



**WARSAW STOCK EXCHANGE**

# **CORPORATE GOVERNANCE AND REGULATION IN POLAND**

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# HISTORY OF CORPORATE GOVERNANCE IN POLAND

- **1998 - establishment of Corporate Governance Forum**
  - bottom-up approach
  - wide market participation from employers to market participants
  
- **May 2001 - appointment of Best Practices Committee**
  - practitioners and academics
  
- **4 July 2002 - final version of “Best Practices in Public Companies in 2002” - Polish corporate governance standards**
  - good practice vs observed bad practices
  - conflicting interests (large industrial holders vs portfolio investors)
  
- **March 2003 - establishment of Polish Institute of Directors**
  - promotion of corporate governance standards among Polish companies
  - fostering corporate governance implementation process within companies

# HISTORY OF IMPLEMENTATION OF 'BEST PRACTICES ...'



- **September 2002** - adoption of 'Best Practices in Public Companies 2002' by the Exchange Management and Supervisory Boards
- **31 December 2002** - issuers' statements regarding their intention to observe 'Best Practices ...'
- **1 July 2003** - first comprehensive issuers' statements concerning observance of 'Best Practices ...'
- **July 2004** - start of wide consultation process concerning draft of 'Best Practices in Public Companies 2005'
- **October 2004** - final version of 'Best Practices in Public Companies 2005'
- **December 2004** - adoption of 'Best Practices in Public Companies 2005' by the Exchange Management and Supervisory Boards



# 'BEST PRACTICES' STRUCTURE AND CHARACTERISTICS

## STRUCTURE:

Document's structure based directly on the structure outlined in the Commercial Companies Code

General Rules	I - V
Best Practices of General Meetings	Rules 1 - 17
Best Practices of Supervisory Boards	Rules 18 - 31
Best Practices of Management Boards	Rules 32 - 40
Best Practices in Relations with Third Parties and Third Party Institutions	Rules 41 - 48

## CHARACTERISTICS:

- ✓ dualistic division of competencies among company authorities (supervisory and management boards) characteristic for the Polish legal system present in the document as well
- ✓ quite deliberately certain didacticism also introduced into individual paragraphs' reading
- ✓ the idea behind the document - to contrast bad practices diagnosed on the Polish market with good (best) practices presented by code's detailed rules



# INDEPENDENCE

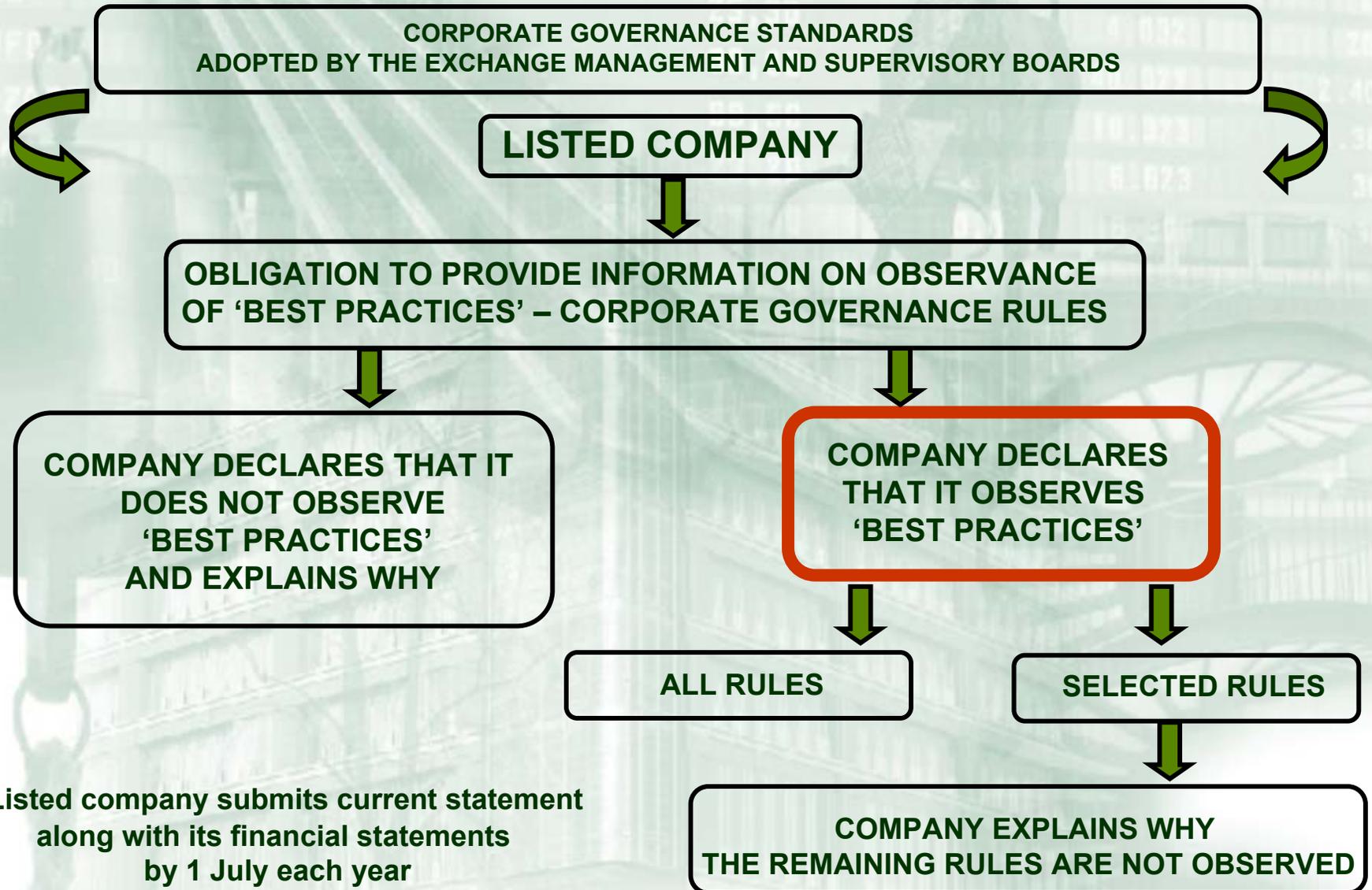
## RULE 20 OF 'BEST PRACTICES'

### Rule 20 (1)

- (a) At least half the members of the supervisory board should be independent members, subject to point (d) below. Independent members of the supervisory board should not have relations with the company and its shareholders or employees which could significantly affect the independent member's ability to make impartial decisions.
- (b) Detailed independence criteria should be laid down in the company's statutes (2).
- (c) Without the consent of the majority of independent supervisory board members, no resolutions should be adopted on the following issues:
  - performances of any kind by the company and any entities associated with the company in favour of management board members;
  - consent to the execution by the company or a subsidiary of a key agreement with an entity associated with the company, a member of the supervisory board or management board, or with their associated entities; and
  - appointment of an auditor to audit the company's financial statements.
- (d) In companies where one shareholder holds a block of shares carrying over 50% of all voting rights, the supervisory board should consist of at least two independent members, including an independent chairman of the audit committee, should such a committee be set up.

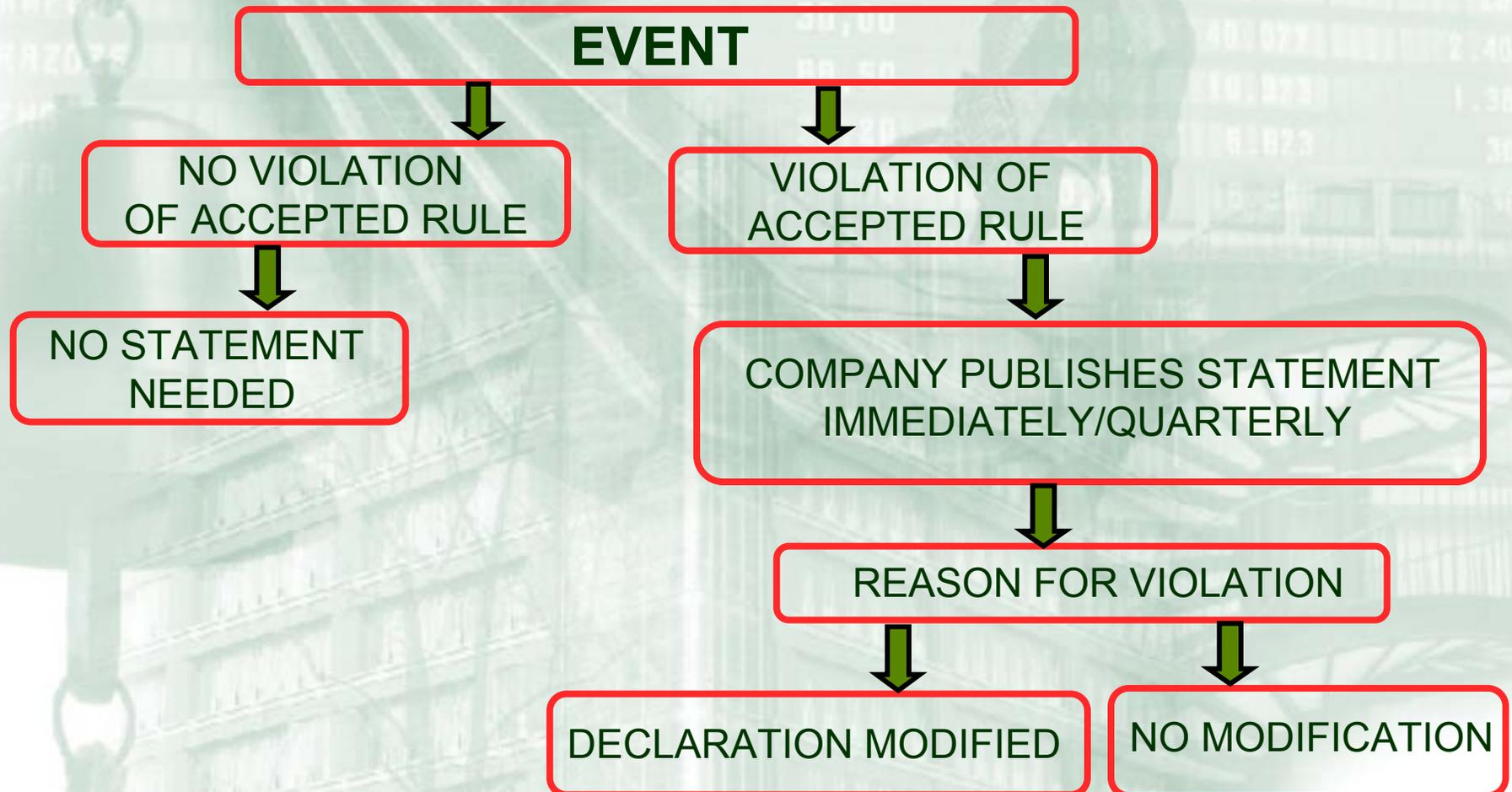
- (1) Rule 20 may be implemented by the company on a date different from that on which the other rules in the set are implemented, though no later than by 30 June 2005.
- (2) The Best Practices Committee hereby recommends rules based on European standards, i.e. the independence criteria set out in the Commission's Recommendation on strengthening the role of non-executive or supervisory directors [http://europea.eu.int/comm/internal\\_market/company/independence/index\\_en.htm](http://europea.eu.int/comm/internal_market/company/independence/index_en.htm)

# CORPORATE GOVERNANCE RULES DISCLOSURE REQUIREMENTS



**! Listed company submits current statement  
along with its financial statements  
by 1 July each year**

# PROCEDURE IN CASE OF AN EVENT VIOLATING CG RULES





# CG OBSERVANCE STATISTICS - 2004

## SIGNIFICANT IMPROVEMENT COMPARED TO 2003

- ✓ all **229** Exchange-listed companies published and filed with the Exchange their statements concerning observance of 'Best Practices'
- ✓ **90** companies observe all the rules (except Rule 20) compared to **66** in 2003
- ✓ only **9** companies declared not to observe any of the rules of Best Practices compared to **17** in 2003
- ✓ **220** companies observe at least one of the rules compared to **184** in 2003
- ✓ average company implemented **97%** of Best Practices compared to **83%** in 2003



## **'BEST PRACTICES 2005'** **REPLACING BEST PRACTICES 2002**

- Extensive consultations within the industry - opinions and suggestions of listed companies and capital markets institutions
- Analysis of companies' statements reflecting the current state of corporate governance implementation
- Practical experience gathered over the last two years
- Recent developments in CG around the world
- Foreign experience, particularly the recent European Commission's recommendations in this field concerning remuneration of board members and strengthening the role of supervisory boards (*Commission Recommendation on strengthening the role of non-executive or supervisory directors* and *Commission Recommendation on fostering an appropriate regime for the remuneration of directors*).



# BEST PRACTICES 2005 vs 2002

## SCOPE OF MODIFICATION

- Modification of Rule 20 concerning independent members of supervisory board and referencing the independence criteria to the European Commission's recommendation (Rule 20 may be adopted by companies at the latest by 30 June 2005)
- Recommendation concerning the audit and remuneration committees; rule concerning change of the auditor and its selection made more precise
- Modification of the rule concerning making remuneration of supervisory and management board members public
- Modification of rules concerning presence of board members during GMs, introduction of modifications to GMs agenda and need for presentation by the supervisory board's own assessment of the company's business situation



## **IMPLEMENTATION – THE RESULTS**

- **Companies have performed the disclosure obligation itself, and made the effort to improve their corporate practices:**
  - ✓ **Independence of supervisory board members becomes a recognised rule for a public company – ongoing implementation of Rule 20**
  - ✓ **Public availability of by-laws concerning management and supervisory boards operations becomes a standard**
- **Listed companies have become more transparent and open towards investors**
- **Listed companies have recognised and started to appreciate the value of corporate governance standards**