



## **NOTICE**

**Subject: DRAFT 2016 CODE OF CORPORATE GOVERNANCE FOR PUBLICLY-LISTED COMPANIES**

Please find attached the draft 2016 Code of Corporate Governance for Publicly-Listed Companies.

The public is invited to submit comments, feedback and input on the Code on or before **October 14, 2016 (Friday)**.

It is requested that any comments/inputs be given using the template provided herein, which can be found in the Corporate Governance Advisories Section of the SEC Website, and email the same to [2016cgcode@gmail.com](mailto:2016cgcode@gmail.com).

Issued on 22 September 2016.

**PHILIPPINE CODE OF CORPORATE GOVERNANCE  
(FOR PUBLICLY-LISTED COMPANIES)**

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**BOARD'S GOVERNANCE RESPONSIBILITIES**

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**Principle 1:** The company should be headed by a competent, working board to foster the long-term success of the corporation, and to sustain its competitiveness and profitability in a manner consistent with its corporate objectives and the long-term best interests of its shareholders and other stakeholders.

**Principle 2:** The fiduciary roles, responsibilities and accountabilities of the Board as provided under the law, company's articles and by-laws and other legal pronouncements and guidelines should be clearly made known to all directors as well as to stockholders and other stakeholders.

**Principle 3:** Board committees should be set up to the extent possible to support in the effective performance of the Board's functions, particularly with respect to audit, risk management, related party transactions, and other key corporate governance concerns such as nomination and remuneration. For all committees established, its composition, functions and responsibilities should be contained in a publicly available Committee Charter.

**Principle 4:** To show full commitment to the company, the directors should devote the time and attention necessary to properly and effectively perform their duties and responsibilities, including sufficient time to be familiar with the corporation's business.

**Principle 5:** The Board should endeavor to exercise objective and independent judgment on all corporate affairs.

**Principle 6:** The best measure of the Board's effectiveness is through an assessment process. The Board should regularly carry out evaluations to appraise its performance as a body and assess whether it possesses the right mix of background and competencies.

**Principle 7:** Members of the Board are duty-bound to apply high ethical standards, taking into account the interests of all stakeholders.

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**DISCLOSURE AND TRANSPARENCY**

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**Principle 8:** The Board should establish internal corporate disclosure policies and procedures that are practical and in accordance with the best practices.

**Principle 9:** The external auditor should be accountable to the shareholders and owes a duty to the company to exercise due professional care in the conduct of audit. At all times, he should be independent in fact, in mind and in the perception of the public. In the performance of any professional service, he should maintain objectivity and integrity, should be free of conflicts of interest, and should not knowingly misrepresent facts or subordinate his or her judgment to others.

**Principle 10:** The Board should ensure that material and reportable non-financial and sustainability issues are disclosed.

**Principle 11:** The company should maintain a comprehensive and cost-efficient communication channel for disseminating relevant information. This channel is crucial for an informed decision-making by investors, stakeholders and other interested users.

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## **INTERNAL CONTROL AND RISK MANAGEMENT FRAMEWORK**

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**Principle 12:** To ensure the integrity, transparency and proper governance in the conduct of its affairs, the company should have a strong and effective internal control system and enterprise risk management system.

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## **CULTIVATING A SYNERGIC RELATIONSHIP WITH SHAREHOLDERS**

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**Principle 13:** The company should treat all shareholders fairly and equitably, and should recognise, protect and facilitate the exercise of shareholders' rights, and continually review and update such governance and control arrangements.

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## **DUTIES TO STAKEHOLDERS**

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**Principle 14:** The rights of stakeholders established by law, by contractual relations and through voluntary commitments must be respected. Where stakeholders' rights and/or interests are at stake, stakeholders should have the opportunity to obtain prompt effective redress for violation of their rights.

**Principle 15:** A mechanism for participation of employees should be developed so as to create a symbiotic environment to realize the company's goals and to participate in its corporate governance processes.

**Principle 16:** The company should be socially responsible in all its dealings with communities where it operates. It should ensure that its interactions serve its environment and stakeholders in a positive and progressive manner that is fully supportive of its comprehensive and balanced development. Creating shared value with stakeholders should be the ultimate drive of the company's existence.

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## INTRODUCTION

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1. The 2016 Code of Corporate Governance is intended to raise the corporate governance standards of Philippine corporations to a level at par with its regional and global counterparts. The latest G20/OECD Principles of Corporate Governance and the ASEAN Corporate Governance Scorecard were used as key reference materials in the drafting of this Code.
2. The Code will adopt the “comply or explain” approach. This approach combines voluntary compliance with mandatory disclosure. Companies do not have to comply with the Code but they must state in their annual reports whether they comply with the Code provisions, identify any areas of non-compliance, and explain the reasons for non-compliance. This approach allows companies to say that they know better, but must explain their reasoning.
3. The Code is arranged as follows: *Principle, Recommendations* and *Explanations*. The *Principles* are accepted or professed rules of action or conduct that may be applied to different types of corporations. The *Recommendations* are those best corporate governance practices that are specifically recommended for publicly-listed companies. The *Explanations* strive to provide additional information to the companies on the recommended best practice. The “comply or explain” approach is applied to the *Principles* and *Recommendations* in the Code.
4. This Code does not in any way prescribe a “one size fits all” framework. The Principle of Proportionality should be considered in the application of its provisions.
5. This 2016 Code of Corporate Governance for publicly-listed companies is the first of a series of Codes that is intended to cover all types of corporation in the Philippines under SEC supervision.
6. Definition of Terms:

**Corporate Governance** – the system of stewardship and control to guide organizations in fulfilling their long-term economic, moral, legal and social obligations towards their stakeholders.

It is a system of direction, feedback and control using regulations, performance standards and ethical guidelines to hold the Board and senior management accountable for ensuring ethical behavior, reconciling long-term customer satisfaction with shareholder value, to the benefit of all stakeholders and society.

Its purpose is to maximize the organization’s long-term success, creating sustainable value for its shareholders, stakeholders and the nation.

**Board of Directors** – the governing body elected by the stockholders that exercises the corporate powers of a corporation, conducts all its business and controls its properties.

**Management** – a group of executives given the authority by the Board of Directors to implement the policies it has laid down in the conduct of the business of the corporation.

**Independent Director** – a person, who apart from his shareholdings, is independent of management and free from any business or other relationship which could, or could reasonably be perceived to, materially interfere with his exercise of independent judgment in carrying out his responsibilities as a director.

**Executive Director** – a director who has executive responsibility of day to day operations of part or the whole of the organization.

**Non-executive director** – a director who has no executive responsibility nor performs any work related to the operations of the corporation.

**Conglomerate** – a group of corporations that has diversified business activities in varied industries whereby the operations of such businesses are controlled and managed by a parent corporate entity.

**Internal control** – the process designed, implemented and maintained by those charged with governance, management and other personnel to provide reasonable assurance about the achievement of an entity’s objectives with regard to reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations. The term “controls” refers to any aspects of one or more of the components of internal control.<sup>1</sup>

**Business risk** – a risk resulting from significant conditions, events, circumstances, actions or inactions that could adversely affect an entity’s ability to achieve its objectives and execute its strategies, or from the setting of inappropriate objectives and strategies.<sup>2</sup>

**Enterprise Risk Management** – a process, effected by an entity’s Board of directors, management and other personnel, applied in strategy setting and across the enterprise, designed to identify potential events that may affect the entity, and manage risk to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity objectives.<sup>3</sup>

**Related Party Transactions** – transactions or dealing with related parties, regardless of whether or not a price is charged. These shall include, but not limited to the following:

- On- and off-balance sheet credit exposures and claims and write-offs;
- Investments;
- Consulting or professional service contracts;
- Asset purchases and sales;
- Construction contracts;
- Lease agreements;
- Trading and Derivative transactions;
- Borrowings and commitments; and
- Sale, purchase or supply of any goods or materials.

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<sup>1</sup> International Federation of Accountants (IFAC)

<sup>2</sup> International Federation of Accountants (IFAC)

<sup>3</sup> Committee of Sponsoring Organizations of the Treadway Commission (COSO Framework)

RPTs should be interpreted broadly to include not only transactions that are entered into with related parties but also outstanding transactions that were entered into with an unrelated party that subsequently becomes a related party.

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## **BOARD'S GOVERNANCE RESPONSIBILITIES**

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### **1. ESTABLISH A COMPETENT BOARD**

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#### **Principle**

The company should be headed by a competent, working Board to foster the long-term success of the corporation, and to sustain its competitiveness and profitability in a manner consistent with its corporate objectives and the long-term best interests of its shareholders and other stakeholders.

#### **Recommendation 1.1**

The Board should be composed of directors with collective working knowledge, experience or expertise that is relevant to the industry/sector that the company is in. The Board should always ensure that it has an appropriate mix of competence and expertise and that its members remain qualified for their positions individually and collectively, to enable it to fulfil its roles and responsibilities and to respond to the needs of the organization based on evolving business environment and strategic direction.

#### **Explanation**

Competence can be determined from the knowledge, experience and expertise of each director that is relevant to the industry/sector that the company is in. A Board with the necessary knowledge, experience and expertise can properly perform its task of overseeing management and governance of the corporation, formulating the corporation's vision, mission, strategic objectives, policies and procedures that would guide its activities, effectively monitoring management's performance and supervising the proper implementation of the same. In this regard, the Board sets qualification standards for its members to facilitate the selection of potential nominees for board seats and to serve as benchmark for the evaluation of its performance.

#### **Recommendation 1.2**

The Board should have an appropriate mix of Non-Executive and Executive Directors who possess the necessary qualifications to effectively participate in the deliberations of the Board.

#### **Explanation**

A combination of Non-Executive Directors (NEDs), which include Independent Directors (IDs), and Executive Directors (EDs) ensures that no director or small group of directors can dominate the decision-making process. The right mix of NEDs and EDs, particularly having a majority of NEDs, helps secure objective independent judgment on corporate affairs and to substantiate proper checks and balances.

The corporation determines the qualifications of the NEDs that enables them to effectively participate in the deliberations of the Board.

The following may be considered as grounds for the permanent disqualification of a director:

- a. Any person convicted by final judgment or order by a competent judicial or administrative body of any crime that: (a) involves the purchase or sale of securities, as defined in the Securities Regulation Code; (b) arises out of the person's conduct as an underwriter, broker, dealer, investment adviser, principal, distributor, mutual fund dealer, futures commission merchant, commodity trading advisor, or floor broker; or (c) arises out of his fiduciary relationship with a bank, quasi-bank, trust company, investment house or as an affiliated person of any of them;
- b. Any person who, by reason of misconduct, after hearing, is permanently enjoined by a final judgment or order of the SEC, Bangko Sentral ng Pilipinas (BSP) or any court or administrative body of competent jurisdiction from: (a) acting as underwriter, broker, dealer, investment adviser, principal distributor, mutual fund dealer, futures commission merchant, commodity trading advisor, or floor broker; (b) acting as director or officer of a bank, quasi-bank, trust company, investment house, or investment company; (c) engaging in or continuing any conduct or practice in any of the capacities mentioned in sub-paragraphs (a) and (b) above, or willfully violating the laws that govern securities and banking activities.

The disqualification should also apply if (a) such person is the subject of an order of the SEC, BSP or any court or administrative body denying, revoking or suspending any registration, license or permit issued to him under the Corporation Code, Securities Regulation Code or any other law administered by the SEC or BSP, or under any rule or regulation issued by the Commission or BSP; (b) such person has otherwise been restrained to engage in any activity involving securities and banking; or (c) such person is the subject of an effective order of a self-regulatory organization suspending or expelling him from membership, participation or association with a member or participant of the organization;

- c. Any person convicted by final judgment or order by a court or competent administrative body of an offense involving moral turpitude, fraud, embezzlement, theft, estafa, counterfeiting, misappropriation, forgery, bribery, false affirmation, perjury or other fraudulent acts;
- d. Any person who has been adjudged by final judgment or order of the SEC, BSP, court, or competent administrative body to have willfully violated, or willfully aided, abetted, counseled, induced or procured the violation of any provision of the Corporation Code, Securities Regulation Code or any other law, rule, regulation or order administered by the SEC or BSP;
- e. Any person judicially declared as insolvent;
- f. Any person found guilty by final judgment or order of a foreign court or equivalent financial regulatory authority of acts, violations or misconduct similar to any of the acts, violations or misconduct enumerated previously;
- g. Conviction by final judgment of an offense punishable by imprisonment for more than six (6) years, or a violation of the Corporation Code committed within five (5) years prior to the date of his election or appointment; and
- h. Other grounds as the SEC may provide.

In addition, the following may be grounds for temporary disqualification of a director:

- a. Refusal to comply with the disclosure requirements of the Securities Regulation, its Implementing Rules and Regulations and other relevant regulations. The disqualification will be in effect as long as the refusal persists;
- b. Absence in more than fifty percent (50%) of all regular and special meetings of the Board during his incumbency, or any twelve (12) month period during the said incumbency, unless the absence is due to illness, death in the immediate family or serious accident. The disqualification should apply for purposes of the succeeding election;
- c. Dismissal or termination for cause as director of any publicly-listed company, public company, registered issuer of securities and holder of a secondary license from the Commission. The disqualification should be in effect until he has cleared himself from any involvement in the cause that gave rise to his dismissal or termination;
- d. If the beneficial equity ownership of an independent director in the corporation or its subsidiaries and affiliates exceeds two percent (2%) of its subscribed capital stock. The disqualification is lifted if the limit is later complied with; and
- e. If any of the judgments or orders cited in the grounds for permanent disqualification has not yet become final.

A temporarily disqualified director should, within sixty (60) business days from such disqualification, take the appropriate action to remedy or correct the disqualification. If he fails or refuses to do so for unjustified reasons, the disqualification should become permanent.

### **Recommendation 1.3**

The Board should ensure attendance to an 8-hour orientation program for first-time directors and 4-hour relevant continuing training for all directors.

### **Explanation**

The orientation program for first-time directors and relevant continuing training for all directors aim to promote effective board performance and continuing qualification of the directors in carrying-out their duties and responsibilities. The orientation program ensures that new members are appropriately apprised of their duties and responsibilities, among others, before beginning their directorships. It also includes SEC-mandated topics on corporate governance and an introduction to the company's business, Articles of Incorporation, and Code of Conduct. The continuing training program on the other hand, make certain that the directors are continuously informed of the developments in the business and regulatory environments, including emerging risks relevant to the company. It includes courses on corporate governance matters relevant to the company, including audit, internal controls, risk management, sustainability and strategy.

### **Recommendation 1.4**

The Board should have a policy on board diversity.

### **Explanation**



Having a board diversity policy is a move to avoid groupthink and to ensure that optimal decision making is achieved. A board diversity policy is not limited to gender diversity but also includes diversity in age, ethnicity, culture, skills, competence and knowledge. On gender diversity policy, a good example is to increase the number of female directors, including female independent directors.

### **Recommendation 1.5**

The Board should ensure that it is assisted in its duties by two corporate officers, the Corporate Secretary and Compliance Officer, which position should be held by separate individuals. The Corporate Secretary and Compliance Officer should not be members of the board of directors and should annually attend at least four hours of corporate governance training.

### **Explanation**

To perform its functions, the Board is assisted by two corporate officers, the Corporate Secretary and Compliance Officer, whose duties include ensuring compliance with all pertinent laws, rules, regulations and contracts the company enters into. The Corporate Secretary and Compliance Officer are primarily responsible to the corporation and its shareholders and not to the Chairman or President of the company.

The Corporate Secretary, who should be a Filipino citizen and a resident of the Philippines, has the following duties and responsibilities:

- a. Ensures that the Board and all its members are reminded of their fiduciary responsibility to the company and to all its stakeholders
- b. Ensures that the Board is regularly informed of the significant investors of the company and that the ownership restrictions prescribed by law are complied with.
- c. Safe keeps and preserves the integrity of the minutes of the meetings of the Board and its committees, as well as other official records of the corporation;
- d. Keeps abreast on relevant laws and regulations and all governance issuances and ensures compliance with the same and should advise the Board and the Chairman on all relevant issues as they arise;
- e. Works fairly and objectively with the Board, Management and stockholders and contribute to the flow of information between the Board and management, the Board and its committees, and the Board and its stakeholders, including shareholders;
- f. Ensures that appropriate committees of the Board are established, that they have terms of reference, and that those serving on them have the appropriate knowledge, skills and experience to carry out their roles;
- g. Keeps a record of what authority has been delegated to whom;
- h. Develops an annual schedule of Board and committee meetings and the annual board calendar, and assists the chairs of the Board and its committees to set agendas for those meetings;

- i. Assists the Chairman with the composition of the Board and its committees. This is usually done by producing a skills and experience matrix for the Board to ensure that it can carry out their responsibilities effectively;
- j. Assists the Board and individual directors when they need to take independent professional advice at the company's expense;
- k. Assists the Chairman in organizing the annual evaluation of the Board, its committees and individual directors;
- l. Informs members of the Board, in accordance with the by-laws, of the agenda of their meetings at least five (5) working days in advance and ensure that the members have before them accurate information that will enable them to arrive at intelligent decisions on matters that require their approval;
- m. Attends all Board meetings, except when justifiable causes, such as, illness, death in the immediate family and serious accidents, prevent him from doing so;
- n. Keeps abreast on relevant industry developments and the operations of the corporation;
- o. Performs required administrative functions; and
- p. Performs such other duties and responsibilities as may be provided by the SEC.

The Compliance Officer, who should have a rank of Senior Vice President or an equivalent position with adequate stature and authority in the corporation, is a member of the company's management team in charge of compliance function. He has the following duties and responsibilities:

- a. Ensures proper onboarding of new directors (i.e., orientation on the company's business, charter, articles of incorporation and by-laws, among others);
- b. Monitors, reviews and evaluates compliance by the corporation with this Code and the rules and regulations of regulatory agencies;
- c. If violations are found, reports the matter to the Board and recommends the imposition of appropriate disciplinary action;
- d. Ensures integrity and accuracy of all documentary submissions to regulators;
- e. Appears before the SEC when summoned in relation to compliance with this Code;
- f. Collaborates with other departments to properly address compliance issues, which may be subject to investigation;
- g. Identifies possible areas of compliance issues and works towards the resolution of the same; and
- h. Ensures attendance of members of the Board and key officers to relevant trainings and performance assessment of key officers.

## **2. ESTABLISH CLEAR ROLES AND RESPONSIBILITIES OF THE BOARD**

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### **Principle**

The fiduciary roles, responsibilities and accountabilities of the Board as provided under the law, company's articles and by-laws and other legal pronouncements and guidelines should be clearly made known to all directors as well as to stockholders and other stakeholders.

### **Recommendation 2.1**

The Board should actively provide sound strategic policies and guidance to the corporation on objective setting as well as promote programs that can sustain its long-term viability and strength.

### **Explanation**

Periodic monitoring and evaluation of the implementation of policies and strategies, including business plans and operating budgets, Management's overall performance, quality of governance, and key developments in the business and regulatory environments are key roles of the Board. Sound strategic policies and objectives translate to the company's proper identification and prioritization of its goals and guidance on how best to achieve the same. This creates optimal value to the corporation.

### **Recommendation 2.2**

The Board should be responsible for ensuring and adopting an effective succession planning program of key officers and management to ensure growth and continued increase in shareholders' value. This should include adopting a policy on retirement age for key officers as part of management succession and to promote dynamism in the corporation.

### **Explanation**

The transfer of company leadership to highly competent and qualified individuals is the goal of succession planning. It is the Board's responsibility to implement a process to appoint competent, professional, honest and highly motivated management officers who can add value to the company.

A good succession plan is linked to the documented roles and responsibilities for each position, and should start in objectively identifying the key knowledge, skills, and abilities required for the position. For any potential candidate identified, a professional development plan is defined to help the individuals prepare for the job; e.g. training to be taken, cross experience to be achieved. The process is conducted in an impartial manner and aligned with the strategic direction of the organization.

### **Recommendation 2.3**

The Board should align key officers and board remuneration with long-term interests of the company. In doing so, it should formulate and adopt a policy statement specifying

the relationship between remuneration and performance, which should include specific financial and non-financial metrics to measure performance and set specific provisions for employees with significant influence on the over-all risk profile of the corporation. No director should participate in discussions or deliberations involving his own remuneration.

### **Explanation**

Companies are able to attract and retain the services of qualified and competent individuals if the level of remuneration is sufficient, in line with the business and risk strategy, objectives, values and incorporate measures to prevent conflicts of interest. Remuneration programs encourages a sound risk culture in which risk-taking behavior is appropriate and which encourages employees to act in the long-term interest of the company as a whole rather than for themselves or their business lines only.

Key considerations in determining proper compensation, include the following: (1) the level of remuneration is commensurate to the responsibilities of the role; (2) no director should participate in deciding on his remuneration; and (3) remuneration pay-out schedules should be sensitive to risk outcomes over a multi-year horizon.

For employees in control functions (e.g. risk, compliance and internal audit), their remuneration is determined independent of any business line being overseen, and performance measures is based principally on the achievement of their objectives so as not to compromise their independence.

### **Recommendation 2.4**

The Board should have a formal and transparent Board nomination and election process, which should include encouragement of shareholders' participation and an assessment of the effectiveness of the Board's processes and procedures in the nomination, election, or replacement of a director. In addition, its process of identifying the quality of directors should be aligned with the strategic direction of the company.

### **Explanation**

The nomination and election process includes the review and evaluation of the qualifications of all persons nominated to the Board, including whether candidates: (i) possess the knowledge, skills, experience, and particularly in the case of non-executive directors, independence of mind given their responsibilities to the board and in light of the entity's business and risk profile; (ii) have a record of integrity and good repute; (iii) have sufficient time to carry out their responsibilities; and (iv) have the ability to promote a smooth interaction between board members. A good practice is the use of professional search firms or external sources when searching for candidates to the Board.

The process also includes monitoring the qualifications of the directors. If a director ceases to be qualified or is failing to fulfill his or her responsibilities, appropriate action as permitted by law is to be taken.

### **Recommendation 2.5**

The Board should have the overall responsibility in ensuring that transactions with related parties are handled in a sound and prudent manner, and in compliance with applicable laws and regulations to protect the interest of all stakeholders.

## **Explanation**

Ensuring the integrity of related party transactions is an important fiduciary duty of the director. This includes formulation and implementation of policies and procedures to ensure the transparency of related party transactions between and among the corporation and its parent company, joint ventures, subsidiaries, associates, affiliates, major stockholders, officers and directors, including their spouses, children, dependent siblings and parents, and companies where the members of the Board have interlocking directorships.

## **Recommendation 2.6**

The Board should be primarily responsible for approving the selection and overseeing the performance of the Chief Executive Officer (CEO), management team, and heads of control functions.

## **Explanation**

This oversight of key personnel decisions include the following:

- a. Definition of the duties and responsibilities of the CEO who is ultimately accountable for the corporation's organizational and operational controls;
- b. Selection of the person who possesses the ability, integrity and expertise essential for the position of CEO;
- c. Evaluation of proposed senior management appointments; and
- d. Selection and appointment of qualified and competent management officers.

## **Recommendation 2.7**

The Board should oversee that an appropriate internal control system is in place, including setting up a mechanism for monitoring and managing potential conflicts of interest of management, board members, and shareholders. The Board should also approve the IA Charter.

## **Explanation**

The minimum internal control mechanisms for the performance of the Board's oversight responsibility may include the following:

- a. Overseeing the performance of the heads of the control functions, such as the Chief Risk Officer, Chief Compliance Officer and Chief Audit Executive;
- b. Overseeing the implementation of the governance framework and periodically reviewing said framework to ensure that it remains appropriate in light of material changes to the corporation's size, complexity and business strategy, as well as in its business and regulatory environments; and

- c. Review of the corporation's human resource policies, conflict of interest situations, compensation program for employees and management succession plan.

### **Recommendation 2.8**

The Board should ensure that the company has a sound enterprise risk management (ERM) framework to effectively identify, monitor, assess and manage key business risks. The risk management framework should guide the board on identifying unit/business line and enterprise level risk exposures as well as the effectiveness of risk management strategies.

#### **Explanation**

Risk management policy is part and parcel of a corporation's corporate strategy. The Board is responsible for defining the company's level of risk tolerance and providing oversight over its risk management policies and procedures.

### **Recommendation 2.9**

The Board should have a Board Charter and formalize and clearly state therein its roles, responsibilities and accountabilities in carrying out its fiduciary duties. The Board Charter should serve as a guide to the directors in the performance of their functions and which should be publicly available and posted on the company's website.

#### **Explanation**

The Board Charter guides the directors on how to discharge their functions. It provides the standards for evaluating the performance of the Board. The Board Charter also contains the roles and responsibilities of the Chairman.

## **3. ESTABLISH BOARD COMMITTEES**

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### **Principle**

Board committees should be set up to the extent possible to support in the effective performance of the Board's functions, particularly with respect to audit, risk management, related party transactions, and other key corporate governance concerns such as nomination and remuneration. For all committees established, its composition, functions and responsibilities should be embodied in a publicly available Committee Charter.

### **Recommendation 3.1**

The Board should establish board committees that focuses on specific board functions to aid in the optimal performance of its roles and responsibilities.

#### **Explanation**

Board committees are necessary to support the Board in the effective performance of its functions. The establishment of the same allows for specialization of issues and leads to better management of the Board's workload. The type of board committees to be

established by a company would depend on its size, risk profile and complexity of operations.

### **Recommendation 3.2**

The Board should establish an Audit Committee to enhance its oversight capability over the company's financial reporting, internal control system, internal and external audit processes, and compliance with applicable laws and regulations. The committee should be composed of at least three appropriately qualified non-executive directors, majority of whom, including the Chairman, should be independent. All of the members of the committee must have relevant background, knowledge, skills, and/or experience in the areas of accounting, auditing and finance. The Chairman of the Audit Committee should not be the chairman of the board or of any other committees. Further, the company's CEO should not be a member of the Audit Committee.

### **Explanation**

The Audit Committee is responsible for overseeing senior management in establishing and maintaining an adequate, effective and efficient internal control framework. It ensures that systems and processes are designed to provide assurance in areas including reporting, monitoring compliance with laws, regulations and internal policies, efficiency and effectiveness of operations, and safeguarding of assets.

The Audit Committee has the following duties and responsibilities, among others:

- a. Approves the Internal Audit Charter (IA Charter), which formally defines the role of Internal Audit, and the audit plan as well as oversee the implementation of the IA Charter;
- b. Through the Internal Audit (IA) Department, monitors and evaluates the adequacy and effectiveness of the corporation's internal control system, integrity of financial reporting, and security of physical and information assets. Well-designed internal control procedures and processes should be in place that will provide a system of checks and balances in order to (a) safeguard the company's resources and ensure their effective utilization, (b) prevent occurrence of fraud and other irregularities, (c) protect the accuracy and reliability of the company's financial data, and (d) ensure compliance with applicable laws and regulations;
- c. Oversees the Internal Audit Department, and recommend the appointment of an internal audit head or Chief Audit Executive (CAE), and recommend grounds for his removal. The Audit Committee should also approve the terms and conditions for outsourcing internal audit services;
- d. Establishes and identifies the reporting line of the Internal Auditor to enable him to properly fulfil his duties and responsibilities. For this purpose, he should directly report to the Audit Committee;
- e. Reviews and monitors management's responsiveness to the Internal Auditor's findings and recommendations;

- f. Prior to the commencement of the audit, discusses with the External Auditor the nature, scope and expenses of the audit, and ensure proper coordination if more than one audit firm is involved in the activity to secure proper coverage and minimize duplication of efforts;
- g. Evaluates and determines the non-audit work, if any, of the External Auditor, and reviews periodically the non-audit fees paid to the External Auditor in relation to the total fees paid to him and to the corporation's overall consultancy expenses. The committee should disallow any non-audit work that will conflict with his duties as an External Auditor or may pose a threat to his independence<sup>4</sup>. The non-audit work, if allowed, should be disclosed in the corporation's Annual Report and ACGR;
- h. Reviews and approves the Interim and Annual Financial Statements before their submission to the Board, with particular focus on the following matters:
  - Any change/s in accounting policies and practices
  - Areas where significant amount of judgment has been exercised
  - Significant adjustments resulting from the audit
  - Going concern assumptions
  - Compliance with accounting standards
  - Compliance with tax, legal and regulatory requirements
- i. Reviews the disposition of the recommendations in the External Auditor's management letter;
- j. Performs oversight functions over the corporation's Internal and External Auditors. It ensures the independence of Internal and External auditors, and that both auditors are given unrestricted access to all records, properties and personnel to enable them to perform their respective audit functions;
- k. Coordinates, monitors and facilitates compliance with contracts, laws, rules and regulations;
- l. Recommends to the Board the approval of the IA Charter and the appointment an External Auditor duly accredited by the Commission who undertakes an independent audit of the corporation, and provides an objective assurance on the manner by which the financial statements should be prepared and presented to the stockholders;
- m. Meets at least every quarter with the Board without the presence of the CEO or other management team members; and
- n. Periodically meets with the head of the internal audit.

### **Recommendation 3.3**

The Board should establish a Corporate Governance Committee which should be tasked to assist the Board in the performance of its corporate governance responsibilities, including the functions of the Nomination and Remuneration Committee. It should be composed of at least three members, all of whom should be Independent Directors, including the Chairman.

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<sup>4</sup> As defined under the Code of Ethics for Professional Accountants



## **Explanation**

The Corporate Governance Committee (CG Committee) is tasked with ensuring compliance with and proper observance of corporate governance principles and practices. It has the following duties and functions, among others:

- a. Oversees periodic performance evaluation of the board and its committees and executive management and conducts an annual self-evaluation of its performance;
- b. Ensures that the results of Board evaluation results are shared, discussed, and that concrete action plans are developed and implemented to address the identified areas for improvement;
- c. Decides whether or not a director is able to and has been adequately carrying out his/her duties as director based on its own assessment or the assessment of external facilitators, bearing in mind the directors' contribution and performance;
- d. Recommends continuing education/training programs for directors, assignment of tasks/projects to board committees, succession plan for the board members and senior officers, and remuneration package for corporate and individual performance;
- e. Adopts corporate governance policies and ensures that these are reviewed and updated regularly, and consistently implemented in form and substance;
- f. The Chairman of the CG Committee plays an active role in the board evaluation;
- g. Proposes and plans relevant trainings for the members of the board; and
- h. Performs the functions of the Nomination and Remuneration Committee, as needed.

Depending on the size and scope of the company, the CG Committee may either have Nomination and Remuneration sub-committees or the functions of the Nomination and Remuneration Committees subsumed in its functions.

The Nomination Sub-committee, or the CG Committee performing the functions of a Nomination Committee, has the special duty of defining the general profile of board members that the company may need and of ensuring appropriate knowledge, competencies and expertise that complement the existing skills of the Board. It is also responsible for determining the nomination and election process for the company's directors.

The Remuneration Sub-committee, or the CG Committee performing the functions of a Remuneration Committee, is tasked with establishing a formal and transparent procedure to develop a policy for determining the remuneration of directors and officers that is consistent with the corporation's culture, strategy and business environment in which it operates.

## **Recommendation 3.4**

Subject to a corporation's size, risk profile and complexity of operations, the Board should establish a separate Board Risk Oversight Committee (BROC) which should be responsible for the oversight of a company's Enterprise Risk Management system to

ensure its functionality and effectiveness. The BROC should be composed of at least three (3) members, majority of whom should be independent directors, including the Chairman. The Chairman should not be the Chairman of the Board or of any other committee. At least one member of the committee must have relevant thorough knowledge and experience on risk and risk management.

## **Explanation**

The establishment of a Board Risk Oversight Committee (BROC) is generally for conglomerates and companies with a high risk profile.

Enterprise risk management is integral to an effective corporate governance process and the achievement of a company's value creation objectives. Thus, the BROC has the responsibility to assist the board in ensuring that there is an effective and integrated risk management process in place. With an integrated approach, the board and top management will be in a confident position to make well-informed decisions, having taken into consideration risks related to significant business activities, plans and opportunities.

The BROC has the following duties and responsibilities, among others:

- a. Develops a formal enterprise risk management plan which contains the following elements: (a) common language or register of risks, (b) well-defined risk management goals, objectives and oversight, (c) uniform processes of assessing risks and developing strategies to manage prioritized risks, (d) designing and implementing risk management strategies, and (e) continuing assessments to improve risk strategies, processes and measures;
- b. Oversees the implementation of the enterprise risk management plan through a Management Risk Oversight Committee. The BROC conducts regular discussions on the company's prioritized and residual risk exposures based on regular risk management reports and assess how the concerned units or offices are addressing and managing these risks;
- c. Evaluates the risk management plan to ensure its continued relevance, comprehensiveness and effectiveness. The BROC revisits defined risk management strategies, look for emerging or changing material exposures, and stay abreast of significant developments that seriously impact the likelihood of harm or loss;
- d. Advises the Board on its risk appetite levels and risk tolerance limits;
- e. Reviews at least annually the company's risk appetite levels and risk tolerance limits based on changes and developments in the business, the regulatory framework, the external economic and business environment, and when major events occur that are considered to have major impacts on the company;
- f. Assesses the probability of each identified risk becoming reality and estimates its possible significant financial impact and likelihood of occurrence. Priority areas of concern are those risks that are the most likely to occur and are costly when they happen;

- g. Provides oversight over management's activities in managing credit, market, liquidity, operational, legal and other risk exposures of the corporation. This function includes regular receipt from Management of information on risk exposures and risk management activities; and
- h. Reports to the Board on a regular basis, or as deemed necessary, the *company's material risk exposures*, the actions taken to reduce the risks, and recommends further action or plans, as necessary.

### **Recommendation 3.5**

Subject to a corporation's size, risk profile and complexity of operations, the Board should establish a Related Party Transaction (RPT) Committee, which should be tasked with reviewing all related party transactions of the company and should be composed of at least three non-executive directors, two of whom should be independent, including the Chairman.

### **Explanation**

Examples of companies that may have a separate RPT Committee are conglomerates and universal/commercial banks in recognition of the potential magnitude of RPTs in these kinds of corporations.

The following are the functions of the RPT Committee, among others:

- a. Evaluates on an ongoing basis existing relations between and among businesses and counterparties to ensure that all related parties are continuously identified, RPTs are monitored, and subsequent changes in relationships with counterparties (from non-related to related and vice versa) are captured. Related parties, RPTs and changes in relationships should be reflected in the relevant reports to the board and regulators/supervisors;
- b. Evaluates all RPTs to ensure that these are not undertaken on more favorable economic terms (e.g., price, commissions, interest rates, fees, tenor, collateral requirement) to such related parties than similar transactions with non-related parties under similar circumstances and that no corporate or business resources of the company are misappropriated or misapplied, and to determine any potential reputational risk issues that may arise as a result of or in connection with the transactions. In evaluating RPTs, the Committee takes into account, among others, the following:
  1. the related party's relationship to the company and interest in the transaction;
  2. the material facts of the proposed RPT, including the proposed aggregate value of such transaction;
  3. the benefits to the corporation of the proposed RPT;
  4. the availability of other sources of comparable products or services; and
  5. an assessment of whether the proposed RPT is on terms and conditions that are comparable to the terms generally available to an unrelated party under similar circumstances. The company should have in place an effective price discovery system and has exercised due diligence in determining a fair price for RPTs;
- c. Ensures that appropriate disclosure is made, and/or information is provided to regulating and supervising authorities relating to the company's RPT exposures, and policies on conflicts of interest or potential conflict of interest. The disclosure should

include information on the approach to managing material conflicts of interest that are inconsistent with such policies; and conflicts that could arise as a result of the company's affiliation or transactions with other related parties;

- d. Reports to the Board of Directors on a regular basis, the status and aggregate exposures to each related party as well as the total amount of exposures to all related parties;
- e. Ensures that transactions with related parties, including write-off of exposures are subject to periodic independent review or audit process; and
- f. Oversees the implementation of the system for identifying, monitoring, measuring, controlling, and reporting RPTs, including periodic review of RPT policies and procedures.

### **Recommendation 3.6**

All established committees should be required to have Committee Charters stating in plain terms their respective purposes, memberships, structures, operations, reporting processes, resources and other relevant information. The Charters should provide the standards for evaluating the performance of the Committees. It should also be fully disclosed on the company's website.

### **Explanation**

The Committee Charter clearly defines the roles and accountabilities of each committee to avoid any overlapping functions, which aims at having a more effective board for the company. This can also be used as basis for the assessment of Committee performance.

## **4. FOSTER COMMITMENT**

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### **Principle**

To show full commitment to the company, the directors should devote the time and attention necessary to properly and effectively perform their duties and responsibilities, including sufficient time to be familiar with the corporation's business.

### **Recommendation 4.1**

The Directors should attend and actively participate in all Board, Committees, and Shareholders' meetings in person or through tele/videoconferencing conducted in accordance with the rules and regulations of the Commission, except when justifiable causes, such as, illness, death in the immediate family and serious accidents, prevent them from doing so. In Board and Committee meetings, the director should review meeting materials and if called for, ask the necessary questions or seek clarifications and explanations.

### **Explanation**

An evidence of a director's commitment to the company is the amount of time he dedicates to performing his duties and responsibilities, which includes his presence in all Board, Committees and Shareholders' meetings. In this way, the director is able to effectively perform his duty to the company and its shareholders.

Absence of a director in more than fifty (50) percent of all regular and special meetings of the Board during his incumbency is a ground for disqualification in the succeeding election, unless the absence is due to illness, death in the immediate family, serious accident or other unforeseen or fortuitous event.

#### **Recommendation 4.2**

The non-executive directors of the Board should concurrently serve as directors to a maximum of five (5) publicly-listed companies to ensure that they have sufficient time to fully prepare for meetings, challenge management's proposals/views, and oversee the long-term strategy of the company.

#### **Explanation**

Being a director necessitates a commitment to the corporation. Hence, there is a need to set a limit on board directorships. This ensures that the members of the board are able to effectively commit themselves to perform their roles and responsibilities, regularly update their knowledge and enhance their skills. Since sitting on the board of too many companies may interfere with the optimal performance of board members, in that they may not be able to contribute enough time to keep abreast of the corporation's operations and to attend and actively participate during meetings, a maximum board seat limit of five (5) directorships is set.

#### **Recommendation 4.3**

A director should notify the board where he is an incumbent director before accepting a directorship in another company.

#### **Explanation**

The Board expects commitment from a director to devote sufficient time and attention to his duties and responsibilities. Hence, it is important that a director notifies his incumbent board before accepting a directorship in another company. This is for the company to be able to assess if his present responsibilities and commitment to the company will be affected and if the director can still adequately provide what is expected of him.

### **5. REINFORCE BOARD INDEPENDENCE**

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#### **Principle**

The board should endeavor to exercise objective and independent judgment on all corporate affairs.

#### **Recommendation 5.1**

The Board should have at least three Independent Directors, or such number as to constitute at least one-third of the members of the Board, whichever is higher.

#### **Explanation**

The presence of Independent Directors in the Board is to ensure that independent judgment on corporate affairs is exercised and proper oversight of managerial performance, including prevention of conflict of interests and balancing of competing demands of the corporation. There is increasing global recognition that more independent directors in the board lead to more objective decision making, particularly in conflict of interest situations. In addition, experts have recognized that there are varying opinions on the optimal number of independent directors in the board. However, the ideal number ranges from one-third to a substantial majority.

### **Recommendation 5.2**

The Board should ensure that its independent directors possess the necessary qualifications and none of the disqualifications for an independent director to hold the position.

### **Explanation**

Independent directors need to possess a good general understanding of the industry they are in. Further, it is worthy to note that independence and competence should go hand-in-hand. It is therefore important that the Non-Executive Directors, including Independent Directors, possess the qualifications and stature that would enable them to effectively and objectively participate in the deliberations of the Board. An Independent Director refers to a person who, ideally:

- a. Is not a member of the management committee of the board of directors, or a director, officer, employee, of the covered entity, its subsidiaries, associates, affiliates or related companies as well as of the covered company's majority shareholders and its related companies;
- b. Has not been a member of the management committee of the board of directors, or a director, officer, employee, of the covered entity, its subsidiaries, associates, affiliates or related companies during the three years immediately preceding the date of his election;
- c. Has not been appointed in the covered entity, its subsidiaries, associates, affiliates or related companies as Chairman "Emeritus", "Ex-Officio" Directors/Officers or Members of any Executive Advisory Board, or otherwise appointed in a capacity to assist the Board in the performance of its duties and responsibilities within one year immediately preceding the his election;
- d. Does not own more than two percent of the outstanding shares of the covered entity, its subsidiaries, associates, affiliates or related companies;
- e. Is not a relative within the fourth degree of consanguinity or affinity; legitimate or otherwise, of a director, officer, or substantial shareholder of the covered entity or any of its related companies;
- f. Is not acting as a nominee or representative of any director of the covered entity or any of its related companies;
- g. Is not retained, either in his personal capacity or through a firm, as a professional adviser, consultant, agent or counsel of the covered entity, any of its related companies or substantial shareholder or is otherwise independent of management

and free from any business or other relationship within the three years immediately preceding the date of his election; and

- h. Does not engage or has not engaged, whether by himself or with other persons or through a firm of which he is a partner, director or substantial shareholder, in any transaction with the covered entity or any of its related companies or substantial shareholders, other than such transactions that are conducted at arm's length and could not materially interfere with or influence the exercise of his independent judgment.

Related companies, as used in this section, refer to (a) the covered entity's holding/parent company; (b) its subsidiary; and (c) subsidiary of its holding/parent company.

### **Recommendation 5.3**

The board's independent directors should serve for a maximum cumulative term of nine years. After which, the independent director should be perpetually barred from re-election as such in the same company but may continue as a non-independent director. In the instance that a company wants to retain an independent director who has served for nine years, the Board should provide meritorious justification/s and seek shareholder's approval during the annual shareholders' meeting.

#### **Explanation**

Service in a board for a long duration may impair a director's ability to act independently and objectively. Hence, the tenure of an independent director is set to a cumulative term of nine years. Independent Directors (IDs) who have served for nine years may continue as a non-independent director of the company. Reckoning of the cumulative nine-year term is from 2012, in connection with SEC Memorandum Circular No. 9, Series of 2011.

Any term beyond nine years for an ID is subjected to particularly rigorous review, taking into account the need for progressive change in the Board to ensure an appropriate balance of skills and experience. However, the shareholders may, in exceptional cases, choose to re-elect an independent director who has served for nine years. In such instances, the board must provide a meritorious justification for the re-election

### **Recommendation 5.4**

The positions of Chairman of the Board and Chief Executive Officer should be held by separate individuals and each should have clearly defined responsibilities.

#### **Explanation**

To avoid conflict or a split board and to foster an appropriate balance of power, increased accountability and better capacity for independent decision-making, it is recommended that the positions of Chairman and Chief Executive Officer (CEO) be held by different individuals. This type of organizational structure facilitates effective decision making and good governance. In addition, the division of responsibilities and accountabilities between the Chairman and CEO is clearly defined and delineated and disclosed in the Board Charter.

The CEO has the following roles and responsibilities, among others:

- a. Determines the corporation's strategic direction and formulates and implements its strategic plan on the direction of the business;
- b. Communicates and implements the corporation's vision, mission, values and overall strategy and promotes any organization or stakeholder change in relation to the same;
- c. Oversees the operations of the corporation and manages human and financial resources in accordance with the strategic plan;
- d. Has a good working knowledge of the corporation's industry and market and keeps up-to-date with its core business purpose;
- e. Directs, evaluates and guides the work of the key officers of the corporation;
- f. Manages prudently the corporation's resources and ensures a proper balance of the same;
- g. Provides the board with timely information and interfaces between the board and the employees;
- h. Builds the corporate culture and motivates the employees of the corporation; and
- i. Serves as the link between internal operations and external stakeholders.

On the other hand, the roles and responsibilities of the Chairman include the following:

- a. Makes certain that the meeting agenda focus on strategic matters, including overall risk appetite of the corporation considering the developments in the business and regulatory environments, key governance concerns, and contentious issues that will significantly affect operations;
- b. Guarantees that the Board receives accurate, timely, relevant, insightful, concise, and clear information to enable it to make sound decisions;
- c. Facilitates discussions on key issues by fostering an environment conducive for constructive debate and leveraging on the skills and expertise of individual directors;
- d. Ensures that the board sufficiently challenges and inquires on reports submitted and representations made by management;
- e. Assures proper orientation for first-time directors and continuing training opportunities for all directors; and
- f. Makes sure that performance of the Board is evaluated at least once a year and discussed/followed-up on.

### **Recommendation 5.5**

The Board should designate a lead director among the Independent Directors if the positions of the Chairman of the Board and Chief Executive Officer are held by one person.



## **Explanation**

In cases where the roles are combined, putting in place proper mechanisms ensures independent views and perspectives. More importantly, it avoids abuse of power and authority and potential conflict of interest. A suggested mechanism is the appointment of a strong “lead director” among the Independent Directors. This lead director has sufficient authority to lead the board in cases where management has clear conflicts of interest.

## **Recommendation 5.6**

A director with a material interest in any transaction affecting the corporation should abstain from taking part in the deliberations for the same.

## **Explanation**

The abstention of a director from participating in a meeting when related party transactions, self-dealings or any transactions or matters on which he has a material interest are taken up ensures that he has no influence over the outcome of the deliberations. The fundamental principle to be observed is that a director should not use his position to profit or gain some benefit or advantage for his himself and/or his related interests.

## **Recommendation 5.7**

The Non-Executive Directors should have a separate meeting with the external auditor and heads of the internal audit, compliance and risk functions, without any executive directors present to ensure that proper checks and balances are in place within the corporation.

## **Explanation**

Non-Executive Directors (NEDs) are expected to scrutinize management performance, particularly in meeting the companies’ goals and objectives. Further, it is their role to satisfy themselves on the integrity of the corporation’s internal control and risk management systems. This role can be better performed by the NEDs if they are provided access to the external auditor and heads of the internal audit, compliance and risk functions, as well as to other key officers of the company without any executive directors present.

## **6. ASSESS BOARD PERFORMANCE**

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### **Principle**

The best measure of the Board’s effectiveness is through an assessment process. The Board should regularly carry out evaluations to appraise its performance as a body and assess whether it possesses the right mix of background and competencies.

### **Recommendation 6.1**

The Board should conduct an annual self-assessment of its performance, including the performance of its members, the Chairman, and its committees. Every three years, the assessment should be supported by an external facilitator.

## **Explanation**

Board assessment helps the directors to thoroughly review their performance and understand their roles and responsibilities. The periodic review and assessment of the board's performance as a body, the board committees, the individual directors, and the Chairman show how the aforementioned should perform their responsibilities effectively. In addition, it provides a means to assess director's attendance at board and committee meetings, participation in boardroom discussions and manner of voting on material issues. The use of an external facilitator in the assessment process increases objectivity of the same.

## **Recommendation 6.2**

The board should have in place a system that provides, at the minimum, criteria and process to determine the performance of the board, the individual directors, committees and such system should allow for a feedback mechanism from the shareholders.

## **Explanation**

Disclosure of the criteria, process and collective results of the assessment ensures transparency and allows shareholders and stakeholders to determine if the directors and CEO are performing their responsibilities to the company. Companies are given the discretion to determine the assessment criteria and process, which should be based on the mandates, functions, roles and responsibilities provided in the Board and Committee Charters. In establishing the criteria, attention is given to the values, principles and skills required for the company.

## **7. STRENGTHEN BOARD ETHICS**

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### **Principle**

Members of the Board are duty-bound to apply high ethical standards, taking into account the interests of all stakeholders.

### **Recommendation 7.1**

The Board should adopt a Code of Business Conduct and Ethics, which would provide standards for professional and ethical behavior as well as articulate acceptable and unacceptable conduct and practices in internal and external dealings. The Code should be properly disseminated to the Board, senior management and employees. It should also be disclosed and made available to the public through the company website.

### **Explanation**

A Code of Business Conduct and Ethics formalizing ethical values is an important tool to instil an ethical corporate culture that pervades throughout the company. The main responsibility to create and design a Code of Conduct suitable to the needs of the company and the culture by which it operates lies with the Board. To ensure proper compliance with the Code, proper orientation and training of the board, senior management and employees on the same is necessary.

## Recommendation 7.2

The Board should ensure proper and efficient implementation and monitoring of compliance with the Code of Business Conduct and Ethics and internal policies

### Explanation

The Board has the primary duty to make sure that the internal systems are in place to ensure the company's compliance with the Code of Business Conduct and Ethics and its internal policies and procedures. Hence, it needs to ensure the implementation of said internal systems to support, promote and guarantee compliance. This includes efficient communication channels, which aid and encourage employees, customers, suppliers and creditors to raise concerns on potential unethical/unlawful behavior without fear of retribution.

To guarantee that the corporate ethics policy is effective and instilled in the company values, the following methods<sup>5</sup> may be adopted:

a) Communication and Awareness Campaign

Ready availability of the company's Code of Business Conduct and Ethics on the company's website ensures the continuous engagement of the Board, senior management and employees and awareness of ethical decision making. Proper dissemination of any updates of the Code is done either through a company newsletter or any other means of internal communication. It is also important for the company to conduct activities that would promote its ethical policies.

b) Training and Reinforcement of the Code

Face-to-face, qualitative training with wider discussion and debate of understanding and practical application of the same reinforces the Code. In addition, orientation or training programs on ethical policies make the Board, senior management and employees aware of the implementation of the Code and any consequences of misconduct.

c) Supporting Context and Culture

This involves having the "ethical architecture" in place to support a living, breathing code. This architecture includes outlining policies and regulations in employee contracts and supplier agreements, identifying individuals and Board member/s who are accountable for outcomes, creating ongoing awareness-raising programs, opening discussions with feedback and having oversight and monitoring procedures in place. Important to developing this ethical culture is taking action against any misconduct committed by an employee, communicating the action taken against him and including ethics-related criteria in performance evaluation.

d) Monitoring and Accountability

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<sup>5</sup> Barman, T. and S. White. "Implementing an Effective Corporate Ethics Policy". *CGMA Magazine*, June 13, 2014. <http://www.cgma.org/magazine/features/pages/20149701.aspx>

It is important for the company to set up an avenue where employees will be comfortable to raise issues without fear of retaliation. The number and nature of issues raised is communicated to the Board and shared with the senior management and employees through the intranet. For transparency, the company may also make this information public since reporting the issues raised provides evidence that the company has procedures in place that are actually used and are effective in managing ethical misconduct.

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## **DISCLOSURE AND TRANSPARENCY**

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### **8. ENHANCE COMPANY DISCLOSURE POLICIES AND PROCEDURES**

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#### **Principle 8**

The Board should establish internal corporate disclosure policies and procedures that are practical and in accordance with best practices and regulatory expectations.

#### **Recommendation 8.1**

The Board should establish corporate disclosure policies and procedures to ensure a comprehensive, accurate, reliable and timely report to shareholders and other stakeholders to give a complete picture of a company's financial profile.

#### **Explanation**

Setting up clear policies and procedures on internal corporate disclosure that complies with the disclosure requirement as provided in Rule 68 of the Securities Regulation Code (SRC), PSE Listing and Disclosure Rules, and other regulations such as those required by the Bangko Sentral ng Pilipinas, is essential for comprehensive and timely reporting.

#### **Recommendation 8.2**

Material and significant financial transactions relating to an entire group of companies should be disclosed in accordance with the Philippine Financial Reporting Standards (PFRS) or the International Financial Reporting Standards (IFRS) and with the regulatory expectations.

#### **Explanation**

Disclosure of information regarding contingent liabilities, off-balance sheet transactions, special purpose entities, as well as intra-group relations and transactions is a critical requirement for a transparent group reporting. In consolidating intercompany transactions/accounts, the parent company and its subsidiaries are required to follow a uniform accounting policy and standards. In cases where the application of the same policy and standard to the parent and its subsidiaries is impractical, a disclosure of that fact is necessary. Further, justification is required for using a different policy and standard.

### **Recommendation 8.3**

The ultimate beneficial owner of the company shares should be disclosed to the public through the company's website and to the regulators (SEC and PSE) within three business days from any transaction affecting beneficial ownership. The Board should also include in the Board Charter a requirement for the directors to disclose/report to the company their dealings in the company's shares within three business days.

#### **Explanation**

Adequate disclosure on company ownership structure is important to shareholders in understanding their rights and the rights of other owners, as well as their role and authority in governing the company and influencing its policy. While companies may disclose their ownership structure as required by their regulators, the ultimate beneficial owners and the extent of their control often remain hidden behind complex corporate structures such as special purpose vehicles/entities and off-shore holding companies.

Disclosures on the following, among others, make transparent the nature and structure of the group in a relevant and timely manner:

- Identity of beneficial owners, holding five percent shareholdings or more;
- Direct and indirect (deemed) shareholdings of major and/or substantial shareholders, directors and senior management;
- Details of the parent/holding company, subsidiaries, associates, joint ventures and special purpose entity (SPE)/special purpose vehicle (SPV), both foreign and domestic;
- Directors' dealings in the shares of the company; and
- Foreign shareholdings.

### **Recommendation 8.4**

The Board should fully disclose all relevant and material information on individual board members and key executives to evaluate their experience and qualifications and assess any potential conflicts of interest that might affect their judgment.

#### **Explanation**

A disclosure on board members and key executives' information is prescribed under Rule 12 of the SRC. According to best practices and standards, proper disclosure includes directors and key officers' qualifications, share ownership in the company, membership of other boards, other executive positions, information on all claims filed in courts against them, and identification of independent directors.

### **Recommendation 8.5**

The company should provide clear disclosure of its policies and procedure for setting remuneration as well as the level and mix of the same in the Annual Corporate Governance Report. Also, companies should disclose the Board and executive remuneration on an individual basis (including termination and retirement provisions).

#### **Explanation**

Disclosure of remuneration policies enables investors to understand the link between the remuneration paid to directors and key management personnel and the company's performance. The disclosure on Board and executive remuneration on an individual basis (including termination and retirement provisions) is increasingly regarded as good practice and is now mandated in many countries.

### **Recommendation 8.6**

The company should abide by the rules of regulatory authorities, including the SEC, BSP and PSE, on the definition and coverage of Related Party Transactions (RPTs), particularly, with the company's obligation to disclose all material or significant transactions, especially those that pass certain thresholds of materiality. Further, the company should disclose its policy covering the review and approval of material or significant RPTs.

#### **Explanation**

The company is given the discretion to set their materiality threshold at a level where omission or misstatement of the transaction could pose significant risk to the company and could influence the economic decision of its Board. The SEC may direct a company to reduce its materiality threshold or amend excluded transactions if the SEC deems that the threshold or exclusion is inappropriate considering the company's size, risk profile, and risk management systems.

### **Recommendation 8.7**

The company should make a full, fair, accurate and timely disclosure to the public of every material fact or event that occurs, including on acquisition or disposal of assets, which could adversely affect the viability or the interest of its shareholders and other stakeholders. Moreover, the Board of the offeree company should appoint an independent party to evaluate the fairness of the transaction price on the acquisition or disposal of assets.

#### **Explanation**

The disclosure on the acquisition or disposal of assets includes, among others, the rationale, effect on operations and approval at board meetings with Independent Directors present to establish transparency and independence on the transaction. The independent evaluation of the fairness of the transparent price ensures the protection of the rights of shareholders.

## **9. STRENGTHENING EXTERNAL AUDITOR'S INDEPENDENCE AND IMPROVING AUDIT QUALITY**

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### **Principle 9**

The external auditor should be accountable to the shareholders and owe a duty to the company to exercise due professional care in the conduct of audit. At all times, he should be independent in fact, in mind and in the perception of the public. In the performance of any professional service, he should maintain objectivity and integrity, should be free of conflicts of interest, and should not knowingly misrepresent facts or subordinate his judgment to others.

### **Recommendation 9.1**

The Audit Committee should have a robust process for approving and recommending approval, appointment, reappointment and removal of the external auditor. The appointment, reappointment and removal should be recommended by the Audit Committee, approved by the Board and ratified by the shareholders. For removal of the external auditor, the reasons for removal or change should be disclosed to the regulators and the public through the company website and required disclosures.

#### **Explanation**

The appointment, reappointment and removal of the external auditor by Board approval, through the Audit Committee's recommendation, and shareholders' ratification at shareholders' meeting are actions regarded as good practices which clarify that the external auditor is accountable to the shareholders. It also emphasizes that the external auditor owes a duty of professional care to the company as a whole rather than to management whom he may interact with in the conduct of his audit.

### **Recommendation 9.2**

The Audit Committee should disclose in the Audit Committee Charter its responsibility on assessing the integrity and independence of external auditors. It should also review and monitor the suitability and effectiveness of external auditors on an annual basis.

#### **Explanation**

The Audit Committee's Charter includes a disclosure of its responsibility on assessing the integrity and independence of the external auditor and establishes detailed guidelines, policies and procedures that are contained in a separate memorandum or document. Nationally and internationally-recognized best practices and standards of external auditing guide the committee in formulating these policies and procedures.

### **Recommendation 9.3**

The company should disclose the nature of non-audit services performed by its external auditors in the Annual Report to deal with the potential conflict of interest. The Audit Committee should be alert for any potential conflict of interest situations, given the guidelines or policies on non-audit services, which could be viewed as impairing the external auditor's objectivity.

#### **Explanation**

The Audit Committee in the performance of its duty oversees the overall relationship with the external auditor. It evaluates and determines the nature of non-audit services, if any, of the external auditor. Further, the Committee reviews periodically the proportion of non-audit fees paid to the external auditor in relation to the corporation's overall consultancy expenses. Allowing the same auditor to perform non-audit services to the company may create a potential conflict of interest. In order to mitigate the risk of possible conflict between the auditor and the company, the Audit Committee puts in place robust policies and procedures designed to promote auditor independence in the long run. In formulating this policies and procedures, the Committee is guided by nationally and internationally-recognized best practices and regulatory requirements or issuances.

#### **Recommendation 9.4**

The external auditor should perform his duty in accordance with Philippine Standards on Auditing (PSA). Also, it is the responsibility of the Audit Committee to exercise effective oversight and ensure that the external auditor, in the performance of his work, comply with PSA.

#### **Explanation**

An external auditor's examination provides reasonable assurance that the company's financial statements present fairly, in all material respects, the financial position of the company, the results of its operations, its cash flows as well as risk exposures in accordance with Philippine Financial Reporting Standards (PFRS). The external auditor's unqualified opinion on the financial statements gives added credibility to the management's assertions in the financial statements, the preparation of which is the responsibility of the board and top management.

Moreover, the Audit Committee efficiently carries out its oversight responsibilities by establishing effective communication with the external auditor and requiring a report on all relevant matters.

### **10. INCREASE FOCUS ON NON-FINANCIAL AND SUSTAINABILITY REPORTING**

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#### **Principle 10**

The Board should ensure that material and reportable non-financial and sustainability issues are disclosed.

#### **Recommendation 10.1**

The Board of Directors should have a clear and focused strategy on the disclosure of non-financial information with emphasis on the management of economic, environmental, social and governance (EESG) issues of its business which underpin sustainability. Companies should adopt a globally-recognized standard/framework in reporting sustainability and non-financial issues.

#### **Explanation**

As external pressures including resource scarcity, globalization, and access to information continue to increase, the way corporations respond to sustainability challenges in addition to financial challenges determines their long-term viability and competitiveness. One way to respond to sustainability challenges is disclosure to all shareholders and other stakeholders of the company's strategic (long-term goals) and operational objectives (short-term goals) as well as impacts of a wide range of sustainability issues. Disclosures can be made using standards/framework, such as G4 Framework by Global Reporting Initiative (GRI), Integrated Reporting Framework by International Integrated Reporting Council (IIRC) and/or the Sustainability Accounting Standards Board (SASB)'s Conceptual Framework.



## **11. PROMOTE A COMPREHENSIVE AND COST-EFFICIENT ACCESS TO RELEVANT INFORMATION**

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### **Principle 11**

The company should maintain a comprehensive and cost-efficient communication channel for disseminating relevant information. This channel is crucial for an informed decision-making by investors, stakeholders and other interested users.

### **Recommendation 11.1**

The company should have a website in accordance with the Commission-prescribed template to ensure a comprehensive, cost-efficient, transparent and timely manner of disseminating relevant information to the public.

### **Explanation**

The manner of disseminating relevant information to its intended users is as important as the content of information itself. Hence, it is essential for the company to have a strategic and well-organized channel for reporting. A company website that is easily accessible and user-friendly with a dedicated section for corporate governance is considered a practical and cost-efficient way of communication. It can provide timely and up-to-date information relevant to investors' decision-making, as well as to other interested stakeholders.

### **Recommendation 11.2**

The company should disclose all relevant information on its corporate governance policies and practices in the Annual Corporate Governance Report, which should be posted and continuously updated on the company website.

### **Explanation**

The Annual Corporate Governance Report (ACGR) is intended to be a comprehensive report containing all of the company's pertinent corporate governance information. The company is expected to provide regular updates on all the information required in the ACGR.

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## **INTERNAL CONTROL AND RISK MANAGEMENT FRAMEWORK**

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## **12. STRENGTHENING INTERNAL CONTROL AND RISK MANAGEMENT SYSTEMS**

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### **Principle**

To ensure the integrity, transparency and proper governance in the conduct of its affairs, the company should have a strong and effective internal control system and enterprise risk management system.

### **Recommendation 12.1**

The Company should have in place an independent internal audit function that provides independent and objective assurance and consulting services designed to add value and improve the company's operations.

### **Explanation**

A separate internal audit function is essential to monitor and guide the implementation of company policies. The following are the functions of the Internal Audit, among others:

- a. Provides an independent risk-based assurance service to the board, audit committee and management, focusing on reviewing the effectiveness of the governance and control processes in (1) promoting the right values and ethics, (2) ensuring effective performance management and accounting in the organization, (3) communicating risk and control information, and (4) coordinating the activities and information among the Board, external and internal auditors, and management;
- b. Performs regular and special audit as contained in the Annual audit plan and/or based on company's risk assessment;
- c. Performs consulting and advisory services related to governance and control as appropriate for the organization;
- d. Performs compliance audit of relevant laws, rules and regulations, contractual obligations and other commitments, which could have a significant impact on the organization;
- e. Reviews, audits and assesses the efficiency and effectiveness of the internal control system of all areas of the company;
- f. Evaluates operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned;
- g. Evaluates specific operations at the request of the Board or management, as appropriate; and
- h. Monitors and evaluates governance processes.

A company may either have an in-house or outsourced Internal Audit department. The department may be headed by a qualified Chief Audit Executive (CAE) appointed by the Board. The CAE, in order to achieve the necessary independence to fulfill its responsibilities, directly reports functionally to the Audit Committee and administratively to the Chief Executive Officer. The Audit Committee recommends the appointment and removal of the CAE, his/her remuneration and performance appraisal. The following are the responsibilities of the CAE, among others:

- a. Periodically reviews the internal audit charter and presents it to senior management and the Board Audit Committee for approval;
- b. Establishes a risk-based internal audit plan, including policies and procedures, to determine the priorities of the internal audit activity, consistent with the organization's goals;

- c. Communicates the internal audit activity's plans, resource requirements and impact of resource limitations, as well as significant interim changes, to senior management and the Audit Committee for review and approval;
- d. Spearheads the performance of the internal audit activities to ensure it adds value to the organization;
- e. Reports periodically to the Audit Committee on the internal audit activity's performance relative to its plan; and
- f. Presents findings and recommendations to Audit Committee and gives advice to senior management and the Board on how to improve internal processes.

### **Recommendation 12.2**

The company should have a separate risk management function to identify, assess and monitor key risk exposures.

### **Explanation**

Risk Management functions involve the following activities, among others:

- a. Define a risk management strategy;
- b. Identify and analyze risk exposure relating to achievement of the organization's strategic objectives;
- c. Evaluate and categorize each identified risk using the company's predefined risk categories and parameters;
- d. Establish a risk register with a clearly defined – prioritized and residual risks;
- e. Develop a risk mitigation plan for the most important risks to the company, as defined by the risk management strategy;
- f. Communicate and report significant risk exposures including business risks (i.e., strategic, compliance, operational, financial and reputational risks), control issues and risk mitigation plan to the ROC; and
- g. Monitor and evaluate the effectiveness of the organization's risk management processes.

In managing the company's Risk Management System, the company may have a Chief Risk Officer (CRO), who is the ultimate champion of the Enterprise Risk Management (ERM) and has adequate authority, stature, resources and support to fulfill his/her responsibilities which include among others, the following:

- a. Supervises the entire ERM process and spearheads the development, implementation, maintenance and continuous improvement of ERM processes and documentation;
- b. Communicates the top risks and the status of implementation of risk management strategies and action plans to the ROC;
- c. Collaborates with the CEO in updating and making recommendations to the ROC;
- d. Suggests ERM Policy and related guidance, as may be needed; and
- e. Provides insights on the following:
  - Risk management processes are performing as intended;
  - Risk measures reported are continuously reviewed by risk owners for effectiveness; and
  - Established risk policies and procedures are being complied with.

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## **CULTIVATING A SYNERGIC RELATIONSHIP WITH SHAREHOLDERS**

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### **13. SHAREHOLDER RIGHTS**

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#### **Principle**

The company should treat all shareholders fairly and equitably, and also recognize, protect and facilitate the exercise of their rights.

#### **Recommendation 13.1**

The board should ensure the organized, meaningful and effective exercise of shareholders' rights.

#### **Explanation**

The shareholders of the company have the following basic rights under the Corporation Code: (a) pre-emptive rights; (b) right to vote; (c) right to inspect or examine corporate records; (d) right to receive dividends; (e) right to the issuance of certificate of stocks; (f) right to transfer or dispose shares; (g) appraisal rights; (h) right to file derivative suits; and (i) right to participate in the distribution of assets upon dissolution of the company.

It is the responsibility of the board to adopt a policy informing the shareholders' of all their rights. Shareholders are encouraged to exercise their rights by providing clear-cut process and procedures for them to follow.

#### **Recommendation 13.2**

The Board should encourage active shareholder participation by sending Notice of Annual and Special Shareholders' Meeting with sufficient and relevant information on a timely basis.

#### **Explanation**

Required information in the Notice include, among others, the date, location, meeting agenda and its rationale and explanation, and details of issues to be deliberated on and approved or ratified at the meeting. Timely sending out of the Notice allows shareholders to plan their participation in the meetings. It is best practice to have the Notice sent to all shareholders at least 28 days before the meeting and posted on the company website.

### **Recommendation 13.3**

The Board should encourage active shareholder participation by informing them of their right to propose the holding of meetings and to include additional agenda items ahead of the scheduled Annual and Special Shareholders' Meeting.

#### **Explanation**

The right to propose the holding of meetings and items for inclusion in the agenda is given to all shareholders, including minority and foreign shareholders. However, to prevent the abuse of this right, companies may require that the proposal be made by shareholders holding a specified percentage of shares or voting rights. On the other hand, to ensure that minority shareholders are not effectively prevented from exercising this right, the degree of ownership concentration is considered in determining the threshold.

### **Recommendation 13.4**

The Board should encourage active shareholder participation by disclosing the voting procedures that would govern the Annual and Special Shareholders' Meeting.

#### **Explanation**

Shareholders are encouraged to participate when given sufficient information prior to voting on fundamental corporate changes such as: (1) amendments to articles of incorporation and By-Laws of the company; (2) the authorization on the increase in authorized capital stock; and (3) extraordinary transactions, including the transfer of all or substantially all assets that in effect result in the sale of the company. In addition, disclosure and clear explanation of the voting procedures, as well as removal of excessive or unnecessary costs and other administrative impediments, allow for the effective exercise of the shareholders' voting rights. Poll voting is highly encouraged, as opposed to show of hands. Proxy voting is also a good practice, including electronic distribution of proxy materials. The company may also consider developing a secure Electronic Voting in absentia or Remote Voting platform to allow cross-border shareholders to cast their votes themselves.

### **Recommendation 13.5**

The Board should encourage active shareholder participation by making publicly available the next working day the result of the votes taken during the most recent Annual or Special Shareholders' Meeting. In addition, the Minutes of the Annual and Special Shareholders' Meeting should be timely and easily available on the company website.

#### **Explanation**

Voting results include a breakdown of the approving and dissenting votes on the matters raised during the Annual or Special Stockholders' Meeting. When a substantial number of votes have been cast against a proposal made by the company, it may make an analysis of the reasons for the same and consider having a dialogue with its shareholders.

The Minutes of Meeting include the following matters: (1) A description of the voting and the vote tabulation procedures used; (2) the opportunity given to shareholders to ask questions, as well as a record of the questions and the answers received; (3) the matters discussed and the resolutions reached; (4) a record of the voting results for each agenda item; (5) a list of the directors, officers and shareholders who attended the meeting; and (6) dissenting opinion on any agenda item that is considered significant in the discussion process.

### **Recommendation 13.6**

Minority shareholders should be given the opportunity to nominate candidates to the Board of Directors in accordance with existing laws. All shareholders should be informed of the nomination process. The Board should encourage nominees more than the number of board seats to be filled up.

### **Explanation**

The procedures of the nomination process is expected to be discussed clearly by the board. Full and timely disclosure of all information regarding experience and background of the candidates enables the shareholders to study and conduct their own background check as to the candidates' qualification and credibility.

### **Recommendation 13.7**

The Board should make available, at the option of a shareholder, an alternative dispute mechanism to resolve intra-corporate disputes in an amicable and effective manner.

### **Explanation**

It is important for the shareholders to be well informed of the company's processes and procedures when seeking to redress violation of their rights. Putting in place proper safeguards ensure suitable remedies for infringement of shareholders' rights and prevent excessive litigation. The company may also consider adopting in its corporate governance manual established Alternative Dispute Resolution (ADR) procedures.

### **Recommendation 13.8**

The Board should ensure that there is a policy and system governing Related Party Transactions (RPTs) and other unusual and infrequently occurring transactions, which guarantee fairness and transparency of the transactions. The rules and procedures governing RPTs and other unusual or infrequently occurring transactions should be clearly articulated and disclosed to shareholders.

### **Explanation**

It is the Board's role to initiate policies and measures geared towards prevention of abuse and promotion of transparency. These policies and measures include ensuring that transactions occur at market prices and under conditions that protect the rights of all shareholders, and proper monitoring and disclosure of issues on conflict of interest. It is essential that disclosure be full, accurate and timely to discourage abusive transactions. Said disclosure includes reporting by directors and key executives to the board when they have RPTs that could influence their judgment. Material or significant RPTs approved by the board need ratification by shareholders in accordance with existing laws.

### **Recommendation 13.9**

The Board should promptly inform all shareholders of changes in corporate control.

#### **Explanation**

Changes that affect corporate control in the market include mergers, acquisitions and sales of substantial portions of the corporate assets. Although said changes are best decided by the management and the Board of Directors, it is subject to the approval of the shareholders. Hence, proper disclosure and sufficient explanation to shareholders are essential.

### **Recommendation 13.10**

The Board should establish an Investor Relations Office (IRO) and Investor Relations Program to ensure constant engagement with its shareholders. The Investor Relations Officer should be present at every shareholders' meeting.

#### **Explanation**

Setting up an avenue to receive feedback, complaints and queries from shareholders assure their active participation with regard to activities and policies of the company. The IRO has a designated investor relations officer, email address and telephone number. Further, creating an Investor Relations Program ensures that all information regarding the activities of the company are properly and timely communicated to shareholders.

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## **DUTIES TO STAKEHOLDERS**

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### **14. RESPECTING RIGHTS OF STAKEHOLDERS AND EFFECTIVE REDRESS FOR VIOLATION OF STAKEHOLDER'S RIGHTS**

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#### **Principle**

The rights of stakeholders established by law, by contractual relations and through voluntary commitments must be respected. Where stakeholders' rights and/or interests

are at stake, stakeholders should have the opportunity to obtain prompt effective redress for violation of their rights.

### **Recommendation 14.1**

The Board should identify the company's various stakeholders and promote cooperation between them and the company in creating wealth, growth and sustainability.

#### **Explanation**

Stakeholders in corporate governance include, but are not limited to, customers, employees, suppliers, shareholders, investors, creditors, the community the company operates in, society, the government, regulators, competitors, external auditors, etc. In formulating the company's strategic and operational decisions affecting its wealth, growth and sustainability, due consideration is given to those who have an interest in the company and are directly affected by its operations.

### **Recommendation 14.2**

The Board should establish clear policies and programs to provide a mechanism on the fair treatment and protection of stakeholders.

#### **Explanation**

In instances when stakeholders' interests are not legislated, companies' voluntary commitments ensure the protection of the stakeholders' rights. The company's Code of Conduct ideally includes provisions on the company's policies and procedures on dealing with various stakeholders.

**Customers:** The trust and continued loyalty of customers is won by adopting policies and programs that are designed to attend responsibly to their rights. In establishing said policies and programs, focus is placed on: (1) how the company serves its customers; and (2) how the company conducts its business. Clear and timely communication of the same leads to better protection of customer rights.

**Resource Providers:** To ensure fair treatment of suppliers and contractors, it is essential to conduct dealings in a professional and objective manner. In the selection of suppliers and contractors, due consideration is given to both economic and non-economic factors, such as environmental, social or human rights.

**Creditors:** Having in place an effective and efficient insolvency framework that reconciles the varied interest of different classes of creditors ensures the effective enforcement of creditor rights. This includes mechanisms which encourage the debtor-company to reveal timely information about its difficulties so that a consensual solution can be found between the debtor-company and its creditors. In the Philippines, the Financial Rehabilitation and Insolvency Act (FRIA) of 2010 provides the process for resolving claims of creditors.

**Community in which the company operates:** Putting in place an effective mechanism that provides relevant, accurate, sufficient, reliable, timely and regular information to all stakeholders addresses expeditiously and professionally all concerns and issues affecting the community in which it operates.

### **Recommendation 14.3**



The Board should adopt a transparent framework and process that allow stakeholders to communicate with the company and to obtain redress for violation of their rights.

### **Explanation**

The company's stakeholders play a role in its growth and long-term viability. As such, it is crucial for the company to maintain open and easy communication with its stakeholders. The creation of a Stakeholders' Relations Office (SRO), whose function is to attentively respond to the concerns of stakeholders, is one avenue for the stakeholders to voice out their concerns and for the company to address complaints, questions and suggestions. The contact details of the SRO is provided in the company's website and ACGR.

## **15. ENCOURAGE EMPLOYEES' PARTICIPATION**

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### **Principle**

A mechanism for participation of employees should be developed so as to create a symbiotic environment to realize the company's goals and to participate in its corporate governance processes.

### **Recommendation 15.1**

The Board should establish policies, programs and procedures that encourage employees to actively participate in the realization of the company's goals and in its governance.

### **Explanation**

Establishment of policies and programs covering, among others, the following: (1) health, safety and welfare policy; (2) training and development program, and (3) reward/compensation policy for its employees, encourages employees to perform better and motivates them to take a more dynamic role in the corporation. Active participation is further fostered when the company recognizes the firm-specific skills of its employee/s and their potential contribution in corporate governance. Employees' viewpoint in certain key decision may also be considered in governance processes through work councils or employee representation in the board.

### **Recommendation 15.2**

The Board should set the tone and make a stand against corrupt practices by adopting an Anti-Corruption policy and program in its Code of Conduct. Further, the Board should disseminate the policy and program to employees across the organization through trainings to embed them in the company's culture.

### **Explanation**

The adoption of an Anti-Corruption policy and program endeavors to mitigate corrupt practices such as, but not limited to, bribery, fraud, extortion, collusion, conflict of interest and money laundering. This encourages employees to report corrupt practices and outlines procedures on how to combat, resist and stop these corrupt practices. Anti-

corruption programs are more effective when the board sets the tone and leads the company in the execution of the same.

### **Recommendation 15.3**

The Board should establish a suitable framework for whistleblowing that allows employees to freely communicate their concerns about illegal or unethical practices without fear of retaliation and to have direct access to an independent member of the Board or a unit created to handle whistleblowing concerns. The Board should be conscientious in establishing the framework, as well as in supervising and ensuring its enforcement.

### **Explanation**

A suitable whistleblowing framework sets up the procedures and safe-harbors for complaints of employees, either personally or through their representative bodies, concerning illegal and unethical behavior. One essential aspect of the framework is the inclusion of safeguards to secure the confidentiality of the informer and to ensure protection from retaliation. Further, part of the framework is granting individuals or representative bodies confidential direct access to either an independent director or a unit designed to deal with whistleblowing concerns. Companies may opt to establish an ombudsman to deal with complaints and/or established confidential phone and e-mail facilities to receive allegations.

## **16. SUSTAINABILITY AND CREATING SHARED VALUE**

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### **Principle**

The company should be socially responsible in all its dealings with communities where it operates. It should ensure that its interactions serve its environment and stakeholders in a positive and progressive manner that is fully supportive of its comprehensive and balanced development. Creating shared value with stakeholders should be the ultimate drive of the company's existence.

### **Recommendation 16.1**

The company should recognize and place importance on the interdependence between business and society and should promote a mutually beneficial relationship that allows the company to grow its business while contributing to the advancement of the society where it operates.

### **Explanation**

The company's value chain consists of inputs to the production process, the production process itself and the resulting output. Sustainable development means that the company not only complies with existing regulations but also voluntarily employs value chain processes that takes into consideration economic, environmental, social and governance issues and concerns. In considering sustainability concerns, the company plays an indispensable role alongside government and civil society in contributing solutions to complex global challenges like poverty, inequality, unemployment and climate change.

### **Recommendation 16.2**

The Board should be able to initiate an effective shared value framework focused on effort and innovation to optimize the delivery of social value through the business.

**Explanation**

Creating Shared Value goes much further than taking resources from the business and investing those resources into being a good corporate citizen. It focuses on activities and strategies that have long-term impact on the business as well as on the society and aims at changing how core businesses operate. It goes beyond Corporate Social Responsibility by really existing as a business for the community.