# Corporate governance and sustainability. Workshop of the Master in Economics and Finance, Universidad de Navarra

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I would like to thank Universidad de Navarra (Master in Economics and Finance), and, of course, German López Espinosa, for your invitation. I am particularly honoured to be back at the University.

Let me start by stressing how relevant it is for us to have access to quality economic research to support our public-policy decision making, and how determined we are to strengthen the collaboration with the academia to make this possible. Two years ago, we carried out a perception panel among different stakeholders and the results highlighted this need. Accordingly, among other initiatives, we established a group of expert economists and academics to provide advice and views about new challenges and risks. I am also confident that our digital transformation plan will promote greater use of our databases for external research. Another example is the collaboration between the CNMV and the Universidad Internacional Menéndez Pelayo that we started last year, organising an annual course on fintech and digital assets, the second edition of which is due to take place in Santander at the end of June.

Today's conference focuses on corporate governance and sustainability, areas of great relevance for securities regulators nowadays.

I am sure we can all agree that a high level of corporate governance is essential for companies to achieve efficient, dynamic, and sustainable growth over time. Major scandals and business failures in the past are linked to failures in corporate governance (Enron or Volkswagen, among others), and the success of a business usually goes hand in hand with good governance. Good governance is a necessary condition for success. Not sufficient but necessary. This explains why securities regulators always place great emphasis on the importance of promoting good governance practices among listed companies: it increases confidence in the system, attracts investors and favours a more efficient allocation of resources.

That said, our ability to intervene in the governance of companies is limited and based more on principles, recommendations, and good governance codes, (so-

called “soft law”), than on regulation and enforcement itself. And this is how it should be.

Our goal as regulators is to address the moral hazard issue that arises from asymmetric information between company managers and owners. This is traditionally managed by establishing standards, increasing transparency and accountability of listed companies and promoting, additionally, adequate internal controls, while refraining from interfering excessively in the management of companies.

With this in mind, it is also true that corporate governance is gaining relevance in securities regulators’ agenda due to several major trends, sustainability being one of them. So, let me dive into the debate on sustainability and corporate governance.

Corporate governance standards continue to evolve over time. The Great Financial Crisis showed us the perils of excessive short-term thinking and the need to favour a long-term view in management incentives, which led to implementing several measures to such end. The sustainability challenge and the tragedy of the commons (or tragedy of the horizon, as Mark Carney named it) calls for more action, with implications in many fronts.

One of the main debates has come from the shift from shareholder primacy to a broader commitment to all stakeholders, raised by the Business Roundtable in 2019. Such a shift that was followed in 2020 by the World Economic Forum in Davos, publishing a manifesto urging companies to move from a shareholder capitalism towards a model or stakeholder capitalism.

Nowadays, managers do recognise that they must answer to other stakeholders, including consumers, employees and society as a whole. The question is how and to what extent.

I do believe that, in the long term, companies are unlikely to be successful if they do not consider stakeholders’ interest. In this regard, companies should consider stakeholder factors as they affect company’s long-term value maximisation. It is known as the enlightened shareholder value, similar to the popular saying of “doing well by doing good”. This approach should be based on proper sustainability related disclosure to provide investors and other stakeholders a better understanding of risks and opportunities related to climate and sustainability. Reliable and comparable disclosure is crucial.

Others might claim that companies should go a step further and pursue the stakeholder welfare as an end by itself, despite possible trade-offs among different stakeholder interests. I am more inclined to the former.

What is clear is that, currently, the impact companies have on society and the environment matters. Sustainability factors are no longer just part of a company’s social responsibility strategy but are embedded in the company’s strategy and risk assessment.

Companies must also be able to respond to the increasing regulatory framework in such regard, particularly related to reporting, to publish metrics and standards to enhance transparency and accountability.

So, what does this all mean for corporate governance recommendations?

**Let me mention four recent initiatives.**

First, OECD principles, which constitute the main international reference of good corporate governance, recently carried out a review of its principles, which were ratified by the G20 leaders last September. The updated Principles introduce a new chapter on “Sustainability and resilience”, offering recommendations to support companies manage the risks and opportunities associated with the climate transition and other sustainability challenges.

Second, we have the Spanish Code of Good Governance practices, published by the CNMV, for listed companies. The Code was partially amended in 2020 to enhance sustainability disclosure, including the importance of performance indicators on ESG factors, among others changes such as gender diversity.

After four years, it might be appropriate to ask ourselves to what extent reviewing the current recommendations may be necessary. The Spanish Code has been regularly updated to incorporate emerging best practices while ensuring its stability throughout the years. We must, therefore, carefully evaluate whether the Good Governance Code (CBG for its abbreviation in Spanish) requires any type of update to guide Spanish listed companies in this area. I encourage the academic community to continue researching and contributing to this debate.

Thirdly, we will shortly publish a review of our Guide on audit board committees.

We have a technical Guide on how audit committees should work. A new version of this CNMV's guide will be published in the coming weeks, to incorporate the sustainability dimension.

Sustainability reporting is gaining importance in audit committees’ activities, and committees’ responsibilities should be clarified, along with its relationship with the specific sustainability committees that many companies have stablished, as well at board level to ensure that there is a proper coordination but recognising the ultimate responsibility of the audit committee on the sustainable reporting, as it is the case for financial reporting.

And lastly, the fourth initiative that I would like to mention is that we launched a good practices code for institutional investors, a Stewardship Code, to promote investor engagement. It is a Code of good practices which targets institutional investors, asset managers and proxy advisors, encouraging greater shareholder engagement in the companies they invest in. The ultimate goal is to foster active shareholder involvement in company strategy and decisions, ultimately enhancing long-term performance for the benefit of shareholders and other stakeholders.

So far, seven entities have already decided to adopt this Code to commit to applying each and every one of its principles.

**Some final considerations**

Moving away from sustainability considerations, I would like to share with you two more remarks.

The first one refers to the evolution of the ownership of companies and its implications for proper management, which might deserve more attention.

Large investors have always been relevant actors in the ownership structure of listed companies. In Spain, share capital held by significant shareholders which are not represented in the Board stands at 13%. Referring to those that have a representative at the board, they amount to around 40%. The stock free float stands around 42%.

This has several implications with different effects. On one hand, the concentration of ownership in a few investors and the consequent decrease in the free float might, in some particular cases, result in hampering price formation process in the market, particularly in the case of small companies where market transactions are already small. Additionally, as long as most of those investors have a seat on the board, the desirable balance between the different type of board members might be more complicated to achieve, leaving less space for independent board members.

On the other hand, institutional investors, as I just mentioned when referring to the Stewardship code, can provide stability to the company and favour engagement with the Board, strengthening the control and discipline in the company. Notwithstanding the above, there is enough evidence that listed entities with a stable block of control and reduced free float are less willing to engage with institutional investors. This is certainly an interesting area to analyse.

The second remark that I would like to share with you refers to the need of ensuring a proper level playing field between listed and non-listed companies when stablishing regulatory requirements.

Listed companies are subject to thorough supervision and demanding regulatory requirements, as long as they appeal to public funds in the form of capital from a broad base of investors. That is clear and well-funded. Nevertheless, there is also a need to ensure a level playing field among companies, listed or non-listed, in those areas that are not related to being listed.

For example, on sustainability reporting, regulatory requirements are applied to all companies, according to size and other factors, but regardless of if they are listed or not, as it should be. Another example would be restrictions on diversity and gender balance at the board's level, established pursuing social and broader economic benefits, and should apply equally, as has been the case in Spain, where

restrictions will be applied by listed companies and by the so-called public interest entities[1].

Regulation applied to listed companies must not create excessive burden on them, unless justified by its nature, in comparison to other big non-listed companies.

**I will conclude now.** Corporate governance and sustainability reporting are essential mechanisms to foster transparency and accountability within the corporate landscape.

There are plenty of new initiatives, as the new corporate sustainability Reporting Directive (CSRD), and the new corporate standards, that are pivotal in this regard. We must continue to adapt and refine our regulatory frameworks to ensure that it remains effective in promoting best business practices and stakeholder trust.

Thank you.

[1] Companies with more than 250 employees or a turnover of more than €50 million or assets of more than €43 million.