ❖ ...



Inputs, i.a.:

The right **mix of people** with needed
skills and experience

+

People that **have and take the time**
to do their job well*

Board diversity
and
Board involvement

(*Board involvement; e.g., existence of CEO duality, presence of board interlocks, time commitment, i.e., frequency and lengths of meetings, percentage of board members that usually attend meetings, time for individual preparation and follow-up, etc.)

Unabhängigkeit und Wider Stakeholder Community

Organization, i.a.:

- Board systems
- Level of independence
- Organization and value of committees
- Size of board
- Board recruiting
- Induction and training for board members
- Board interactions
(e.g., cooperation, coordination within board, with general management, internal and external experts / IA, EA, RM)
- Board internal and external relationships
- Access to resources
- etc.

Board structure

Board composition

Board relationships

Klare Verantwortlichkeiten, Neue Arbeitswelten und Generations

Processes, i.a.:

- Common purpose, vision, mission, objectives
- Clear roles and responsibilities
- Unambiguous board duties and tasks
- Transparent meeting practices
- Priority setting within board work
- Clearly structured and timed agenda setting
- Reasonable board calendars, away-days
- Communication (inside, outside)
- Board review and evaluation
- Encouragement of individual contribution
- Sophisticated approach in managing conflicts
- etc.

Board
working style

Strategisches Handeln, Wertsteigerung und die **Sparringpartner-Rolle**

Outputs, i.a.:

- Strategy and policy making
(e.g., setting the organization's values; reviewing and deciding the organization's strategic direction; setting organizational policies)
- Supporting management (Stewardship)
(e.g., advising and consulting management)
- Monitoring and supervision
(e.g., overseeing the financial management, selecting and monitoring the organization's executives/senior staff)
- Board maintenance
(e.g., recruiting new board members)
- Institutional Relations and Accountability
(e.g., ensuring that organization fulfills its legal obligations, ensuring accountability and representing interests of stakeholders, taking care when things go wrong, acting as link with important groups the organization deals with, helping to raise funds for the organization, representing the organization externally)

Board activity
and performance

Board value
creation
(economic, social,
internal, external)

Chancen in der Zukunft I

Top 10 topics in Corporate Governance:

1. Development of long-term corporate strategy in an increasingly interdependent and volatile world economy
2. Cultivate shareholder relations and assess company vulnerabilities as **activist investors** target more companies with increasing success
3. **Oversee cybersecurity** as the landscape becomes more developed and cyber risk tops director concerns
4. Oversee risk management, including the identification and assessment of new and emerging risks
5. Assess the **impact of social media** on the company's business plans
6. Stay abreast of Delaware law developments and other trends in M&A
7. Review and refresh board composition and **ensure appropriate succession**
8. Monitor developments that could impact the **audit committee's already heavy workload**
9. Set appropriate executive compensation as CEO pay ratios and income inequality continue to make headlines
10. Prepare for and **monitor developments in proxy access.**

(Akin Gump Strauss Hauer & Feld LLP)

Chancen in der Zukunft II

1. Authentizität



2. Schnell, schneller, am schnellsten (...mit Bedacht)

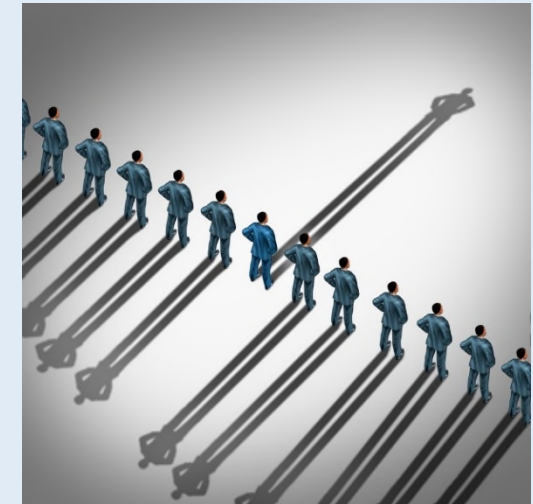
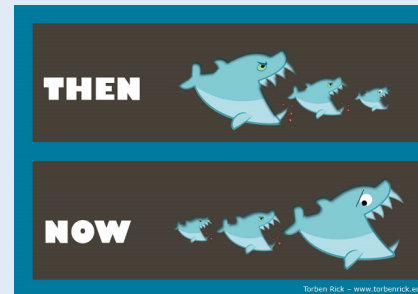


3. Erwartungsmanagement

4. Disruptiv & Inkrementell

5. Digital Thinking

6. Nachfolge*handlung*



Fazit



Netzwerk für Innovative Corporate Governance

➤ www.nicg.net





*Vielen Dank für
die geschätzte Aufmerksamkeit*