Pakistan Institute of Corporate Governance

PICG ADVISORY UPDATE-17

November 2018

GOVERNANCE, COMPLIANCE

& CORPORATE REPORTING

PICG
Pakistan Institute of Corporate Governance

The Update

Corporate governance refers to the way in which corporations are directed, administered, and controlled. It is concerned with both the relationship between internal and external stakeholders as well as the governance processes designed to help a corporation achieve its goals. Good corporate governance contributes to sustainable economic development by enhancing the performance of companies as well as striking a balance between both economic and social goals and between individual and communal goals.

Compliance with applicable laws and regulations is fundamental to good governance. PICG's Advisory Update, therefore, aims at keeping our members updated with regards to the latest local and international governance-related changes to regulations, practices and corporate reporting.

The Update consists of a Summary Table (with links to relevant information) followed by a Synopsis of the changes.

A. Summary Table

Pakistan

Sr #	By	Reference	Date	Topic / Update link
1.	**Regulations/ Rules issued**			
i	SECP	SRO 1399 (I)/2018	Nov 14, 2018	Companies (Further Issue of Shares) Regulations, 2018
ii	SECP	SRO 1318 (I)/2018	Nov 2, 2018	Shariah Governance Regulations 2018
2.	**Amendments**			
i	SECP	Circular No 21/2018	Nov 27, 2018	Compliance with Requirements of Sec 452 of Co.Act 2017
ii	SECP	SRO 1319 (I)/2018 SRO 1475(1)/2018 SRO 1476 (I)/2018	Nov 2 & Dec 5,6 2018	Amendments to the Listed Companies (Code of Corporate Governance) Regulations, 2017 & Revised fee for relaxation from any requirements of the Listed Co's Code
3.	**Circular**			
i	SBP	BPRD Circular No. 10 of 2018	Nov 20, 2018	Financial Statements for Banks/DFI's/MFB's– Timelines & Website
ii	SBP	BPRD Circular Letter No. 19 of 2018	Nov 5, 2018	Extension of timelines for implementation of 'Guidelines on Compliance Risk Management'

Sr #	Issued by	Reference	Date	Topic / Update link
4.	**Others**			
i	SECP	Press Release	Nov 27, 2018	Practices Guide for Conducting Board & General Meetings
ii	World Bank	Report 131367	Oct 28, 2018	Balochistan : Public Expenditure and Financial Accountability (PEFA) Performance Assessment Report

International

Topic	Links
World Bank Group Report on the Changing Nature of Work	World Development Report 2019
OECD Report on Adapting to Technological and Societal Disruption	OECD Science, Technology and Innovation Outlook, 2018
IFC & U.N. Team Up to Strengthen ESG Disclosure by Listed Companies	Strengthening ESG Disclosure by Listed Companies across Emerging Markets
An IFC Analysis on Climate Investment Opportunities	Climate Investment Opportunities in Cities

B. Synopsis of changes

Pakistan

1. Regulations/ Rules issued

Various Regulations/ Rules have been notified by the Securities and Exchange Commission of Pakistan and State Bank of Pakistan to streamline procedures and improve governance structures of companies in Pakistan.

Following is a summary of such Regulations / Rules (both drafts issued for public comments and final versions) issued during the past couple of months as notifications, circulars, drafts, etc., which have been placed on their respective websites:

a. Regulations issued

Sr. no	Name of Regulations / Rules	Effective date	Description
1	Companies (Further Issue of Shares) Regulations, 2018	Nov 14, 2018	These regulations shall apply to companies issuing further capital by way of: (i) right shares; (ii) other than right shares; (iii) bonus shares; (iv) employee stock option schemes; and (v) shares with differential rights including preference shares. The regulations aim to streamline all legal and procedural requirements for issue of further capital, optimum disclosures by companies to all stakeholders and protecting the rights of shareholders. Companies issuing shares by way of right issue, bonus issue, other than right, shares having differential rights & privileges, shares at discount or employee stock option schemes are required to comply with the requirements of the Companies Act, 2017. However, for right issue and bonus issue by listed companies, compliance with applicable requirements of Companies (Issue of Capital) Rules, 1996 and Guide on issue of shares otherwise than right was also mandatory, in addition to the requirements of the Act. Likewise, companies issuing different kinds of shares with varied rights and privileges that are required to comply with the requirements of the Act and Companies' Share Capital (Variation in Rights and Privileges) Rules, 2000; and public companies issuing Employee Stock Option Scheme, were required to comply with the requirements of the Public Companies (Employees Stock Option Scheme) Rules, 2001 and Guidelines for the Structuring and Offering of the Employees Stock Option Schemes, 2016. In addition to the above, companies were required to comply with certain directives, periodic disclosure and reporting requirements. Hence, the SECP has notified these regulations with a view to consolidate relevant requirements of the Act, varied directives and specify certain additional conditions/ requirements.

2	Shariah Governance Regulations 2018	Nov 2, 2018	The jurisdiction of these regulations is the corporate sector, Shariah-compliant corporate sector, Islamic capital markets, Shariah-compliant securities, and Islamic financial institutions, in order to bring harmonization, standardization and transparency in the practices of these Shariah compliant businesses. The provisions of these regulations shall be in addition to and not in derogation of any other relevant laws, rules or regulations applicable to the above. The concept of a Shariah-compliant company and security was introduced through provisions incorporated in the Companies Act, 2017, empowering SECP to implement the scheme of certification of Shariah-compliant companies and Shariah-compliant securities to regulate almost every aspect of Shariah-compliant products, services and businesses. The SECP's Islamic Finance Department (IFD) drafted the regulations to cover areas such as certification for Shariah compliant companies and Shariah compliant securities, a comprehensive Shariah screening methodology for listed as well as for unlisted companies, internal and external Shariah audit, Shariah advisory, Shariah compliance, income purification and charity distribution mechanism. The regulations will also make the collection and analysis of data on corporate sector's conformity with Shariah possible and assess the Shariah compliant businesses' universe in the corporate sector and capital markets of Pakistan.

2. Amendments

a. Compliance with the requirements of Section 452 of the Companies Act, 2017

SECP has partially modified the following Circulars, pertaining to compliance with the requirements of section 452 (Companies' Global Register of Beneficial Ownership) of the Companies Act, 2017, in the following manner:-

a) Para 4 of Circular No. 19/2017 dated August 11, 2017 has been deleted.
b) Para 5 of Circular No. 32/2017 dated December 04, 2017 has been deleted.

Both para's pertained to the requirement to file forms (31 & 32) with the Registrar of companies along with fee prescribed in the Seventh Schedule of the Act, even in the case of nil reports. However, as a result of the above modification, **t**here is no longer any need to file the specified forms in case of a nil report.

(Under section 452 of the Companies Act, every substantial shareholder or officer of a company incorporated under the Company law, who is a citizen of Pakistan within the meaning of the Citizenship Act including dual citizenship holder whether residing in Pakistan or not having shareholding in a foreign company or body corporate shall report to the company his shareholding on a specified form within 30 days of holding such position or interest.)

b. Amendments to the Listed Companies (Code of Corporate Governance) Regulations, 2017

A number of amendments to the Listed Companies (Code of Corporate Governance) Regulations, 2017 were proposed via SRO 1319(1)/2018 dated November 2, 2018, for public comment. After due consideration of the responses, SECP has now notified the final amendments via SRO 1475(1)/2018 dated December 5, 2018.

Significant amendments made to listed companies code are as follows:

i. New regulation stating that the board of directors is responsible for adoption of corporate governance practices by the company and monitoring effectiveness of such practices and shall ensure the application of high ethical standards in performing their responsibilities.

ii. Adequate policy, systems and controls are in place for communication and disclosure with stakeholders, identification and redressal of grievances and queries of shareholders/ investors and complaints arising from unethical practices.

iii. New clause requiring a formal mechanism for selecting, compensating, monitoring and, when necessary, replacing senior executives and overseeing succession planning and the remuneration of key executive and board may be aligned with the long term interests of the company and its shareholders.

iv. Encouraging companies to include in their significant policies:
   - a "**remuneration policy**" for non-executive directors including independent directors (previously policy on "permissible fee" for such directors was mentioned);
   - **"code of ethics, managing conflict of interest of management and board members"** (previously only "communication" and "investors'/shareholders' relations" policy stated)

v. Remuneration of directors to be decided after giving due consideration to performance evaluation.

vi. SECP may grant exemption from the directors training program certification in the following cases:
   - a director having a minimum of 14 years of education and has 15 years of experience on a board of a listed company, local and/or foreign; or
   - an individual having at least 25 years of post-qualification experience in fields of law, audit, tax, finance, corporate affairs, regulatory or government sector experience and is a member of professional body of accountants whose qualification is recognized as equivalent to post graduate degree by HEC[1]; or
   - an individual having atleast 30 years of experience in fields of law, audit, tax, finance, corporate affairs, regulatory or government sector experience and has a postgraduate degree in the above mentioned fields from a university in Pakistan or equivalent recognized and approved by the Higher Education Commission of Pakistan (HEC).

vii. New provisions exempting the following from qualification criteria given in the Code:
   - an existing Chief Financial Officer with atleast 15 years of experience on the same position in a listed company
   - an existing Head of Internal Audit having atleast 15 years of experience on the same position in a listed company

[1]The HEC now recognizes Final Examination Certificates awarded by ICMAP, ICAP and membership of the ACCA,UK., as equivalent to Master of Commerce(M.Com) degree involving 16yrs of schooling in Pakistan, as stated in HEC's Notification 8(23)/A&A/2018/HEC/1664 dated Decemeber 14, 2018. http://hec.gov.pk/english/services/students/Equivalence%20Degree%20Issuance/Documents/Equ-Notification.pdf

viii. A Company Secretary of a listed company **may not** simultaneously be the CFO of the company. (Previously, FAQ's of the 2012 Code stated that it was "preferred" that separate persons handle the functions of the CFO and Company Secretary within a listed company).

ix. The expression "financial literate" to mean a person who is a member of a recognized body of professional accountants or has a post graduate degree in finance from a university or equivalent institution, either in Pakistan or abroad recognized by the Higher Education Commission of Pakistan or who has atleast 10 years of experience as audit committee members or atleast 20 years of senior management experience in overseeing of financial, audit related matters.

x. While recommending a policy framework to the board for determining remuneration of directors and senior management, the HR Committee shall take into consideration that such remuneration is commensurate with the performance of the company and evaluation of board and management.

xi. Companies may post brief synopsis of Terms of References of committees on their website

xii. Companies may provide details of remuneration of "individual directors" along with the aggregate for executive and non-executive directors in the annual report.

xiii. Companies may post the key elements of its significant policies on its website including but not limited to the following:

a) communication and disclosure policy;
b) code of ethics;
c) risk management policy;
d) internal control policy;
e) whistle blowing policy;
f) corporate social responsibility/ sustainability/ environmental, social and governance (ESG) related policy.

Further, the SECP has, via SRO 1476 dated December 6, 2018, reduced the fee for relaxation from any of the requirements of Code from Rs 5 lakh to Rs 1 lakh.

3. Circulars

a. Frequency, Timelines & Posting of Financial Statements on Website

To align the frequency and timelines of financial disclosures of banks/DFIs/MFBs (listed or non-listed) including branches of foreign banks with the Companies Act 2017 and best practices, SBP has notified the following timelines and requirements for disclosure of financial statements:

Institution	Documents	Ciruclated to	Timelines
Annual Financial Statements			
All Banks/MFBs	Fin statements, auditor's report, directors' report & chairman's review	• Shareholders (hard form) • SBP (as returns)	Within 90 days of the close of the period to which they relate
Banks	Abridged version of the annual fin.statements	Newspaper(s)	Within the stipulated time

MFBs	Abridged version of the annual financial statements	As per Section 16 of the Microfinance Institution Ordinance, 2001 (ie. published in a daily newspaper having wide circulation in the specified area)	Within 3 months of close of its financial year
DFIs	Annual fin.statements, auditor's report, directors' report and chairman's review report	• Shareholders (hard form) • SBP (as returns)	Within 90 days of the close of the financial period to which they relate
Branches of foreign banks in Pakistan	Annual financial statements & auditor's report	• Published and furnished as returns to the SBP	Within 90 days of the close of the financial period to which they relate
1st and 3rd Quarter Financial Statements			
All banks, DFIs and MFBs, including the branches of foreign banks	Quarterly financial statements.	• Placed on their website. (Publishing an abridged version in the newspaper(s) by all banks/ DFIs including branches of foreign banks, stands withdrawn)	Within 30 days of the end of the quarter to which they relate.
Half-yearly (2nd quarter) Financial Statements			
All banks/ DFIs/MFBs, including the branches of foreign banks	Fin. statements with limited scope review by the statutory auditors.	Placed on their website. (Publishing an abridged version in the newspaper(s) by all banks/ DFIs including branches of foreign banks, stands withdrawn)	Within the period of 60 days of the close of their half-year (2nd quarter)

Further, banks (including the branches of foreign banks) /DFIs / MFBs will advertise in leading daily newspaper(s) regarding the posting of their quarterly/half-yearly/annual financial statements on their websites for the information of the stakeholders, within their respective period, as mentioned above. However, the quarterly/half-yearly financial statements shall be provided by the banks/DFIs/MFBs in physical form to their shareholder(s) without any cost or fee, if requested by the shareholder(s). Furthermore, the banks/DFIs/MFBs including branches of foreign banks are required to post their quarterly, half-yearly and annual financial statements of the last 10 years on their website.

These instructions supersede earlier instructions issued on the subject, however, the Quarterly Report of Condition, and other returns / reports, presently being submitted by the banks/DFIs/MFBs to SBP shall continue to be submitted as required.

b. Guidelines on Compliance Risk Management – Extension of timelines

SBP has been decided to extend the timeline for implementation of Compliance Risk Management (CRM) guidelines (refer BPRD Circular No. 07 dated August 09, 2017 and BPRD Circular Letter No. 04 dated April 19, 2018) from June 30, 2018 to December 31, 2018. Consequently, the timeline for implementing a system for CRM is being extended from September 30, 2018 to March 31, 2019, to facilitate timely implementation and compliance of the same.

4. Others

a. SECP's Practices Guide for Conducting Board & General Meetings

The SECP has issued a revised practices guide for conducting meetings of the board of directors and general meetings. The guide is recommendatory in nature, giving companies the liberty to develop their own procedures keeping in view best practices.

The SECP has proposed the guidebook keeping in view best practices in the light of the requirements of the Companies Act, 2017, and regulations made thereunder, to encourage companies to adopt a systematic and formal mechanism of conducting board and general meetings; facilitate good governance; and also encourage shareholders to attend and actively participate in general meetings.

This guide is expected to facilitate the management of companies as well as shareholders in understanding their responsibilities under the law and ensuring orderly conduct of such meetings, and does not in any way vary or amend obligations of stakeholders in complying with requirements of applicable laws for holding such meetings. For newly inducted and aspiring directors of companies, the guide may be a useful introduction to such meetings while seasoned directors may benefit from the best practices recommended therein.

b. Public Expenditure & Financial Accountability Performance Assessment Report[2]: Balochistan

The Public Expenditure and Financial Accountability (PEFA) performance assessment report reviews the performance of Balochistan's Public Financial Management (PFM) system based on an application of the 2016 PEFA assessment methodology and provides a baseline against which future PEFA assessments can be compared using the same scoring criteria.

As a result of the 18th Constitutional Amendment (2010) and 7th National Finance Commission (NFC) award (2009), Balochistan acquired increased competencies and resources. Improved management of public finances is a key element to the development of the province, and public expenditure is also a major contributor to provincial economy due to which the Government of Balochistan requested donors led by the World Bank to conduct the PFM Assessment to provide a snapshot of the provincial PFM performance and provide a baseline for preparation of the Government's PFM reform strategy.

The assessment captures a snapshot of the performance of the provincial government PFM system, processes and institutions in a set of 31 performance indicators (PIs), categorized into 7 critical pillars of performance.

---

[2] World Bank. 2018. *Balochistan : Public Expenditure and Financial Accountability (PEFA) Performance Assessment Report (English)*. Washington, D.C. : World Bank Group. http://documents.worldbank.org/curated/en/794111540553782391/Balochistan-Public-Expenditure-and-Financial-Accountability-PEFA-Performance-Assessment-Report

International

a. **World Development Report 2019 – The Changing Nature of Work**[3]

The World Development Report, published annually since 1978, is one of the key outputs of the World Bank's Development Economics unit and is a guide to the economic, social, and environmental state of the world today. Each year a specific aspect of development is analyzed and policy recommendations are made as a result thereof, which are used by a number of multilateral and bilateral international organizations, national governments, development institutions and other global thought leaders.

The topic for the 2019 Report is "The Changing Nature of Work", which studies how the nature of work is changing as a result of advances in technology today. Work is constantly reshaped by technological progress and fears that robots will take away jobs from people have dominated discussions over the future of work. Firms adopt new ways of production, markets expand, and societies evolve.

According to the report, technology generally brings opportunity by paving the way to create new jobs, increase productivity, and deliver effective public services. Firms can grow rapidly thanks to digital transformation, expanding their boundaries and reshaping traditional production patterns. Technology is changing the skills that employers seek. Workers need to be better at complex problem-solving, teamwork and adaptability. Digital technology also changes how people work and the terms on which they work. Even in advanced economies, short-term work, often found through online platforms, is posing similar challenges to those faced by the world's informal workers.

The Report analyzes these changes and considers how governments can best respond. Investing in human capital must be a priority for governments in order for workers to build the skills in demand in the labor market. In addition, governments need to enhance social protection and extend it to all people in society, irrespective of the terms on which they work. To fund these investments in human capital and social protection, the Report offers some suggestions as to how governments can mobilize additional revenues by increasing the tax base.

b. **OECD Science, Technology and Innovation Outlook, 2018**[4]

The OECD Science, Technology and Innovation Outlook 2018 is the 12th edition in a series of biennial publications that reviews key trends in science, technology and innovation (STI) policy and their potential implications on and for national and international STI policies. The report provides comparative analysis of new policies and instruments being used in OECD countries and in a number of major emerging economies (including Brazil, China, India, Indonesia, the Russian Federation and South Africa) to boost the contribution of science and innovation to growth and to global and social challenges.

The 14 chapters look at a range of topics, such as: the opportunities and challenges related to enhanced data access, the impacts of artificial intelligence on science and manufacturing, and the influence of digitalisation on research and innovation. The report also discusses the shortcomings of current policy measures, how the Sustainable Development Goals are re-shaping STI policy agendas, and the need for new - more flexible and agile - approaches to technology governance and policy design. While these disruptive changes challenge policy makers in a number of ways, the digital revolution underway also provides solutions for better policy targeting, implementation and monitoring.

---

[3] World Bank. 2019. World Development Report 2019: The Changing Nature of Work. Washington, DC: World Bank.doi:10.1596/978-1-4648-1328-3. License: Creative Commons Attribution CC BY 3.0 IGO

[4] OECD (2018), *OECD Science, Technology and Innovation Outlook 2018: Adapting to Technological and Societal Disruption*, OECD Publishing, Paris, https://doi.org/10.1787/sti_in_outlook-2018-en.

c. Strengthening of ESG Disclosure by Listed Companies across Emerging Markets

IFC has partnered with the UN Sustainable Stock Exchanges Initiative[5], (a UN Partnership Programme launched in 2009), to raise environmental, social, and governance (ESG) standards across emerging capital markets. The new partnership amis to strengthen ESG disclosure and reporting requirements for listed companies with a goal to help build investor trust, attract capital, and grow strong local capital markets.

Adhering to high standards of disclosure and transparency can reduce some of the perceived risks of investing in emerging and frontier markets that revolve around weaker corporate governance and heightened social and environmental risks. Market regulators and stock exchanges are uniquely positioned to advance greater transparency and disclosure of material information that enables investors to make better decisions, and may do so by setting best-practice for ESG disclosure by listed companies, ultimately helping responsible companies attract investors and reduce the cost of capital.

IFC and the Sustainable Stock Exchanges (SSE) initiative will focus on helping local stock exchanges to produce ESG disclosure rules that meet specific local needs by drawing on IFC's "Disclosure and Transparency Toolkit" released in January 2018 for companies, investors, capital market officials and regulators. The SSE provides Model Guidance on ESG disclosure for stock exchanges to help with the preparation of ESG reporting guidelines through research, consensus building and technical assistance.

d. Climate Investment Opportunities in Cities – An IFC Analysis

The International Finance Corporation (IFC), a member of the World Bank Group, has issued a report on "Climate Investment Opportunities in Cities", the latest report in a series initiated by IFC in 2016. The report analyzes cities' climate-related targets and action plans in 6 areas and identifies opportunities in priority sectors such as :

i. green buildings,
ii. public transportation,
iii. electric vehicles,
iv. waste,
v. water, and
vi. renewable energy.

The report features innovative approaches that cities are already using—such as green bonds and public-private partnerships—to attract private capital and build urban resilience and identifies more than $29 trillion in climate investment opportunities in cities by 2030.

[5] A 'UN Partnership Programme of: the UN Conference on Trade and Development (UNCTAD)', the UN Global Compact, the UN Environment Program Finance Initiative (UNEP FI), and the Principles for Responsible Investment (PRI)

To view previous Advisory Updates, please click on the following link:
http://picg.org.pk/publications/